

Staff Findings and Recommendations Report Provider Advisory Board

152nd General Assembly, 1st session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
March 2023*

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The Joint Legislative Oversight & Sunset Committee ("JLOSC" or "Committee") is a bipartisan 10-member legislative body which performs periodic legislative review of boards or commissions. The purpose of the oversight and sunset review is to decide genuine public need and if the entity is effectively performing. The Division of Research is a nonpartisan and confidential reference bureau for the General Assembly and supplies many services including staff support for JLOSC.

Special thanks: We appreciate the aid provided by Provider Advisory Board members, the Office of Child Care Licensing, and Department of Education staff in conducting this review.

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ABOUT THIS REPORT

This is a staff findings and recommendations report (“staff report”) drafted by Division of Research staff on the sunset and oversight review (“review”) of the Provider Advisory Board. This report has staff recommendations for JLOSC review and discussion. Recommendations are not final until discussed and adopted by JLOSC with an affirmative vote by 7 members.

The review’s purpose is to find the public need for the entity and whether the entity is effectively performing to meet the need. The goal of the review is to supply strength and support to entities that are supplying a State recognized need.

JLOSC performs its duties with support provided by the Division of Research’s dedicated and nonpartisan staff in the form of two JLOSC research analysts with supplemental assistance from a legislative attorney, legislative fellow, and administrative assistant. JLOSC staff completes a performance evaluation of the entity under review and gives a staff report to JLOSC which includes research, analysis, key findings, and recommendations. During the review process, the following is not assumed:

- There is a genuine public need for the entity under review.
- That the entity is satisfactorily and effectively meeting public need.

Rather, the entity under review has the burden of showing, through the statutory criteria for review included in their self-report and analyst requested supplemental documentation, that there is a genuine public need, and that the entity is meeting that need.

JLOSC selected the Provider Advisory Board for review on March 21, 2022. During the review process the Provider Advisory Board supplied information by completing a self-report which included a performance review questionnaire.¹

Division of Research staff compiled the following findings and recommendations after completion of a performance evaluation which included thorough research and analysis outlined in the Objectives, Scope, and Methodology section of this report. Division of Research staff used national auditing and evaluation standards while conducting the performance evaluation. Those standards require that we plan and perform the evaluation to obtain sufficient evidence to supply a reasonable basis for our findings and conclusions based on our evaluation objectives. We believe that the evidence obtained supplies a reasonable basis for our findings and conclusions based on our evaluation objectives. The Objectives, Scope, and Methodology section discusses the fieldwork procedures used while developing the findings and recommendations presented in this report.

The recommendations contained in this report are not final until adopted by JLOSC by affirmative vote of 7 members. Under §10213(a), Title 29, the Committee must first decide whether there is a genuine public need for an entity under review. To meet this

¹ Self-reports available on the Committee’s website, <https://legis.delaware.gov/Committee/Sunset>

requirement, the Committee may select to continue or terminate the entity under review. JLOSC meets publicly to review and discuss its staff's findings and recommendations, and the Committee is free to change, reject, or create brand new recommendations.

The JLOSC statute authorizes the Committee to recommend 1 or more of the following:

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.
- Consolidation, merger, or transfer of the entity or the entity's functions to another entity.
- Termination of the entity unless certain conditions are met or modifications are made, by legislation or otherwise within a specified period.
- Budget appropriation limits for the entity.
- Legislation which the Committee considers necessary to carry out its decision to continue or terminate the entity.

The information contained in this report, along with the previously published self-report², which includes background information from the entity under review, help the Committee in conducting a review of the entity and meeting its statutory requirements under Chapter 102, Title 29. The "Staff Findings" section of this report has information to support the following staff recommendations.

Next Steps

After the release of this report, JLOSC will hold a public hearing in early 2023 for each entity under review to present to the Committee and accept public comment on the scope of the review.³

The Committee will review all information received, including the findings and recommendations presented in this staff report. Recommendations become complete after review, discussion, and an affirmative vote of 7 JLOSC members. Committee members are not bound by recommendations presented by staff and are free to change, reject, or form new recommendations. Once JLOSC adopts recommendations, the review moves to the implementation phase which may include drafting legislation.

