
PROPOSED REGULATIONS

DEPARTMENT OF EDUCATION**PROFESSIONAL STANDARDS BOARD**

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

PUBLIC NOTICE**Educational Impact Analysis Pursuant to 14 Del.C. Section 122(d)****1504 Certificate of Eligibility****A. TYPE OF REGULATORY ACTION REQUESTED**

New Regulation

B. SYNOPSIS OF SUBJECT MATTER OF REGULATION

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

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before May 2, 2018 to Mr. Chris Kenton, Executive Director, Delaware Professional Standards Board, The Townsend Building, 401 Federal Street, Dover, Delaware 19901. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml or obtained at the Professional Standards Board's Office, located at the address above.

C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The new regulation does not address student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The new regulation will help to ensure that all students receive an equitable education.
3. Will the amended regulation help to ensure all student's health and safety are adequately protected? The new regulation addresses certificates of eligibility and does not directly address students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The new regulation addresses certificates of eligibility and does not directly address students' legal rights.
5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The new regulation does not change authority and flexibility of decision makers at the local board and school level.
6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The new regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.
7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will be placed in the same entity.
8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The new regulation is consistent with, and not an impediment to, the implementation of other state educational policies, and in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies.
9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of the new regulation.
10. What is the cost to the state and to the local school boards of compliance with the adopted regulation?

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There is no expected cost to the state and to the local school boards of complying with the new regulation.

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

[http://regulations.delaware.gov/register/april2018/proposed/21 DE Reg 770RFA 04-01-18.pdf](http://regulations.delaware.gov/register/april2018/proposed/21%20DE%20Reg%20770RFA%2004-01-18.pdf)

1504 Certificate of Eligibility

1.0 Content

- 1.1 This regulation shall apply to the issuance of a Certificate of Eligibility pursuant to 14 Del.C. §1221(2) for educators who are pursuing the following certifications:
- 1.1.1 14 DE Admin. Code 1570 Early Childhood Exceptional Children Special Education Teacher; or
 - 1.1.2 14 DE Admin. Code 1571 Special Education Teacher of Students with Disabilities; or
 - 1.1.3 14 DE Admin. Code 1573 Teacher of Students with Autism or with Severe Intellectual Disabilities;
or
 - 1.1.4 14 DE Admin. Code 1574 Teacher of Students Who Are Deaf or Hard of Hearing; or
 - 1.1.5 14 DE Admin. Code 1575 Teacher of Students with Visual Impairments.

2.0 Definitions

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

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

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

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

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 Del.C. Ch. 12 to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Professional Standards Board and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

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

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

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

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

3.0 Issuance of Certificate of Eligibility

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

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

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- 3.1.2 The Certificate of Eligibility is issued for one school year and expires on June 30th.
- 3.1.3 The Department may grant a second-year Certificate of Eligibility and a third-year Certificate of Eligibility if the Educator has met the requirements outlined in Section 5.0 of this regulation.

4.0 Application Procedures

- 4.1 The Employing Authority shall:
 - 4.1.1 Establish that the proposed recipient of a Certificate of Eligibility is competent by submitting evidence of the Educator's License and other considerations; and
 - 4.1.2 Apply for the Certificate of Eligibility within sixty (60) calendar days of the Educator's hire or new job assignment; and
 - 4.1.3 Establish that the proposed recipient is participating in a state-approved alternative route for teacher licensure and certification program which is appropriate to the Certification identified in Section 1.0 of this regulation that the proposed recipient is pursuing; and
 - 4.1.4 Support and assist the Educator in achieving the skills and knowledge necessary to meet applicable Certification requirements; and
 - 4.1.5 Verify that the Educator understands the Standard Certificate requirements, the deadline in which to complete requirements, and the expectation to earn a Standard Certificate.
- 4.2 Failure by the Employing Authority to fulfill the conditions set forth shall result in denial of the Certificate of Eligibility.

5.0 Second Year and Third Year Reissue of Certificate of Eligibility

- 5.1 If the Educator does not meet all Standard Certificate requirements during the first school year, the Employing Authority may apply for a second-year Certificate of Eligibility in the same area.
- 5.2 If the Department grants an Educator a second-year Certificate of Eligibility and the Educator does not meet all Standard Certificate requirements during the second school year, the Employing Authority may apply for a third-year Certificate of Eligibility in the same area.
- 5.3 The Department may issue a second-year Certificate of Eligibility or a third-year Certificate of Eligibility if the following requirements are met:
 - 5.3.1 The Employing Authority submits a request for the Certificate of Eligibility within sixty (60) calendar days of the start of the next consecutive school year.
 - 5.3.2 The Employing Authority has established that the Educator has made documented progress toward earning the Standard Certificate by continuing to participate in a state-approved alternative route for teacher licensure and certification program which is appropriate to the Certification identified in Section 1.0 of this regulation that the Educator is pursuing.

6.0 Expiration of Certificate of Eligibility

- 6.1 Certificates of Eligibility shall expire on June 30th.
- 6.2 Certificates of Eligibility that have been issued for three consecutive school years may not be extended. The Educator shall meet the requirements for issuance of a Standard Certificate in the area of Certification identified in Section 1.0 of this regulation that the Educator is pursuing.
- 6.3 Educators holding an active License without a current or valid certificate are not considered Credentialed to teach.
- 6.4 A Certificate of Eligibility may not be renewed or extended for a leave of absence.

7.0 Transfer of Certificate of Eligibility to a New Employing Authority

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



the health care provider states the child can return and DPH says the child cannot return, the licensee shall follow DPH's instructions.

~~60.756.7~~ A licensee shall ensure that when a child has been diagnosed as having a reportable vaccine-preventable communicable disease, all children who have not been immunized against the disease are excluded from the center in accordance with Division of Public Health procedures. When a health care provider diagnosed a child as having a reportable vaccine-preventable communicable disease, a licensee shall exclude all children who were not immunized against the disease following DPH's instructions.

60.057.0 Administration of Medication

~~60.157.1~~ A licensee shall ensure ~~that a trained staff member who has received a valid Administration of Medication certificate from OCCL is present at the center at all times while a child who may be in need of medication is present. only~~ Only trained staff members who are at least 18 years of age ~~old~~ and authorized in accordance with State law, or health care providers, nurses, or other qualified medical health personnel are permitted to administer medication to children in a center. Written permission from the child's parent/guardian for each medication to be administered is required. Unused medication shall be returned to the parent/guardian when no longer needed by the child.

~~60.257.2~~ A licensee shall ensure that the parent/guardian of a child provides the following information for each medication given:

- ~~60.2.157.2.1~~ The name and birth date of the child;
- ~~60.2.257.2.2~~ Medication allergies;
- ~~60.2.357.2.3~~ Doctor's name and phone number;
- ~~60.2.457.2.4~~ Pharmacy name and phone number;
- ~~60.2.557.2.5~~ Name of medication;
- ~~60.2.657.2.6~~ Dosage (amount given);
- ~~60.2.757.2.7~~ Time or frequency (when given);
- ~~60.2.857.2.8~~ Route of administration (oral; eye, nose, or throat drops; topical);
- ~~60.2.957.2.9~~ Medication expiration date;
- ~~60.2.1057.2.10~~ End date (when to stop giving);
- ~~60.2.1157.2.11~~ Reason for medication; and
- ~~60.2.1257.2.12~~ Special directions.

~~60.357.3~~ A licensee shall ensure that all prescription medication is given as prescribed. Prescription medication shall be:

- ~~60.3.157.3.1~~ Stored securely and ~~inaccessible to children~~ out of children's reach;
- ~~60.3.257.3.2~~ Refrigerated, (if applicable), in a closed container separate from food;
- ~~60.3.357.3.3~~ In its original container and properly labeled with directions for its administration;
- ~~60.3.457.3.4~~ Current and not expired;
- ~~60.3.557.3.5~~ Authorized by the child's health care provider; and
- ~~60.3.657.3.6~~ Given only to the child whose name appears on the prescription in the manner and dosage ~~specified in the instructions listed on the container~~ container's instructions.

