

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) & Ch. 12 (14 Del.C. §122(b); 14 Del.C. Ch.12)  
14 DE Admin. Code 106A

### PROPOSED

### PUBLIC NOTICE

#### Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)

#### 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised

##### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

##### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 Del.C. 122(b) and 14 Del.C. Ch. 12, Subchapter VII, the Secretary of Education intends to amend 14 DE Admin. Code 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised. This regulation is being amended to: (1) eliminate an incorrect chart related to summative evaluation ratings due to the implementation of equal weighting and (2) to allow flexibility in the length and frequency of observations in the second year of a summative evaluation cycle for experienced teachers to provide an opportunity to streamline the observation process.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before June 4, 2018 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to [DOeregulations.comment@doe.k12.de.us](mailto:DOeregulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or obtained at the Department of Education, Finance Office located at the address listed above.

##### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended 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 amended regulation does not address students' receipt of an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation does not address students' health and safety.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation does not address students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the decision making 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 amended regulation does not place any unnecessary reporting or administrative requirements on decision makers.

7. Will the 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 does not change because of the amendment.

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 amendment is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There is no expected cost to implementing this amended regulation.

#### 106A Teacher Appraisal Process Delaware Performance Appraisal System (DPAS II) Revised

##### 1.0 Effective Date

The Teacher Appraisal Process, Delaware Performance Appraisal System (DPAS II) Revised shall be effective for all school districts and charter schools beginning with the 2017-2018 school year, unless another teacher appraisal system has been approved by the Department pursuant to Chapter 12 of Title 14 of the Delaware Code.

15 DE Reg. 833 (12/01/11)

17 DE Reg. 205 (08/01/13)

18 DE Reg. 31 (07/01/14)

19 DE Reg. 35 (07/01/15)

21 DE Reg. 37 (07/01/17)

## 2.0 Definitions

In this regulation, the following words and terms shall have the following meaning unless the context clearly indicates otherwise:

**"Announced Observation"** means an observation by a Credentialed Observer at a date and time that has been previously arranged, using the associated formative conferences and reports, which may include the use of an observation form. The observation shall be of sufficient length, at least thirty (30) minutes, to analyze the lesson and assess teacher performance.

**"Board"** means a local board of education or charter school board of directors.

**"Credentialed Observer"** means an individual, not always the supervisor of the teacher, who has successfully completed DPAS II credentialing in accordance with Section 10.0. Credentialed Observer denotes any individual who may conduct observations as part of a teacher's appraisal process. The term Credentialed Observer encompasses those administrators who are Evaluators.

**"DASA"** means the Delaware Association of School Administrators.

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

**"DPAS II Revised Guide for Teachers"** means the manual that contains the prescribed forms, detailed procedures, specific details about the five (5) components of evaluation and other relevant documents that are used to implement the appraisal process.

**"DSEA"** means the Delaware State Education Association.

**"Evaluator"** means a Credentialed Observer who is responsible for a teacher's Summative Evaluation. A teacher's required observations as part of the appraisal cycle shall generally be conducted by the assigned Evaluator; however, the assigned Evaluator may designate a school administrator who is also a Credentialed Observer to conduct the required observations.

**"Experienced Teacher"** means a teacher who holds a valid and current Continuing or Advanced License, issued pursuant to Chapter 12 of Title 14 of the **Delaware Code**; or Standard or Professional Status Certificate issued prior to August 1, 2003.

**"Group 1 Teacher"** means any Novice Teacher or Experienced Teacher providing instruction in ELA and/or mathematics to a student enrolled in any grade four (4) through eight (8) as verified by the State's pupil accounting system.

**"Improvement Plan"** means the plan that a teacher and Evaluator mutually develop in accordance with Section 8.0.

**"Non-Group 1 Teacher"** means any Novice Teacher or Experienced Teacher that does not meet the definition of Group 1 Teacher as defined herein and explained in the Guide.