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² Self-Report is accessible on the Committee's website, <https://legis.delaware.gov/Committee/Sunset>

³ Public meeting notices found on the Committee's website and the State of Delaware's Public Meeting Calendar.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

A performance evaluation conducted as required under JLOSC statute and based on the following criteria⁴:

1. If the agency is a licensing agency, the extent to which the agency has permitted qualified applicants to be licensed.
2. The extent to which the agency has served the public interests.
3. The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or whether those changes primarily benefit the agency or other entities and are of only indirect benefit to the public.
4. Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during previous legislative sessions.

Scope

This review covers a 5-year performance period except where noted.

JLOSC Statutory Criteria #1

If the agency is a licensing agency, the extent to which the agency has allowed qualified applicants to be licensed.

Methodology for JLOSC Statutory Criteria #1

The Provider Advisory Board is not a licensing agency, statutory criteria #1 is not applicable to this review.

JLOSC Statutory Criteria #2

The extent to which the agency has served the public interests.

Methodology for JLOSC Statutory Criteria #2

The State of Delaware established the Provider Advisory Board following a Joint Sunset Committee recommendation in 2011 to serve the Office of Child Care Licensing in an advisory capacity regarding adopting, promulgating, and amending the rules and regulations required to carry out the Delaware Child Care Act. As described in the fieldwork section of this report, this review explored the main duties and responsibilities listed in statute and bylaws⁵:

1. Serve in advisory capacity and advise the Office of Child Care Licensing on matters relating to the adopting, promulgating, and amending new and existing rules and regulations required to carry out the Delaware Child Care Act.
2. Encourage the Office of Child Care Licensing to communicate with licensed providers.

⁴ 29 Del. C. § 10209.

⁵ 14 Del. C. § 3007A.

3. Encourage the Office of Child Care Licensing to recognize that most childcare providers are private businesses that need stable and reasonable regulations.
4. Consider the financial effects of all rules and regulations for existing, take-over, and start-up centers and family homes.

JLOSC Statutory Criteria #3

The extent to which the agency has recommended statutory changes, and whether those changes directly benefit the public or primarily benefit the agency or other entities and are of only indirect benefit to the public.

Methodology for JLOSC Statutory Criteria #3

The Provider Advisory Board has not recommended statutory changes, statutory criteria #3 is not applicable to this review.

JLOSC Statutory Criteria #4

Review the implementation of recommendations contained in the final reports presented to the General Assembly and the Governor during earlier legislative sessions.

Methodology for JLOSC Statutory Criteria #4

This is the first JLOSC review of the Provider Advisory Board, statutory criteria #4 is not applicable to this review. As noted previously, the Provider Advisory Board was created following a recommendation adopted by the Joint Sunset Committee in 2011 during its review of the Office of Child Care Licensing.

Fieldwork completed

- Reviewed all information supplied by the Provider Advisory Board.
 - Self-report.
 - 2012 Bylaws.
 - Board comments submitted to the Office of Child Care Licensing relating to proposed regulations.
 - Historical documents provided by the Provider Advisory Board.
- Any available public documents.
- Current statute.
- Reviewed applicable publications of the Register of Regulations.
- Board's overall performance as it relates to current statute.
- Board's compliance with Freedom of Information Act ("FOIA").
 - Public meeting calendar: Board meeting notices, agendas, minutes.
- Board member size, quorum trends, and composition.
- Board member training opportunities.
- Held meeting with the current chair and previous chair of the Provider Advisory Board to discuss review.
- Held meetings with the Office of Child Care Licensing and the Office of Early Learning to discuss review.
- Attended August 2022 meeting of the Provider Advisory Board.
- Attended September 2022 meeting of the Delaware Early Childhood Council.

- Attended the October 2022 Delaware Early Childhood Council meeting regarding Simplifying Child Care Regulations and Standards meeting.

Review Background

This is the first review of the Provider Advisory Board by JLOSC. This review began in March of 2022. Entity completed and returned a self-report in June of 2022. JLOSC staff conducted research and drafted this findings and recommendations report.

Background Research Synopsis

Created in 2011 as the result of a recommendation from the Joint Sunset Committee, the Provider Advisory Board serves in an advisory role to the Office of Child Care Licensing, with the primary purpose of reviewing and recommending changes to the rules and regulations surrounding childcare operations in Delaware. Main duties of the Provider Advisory Board include supplying advice to the Office of Child Care Licensing regarding adopting, promulgating, and amending existing and proposed rules and regulations relating to early care and education and school-age centers.⁶ Additional duties of the Provider Advisory Board include encouraging the Office to communicate with licensed providers, reviewing existing rules and regulations, and considering the financial effects of all rules and regulations for new and existing providers.

