

2020 Final Report

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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Senator S. Elizabeth Lockman, Vice Chair

Representative Andria L. Bennett

Senator Anthony Delcollo

Representative Sherry Dorsey Walker

Senator Stephanie L. Hansen

Senator Ernesto B. Lopez

Representative Jeffrey N. Spiegelman

Senator John J. Walsh

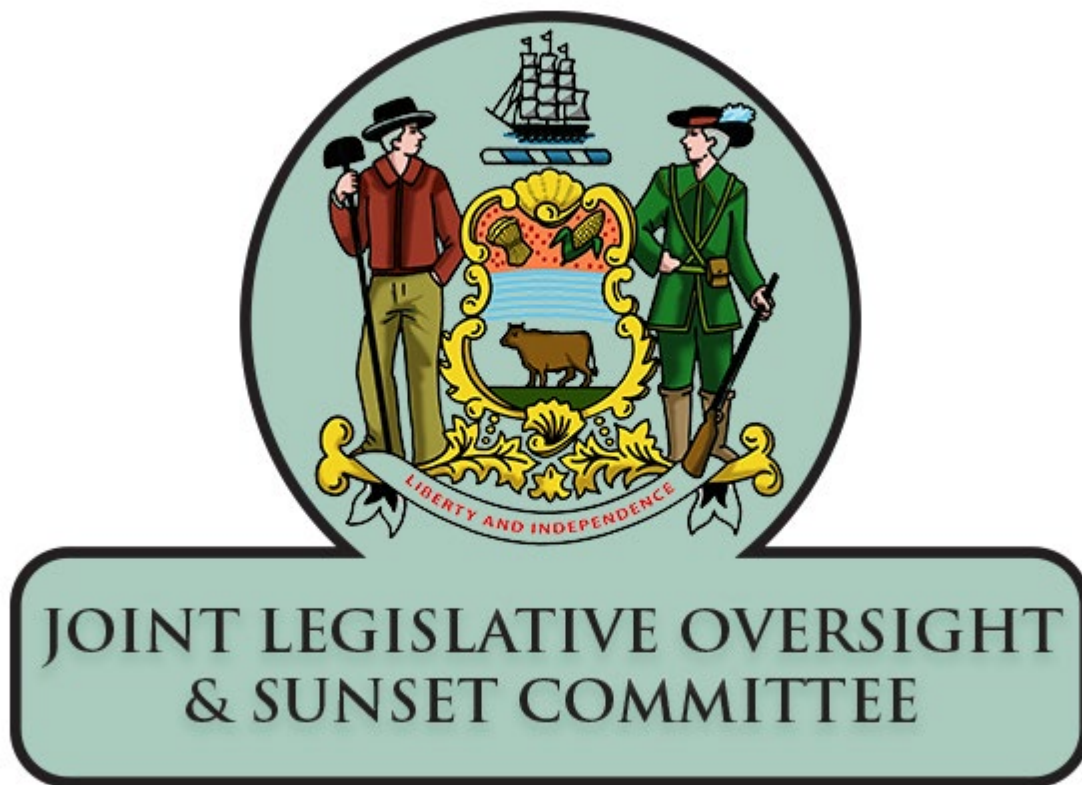
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150th General Assembly, 2nd session



EXECUTIVE SUMMARY

BACKGROUND

NOTE FOR 2020 REVIEW CYCLE

2020 JLOSC Reviews

Summary of 2020 JLOSC Actions

Entities Under Review in 2021

JLOSC Wrap Up Letter

EXECUTIVE SUMMARY

June 30, 2020 Final Report



Joint Legislative Oversight
& Sunset Committee

Background

Delaware's Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions ("entity" or, collectively, "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity is not reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. The Committee is a bipartisan committee comprised of ten legislators. The Senate President Pro Tempore appoints five senators and the Speaker of the House appoints five representatives to serve on the Committee.

In general, the conduction of reviews spans a ten- to twelve-month time period commencing in July. The Committee's analysts compile a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepares a preliminary report for the use of committee members during public hearings held each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine whether a genuine public need for the entity exists, and if the entity is beneficial to the public's health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination (sunset) of an entity. Although the Committee has "sunset" a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity's overall performance and accountability.

Note for 2020 Review Cycle

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of JLOSC's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, JLOSC held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened JLOSC review cycle and modified legislative session, [the JLOSC chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

2020 JLOSC Reviews

This report details the work of the Committee from July 2019 through May 2020, including reviews of the following entities:

- Conservation District Operations Program: DNREC Division of Watershed Stewardship.
- Delaware Health Resources Board.
- Delaware Interscholastic Athletic Association.
- Delaware Nursing Home Resident Quality Assurance Commission.
- Adult Protective Services (held over from 2019).
- Council on Correction (held over from 2018).
- Delaware Advisory Council on Career and Technical Education (held over from 2019).
- Delaware Health Information Network (held over from 2019).
- Division for the Visually Impaired (held over from 2019).

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Guide to this Report

The following pages detail the work of the Committee during the second session of the 150th General Assembly, including all applicable recommendations and updated information from entities held over from 2019. Additionally, the information relating to entities under review in 2020 capture the various stages of the review process prior to the postponement due to the COVID-19 pandemic. The Final Reports serve as references for the Committee during public hearings and facilitate the development of the Final Recommendations.

Summary of 2020 Joint Legislative Oversight and Sunset Committee Actions

The Committee held public meetings regarding the one 2018 holdover entity (Council on Correction), and the four 2019 holdover entities (Adult Protective Services, Delaware Advisory Council on Career and Technical Education, Delaware Health Information Network, and the Division for the Visually Impaired). Two public presentation hearings were held for 2020 review entities (Conservation District Operations Program: DNREC Division of Watershed Stewardship and Delaware Health Resources Board). Due to the public health emergency caused by the COVID-19 pandemic, the presentation meeting scheduled for March 17, 2020, (Delaware Interscholastic Athletic Association and Delaware Nursing Home Resident Quality Assurance Commission) was postponed and all reviews were held over to 2021. This final report is presented in draft form and contains information collected through May 31, 2020. JLOSC will review and vote on this final report at its next scheduled meeting, likely to be held in early 2021.

Council on Correction – Held Over to 2021

In 2018 and 2019, the Committee made several recommendations for the **Council on Correction**, an advisory council to the Department of Correction. The Committee's recommendations included amending the Council's governing statute, including how the Council will advise the Department; providing an annual report to the Commissioner, Deputy Commissioners of the Department, Governor, and General Assembly; meeting rotation; and board training. The Committee recommended to holdover the Council with instructions to report back in 2019 and 2020. Upon receiving additional information at the 2020 holdover meeting, the Committee recommended drafting legislation to incorporate the recommendations and assign administrative duties to the Criminal Justice Council. After the recommended legislation is drafted, the Committee will consider the draft, review the Council's progress, and consider its release from review.

Adult Protective Services – Held Over to 2021

In 2019, the Committee made several recommendations for **Adult Protective Services ("APS")**, a unit under the Division of Services of Aging and Adults with Physical Disabilities ("DSAAPD") within the Department of Health and Social Services ("DHSS"), that manages a system of services for impaired adults in order to protect their safety, health, and welfare. The Committee's recommendations include staff development and training, updating interagency MOUs, website modifications, reviewing staffing structures and recruitment initiatives, modifying operational hours, and making statutory modifications to define self-neglect, modify the APS Advisory Council, and create an Elder Justice Multidisciplinary Team. The Committee recommended holding over APS, to report back to the Committee in 2020.

At the February 2020 holdover meeting, APS provided an update and Committee staff provided an overview of the approved recommendations requiring legislation to address several matters,

including making technical corrections to APS's governing statute. The Committee's analyst explained that JLOSC and APS staff would continue to collaborate and, although drafting the substantive legislation would take additional time, it should not prevent a release from review. The Committee voted to release APS from review upon enactment of the technical corrections bill. The Committee's 2020 review schedule was cut short due to the COVID-19 pandemic before any of the APS legislation could be released.

Delaware Advisory Council on Career and Technical Education – Held Over to 2021

In 2019, the Committee made several recommendations for the **Delaware Advisory Council on Career and Technical Education (“DACCTE”)**, an advisory council on career and technical education programming statewide. SB 138 was the result of the Committee's recommendations, which included creating and submitting an annual report, modifying the website, updating membership, and modifying the Council's governing statute. SB 138 was signed by the Governor on August 20, 2019. The Committee recommended to holdover DACCTE, which included reporting back to the Committee in 2020.

At the February 2020 holdover meeting, the Committee adopted a recommendation to add a section to DACCTE's annual report, requiring the Council to outline what steps are being taken to provide CTE students and their families with timely information regarding educational, employment, and training opportunities. Additionally, the Committee adopted a motion to release DACCTE from review upon submission of its annual report.

Delaware Health Information Network – Held Over to 2021

In 2019, the Committee made several recommendations for the **Delaware Health Information Network (“DHIN”)**, a statutory not-for-profit instrumentality of the State of Delaware responsible for the design, implementation, operation, and maintenance of facilities for public and private use of health care information in the State. The Committee's recommendations include creating and submitting an annual status report regarding the Health Care Claims Database (“HCCD”) (first report due by January 1, 2020), updating DHIN's governing statute to strengthen the HCCD and overall DHIN operations, reducing overlap and duplicated efforts, updating current regulations and HCCD internal procedures, and updating the website. Due to the many recommended statutory changes, the Committee recommended to create a task force in order to adequately review, discuss, and finalize draft legislation for the Committee to review in 2020.

At the February 2020 holdover meeting, the Committee received an update from DHIN, and Committee staff provided an overview of the task force's findings, including suggested updates to the several recommendations requiring legislation, including legislation to make technical corrections to DHIN's governing statute. The Committee's analyst explained that JLOSC and DHIN staff would continue to collaborate and, although drafting the substantive legislation would take additional time, it should not prevent a release from review. The Committee voted to release DHIN from review upon enactment of the technical corrections bill. The Committee's 2020 review schedule was cut short due to the COVID-19 pandemic before any of the DHIN legislation could be released.

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Division for the Visually Impaired – Held Over to 2021

In 2019, the Committee made several recommendations for the **Division for the Visually Impaired (“DVI”)**, an agency within DHSS, which provides a variety of services in order to improve the safety, education, and employment of blind and visually impaired Delawareans. DVI is a complex agency that offers many services, resulting in the Committee considering 31 recommendations. The Committee’s recommendations covered education, Council of the Blind (an advisory council for DVI), Delaware Industries for the Blind (“DIB”), Business Enterprise Program (“BEP”), vocational rehabilitation, and Orientation and Mobility (“O&M”) services. The Committee tabled 27 of the recommendations and established a task force to gather interested agencies, experts in the field, and citizens to adequately research and review remaining recommendations. The Committee also held over DVI.

At the January 2020 holdover meeting, the Committee received an update from DVI, and Committee staff provided an overview of the task force’s findings. Committee staff was given time to propose revisions to the tabled recommendations, based on information collected during the review and task force processes and within the scope of the JLOSC review process. The Committee considered the proposed revisions at its February 20, 2020 meeting.

At the February 2020 holdover meeting, the Committee received an overview of the supplement packet regarding the task force’s findings, a recap of the review process, and 13 revised recommendations. The Committee adopted the 13 recommendations and voted to holdover DVI. DVI will work to implement the recommendations, collaborate with Committee staff to draft recommended legislation, and report back to the Committee in 2021.

Conservation District Operations: DNREC Division of Watershed Stewardship – Held Over to 2021

On March 9, 2020, the Committee held a presentation meeting for the **Conservation District Operations of DNREC’s Division of Watershed Stewardship**, responsible for aiding the three county conservation districts in furthering conservation, protection, development, and utilization of land and water resources in the state. The Committee’s 2020 review schedule was cut short due to the COVID-19 pandemic before the Committee could hold a recommendation meeting for this entity. The information in this report is taken from the draft report and subject to change as the review continues in 2021.

Delaware Interscholastic Athletic Association – Held Over to 2021

On March 17, 2020, the Committee was scheduled to hold a presentation meeting for the **Delaware Interscholastic Athletic Association (“DIAA”)**, responsible for providing and promoting athletic opportunities for Delaware’s K-12 students. The Committee’s 2020 review schedule was cut short due to the COVID-19 pandemic before the presentation meeting could take place. The information in this report is taken from the draft report and subject to change as the review continues in 2021.

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Delaware Nursing Home Residents Quality Assurance Commission – Held Over to 2021

On March 17, 2020, the Committee was scheduled to hold a presentation meeting for the **Delaware Nursing Home Residents Quality Assurance Commission (“DNHRQAC”)**, responsible for reviewing current policy to recommend changes and improvements for Delaware nursing home residents. The Committee’s 2020 review schedule was cut short due to the COVID-19 pandemic before this entity’s presentation meeting could take place. The information in this report is taken from the draft report and subject to change as the review continues in 2021.

Delaware Health Resources Board – Held Over to 2021

On March 12, 2020, the Committee held a presentation meeting for the **Delaware Health Resources Board**, responsible for protecting the statewide health care infrastructure necessary to meet the expected and projected health care needs of all Delawareans. Like other state Certificate of Need programs, the Delaware Health Resource Board works to improve geographic and economic access to care for residents in the state. The Committee’s 2020 review schedule was cut short due to the COVID-19 pandemic before this entity’s recommendation meeting could take place. The information in this report is taken from the draft report and additional information received after the presentation meeting. Additional research and information will be presented to the Committee in 2021.

Summary of 2020 Joint Legislative Oversight and Sunset Committee Legislation

Common Interest Community Advisory Council – House Bill 298

In 2018, the Committee approved an ongoing project to work with the Governor's Office to identify antiquated boards, commissions, and councils that need statutory updates or outright repeals. The project identified the need to clean up the provision relating to the Governor’s appointments to the **Common Interest Community Advisory Council**. As of the writing of this report, and due to the COVID-19 pandemic, HB 298 has not yet been enacted.

Division for the Visually Impaired – House Bill 301

In 2019, the Committee selected the **Division for the Visually Impaired (“DVI”)** for oversight and sunset review. Research found that a statute modification was needed for the Business Enterprise Program (“BEP”), which DVI operates. BEP is a vending facility program authorized by federal law for blind entrepreneurs to be recruited, trained, and licensed through state licensing agencies, to operate vending facilities on federal, state, and other properties. BEP is part of a larger program known as vocational rehabilitation (“VR”). Federal law requires that BEP vendors be independent and responsible for their own operations, including payroll and retirement. Additionally, the federal Rehabilitation Services Administration (“RSA”) is responsible for monitoring and technical assistance for all VR programs. RSA recommended that BEP vendors be removed from State payroll and pension systems, and DVI worked with Delaware’s PHRST administrators to remove BEP vendors from payroll effective January 1, 2020. The Committee approved legislation (HB 301) to clean up the State pension statute, by removing BEP operators from pension credible positions as required by federal law and RSA monitoring. The Governor signed this legislation on June 22, 2020.

