

DEPARTMENT OF TRANSPORTATION

DIVISION OF MOTOR VEHICLES

DRIVER SERVICES

Statutory Authority: 21 Delaware Code, Section 302; 18 Delaware Code, Section 2503; 29 Delaware Code, Sections 101 and 8404) (21 **Del.C.** §302; 18 **Del.C.** §2503; and 29 **Del.C.** §§101 & 8404)
2 DE Admin. Code 2224

PROPOSED

PUBLIC NOTICE

2224 Defensive Driving Course, Providers, and Instructors

Pursuant to the authority provided by 21 **Del.C.** §302, 18 **Del.C.** §2503, 29 **Del.C.** §101, and 29 **Del.C.** §8404, the Delaware Division of Motor Vehicles (DMV), adopted the Defensive Driving Course, Providers, and Instructors.

The Division of Motor Vehicles seeks to adopt general revisions to its existing regulation, the Defensive Driving Course, Providers, and Instructors, to address recent legislation, current safety concerns, and allow the provider to present the course in different formats. These collective changes are administrative in nature and serve in part to clarify the intent of the Division as enacted through this regulation.

Public Comment Period

The DMV will take written comments on these proposed general revisions to Regulation 2224 of Title 2, Delaware Administrative Code, from March 1, 2021 through March 31, 2021. The public may submit their comments to:

Christie Thomas, Executive Secretary, Division of Motor Vehicles
(dmv-defensivedriving@delaware.gov) or in writing to her attention,
Delaware Department of Transportation (DelDOT)
Division of Motor Vehicles
PO BOX 698
Dover, DE 19903

2224 Defensive Driving Course, Providers, and Instructors

1.0 Purpose and Authority

~~The purpose of this Regulation is to provide criteria for certification of Motor Vehicle Accident Prevention Courses, commonly referred to as Defensive Driving Courses (hereinafter "DDC") and Instructors. This Regulation regulation is adopted pursuant to 18 Del.C. §2503(6). The authority to promulgate is in accordance with 21 Del.C. §302 and the procedures specified in the Administrative Procedures Act, 29 Del.C. Ch. 101.~~

2.0 Purpose

The purpose of this regulation is to provide criteria for certification of Motor Vehicle Accident Prevention Courses, commonly referred to as Defensive Driving Courses and Instructors.

2.03.0 Definitions

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

~~"Classroom courses" for the purpose of this regulation~~ means a defensive driving program conducted with students and instructors in a location common to all. These courses may include the use of ~~audio or visual~~ audio/visual aids or materials.

"DDC" means Defensive Driving Course.

"Division" or "DMV" means the Delaware Division of Motor Vehicles ~~Vehicles~~.

"DMV Participant Letter" means a letter provided by the Division that is required to be given to the participant at registration or completion of the course offering student feedback.

"HAWK" means high intensity activated crosswalk.

"Instructors" means those who are authorized to instruct course material for certified DDC courses offered by Providers.

"On-line courses" for the purpose of this regulation means instruction provided online or offline through the use of a computer (or digital reader) including the use of CD-ROMS or similar pre-recorded media or websites.

"Providers" means corporate sponsor for any course as well as the individual who signs the application for the course.

3.04.0 Certification Criteria for Defensive Driving Course

- 3.1 ~~Each provider of a defensive driving course that seeks certification of that course by the Division shall submit to the Division for approval the following materials:~~
 - 3.1.1 ~~All written instructor materials, testing materials and curricula utilized for classroom instruction.~~
 - 3.1.2 ~~All written materials provided to students in connection utilized for classroom instruction.~~
 - 3.1.3 ~~Identity and qualifications of all Instructors.~~
 - 3.1.4 ~~All curricula and testing material used in connection with an on-line course.~~
 - 3.1.5 ~~All materials available to students in connection with an on-line course.~~
 - 3.1.6 ~~All testing and grading criteria used in an on-line course.~~
 - 3.1.7 ~~Identity and qualifications of persons available to answer student questions respecting content and technical support for an on-line course.~~
- 3.2 The course materials for each defensive driving course shall include, at a minimum, the following:
 - 3.2.1 State of Delaware traffic laws, defensive driving and collision prevention techniques/theory.
 - 3.2.2 A discussion of vehicle safety devices, including the requirement for and use of seat belts, child restraint devices and their proper use and relationship to a child's age and size, including the correct placement of a child in a vehicle. Vehicle air bag systems with special attention to proper passenger seating and proper use of anti-lock braking systems and how they compare to standard braking systems;
 - 3.2.3 A discussion of driving situations as they relate to the condition of the driver, driver characteristics, use of alcohol and legal/illegal drugs, including a discussion of Delaware law on drinking and driving and the use of drugs, as well as Delaware "Zero Tolerance" for drivers under 21;
 - 3.2.4 A discussion of the factors affecting driving and how they pertain to driving defensively, including, but not limited to:
 - 3.2.4.1 The condition of the driver, the vehicle, the road, sun glare, weather, such as rain, fog, sleet, hail and snow, and lighting;
 - 3.2.4.2 Distractions such as use of cellular telephones while driving, adjusting radios, audio and video tapes and compact discs, and DVDs, talking with a passenger, reading, eating, billboards, and other roadside distractions;
 - 3.2.5 A discussion, including specific requirements of Delaware law where applicable, of pertinent driving situations, including stopping distances, proper following distances, proper intersection driving, roundabouts, stopping at railroad crossings, right-of-way and traffic devices, pavement line markings, blind spots, as well as situations involving passing and being passed and head-on collisions; and
 - 3.2.6 Consideration of the hazards and techniques of various driving situations such as, but not limited to, city, highway, expressway and rural driving, proper use of exit and entrance ramps, driving in parking lots.
 - 3.2.7 A discussion of aggressive driving including but not limited to identifying an aggressive driver and providing appropriate defensive driving techniques. Discussion shall also include how to identify oneself as an aggressive driver and the appropriate manner to respond.
 - 3.2.8 Speed limits
 - 3.2.9 School buses
 - 3.2.10 Emergency vehicle right of way
 - 3.2.11 Turn signals/Turning maneuvers
 - 3.2.12 Headlight usage
 - 3.2.13 Motorcycle
 - 3.2.14 Pedestrian
 - 3.2.15 A discussion of the 10% and 15% premium discounts as well as the 3 point Division credit.
 - 3.2.16 A discussion of how and when the insured will receive the course completion certificate and how the 3 point credit is provided to the Division.
- 3.3 All Providers shall:
 - 3.3.1 Require Instructors in classroom courses to present information in a manner consistent with the approved curriculum and otherwise in accordance with the standards set forth herein.