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⁶ 14 Del. C. § 3007A.

STAFF FINDINGS

Finding #1

The Provider Advisory Board was created in 2011 following a recommendation adopted by the Joint Sunset Committee during its review of the Office of Child Care Licensing. The Provider Advisory Board is not successful in meeting its statutory requirements, does not consistently meet the required 4 times per calendar year, does not consistently advise the Office of Child Care Licensing on new rules and regulations, and provides no direct communication with licensed providers.

The Provider Advisory Board (“Board”) was created in 2011 by Senate Bill 132, sponsored by Senator George Bunting and Representative John Kowalko, following the Joint Sunset Committee’s review of the Office of Child Care Licensing (“OCCL”). The Committee recommended establishing the Board to serve in an advisory capacity to the Office of Child Care Licensing with regard to adopting, promulgating, and amending such rules and regulations as are required to carry out the Delaware Child Care Act, focusing on Early Care and Education and School Age Centers.

In 2019, House Bill 12 added the following duties to the Board’s governing statute:

- Encourage OCCL to communicate with providers and facilitate such communication.
- Encourage OCCL to enforce the Delaware Child Care Act in a manner recognizing that most child care providers are private businesses that need stable and reasonable regulations.

It is unclear how the Board implemented the new duties assigned under House Bill 12.

During the period of review, JLOSC staff found that the Provider Advisory Board has not held the required 4 meetings per year since 2016:

- Calendar Year 2016: 8 meetings.
- Calendar Year 2017: Zero meetings.
- Calendar Year 2018: Zero meetings.
- Calendar Year 2019: 3 meetings.
- Calendar Year 2020: 2 meetings.
- Calendar Year 2021: 1 meeting.
- Calendar Year 2022: 2 meetings.

According to the Board and OCCL, the Board receives proposed regulations 30 days before the draft is published in the Register of Regulations. Following publication of the draft, the public at large, including the Provider Advisory Board, have 30 days to submit comments.⁷

In February 2023, the Provider Advisory Board informed JLOSC staff that the Board only has 30 days to review proposed regulations. However, the Department of Education reiterated that it is currently engaged in a provider public comment period before the official public comment process. This confirms to JLOSC staff that the

⁷ Because the Office of Child Care Licensing sends the Provider Advisory Board a copy of the proposed regulations 30 days prior to publishing in the Register of Regulations, the Provider Advisory Board has 60 days to provide comments versus the standard 30 days provided to the public.

Provider Advisory Board, along with all licensed providers, have 60 days to provide feedback.

Since 2016, OCCL proposed changes to the regulations governing child care 13 times. The Provider Advisory Board submitted official comments on 5 occasions located by JLOSC staff. The former Chair of the Board submitted historical comments on an additional 4 proposed regulations to JLOSC staff as part of this review. These comments occurred in 2017 and 2018 when the Provider Advisory Board did not meet. It is unclear if the former Chair submitted these comments to OCCL as an individual or on behalf of the Board that did not meet to approve them. For example, in an email to OCCL dated August 30, 2017, the former Chair stated, "The PAB [Provider Advisory Board] does not approve this proposed change to regulations." However, JLOSC staff is unable to locate a meeting in 2017 in which the Board met to discuss the proposed regulations.

JLOSC staff observed confusion and tension surrounding authority of the Board.⁸ Official comments the Board submitted to OCCL on proposed regulations dated March 4, 2019, state:

OCCL also ignores the statutory requirement to have the advice of the Provider Advisory Board in promulgating regulations under 31 Del. Code 347 (The Board shall have the authority to serve in an advisory capacity to the Office of Child Care Licensing with regard to adopting, promulgating and amending such rules and regulations as are required.).