**"Novice Teacher"** means a teacher who holds a valid and current Provisional or Initial License issued pursuant to Chapter 12 of Title 14 of the **Delaware Code**.

**"Satisfactory Evaluation"** shall be equivalent to the overall "Highly Effective" or "Effective" rating on the Summative Evaluation and shall be used to qualify for a continuing license.

**"Short Observation"** means an observation by a Credentialed Observer, using the associated conferences and forms, at a date and time that has not been previously arranged. The observation shall be no less than ten (10) minutes, and be limited to specified criteria. Such observations shall not substitute for required observations under Section 3.0.

**"Student Achievement"** means:

(a) For tested grades and subjects:

(1) Student scores on the state assessment system; and, as appropriate,

(2) Other measures of student learning, such as those described in paragraph (b) of this definition, provided they are rigorous and comparable across classrooms.

(b) For non-tested grades and subjects: Alternative measures of student learning and performance such as student scores on pre-tests and end-of-course tests; student performance on English language proficiency assessments; and other measures of student achievement that are rigorous and comparable across classrooms. Such alternative measures must be approved by the Department and developed in partnership with DSEA and DASA.

**"Student Growth"** means the change in Student Achievement data for an individual student between two points in time. Growth may also include other measures that are rigorous and comparable across classrooms.

**"Summative Evaluation"** or **"Evaluation"** means the comprehensive, end-of-cycle appraisal and shall incorporate the results of the minimum required observations, any additional observations, and required component-level data. At the discretion of the Evaluator, it may also include additional Announced, Unannounced or Short observation data, beyond the required observation data, provided by other Credentialed Observers.

**"Unannounced Observation"** means an observation by a Credentialed Observer at a date and time that has not been previously arranged, using the associated formative conferences and reports, and which may include the use of an observation form. The observation shall be of sufficient length, at least thirty (30) minutes, to analyze the lesson and assess teacher performance.

**"Unsatisfactory Evaluation"** shall be the equivalent to the overall "Needs Improvement" or "Ineffective" rating on the Summative Evaluation as it pertains to educators seeking a continuing license.

**"Working Day"** means a day when the employee would normally be working in that district or charter school.

15 DE Reg. 833 (12/01/11)

15 DE Reg. 1586 (05/01/12)

17 DE Reg. 205 (08/01/13)

18 DE Reg. 31 (07/01/14)

19 DE Reg. 35 (07/01/15)

21 DE Reg. 37 (07/01/17)

### 3.0 Appraisal Cycle

- 3.1 Experienced Teachers who have earned a rating of "Highly Effective" or "Effective" on their most recent Summative Evaluation shall receive a minimum of one (1) Announced or Unannounced Observation each year within the summative cycle and either an additional Announced or Unannounced Observation or the equivalent of observed time (30 minutes) through three (3) Short Observations with a Summative Evaluation at least once every two (2) years.
- 3.2 Experienced Teachers who are not otherwise included in subsection 3.1 shall receive a minimum of one (1) Announced Observation and one (1) Unannounced Observation with a Summative Evaluation at the end of the one (1) year period. These teachers shall have an Improvement Plan which may require additional observations and other types of monitoring as outlined in the DPAS II Revised Guide for Teachers.
- 3.3 Novice Teachers shall receive a minimum of one (1) Announced Observation and two (2) Unannounced Observations with a Summative Evaluation every year. Novice teachers who have earned a rating of "Needs Improvement" or "Ineffective" on their most recent Summative Evaluation shall have an Improvement Plan which may require additional observations or other types of monitoring as outlined in the DPAS II Revised Guide for Teachers.
- 3.4 Novice Teachers who have earned a minimum of three (3) consecutive "Highly Effective" or "Effective" ratings on their most recent Summative Evaluations may receive a minimum of one (1) Announced or Unannounced Observation each year with a Summative Evaluation at least once every two (2) years.