- 3.3.2 ~~Require on-line courses, as well as other courses available other than in a classroom, to provide toll free telephone lines staffed by knowledgeable customer service personnel who can assist with content based questions during normal business hours which shall appear in bold large lettering on the website prior to the course sign up page. The set hours must be submitted to the Division for prior approval.~~
- 3.3.3 ~~Require that each student receives a minimum of six hours of classroom or on-line time for the initial course and three hours of classroom or on-line time for the renewal courses. Each classroom hour shall consist of not less than an average of 50 minutes of instructional time devoted to the presentation of course curriculum. Online courses shall be structured to provide the same learning time as required for classroom and shall submit to the Division any materials necessary to demonstrate their ability to comply with the minimum time requirement set forth in this section. A minimum of three hours must be devoted to the requirements in 3.1 through 3.2.16.~~
- 3.3.4 ~~Require that registration shall be completed prior to the beginning of any type of instruction and shall not be counted as instructional time.~~
- 3.3.5 ~~Require its Instructor in classroom courses to be in the classroom with the students during any and all periods of instructional time.~~
- 3.3.6 ~~Require Instructors in classroom courses to maintain an atmosphere appropriate for class-work.~~
- 3.3.7 ~~Material required to be covered by this Regulation shall be discussed by the Instructor in a classroom situation and be included as on-screen information in an on-line course. Changes in such material shall be submitted to the Division for pre-approval utilization in the classroom.~~
- 3.3.8 ~~Supply students who complete a defensive driving course and who have presented a valid Delaware driver's license and/or government issued photo identification with a certificate of completion that includes, at a minimum, the name of the student, the date of the class, the name of the defensive driving course Provider as well as Instructor, with contact information and the Provider's authorized signature.~~
- 3.3.8.1 ~~All online courses shall be required to obtain the student's driver's license number as part of the student identification information prior to permitting the student access to the course materials and have each student complete an online affidavit with a verification that they are the person who took the course and who is receiving the completion certificate and credit and that they understand that making a false unsworn falsification is a violation of 11 **Del.C.** §1233 of the Delaware Crimes Code, subjecting a violator to fine, imprisonment, or both.~~
- 3.3.9 ~~Provide all students with a copy of a letter provided by the Division informing the student how to provide comment or file a complaint regarding a defensive driving course. This letter shall be in hard copy form for classroom courses. On-line courses shall place the letter with registration on-line and/or shall provide a hard copy with the certificate of completion.~~
- 3.3.10 ~~Notify the Division of each student's successful completion of the course in the manner and form required by the Division. Said notification shall be made within fourteen days of the student's course completion.~~
- 3.3.11 ~~Utilize and maintain either its own proprietary teaching or testing materials, or teaching and testing material properly obtained by a third party under a written license agreement. The Provider of an on-line course may not submit an original course application for a course previously approved by the Division and owned or licensed to another Provider. This section shall not limit the ability of a Provider of an approved on-line course to have independent licensing agreements with other entities.~~
- 3.3.12 ~~Maintain requisite staffing, facilities, and resources necessary to process student payments, provide competent instruction, administer effective testing, issue timely completion certificates and provide proper notice to the Division of Motor Vehicles regarding credit earned from successful completion of the course.~~
- 3.3.13 ~~Provide the Division with free site access to online courses for purposes of verification of compliance. Division Defensive Driving personnel shall have access to audit classroom courses at no cost, but with no credit.~~