Entities Under Review in 2021

Due to COVID-19 and the impact on the 2020 review cycle, the Committee did not select new entities for review in 2021. Until the Committee meets again, staff will continue the review process for each of the held over entities, including collaborating to draft recommended legislation.

Rep. David Bentz, Chair
Rep. Andria L. Bennett
Rep. Jeffrey N. Spiegelman
Rep. Sherry Dorsey Walker
Rep. Lyndon D. Yearick



Sen. S. Elizabeth Lockman, Vice Chair
Sen. John Walsh
Sen. Stephanie L. Hansen
Sen. Anthony Delcollo
Sen. Ernesto B. Lopez

STATEMENT

May 22, 2020 Concluding 2020 Reviews



Joint Legislative Oversight
& Sunset Committee

STATEMENT FROM THE CHAIR AND VICE CHAIR OF THE JOINT LEGISLATIVE & OVERSIGHT COMMITTEE

On May 14, 2020, House Speaker Peter C. Schwartzkopf and Senate President Pro Tempore David B. McBride issued a joint memo announcing that the General Assembly will meet virtually to conclude this legislative session. The joint memo included the list of legislative bodies that will meet throughout May and June 2020; the Joint Legislative Oversight and Sunset Committee ("JLOSC") was not on the list.

Although the COVID-19 pandemic cut short our review and public meetings schedule, our work continues. Because JLOSC will not meet to release any entities from review, all entities currently under review are considered held over until JLOSC meets again, presumably in January 2021. The entities are: Council on Correction; Division for the Visually Impaired; Delaware Health Information Network; * Adult Protective Services; * Delaware Advisory Council on Career and Technical Education; * Delaware Interscholastic Athletic Association; Conservation District Operations Program; DNREC Division of Watershed Stewardship; Delaware Health Resources Board; and Delaware Nursing Home Resident Quality Assurance Commission.

Until JLOSC meets again, our analysts will continue to work with the entities and compile research to provide JLOSC with updates, so JLOSC will be ready to continue the reviews when it meets again. The analysts will also publish a draft 2020 Final Report on the JLOSC website by July 1, 2020. JLOSC will discuss and vote to approve the report at its next meeting.

We know this is an unusual end to an unusual review session. We appreciate everyone's understanding and look forward to meeting as a committee again next year.

Sincerely,

Handwritten signature of Representative David Bentz.

Representative David Bentz
Chair, JLOSC

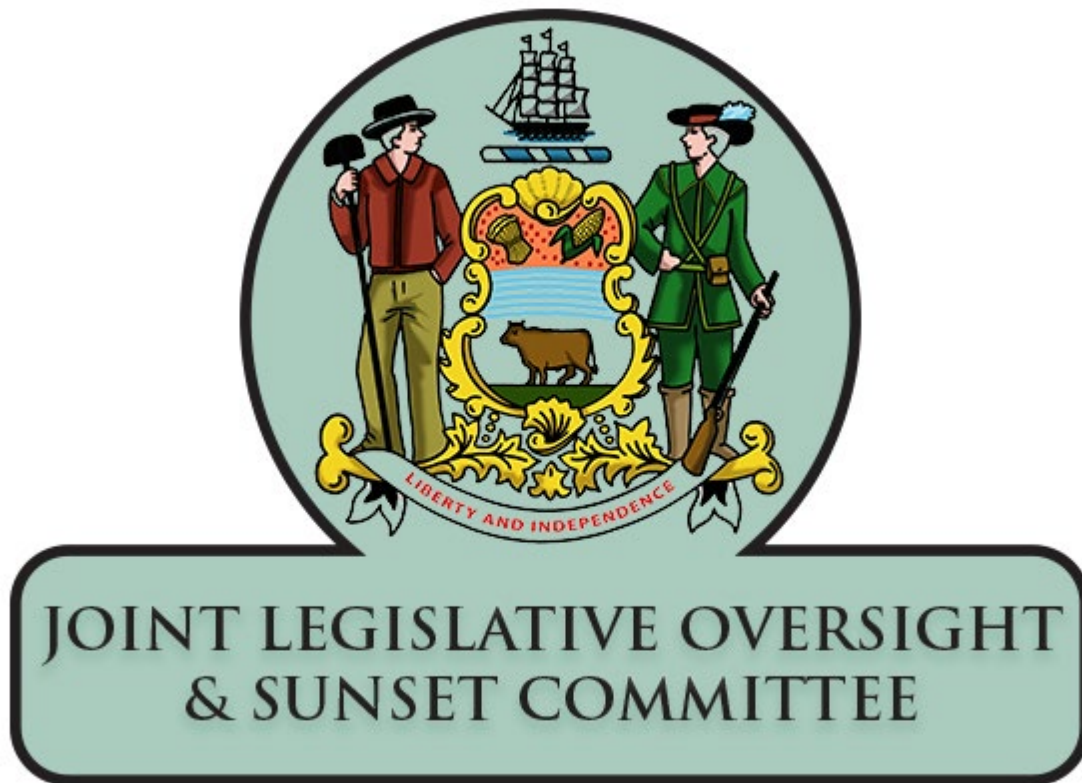
Handwritten signature of Senator S. Elizabeth Lockman.

Senator S. Elizabeth Lockman
Vice Chair, JLOSC

* These entities have been released contingent upon the occurrence of the enactment of legislation or the submission of a report.

2020 Final Report

150th General Assembly, 2nd session



FINAL HOLDOVER REPORTS (2019 REVIEWS)

ADULT PROTECTIVE SERVICES

COUNCIL ON CORRECTION

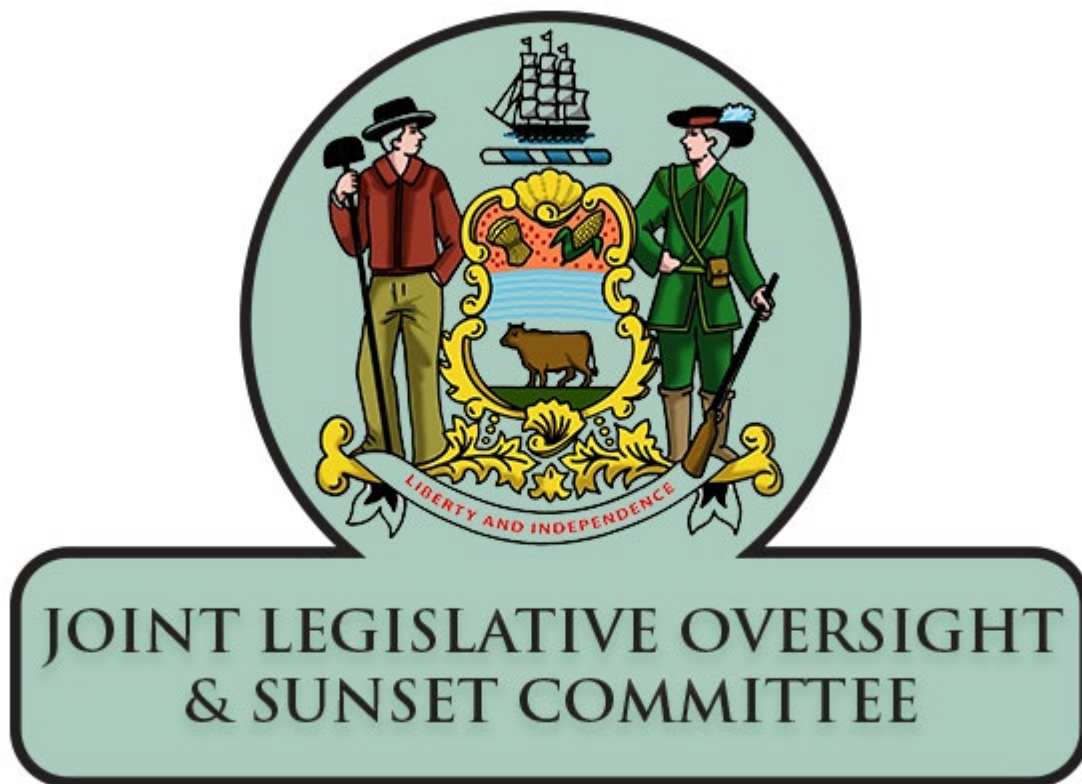
DELAWARE ADVISORY COUNCIL ON CAREER AND TECHNICAL EDUCATION

DELAWARE HEALTH INFORMATION NETWORK

DIVISION FOR THE VISUALLY IMPAIRED

2020 Final Holdover Report (2019 Reviews) Adult Protective Services

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Adult Protective Services. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

APS HOLDOVER REPORT



OVERVIEW



OCT UPDATE



DEC UPDATE



LEGISLATION



RECOMMENDATIONS



ANALYST
RECOMMENDATIONS

OVERVIEW

Adult Protective Services (“APS”) is located under the Department of Health and Social Services (“DHSS”), within the Division of Services of Aging and Adults with Physical Disabilities (“DSAAPD”). Under DSAAPD, APS provides social services intervention for those who are living in the community, 18 years or older, physically or mentally impaired, and subject to abuse, neglect, or exploitation.

APS was established as a comprehensive and coordinated services delivery system to protect vulnerable adults who, due to their disabilities, are unable to provide for their daily living needs and are consequently subject to psychological or physical injury or exploitation. APS’s mission is achieved when an adult with an infirmity or incapacity is living in an environment that has been made safer after a potential or actual danger has been removed.

The Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Committee”) selected APS for review in August 2018. After a comprehensive review, the Committee made several recommendations for APS at its May 13, 2019, meeting, including staff development and training, updating interagency Memorandum of Understandings (“MOUs”), website modifications, reviewing staffing structures, recruitment initiatives, modifying operational hours, and making statutory modifications to define self-neglect, modify the APS Advisory Council, and establish an Elder Justice Multidisciplinary Team. The Committee held over the APS review, and APS submitted progress updates for October and December 2019. In February 2020, the Committee reviewed the Agency’s progress in implementing recommendations.

Included in this report are APS’s talking points, which it submitted to the Committee at the February 2020 meeting.

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OCT UPDATE

DSAAPD Staff Development and Training Department¹ – APS Topics (Recommendation 3)

- DSAAPD posted an APS training position on August 21, 2019, for a Trainer/Educator III (Registered Nurse BSN).²
 - Since the trainer is required to be a registered nurse, recruitment has taken time and effort.
 - The position closed on September 24, 2019.
 - The DSAAPD Staff Development and Training department held interviews for the APS Trainer on October 21, 2019, and the position was offered to one of the candidates.
- DSAAPD has also completed the registration of APS through the National Adult Protective Services Association (NAPSA) Certificate Program and is tracking completion of that program for all staff.

DSAAPD Staff Development and Training Department – Develop a Survey to Identify Training Priorities (Recommendation 4)

- The DSAAPD Staff Development and Training department, in coordination with the Planning, Policy and Program Development unit, developed a survey.³
 - The survey was made available on October 17, 2019, to all staff that may be involved with APS cases, including APS, the Aging and Disability Resource Center (ADRC), Community Services Program (CSP), Community Nursing, and the Diversion and Discharge Unit.
 - In total, almost 80 staff members received the survey. As of the October Progress Report, 58 staff members have taken the survey.

Increase APS-Specific Training (Recommendation 5)

- An APS training plan has been developed for all APS staff, including APS nurses.⁴
 - This plan is included in all staff performance plans to ensure all trainings are completed in a timely fashion.
 - The APS Self-Neglect Home Visit Training and the MASTER program training are part of this APS Training Plan.
 - Staff will have the opportunity to complete some of the trainings at monthly staff APS meetings.

¹ APS is the entity under JLOSC review, but APS is a unit under the purview of DSAAPD which has oversight responsibilities, including fiscal. Recommendations will frequently reference DSAAPD as they are the agency charged with implementing and maintaining APS operations.

² Full position summary information provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

³ Full survey information provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

⁴ Full training plan information provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

Provide Formal Training for Dangerous Situations (Recommendation 6)

- The DSAAPD Staff Development and Training department has reached out to the Dover Police Department and State Police Training Academy to form a self-defense training partnership.
- All APS staff required to participate in the Mandt System® training.
 - The training was held on November 5, 12, 19 and on December 3, 11, 17.
 - This training uses a continuous learning and development approach to prevent, de-escalate, and if necessary, intervene in behavioral interactions that could become aggressive.

Increase Financial Exploitation Training (Recommendation 7)

- The APS Administrator, in coordination with the APS Supervisors and the DSAAPD Staff Development and Training department, has developed a training plan, for all APS staff, including APS nurses.
- This plan is included in all staff performance plans to ensure all trainings are completed in a timely fashion. Elder Financial Abuse Online Training and Financial Abuse Training from MASTER are included in this APS Training Plan.

Training and Procedures for Self-Neglect Cases (Recommendation 8)

- DSAAPD is revising internal written procedures for handling of self-neglect cases within APS.
- For the training in self-neglect, the APS Administrator, in coordination with the APS Supervisors and the DSAAPD Staff Development and Training department, has developed an APS Training Plan, for all APS staff, including APS nurses.
 - This plan is included in all staff performance plans to ensure all trainings are completed in a timely fashion.
- The NAPSA self-neglect module training will be held on October 31, 2019, for all APS staff facilitated by the APS Supervisors.

Updates to MOUs (Recommendation 9)

- DSAAPD has sent updated MOUs to the following entities. As of the October Progress Report, these MOUs are awaiting signatures.
 - Division of Developmental Disabilities Services.
 - Division of Health Care Quality.
- DSAAPD is working to develop MOUs with:
 - The Department of Justice.
 - The Long-Term Care Ombudsman Program.
 - The Office of the Public Guardian.
 - Delaware State Police.