~~60.457.4~~ A licensee shall ensure that all non-prescription medication is given as instructed. Non-prescription medication shall be:

- ~~60.4.157.4.1~~ Stored securely and ~~inaccessible to children~~ out of children's reach;
- ~~60.4.257.4.2~~ Refrigerated, (if applicable) in a closed container separate from food;
- ~~60.4.357.4.3~~ ~~In~~ Stored in its original container; and properly labeled with directions for its administration;
- ~~60.4.457.4.4~~ Current and ~~has~~ not expired;
- ~~60.4.557.4.5~~ Labeled with the child's name; and
- ~~60.4.657.4.6~~ Given as ~~specified in the instructions listed on the container~~ container's instructions unless otherwise specified in writing by the child's health care provider.

~~60.557.5~~ A licensee shall keep a written record of medication administered to children recorded on the Medication Administration Record or MAR including medication dosage, time administered, by whom administered, adverse effects observed, and medication errors (such as administering the wrong medication to a child, administering the wrong dose, failure to administer the medication, administering a medication to the wrong child, or administering the medication by the wrong route). Adverse effects or errors in administering shall be immediately reported to the parent/guardian. When known to the center, adverse effects or errors in

administering medication that result in medical treatment shall be reported within one business day to the OCCL, followed by a written report within three business days. Documentation of the error or adverse effects shall be maintained in the child's file.

60-657.6 Documentation of administration of medication shall be placed in the child's file or in a central administration of medication log and kept while the child is enrolled in the center.

57.7 In addition to the requirements in subsection 57.2, if a child at a center has a medical need during center hours that requires the administration of medication by a non-intravenous injection, or other medical care that is not authorized in the Administration of Medication Guide, the parent/guardian may request a reasonable accommodation for the child's medical needs. The parent/guardian's request may be made at any time by completing a Medical Accommodation Form that can be found at the center or on OCCL's website (<http://kids.delaware.gov/occl/occl.shtml>). The Medical Accommodation Form shall supply the center with the following information:

57.7.1 Written parent/guardian permission for the center to provide the requested medical care; and

57.7.2 A written statement from the child's physician stating:

57.7.2.1 The specific medical care needed by the child;

57.7.2.2 That for the child's health, the requested medical care must be administered during the hours the child attends the center;

57.7.2.3 That the requested medical care may be appropriately administered at the center by non-medical child care staff; and

57.7.2.4 Whether any additional training is necessary for non-medical staff members to administer the medication or medical care appropriately. If additional training is required, the physician shall provide instructions including information about: the type of training, who may provide such training (which may include the child's parent/guardian), and any other instructions needed to provide the requested medical care.

57.8 If additional training is required, the licensee shall identify staff members who are currently certified to administer medication and have them complete the additional training specified by the child's physician. The licensee shall keep documentation of this training with the child's Medication Administration Record (MAR) and inform the parent/guardian in writing which staff members are authorized and trained to perform the requested medical care. This information shall be updated as needed. The licensee shall ensure that at least one staff member, who is eligible to provide the requested medical care, is present at the center at all times while the child is present.

57.9 If the child's parent/guardian is unable or unwilling to supply the identified information in subsections 57.2 and 57.7, the licensee shall deny the parent/guardian's Medical Accommodation Form and the licensee shall not permit non-medical staff members to administer medication by a non-intravenous injection or provide other medical care that is not authorized in the Administration of Medication Guide.

57.10 Upon receipt of a completed Medical Accommodation Form, the licensee shall have five business days to inform the child's parent/guardian and OCCL, in writing, whether the medical accommodation will be approved, approved with conditions, or denied. The parent/guardian and licensee may mutually agree to extend the five business days' notice if more time is needed, for example, to get the required documents.

57.10.1 If the application is approved with conditions and the parent/guardian does not wish to accept the conditions, the application will be considered denied.

57.10.2 A denial must include the reason(s) why the center is not able to make the requested medical accommodations.

57.10.3 The licensee may deny the requested medical accommodation if it will: fundamentally alter the nature of the center, create an undue hardship to the center, or create a direct threat to the health or safety of others at the center.

57.10.4 The parent/guardian may refer the denial to OCCL for a review as a possible regulation violation. OCCL shall follow their policies and procedures for corrective actions and enforcement actions, to address any possible regulation violations.

57.11 A school-age child may self-administer medical care with written parent/guardian permission and written physician permission. These permissions shall indicate the child is able to safely self-administer the prescribed medical care, identify and select the correct medicine and dosage, if applicable, and administer the medical care at the correct time and frequency. The licensee shall keep documentation of these permissions with the child's MAR. A staff member, who has a current administration of medication certificate, must be present during the self-administration and document all information required on the MAR, including that the medication was self-administered by the child.

57.12 Active medical accommodations shall be reviewed with the child's parent/guardian and physician yearly, and as needed. Reviews and changes shall be written, dated, agreed upon by all parties, and kept with the MAR.

64-058.0 Child Accident and Injury

61.158.1 A licensee shall ensure that when an accident or injury occurs to a child during the hours of care, a center's staff member takes emergency action to protect the child from further harm, calls emergency medical services if needed, and notifies the child's parent/guardian. When known, a licensee shall ensure when a child in care has an accident or injury a staff member gives assistance to protect the child from further harm. An ambulance shall be called, if needed. The child's parent/guardian shall be informed.

61.1.158.1.1 For a serious or potentially serious injury, the parent/guardian shall be notified immediately after center staff members have taken appropriate emergency action to assist the child. For these injuries, a licensee shall document when the parent/guardian was informed or when calls were made to the parent/guardian or emergency contact, but no one answered.

58.1.2 A less serious accident or injury requires parent/guardian notification before releasing the child from care that leaves for the day.

61.1.258.1.3 The licensee shall maintain complete and keep a written accident or injury report in the child's file or a central log for the center for each incident, that includes The report shall include the name of child, date of injury, description of injury, how it occurred, first aid or medical care provided, and parent/guardian/ authorized release person person's signature. The parent/guardian shall be provided a copy of the report on the day of the injury or within one business day.

61.1.3 The licensee shall maintain a written record for serious injuries of when the parent/guardian was notified or of attempts to notify the parent/guardian.

61.258.2 In the event of a significant child medical event, such as a seizure, asthma attack, or severe allergic reaction, the parent/guardian shall be notified immediately after center staff have taken appropriate emergency action to assist the child, including contacting emergency medical services as needed. If a child has a medical event, such as a seizure, asthma attack, or severe allergic reaction, the parent/guardian shall be notified immediately after assisting the child and contacting an ambulance, if needed.

61.358.3 When known, the licensee shall report to the notify OCCL when an accident or injury that results in death or medical/dental treatment other than first aid provided at the center, of a child as described in Section 13.0.

62-059.0 First Aid Kits

A licensee shall have at least one complete first aid kit in a location readily accessible to staff members but not to children. A first aid kit shall be taken on field trips/program outings. Contents of the The first aid kit shall include but not be limited to:

Items Required in Center for On-site First Aid Kits	Items Required in First Aid Kits Used on Field Trips/Program Outings
Disposable nonporous waterproof gloves	Disposable nonporous waterproof gloves
Scissors	Scissors
Tweezers	Tweezers
A non-glass thermometer to measure a child's temperature	A non-glass thermometer to measure a child's temperature
Bandage tape	Bandage tape
Sterile gauze pads	Sterile gauze pads
Flexible roller rolled gauze	Flexible roller rolled gauze
Triangular bandage or sling	Triangular bandage or sling
Safety pins	Safety pins