4.1 The Division may certify courses that meet the following requirements:

- 4.1.1 The Basic Course must include all material from subsections 6.1.1 to 6.1.17 of this regulation.
- 4.1.2 The Refresher Course must include all material from subsections 6.1.1 to 6.1.7 and at least seven of the requirements found in subsections 6.1.8 to 6.1.17.
- 4.1.3 The Teen Basic Course shall include all material required for the Basic Course and, at a minimum, the following:
- 4.1.3.1 Zero Tolerance Law;
- 4.1.3.2 Graduated Driver License (GDL);
- 4.1.3.3 Use of cell phones and other technology while driving;
- 4.1.3.4 Speed and how it impacts driving performance;

4.1.3.5 Backing of vehicle; and

4.1.3.6 Vehicle distractions, including but not limited to:

4.1.3.6.1 Passengers;

4.1.3.6.2 Radio; and

4.1.3.6.3 Eating.

4.1.4 The Experienced Driver Course shall include all material required for the Basic or Refresher Course and, at a minimum, the following additional information:

4.1.4.1 Health factors and how they may affect driving;

4.1.4.2 Backing of vehicle;

4.1.4.3 Inattentiveness and confusion behind the wheel;

4.1.4.4 Travel time and route selection for optimal driving conditions; and

4.1.4.5 Techniques to gain increased time for decisions such as recognizing hazards:

4.1.4.5.1 Driving in unfamiliar areas;

4.1.4.5.2 Construction zones;

4.1.4.5.3 Dealing with a tailgater; and

4.1.4.5.4 Intersection driving in rural area.

4.1.5 The Division shall have the right to approve a course that is geared to a specific demographic.

4.1.5.1 The course must meet the minimum requirements set forth in subsection 4.1.1 or 4.1.2;

4.1.5.2 The course must contain material specific to the requested demographic;

4.1.5.3 The authority and support for demographic-specific material must be provided at time of application and is subject to review and audit by the Division.

4.2 In order to become a Defensive Driving Provider, an application for certification must be submitted to the Division.

4.2.1 Classroom Course:

4.2.1.1 An application shall include the following:

4.2.1.1.1 A copy of all instructor materials, testing materials, and curriculum utilized for course instruction. Materials include but are not limited to:

4.2.1.1.1.1 Lesson plan;

4.2.1.1.1.2 Instructor manual;

4.2.1.1.1.3 Visual presentation aides; and

4.2.1.1.1.4 All written materials provided to students regarding course instruction.

4.2.1.1.2 Sufficient documentation showing that the locations are in compliance with all state and local business license and zoning regulations, with all federal, state, local health, fire, building code requirements, and provisions of physical access to persons with disabilities to the Division. This shall include, but not be limited to:

4.2.1.1.2.1 A copy of a valid business license and for those entities required to register with the Delaware Division of Corporations a certificate of good standing for the State of Delaware. The name on the license shall match the name advertised on the website and certificate. State of Delaware agencies are exempt from this requirement.

4.2.1.2 Instructional requirements for classroom instruction shall include the following:

4.2.1.2.1 A classroom course may be offered in a virtual setting or environment. This shall be offered on a secure platform where recording can be performed during presentation of material. Attendance shall be confirmed with on screen visual evidence of the student's participation. Recordings of these classes shall be held by the provider for 3 years for purpose of auditing.

4.2.1.2.2 Each student must receive a minimum of six hours of instructional time for the Basic Course and a minimum of three hours of instructional time for the Refresher Course;

4.2.1.2.3 Registration shall be completed prior to beginning of any instruction and shall not be counted as instructional time;

4.2.1.2.4 Each instructional hour shall consist of not less than an average of 50 minutes devoted to the presentation of course curriculum;

4.2.1.2.5 Post instructional quiz or testing shall not be required by the Division. However, if post quiz or testing is provided, it shall:

4.2.1.2.5.1 Not be counted as instructional time;

4.2.1.2.5.2 Include minimum of two questions related to subsection 6.1.1.

4.2.1.3 Providers shall require the following for classroom instruction:

- 4.2.1.3.1 That certified instructors present information in a manner consistent with the approved curriculum;
- 4.2.1.3.2 Ensure that certified instructors are present during all periods of instructional time and maintain an atmosphere appropriate for learning;
- 4.2.1.3.3 Ensure that all material required to be covered by this regulation shall be discussed by the certified instructor; and
- 4.2.1.3.4 Have the instructor obtain the student's driver license number as part of the student registration prior to permitting the student access to the course materials.

4.2.2 Online Course:

4.2.2.1 Each Application shall include the following:

- 4.2.2.1.1 All curriculum and testing material used in connection with an online course, including but not limited to all materials available to students regarding an online course, must be submitted in static format for review and approval;
- 4.2.2.1.2 Free site access to online courses for the Division for purposes of verification of compliance;
- 4.2.2.1.3 A toll-free telephone line staffed by knowledgeable customer service personnel who can assist with content-based questions, number must be present on the website prior to the course registration page; and
- 4.2.2.1.4 A copy of a valid business license or corporation in good standing for the State of Delaware, name on the license shall match the name advertised on the website and certificate. State of Delaware agencies are exempt from this requirement.

4.2.2.2 Testing requirements for Online Courses:

- 4.2.2.2.1 Each provider shall require each student to take a final exam with a minimum of 25 questions, at least two (2) of which must be related to subsection 6.1.1;
- 4.2.2.2.2 To receive credit for the course, a student must receive a passing score of 80% or better; and
- 4.2.2.2.3 Individual unit/chapter testing shall not be required by the Division. However, if unit/chapter testing is a curriculum requirement of the provider, it shall:
 - 4.2.2.2.3.1 Not be counted as instructional time; and
 - 4.2.2.2.3.2 Include a minimum of two questions related to subsection 6.1.1.