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Investigative Time Frames (Recommendation 10)

- DSAAPD has updated its policies and procedures to reflect national best practices regarding investigative time frames.⁵

Website Modifications (Recommendation 11)

- DSAAPD has updated its website to reflect this recommendation.⁶

Review Staffing Structure (Recommendation 12)

- DSAAPD is currently working with ADvancing States (formerly National Association of States United Aging and Disabilities (NASUAD)) to streamline and strengthen its community services and support system.
 - ADvancing States is the national expert in aging and disability issues and is the only agency of its kind.
 - The organization represents the nation's 56 state and territorial agencies on aging and disabilities and long-term services and supports directors.
 - DSAAPD needs their expertise to implement the dramatic community reset which will result in the necessary improvements in the Aging and Disability Resource Center, the person-centered assessment process, community nursing, and Adult Protective Services, and ensure that people are served appropriately.
- In preparation for the changes that will result from ADvancing States, DSAAPD is actively filling APS vacancies. DSAAPD has filled four out of five vacancies. The one vacancy is for a grant funded contract position that the APS Administrator is seeking to fill immediately.
- DSAAPD is also hiring an additional three APS nurses to address complex cases, including self-neglect.⁷

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⁵ Relevant policy and procedure information provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

⁶ Website modifications provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

⁷ Position summary information provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

Recruitment (Recommendation 13)

- DSAAPD has reached out to two local colleges to participate in their upcoming job fairs:
 - Wilmington University – November 2019
 - Delaware Technical Community College – Spring 2020
- DSAAPD will continue to engage with the local colleges to discuss future employment opportunities.
- DSAAPD has reached out to schedule speaking engagements at the following high schools:
 - Newark High School.
 - Caesar Rodney High School.
 - Milford High School.
 - Woodbridge High School.
- DSAAPD has offered to educate students on the work of DSAAPD and positions available within the division and APS.

Operational Hours (Recommendation 14)

- DSAAPD is actively reviewing the APS staffing structure and the need to extend operational hours. This includes reviewing the number of referrals made after hours and those who could be interviewed for investigations during normal operating hours.
- As stated in Recommendation 12, DSAAPD is currently working with ADvancing States to streamline and strengthen its community services and support system.
- DSAAPD anticipates that ADvancing States will recommend necessary modifications to the agency's operating hours.

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DEC UPDATE

DSAAPD Staff Development and Training Department – APS Topics (Recommendation 3)

- The DSAAPD Staff Development and Training department hired a Trainer/Educator III, who began working with APS on November 4, 2019.
- The Trainer has met with DSAAPD Leadership and APS Leadership to begin to develop training plans for the division related to abuse, neglect and exploitation.

DSAAPD Staff Development and Training Department – Develop a Survey to Identify Training Priorities (Recommendation 4)

- The survey closed on November 1, 2019, with 59 of 80 employees (74%) completing it.
- APS staff, ADRC and community support services staff were included in the survey.
- A small workgroup convened to discuss the results of the surveys and develop training plans, utilizing the survey results.⁸
 - The workgroup includes:
 - DSAAPD Deputy Director.
 - Staff Development and Training department.
 - Adult Protective Services unit.
 - Planning, Policy and Program Development unit.

Increase APS-Specific Training (Recommendation 5)

- As of this progress report, 15 APS employees (62.5% of all APS staff) completed the ENGAGE-IL training on October 31, 2019.
- Any staff that have not finished the training have until March 31, 2020, to complete it.
- Staff will also can complete some of the trainings at monthly staff APS meetings.

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⁸ Comprehensive APS Training Plan information provided in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

Provide Formal Training for Dangerous Situations (Recommendation 6)

- As of this progress report, all APS employees have completed the Mandt System® training, an evidence-based training that prevents, de-escalates, and addresses interactions that could become aggressive.
- The need for self-defense becomes much less likely for people who have been trained in the Mandt System®.
- The partnerships developed with Dover Police and the State Police Training Academy will round out the need for self-defense classes.

Increase Financial Exploitation Training (Recommendation 7)

- As of this progress report, 18 APS employees (75%) completed financial exploitation training on November 26, 2019.
 - Any staff that have not finished the training have until March 31, 2020 to complete it.
- In addition, APS' Financial Exploitation Advocate shared with all APS staff a PowerPoint presentation, with staff about well-known scams that staff have seen in Delaware.⁹

Training and Procedures for Self-Neglect Cases (Recommendation 8)

- The DSAAPD Staff Development and Training department developed a Self-Neglect and Hoarding Disorders PowerPoint Presentation, to share with APS staff and nurses.¹⁰
- The presentation is based on national best practices and utilizes information gleaned from the Administration for Community Living and the National Center on Law & Elder Rights.
- This PowerPoint Presentation will be used as part of the DSAAPD APS Training Plan.

Updates to MOUs (Recommendation 9)

- DSAAPD continues to develop MOUs with partner agencies including:
 - The Long-Term Care Ombudsman Program.
 - The Office of the Public Guardian.
 - Delaware State Police.
- Many of the MOUs will include a component related to annual training about abuse, neglect and exploitation and define a collaborative partnership between the agencies.
- DSAAPD reviews all MOUs annually.

Investigative Time Frames (Recommendation 10)

- DSAAPD continues to ensure all staff are abiding by its policies and procedures, including investigative time frames.

⁹ PowerPoint presentation included in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

¹⁰ PowerPoint presentation included in the APS holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

Website Modifications (Recommendation 11)

- DSAAPD continues to ensure its website is up to date, including information related to abuse, neglect, and exploitation.

Review Staffing Structure (Recommendation 12)

- As of this progress report, there are no vacancies within APS.
- DSAAPD continues to work with ADvancing States to streamline and strengthen its community services and support system.

Recruitment (Recommendation 13)

- DHSS has a department-wide recruiter who is targeting individuals interested in the subjects of social work, elder care, and APS.

Operational Hours (Recommendation 14)

- DSAAPD reviewed the need to extend its operational hours.
- Currently, the data does not support this, as most APS referrals are received between 8:00 and 4:30 pm.
- Additionally, APS has a 24-hour live referral line already in place.
- DSAAPD plans to consult with ADvancing States regarding the optimal way to serve alleged victims.
- Following the conclusion of its work with ADvancing States, DSAAPD will review its operational hours annually and make adjustments, as needed, to address any service gaps within APS.

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LEGISLATION

JLOSC adopted several recommendations that require legislation. JLOSC and DSAPPD staff will collaborate during the drafting process.

Statutory Update & Technical Corrections (Recommendation 2)

JLOSC will sponsor a bill to make technical corrections to APS’s entire governing statute, Chapter 39, Title 31.

Codify Training Requirements in APS Statute (Recommendation 8)

DSAAPD suggested and JLOSC approved a recommendation to codify internal training and procedures for handling cases of self-neglect and assessing capacity in the setting of self-neglect using several identified resources.

Codify Investigative Time Frames in APS Statute (Recommendation 10)

DSAAPD will review and implement needed revisions to policy and procedures regarding investigative time frames. DSAAPD suggested and JLOSC approved codifying the investigative time frames.

Define “Self-Neglect” in APS Statute (Recommendation 15)

Based on DSAAPD’s request, JLOSC will sponsor a bill to define “self-neglect” in Chapter 39, Title 31, using the federal Elder Justice Act’s definition as a guide:

The term “self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including— a. obtaining essential food, clothing, shelter, and medical care b. obtaining goods and services necessary to maintain physical health, mental health, or general safety; or c. managing one’s own financial affairs.

The bill will be drafted to include, if necessary, language to ensure the definition does not conflict with current Delaware law regarding the determination of an individual’s capacity. This bill will be drafted separately from other legislation resulting from these recommendations.

Define “Duty to Report” in APS Statute (Recommendation 16)

JLOSC will sponsor a bill to modify § 3910(a), Title 31, APS’s “duty to report” statute, to require medical practitioners to file a report.

This bill will be drafted separately from other legislation resulting from these recommendations.

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Modify the APS Advisory Council (Recommendation 17)

According to DSAAPD, the APS Advisory Council is not providing meaningful input or oversight to APS activities. DSAAPD suggested that APS oversight should be incorporated into the already established Council on Services for Aging and Adults with Physical Disabilities. DSAAPD also suggested developing an Elder Justice Multidisciplinary Team. The following are options to implement these suggestions.

JLOSC will sponsor a bill to remove the APS Advisory Council from § 3903, Title 31, and incorporate APS advisory duties and add Council members representing elder justice partners into the Council on Services for Aging and Adults with Physical Disabilities under § 7915, Title 29.

JLOSC will also sponsor a bill to modify the APS Advisory Council under § 3903(a), Title 31, to create an Elder Justice Multidisciplinary Team. Members will be appointed by the Governor rather than the DHSS Secretary, serve no more than 2, 3-year terms, and include:

- APS.
- Aging services network personnel.
- Geriatricians/physicians.
- Law enforcement.
- Prosecutors.
- Psychologists/neuropsychologists.
- Victim-witness advocates/victim service providers.

Some of the professional members may serve as consultants-as-needed rather than as council members.

Note: A state multi-disciplinary team comprised of a different and distinct membership would review all eligible elder justice cases in Delaware, not just those with APS involvement, and would make recommendations to any appropriate agencies.

The APS Advisory Council currently consists of representatives from:

- Office of the Public Guardian.
- Division of Social Services.
- Division of Services for Aging and Adults with Physical Disabilities.
- Division of Developmental Disabilities Services.
- Division of Substance Abuse and Mental Health.
- Division of Public Health, and Elder Law Program.
- Delaware Emergency Medical Services Oversight Council.
- 3 members from either the medical profession or the general public.

UPDATE 01/23/2020: DSAAPD and APS are currently working with the Department of Justice on a grant to help in forming the state multi-disciplinary team. So, at this point they may not be ready to move forward with this legislation, but are working on draft language and general ideas for the makeup of the Elder Justice Multidisciplinary Team. The legislation in this recommendation will take longer to draft.

RECOMMENDATIONS

The following is an easy reference list of all recommendations adopted by the Committee for APS.

RECOMMENDATION 1: APS shall continue, subject to any further recommendations that JLOSC adopts.

RECOMMENDATION 2: The Committee will sponsor a bill to make technical corrections to APS's entire governing statute, including Chapter 39, Title 31.

RECOMMENDATION 3: The DSAAPD staff development and training department shall require at least 1 training position to specialize in APS training topics, offer all DSAAPD staff training in APS topics, and facilitate group registration for the National Adult Protective Services Association (NAPSA) Certificate Program and track progress of completion.

RECOMMENDATION 4: The DSAAPD Staff Development and Training Department shall develop an electronic survey to assess staff knowledge of APS topics, practices, and procedures in order to identify key training priorities.

RECOMMENDATION 5: All staff members, including nurses, who handle APS cases, must complete APS specific training offered by organizations such as Multi-Disciplinary Adult Services Training and Evaluation for Results (MASTER), the University of Illinois at Chicago (UIC), and National Adult Protective Services Association (NAPSA). Additionally, staff shall enroll in the NAPSA Certificate Program.

RECOMMENDATION 6: The DSAAPD Staff Development and Training Department shall network with local and state law enforcement to provide field staff and supervisors with self-defense training and techniques for defusing dangerous situations.

RECOMMENDATION 7: All staff members who specifically handle financial exploitation cases shall complete financial abuse training from providers such as MASTER and the Association of Certified Financial Crime Specialists.

RECOMMENDATION 8: DSAAPD shall create internal training and written procedures for handling cases of self-neglect and assessing capacity in the setting of self-neglect using resources and scholarly articles available from sources such as NAPSA, the National Institute of Health, Adult Protective Services Technical Assistance Resource Center (APR TARC), and other subject matter experts on the topics.

JLOSC will sponsor a bill to codify the training requirements under the APS statute.

RECOMMENDATION 9: The MOUs on file with the Attorney General’s Office and the Division of Developmental Disabilities Services were signed more than 5 years ago and should be reviewed and updated.

DSAAPD shall review current practices and create additional MOUs with agencies needed to facilitate proper handling of APS cases, for example, form a MOU with the State Police to provide consult for APS cases.

DSAAPD shall review and define interagency roles, response times, and processes for reported cases of abuse, neglect, or financial exploitation cases and include agreed upon roles, response times, and processes in MOU documents.

RECOMMENDATION 10: DSAAPD shall review and implement any needed revisions to policy and procedures regarding investigative time frames. DSAAPD suggested and JLOSC approved codifying investigative time frames under the APS statute to establish a time frame for State responses to reports of abuse, neglect, or financial exploitation.

RECOMMENDATION 11: DSAAPD shall make the following modifications to their website:

- a) Provide easy to locate APS topics to educate the public and provide clear information on what the agency can and cannot do in APS cases.
- b) Provide APS program criteria.
- c) Provide information on APS topics in the “information” section of the website.
- d) Make the link to APS more prominent on DSAAPD’s website; the link is currently hidden in the “all services” section.
- e) Provide information for family members and caregivers on how to prevent, identify, and provide help in cases of abuse and neglect, including self-neglect.
- f) Make 24-hour report line prominent on website.

RECOMMENDATION 12: DSAAPD shall review its current staffing structures department-wide to determine whether appropriate numbers of personnel and resources are dedicated to handle APS cases, or if personnel or resources in other areas would be better dedicated to APS casework. DSAAPD will follow State procedures to request any necessary reclassifications.

RECOMMENDATION 13: DSAAPD shall partner with high schools and colleges and participate in recruitment events in order to highlight careers available within DSAAPD and the need for professionals in the field of APS. The aging population will continue to grow, and outreach is essential to acquire talented individuals interested in the subjects of social work, elder care, and APS.

RECOMMENDATION 14: DSAAPD shall review its current operating hours and made modifications as necessary. DSAAPD has suggested extending APS operations hours to 8:00 a.m. through 8:00 p.m.

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RECOMMENDATION 15: Based on DSAAPD’s request, JLOSC will sponsor a bill define “self-neglect” in Chapter 39, Title 31, using the federal Elder Justice Act’s definition as a guide: The term “self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

- a) obtaining essential food, clothing, shelter, and medical care.
- b) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- c) managing one’s own financial affairs.

Note: The Committee’s legislative attorney will include in the draft bill any additional language that may be required to ensure the definition does not conflict with current Delaware law regarding the determination of an individual’s capacity.

This recommendation shall be drafted as a bill separate from other legislation resulting from these recommendations.

RECOMMENDATION 16: JLOSC will sponsor a bill to modify § 3910(a), Title 31, APS’s “duty to report” statute, to require medical practitioners to file a report.

Option: This recommendation shall be drafted as a bill separate from other legislation resulting from these recommendations.