- ~~64.3.161.3~~ A licensee shall not feed formula to an infant exclusively receiving breast milk, without parent/guardian permission Parent/guardian permission is needed to feed formula to an infant receiving only breast milk;
- ~~64.3.261.3.1~~ A staff member shall not hold more than only one infant at a time for while bottle feeding;
- ~~64.3.261.3.2~~ At no time shall an infant be placed in a crib or sleeping, resting, or relaxing equipment with a bottle for feeding nor may a bottle be propped for feeding An infant shall never be placed in sleeping or relaxing equipment with a bottle or have a bottle propped for feeding;
- ~~64.3.361.3.3~~ Bottles and infant foods shall be warmed for no more than five minutes under running warm tap water or by placing them in a container of water that is no warmer than 120° F, and They shall not be warmed or thawed in a microwave oven. Bottles of breast milk shall be gently swirled to mix contents;
- ~~64.3.461.3.4~~ For infants four to seven months of age, semi-solid foods may be introduced as requested by the parent/guardian and shall be required once an infant is eight months of age unless written documentation from an infant's health care provider permitting a modification is supplied For infants age four months or older, semi-solid foods may be fed as requested by the parent/guardian and shall be required once an infant is eight months old unless the parent/guardian provides documentation from the infant's health care provider stating otherwise;
- ~~64.3.561.3.5~~ Foods for infants shall be a texture and consistency that promotes safe and optimal consumption and served from a dish unless the entire contents of the jar will be served. Introduction to all new foods and beverages shall be made only with the parent's/guardian's permission Foods for infants shall be a texture and consistency that helps them eat safely. Puréed foods must be served from a dish unless serving the entire contents of the jar;
- ~~64.3.661.3.6~~ Cow's milk shall not be served to infants;
- ~~64.3.761.3.7~~ Bottles and nipples maintained kept by center staff members shall be washed and sanitized before each use;
- ~~64.3.861.3.8~~ Each infant's bottle shall be individually labeled with the infant's name and refrigerated immediately after preparation by center staff members or on arrival if prepared by a parent/guardian;
- ~~64.3.961.3.9~~ Unused bottles shall also be dated as to when prepared if not returned to the parent/guardian at the end of each day;
- ~~64.3.1061.3.10~~ Unused portions of formula or breast milk shall be discarded after each feeding that exceeds a period of one hour from beginning of feeding Unused portions of formula shall be thrown away after each feeding that exceeds one hour;
- ~~64.3.1161.3.11~~ Formula provided by parents/guardians or by the center shall come in a factory sealed container Formula shall be prepared from a factory-sealed container;
- ~~64.3.1261.3.12~~ Refrigerated, unused, prepared formula shall be discarded thrown away after 48 hours;
- ~~64.3.1361.3.13~~ Breast milk shall be fed only to that mother's own the infant it was intended for. Frozen breast milk shall be thawed under running cold water or in the refrigerator, gently swirled to mix contents, not shaken, and used within 24 hours. Expressed breast milk shall be discarded returned to the parent if it is in an unsanitary bottle or if it has been unrefrigerated for more than one hour four hours at room temperature. Refrigerated, unused, expressed breast milk that was never frozen shall be discarded returned to the parent after 48 hours, or by three months if Breast milk that was frozen and stored in a freezer at 0° F shall be thrown away after six months;
- ~~64.3.1461.3.14~~ Juices Juice may not be fed to infants until they are able to drink from a cup unless by written parent/guardian request; and
- ~~64.3.1561.3.15~~ Center staff shall encourage the use of a cup when a child is at least one year of age and is developmentally capable of drinking from or holding a cup Staff members shall encourage the use of a cup when a child is at least one year old and is developmentally able to drink from or hold a cup.

PART IV EARLY CARE AND EDUCATION

65.962.0 Positive Behavior Management

- ~~65.462.1~~ A licensee shall have and follow a written statement in plain language regarding the positive behavior management of children. The statement on positive behavior management shall be posted in a prominent place in the center and provided to a parent/guardian and staff A licensee shall have and follow an easy-to-understand written behavior management statement. The statement shall be posted in a noticeable place in the center and provided to a parent/guardian and staff.
- ~~65.262.2~~ A licensee shall ensure that all staff use prevention strategies, appropriate redirection rather than restraint, and positive developmentally appropriate methods of behavior management of children which encourage self-control, self-direction, positive self-esteem, social responsibility, and cooperation. Staff may not handle children

~~roughly nor encourage or otherwise condone children hitting or disciplining each other. The center shall consult with professionals and with the parent/guardian to design effective positive behavioral interventions and to adapt behavior management practices for a child who has a special need, including a behavioral or emotional disability. A licensee shall ensure staff members recognize and encourage acceptable behavior; supervise with an attitude of understanding and firmness; give clear directions and provide guidance at the child's level of understanding. In addition, staff members shall intervene quickly to ensure the safety of the child and others; redirect children by suggesting other acceptable behaviors; and speak so children understand their feelings are acceptable, but the behavior is not. As children develop, these methods shall encourage children to control their own behavior, cooperate with others, and solve problems by talking things out. The center shall consult with a child's parent/guardian and professionals, if necessary, to create a plan to correct unacceptable behavior.~~

~~65.362.3 A licensee shall ensure that staff members model positive behavior management techniques and respectful communication interactions when relating to children, other staff members, parents/guardians, and visitors while at the center. A licensee shall ensure staff members teach by example by always being respectful when speaking to children and others while at the center.~~

~~65.462.4 "Time-out", if used, shall be appropriate for the developmental age of the child, employed as a supplement to, not a substitute for, other developmentally appropriate, positive methods of behavior management, and not used with infants. "Time-out" shall be limited to brief periods of no more than one minute for each year of a child's age. Before using "time-out", the staff member shall discuss the reason for the "time-out" in language appropriate to the child's level of development and understanding. A child removed from the group or room during a "time-out" shall remain under direct visual supervision at all times and shall never be left unattended behind closed doors. Before rejoining the group or at another appropriate time, staff shall talk to the child about alternatives to the inappropriate behavior in a way that encourages the child to make more positive decisions in the future. Time-out", if used, shall be used only as necessary to help the child gain control of behavior and feelings. "Time-out" shall be limited to brief periods of no more than one minute for each year of a child's age. "Time-out" may not be used for infants. Before using "time-out", the staff member shall discuss the reason for the "time-out" in language appropriate to the child's level of development and understanding. A child removed from the group or room during a "time-out" shall be supervised. Before rejoining the group or at another time, a staff member shall talk to the child about ways to make better decisions in the future.~~

~~65.562.5 A licensee shall ensure that the following actions are prohibited:~~

~~65.5.462.5.1 Corporal Roughly handling a child or physical punishment inflicted on a child's body including shaking, striking, hair pulling, biting, pinching, slapping, hitting, kicking, or spanking;~~

~~65.5.262.5.2 Yelling at, humiliating, or frightening children;~~

~~65.5.362.5.3 Physically or sexually abusing a child by staff;~~

~~65.5.462.5.4 Making disparaging negative comments about a child's appearance looks, ability, ethnicity, family, or other personal characteristics traits;~~

~~65.5.562.5.5 Depriving children of food or toilet use as a consequence of inappropriate behavior. Denying children food or toilet use for inappropriate behavior;~~

~~65.5.662.5.6 Tying, taping, chaining, caging, or physically or mechanically restraining a child by a means other than holding. The child may be held only as long as necessary for the child to regain control;~~

~~65.5.762.5.7 Punishing children for not going to sleep, a toileting accident, failure to eat all or part of food, or failure to complete a prescribed activity; or Punishing children for a toileting accident or failing to fall asleep, to eat food, or to complete an activity;~~

~~65.5.862.5.8 Withholding physical activity as punishment; or~~

~~62.5.9 Encouraging or allowing children to hit or punish each other.~~

66.063.0 Program Goals and Planning

~~66.463.1 A licensee shall ensure that the program provides physical care routines (such as diapering/toileting, feeding, and hand-washing hand washing) appropriate to each child's developmental needs.~~

~~66.263.2 A licensee shall develop written goals of what the center plans to accomplish for enrolled children's development and education. Goals shall include areas of physical, social-emotional, language/literacy, and cognitive development and be developmentally appropriate to the ages and developmental levels of for the children in attendance at the center enrolled. The curriculum goals and program of daily activities for each group of children shall be implemented by an assigned staff member in the position of early childhood teacher, school-age site coordinator, who is qualified as at least an early childhood assistant teacher, school-age site assistant, or early childhood caregiver, with approval and monitoring by either the The early childhood~~



SPONSOR: Rep. Jaques & Rep. Miro & Rep. Dukes & Rep. Mitchell
& Sen. Poore & Sen. Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 49

AN ACT TO AMEND TITLES 14 AND 29 OF THE DELAWARE CODE RELATING TO SCHOOL SAFETY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 23, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underlining as follows:

3 § 2306. Safety features in new school construction or major renovations.

