

**DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203 and 1205(b) (14 **Del.C.** §§1203 & 1205(b))
14 **DE Admin. Code** 1513

FINAL

REGULATORY IMPLEMENTING ORDER

1513 Denial of Licenses and Permits

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** Sections 1203 and 1205(b), the Delaware Department of Education ("Department"), in consultation and cooperation with the Professional Standards Board, is amending 14 **DE Admin. Code** 1513 Denial of Licenses and Permits. The regulation sets forth rules of practice and procedure concerning license denial actions and is being amended under the provision of 29 **Del.C.** §10113(b)(2). The amendments are exempt from the requirement of public notice and comment and are adopted informally in accordance with 29 **Del.C.** §10113(b)(2).

II. FINDINGS OF FACT

The Department finds that the regulation sets forth rules of practice and procedure concerning license denial actions. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1513 Denial of Licenses and Permits.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1513 Denial of Licenses and Permits. Therefore, pursuant to 14 **Del.C.** §§1203 and 1205(b), 14 **DE Admin. Code** 1513 Denial of Licenses and Permits, attached hereto as Exhibit "A," is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1513 Denial of Licenses and Permits adopted hereby shall be in the form attached hereto as Exhibit "A" and said regulation shall be cited as 14 **DE Admin. Code** 1513 Denial of Licenses, Standard Certificates, and Permits in the Administrative Code of Regulations for the Department.

V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

IT IS SO ORDERED the 14th day of February, 2020.
Department of Education

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

1513 Denial of Licenses, Standard Certificates, and Permits

1.0 Content

This regulation shall apply to the denial of a license and standard certificate for educators pursuant to 14 **Del.C.** §1217 and a permit for paraprofessionals pursuant to 14 **Del.C.** §1205(b).

7 DE Reg. 161 (08/01/03)
9 DE Reg. 138 (07/01/05)
19 DE Reg. 496 (12/01/15)
22 DE Reg. 478 (12/01/18)

2.0 Definitions

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

"Advanced License" means a license issued as part of the three tiered licensure system set forth in 14 **Del.C.** §1213 and §1214.

"Continuing License" means a license issued as part of the three tiered licensure system set forth in 14 Del.C. §1211 and §1212.

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

"Initial License" means a license issued as part of the three tiered licensure system set forth in 14 Del.C. §1210.

"Nolo Contendere" means a plea by a defendant in a criminal prosecution that, without admitting guilt, subjects him or her to conviction but does not preclude him or her from denying the truth of the charges in a collateral proceeding.

"Paraeducator" means a paraprofessional as it is used in 14 Del.C. §1205(b). Paraeducators are not "educators" within the meaning of 14 Del.C. §1202(5).

"Permit" means a document issued by the Department that verifies an individual's qualifications and training to serve as a Title I, Instructional, or Service Paraeducator.

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

7 DE Reg. 161 (08/01/03)

9 DE Reg. 138 (07/01/05)

12 DE Reg. 1307 (04/01/09)

22 DE Reg. 478 (12/01/18)

3.0 Grounds for Denial

3.1 The Department may deny an application and refuse to issue a license, standard certificate, or permit based on one or more of the following grounds:

- 3.1.1 Failure to meet the qualifications for an Initial License as provided in 14 DE Admin. Code 1510 Issuance of Initial License;
- 3.1.2 Failure to meet the qualifications for a Continuing License as provided in 14 DE Admin. Code 1511 Issuance and Renewal of Continuing License;
- 3.1.3 Failure to meet the qualifications for an Advanced License as provided in 14 DE Admin. Code 1512 Issuance and Renewal of Advanced License;
- 3.1.4 Failure to meet the qualifications for a Paraeducator Permit as provided in 14 DE Admin. Code 1517 Paraeducator Permit; or
- 3.1.5 Failure to meet the qualifications for the standard certificate sought as provided in the applicable regulation:

3.1.5.1 14 Del. Admin. Code 1520 Early Childhood Teacher;

3.1.5.2 14 Del. Admin. Code 1521 Elementary Teacher;

3.1.5.3 14 Del. Admin. Code 1522 Elementary School Counselor;

3.1.5.4 14 Del. Admin. Code 1531 Middle Level English Language Arts Teacher;

3.1.5.5 14 Del. Admin. Code 1532 Middle Level Mathematics Teacher;

3.1.5.6 14 Del. Admin. Code 1533 Middle Level Science Teacher;

3.1.5.7 14 Del. Admin. Code 1534 Middle Level Social Studies Teacher;

3.1.5.8 14 Del. Admin. Code 1539 Health Education Teacher;

3.1.5.9 14 Del. Admin. Code 1540 Secondary English Language Arts Teacher;

3.1.5.10 14 Del. Admin. Code 1542 Secondary Mathematics Teacher;

3.1.5.11 14 Del. Admin. Code 1543 Secondary Science Teacher;

3.1.5.12 14 Del. Admin. Code 1544 Secondary Social Studies Teacher;

3.1.5.13 14 Del. Admin. Code 1545 Secondary School Counselor;

3.1.5.14 14 Del. Admin. Code 1549 Dance Teacher;

3.1.5.15 14 Del. Admin. Code 1550 AgriScience Teacher;

3.1.5.16 14 Del. Admin. Code 1551 Business Education Teacher;

3.1.5.17 14 Del. Admin. Code 1553 Driver Education and Traffic Safety Education Teacher;

3.1.5.18 14 Del. Admin. Code 1554 Family and Consumer Sciences Teacher;

3.1.5.19 14 Del. Admin. Code 1555 Marketing Education Teacher;