The governing statute does not require OCCL to wait for advice from the Provider Advisory Board before publishing regulations. This responsibility falls on the Provider Advisory Board to do so in accordance with its statutory duty. Additionally, JLOSC found evidence of OCCL extending a comment deadline at the request of the Provider Advisory Board. In April and May of 2018, OCCL published notices of proposed regulations. In January 2019, these regulations were published a third time, with written comments originally accepted until January 31, 2019. However, this deadline was extended until March 4, 2019, at the request of the Provider Advisory Board. The Board did not meet at all in 2018 when the regulations were proposed twice but asked for an extension the third time and it was granted.

OCCL maintains the email list of all licensed child care providers in the state. All meeting notices and other information is disseminated through the Office and not the Board, despite documents showing emails being collected at early Board meetings. Research by JLOSC staff concludes that all Board communication occurs through OCCL, at the request of the Chair.

Finding #2

With the move from the Department of Services for Children, Youth, and their Families ("DSCYF") to the Department of Education, the frequency of communication between agency units and licensed child care providers has increased. The Delaware Early Childhood Council includes licensed child care

⁸ Department of Education employees have documented occasions of disrespectful behavior by the Provider Advisory Board and some employees have requested to limit interaction with certain Board members.

providers in its membership and has held over 60 meetings since 2020, compared to only 5 meetings held by the Provider Advisory Board during the same period.

At the time of its creation, the Provider Advisory Board was housed in DSCYF, along with the Office of Child Care Licensing. In 2020, the Office as well as the Board were moved to the Department of Education. Becoming an arm of the Department of Education provided increased opportunities for licensed child care providers to communicate with the Office of Child Care Licensing, the Office of Early Learning, and the Delaware Early Childhood Council.

The Delaware Early Childhood Council (“DECC”) promotes the development of a comprehensive and coordinated early childhood system from birth to eight years old. Its membership includes parents, advocates, school districts, businesses, community members, and providers. Licensed child care providers currently have representation on the Delaware Early Childhood Council:

- Two center-based early care and education providers.
- One family-home based early care and education provider.

Additionally, DECC may appoint additional Ex-Officio members and advisors to assist in meeting its responsibilities. Currently, representatives from the Office of Child Care Licensing as well as two additional providers serve as Ex-Officio members.

In its 5-year strategic plan, *Strengthening Early Success: Building Our Future Together*, DECC outlines its priorities including simplifying regulations across funding streams and programs that serve young children, including child care and pre-k programs.⁹ DECC is currently working with the Department’s Early Childhood Education units to streamline the regulations structuring early childhood programs and services, including Delaware STARS, licensing, and health with the goal of creating a simple system for parents, providers, and the public to navigate. Additionally, the Department, in conjunction with DECC, plans to create a support mechanism between the regulations and quality indicators while offering free technical assistance as licensed programs navigate the system.

Since the Office of Child Care Licensing and the Provider Advisory Board moved to the Department of Education, the Delaware Early Childhood Council and other Early Childhood Education units have held the following meetings open to providers and the public:

- Delaware Early Childhood Council regular meetings (19 meetings).
 - 6 scheduled for 2023.
- Partnership with Professionals Committee (7 meetings).
 - 2 scheduled for 2023.
- Early Learning Programs and Workforce Subcommittee (2 meetings).
- Interagency Resource Management Committee (7 meetings).
- Early Childhood Inclusion Committee (6 meetings).
- Delaware STARS Revision Feedback Session (3 meetings).
- Access to High Quality Programs Committee (3 meetings).
- Access to Quality Programs Subcommittee (scheduled for 2023).
- Access to Holistic Services Committee (2 meetings).

⁹ 2022-2025 DECC Strategic Plan available on the Council’s website
<https://education.delaware.gov/community/governance/committees-and-task-forces>

- Data and Policy Subcommittee (4 meetings).
- Workforce Data and Support Plan Discussion (scheduled for 2023).
- Special Education Panel (1 meeting).
- COVID-19 Child Care Implications and Update Discussion (1 meeting).
- Early Childhood Workforce Panel (1 meeting).
- Cost of Quality Discussion Panel (1 meeting).
- Simplifying Child Care Regulations and Standards Discussion (1 meeting).
- DECC Strategic Plan Council Feedback Session (3 meetings).
- DECC 2020-2025 Strategic Plan Event Virtual Release (1 meeting).

In comparison, the Provider Advisory Board only held 5 meetings in this same period.

In addition to the above meeting list, the Office of Early Learning holds informal provider meetings bimonthly since 2020. JLOSC staff was informed the number of providers who participate ranges from 150-200 each month. The Office of Early Learning communicates the occurrence of these meetings via email to all licensed providers.