4.2.2.3 Providers shall obtain the student's driver license number as part of the student registration prior to permitting the student access to the course materials. Each student must complete an online affidavit with a verification that the student is the person who completed the course, is receiving the completion certificate, and understands that making an unsworn falsification is a violation of 11 Del.C. §1233 of the Delaware Crimes Code, subjecting a violator to fine, imprisonment, or both.

4.2.3 If the course is offered in any language other than English, the provider must have a translation of the course from a certified third-party translator in that particular language. The provider will supply a static copy of the course as it is presented to the student, the English translation of the course, and the accreditation of the company providing the service.

4.2.4 Providers must notify the Division of each student's successful completion of the course in the manner required by the Division. Notification must be made within fourteen days of the course completion.

4.2.5 Providers must utilize and maintain its own proprietary teaching or testing materials or teaching and testing properly obtained by a third party under a written license agreement. The provider of an online course may not submit an original course application for a course previously approved by the Division and owned or licensed to another provider.

4.2.6 Providers must maintain proof that any instructor the provider uses meets the requirements set forth in subsection 5.1 of this regulation. The Division has the right to require this documentation upon request and to audit eligibility requirements at any point.

4.2.7 The Division may provide procedural guidelines and directives through the use of email, bulletins, or letters.

4.2.8 The Division requires a certification fee of \$150 for each course at time of application. This fee shall be collected for each approved course. State of Delaware agencies are exempt from this requirement.

4.3 Providers who have submitted material that is deemed not to meet the regulation requirements shall be denied.

4.4 The provider shall:

4.4.1 Provide all students with a copy of the DMV Participant Letter, in a manner approved by the Division;

- 4.4.2 Provide information on how and when the participant will receive the course completion certificate and how the Division will be notified;
- 4.4.3 Provide information on benefits upon completion of course, including but not limited to:
 - 4.4.3.1 Provide information on the 10% and 15% premium discounts; and
 - 4.4.3.2 Provide information on how the administrative 3-point credit is applied on the driving record.
- 4.4.4 Provide statistics not older than 3 years from date of certification if any statistics are cited during the course. Statistics used in this course shall contain the year statistics were compiled;
- 4.4.5 Supply students who present a valid Delaware driver license or identification card from the Division with a free certificate upon completion of a DDC course. This shall include at a minimum:
 - 4.4.5.1 Full name of student;
 - 4.4.5.2 Date of completion;
 - 4.4.5.3 Name of course provider;
 - 4.4.5.4 Name of course completed; and
 - 4.4.5.5 Provider's authorized signature.
- 4.5 Course certifications shall expire three (3) years after approval date. Providers shall submit applications for recertification no earlier than six (6) months and no later than 30 days prior to expiration. Applications for recertification received in this time shall be deemed approved until the Division has acted on the application.
 - 4.5.1 The course recertification application shall include all the requirements set forth in subsection 4.2 of this regulation.
 - 4.5.2 In the case the application is not complete or is not received within the time frame in subsection 4.5, certification shall expire on the three-year anniversary date and those courses shall be decertified until such time as approval is granted.

20 DE Reg. 125 (08/01/16)

4.0 Course Recertification

~~Course certifications shall expire three years after approval or of the effective date of this Regulation, whichever date occurs later. Providers shall submit applications for recertification no earlier than 6 months prior to expiration. Providers that submit recertification applications no later than ninety days prior to the expiration date shall be deemed approved until the Division has acted on the application. In all other cases course certification shall expire on the three year anniversary date and those courses shall be decertified until such time as approval is granted.~~

5.0 Certification Criteria for Defensive Driving Instructors Instructor Certification Requirements

- 5.1 ~~Basic Requirements. Each Instructor shall:~~ To become a Defensive Driving Instructor, one must apply for certification to the Division. All instructors shall:
 - 5.1.1 Be a licensed driver for a minimum of thirty-six consecutive months;
 - 5.1.2 Be a high school graduate or have a G.E.D.;
 - 5.1.3 ~~Provide a certified copy of his or her driving record showing he or she holds a valid driver's license with no more than four (4) points, no suspensions or revocations in the past two years; and~~ Have the instructor's driving record reviewed;
 - 5.1.3.1 If the instructor is a licensed Delaware driver, the Division will review the driving record;
 - 5.1.3.2 If the instructor is a licensed driver of another state, the applicant will provide a three (3) year certified copy of the instructor's out of state driving record showing:
 - 5.1.3.2.1 Valid driver license status;
 - 5.1.3.2.2 No more than four (4) points; and
 - 5.1.3.2.3 At least three (3) years has passed from the clearance date of any suspension or revocation;
 - 5.1.4 Have no felony convictions during the past four five (5) years and no criminal convictions evidencing any crime or improper conduct, involving violence, dishonesty, indecency, degeneracy or moral turpitude. The Division may require a criminal history background check of all applicants for an Instructor's instructor's certification.
 - 5.1.5 ~~Submit the Application for Certification with documentation showing that the applicant has~~ Include with their application a certification that the following requirements have been met for each instructor applicant:
 - 5.1.5.1 a A minimum of 9 twelve (12) hours of in-service training classes taught by a certified Instructor defensive driving instructor; and