4 (a) For purposes of this section:

5 (1) "Major Renovation" means a renovation project with costs equal to or greater than the threshold amount
6 established for a Major Capital Improvement Program project under Section 401 of Title 14 of the Delaware
7 Administrative Code.

8 (b) Whenever a new school is constructed or a major renovation undertaken, the construction or renovation must
9 include at a minimum the following:

10 (1) Secured vestibule, which serves as the primary entrance to screen visitors, equipped with an intercom or
11 video call box and interior doors that can be electronically released by school staff.

12 (2) Ballistic resistant glass or other ballistic resistant materials in all vestibule, lobby, and office areas used to
13 screen visitors.

14 (3) Classroom doors that can be locked from the outside using a key or magnetic card locking system.
15 Classroom doors that can be locked from both sides must comply with the requirements under the current edition of the
16 Delaware State Fire Prevention Regulations or the current edition of the National Fire Protection Association, Life
17 Safety Code 101.

18 (4) Installation of a panic button or intruder alert system that is capable of being activated from the school
19 office and a handheld device.

20 (c) The Comprehensive School Safety Program (CSSP) and Department of Education shall provide emerging best
21 practices for ballistic and alarm capabilities to school districts and the Office of Management and Budget Division of
22 Facilities Management annually.

23 Section 2. Amend § 6307A, Title 29 of the Delaware Code by making deletions as shown by strikethrough and
24 insertions as shown by underline as follows:

25 § 6307A. Facilities Management.

26 (5) Make such studies and provide such information as shall cause the selection of the best cost/performance
27 components that will satisfy a particular function; ~~and~~

28 (6) Review and make recommendations regarding the operation, maintenance and efficiency of the physical
29 plant of state facilities; ~~and~~

30 (7) Coordinate a review of construction plans with the Department of Safety and Homeland Security to
31 evaluate the safety and security of newly constructed and renovated schools through the application of Crime
32 Prevention Through Environmental Design (CPTED) principles and to verify compliance with the requirements of §
33 2306 of Title 14.

34 Section 3. This Act takes effect on January 1 following its enactment into law and shall not be applicable to
35 projects in which the certificate of necessity has been provided by the Department of Education on or before the effective
36 date of this Act.

37 Section 4. This Act is known as the "Representative Joseph E. Miro School Safety Act."

SYNOPSIS

This Act requires all new school construction and schools undergoing major renovations to incorporate the following safety features: a secured vestibule to be used as the primary entrance to screen visitors, installation of ballistic resistant glass or other ballistic resistant materials in all areas used to screen visitors, installation of a panic button or intruder alert system, and classroom doors that can be locked on the outside with a key or magnetic card locking system. Further, the Act provides that the Office of Management and Budget Facilities Management Section shall coordinate a review of construction plans with the Department of Homeland Security to verify compliance with this Act and evaluate the security and safety of new schools and schools planning major renovations. This Act shall be known as the "Representative Joseph E. Miro School Safety Act."

This bill is a substitute for and differs from House Bill 49 by using industry standard terms, requiring the installation of a panic button or intruder alert system, requiring that the Department of Education and Comprehensive School Safety Program annually provide best practices for ballistic and alarm capabilities to school districts and Facilities Management, and ensuring compliance with fire prevention regulations.



SPONSOR: Sen. Henry & Rep. Longhurst & Rep. K. Williams
Sens. McDowell, Delcollo, Richardson, Sokola; Reps.
Baumbach, Bentz, Bolden, Heffernan, Hudson, Keeley,
Lynn, Paradee, Viola

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 85

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE LAWFUL AUTHORITY OF
TEACHERS OVER PUPILS.

1 WHEREAS, restorative justice practices are non-punitive disciplinary responses that focus on repairing harm done
2 to relationships and people, developing solutions by engaging all persons affected by a harm, and encouraging
3 accountability; and

4 WHEREAS, restorative justice practices include a variety of interventions, such as brief on-the-spot responses to
5 student behavior in the classroom; and

6 WHEREAS, restorative justice practices also include community conferencing which involves multiple parties,
7 such as students, parents, and educators, and is intended to address the harm committed by a student's disruptive behavior,
8 enhance responsibility and accountability, build relationships and community, and teach students empathy and problem
9 solving skills that can help prevent the occurrence of inappropriate behavior in the future.

10 NOW, THEREFORE:

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

12 Section 1. Amend § 701, Title 14 of the Delaware Code by making deletions as shown by strike through and
13 insertions as shown by underline as follows:

14 § 701. Authority of teachers and administrators to control the disruptive behavior of students.

15 (a) As used in this chapter:

16 (1) "Department" means the Department of Education.

17 (2) "Disruptive behavior" includes means conduct that is so unruly, ~~disruptive~~ disruptive, or abusive that
18 it seriously interferes with a school teacher's or school administrator's ability to communicate with the students in a
19 classroom, with a student's ability to learn, or with the operation of a school or a school-sponsored activity.

20 (3) "School" means a traditional public school, vocational technical school, or charter school.

21 (4) "Racial subgroup" means the racial and ethnic subgroups of students as defined under the Elementary
22 and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, which includes African American or
23 Black, American Indian or Alaska Native, Asian American, Native Hawaiian or other Pacific Islander, Hispanic or
24 Latino, White or Caucasian, and Multi-Racial.

25 (5) "Subgroup" means as subgroup is defined under the Elementary and Secondary Education Act of
26 1965, 20 U.S.C. § 6301 et seq., as amended, which includes racial subgroups, economically disadvantaged
27 students, children with disabilities, and English learners.

28 (b) While a student is entrusted in their care or supervision, public school teachers educators, and administrators
29 have the same authority to control the behavior of the student and to discipline or punish the student as a parent, custodian,
30 ~~guardian-guardian~~, or other person similarly responsible for the care and supervision of the student except as provided in §§
31 702 and 4112F of this title. The authority includes removing a student from a classroom or school-sponsored activity.

32 (g) Each local board of education shall establish, adopt, ~~publish~~ publish, and distribute to students in the district
33 and their parents or guardians policy or standards ~~that~~ that are consistent with the regulations developed under § 122(b)(26)
34 of this title and include all of the following:

35 (1) Specify the general circumstances under which a student may be removed from a classroom or
36 school-sponsored activity, consistent with a teacher's ultimate authority to determine disruptive behavior and to
37 remove a student from a classroom or school-sponsored ~~activity~~; and activity.

38 (2) ~~Further define and/or provide~~ Provide an explanation or examples of "disruptive behavior" set forth in
39 paragraph (a)(2) of this section.

40 Section 2. Amend Chapter 7, Title 14 of the Delaware Code by making deletions as shown by strike through and
41 insertions as shown by underline as follows:

42 § 703. Student discipline report; school discipline improvement plan.

43 (a) The Department shall compile and release an annual report on student discipline in all schools as follows:

44 (1) The analysis must be based on data, as permitted under the Family Educational Rights and Privacy
45 Act, 20 U.S.C. § 1232g, collected over the 3 most recent consecutive school years.

46 (2) The report must be posted on the Department's website no later than October 30.

47 (3) The report shall include both statewide totals and individual school data on the issuance of out-of-
48 school suspensions, expulsions, alternative school assignments, and in-school suspensions, disaggregated by race,
49 ethnicity, gender, grade level, limited English proficiency, incident type, discipline duration, and if the student is
50 identified as having a disability.

51 (4) The report shall include a list of schools that meet the following criteria:

52 a. Calculations under this subsection should exclude subgroups that contain fewer than 15 students.

53 b. A school with an out-of-school suspension rate for all students or any 1 subgroup that exceeds any
54 of the following:

55 1. A rate of 20 suspensions per 100 students for the 2018 through 2019 school year.

56 2. A rate of 15 suspensions per 100 students for the 2019 through 2020 school year and each
57 school year thereafter.

58 c. A school for which the out-of-school suspension gap between the lowest-suspended racial
59 subgroup and the highest suspended racial subgroup, or the suspension gap between students with
60 disabilities and students without disabilities, exceeds any of the following:

61 1. 20% for the 2018 through 2019 school year.

62 2. 15% for the 2019 through 2020 school year.