Finding #3

This review observed severe FOIA compliance issues with meeting agendas and minutes. JLOSC staff found an extensive history of noncompliance with FOIA’s open meeting requirements.

The Provider Advisory Board is a public body as defined by the Freedom of Information Act (“FOIA”).¹⁰ During the course of a typical review JLOSC staff reviews the previous three years of meetings (January 2019 through October 2022) for FOIA compliance. However, given the lack of documentation available, JLOSC staff expanded the scope of research to include available meeting information from January 2016 through October 2022. JLOSC staff checked for FOIA compliance on meeting notices, agendas, and minutes. Using FOIA open meeting requirements¹¹ the *FOIA Scorecard* below notes the following FOIA compliance items:

- Every meeting must be open to the public, except for valid exception under FOIA.
 - Executive session closed to the public for FOIA named purposes.
- Public notice of regular meetings posted at least 7 days in advance of the meeting.
 - Includes agenda if determined.
 - Posted within 6 hours in advance of the meeting with reason for posting delay included.
 - Posted in public location accessible to the public, including electronic posting on designated State of Delaware website.¹²
 - Includes date, time, and place of meeting.
 - Indicates intent to hold executive session (if applicable).
- Agenda is subject to change, changes may include:
 - Added items, including executive session.
 - Deletion of items, including executive session.

¹⁰ 29 Del. C. § 10002.

¹¹ 29 Del. C. § 10004.

¹² Designated website is the Public Meeting Calendar: <https://publicmeetings.delaware.gov>

- Minutes recorded and made available for public inspection and copying as a public record. Minutes must include the following:
 - Record of members present.
 - Record by individual members of each vote taken and action agreed on.
- Final minutes posted within 5 working days of final approval.
 - Draft minutes posted within 20 working days of meeting conclusion for public bodies who meet 4 or fewer times per year.

FOIA Scorecard for January 2016 – October 2022	
Total Meetings Held	16
Properly Noticed Meetings	13
Properly Posted Agendas	3
Properly Posted Meeting Minutes (draft)	0
Properly Posted Meeting Minutes (final)	1
Missing Meeting Notice	1
Missing Agendas	13
Missing Minutes	15
Number of Executive Sessions Held	0

Historical documents show a meeting was held on May 17, 2016. JLOSC staff was unable to locate a public meeting notice.

JLOSC staff reviewed Delaware’s Public Meeting Calendar for all meetings held by the Provider Advisory Board during the expanded review period (January 2016 – October 2022). The Public Meeting Calendar keeps a record of all administrative actions for a meeting date including announcement creation date and posting dates for agendas and minutes. During the review period, the Provider Advisory Board properly noticed 13 out of 16 public meetings held, 1 meeting was not noticed at all, with 2 meeting announcements not supplying the required 7 days’ notice. 13 meeting announcements were missing agendas and 15 were missing minutes.

In years where the Provider Advisory Board met 4 times per year or less, draft meeting minutes should have been posted within 20 working days of a meeting.¹³ Zero meetings held during the review period properly posted draft meeting minutes and only 1 meeting announcement included properly posted final meeting minutes.

Finding #4

The Governor’s office appoints all 7 members to the Provider Advisory Board. Due to the Board’s lack of record keeping, JLOSC staff has been unable to determine the participation rate of appointed members. There are 2 current vacancies. According to the Governor’s office, only 7 applications to serve on the Provider Advisory Board have been received since 2019.

According to statute, the Provider Advisory Board is comprised of 7 members, who are Delaware residents:¹⁴

- 1 provider from a family child care home operating in each of the 3 counties.
- 1 director/owner of a private child care center operating in each of the 3 counties.

¹³ 29 Del. C. § 10004.

¹⁴ 14 Del. C. § 3006A.

- 1 provider from a family child care home or 1 director/owner of a private child care center from the City of Wilmington.
- At least 1 member from a Boys and Girls Club or YMCA in Delaware.

Members are appointed to 3 years term without term limits with the Chairperson elected by the Board from its members for 1-year terms.