- 5.1.5.2 a ~~A~~ maximum of 3 of those 9 hours may be satisfied by observing a certified Instructor teaching an actual class; minimum of six (6) of those hours shall be observation and six (6) of those hours shall be presentation.
- 5.1.5.3 a minimum of 6 hours of trainee Instructor class presentations observed by a Provider-certified Instructor.
- 5.2 Instructor certification for a new provider shall provide documentation showing experience in instruction of a similar material and be exempt from subsection 5.1.5 within the first six months of approval;
- 5.3 Instructor certifications shall expire on the same day and date as the sponsoring course provider's certification date. Instructors shall submit applications for recertification no earlier than six (6) months and no later than 30 days prior to expiration. Applications for instructor recertification received in this time shall be deemed approved until the Division has acted on the application;
- 5.4 Instructor recertification applications shall include all the requirements of subsection 5.1 and certify that:
 - 5.4.1 Applicant has instructed at least twelve (12) hours of DDC in the previous calendar year; and
 - 5.4.2 Applicant has attended any supplemental training by the provider or by the Division.
- 5.5 In a case where the application is not complete or is not received within the time frame listed in subsection 5.3, certification shall expire on the three-year anniversary date and the instructor shall be decertified until such time as approval is granted.

6.0 ~~Instructor Re-certification~~

- 6.1 Every three years each certified Instructor shall:
 - 6.1.1 Submit evidence that he or she has taught the certified course a minimum of 12 hours the previous calendar year;
 - 6.1.2 Submit evidence that he or she attended an in-service update training seminar, or other training session, as provided by, or specified by, a certified defensive driving course sponsor; and
 - 6.1.3 Submit a form as prescribed by the Division certifying that he or she continues to meet the requirements of an Instructor as outlined in this Regulation.
 - 6.1.4 Submit a certified copy of his or her driving record.
- 6.2 The above described submissions shall be filed not later than three months prior to the expiration date of the then current certification. Instructors whose certification have expired shall not instruct any courses until they have been recertified.
- 6.3 The Division may provide procedural guidelines and directives through the use of bulletins and/or circular letters through the Division's website from time to time as may be appropriate.

6.0 Course Content Requirements

- 6.1 Each DDC shall be based upon State of Delaware traffic laws, defensive driving, and collision prevention techniques. The course materials for each defensive driving course shall include, at a minimum, the following:
 - 6.1.1 Discussion of interaction with law enforcement during traffic stop, including but not limited to:
 - 6.1.1.1 An individual's constitutional and other legal rights during a traffic stop;
 - 6.1.1.2 Laws regarding questioning and detention by a law enforcement officer, proof of identity and consequences for failure to comply;
 - 6.1.1.3 The role and procedures of a law enforcement officer in general and during a traffic stop;
 - 6.1.1.4 What to do and expect when stopped by law enforcement; and
 - 6.1.1.5 How and where to file a compliment on behalf of, or a complaint against a law enforcement officer.
 - 6.1.2 Discussion on traffic laws and patterns, including but not limited to:
 - 6.1.2.1 Intersections and right of way;
 - 6.1.2.2 Traffic patterns, such as diverging diamond and roundabouts;
 - 6.1.2.3 Railroad crossing;
 - 6.1.2.4 Traffic devices, including but not limited to:
 - 6.1.2.4.1 Active traffic control devices for pedestrian crossing such as HAWK signals and rectangular rapid flashing beacons;
 - 6.1.3 Discussion pertaining to the use of alcohol and legal/illegal drugs and how they can impair a driver, including but not limited to:
 - 6.1.3.1 Delaware law on impaired driving; and
 - 6.1.3.2 Techniques when encountering a potentially impaired driver.