RECOMMENDATION 17: According to DSAAPD, the APS Advisory Council is not providing meaningful input or oversight to APS activities. DSAAPD suggested that APS oversight should be incorporated into the already established Council on Services for Aging and Adults with Physical Disabilities. DSAAPD also suggested developing an Elder Justice Multidisciplinary Team. JLOSC approved the following to implement these suggestions:

- a) JLOSC will sponsor a bill to remove the APS Advisory Council from § 3903, Title 31 and incorporate APS advisory duties and add Council members representing elder justice partners into the Council on Services for Aging and Adults with Physical Disabilities under § 7915, Title 29.
- b) JLOSC will sponsor a bill to modify the APS Advisory Council under § 3903(a), Title 31 to create an Elder Justice Multidisciplinary Team. Members will be appointed by the Governor rather than the DHSS Secretary, serve no more than two 3-year terms, and include:
 - APS.
 - Aging services network personnel.
 - Geriatricians/physicians.
 - Law enforcement.
 - Prosecutors.
 - Psychologists/neuropsychologists.
 - Victim-witness advocates/victim service providers.
- c) Some of the professional members listed in b) may serve as consultants-as-needed rather than as council members.

RECOMMENDATION 18: APS is held over and shall report to the Committee in January 2020.

ANALYST RECOMMENDATIONS

DSAAPD and APS have made admirable and positive progress on all the Committee's recommendations regarding staff development and training, updating MOUs, website modifications, reviewing staffing structures, and recruitment initiatives. After thoughtful review and research, DSAAPD ultimately determined that revising their operational hours to 8:00 a.m. through 8:00 p.m. will not be appropriate. The JLOSC Analyst's research supports this assessment.

JLOSC staff and DSAAPD will collaborate to draft legislation stemming from this review. Some of the legislation, such as defining "self-neglect," modifying the APS Advisory Council, and implementing an Elder Justice Multidisciplinary Team, will take more drafting time than typical to JLOSC legislation. The JLOSC Analyst recommends JLOSC *not* delay releasing APS from review based solely on awaiting the enactment of the more complicated legislation stemming from this review.

ANALYST RECOMMENDATION: APS is released from review upon enactment of a bill to apply technical corrections to APS's entire governing statute.

APPENDIX A



Joint Legislative Oversight and Sunset Review Committee Adult Protective Services 2.12.2020 Talking Points

As an agency, the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) has taken the Joint Legislative Oversight and Sunset Review Committee (JLOSC) recommendations seriously and has worked diligently to implement them.

Some of APS' progress has included:

- Comprehensive training plan – Reflected in the October and December Progress Reports, the DSAAPD Training and Staff Development department has hired a trainer/educator that is dedicated to APS and training on APS related topics. Since taking on this position, a comprehensive annual training plan has been developed and 100% of APS staff members have had critical trainings on important topics, including financial exploitation, self-neglect, and dangerous conditions. All staff have either completed or are working towards National Adult Protective Services Association (NAPSA) certification. All APS staff members will have completed the necessary modules for certification by March 31st.
- DSAAPD website updates – DSAAPD immediately worked to modernize and update abuse, neglect and exploitation information on its website. This is part of a larger website modernization that will make it easier for Delawareans to find the most sought-after information on the DSAAPD site.
- Grant opportunities – DSAAPD is always looking for grant opportunities to improve the service delivery system. This includes finding grants that will sustain APS special projects, like the Financial Exploitation Advocate program. This grant has continued into FY 2020 through the Criminal Justice Council. In addition, DSAAPD is collaborating with the Department of Justice and the Delaware Center for Justice on grant opportunities that will expand supportive victim services to Kent and Sussex County and develop a multi-disciplinary response to elder justice.
- Fully staffed – As of December, APS was fully staffed after an extensive hiring process. This includes family service specialists and APS nurses.
- Exploration of afterhours – DSAAPD leadership continue to explore the need for expanding APS services past 4:30 pm. After examining call data, as well as the need for APS workers to flex their schedules to enable them to better investigate cases outside of normal business hours, DSAAPD leadership did not identify a need to expand service hours. DSAAPD leadership will continue to explore the call data and work to develop protocols that will facilitate investigations past 4:30 pm.

- Planning to take on self-neglect – working with a national expert, ADvancing States, DSAAPD is planning for APS to take self-neglect cases. This planning includes bringing on many more nurses in all DSAAPD office locations that will be trained in working with people who may be self-harming. With the help of ADvancing States, this service delivery transition will be judicious and well-thought out to ensure DSAAPD is developing a system that is not only responsive, but proactive.
- Advisory Council – The APS Advisory Council has been informed of all recommendations, including the recommendation to disband this group and merge them with DSAAPD's Council on Services for Aging and Adults with Physical Disabilities. Draft legislation to codify this change has been given to JLOSC. Two positions will be added to the Council dedicated to victim serving agencies.
- Multi-Disciplinary Team (MDT) – Along with the recommendation related to the APS Advisory Council was an option to develop a Multi-Disciplinary Team. Draft legislation has been given to JLOSC that would create the Vulnerable Adult Populations Commission and includes organizations and agencies that work with adults every day in Delaware. Modelled after several other MDT's in Delaware, like the Child Protection Accountability Commission and the Domestic Violence Coordinating Council, DSAAPD feels that this type of MDT will bring Delaware in line with national standards around collaboration and policy development. DSAAPD worked with our sister agencies and the Delaware Department of Justice in drafting this legislation.
- Other Suggested Changes to the Code – DSAAPD has submitted draft language for other suggested code changes, including adding self-neglect as a harm that APS will respond to, investigative time frames, and training requirements for APS staff.

DSAAPD continues to look for ways to improve its work. This includes:

- The Perception of APS in the Community – DSAAPD will continue to educate partner agencies and the community about the types of services APS provides, what help can be provided, and what information can be shared per the Delaware Code.
- Education – DSAAPD continues to work to improve the education of staff on how to identify adults who may become vulnerable to abuse, neglect, and exploitation.

APPENDIX B



Joint Legislative Oversight and Sunset Review Committee Adult Protective Services Draft Legislative Language

Recommendation 8: Training and Procedures for Self-Neglect Cases

DSAAPD suggested codifying training requirements under the APS statute for the purpose of advancing the section.

“The Department shall conduct ongoing training programs to advance the purpose of this section. The Department shall continuously publicize the existence of the 24-hour report-line to those required to report abuse or neglect pursuant to §3910 of this title of their responsibilities and to the public the existence of the 24-hour statewide toll-free telephone number to receive reports of abuse or neglect.”

Recommendation 10: Investigative Time Frames

DSAAPD suggested codifying investigative time frames under the APS statute to establish a time frame for State responses to reports of abuse, neglect, or financial exploitation

“It is the role of the Department, that upon receipt of a report concerning allegations of abuse, neglect, or exploitation, to commence an investigation within the following time frame:

- a) Physical/Sexual Abuse – 1 Business Day
- b) Emotional Abuse, Neglect – 3 Business Days
- c) Exploitation – 5 Business Days”

Recommendation 15: Define Self-Neglect in Statute

“The term “self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

- a) obtaining essential food, clothing, shelter, and medical care
- b) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- c) managing one’s own financial affairs.”

The following are proposed, draft bills submitted by APS.

SPONSOR:

HOUSE OF REPRESENTATIVES

150th GENERAL ASSEMBLY

HOUSE OR SENATE BILL NO. ____

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO COUNCIL ON SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 79 of Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 7915 Council on Services for Aging and Adults with Physical Disabilities.

4 (a) There is established the Council on Services for Aging and Adults with Physical Disabilities.

5 (b) The Council on Services for Aging and Adults with Physical Disabilities (the Council) shall serve in an advisory
6 capacity to the Director of the Division of Services for the Aging and Adults with Physical Disabilities and shall consider
7 matters relating to the formation of local community councils for the aging and for adults with physical disabilities,
8 programs and projects in this State to benefit the aging and adults with physical disabilities and such other matters as may
9 be referred to it by the Governor, the Secretary of the Department or the Director of the Division of Services for the Aging
10 and Adults with Physical Disabilities. The Council may study, research, plan and advise the Director, the Secretary and the
11 Governor on matters it deems appropriate to enable the Division to function in the best possible manner.

12 (c) The Council on Services for Aging and Adults with Physical Disabilities shall be composed of 15 members. ~~Members~~
13 ~~shall be appointed by the Governor for terms of up to 3 years. The terms of the Council members shall be staggered in such~~
14 a manner so that the terms of no more than 7 members expire in 1 year. The Council shall consist of the following:

15 (1) Three members, each being a resident from a different county in this State and an aging or elderly person or a
16 caregiver of an aging or elderly person as defined in § 7920 of this title.

17 (2) ~~Four~~ Three members, each being from a public or nonprofit agency that provides services to aging persons.

18 (3) Three members, each being a resident from a different county in this State and an adult with a physical
19 disability or a caregiver of an adult with a physical disability as defined in § 7920 of this title.

20 (4) ~~Four~~ Three members, each being from a public or nonprofit agency that provides services to persons with
21 physical disabilities.

22 (5) Two members, each being from a public or nonprofit agency that provide services to alleged victims as defined
23 in §3902 of Title 31.

24 ~~(5)(6)~~ (6) One member who represents veterans' issues.

(d) The Council membership shall be composed of representatives in the following areas: aging persons, representatives of public and/or nonprofit agencies that serve aging persons, persons with a physical disability, low income older persons, low income persons with a physical disability, minority older persons, minority persons with a physical disability, veterans' affairs, representatives of public and/or nonprofit agencies that provide services to alleged victims, and representatives of public and/or nonprofit agencies that serve adults with physical disabilities. Each Council member can be representative of more than 1 area, but no Council member shall be representative of more than 3 areas.

(e) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(f) A Chairperson of the Council shall be elected annually by the members of the Council from among its members, except that the office shall rotate between representatives of the aging community and representatives of adults with physical disabilities. In its first year of operation, the Council shall be chaired by a representative of the aging community. In its second year of operation, the Council shall be chaired by a representative of adults with physical disabilities. Thereafter, the chairperson shall alternate and shall serve a 2-year term. A chairperson shall be eligible to serve 2 nonconsecutive terms.

(g) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.

(h) Members who are absent from more than 3 consecutive meetings, unless excused by the Council, shall be discharged from the Council by the Council Chairperson.

(i) The Council may establish subcommittees and make appointments to any such subcommittees with the approval of all members of the Council. |

(j) A quorum of the Council consists of a majority of the council members.

(k) All decisions made by the Council relative to policy and budget shall be made by a majority of the members present at a meeting with a quorum. Staff assistance shall be given to the Council and any subcommittees

SYNOPSIS

This bill sets forth revisions to the composition of the Council on Services for Aging and Adults with Physical Disabilities.

HOUSE OF REPRESENTATIVES or DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

HOUSE OR SENATE BILL NO. __

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE CREATING A VULNERABLE ADULT
POPULATIONS COMMISSION

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 16 of the Delaware Code, by adding a new Chapter, designated as Chapter 106, which new Chapter
2 shall read as follow:

3 "CHAPTER 106: VULNERABLE ADULT POPULATIONS COMMISSION. §10601. Creation.

4 The General Assembly hereby creates a permanent Vulnerable Adult Populations Commission.

5 §10602. Composition.

6 The Commission shall consist of nineteen members with the at-large members appointed by the Governor. Members of the
7 Commission serving by virtue of position may appoint a designee to serve in their stead. The Commission shall be comprised
8 of the following:

9 (1) The Secretary of the Department of Health and Social Services;

10 (2) The Director of the Division of Services for Aging and Adults with Physical Disabilities;

11 (3) The Director of the Division of Health Care Quality;

12 (4) The Long Term Care Ombudsman

13 (5) The Chancellor of the Court of Chancery;

14 (6) One member of the House of Representatives appointed by the Speaker of the House of Representatives;

15 (7) One member of the Senate appointed by the President Pro Tempore of the Senate;

16 (8) The Attorney General;

17 (9) The Public Guardian;

18 (10) The Chair of the Domestic Violence Coordinating Council;

19 (11) The Superintendent of the Delaware State Police;

20 (12) The Chief Medical Examiner;

21 (13) A board-certified physician licensed to practice in this State.

22 (14) Six at-large members appointed by the Governor with 1 person from the Senior Protection Initiative, 1 person from a
23 law enforcement agency other than the State Police, and 4 persons from the vulnerable adult protection community. The law-
24 enforcement representative may designate a proxy as needed.

25 §10603. Purpose; powers; duties. The Commission shall:

26 (1) Continuously study Court services and procedures, Law Enforcement procedures and protocol, and criminal justice data
27 collection and analysis as it relates to abuse, neglect, and exploitation of vulnerable adult populations, as defined in 31 Del
28 C.83902. Vulnerable adult is defined in 11 Del C. 81105(e);

29 (2) Effectuate coordination between agencies, departments, and the courts to benefit vulnerable adult victims of abuse,
30 neglect, and exploitation;

31 (3) Promote effective prevention, intervention, and service provision based upon research and data collection;

32 (4) Recommend standards for treatment programs for perpetrators of vulnerable adult abuse, neglect, and exploitation to the
33 Department of Health and Social Services and the Department of Correction;

34 (5) Review and comment upon legislation relating to vulnerable adult abuse, neglect, and exploitation introduced in the
35 General Assembly at the request of any member of the General Assembly or on its own initiative;

36 (6) Improve Delaware's response to vulnerable adult abuse, neglect, and exploitation so as to reduce the incidents thereof;
37 and

38 (7) Investigate and review, through a review panel, the facts and circumstances of at least 4 deaths and near deaths,
39 representing a cross-section of agency involvement, that occur in Delaware as a result of vulnerable adult abuse, neglect, and
40 exploitation. "Near death" means a victim who has suffered life-threatening injuries. Deaths include both homicides and
41 suicides resulting from vulnerable adult abuse, neglect, and exploitation. The cases chosen should represent trends and gaps
42 in service delivery identified through the other powers and duties of this Commission as defined.

43 7(a) The Division of Forensic Science shall submit to the Commission a monthly report within 30 days of the last day of the
44 previous month, of all the homicides and suicides that occurred in Delaware. The Attorney General, the Department of Health
45 and Social Services, and any other state or local agency with knowledge of a vulnerable adult abuse, neglect, or exploitation-
46 related death or near-death incident shall report such incident to the Commission within 14 days. The Commission shall delay
47 the review of deaths involving criminal investigations until the completion of the prosecution. For purposes of this subsection,
48 "completion of the prosecution" means the decision to file no information or seek no indictment, conviction or adjudication,
49 acquittal, dismissal of an information or indictment by a court, the conditional dismissal under a program established by
50 Delaware law or court program, or the nolle prosequi of an information or indictment by the Attorney General.