The following is a chart of appointments created with data from the Governor's office and Board files:

Provider Advisory Board Membership History

Note: Grey indicates no longer on Board

Member's Name	Original Appointment Date	Appointment Expiration Date	Number of Terms Served
Patricia Belle-Scruggs (Chair)	2019	2022	1
Connie Merlet	2012	2024	4
Casey Christophel	2019	2022	1
Carrette Monsanto	2019	2022	1
April Lee	2013	2022	3
Family (Sussex)	VACANT		
Family (NCC)	VACANT		
Cathleen Allen	2012	Unknown	-
Christopher Couch	2012	Unknown	-
Pamela Harper	2012	2018	2
Pamela Morrison	2018	2019	-

Due to the lack of meeting minutes during the review period, JLOSC staff was unable to determine the Board's attendance rate, participation in Board operations, and if the Board experienced any issues related to quorum.

According to the Governor's office, they received the following number of applications to serve on the Provider Advisory Board:

- 0 applications in 2016.
- 0 applications in 2017.
- 6 applications in 2018.
- 3 applications in 2019.
- 2 applications in 2020.
- 0 applications in 2021.
- 2 applications in 2022.

Of those applicants, the Governor appointed 3 to the Board (1 in 2018 and 2 in 2019). Information from the Governor's office shows that, in 2018, the individual appointed out of the 6 applicants was the only one who met the residency requirement of the vacancy.

STAFF RECOMMENDATIONS

Recommendation #1, Option 2 – Sunset the Provider Advisory Board

Review and analysis by JLOSC staff conclude the Office of Early Learning, Office of Child Care Licensing, and the Delaware Early Childhood Council provide multiple avenues in which licensed child care providers can participate and advise the Department regarding issues facing the early child care community. Following the move from Department of Services for Children, Youth, and their Families to the Department of Education, over 60 meetings relating to early childhood care and education were held by the Department while only 5 meetings were held by the Provider Advisory Board. Additionally, the Provider Advisory Board has not met its statutory requirements in consistently advising the Office and Department on proposed regulations or informing the public and other stakeholder groups of its meetings.

JLOSC staff recommends Option 2: Sunset the Provider Advisory Board with JLOSC sponsoring legislation to implement this recommendation.

Continue or Terminate (standard JLOSC recommendation).

Option 1: The Provider Advisory Board shall continue, subject to any further recommendations that JLOSC adopts.

- OR -

Option 2: The Provider Advisory Board is terminated, and the Committee will sponsor legislation to implement this recommendation.

Recommendation #2 – Add Additional Provider Representative to Delaware Early Childhood Council

JLOSC should consider sponsoring a bill to add an additional provider representative to the Delaware Early Childhood Council, Chapter 30, Title 14, using this review as a guide.

JLOSC and Department of Education staff will work together to develop the legislation. JLOSC staff will engage stakeholders as necessary.

Recommendation #3 – Hold more meeting opportunities in the evening

JLOSC shall recommend the Early Childhood Education units in the Department of Education explore holding more meeting opportunities in the evening hours after most providers close for business.

Recommendation #4 - Release from Review

Release the Provider Advisory Board from review upon enactment of sunset legislation.

From: Connie Merlet
To: Brainard, Mark (LegHall)
Cc: Patricia Belle-Scruggs; McAtee, Amanda A (LegHall)
Subject: Re: JLOSC Presentation Meeting - 3/21 at 6pm
Date: Thursday, March 2, 2023 1:57:44 PM

FYI-

Cathleen Allen was on the board until 2016. I believe that's when Chris Couch left also.
Two people you didn't have in line up, who were both on board from the beginning-
Sherry Ivory 2012-2016
Sharon Williams 2012-2020

We had a Board meeting in 2017 on 3/14.

Connie

TITLE 14

Education

Free Public Schools

CHAPTER 30A. The Delaware Child Care Act

§ 3006A. Provider Advisory Board; appointments; composition; terms; vacancies [Effective until July 1, 2024].