- 6.1.4 Discussion of work zone safety, including but not limited to:
 - 6.1.4.1 Speed requirements through active work zone;
 - 6.1.4.2 Following flagger instructions; and
 - 6.1.4.3 Shifting or narrowing of lanes.
- 6.1.5 Discussion of situations on the road with vulnerable users, including but not limited to:
 - 6.1.5.1 Discussion of bicycle awareness and rights, including but not limited to:
 - 6.1.5.1.1 Yielding to bicycles;
 - 6.1.5.1.2 Space needed for passing and bicycle safety;
 - 6.1.5.1.3 A bicycle being pushed by the rider has the same rights and responsibilities as a pedestrian;
 - 6.1.5.1.4 A bicycle ridden on the roadway has the same rights and responsibilities as other motor vehicles; and
 - 6.1.5.1.5 Anticipating potential conflicts and hazards involving cyclists.
 - 6.1.5.2 Discussion of pedestrian awareness and special safety situations, including but not limited to:
 - 6.1.5.2.1 Pedestrian safety;
 - 6.1.5.2.2 Yielding to pedestrians; and
 - 6.1.5.2.3 White Cane Law.
- 6.1.6 Discussion of techniques in various driving situations involving other vehicles or users of the road, including but not limited to:
 - 6.1.6.1 School buses; and
 - 6.1.6.2 Emergency vehicles right of way and Move Over Law.
- 6.1.7 Discussion of motorcycle awareness and special safety situations specific to operating a vehicle near a motorcycle, including but not limited to:
 - 6.1.7.1 Reduced visibility of motorcyclists;
 - 6.1.7.2 Increase following distance; and
 - 6.1.7.3 Stopping distance versus a larger vehicle stopping distance.
- 6.1.8 Discussion of vehicle technology and how it relates to driver safety.
- 6.1.9 Discussion pertaining to distractions, including but not limited to:
 - 6.1.9.1 Electronic devices;
 - 6.1.9.2 Interacting with a passenger;
 - 6.1.9.3 Reading;
 - 6.1.9.4 Eating;
 - 6.1.9.5 Billboards;
 - 6.1.9.6 Animals;
 - 6.1.9.7 Car accidents; and
 - 6.1.9.8 Disabled vehicles.
- 6.1.10 Discussion of elements pertaining to defensive driving, including but not limited to:
 - 6.1.10.1 The condition of the driver including, but not limited to:
 - 6.1.10.1.1 Fatigue;
 - 6.1.10.1.2 Physical conditions;
 - 6.1.10.1.3 Mental conditions; and
 - 6.1.10.1.4 Disabilities.
 - 6.1.10.2 How environmental factors affect the driver, such as sun glare and weather including, but not limited to:
 - 6.1.10.2.1 Rain;
 - 6.1.10.2.2 Fog;
 - 6.1.10.2.3 Sleet;
 - 6.1.10.2.4 Hail; and
 - 6.1.10.2.5 Snow.
 - 6.1.10.3 Aggressive driving and road rage, including, but not limited to:
 - 6.1.10.3.1 Identifying an aggressive driver vs road rage; and
 - 6.1.10.3.2 Provide appropriate defensive driving techniques for handling aggressive drivers or road rage.
- 6.1.11 Discussion of proper defensive driving practices including, but not limited to:

- 6.1.11.1 Pavement line markings including, but not limited to:
 - 6.1.11.1.1 Median crossing; and
 - 6.1.11.1.2 Shared center turn lanes.
- 6.1.11.2 Blind spots including, but not limited to:
 - 6.1.11.2.1 Avoiding other vehicle's blind spots; and
 - 6.1.11.2.2 Checking blind spots.
- 6.1.11.3 How to calculate stopping and following distances;
- 6.1.11.4 Speed limits and general recommendations for unmarked areas;
- 6.1.11.5 Passing and being passed.
- 6.1.12 Discussion of vehicle safety devices, including but not limited to:
 - 6.1.12.1 Use of seatbelts;
 - 6.1.12.2 Child restraint systems;
 - 6.1.12.2.1 In relation to a child's age and size;
 - 6.1.12.2.2 Correct placement of a child in a vehicle;
 - 6.1.12.3 Vehicle airbag systems with special attention to driver safety;
 - 6.1.12.4 Proper use of anti-lock braking systems versus standard braking systems;
- 6.1.13 Discussion pertaining to the condition of the vehicle, including but not limited to:
 - 6.1.13.1 Tire tread;
 - 6.1.13.2 Windshield;
 - 6.1.13.3 Mirrors;
 - 6.1.13.4 Horn;
 - 6.1.13.5 Proper use of headlights;
 - 6.1.13.6 Usage of turn signals; and
 - 6.1.13.7 Safe turning techniques.
- 6.1.14 Discussion pertaining to the condition of the road, including but not limited to:
 - 6.1.14.1 Gravel;
 - 6.1.14.2 Dirt;
 - 6.1.14.3 Pavement;
 - 6.1.14.4 Potholes;
 - 6.1.14.5 Rumble strips; and
 - 6.1.14.6 Speed bumps.
- 6.1.15 Discussion of other road hazards, including but not limited to:
 - 6.1.15.1 Situations when vehicles are stationary on the side of a road;
 - 6.1.15.2 Changing lanes when safe to do so; and
 - 6.1.15.3 Speed reduction.
- 6.1.16 Discussion of the hazards and techniques of various driving environments, including but not limited to:
 - 6.1.16.1 City driving;
 - 6.1.16.2 Highway or expressway driving;
 - 6.1.16.3 Rural driving;
 - 6.1.16.4 Proper use of exit and entrance ramps;
 - 6.1.16.5 Driving in parking lots; and
 - 6.1.16.6 Requirements for handicap placard and plate.
- 6.1.17 Discussion of head-on collisions and avoidance techniques.