51 (b) All members of the Commission, plus other individuals invited to participate, shall be considered part of the review panel
52 for a particular case or incident. The Commission shall invite other law-enforcement personnel to serve and participate as full
53 members of a review panel in any case in which a law-enforcement agency has investigated the death or near death under
54 review or any prior vulnerable adult abuse, neglect, or exploitation incident involving the decedent or near-death victim. The
55 Commission may also invite other relevant persons to serve on an ad-hoc basis and participate as full members of the review

56 panel for a particular review. Such persons may include individuals with particular expertise that would be helpful to the
57 review panel, representatives from those organizations or agencies that had contact with or provided services to the individual
58 prior to that individual's own death or near death, that individual's family member, and the alleged perpetrator of the death
59 or near death.

60 c) A review panel shall be convened by the co-chairs of the Commission on an as-needed basis and may also be convened by
61 any 2 other members of the Commission.

62 (d) As part of any review, a review panel shall have the power and authority to administer oaths and to compel the attendance
63 of witnesses whose testimony is related to the death or near death under review and the production of records related to the
64 death or near death under review by filing a praecipe for a subpoena, through the Delaware Department of Justice, with the
65 Prothonotary of any County of this State. Such a subpoena will be effective throughout the State and service of such subpoena
66 will be made by any sheriff. Failure to obey such a subpoena will be punishable according to the Rules of the Superior Court.

67 (e) Each review panel shall prepare a report, to be maintained by the Commission, including a description of the incident
68 reviewed, and the findings and recommendations of the review panel.

69 (f) Findings and recommendations by the panel shall be adopted only upon a 60 percent vote of participating members of the
70 review panel.

71 (g) The Commission shall establish rules and procedures to govern each review prior to the first review to be conducted. The
72 Commission shall include in its annual report a summary in an aggregate fashion all findings and recommendations made
73 over the year by each review panel and any systemic changes that were effectuated as a result of the Commission's work.
74 The report shall not identify the specific case or case review that led to such findings and recommendations.

75 (h) The review process, and any records created therein, shall be exempt from the provisions of the Freedom of Information
76 Act in Chapter 100 of Title 29. The records of any such review, including all original documents and documents produced in
77 the review process with regard to the facts and circumstances of each death or near death, shall be confidential, shall be used
78 by the Commission only in the exercise of its proper function and shall not be disclosed. The records and proceedings shall
79 not be available through court subpoena and shall not be subject to discovery. No person who participated in the review nor
80 any member of the Commission shall be required to make any statement as to what transpired during the review or information
81 collected during the review. Statistical data and recommendations based on the reviews, however, may be released by the
82 Commission at its discretion.

83 (i) Members of the Commission and members of each review panel, as well as their agents or employees, shall be immune
84 from claims and shall not be subject to any suits, liability, damages or any other recourse, civil or criminal, arising from any
85 act, proceeding, decision or determination undertaken or performed or recommendation made, provided such persons acted
86 in good faith and without malice in carrying out their responsibilities; good faith is presumed until proven otherwise, with

87 the complainant bearing the burden of proving malice or a lack of good faith. No organization, institution or person furnishing
88 information, data, testimony, reports or records to the review panels or the Commission as part of such an investigation shall,
89 by reason of furnishing such information, be liable in damages or subject to any other recourse, civil or criminal.

90 §10604. Meetings; quorum; officers; committees; procedure.

91 (a) The Commission shall meet at least 4 times per year. Ten members shall constitute a quorum.

92 (b) The Chairperson shall have the duty to convene and preside over meetings of the Commission and prepare an agenda for
93 meetings.

94 (c) The Secretary of the Department of Health and Social Services shall convene the initial meeting of the Commission.

95 (d) At the initial meeting of the Commission a Chairperson and Vice-Chairperson shall be elected by the Commission
96 members. Thereafter, in December of each year, the Commission shall elect a Chairperson and Vice-Chairperson. The Vice-
97 Chairperson's duty shall be to act as chairperson in the absence of the Chairperson.

98 (e) The Commission shall establish committees composed of Commission members and other knowledgeable individuals, as
99 it deems advisable, to assist in planning, policy, goal and priority recommendations, and developing implementation plans to
100 achieve the purposes of the Commission.

101 (f) The Commission shall promulgate rules of procedure governing its operations, provided that they are in accordance with
102 Chapters 100 and 101 of Title 29, and provided that no rule shall permit proxy voting.

103 (g) The Commission shall submit a written report of its activities and recommendations to the Governor, General Assembly,
104 and the Chief Justice of the Supreme Court at least once every year on or before March 15."

105 Section 2. Effective date. This Act shall take effect upon its enactment.

106 SYNOPSIS

107 This bill sets forth creation of the Vulnerable Adult Populations Commission.

2020 Final Holdover Report (2019 Reviews) Council on Correction

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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Senator S. Elizabeth Lockman, Vice Chair

Representative Andria L. Bennett

Senator Anthony Delcollo

Representative Sherry Dorsey Walker

Senator Stephanie L. Hansen

Senator Ernesto B. Lopez

Representative Jeff N. Spiegelman

Senator John J. Walsh

Representative Lyndon D. Yearick

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ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Council on Correction. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

MEMORANDUM

February 6, 2020 Council on Correction Holdover



Joint Legislative Oversight
& Sunset Committee

Update

In August of 2019, a progress reporting worksheet was sent via email to all entities held over by the Committee in 2019. The worksheet provided a list of the recommendations approved by the Committee and a text box to provide an update regarding implementation of those recommendations. One update was due at the end of October while the second was due at the end of December. As of January 31, 2020, no progress report has been received by the Council on Correction. The Council on Correction was held over following the adoption of several recommendations requiring further action from the Council:

Recommendation: Submit an annual report, no later than December 1 of each calendar year, to the Commissioner and Deputy Commissioners of the Department of Correction, Governor, and General Assembly. The report shall include:

- Meeting agendas and minutes
- Training and development completed
- All legislative priorities and activities
- All correspondence with the Department of Correction
- Goals and priorities for the coming year

Update: In 2018 and 2019, the Committee adopted a recommendation for the submission of an annual report. As of January 31, 2020, no annual report for 2018 or 2019 has been submitted.

Recommendation: In 2018 and 2019, the Committee adopted a recommendation for the Council to rotate meeting locations in all three counties.

Update: According to the state public meeting calendar, 7 of the 9 scheduled Council meetings since June 2018 were held in Kent County with 1 being held in New Castle and Sussex counties. All 2019 Council meetings were held in Dover.

- July 11, 2018: First State Action Agency: Georgetown, DE
 - Note: On the state's public meeting calendar, this meeting's location is listed as Dover. However, the agenda posted reflects the Georgetown location. Additionally, this meeting did not have a quorum.
- September 25, 2018: Hilltop Lutheran Neighborhood Center: Wilmington, DE
- November 27, 2018: Correction Central Administration Building: Dover, DE
- February 26, 2019: Correction Central Administration Building: Dover, DE
- April 24, 2019: Correction Central Administration Building: Dover, DE
- September 5, 2019: Correction Central Administration Building: Dover, DE
- December 10, 2019: Correction Central Administration Building: Dover, DE
- January 30, 2020: Correction Central Administration Building: Dover, DE

Recommendation: The Commissioner of the Department of Correction shall provide the Council with 3 direct updates per year, at a scheduled Council meeting, of the Department's current priorities.

Update: October and December 2019 progress reports were not received, no update to report.

Recommendation: In 2018 and 2019, the Committee adopted a recommendation for the Council to seek and attend training to support cohesion and leadership as a unit as well as maintaining FOIA compliance.

Update: Beginning in June of 2018, the Council has completed tours of Department facilities: James T. Vaughn Correctional Center, Baylor Women's Correctional Institution, and Sussex Correctional Institution. At the Council's April 24, 2019 meeting, the Council discussed advocating for funding of further development and leadership training opportunities. However, October and December 2019 progress reports were not received, so additional details are unavailable.

Recommendation: The Council on Correction shall meet with willing families of the Delaware inmates who were moved to Pennsylvania and provide a written report to the Commissioner of the Department of Correction, the Governor, and the General Assembly. The report shall not contain personal and identifying information of the inmates.

Update: October and December 2019 progress reports were not received, no update to report.

Other Recommendations Approved by JLOSC in 2019

In 2019 the Committee approved the following recommendations that require statutory changes¹:

Recommendation: JLOSC will sponsor a bill drafted by the Committee's Legislative Attorney to make technical corrections to the Council's governing statute, § 8905, Title 29, including the following:

- a. Adding standard removal and quorum provisions.
- b. Codifying the Council's updated by-laws.
- c. Adding language requiring the Council to hold at least 1 meeting per year in each county and any other meeting called at the discretion of the Chair.

Recommendation: Add to the Council's governing statute in Chapter 89, Title 29:

- a. The Council will update its website and keep it updated to include current information on each of the following:
 - (1) Council members, statute, and by-laws.
 - (2) Meeting agendas and minutes, both past and future.
 - (3) Contact information for the public.
- b. The Council will post its meeting agendas, locations, minutes on the Public Meeting Calendar.

¹ Given the holdover status of the Council and the possibility of additional statutory changes, staff is waiting to draft one complete bill comprised of 2018, 2019, and 2020 recommendations.

Recommendation Options from the Committee Analyst

An email was received in November 2019 from the Commissioner for the Department of Correction expressing concern regarding the lack of adequate notice for Council meetings as well as confusion surrounding the timeframe in which public meeting notices must be posted. This has been an ongoing concern since the Council has been under review.

Currently, the Department of Correction is responsible for posting all meeting notices, agendas, and minutes on behalf of the Council. Since only 5% of the Department's time is spent on Council issues, it is recommended that the responsibility for the administrative tasks of posting meeting notices, agendas, and minutes be moved elsewhere. In an attempt to rectify this issue, the Committee Analyst suggests consideration of the following:

OPTION 1: The Council shall designate one member to contact the public meeting calendar staff for log in access and approval to begin posting all meeting notices, agendas, and minutes, eliminating the Department's responsibility.

OPTION 2: The Criminal Justice Council will provide limited administrative support as it relates only to the posting of meeting notices, agendas, and minutes to the public meeting calendar.

However, Options 1 and 2 do not address the crux of the organizational issues currently facing the Council. Given the lack of staff and budgetary support provided, the volunteer Council will continue to struggle meeting its directives. In addition to the meeting notice issues, two annual reports and two progress reports have not been submitted while all 2019 meetings were held in one county. The Criminal Justice Council continues to be willing to provide the necessary administrative support required so members of the Council can remain focused on meeting the goals established in their bylaws.

The previous recommendations outlining the Council's reestablishment as a Criminal Justice Council subcommittee were met with resistance from the Council on Correction membership, expressing concern that this will compromise the organization's autonomy. In 2019, the General Assembly passed HB 173², amending the statute of the Adult Correction Healthcare Review Committee to allow the Criminal Justice Council to provide administrative and budgetary support (§ 6518 b). Applied to the Council on Correction, this path forward would assist with administrative support while retaining the Council's autonomy within its governing statute in Chapter 89, Title 29. Therefore, it is recommended that the Committee consider adopting the following recommendation:

OPTION 3: The JLOSC will sponsor legislation to amend the Council's governing statute in Chapter 89, Title 29 to add language enabling the Criminal Justice Council to provide administrative assistance. The legislation will establish this partnership as a PILOT Partnership Program and include a 5-year sunset provision.

² Text of [HB 173](#).

ADDITIONAL ANALYST COMMENT

At the February 6, 2020 holdover meeting, option 3 was adopted by the Committee, and legislation will be drafted to incorporate the change to the Council's governing statute. Due to the public health emergency caused by the COVID-19 pandemic, all legislation will be presented for approval in 2021.

The Council's Vice Chair and Secretary presented a report to the Committee at the February 6, 2020 holdover meeting, which can be found in Appendix A.

2019 Annual Report

Delaware Council on Correction

Prepared by

Darryl Chambers, Chair

Muhammad Salaam, Vice-Chair

INTRODUCTION

In 2018, the Joint Legislative Oversight and Sunset Committee made several recommendations for the Council on Correction, an advisory council to the Department of Correction. The Sunset Committee's recommendations included: 1) amending the Council's governing statute, including how the Council will advise the Department; 2) providing an annual report to the Commissioner, Deputy Commissioners of the Department, the Governor and General Assembly; 3) rotating meetings across the State; and 4) completing board training.

The following report summarizes the activities of the Council on Correction during FY 2019 and highlights the progress made on the recommendations provided to the Council in 2018.

MEMBERSHIP

As of 2019, the following individuals were appointed by the Governor to sit on the Council.

	<u>Term Ends</u>
Daryl Chambers, Chair	09/29/2020
Muhammad Salaam, Vice-Chair	09/29/2020
Jane Hovington	12/23/2016
Joseph Paesani	12/23/2016
C. Edwin Perez	12/13/2016
Richard D. Senato	05/28/2017
Jennifer Powell	09/29/2020

According to the above notation, four of the seven members are serving on expired terms. Council request consultation on how to rectify this pertinent issue.

COUNCIL MEETINGS AND AGENDAS

The Council is mandated to meet no less than six times per year. From February 2019 to January 2020, Council met a total of five times with a sixth meeting scheduled for March 24, 2020 at First State Community Action Agency, 308 North Railroad Avenue, Georgetown, DE. The final session will satisfy the mandatory meeting obligations within the one-year time frame.

Meeting dates, times and locations are provided below.

January 30, 2020

4:30 PM

Correction Central Administration Building
245 McKee Rd, Dover DE 19904

December 10, 2019

4:30 PM

Correction Central Administration Building
245 McKee Rd, Dover DE 19904

September 05, 2019

4:30 PM

Correction Central Administration Building
245 McKee Rd, Dover DE 19904

April 24, 2019

4:00 PM

Correction Central Administration Building
245 McKee Rd, Dover DE 19904

February 26, 2019

4:00 PM

Correction Central Administration Building
245 McKee Rd, Dover DE 19904

In 2018, the Sunset Committee recommended the Council host meetings throughout the State. In 2019, all of the Council meetings took place in Kent County. However, the Council is committed to increasing the public's access to the Council meeting and plans to host at least two Council meetings in New Castle County, Kent County, and Sussex County.

