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**TITLE 14 EDUCATION**  
**DELAWARE ADMINISTRATIVE CODE**

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**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE SECRETARY**  
**400 Construction**

**415 Voluntary School Assessments**

**1.0 General Provisions**

Pursuant to 14 **Del.C.** §103(c), this regulation shall apply to Voluntary School Assessments that are required in lieu of Certifications of Adequate Capacity for proposed residential developments in New Castle County and Sussex County.

**22 DE Reg. 296 (10/01/18)**

**27 DE Reg. 515 (01/01/24)**

**2.0 Definitions**

The following words and terms, when used in this regulation, have the following meaning:

**"Building Valuation Data"** or **"BVD"** means the average construction costs as published biannually by the International Code Council, which can be used for determining permit fees for a jurisdiction.

**"Certification of Adequate Capacity"** means a certification that the school district in which a proposed development is located has 85% or less capacity for the elementary, middle, and high schools in the proposed development's feeder pattern. Such certification is issued by the Secretary based on information provided to the Department by the school district, New Castle County Department of Land Use, or Sussex County.

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

**"Gross area"** means the calculated square footage of a residential unit.

**"Secretary"** means the Secretary of the Delaware Department of Education or the Secretary's designee.

**"Voluntary School Assessment"** means the assessment amount calculated by the Secretary pursuant to 14 **Del.C.** §103(c).

**22 DE Reg. 296 (10/01/18)**

**27 DE Reg. 515 (01/01/24)**

**3.0 Certification of Adequate Capacity**

3.1 The Secretary shall issue a Certification of Adequate Capacity for a proposed development if the school district in which the proposed development is located has adequate capacity for the increased demand that will result from the proposed development.

3.2 Determining Adequate Capacity

3.2.1 A school district has adequate capacity for a proposed development if the elementary, middle, and high schools in the proposed development's feeder pattern each do not exceed 85% of the maximum number of students the schools can contain based on each school's physical space and class size for each grade level.

3.2.2 Capacity shall include students who are enrolled in the proposed development's feeder pattern schools based on their residence, as provided in 14 **Del.C.** §202(c), and through the Delaware's School District Enrollment Choice Program as provided in 14 **Del.C.** Ch. 4.

3.2.3 Capacity is determined by the district at the time a developer submits a completed request for a Certification of Adequate Capacity.

**22 DE Reg. 296 (10/01/18)**

**27 DE Reg. 515 (01/01/24)**

**4.0 Determining Total Cost of a Residential Unit**

4.1 Pursuant to 14 **Del.C.** §103(c)(3), a Voluntary School Assessment shall not exceed 5% of the total cost of a residential unit.

4.2 Determining Total Cost of a Residential Unit

4.2.1 For the purpose of this regulation, the total cost of a residential unit shall mean the total cost to construct the unit.

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4.2.1.1 The total cost shall equal the gross area of the unit multiplied by the square footage construction cost that is derived from the Building Valuation Data table that is first issued for the current calendar year.

4.2.1.2 The total cost shall not include the cost of land and site work.

4.2.2 The developer shall contact the Department to identify residential units subject to the 5% limitation.

**18 DE Reg. 304 (10/01/14)**

**22 DE Reg. 296 (10/01/18)**

**27 DE Reg. 515 (01/01/24)**