63 3. 10% for the 2020 through 2021 school year and each school year thereafter.

64 (b) Each local school board and board of directors of a charter school shall require the administrator of each school
65 included on the list under paragraph (a)(4) of this section to do all of the following:

66 (1) Review the school's discipline policies and data.

67 (2) After soliciting input from students, parents, educators, administrators, and community stakeholders,
68 incorporate strategies to promote greater fairness and equity in discipline.

69 (3) Increase professional development opportunities for educators, administrators, and staff. Components
70 of such professional development may include 1 or more of the following:

71 a. Restorative practices.

72 b. Trauma informed care.

73 c. Implicit bias awareness.

74 d. Cultural competency.

75 e. Classroom management.

76 f. Other appropriate programming.

77 (c) If a school is included on the list under paragraph (a)(4) of this section for 3 consecutive years, the Department
78 shall notify the school of this status by December 1 and the school must submit a plan as follows:

79 (1) The plan must identify the strategies the school will implement beginning in the following school year
80 to reduce the use of exclusionary disciplinary practices or racial disproportionality, or both.

81 (2) The plan may be part of their school improvement plan.

82 (3) The plan must be developed with input from students, parents, educators, administrators, and
83 community stakeholders.

84 (4) A school that has already implemented restorative justice practices must expand its existing program.

85 (5) The plan must be approved at either a public local school board meeting or a charter school's public
86 board of directors meeting.

87 (6) No later than the beginning of the following school year, the school must submit the plan to the
88 Department and post the plan on the school's Internet website.

89 (7) No later than October 30, the school shall submit to the Department an annual progress report
90 describing the implementation of the plan and post the progress report on the school's website. The school may
91 cease submitting a progress report when the school is not included on the list under paragraph (a)(4) of this section
92 for 3 consecutive years.

93 Section 3. Section § 703(c) of Title 14 takes effect on December 1, 2019.

SYNOPSIS

This Act draws attention to the types of discipline used in schools by capturing data about out-of-school suspensions and publishing that data, in an effort to help schools identify areas where the data regarding out-of-school suspensions indicates there is room to reduce such suspensions. This Act is meant to increase transparency, improve overall school climate, resulting in improved student outcomes.

The collection and publication of this data will also help the Department of Education and community partners identify opportunities to provide greater supports to schools, students, and their families.

According to data provided by the Delaware Department of Education ("DOE"), thousands of Delaware students receive out-of-school suspensions each year for minor infractions, such as being unprepared or late for class, dress code violations, and disrespectful behavior. In 2013, only 2% of out-of-school suspensions were for serious offenses such as weapons, drugs, or serious violence. Out-of-school suspensions do not address the root causes for the misbehavior, and only serve to put the students further behind in class. Furthermore, DOE data shows that, in 2013, African-American students made up only 32% of the student body, but accounted for 62% of out-of-school suspension, and students with disabilities made up 13% of the student body, but accounted for 24% of out-of-school suspensions.

Federal discipline guidance, developed jointly by the U.S. Departments of Education and Justice, instructs schools to commit to regular evaluation of school discipline policies and practices, and monitor progress toward the schools' climate and discipline goals. The federal process requires schools to collect and publicly report disaggregated student discipline data and solicit feedback from students, staff, families, and community representatives.

This Act also makes technical corrections to conform existing law to the guidelines of the Delaware Legislative Drafting Manual.

This Substitute Bill makes the following changes to Senate Bill No. 85:

1. References the existing definition of "disruptive behavior" in Title 14.
2. Includes "disability" as a category for data collection.
3. Extends by 1 year the years stated in the requirements to retain the same time frames. This is necessary because this Act will be enacted in 2018, not 2017 when it was drafted.
4. Clarifies what information is required for reports and provides deadlines for the required plans and reports.
5. Clarifies that schools must develop plans and strategies with stakeholder input.
6. Clarifies content for professional development.

Author: Senator Henry



SPONSOR: Rep. Bolden & Sen. Sokola
Reps. J. Johnson, Keeley, Kowalko, Wilson; Sen. Ennis

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 332

AN ACT TO AMEND TITLES 6 AND 31 OF THE DELAWARE CODE RELATING TO FINANCIAL EXPLOITATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 3902, Title 31 of the Delaware Code by making deletions as shown by strike through as
2 follows:

3 As used in this chapter:

4 (12) "Financial institution" means any of the following:

5 a. A "depository institution," as defined in § 3(c) of the Federal Deposit Insurance Act (12 U.S.C. §
6 1813(c)).

7 b. A "federal credit union" or "state credit union," as defined in § 101 of the Federal Credit Union Act
8 (12 U.S.C. § 1786(r)).

9 c. An "institution-affiliated party," as defined in § 3(u) of the Federal Deposit Insurance Act (12 U.S.C. §
10 1813(u)).

11 d. A ~~"broker dealers," "investment adviser," or "federal covered adviser," as defined in § 73-103 of Title 6.~~

12 Section 2. Amend Section 73-103, Title 6 of the Delaware Code by making deletions as shown by strike through
13 and insertions as shown by underline as follows and re-designating accordingly:

14 § 73-103 Definitions.

15 (a) Generally. – When used in this chapter, unless the context otherwise requires:

16 () "Eligible Adult" means:

17 a. An "elderly person" as defined in § 222 of Title 11; or

18 b. A "vulnerable adult" as defined in § 1105 of Title 11.

19 () "Financial Exploitation" means the illegal or improper use, control over, or withholding of the property,
20 income, resources, or trust funds of the eligible adult by any person or entity for any person's or entity's profit or
21 advantage other than for the eligible adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

22 a. The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence
23 with an eligible adult to obtain or use the property, income, resources, or trust funds of the eligible adult for the benefit of a
24 person or entity other than the eligible adult;

25 b. The breach of a fiduciary duty, including but not limited to, the misuse of a power of attorney, trust, or a
26 guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income,
27 resources, or trust funds of the eligible adult for the benefit of a person or entity other than the eligible adult; and

28 c. Obtaining or using an eligible adult's property, income, resources, or trust funds without lawful authority, by a
29 person or entity who knows or clearly should know that the eligible adult lacks the capacity to consent to the release or use
30 of his or her property, income, resources or trust funds.

31 () "Qualified Individual" means any agent, broker-dealer, investment adviser, investment adviser representative or
32 person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

33 Section 3. Amend Subchapter III, Title 6 of the Delaware Code by making deletions as shown by strike through
34 and insertions as shown by underline as follows:

35 § 73-307. Protection of Vulnerable Adults from Financial Exploitation.

36 (a) If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred,
37 may have been attempted, or is being attempted, the qualified individual shall promptly, but in no event more than 5
38 business days after the suspicion of financial exploitation, notify both the Director and the Department of Health and Social
39 Services as consistent with Title 31, §3910. If more than one qualified individual working at the same broker-dealer or
40 investment adviser suspects financial exploitation, that broker-dealer or investment adviser does not need to make more
41 than one notification to the Director and one notification to the Department of Health and Social Services.

42 (b) If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred,
43 may have been attempted, or is being attempted, a qualified individual may notify any third party previously designated by
44 the eligible adult, or otherwise permitted under existing law, rule, or regulation. Disclosure may not be made to any
45 designated third party that is suspected of financial exploitation or other abuse of the eligible adult.

46 (c) A broker-dealer or investment adviser may delay a disbursement from an account of an eligible adult or an
47 account on which an eligible adult is a beneficiary if:

48 (1) The broker-dealer, investment adviser, or qualified individual reasonably believes, after initiating an
49 internal review of the requested disbursement and the suspected financial exploitation, that the requested disbursement
50 may result in financial exploitation of an eligible adult; and

51 (2) The broker-dealer or investment adviser:

52 a. Immediately, but in no event more than two business days after the requested disbursement, provides written
53 notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any
54 such party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult.

55 b. Immediately, but in no event more than two business days after the requested disbursement, notifies the Director
56 and the Department of Health and Social Services as consistent with Title 31, §3910; and

57 c. Continues its internal review of the suspected or attempted financial exploitation of the eligible adult, as
58 necessary, and provides a status report to the Director and the Department of Health and Social Services as consistent with
59 Title 31, §3910 within 10 business days after the requested disbursement or upon the request of the Director.