Meeting agendas and minutes, when available, are provided below. The Council is aware that meeting minutes for the February 26 have not been posted to the State's public meeting website. The Council will request that these minutes be posted to the website.

See appendix for meeting minutes and agenda

TRAINING AND DEVELOPMENT

During FY 2019, the Council participated in a variety of training and development activities in event. Members of the Council attended the Cadet Graduation, Commissioner Claire DeMatteis' Swearing-in Ceremony, the Department of Correction Re-entry Symposium, and the retirement party for past Commissioner Perry Phelps. As well, members of the Council toured Plummer Community Corrections Facility, Baylor Women's Correctional Institution, and the Howard R. Young Correctional Institution. Members of the Council attended the Delaware Department of Correction Reentry Symposium and Governor Carney's press conference for the "Bridge" Mobile Van at Howard R. Young Correctional Institution. Finally, the Chairperson and Vice Chairperson met with Commissioner DeMatteis and Deputy Commissioner Hudson to discuss their, the council, roles and responsibilities under their authority.

LEGISLATIVE PRIORITIES AND ACTIVITIES

No new legislative priorities were identified by the Council during FY 2019. Rather, the Council focused on revising the Council bylaws and determining its mission moving forward.

CORRESPONDENCE WITH THE DOC

The Chair and Vice-Chair maintained regular correspondence with the Department of Correction during FY 2019. The Department of Correction regularly invited members of the Council to trainings and special events. As well, Commissioner DeMatteis provided the Chair, Vice-Chair and Council with regular updates in and outside of Council meetings.

PROGRESS ON RECCOMENDATIONS

In FY 2019, the Sunset Committee made nine recommendations to the Council. The Council's status on each recommendation is summarized below.

Recommendation 1: Continue or Terminate

Under DEL. CODE ANN. tit. 29, §10213(a), the Committee must determine whether there is a genuine public need for an agency under review. To meet this requirement, the Committee may select one of the following options.

Option 1: Council on Correction shall continue, subject to any further recommendations that JLOSC adopts.

- OR -

Option 2: Council on Correction is terminated. The Committee's legislative attorney shall draft legislation, which the Committee will sponsor, to implement the termination.

Status: The Sunset Committee adopted Recommendation 1 with option 1, to continue the Council on Corrections.

Recommendation Two: Terminate and Reestablish Under CJC

Contingent on the FY 21 budget process and the addition of a state-supported staff person, do the following:

- a. Terminate the Council as it exists under the Department of Correction (“DOC”) in Chapter 89, Title 29, and re-assign its duties to the Criminal Justice Council (“CJC”) in Chapter 87, Title 11 through a new CJC subcommittee to advise the Department of Correction.
- b. Through legislation drafted by JLOSC’s legislative attorney and in consultation with the Council and the CJC, add to CJC’s governing statute language establishing the new subcommittee to take over the Council’s mission and duties.*

OPTION 1: The legislation drafted under subsection b. should mirror, in large part, the Council’s current mission, by-laws, and statute, and any other legislative recommendations listed here that JLOSC approves.

OPTION 2: This recommendation is limited for a 1-year trial period beginning July 1, 2019. A sunset provision will be included in the legislation under this recommendation.

OPTION 3: The Council is held over and its successor under this recommendation must report back to JLOSC in January 2020 to update JLOSC on the status of the change from the DOC to the CJC.

Status: The Sunset Committee tabled Recommendation Two. Council on Correction members rejected the offer to be placed under the CJC and felt this transition would result in a conflict of interest.

Recommendation Three: Annual Report

Add to the Council’s governing statute in Chapter 89, Title 29:

The Council shall submit an annual report, no later than December 1 of each calendar year, to the Commissioner and Deputy Commissioners of the Department of Correction, Governor, and General Assembly. The report shall include:

- Meeting agendas and minutes
- Training and development completed
- All legislative priorities and activities
- All correspondence with the Department of Correction
- Goals and priorities for the coming year

Status: This report responds to the recommendation made by the Sunset Committee.

Recommendation Four: Council Procedures and Technical Assistance

JLOSC will sponsor a bill drafted by the Committee's Legislative Attorney to make technical corrections to the Council's governing statute, § 8905, Title 29, including the following:

- a. Adding standard removal and quorum provisions.
- b. Codifying the Council's updated by-laws.
- c. Adding language requiring the Council to hold at least 1 meeting per year in each county and any other meeting called at the discretion of the Chair.

Status: No action was to be taken by the Council on this recommendation.

Recommendation Five: Communication with the Public

Add to the Council's governing statute in Chapter 89, Title 29:

- a. The Council will update its website and keep it updated to include current information on each of the following:
 - (1) Council members, statute, and by-laws.
 - (2) Meeting agendas and minutes, both past and future.
 - (3) Contact information for the public.
- b. The Council will post its meeting agendas, locations, and minutes on the State's Public Meeting Calendar.

Status: The Council website currently contains a list of members and the statute. As this time, by-laws and contact information have not yet been added to the website. The Council will request the Staffer to post this information on the website as they do not have access to edit the website. Council meeting agendas, locations, minutes and contact information are available on the State's Public Messaging Calendar, with the exception of meeting minutes for February 26, 2019. The Council will request the Staffer post the February 26 meetings to the State Public Messaging Calendar.

Recommendation Six: Updates from the Commissioner

The Commissioner of the Department of Correction shall provide the Council with 3 direct updates per year, at a scheduled Council meeting, of the Department's current priorities.

Status: The Chair and Vice-Chair maintained regular correspondence with the Department of Correction during FY 2019. The Department of Correction regularly invited members of the Council to trainings and special events. As well, Commissioner DeMatteis provided the Chair, Vice-Chair and Council with regular updates in and outside of Council meetings.

Recommendation Seven: Training

The Council on Correction shall seek and attend the following training within 1 year:

- a. Maintaining FOIA compliance.
- b. Board leadership and cohesion training.

Status: The Council facilitated leadership and cohesion activities during the September and December Council meetings, where they discussed the Council's purpose and vision moving forward.

Recommendation Eight

The Council on Correction shall meet with willing families of the Delaware inmates who were moved to Pennsylvania and provide a written report to the Commissioner of the Department of Correction, the Governor, and the General Assembly. The report shall not contain personal and identifying information of the inmates.

Status: No funds were made available to the Council to facilitate this level of engagement. The Council recommends allocating a budget to the Council to support associated costs with related activities.

Recommendation Nine

Option 1: Council on Correction is released from review upon enactment of recommended legislation *and* submission of the annual report.

– OR –

Option 2: Council on Correction is held over and shall report to the Committee in January 2020.

Status: This report responds to the recommendation made by the Sunset Committee.

2020 GOALS AND PRIORITIES

One of the primary priorities of the Council on Correction during FY 2020 will be to expand access to the public to attend Council meetings by hosting at least two meetings in each of Delaware's counties. As well, the Council will strive to maximize their role as an advisory group to the Department of Corrections by conducting a review of best practices and evidence-based programs that can be taken into consideration by the Commissioner for implementation inside the State's correctional institutions.

CONCLUSION

To maximize the impact of the Council, we recommend providing the Council additional staff support through the Department of Correction or General Assembly, as well as allocating a budget to support the activities and aforementioned identified priorities. Notably, the Council

faced challenges meeting some of the Sunset Committee recommendations because the Council does not have an operational budget and is managed by volunteer members. With additional support and resources, the Council will have increased capacity to fulfill their role as an advisor to the Department of Correction.

APPENDIX

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COUNCIL ON CORRECTION

An advisory group considering matters relating to the development and progress of the correctional system.

AGENDA

Council on Correction
Tuesday February 26, 2019
245 McKee Rd.
Dover, DE 19904
4:00 P.M. – 5:30 P.M.

1. Call meeting to order.....Council Chair
2. Approve Meeting Minutes.....Council
3. Vote for next Council Chairperson.....Council
4. Discuss Sunset Committee’s hearing.....Council
 - a. Review questions posed by 2018 committee
 - b. Timeline to draft report
5. Provide updates on last meeting’s public comments.....Council/Relevant Parties
6. Public Comments (3 mins per person).....Public/Council
7. Next Steps/summarize action items.....Council

COUNCIL OF CORRECTION

An advisory group considering matters relating to the development and progress of the correctional system.

AGENDA

Council of Correction
Wednesday April 24, 2019
Correction Central Administration Building
245 McKee Road, Dover, DE 19904
4:00 P.M. – 5:30 P.M.

1. Call meeting to order.....Council Chair
2. Welcome and Introductions.....Council/Visitors
3. Council election.....Council
4. Discuss Sunset Committee Hearing.....Council
5. Annual Report to Oversight Committee.....Council
6. Next Steps/summarize action items.....Council
7. Public Comments (3 mins per person).....Public/Council

COUNCIL ON CORRECTIONS
Meeting Minutes
April 24, 2019
DOC Admin. Building – 245 McKee Road, Dover, DE

Attendance COC Members

Darryl Chambers, Chair
Muhammad Salaam
Richard Senato
Joe Paesani

Department of Correction

Alan Grinstead, Deputy Commissioner

Guests

Mark Brainard, Jr. Joint Oversight Analyst

1. Call to Order

The meeting was called to order by the Chair.

2. Approval of Minutes

The November 27, 2018 minutes were presented and approved.

3. Review of Last Session

The first order of business was the annual election. The Chair opened the floor for nominations. Richard Senato made the nominations that the current chair and vice chair remain in their current positions. The motion was seconded by Muhammad; the vote was called and passed unanimously. Jane Hovington inquired on the position of Secretary. It was moved the secretarial position remain intact as well.

The Chair began the discussion regarding the April 29, 2019 hearing with the Sunset Committee. Mark Brainard, the Analyst for the Sunset Committee advised he needed some pertinent information prior to the meeting to enable him to present information to the committee members. He asked for copies of previous meetings and provided an update as to what is expected from the council. The Chair Darryl Chambers, Muhammad Salaam and Richard Senato advised they would be in attendance. Mark advised he would forward a copy of the final report to the members prior to the hearing on Monday. There was further discussion on presentation to the Sunset Committee.

It was announced there will be a CEIT graduation ceremony on May 10, 2019. If any members can attend, please do so.

4. Public Comment

We did not have any public attendance. Therefore, there were no public comments made.

5. Meeting Adjourned

Muhammad Salaam gave the motion adjourning the meeting, second by Richard Senato.

COUNCIL OF CORRECTION

An advisory group considering matters relating to the development and progress of the correctional system.

AGENDA

Council of Correction
Thursday—September 5, 2019
245 McKee Rd.
Dover, DE 19904
4:30 P.M. – 6:00 P.M.

1. Call meeting to order.....Council Chair
2. Introductions.....Council
3. Welcome Commissioner.....Commissioner DeMatteis
4. Approved May Meeting Minutes.....Council
5. Review Sunset Committee’s Session.....Muhammad Salaam
6. Discuss statewide meetings.....Council
7. Develop strategic plan.....Darryl Chambers
8. Next Steps/summarize action items.....Jane Hovington
9. Provide updates on public comments.....Council/Relevant Parties
10. Public Comments (3 mins per person).....Public/Council
11. Meeting adjourned.....Council Chair

COUNCIL ON CORRECTIONS
Meeting Minutes
September 5, 2019
245 McKee Road
Dover Delaware 4:30-6:00 pm

Attendance COC Members

Darryl Chambers
Muhammad Salaam
Ed Perez
Jane Hovington
Richard Senato
Joe Paesani

Department of Correction

Claire DeMatteis, Commissioner
Monroe Hudson, Deputy Commissioner

Guests:

Barbara Malone, State Secretary NAACP
Erin Goldner, Hope Street
Theodore Wilson, CIT Team
Anthony Harrigan, CIT Team

The Chair opened the meeting with general introductions of all the council members. He also introduced two members of the Community Intervention Team (CIT), of which he is Executive Director. Theodore Wilson, who is being recognized as one of the youth National Violence Prevention Specialist of the year and will be travelling to Sacramento, California and Anthony Harrigan, who is also part of the CIT team.

Commissioner DeMatteis introduced herself and discussed some of the new programs. Her number one goal is to remove “beleaguered and troubled” from being an adjective when they describe the Department of Correction. We were focusing on the dual mission, not just locking them up, throwing away the key and having no programs. We have to be a part of the developing a program of rehabilitation, a second chance while maintain safety and security. The department is doing a lot more positive things than what’s being reported it’s our intent to get that message out. This Governor has signed an executive order and we now have an Office of Reentry Planning and Research. With the Reentry Commission we have seven subcommittees. There is a mobile vane it will be sitting in front of Howard Young and will have representation from 6 to 8 agencies involved in the reentry effort and as defenders come out will help them make sure they get the services they need. The toughest piece of this is housing. We have the Vera Institute to come out, at no charge, we received a grant we’re replicating the reform from New York City and New Orleans on housing. We have 5 public housing facilities with very tough guidelines on who can live in the housing. We’re trying to get the public housing to soften these restrictions to help provide housing for these offenders when they released. We have a resource guide now that’s identifies all the available housing out there for these individuals.

The seven subcommittees are doing hands-on work of how to better coordinate reentry. We have our own statistical analysis department which says we have 76% recidivism. Only three states take into consideration people who violate probation and count that as recidivism, that’s not accurate. We want to take about 500 offenders who follow them through to

determine true recidivism. Our vocational skills training in our prisons are good, but we need to focus on usable skills.

With the reentry effort every single offender in level V is given an assessment of educational and vocational skills. With this information we either help them with skills to get to their GED or in one of the other programs to give them practical skills to help them once they release. We work with private companies on grants, who gave us a grant and we will focus on the Achievement Ctr., in Wilmington to determine better use of the facility in helping these individuals.

The Department of Correction received \$5 million from the bond bill. We will use this funding to convert CVOP and into a level V facility instead of a Level 4 used just for sending people who violate probation. We are closing it as of December 1, do construction from December 15 to January 1 through July 1, this time next year, as a level V Drug Treatment Ctr. To be used statewide. Anyone who is sentenced and in need of addiction help will go to this level V facility. We will be going out for medical vendor, behavior vendor and treatment program. There was additional discussion on changes the new Commission is planning to implement or interested on improving. The Chair advised the Commissioner that the Council was eager to work with her. The Council is looking to understand not what an individual did to end up back in prison, but what they did to not return to prison.

Minutes from the last meeting will be approved at the next meeting. A motion was made by Richard Senato and the motion was seconded by Mohamed Salaam that the meeting will be tabled until the next meeting. There will be a correction on the agenda to state that the last meeting was April and not May.