15 DE Reg. 833 (12/01/11)

17 DE Reg. 205 (08/01/13)

18 DE Reg. 31 (07/01/14)

19 DE Reg. 35 (07/01/15)

21 DE Reg. 37 (07/01/17)

### 4.0 DPAS II Guide for Teachers

- 4.1 All school districts and charter schools shall use the manual entitled DPAS II Guide Revised for Teachers as developed and as may be amended by the Department of Education in collaboration with DASA and DSEA to implement the appraisal system.
- 4.2 The manual shall contain, at a minimum, the following:
  - 4.2.1 Specific details about each of the five (5) components listed in subsection 5.1.
  - 4.2.2 All forms or documents needed to complete the requirements of the appraisal process.

## 5.0 Appraisal Components and Appraisal Criteria

- 5.1 The following five (5) Appraisal Components, including any Appraisal Criteria specified for each, shall be the basis upon which the performance of a teacher shall be determined. In each academic year, for each of the first four (4) Appraisal Components, a school district or charter school may waive one (1) criterion identified as optional below. In addition, for the Professional Responsibilities Component (subsection 5.1.4), a school district or charter school may substitute a locally determined alternative Appraisal Component, which must be approved by the Department no later than the last day of July of each year. Final notification of any such waiver or substitution shall be provided to all teachers in a school district or charter school and the Department of Education by the last day in August of each year:

### 5.1.1 Planning and Preparation

- 5.1.1.1 Selecting Instructional Goals: Teacher selects instructional goals that are aligned with the DE content standards and the district or charter school's curricula. Goals are appropriate for the learners and reflect high expectations for all students, consistent with State Assessment levels of performance where applicable. (Optional)
- 5.1.1.2 Designing Coherent Instruction: Teacher plans for learning activities that align with the instructional goals and support student learning. Instructional planning shows a structure and selection of materials and activities that support student learning relative to the district or charter school's curricula.
- 5.1.1.3 Demonstrating Knowledge of Content and Pedagogy: Teacher shows his or her knowledge of content and how to teach it to a variety of learners. The teacher's plans include natural connections among content areas that deepen student learning. The content that he or she teaches is aligned to the district or charter school's curricula. (Optional)
- 5.1.1.4 Demonstrating Knowledge of Students: Teacher shows his or her knowledge of student developmental characteristics; approaches to learning, knowledge, and skills; interests; cultural heritage; and, where applicable, State Assessment performance levels.
- 5.1.1.5 Designing Student Assessments: Teacher creates and or selects assessments that are congruent with instructional goals, criteria and standards. The teacher plans for the use of formative and summative assessments of the teacher's students.

### 5.1.2 Classroom Environment

- 5.1.2.1 Managing Classroom Procedures: Teacher has clearly defined procedures for managing learning time, transitions between learning events, and routines that maximize learning time.
- 5.1.2.2 Managing Student Behavior: Teacher establishes behavioral expectations and consequences and monitors student conduct. Teacher responds to student behavior in appropriate and effective ways to minimize disruptions.
- 5.1.2.3 Creating an Environment to Support Learning: Teacher creates an atmosphere in which learning is valued. Teacher-to-student and student-to-student interactions show rapport that is grounded in mutual respect. (Optional)
- 5.1.2.4 Organizing Physical Space: Teacher organizes, allocates, and manages physical space to create a safe learning environment. Teacher uses physical resources to contribute to effective instruction and makes resources accessible to all students. (Optional)

### 5.1.3 Instruction

- 5.1.3.1 Engaging Students in Learning: Content is appropriate, clear, and linked to student knowledge and experience. Content is aligned with the district or charter school's curricula. Activities and assignments engage all students. Instructional materials are suitable to the instructional goals. The instruction is coherent and paced appropriately for all students.
- 5.1.3.2 Demonstrating Flexibility and Responsiveness: Teacher has a repertoire of instructional strategies and makes use of them to make modifications to lessons as needed. Teacher differentiates instruction based on learner characteristics and achievement data. (Optional)
- 5.1.3.3 Communicating Clearly and Accurately: Verbal and written communication is clear and appropriate to students' ages, backgrounds, and levels of understanding. (Optional)
- 5.1.3.4 Using Questioning and Discussion Techniques: Questions are appropriate to the content and level of students' understanding. Teacher encourages students to pose their own questions and is responsive to student questions. Teacher facilitates student led discussions.