60 (3) Any delay of a disbursement as authorized by this section will expire upon the sooner of:

61 a. A determination by the broker-dealer or investment adviser that the disbursement will not result in financial
62 exploitation of the eligible adults; or

63 b. 10 business days after the date on which the broker-dealer or investment adviser first delayed disbursement of
64 the funds, unless the Director requests that the broker-dealer or investment adviser extend the delay, in which case the delay
65 shall expire no more than 40 business days after the date on which the broker-dealer or investment adviser first delayed the
66 disbursement of the funds unless otherwise terminated or extended by the Director or an order of a court of competent
67 jurisdiction.

68 (4) A court of competent jurisdiction may enter an order extending the delay of the disbursement of funds or
69 may order other protective relief based on the petition of the Director, the broker-dealer or investment adviser that
70 initiated the delay, or other interested party.

71 (d) A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the
72 suspected or attempted financial exploitation of an eligible adult to agencies charged with administering state adult
73 protective services laws and to law enforcement, either as part of a referral to the agency or to law enforcement, or upon
74 request of the agency or law enforcement pursuant to an investigation. The records may include historical records as well as
75 records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult.
76 Records made available under this section are not public records. Nothing in this provision shall limit or otherwise impede
77 the authority of the Director to access or examine the books and records of broker-dealers and investment advisers as
78 otherwise provided by law.

79 (e) A qualified individual that, in good faith and exercising reasonable care, complies with §73-307(a), (b), or (c)
80 shall be immune from any administrative or civil liability that might otherwise arise from such action.

81 Section 4. This Act shall take effect 90 days after its enactment into law.

SYNOPSIS

This bill mandates reporting by certain employees of broker-dealer or investment adviser firms who have a reasonable belief that financial exploitation of an eligible adult has occurred, been attempted, or will be attempted. Reporting will be to both the Investor Protection Director and the Department of Health and Social Services. It also enables broker-dealers and investment advisers to delay disbursement from an account of an eligible adult where financial exploitation is suspected.

This also includes definitions of "eligible adult," "financial exploitation" and "qualified individual" to be inserted into the Securities Act.



SPONSOR: Rep. Heffernan & Rep. Jaques & Sen. Poore &
Sen. Sokola & Sen. Lavelle
Reps. Gray, Hensley, Hudson, Keeley, Miro, M. Smith,
K. Williams; Sen. Lopez

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 338

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EXCEPTIONAL CHILDREN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 3101, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 3101. Definitions.

4 The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them
5 except when the context clearly indicates a different meaning:

6 (1) "Child" means ~~a person~~ an individual of 3 years of age, or an earlier age if otherwise provided in this title,
7 until the receipt of a regular high school diploma or the end of the school year in which the ~~person~~ individual attains
8 the age of ~~21~~, 22, whichever occurs first.

SYNOPSIS

This Act increases the eligibility for a child with a disability to be eligible for free appropriate public education from the end of the school year in which the child attains the age of 21 to the end of the school year in which the child attains the age of 22.

This Act also makes a technical correction to conform existing law to the standards of the Delaware Legislative Drafting Manual.





SPONSOR: Rep. Osienski & Sen. Townsend
Reps. Baumbach, Brady, J. Johnson, Viola, Wilson; Sens.
Ennis, Hansen, Marshall, Simpson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 354

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO EQUAL ACCOMMODATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4501, Title 6 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4501. Purpose and construction.

4 This chapter is intended to prevent, in places of public accommodations, practices of discrimination against any
5 person because of race, age, marital status, creed, color, sex, ~~physical~~ disability, sexual orientation, gender ~~identity~~-identity,
6 or national origin. This chapter shall be liberally construed to the end that the rights herein provided for all people, without
7 regard to race, age, marital status, creed, color, sex, ~~physical~~ disability, sexual orientation, gender ~~identity~~-identity, or
8 national origin, may be effectively safeguarded. Furthermore, in defining the scope or extent of any duty imposed by this
9 chapter, higher or more comprehensive obligations established by otherwise applicable federal, state, or local enactments
10 may be considered.

11 Section 2. Amend § 4502 of Title 6 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows and by redesignating accordingly:

13 § 4502. Definitions.

14 As used in this chapter:

15 (7) "Disability" means a physical or mental impairment which substantially limits a person's major life
16 activities, or being regarded as having such an impairment, but such terms do not include current, illegal use of a
17 controlled substance as defined in § 102 of the Controlled Substance Act (21 U.S.C. § 802) or Chapter 47 of Title
18 16, Uniform Controlled Substance Act. ~~Discrimination against a person with a disability includes discrimination~~
19 ~~against the use of a support animal because of a physical disability of the user. Support animal means any animal~~
20 ~~individually trained to do work or perform tasks to meet the requirements of a person with a physical disability,~~
21 ~~including, but not limited to, minimal protection work, rescue work, pulling a wheelchair or fetching dropped~~
22 ~~items.~~

23 (14) A ~~place~~ "Place of public accommodation" means any establishment which caters to or offers goods
24 or services or facilities to, or solicits patronage from, the general public. This definition includes state agencies,
25 local government agencies, and state-funded agencies performing public functions. This definition ~~shall apply to~~
26 includes hotels and motels catering to the transient public, but it ~~shall~~ does not apply to the sale or rental of houses,
27 housing units, apartments, rooming ~~houses~~ houses, or other dwellings, nor to tourist homes with less than 10 rental
28 units catering to the transient public.

29 () "Service animal" means a dog individually trained to do work or perform tasks for the benefit of a
30 person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

31 Section 3. Amend § 4504 of Title 6 of the Delaware Code by making deletions as shown by strike through and
32 insertions as shown by underline as follows:

33 § 4504. Unlawful practices.

34 (a)(1) No person being the owner, lessee, proprietor, manager, director, supervisor, superintendent, ~~agent~~
35 agent, or employee of any place of public accommodation, ~~shall~~ may directly or indirectly refuse, withhold ~~from~~
36 from, or deny to any person, on account of race, age, marital status, creed, color, sex, disability, sexual orientation,
37 ~~gender identity~~ identity, or national origin, any of the ~~accommodation,~~ accommodations, facilities, ~~advantages~~
38 advantages, or privileges thereof.

39 (2) A place of public accommodation may provide reasonable accommodations based on gender identity
40 in areas of facilities where disrobing is likely, such as locker rooms or other changing facilities, which reasonable
41 accommodations may include a separate or private place for the use of persons whose gender-related identity,
42 appearance or expression is different from their assigned sex at birth, provided that such reasonable
43 accommodations are not inconsistent with the gender-related identity of such persons.

44 (3) A place of public accommodation must permit service animals as follows:

45 a. An individual with a disability accompanied by a service animal in any place of public
46 accommodation. For the purpose of

47 b. An individual training support animals a service animal to be used by persons with disabilities, all
48 trainers and their support animals shall be included within those covered by this subsection. disabilities
49 accompanied by a service animal in any place of public accommodation.

SYNOPSIS

This Act makes the Delaware equal accommodation law internally consistent, correctly organized, and aligned with the Americans with Disabilities Act ("ADA").

This Act corrects the potential for confusion in Chapter 45 of Title 6 in the following ways:

1. The current law states that the purpose of Chapter 45 is to prohibit discrimination based upon physical disability but Chapter 45 actually prohibits discrimination against individuals with physical or mental disabilities. This Act corrects the purpose language in § 4501 of Title 6 by changing the term "physical disability" to "disability" so that it accurately states the scope of the protection provided by of Chapter 45.

2. The current law uses the term "support animal" while the ADA and other states use the term "service animal." This Act replaces the term "support animal" with "service animal" to use the same term as the ADA.

3. The current law defines "support animal" as assisting only individuals with physical disabilities and does not address service animals that assist individuals with nonphysical disabilities, even though Chapter 45 prohibits discrimination against individuals with physical or mental impairments. This Act uses the ADA definition of service animal, which requires that the dog be trained to do work or perform tasks for an individual with a disability.

4. The current law places the prohibition against discriminating against an individual with a support animal in the definition section rather than in the prohibited practices section. This Act moves the requirement that a service animal be permitted to accompany an individual with a disability in public places from the definition of disability to the statute that lists unlawful practices.