There was discussion on the election and when the next election should take place.

Mohamed Salaam gave us overview of what happened at the Sunset Committee. They gave us some recommendations and we complied with those recommendations. We sat down and testified regarding what we have done since the last meeting of the Sunset Committee. The Committee asked how they could improve our stability and strengthen us as far as going into the prisons and working with the Commission on Corrections. We gave some recommendations on how things could be improved. The Committee questions the lack of cooperation, we felt that there was a lack of empathy and support in keeping the Council abreast of issues within the prison. We show them that we met in all three counties and that we always have a quorum. The Committee requested and we have had training and that training would come from us visiting the different facilities and learning how they operated.

The Council wants to continue hosting meetings throughout the state. Jane Hovington is asked to schedule one in Sussex, Ed Perez has agreed to schedule a meeting in Dover and Mohammad and Darrell are working to have one in Wilmington. We wanted to know if there is a way we can have a schedule that we can continue to visit the prisons and see the transitions the changes that are going on within the facility. The Legislator Sherry Dorsey Walker asked how she could help us in responding to the families who have questions about

their families with our out of state offenders. The Commissioner stated it will be impossible for the council to get ID cards.

There was a very good relationship with the communications between Alan and the Council when there was a problem we learned of from the streets or a family member. When we spoke to him, he always responded with an answer. Problem was the correspondence between the department and the Council. There are things happening that the department didn't discuss with the council to enable the Council so we could have some assistance when it's presented to the public.

Sunset Committee asked about the educational sessions which some of the officers may have that might help us/arm us to have more knowledge about the operations of officers that we can be better educated so we can establish a better relationship so when we go into the facilities there is a better communicational aspect between us and the officers. When we entered during the shutdown of the facility, the officers would not speak to us, we had to speak to them. If it's possible we like to attend some of the DOC training.

We'd like to schedule 6 visits within the prisons again, Young, Vaughn, Sussex, Baylor, Plumber, Smyrna and Sussex VOP. Commissioner said she would develop the schedule. We would like to have statewide Council meetings as well and visiting the different persons.

Our next meeting is in November and at that meeting we need to do our planning for the coming year.

We then opened up for public comments. Alan usually prepared responses for the questions from the visitors and provided the responses at the next meeting.

Barbara Malone the State Secretary for Delaware NAACP. She has a problem because for the last three or four years the state NAACP has been trying to get into the prison at Vaughn to organize the NAACP committee. I just need what the policy and procedure is to I can complete paperwork to allow the NAACP to get into the prisons to meet with the current chapter. We've had a request from Howard Young to form their own chapter. We need to know what we need to do to have individuals go into the prison to work with this group to form this chapter. Commissioner Dermatitis asked for Barbara's email address so she could contact her and provide her the information needed.

Erin Goldner. She explained the concept of the Hope Street program. She's happy about the focus on addiction within the prison. She discussed how the inmate flows out of the prison and the need especially for the women for the continued connection with their children. Commissioner said that the new program will just focus on man but they are working to include the women as well.

Motion to adjourn by Mohamed salaam second by Jane Hovington meeting adjourned

COUNCIL ON CORRECTION AGENDA

Tuesday, December 10, 2019

Department of Correction: Administration Building

245 McKee Road, Dover, DE 19904

4:30 P.M. – 6:00 P.M.

- 1. Election**
- 2. 2020 Meeting Schedule**
- 3. Commissioner's Vision and Focus**
- 4. Corrections Updates**
- 5. Prison Tours**
- 6. Community Updates**

COUNCIL ON CORRECTIONS

Meeting Minutes
December 10, 2019
245 Mckee Road
Dover Delaware
4:30-6:00 pm

Attendance COC Members

Darryl Chambers
Muhammad Salaam
Ed Perez
Jane Hovington
Richard Senato
Jennifer
Powell

Department of Corrections

Monroe Hudson, Deputy Commissioner
Erin Goldner, Hope Street
Jason Miller. Department of Corrections

The meeting was opened by Chair Darryl Chambers. Jane Hovington made the motion to add the minutes on the agenda for approval, seconded by Richard Senato. The Chair then asked for the approval of the minutes, motion made by Richard Senato and seconded by Edwin Perez.

The bylaws require a yearly election be held. Mr. Sonata discussed the individual appointments and when they expired. Some of the appointments of current members has expired. There was some discussion on appointments and elections. Ms. Hovington offered to contact Lydia Prigg to determine the legitimacy of the board members functioning with expired appointments.

Richard Senato made a motion to begin the election, seconded by Edwin Perez, motion passed. Mr. Senato made a motion that Jane continue as secretary, second by Edwin Perez. Passed unanimously. He then made the nominations that Mohamed be continuously vice chair Jane Hovington, second the motion was passed unanimously. He then nominated Darryl chambers to continue its chair seconded by Jane Hovington passed unanimously.

The next item on the agenda was the meeting schedule. There are six meetings doing year and the Sunset Committee recommendation we have the meetings throughout the state. The chair suggested that each member host a meeting. There was some discussion. The January meeting will meet to discuss the annual report. Jane made a motion to have the January meeting in the Dover location, second by Richard, passed unanimously. The Chair asked when individual committee members wish to have meetings. Jane will host a meeting in March; Jennifer will host in May @Polytech; Mohammed will host in July; Richard which will September; November will be the Chair. Edwin will be January.

We adjusted the agenda to move to Item 5, Prison Tours. The Chair and Vice Chair had the opportunity to tour Gander Hill with the Commissioner. The Chair was excited about the new Warden and the plans they have in place. The Commissioner shared some of her vision and

he finds it fairly progressive. Some of the things the Commissioner is planning fits closely with the new office she has created. He feels there will be a lot of positive items coming from this office. He felt it was a great tour.

Some of the questioned why everyone was not notified, advising they did not receive notification of the tour. Discussion followed on upcoming tours. The suggestion was made to have the tours the same day meetings are scheduled when possible. Jane suggested since we have the meeting in Sussex we should tour the VOP center. The Chair asked Mr. Hudson to check to see if time was available so that we could tour the facilities and schedule the meeting at an appropriate time were people working could attend. The chair suggested the time for the tour between 2 and 4 o'clock for the tour. The chair suggested that we do the tour of Baylor in July when we have the meeting up north.

There was discussion on the previous tour of Baylor and all the improvements that have been made. Jane Hovington asked if the Council has ever toured Morris Correction facilities. As no one other than Richard had ever been in the facility the chair said we should strive to tour Morris facility on the same day we have a meeting at Polytech in May. The Council will visit Vaughn in September when we have our meeting. A place to host the community attendance host the meeting must be located. Edwin suggested possibly using Del tech for the public meeting. The Smyrna library or the Dover Library were also suggested. Edwin is going to work out the details for meeting place. Jennifer said she would talk to the Dean of Criminal Justice. In November the Council will tour Gander Hill and try to utilize The Warehouse or The Achievement Center for the meeting.

There was some discussion about the Sunset Committee and what their intentions are for the council. Edwin feels the Sunset Committee want the Council to be more active in their interaction with the Department of Corrections. Chair feels we need to take the opportunity to work closely with the current commissioner and her visions.

Richard feels that we should have a meeting with the Commissioner and the Deputy Commissioner so we can determine their definite plans for the coming year in conjunction with the plans the council is making so that we can be aligned with each other. There are a lot of programs that were going to be implemented, but the Council is sure exactly what has been implemented or going to be implemented. The Chair stated the Commissioner previously made a report, somewhat critical, but to the point.

The Chair's is hearing a lot of things from the inmate and he's discussed these things with the Commissioner. With the programming, most of the program are geared toward people who are about to be released. There's nothing planned for long-term inmates. There is a new program 42/17 which talks about how can file a petition to get a sentence reduction. In order for the program to work you have to show extraordinary circumstances.

There's nothing for individuals who have five years or more of time left to serve. The Chair has talked to Jessica Klein, JoAnne Chapman and Jim Elders asking them to try to find programs to meet the needs of those who have time to serve to address this population. And they're doing away with the feel good programs which are not evidence based.

Edwin Perez suggested we have the forums again to allow people to come in and discuss issues. We have made this promise to families at our meetings who came to discuss issues pertaining to their families. We have had meetings but we haven't had just the open forum. He feels that we should have one and include and other members of the judicial system and within corrections. Edwin Perez said, we need to have one other officials present at our meetings to respond to the families.

Jane Hovington advised they are having meetings but they're not connected with the Council so we can collaborate. Jennifer asked, if the council was coming into the Commissioner's vision and how we can best serve her in what we are doing and reporting to the Sunset Committee about us. By statute we're in an advisory role and it's up to the new Commissioner and her staff to decide in what capacity we can serve them best. It seems to me over the last couple years that we've been working together. One of the most useful functions of this Council is to serve as a moderator between the public and the information that the Council is receiving from their loved ones and the Commissioner that may or may not be correct. We need to have someone here because the families want answers and want them right away. If you have someone here they can say I have the answer or I will try to get the information. We have been serving as that moderator and of acting an advisor to DOC. So we serve a useful purpose in that regard, DOC needs to decide that's what they want us to do.

There was more discussion on this issue and what happened at other meetings. Mohamed state according to the statute that we were commissioned by the Governor, we need clarification on what are we commissioned to do and as I said from the very beginning regarding transparency and how we should work together. What information should we receive? What notices should we receive to keep us connected with the public as well as Corrections, so our image will be more cultivated. The misinformation from the public saying we are not working with Corrections or them and how they get more information from the street then we're getting from Corrections. This is not what we were put together for, what were our objectives and responsibilities in this position. There was more discussion.

The Chair apologized for not giving Mr. Hudson more opportunity to speak, but asked if he had any comment at this time. Mr. Hudson's stated corrections wants to be transparent and share what they can taking into consideration obviously, safety and security of other persons foremost and have the Council be a conduit to the community. The Council bring issues to me and I'll do my best to research and bring back an answer that is part of the vision. If there are programs or other opportunity the Council finds and you bring it forward, prepare a presentation and it is possibly something we can implement with enough research and best practices focusing on reentry, please do. We are implementing program opportunities and assistance when the inmate enter into the facilities and not when they're leaving. There are programs that we are setting up to provide skills for the inmates at Vaughn and help them to earn some type of certification prior to leaving. Richard brought up a program called the Last Mile which provides training and is used at several facilities across the United States and he'd like to present the information to our institutions.

Jane Huffington asked if the NAACP were able to spot get in contact with members at Gander Hill facility to set up a NAACP unit.

The meeting was adjourned.

Jane Hovington

"If you can't fly, then run; if you can't run, then walk; if you can't walk, then crawl; but **BY ALL MEANS, KEEP MOVING.**

Dr. Martin Luther King

We can not accomplish anything by sitting still and waiting for someone else to do it!!

COUNCIL OF CORRECTION

An advisory group considering matters relating to the development and progress of the correctional system.

AGENDA

Council of Correction
Thursday January 30, 2020
245 McKee Rd.
Dover, DE 19904
4:30 P.M. – 6:00 P.M.

1. Call meeting to order.....Council Chair
2. Review Meeting Minutes.....Council
3. Discuss Sunset Committee Meeting.....Council
4. 2019 Sunset Committee Report.....Council
5. Council of Correction 2019 Annual Report.....Darryl Chambers
6. Discuss statewide meetings.....Council
7. Relevant business matters.....Council
8. Next Steps/summarize action items.....Jane Hovington
9. Provide updates on public comments.....Council/Relevant Parties
10. Public Comments (3 mins per person).....Public/Council
11. Meeting adjourned.....Council Chair

2020 Final Holdover Report (2019 Reviews)

Delaware Advisory Council on Career and Technical Education

150th General Assembly, 2nd Session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

Holdover Supplement Prepared by
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Senator S. Elizabeth Lockman, Vice Chair

Representative Andria L. Bennett

Senator Anthony Delcollo

Representative Sherry Dorsey Walker

Senator Stephanie L. Hansen

Senator Ernesto B. Lopez

Representative Jeff N. Spiegelman

Senator John J. Walsh

Representative Lyndon D. Yearick

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ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Delaware Advisory Council on Career and Technical Education. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

DACCTE HOLDOVER REPORT



OVERVIEW



OCT UPDATE



DEC UPDATE



LEGISLATION



RECOMMENDATIONS



ANALYST
RECOMMENDATIONS

OVERVIEW

History of Entity

The Vocational Education Amendments of 1968 stipulated that each state establish a State Advisory Council on Vocational Education to be eligible to receive federal funds for vocational education. In 1969, Delaware complied and established the Delaware Advisory Council on Vocational Education.

In 1973, the Delaware General Assembly expanded its role to include career education programs. Volunteer representatives from business, industry, labor, and other populations were responsible for evaluating and advising on vocational education programs and the employment needs across the state. In June 2005, the name was changed to the Delaware Advisory Council on Career and Technical Education.

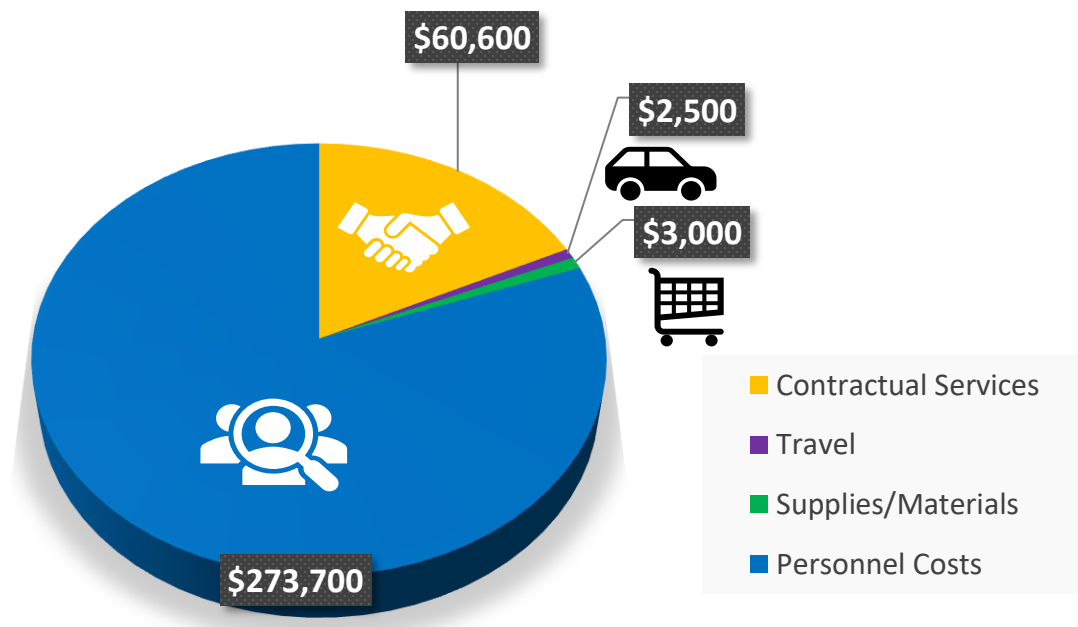
Composition

DACCTE currently has 14 members that meet the representation qualifications under the statute. The two non-voting members added by SB 138 have not yet been filled while the Council is missing a member knowledgeable about students with special needs, a representative of a school board, and a representative of the Delaware National Guard.