5.1.3.5 Using Assessment in Instruction: Teacher makes the criteria of the assessment known to the students, monitors the students' progress, provides descriptive feedback, and promotes student self-assessment and uses data to plan future instruction.

5.1.4 Professional Responsibilities

5.1.4.1 Communicating with Families: Teacher shares information about the school's educational program and expectations for student performance. Teacher develops a mechanism for two way communication with families about student progress, behavior, and personal needs or concerns. (Optional)

5.1.4.2 Recording student data in a Student Record System: Teacher keeps records of attendance, disciplinary actions, emergency contact information, and personal information. Teacher shares relevant information with appropriate school personnel.

5.1.4.3 Growing and Developing Professionally: Teacher chooses and participates in professional development that is aligned with his or her professional needs and aligned with the needs of the school, district or charter school, or students. (Optional)

5.1.4.4 Reflecting on Professional Practice: Teacher engages in reflective thinking as an individual, as a team participant, or as a school community member with the goal of improving instruction and learning for all students.

5.1.5 Student Improvement

5.1.5.1 Measuring Student Improvement: Students collectively demonstrate appropriate levels of Student Growth as benchmarked against standards to be set by the Secretary based on input from stakeholder groups.

**15 DE Reg. 833 (12/01/11)**

**15 DE Reg. 1586 (05/01/12)**

**17 DE Reg. 205 (08/01/13)**

**18 DE Reg. 31 (07/01/14)**

**21 DE Reg. 37 (07/01/17)**

**6.0 Summative Evaluation Ratings**

6.1 Each of the five (5) Appraisal Components (Component(s)) shall be equally weighted and assigned a rating of "Highly Effective," "Effective," "Needs Improvement" or "Ineffective" on the Summative Evaluation. The rating for each of the five (5) Appraisal Components shall reflect the standards as described in the DPAS II Revised Guide for Teachers.

6.1.1 Each Component rating shall be equal to an assigned point value. A "Highly Effective" Component rating shall earn four (4) points, an "Effective" Component rating shall earn three (3) points, a "Needs Improvement" Component rating shall earn two (2) points, and an "Ineffective" Component rating shall earn one (1) point. No partial points shall be awarded.

6.1.2 Once all Component ratings are assigned, a Summative Evaluation rating is determined by the sum of all five (5) Components.

6.2 The Summative Evaluation rating shall also include one of four overall ratings: "Highly Effective", "Effective", "Needs Improvement", or "Ineffective".

6.2.1 A "Highly Effective" Summative Evaluation rating shall mean that the teacher has earned a sum of 19 or 20 Component rating points.

6.2.2 An "Effective" Summative Evaluation rating shall mean that the teacher has earned a sum of 14 to 18 Component rating points.

6.2.3 A "Needs Improvement" Summative Evaluation rating shall mean that the teacher has earned a sum of 9 to 13 Component rating points.

6.2.4 An "Ineffective" Summative Evaluation rating shall mean that the teacher has earned a sum of 5 to 8 Component rating points.