With these corrections, this Act restructures and corrects the language in Chapter 45 of Title 6 so that it is consistent with the ADA and clear that an individual with any disability, including an individual with Post-Traumatic Stress Disorder or other psychiatric, intellectual, or mental disability, may be accompanied by a service animal in a public place.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.



Delaware General Assembly (/\)



House Bill 354 149th General Assembly (Present)

Bill Progress

Current Status:

House Economic Development/Banking/Insurance/Commerce 3/27/18

What happens next?

Committee Hearing takes place within twelve legislative days.

Bill Details

Introduced on:

3/27/18

Primary Sponsor:

[Osienski \(/LegislatorDetail?personId=112\)](#)

Additional Sponsor(s):

Sen. [Townsend \(/LegislatorDetail?personId=13\)](#)

Co-Sponsor(s):

Sen. [Ennis \(/LegislatorDetail?personId=5\)](#), [Hansen \(/LegislatorDetail?personId=3212\)](#), [Marshall \(/LegislatorDetail?personId=294\)](#), [Simpson \(/LegislatorDetail?personId=3057\)](#)
Reps. [Baumbach \(/LegislatorDetail?personId=252\)](#), [Brady \(/LegislatorDetail?personId=124\)](#), [J. Johnson \(/LegislatorDetail?personId=171\)](#), [Viola \(/LegislatorDetail?personId=181\)](#), [Wilson \(/LegislatorDetail?personId=92\)](#)

Long Title:

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO EQUAL ACCOMMODATIONS.

Original Synopsis:

This Act makes the Delaware equal accommodation law internally consistent, correctly organized, and aligned with the Americans with Disabilities Act ("ADA"). This Act corrects the potential for confusion in Chapter 45 of Title 6 in the following ways: 1. The current law states that the purpose of Chapter 45 is to prohibit discrimination based upon physical disability but Chapter 45 actually prohibits discrimination against individuals with physical or mental disabilities. This Act corrects the purpose language in § 4501 of Title 6 by changing the term "physical disability" to "disability" so that it accurately states the scope of the protection provided by of Chapter 45. 2. The current law uses the term "support animal" while the ADA and other states use the term "service animal." This Act replaces the term "support animal" with "service animal" to use the same term as the ADA. 3. The current law defines "support animal" as assisting only individuals with physical disabilities and does not address service animals that assist individuals with nonphysical disabilities, even though Chapter 45 prohibits discrimination against individuals with physical or mental impairments. This Act uses the ADA definition of service animal, which requires that the dog be trained to do work or perform tasks for an individual with a disability. 4. The current law places the prohibition against discriminating against an individual with a support animal in the definition section rather than in the prohibited practices section. This Act moves the requirement that a service animal be permitted to accompany an individual with a disability in public places from the definition of disability to the statute that lists unlawful practices. With these corrections, this Act restructures and corrects the language in Chapter 45 of Title 6 so that it is consistent with the ADA and clear that an individual with any disability, including an individual with Post-Traumatic Stress Disorder or other psychiatric, intellectual, or mental disability, may be accompanied by a service animal in a public place. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

4/10/2018

Bill Detail - Delaware General Assembly

N/A

Fiscal Note/Fee Impact:

Not Required

Effective Date:

Takes effect upon being signed into law

Bill Text

Original Text:

[View HTML \(/json/BillDetail/GenerateHtmlDocument?legislationId=26423&legislationTypeId=1&docTypeId=2&legislationName=HB354\)](#)

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Amendments

Amendment	Status	Introduction Date	Primary Sponsor	View Details
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No Records Available

Committee Reports

Date	Committee	# Members	Favorable	On Its Merits	Unfavorable
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Roll Calls

Chamber	Result	Date	Vote Type	Yes	No	Not Voting	Absent	PDF
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Actions History

Date	Action
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3/27/18	Introduced and Assigned to Economic Development/Banking/Insurance/Commerce Committee in House
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SPONSOR: Rep. Briggs King & Sen. Poore
Reps. Baumbach, J. Johnson, Keeley, Osienski, Paradee,
Postles, D. Short; Sens. Cloutier, Hansen, Hocker,
Lavelle, Sokola

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 344

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CLASSIFICATION AND
EMPLOYMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 6531, Title 11 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 6531. Treatment and rehabilitation programs.

4 (a) Persons committed to the institutional care of the Department shall be dealt with humanely, with effort directed
5 to their rehabilitation. To the maximum extent possible, the Department shall evaluate each person using an objective risk
6 and needs assessment instrument and shall create a case plan for those persons assessed to be moderate- to high-risk that
7 targets the need factors identified by the assessment. The Department shall prioritize the provision of such evaluations
8 according to the length of sentence and the severity of the conduct giving rise to the sentence of incarceration. The
9 Department shall make efforts to provide treatment and services responsive to the person's needs and characteristics. Use of
10 the objective risk assessment instrument shall commence by December 31, 2013.

11 (b) The Department shall establish alcohol and drug counseling and treatment programs for inmates. The
12 Department may further establish a program of mandatory drug testing for inmates. In establishing such programs, the
13 Department shall also establish rules and regulations regarding the order in which inmates shall be eligible to participate in
14 such courses. Such regulations shall accord priority to inmates testing positive for illegal drugs, and inmates serving
15 sentences imposed for drug-related offenses.

16 (c) When the Department shall make programs of counseling and treatment available to inmates at a correctional
17 facility, inmates at such facility who are eligible in accordance with the rules and regulations of the Department established
18 under subsection (b) of this section, shall be required to enroll in and participate in such programs.

19 (d) The costs of providing such counseling and treatment programs established pursuant to subsections (b) and (c)
20 of this section shall, in accordance with a schedule to be established by the Department, be assessed against those inmates
21 required under subsection (c) of this section to be enrolled, and may be deducted from said inmate's account in accordance
22 with the provisions of § 6532(f) of this title.

23 (e) Inmates ~~required~~ who have been court ordered to participate in compulsory programs of drug or alcohol
24 counseling or treatment ~~established by the Department~~ pursuant to this section shall not be eligible for parole nor shall the
25 Department apply for modification of sentence until successfully completing such programs. Inmates refusing to participate
26 in such programs shall further be subject to such other disciplinary measures as the Commissioner shall establish by
27 regulation.

28 (f) The Department shall establish programs of work, case work counseling and psychotherapy, library and
29 religious services and commissary, and shall further establish procedures for the classification of inmates for those
30 purposes.

31 (g) The Department shall undertake an assessment of its ability to meet treatment and rehabilitation needs of the
32 confined population every 3 years and endeavor to provide programs in accordance with identified needs. The first report
33 shall be completed by December 31, 2012.

34 Section 2. Amend § 6531A, Title 11 of the Delaware Code by making deletions as shown by strikethrough and
35 insertions as shown by underline as follows:

36 § 6531A. Education programs.

37 (a) The Department of Education and the Department of Correction shall be jointly responsible for the
38 administration of a prison education program. The Department of Correction and the Department of Education shall work
39 collaboratively through designated agency contracts to accomplish this task.

40 (b) The Department of Education and the Department of Correction shall be responsible for the oversight and
41 management of the prison education program, including academic courses leading towards a high school diploma, life
42 skills, special education, media resource services and vocational technical courses. The Department of Education shall be
43 responsible for the establishment of rules and regulations regarding the administration of academic and vocational programs
44 within the prison education program. The Department of Education shall be responsible for hiring teachers to provide
45 instruction in these programs. The Department of Education shall further supervise these employees, who shall be
46 considered employees of the Department of Education and are subject to all rules and regulations of the Department.
47 Employees who are assigned to the prison education program as teachers that have remained Department of Correction
48 employees shall be supervised by the Department of Education. Teachers who were employees at the time this legislation is
49 enacted, that work for the Department of Correction, shall have the right to transfer to the Department of Education each
50 year upon notification to the Department of Education by April 15 and such transfer shall become effective July 1 of that
51 year. Any position transfer made pursuant to this section shall become permanent. If a remaining Department of Correction
52 teacher position becomes vacant, the position and the associated funding shall be transferred to the Department of
53 Education. Any Department of Education employee working in the prison education program and whose permanent work

54 assignment location resides within or on the campus of a Department of Correction Level 5 or Level 4 facility must submit
55 to the same random drug testing procedure required of Department of Correction employees.