- (a) There is hereby established within the Office of Child Care Licensing, a Provider Advisory Board.
- (b) The Board shall consist of 7 members, who are residents of this State and are appointed by the Governor. The following shall be members of the Board:
- (1) One provider from a family child care home from each of New Castle County, Kent County and Sussex County.
 - (2) One director/owner of a private child care center from each of New Castle County, Kent County and Sussex County.
 - (3) One provider from a family child care home or 1 director/owner of a private child care center from the City of Wilmington.
 - (4) At least 1 of the members of the Board appointed pursuant to this subsection (b) shall be from a Boys and Girls Club or YMCA within this State. For purposes of this subsection, a child care center at a Boys and Girls Club or YMCA shall be considered a private child care center.
- (c) The term of a Board member appointed by the Governor shall be 3 years and shall terminate upon the Governor's appointment of a new member to the Board. A Board member shall continue to serve until a successor is appointed but a holdover under this provision does not affect the expiration date of a succeeding term.
- (d) In case of a vacancy on the Board before the expiration of a Board member's term, a successor shall be appointed by the Governor within 30 days of the vacancy for the remainder of the unexpired term.
- (e) The Board shall elect 1 of its members as Chair to serve for a 1-year term and who shall be eligible for reelection.
- (f) The Board shall meet at the call of the Chair but no fewer than 4 times a year.

[82 Del. Laws, c. 184, § 3](#); [83 Del. Laws, c. 248, § 4](#); [83 Del. Laws, c. 249, § 5](#); [83 Del. Laws, c. 277, § 1](#);

§ 3007A. Provider Advisory Board; powers and duties [Effective until July 1, 2024].

The Board has the following powers and duties:

- (1) Advise and consult with OCCL regarding the development, adoption, promulgation, and any amendment to the rules, regulations, and policies that are required to carry out this chapter with respect to early care and education, family child care homes, and school-age centers.
- (2) Encourage OCCL to communicate with persons licensed under this chapter and to facilitate such communication.
- (3) Encourage OCCL to enforce this chapter in a manner that recognizes that most child care providers are private businesses that need stable and reasonable regulations.

[82 Del. Laws, c. 184, § 3](#); [83 Del. Laws, c. 37, § 16](#); [83 Del. Laws, c. 249, § 6](#); [83 Del. Laws, c. 277, § 1](#);

Operating Bylaws Provider Advisory Board, within the Office of Child Care Licensing—2012

Article I MISSION

Section 1.1 **Mission Statement**

The Provider Advisory Board has the authority to serve in an advisory capacity to the Office of Child Care Licensing with regard to adopting, promulgating and amending such rules and regulations as are required to carry out this chapter with respect to early care and education and school-age centers.

Section 1.2 **Guiding Principles**

In pursuing this mission, the Provider Advisory Board is guided by the following principles:

- a. All children need and deserve high quality care;
- b. Private family and center providers do the majority of outside care for children in the state of Delaware;
- c. It is incumbent on all public and private bodies to work together in order to provide the highest quality care for our children;
- d. High quality care is expensive, and providers need reasonable standards and tools in order to remain profitable and viable.

Article II DUTIES OF THE COMMISSION

Section 2.1 **Duties of the Commission** Duties of the Commission should include but shall not be limited to:

- a. Review the rules and regulations for family care, center early childhood care and school age care;
- b. Advise the Office of Child Care Licensing with regard to adopting, promulgating and amending existing rules;
- c. Advise the Office of Child Care Licensing with regard to adopting, promulgating and amending new rules
- d. Consider the financial effects of all rules and regulations for existing, take-over and start-up centers and family homes.

Article III MEMBERSHIP

Section 3.1 **Commission Voting Members**

The Provider Advisory Board shall consist of 7 members who are residents of this state and are appointed by the Governor. The Board shall elect a Chair

from among its members. The members of the Board shall be appointed subject to the following qualifications:

- A. One provider from a family child care home from each of New Castle County, Kent County, and Sussex County;
- B. One director/owner of a private day care center from each of New Castle County, Kent County, and Sussex County;
- C. One provider from a family child care home or one director/owner of a private day care center from the city of Wilmington.

Further, at least one of the members of the Board shall also be from a Boys and Girls Club within this state. For purposes of this body, a day care center at a Boys and Girls Club shall be considered a private day care center.

Section 3.2 **Terms and Vacancies**

- a. The term of a Board member appointed by the Governor shall be three years and shall terminate upon the Governor's appointment of a new member to the Board. A Board member shall continue to serve until his or her successor is Duly appointed but a holdover under this provision does not affect the expiration date of a succeeding term.
- b. In case of a vacancy on the Board before the expiration of a Board member's term, a successor shall be appointed by the Governor within 30 days of the vacancy for the remainder of the unexpired term.
- c. The Board shall elect one of its members as Chair to serve for a 1-year term and who shall be eligible for reelection.