6.2.5 Experienced Teachers receiving a Summative Evaluation every two years in accordance with subsection 3.1 above shall earn an overall Student Improvement Component rating on the Summative Evaluation in accordance with the following chart in the DPAS II Revised Guide for Teachers.:

| Year 1 or 2 | Year 1 or 2  | Rating           |
|-------------|--------------|------------------|
| Exceeds     | Exceeds      | Highly Effective |
| Exceeds     | Satisfactory | Effective        |

|                |                |                   |
|----------------|----------------|-------------------|
| Exceeds        | Unsatisfactory | Effective         |
| Satisfactory   | Satisfactory   | Effective         |
| Satisfactory   | Unsatisfactory | Needs Improvement |
| Unsatisfactory | Unsatisfactory | Ineffective       |

The first two columns above indicate the rating combinations earned in a two-year Summative Evaluation cycle, regardless of the order in which they were earned.

- 6.2.6 If a teacher's overall Summative Evaluation rating is determined to be "Needs Improvement" for the third consecutive year, the teacher's rating shall be re-categorized as "Ineffective."

**15 DE Reg. 833 (12/01/11)**

**15 DE Reg. 1586 (05/01/12)**

**17 DE Reg. 205 (08/01/13)**

**19 DE Reg. 35 (07/01/15)**

**21 DE Reg. 37 (07/01/17)**

## 7.0 Pattern of Ineffective Teaching Defined

- 7.1 A pattern of ineffective teaching shall be based on the most recent Summative Evaluation ratings of a teacher using the DPAS II process. Two consecutive ratings of "Ineffective" shall be deemed as a pattern of ineffective teaching. The following chart shows the consecutive Summative Evaluation ratings that shall be determined to be a pattern of ineffective teaching:

| Year 1            | Year 2            | Year 3            |
|-------------------|-------------------|-------------------|
| Ineffective       | Ineffective       |                   |
| Needs Improvement | Needs Improvement | Needs Improvement |
| Needs Improvement | Ineffective       | Needs Improvement |
| Needs Improvement | Needs Improvement | Ineffective       |
| Ineffective       | Needs Improvement | Ineffective       |
| Ineffective       | Needs Improvement | Needs Improvement |
| Needs Improvement | Ineffective       | Ineffective       |

**15 DE Reg. 833 (12/01/11)**

**15 DE Reg. 1586 (05/01/12)**

**19 DE Reg. 35 (07/01/15)**

## 8.0 Improvement Plan

- 8.1 An Improvement Plan shall be developed for a teacher who receives an overall rating of "Needs Improvement" or "Ineffective" on the Summative Evaluation or a rating of "Needs Improvement" or "Ineffective" on any Appraisal Component in Section 5.0 on the Summative Evaluation regardless of the overall rating.
- 8.2 An Improvement Plan may be developed if a teacher's overall performance during an observed lesson is unsatisfactory. In instances where an improvement plan is to be developed, the Evaluator shall first have noted the unsatisfactory performance on the required forms by noting "Performance Requires an Improvement Plan" and initialing the statement.
- 8.3 The Improvement Plan shall contain the following:
- 8.3.1 Identification of the specific deficiencies and recommended area(s) for growth;
  - 8.3.2 Measurable goals for improving the deficiencies to satisfactory levels;
  - 8.3.3 Specific professional development or activities to accomplish the goals;
  - 8.3.4 Specific resources necessary to implement the plan, including but not limited to, opportunities for the teacher to work with curriculum specialist(s), subject area specialist(s), instructional specialist(s) or others with relevant expertise;
  - 8.3.5 Procedures and evidence that must be collected to determine that the goals of the plan were met;
  - 8.3.6 Timeline for the plan, including intermediate check points to determine progress;
  - 8.3.7 Procedures for determining satisfactory improvement;
  - 8.3.8 Multiple observations and opportunity for feedback provided by a Credentialed Observer, a mentor, a lead teacher, or an instructional coach.

- 8.4 Professional development that is completed during the time that the Improvement Plan is in effect must directly relate to areas identified as needing improvement.
- 8.5 The Improvement Plan shall be developed cooperatively by the teacher and Evaluator. If the plan cannot be cooperatively developed, the Evaluator shall have the authority and responsibility to determine the plan as specified in subsections 8.1 and 8.2 above.
- 8.6 The teacher shall be held accountable for the implementation and completion of the Improvement Plan.
- 8.7 Upon completion of the Improvement Plan, the teacher and Evaluator shall sign the documentation that determines the satisfactory or unsatisfactory performance of the plan.