56 (c) The Department of Correction through the wardens of each facility shall be responsible for classifying
57 offenders in and out of the prison education program, providing dedicated facilities that accommodate the educational
58 needs, and disciplining inmates who have displayed inappropriate behavior in the prison education program. The
59 Department of Correction shall conduct security and background checks on all potential prison education personnel and
60 notify the Department of Education as to the results of that security check.

61 (d) When the Department of Education shall make prison education programs available to inmates at a correctional
62 facility, inmates at such facility who are eligible, in accordance with rules and regulations established under subsections (b)
63 and (c) of this section, shall be required to enroll in and attend such courses.

64 (e) Inmates required to participate in compulsory programs of education as established under this section shall not
65 be eligible for parole nor shall the Department of Correction apply for a modification of sentence until successfully
66 obtaining a high school diploma or G.E.D. or a high school diploma of modified performance standards. Inmates refusing
67 to participate in such programs shall be subject to such disciplinary measures as the Commissioner of Correction shall
68 establish by regulation.

69 (f) As used in this subsection a State of Delaware high school diploma of modified performance standards means
70 an inmate who has met the requirements of the inmate's Individualized Education Plan.

71 ~~(g)~~ The Department of Education shall continue to provide funding through its discretionary federal special
72 education funds for a portion of the education costs associated with prison inmates aged 18 to 21 years who qualify for
73 special education.

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

SYNOPSIS

The language set forth in this statute would remove barriers and unrealistic goals to offenders with learning disabilities when being considered for parole or a sentence modification. Requiring an offender with learning disabilities or a low IQ to complete a GED or high school diploma, unless ordered by the courts, is counter-productive to the treatment and programming of this segment of the prison population and prohibits them from seeking the same benefits of parole or sentence modification afforded to the general population. This amendment to the law allows an offender the opportunity to earn a high school diploma of modified performance standards upon successful completion of their Individualized Education Plan.





SPONSOR: Rep. K. Williams & Sen. Poore
Reps. Baumbach, Keeley, Kowalko, Longhurst,
Matthews, Mitchell, Osienski, M. Smith, Viola; Sens.
Cloutier, Henry, Sokola, Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
TO
HOUSE BILL NO. 287
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO STATE HIGH SCHOOL DIPLOMA REQUIREMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 152, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 152. State high school diploma requirements; ~~certificate of performance.~~

(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.

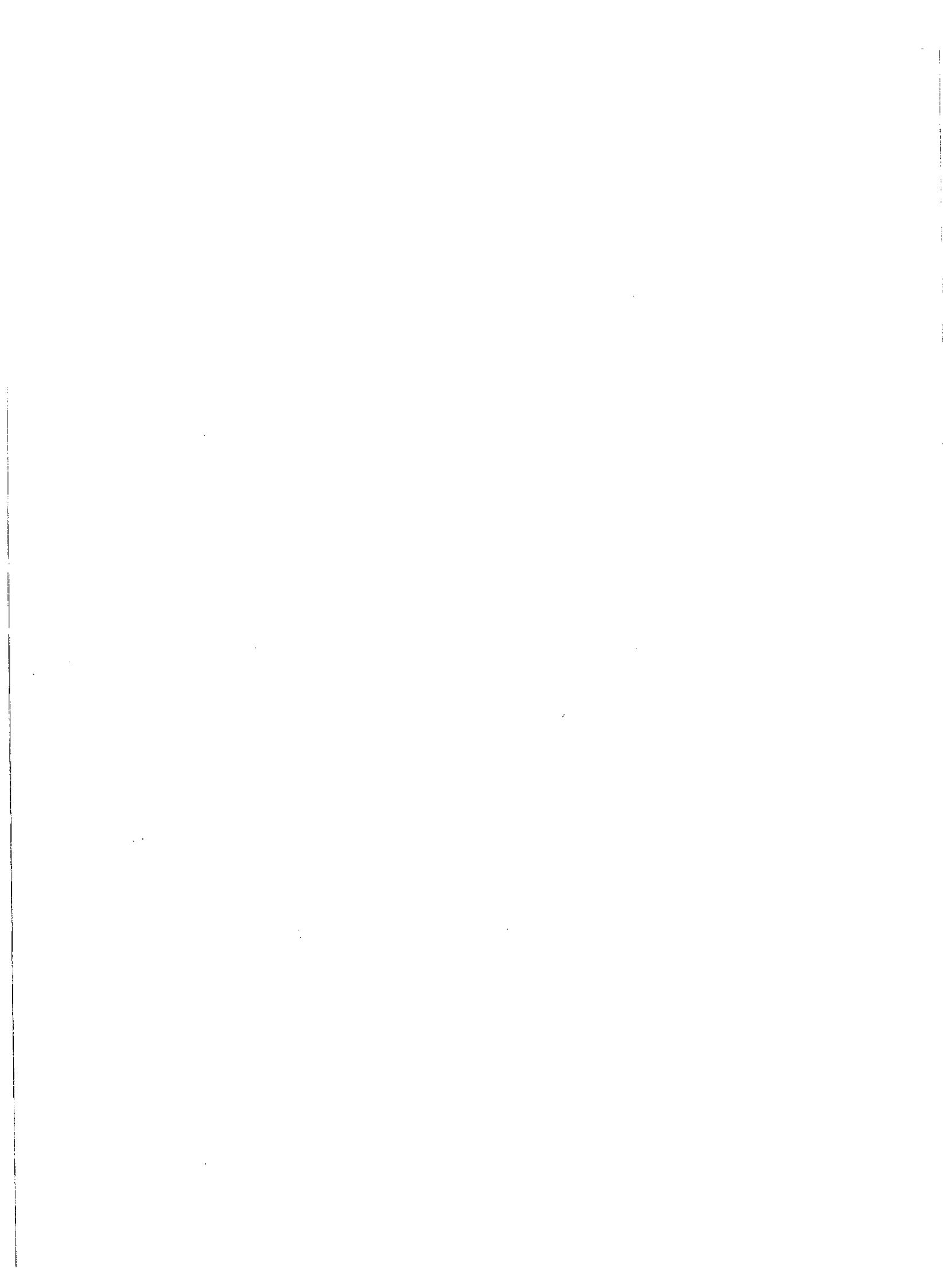
(b) The Department shall award diplomas under subsection (a) of this section to students who:

(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

(d) The Department shall ~~issue a Certificate of Performance~~ 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 ~~has not completed~~ will not complete the high school graduation course credit requirements established by the State, ~~or the district, if district credit requirements are higher than those of the State~~ 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.

Section 2. If this Act is enacted before or on June 30, 2018, this Act takes effect on July 1, 2018 and is applicable beginning in the 2018 through 2019 academic school year. If this Act is enacted after June 30, 2018, this Act takes effect on July 1, 2019 and is applicable beginning in the 2019 through 2020 academic school year.





SPONSOR: Rep. K. Williams & Sen. Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 363

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 1072, Title 14 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 § 1072. Time; places; annual election of school board members; dates.

4 (a) School elections, for whatever purposes, shall be held between the hours of ~~10:00~~ 8:00 a.m. and 8:00 p.m.
5 prevailing local time during which time the polls shall remain open.

6 Section 2. Amend § 2122, Title 14 of the Delaware Code by making deletions as shown by strike through and
7 insertions as shown by underline as follows:

8 § 2122. Election to authorize bond issue; rules governing; referendum to transfer tax funds.

9 (a) Before any school board issues bonds under this chapter, it shall call a special election.

10 (b) At any such special election every person qualified to vote under § 1077 of this title may vote, and §§ 1078
11 and 1085 of this title shall apply to such election.

12 (c) The polls shall open at ~~10:00~~ 8:00 a.m. and shall close at 8:00 p.m., prevailing local time, on the day
13 advertised.

SYNOPSIS

This bill changes the time of school board and school referendum election from 10:00 a.m. to 8:00 p.m. to 8:00 a.m. to 8:00 p.m.