7.0 Complaints, Hearings, De-certification, Suspension and Probationary Status

- 7.1 ~~The following procedure shall be followed for the investigation of complaints regarding a DDC course and/or Instructors certified under section 3.0 and section 5.0, respectively, of this Regulation:~~
 - 7.1.1 ~~Any person who desires to files a complaint regarding a course and/or an Instructor of any course must do so in writing.~~
 - 7.1.2 ~~The complaint shall state the name of the course, its provider and/or Instructor and the facts that allegedly constitute the basis for the complaint. If either of these elements is missing from the complaint, the Division may, in its discretion, dismiss the complaint without further notice or a hearing.~~

- 7.1.3 The Division, upon determining that the complaint is complete as provided in section 7.1.2 above shall, within 15 days of the receipt of the complaint, transmit a copy of the complaint by certified mail, receipted email or other receipted delivery service to the Provider and/or Instructor named in the complaint at their address(es) of record in the Division files. The named Provider and/or Instructor may file an answer to the complaint within 20 calendar days with the Division.
- 7.1.4 The Division shall assign a staff member to investigate the complaint and the Provider's and/or Instructor's response.
- 7.1.5 The staff member, as part of the investigation, shall provide a report of the staff member's findings and recommendations to the Director or the Director's designee for further action as may be appropriate under this section. The report shall list the evidence reviewed, the witnesses interviewed and cite the law or regulation alleged to have been violated and the facts to support such finding. The report shall contain a written recommendation either to take such action as may be authorized by this section or to dismiss the complaint.
- 7.1.6 A dismissal of the complaint shall be without prejudice and no further action shall be taken by the Division. The Division shall provide a written notification of the Division action and the basic reason(s) therefore to the complainant and to the Provider and/or Instructor.
- 7.2 Nothing in this section of this Regulation shall preclude the Provider or Instructors from entering into a consent agreement with the Division.
- 7.3 A Provider and/or Instructor who receives a warning or is placed on probation and does not show proof of compliance with the conditions of the warning or probation within the time set forth in the consent agreement or order shall be subject to suspension or decertification.
- 7.4 In addition to the other provisions of this Regulation, a Provider and/or Instructor may be placed on probation, suspended or decertified for any one or more of the following:
 - 7.4.1 Falsification of information on, or accompanying, the Application for Certification/Re-certification;
 - 7.4.2 Falsification of, or failure to keep and provide, adequate student records and information as required herein; or
 - 7.4.3 Falsification of, or failure to keep and provide, adequate financial records and documents as required.
 - 7.4.4 Failure to comply with the course content requirements set forth in 3.0 above.
- 7.5 Upon a recommendation for further action under section 7.1 of this Regulation, the Director or the Directors' designee, shall determine whether the Provider and/or Instructor should be warned (with or without conditions), placed on probation (with or without conditions) for not more than 90 days, suspended for a period not to exceed 6 months, or to be permanently decertified for one or more violations of this Regulation. For purposes of the enforcement of this Regulation and the protection of the public, progressive discipline is not required.
- 7.6 Upon making a determination as provided for in section 7.5 of this Regulation, the Division shall provide written notice to the Provider and/or Instructor by certified mail, receipted email or other receipted delivery service. A copy of the notice shall be provided to the complainant. The notice shall include the following:
 - 7.6.1 a summary of the complaint;
 - 7.6.2 a summary of the information obtained in the investigation;
 - 7.6.3 findings of fact and/or law; and
 - 7.6.4 the sanction to be imposed by the Division.
- 7.7 Upon receipt of the notice provided for in section 7.6 of this Regulation, the Provider and/or Instructor shall have the right to a hearing and appeal.
 - 7.7.1 Such written request must be filed with the Director within 14 days after receipt of a copy of the notice.
 - 7.7.2 The hearing shall be before the Director or the Directors' designee.
 - 7.7.3 Any such hearing shall be held within thirty (30) days after the date upon which the Director received the timely written request, unless there is a postponement or continuance. The Director, or the Directors' designee, may postpone or continue any hearing on their own motion, or upon written application of the Provider or Instructor for good cause shown.
 - 7.7.4 During the pendency of any such hearing, the action taken shall be forthwith returned pending the outcome of such hearing, unless action taken was based upon a conviction of the Provider or any partner, officer, agent or employee of such Provider, and/or Instructor of a felony or of any crime or improper conduct, involving violence, dishonesty, indecency, degeneracy or moral turpitude or where the Provider has been found by the Division to be involved in improper conduct involving violence, dishonest, deceit, indecency, degeneracy, or moral turpitude, while acting as a Provider and/or Instructor.

- ~~7.8 A Provider or Instructor who is de-certified pursuant to this regulation must wait six (6) months from the date of de-certification before requesting re-certification.~~

7.0 Division Inspections

- ~~7.1 During business hours, each provider shall allow inspections by the Division.~~
- ~~7.2 During inspections, each provider shall allow the Division access to all:~~
- ~~7.2.1 Records;~~
 - ~~7.2.2 Classes; and~~
 - ~~7.2.3 Course materials.~~

8.0 Effective Date

~~This regulation shall become effective on March 11, 2015. Previously approved courses through the Department of Insurance will be honored until the expiration of their existing approval. All courses applying for approval on or after March 11, 2015, shall meet the requirements of this regulation prior to being approved.~~