**15 DE Reg. 833 (12/01/11)**

**15 DE Reg. 1586 (05/01/12)**

**17 DE Reg. 205 (08/01/13)**

**19 DE Reg. 35 (07/01/15)**

**21 DE Reg. 37 (07/01/17)**

## **9.0 Challenge Process**

- 9.1 A teacher may challenge any rating on the Summative Evaluation, either a Component Rating or the Overall Rating, or a teacher may challenge the conclusions of a lesson observation if the statement "Performance Requires An Improvement Plan" has been included on the required form(s). To initiate a challenge, a teacher shall submit additional information specific to the point of disagreement in writing within fifteen (15) working days of the date of the teacher's receipt of the Summative Evaluation. Such written response shall become part of the appraisal record and shall be attached to the Summative Evaluation. All challenges together with the record shall be forwarded to the supervisor of the Evaluator unless the supervisor of the Evaluator is also in the same building as the teacher. In this situation, the challenge together with the record shall be forwarded to a designated district or charter school level Evaluator.
  - 9.1.1 Within fifteen (15) working days of receiving the written challenge, the supervisor of the Evaluator or the designated district or charter school level Evaluator shall review the record which consists of all documents used in the appraisal process and the written challenge, meet with the teacher, and issue a written decision.
  - 9.1.2 If the challenge is denied, the written decision shall state the reasons for denial.
  - 9.1.3 The decision of the supervisor of the Evaluator or the designated district or charter school's level Evaluator shall be final.

**15 DE Reg. 833 (12/01/11)**

**17 DE Reg. 205 (08/01/13)**

**19 DE Reg. 35 (07/01/15)**

## **10.0 Credentialing**

- 10.1 Credentialing processes and assessments shall be established and conducted by the Department of Education and developed in collaboration with school and district level administrators.
- 10.2 Evaluator credentials are earned upon successful completion of a credentialing assessment and related trainings. Evaluator credentials are valid for five years from the date of issue. Evaluators may seek to renew their credentials within 24 months prior to the expiration date.
  - 10.2.1 The Department shall establish an annual schedule during which the credentialing assessment will be offered in order to provide multiple opportunities for individuals to earn credentials. Individuals shall have the opportunity to sit for the assessment multiple times in order to earn credentials. The Department shall not limit the number of times individuals seeking credentials can sit for an assessment offered by the Department.
  - 10.2.2 The Department shall offer no less than six (6) opportunities annually to earn or renew a credential.

**15 DE Reg. 833 (12/01/11)**

**17 DE Reg. 205 (08/01/13)**

**19 DE Reg. 1011 (05/01/16)**

## **11.0 Evaluation of Process**

The Department of Education shall conduct a biennial evaluation of the teacher appraisal process. The evaluation shall, at a minimum, include a survey of teachers and Evaluators and interviews with a sampling of teachers and Evaluators. Data from the evaluation and proposed changes to DPAS II Revised shall be presented to the State Board of Education for review on a biennial basis.

**19 DE Reg. 1011 (05/01/16)**

**21 DE Reg. 37 (07/01/17)**

**12.0 DPAS II Monitoring**

The Department of Education shall annually monitor implementation of DPAS II for teachers.

**13 DE Reg. 1067 (02/01/10)**

**15 DE Reg. 833 (12/01/11)**

**15 DE Reg. 1586 (05/01/12)**

**17 DE Reg. 205 (08/01/13)**

**18 DE Reg. 31 (07/01/14)**

**19 DE Reg. 35 (07/01/15)**

**19 DE Reg. 1011 (05/01/16)**

**21 DE Reg. 37 (07/01/17)**

**21 DE Reg. 847 (05/01/18) (Prop.)**