3.1.5.20 14 Del. Admin. Code 1556 School to Work Transition Teacher;

3.1.5.21 14 Del. Admin. Code 1557 Technology Education Teacher;

3.1.5.2214 Del. Admin. Code 1558 Theater Teacher;
3.1.5.2314 Del. Admin. Code 1559 Skilled and Technical Sciences Teacher;
3.1.5.2414 Del. Admin. Code 1560 Art Teacher;
3.1.5.2514 Del. Admin. Code 1561 Bilingual Teacher;
3.1.5.2614 Del. Admin. Code 1562 Teacher of English Learners;
3.1.5.2714 Del. Admin. Code 1563 Music Teacher;
3.1.5.2814 Del. Admin. Code 1564 Physical Education Teacher;
3.1.5.2914 Del. Admin. Code 1565 World Language Teacher;
3.1.5.3014 Del. Admin. Code 1570 Early Childhood Exceptional Children Special Education Teacher;
3.1.5.3114 Del. Admin. Code 1571 Special Education Teacher of Students with Disabilities;
3.1.5.3214 Del. Admin. Code 1572 Teacher of Students Who Are Gifted and Talented;
3.1.5.3314 Del. Admin. Code 1573 Teacher of Students with Autism or with Severe Intellectual Disabilities;
3.1.5.3414 Del. Admin. Code 1574 Teacher of Students Who Are Deaf or Hard of Hearing;
3.1.5.3514 Del. Admin. Code 1575 Teacher of Students with Visual Impairments;
3.1.5.3614 Del. Admin. Code 1580 School Library Media Specialist;
3.1.5.3714 Del. Admin. Code 1581 School Reading Specialist;
3.1.5.3814 Del. Admin. Code 1582 School Nurse;
3.1.5.3914 Del. Admin. Code 1583 School Psychologist;
3.1.5.4014 Del. Admin. Code 1584 School Social Worker;
3.1.5.4114 Del. Admin. Code 1591 School Principal and Assistant School Principal;
3.1.5.4214 Del. Admin. Code 1592 Certified Central Office Personnel;
3.1.5.4314 Del. Admin. Code 1593 Superintendent and Assistant Superintendent; or
3.1.5.4414 Del. Admin. Code 1594 Special Education Director; or

~~3.1.5.3.1.6~~ For any of the following causes:

- ~~3.1.5.43.1.6.1~~ Obtaining or attempting to obtain a license, certificate, or permit by fraudulent means or through misrepresentation of material facts;
- ~~3.1.5.23.1.6.2~~ Falsifying official school records, documents, statistics, or reports;
- ~~3.1.5.33.1.6.3~~ Knowingly violating any of the provisions of the state assessment system set forth in 14 **Del.C.** §172;
- ~~3.1.5.43.1.6.4~~ 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 in violation of 11 **Del.C.** §767;
- ~~3.1.5.53.1.6.5~~ 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 16 **Del.C.** Ch. 47;
- ~~3.1.5.63.1.6.6~~ 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;
- ~~3.1.5.73.1.6.7~~ Having a license, certificate, or permit suspended, revoked, or voluntarily surrendered in another jurisdiction for cause which would be grounds for suspension or revocation;
- ~~3.1.5.83.1.6.8~~ Pleading guilty or Nolo Contendere with respect to, or is convicted of, any of the following:
 - ~~3.1.5.8.13.1.6.8.1~~ Any crime constituting the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance or counterfeit controlled substance as classified in Schedule I, II, II, IV, or V of 16 **Del.C.** Ch. 47;
 - ~~3.1.5.8.23.1.6.8.2~~ Any crime constituting a violent felony as defined in 11 **Del.C.** §4201(c);
 - ~~3.1.5.8.33.1.6.8.3~~ Any crime against a child constituting a felony, or unlawful sexual contact in the third degree in violation of in violation of 11 **Del.C.** §767;
 - ~~3.1.5.8.43.1.6.8.4~~ Any crime constituting a felony sexual offense;
 - ~~3.1.5.8.53.1.6.8.5~~ Any crime constituting a felony offense against public administration involving bribery, improper influence, or abuse of office; or
- ~~3.1.5.93.1.6.9~~ Committing a sexual offense against a child.

7 DE Reg. 161 (08/01/03)

9 DE Reg. 138 (07/01/05)

12 DE Reg. 1307 (04/01/09)

4.0 Right to Hearing, Burden of Proof, and Standards Board Hearing Procedures

- 4.1 The Department shall not take action to deny a license, a standard certificate, or a permit without providing the applicant with written notice of the reasons for denial and an opportunity for a full and fair hearing before the Standards Board.
- 4.1.1 ~~The notice of denial shall be sent by certified mail, return receipt requested to the applicant's last known mailing address and shall give notice that a full and fair hearing may be requested before the Standards Board.~~
- 4.2 The burden of proof in a license, standard certificate, or permit denial action shall be on the applicant to show by a preponderance of the evidence that he or she should not be denied a license, standard certificate, or permit because he or she meets the qualifications for a license, standard certificate, or permit pursuant to the applicable laws and regulations or he or she did not engage in misconduct as provided in subsection ~~3.1.5~~ 3.1.6.
- 4.3 Hearings shall be conducted in accordance with 14 **DE Admin. Code** 1515 Hearing Procedures and Rules.

7 DE Reg. 161 (08/01/03)

9 DE Reg. 138 (07/01/05)

12 DE Reg. 1307 (04/01/09)

19 DE Reg. 496 (12/01/15)

22 DE Reg. 478 (12/01/18)

23 DE Reg. 760 (03/01/20) (Final)