8.0 Complaints, Hearings, De-certification, Suspension and Probationary Status

- ~~8.1 The following procedure shall be followed during investigations of complaints regarding any DDC course, instructor, or provider certified under Section 4.0 and Section 5.0 of this regulation:~~
- ~~8.1.1 Any person who desires to file a complaint regarding any course, instructor, or provider must do so in writing to:
Delaware Division of Motor Vehicles
Attn: Defensive Driving Coordinator
P.O. Box 698
Dover, DE 19903~~
 - ~~8.1.2 The complaint shall state the name of the course, its provider or instructor, and the facts that allegedly constitute the basis for the complaint. The Division may, at its discretion, dismiss the complaint without a hearing. A dismissal of the complaint shall be without prejudice and no further action shall be taken by the Division.~~
 - ~~8.1.3 The Division, upon determining that the complaint merits further investigation shall:~~
 - ~~8.1.3.1 Assign a staff member to investigate the complaint;~~
 - ~~8.1.3.2 Provide a redacted copy of the complaint, within fifteen (15) business days of its filing, to the provider or instructor who is subject of the complaint:~~
 - ~~8.1.3.2.1 The copy of the complaint provided shall not include the personal information of the complainants unless the information is necessary for the response; and~~
 - ~~8.1.3.2.2 The transmittal of the complaint shall be done by certified mail or other verifiable means, to the provider or instructor named in the complaint at the address or addresses of record on file.~~
 - ~~8.1.4 The provider or instructor has fifteen (15) business days from the date on which the redacted copy was provided to respond to the complaint in writing to the Division at the address provided in subsection 8.1.1.~~
- ~~8.2 A provider or instructor may be placed on probation, suspended, or decertified for any one or more of the following:~~
- ~~8.2.1 Falsification of information on, or accompanying, the Application for Certification/Recertification;~~
 - ~~8.2.2 Falsification of, or failure to keep and provide, adequate student records and information as required herein;~~
 - ~~8.2.3 Falsification of, or failure to keep and provide, adequate financial records and documents as required;~~
 - ~~8.2.4 Failure to comply with the course content requirements set forth in Section 6.0 above, to include altering of course material without approval from the Division; or~~
 - ~~8.2.5 Altering of course content, required in this regulation, without approval by the Division.~~
- ~~8.3 Nothing in this section of this regulation shall preclude the provider or instructor from entering into a consent agreement with the Division.~~
- ~~8.4 A provider or instructor who receives a warning, is placed on probation, or does not show proof of compliance with the conditions set forth in a consent agreement or order shall be subject to suspension or decertification.~~
- ~~8.5 Upon a recommendation for further action under subsection 8.1 of this regulation, the Director or the Directors' designee, shall determine whether the provider or instructor shall be warned, placed on probation (with or without conditions) for not more than 90 days, suspended for a period not to exceed six (6) months, or~~

permanently decertified for one or more violations of this regulation. For purposes of the enforcement of this regulation and the protection of the public, progressive discipline is not required.

- 8.6 Upon a finding provided for in subsection 8.5 of this regulation, the Division shall provide written notice to the provider or instructor by certified mail, email with receipt, or other delivery service with receipt. A copy of the notice shall also be provided to the complainant. The notice shall include the following:
- 8.6.1 A summary of the complaint;
 - 8.6.2 A summary of the information obtained in the investigation;
 - 8.6.3 Findings of fact or law, including the law or regulation allegedly violated by the provider or instructor;
 - 8.6.4 A statement by the Division whether or not action will be taken and a description of the course of action intended;
 - 8.6.5 The law or regulation giving the Division authority to act; and
 - 8.6.6 Notice of the instructor's or provider's right to request a hearing to dispute the complaint. The hearing must be requested within ten (10) business days from the date on which the instructor or provider received the certified or receipted notice.
- 8.7 Upon a finding by the division to suspend or decertify any course, instructor, or provider, that suspension or decertification shall not occur until ten (10) business days after the receipt of written notice as described in subsection 8.6.
- 8.8 If the Division gives notice to any instructor or provider of an intent to suspend or decertify, that instructor or provider may request a hearing by the Division. If a hearing is requested, the instructor or provider shall have the right to be heard personally, by counsel or by its agent. The Director, or the Directors' designee, may initiate investigations, appoint a hearing officer and subpoena witnesses. The Director, or the Directors' designee, upon receiving a decision from the hearing officer, may continue with the suspension or decertification of the provider or instructor. Prior to imposing any suspension or decertification, the Director, or the Directors' designee, shall consider:
- 8.8.1 The nature of the violation or violations and the provider's or instructor's willingness to make restitution to all parties harmed by the actions; and
 - 8.8.2 The effect of the proposed action on the community.
- 8.9 If the instructor or provider requests a hearing, one will be scheduled by the division with a minimum of ten (10) business days' notice. The Director, or the Directors' designee, may postpone or continue any hearing for any reason. The provider or instructor may request continuation of the hearing upon written application to the Division for good cause shown. The granting or denying of a request for continuance made by the provider or instructor shall be in the sole discretion of the Division.
- 8.10 If a hearing is requested by the instructor or provider, any intended suspension or decertification by the Division will not be implemented until after the Director, or the Directors' designee, has rendered a decision and provided written notice to all parties of that decision by certified mail, email with receipt, or other delivery service with receipt.
- 8.11 A provider or instructor who is decertified pursuant to this regulation must wait six (6) months from the date of decertification before applying for recertification.

18 DE Reg. 708 (03/01/15)

20 DE Reg. 125 (08/01/16)

24 DE Reg. 859 (03/01/21) (Prop.)