Section 3.3 **Bipartisan Representation**

Appointments will be made in a manner which ensures bipartisan representation As no more than fifty percent of the voting members, plus one additional member, shall be from the same political party.

Section 3.4 **Resignation and Removal**

- a. It is recommended that a Board member if resigning at any time give written notice to the Office of the Governor and copy the Board Chair.
- b. A member of the Board shall be suspended or removed by the Governor for malfeasance, nonfeasance, malfeasance misconduct, incompetency or neglect of duty. The Board may recommend removals to the Governor.

ARTICLE IV OFFICERS

Section 4.1 **Board Officers**

Board Officers shall consist of the Board Chair, a Vice-Chair and a Secretary.

Section 4.2 **Chair**

The Chair shall have general charge of the business of the Board. The Chair may delegate any of his/her duties to the Vice-Chair or other Board members. The Chair shall be an ex-officio member of all other committees. In the absence of the Chair, the Vice-Chair shall preside over a meeting. In the event of a resignation or

removal of the Chair prior to the expiration of the Chair's term, the Board address the vacancy and by majority vote elect a new Chair to fill the remainder of the term.

Section 4.3 Vice-Chair

- a. In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair, and when so acting, shall have all of the powers of and be subject to all the restrictions upon the chairperson.
- b. In the absence of a Vice-Chair, the Board will designate a member to preside over a scheduled meeting when needed.
- c. Upon the resignation of a Vice-Chair, the Board will appoint a replacement.

Section 4.4 Secretary

The Secretary shall ensure that that minutes are recorded of proceedings of all Board meetings, and shall ensure that minutes are forwarded to a designated representative from the Office of Child Care Licensing. The Secretary shall perform other such duties as the Board may from time to time prescribe.

Section 4.5 Officer Terms

The officers shall be elected to serve for one year from the date of their election and may be eligible for reelection.

Article V COMMISSION BUSINESS

Section 5.1 Meetings

- a. Business of the Board shall be conducted by Board members at both regularly scheduled meetings and other meetings in order to properly serve in an advisory role to the Office of Child Care Licensing when the Office is adopting, promulgating and amending rules and regulations. The Board must meet at least four times each year. A quorum is required to conduct business of the Board.
- b. Sub-Committee meetings shall be scheduled by the designated Chair of each sub-committee, as often as needed in order to accomplish deadlines for completion of work in progress.

Section 5.2 Quorum

- a. A quorum shall exist when four members of the Board are present. Phone, electronic and paper proxies count towards the determination of a quorum as long as there is a meeting place posted and available for the public.
- b. For quorum purposes all public meetings will be noticed and conducted in accordance with state law, except that the subcommittees may conduct interim telephonic meetings to determine agendas, strategies, or conduct any other business in preparation for a public meeting.

Section 5.3 Special Meetings

Special meetings may be called between regularly scheduled meetings by the

Chair or at the written request of three Board members. Five days notice is required for special meetings.

Section 5.4 **Conference Call**

A Board member attending via telephone connection shall be counted as in attendance and shall be able to conduct business as if he or she were in the room.

Article VI COMMITTEES

Section 6.1 **Committees**

The Board shall establish committees as necessary to carry out business and the responsibilities specified in Article II. Subcommittees may be established to assist in accomplishing duties. Chairs of all committees must be Board members but non-Board members may be members of committees when their presence adds diversity and breadth to the committee. Committee Chairs shall be approved by the full Board. Committee meeting dates shall be posted, followed by posted minutes, according to statutory requirements

Section 6.2 **Special (Ad Hoc) Committees**

The Chair may designate such committees from time to time when deemed appropriate to conduct specific assignments. Each special committee shall be considered temporary and disbanded on acceptance of its report or when discharged by the Chair.

Article VII AMENDMENTS

Section 7.1 **By-Law Amendments**

These by-laws may be amended at any public meeting that has been posted fourteen days in advance with the agenda, and has 2/3 of members of the Board.

Article VIII RULES OF ORDER

Section 8.1 **Rules of Order**

The rules contained in the current edition of Roberts Rules of Order shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these by-laws and any special rules of order that the Board may adopt.