Staffing

DACCTE employs 2 full-time exempt employees: an executive director and administrative assistant along with 1 casual/seasonal employee.

Approved FY20 Budget - \$339,800



Mission and Accomplishments

DACCTE's mission is to advise on all matters pertaining to career and technical education with emphasis on recommending policies and initiatives that strengthen and modernize the career and technical education delivery system. The Council acts as an objective agency to conduct evaluations and program reviews while serving as a clearinghouse for state and national information on career and technical education so that citizens have access to the experience and judgment of lay and professional groups from the fields of employment and education in the formation of public policies.

Since 2005, DACCTE has assisted in the development of the Delaware Career Compass, an annual publication from the Department of Labor providing comprehensive, career-planning information that is disseminated to approximately 60,000 middle and high school students

and teachers each year free of charge. The Teacher's Guide serves as an instructional tool with the Career Compass publication.

DACCTE conducts on-site monitoring visits of CTE programs in the secondary schools on a regular basis as charged by the General Assembly.

DACCTE leads the review process if a district requests a waiver on the use of CTE funds. The Executive Director is one of three people required to approve any waiver requests after the review is conducted.

DACCTE sponsors 2 annual, statewide professional development workshops for all CTE teachers, counselors, and school administrators.

OCT UPDATE

Annual Report (Recommendation 2)

- DACCTE members and staff continue to meet with School District Superintendents on a one-on-one basis. Exit interviews are conducted with each School Principal at the conclusion of each school monitoring visit of CTE programs.
- DACCTE has scheduled a Fall CTE Statewide CTE Workshop for December 5. School District Administrators including Superintendents, Principals, Assistant Principals, District Curriculum Directors and CTE Teachers are invited to attend.
- The Delaware Career Compass is published by the Delaware Department of Labor annually. DACCTE assists in the development and helps to sponsor it each year.

Monitoring Schedule & Reports (Recommendation 3)

- DACCTE has created a 2-year rotating schedule for the school monitoring visits of CTE programs. The fall visits have begun in October and are scheduled through November. Planned CTE Program Monitoring Visits for 2019 – 2020:

Cape Henlopen High School	McKean High School
Concord High School	Middletown High School
Delmar High School	Seaford High School
Dover High School	Smyrna High School
Glasgow High School	Sussex Central High School
Laurel High School	William Penn High School

- Final reports will be posted on the DACCTE website.

Digitizing Career Compass (Recommendation 4)

- The Delaware Career Compass is published by the Delaware Department of Labor through their Office of Occupational and Labor Market Information (OOLMI). DACCTE helps to sponsor and provides input in the development of this publication annually.
- A digital copy has been posted and made available on DACCTE's website.
- Links to digital copies of the Compass appear in the printed version through a QR Code on the front cover and a download link on page one of the publication.

Membership (Recommendation 5)

- DACCTE has not been notified that any new members have been appointed to the Council.

Social Media Presence (Recommendation 6)

- DACCTE's website was completely redesigned in the summer of 2018 and continues to be updated as needed, including the addition of a digital link to the Delaware Career Compass publication.
- To date, DACCTE does not have the resources or staff to develop and create social media platforms.

Meeting Schedule & Location (Recommendation 7)

- DACCTE scheduled and held a full Council Meeting on October 9, 2019 in Dover, Kent County at 5:00 p.m. The next meeting of DACCTE is scheduled to be held in New Castle County in December at 5:00 p.m.

DEC UPDATE

Annual Report (Recommendation 2)

- DACCTE serves on the State Board of Education's CTE Committee developing the five-year State Plan required by the Perkins V federal law.
- A statewide DACCTE/CTE Workshop focusing on the new Perkins V federal regulations was held on December 5 for CTE Teachers and District Administrators

Monitoring Schedule & Reports (Recommendation 3)

- The fall visits concluded in December.

Digitizing Career Compass (Recommendation 4)

- No additional update since October.

Membership (Recommendation 5)

- DACCTE has contacted the Governor's office regarding the current vacancies on the Council. DACCTE has not been notified that any new members have been appointed to the Council.

Social Media Presence (Recommendation 6)

- DACCTE does not have the resources or staff to develop and create social media platforms.

Meeting Schedule & Location (Recommendation 7)

- DACCTE held a Council Meeting on October 9 in Dover at 5pm and December 12 in Odessa.
- The next DACCTE meeting will be scheduled at 5pm and held in Sussex County.

LEGISLATION

[Senate Bill 138](#) reflected the statutory changes approved by the Committee in May of 2019. An overview of the recommendations requiring statutory changes can be found below:

SB 138

MEMBERSHIP
Governor's office has been contacted to fill new member positions

5

MONITORING SCHEDULE & REPORTS

Rotating, 2-year schedule created. Final reports will be posted to DACCTE's website

3

ANNUAL REPORT

In progress. Specific updates can be found on Progress Report

2

RECOMMENDATIONS

MEETING SCHEDULE & LOCATION

October 9 meeting held at 5pm in Kent
December 5 meeting held at 5pm in NCC
Next meeting (TBD) will be at 5pm in Sussex.

7

8 TECHNICAL CORRECTIONS

Enacted August 20, 2019

RECOMMENDATIONS

RECOMMENDATION 1: DACCTE shall continue, subject to any further recommendations that the Committee adopts.

RECOMMENDATION 2: Add to DACCTE's governing statute: DACCTE shall produce an annual report to the Governor, General Assembly, and the Department of Education's CTE and STEM Office. The report must outline the following:

- Advocacy efforts made to lawmakers & school administrators on behalf of CTE students & programming.
- Career Compass and a list of recipients; both print and digital.
- Needs assessment of statewide CTE programming.
- Reports from all on-site monitoring school visits.
- Written procedure should any on-site visit require follow-up.

RECOMMENDATION 3: Add to DACCTE's governing statute: DACCTE shall create a 2-year, rotating on-site program/school monitoring schedule, and all final reports based on the monitoring will be posted to its website.

RECOMMENDATION 4: DACCTE shall create a digital copy of the annual Career Compass publication and distribute it via email or other appropriate methods to all locations that receive a print copy. The digital copy shall be made available on the Council's website.

RECOMMENDATION 5: Change DACCTE's membership as follows:

- Add a non-voting member who is a representative from the Department of Education and appointed by the Secretary.

- Add a non-voting member who is a student enrolled in a Delaware CTE program.
- Limit membership to no more than 2 members fulfilling each qualification listed in the statute.
- Remove the requirement that the Chairperson is a member of the private sector.
- Language shall be added to limit the term of the Chairperson to 5 years, with the ability to serve 1 additional 5 year term.

RECOMMENDATION 6: DACCTE will create a presence on various social media platforms, and an online portal through its website, to connect students, teachers, administrators, and parents with local business leaders. Selection of social media platforms must include those that are most commonly used by the target demographics. DACCTE shall update and modernize its website.

RECOMMENDATION 7: Add to DACCTE’s governing statute: DACCTE will schedule no less than 3 meetings after regular business hours at locations within each county.

RECOMMENDATION 8: The Committee will sponsor a bill, drafted by the Committee’s Legislative Attorney, to make technical corrections to DACCTE’s entire governing statute, including the addition of standard removal and quorum provisions. Additionally, the language “students with special needs” in §8602 will be updated to read “students with disabilities.”

RECOMMENDATION 9: DACCTE is held over and shall report to the Committee in January 2020.

ANALYST RECOMMENDATIONS

While DACCTE continues to update its website and add additional content from the on-site monitoring visits, the staffing resources are not there to create social media platforms and an online portal. The Council reported that it is exploring alternative options.

The rationale behind the social media/online portal recommendation was for the Council to provide students and their parents/guardians with access to information regarding educational, employment, and training opportunities. A modest Twitter presence consisting of simply retweeting information and opportunities from schools, higher education institutions, and local business leaders could provide the Council with a new audience of current and prospective CTE students and their families.

It is recommended that the Committee consider adopting the following recommendation:

RECOMMENDATION: In its annual report, DACCTE will outline what steps are being taken to provide CTE students and their families with timely information regarding educational, employment, and training opportunities.

Based on the updated information from DACCTE and the adoption of SB 138, it is further recommended that the Committee consider the following recommendation:

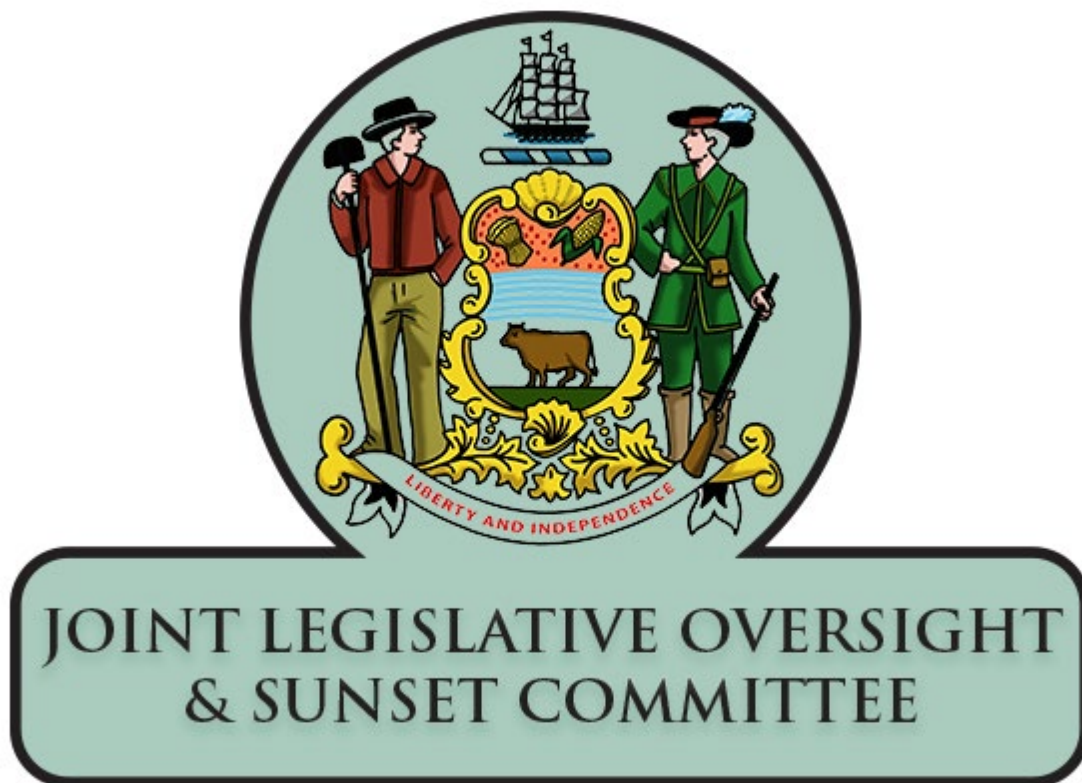
RECOMMENDATION: DACCTE is released from review upon the submission of its annual report.

Analyst Comment: At the February 6, 2020 holdover meeting, both recommendations were adopted by the Committee, and legislation will be drafted to incorporate the change to DACCTE's annual reporting requirements. Due to the public health emergency caused by the COVID-19 pandemic, all legislation will be presented for approval in 2021.

Additionally, in March 2020, DACCTE created a profile on [Twitter](#) in an effort to engage the CTE community.

2020 Final Holdover Report (2019 Reviews) Delaware Health Information Network

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

Final Report Prepared by
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ANALYST'S NOTE

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What follows is the Committee's 2020 final report on its review of the Delaware Health Information Network. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

DHIN HOLDOVER REPORT



OVERVIEW



DEC UPDATE



TASK FORCE
UPDATE



LEGISLATION



RECOMMENDATIONS



ANALYST
RECOMMENDATIONS

OVERVIEW

The Delaware Health Information Network (“DHIN”) was established in 1997 by statute, under the direction of the Delaware Healthcare Commission. In July of 2010, the General Assembly removed DHIN from the Delaware Healthcare Commission’s organizational structure. DHIN is currently operating as a statutory not-for-profit instrumentality of the State of Delaware with certain rights, obligations, and privileges and the purpose to promote the design, implementation, operation, and maintenance of facilities for public and private use of health care information in the State.

DHIN’s statutory mission is to develop and operate a statewide health information network integrating patient satisfaction, clinical, and financial data sources to inform decisions. The law intends for DHIN to be a public-private partnership for the benefit of all citizens of Delaware.

In July 2016, the General Assembly created the Delaware Health Care Claims Database (“HCCD”) to be administered and operated under the existing DHIN framework. The Delaware HCCD was created to assist with Delaware’s ongoing work to transform the State’s health care system from a fee-for-service system to a value-based system that rewards health care providers for quality and efficiency of care. This bill created the basic structure and parameters of the HCCD, which was subject to further guidance set forth in rules and regulations to be promulgated by the DHIN, in continued consultation with the Department of Health and Social Services, the Health Care Commission, and stakeholders in the health care community. On May 1, 2019, DHIN publically unveiled the HCCD at the University of Delaware’s STAR campus. is fully functional. As of January 1, 2020, the HCCD contains 495,000 unique records which represent more than half of Delaware residents and include claims from 2013 through 2018 of all required payers.

The Committee made several recommendations for DHIN. The Committee’s recommendations included creating and submitting an annual status report regarding the HCCD, updating DHIN’s governing statute to strengthen the HCCD and overall DHIN operations, reducing overlap and duplicated efforts, updating current regulations and HCCD internal procedures, and updating the website. Due to the many recommended statutory changes, the Committee recommended the creation of a task force in order to adequately review, discuss, and finalize draft legislation for the Committee to review in January 2020.

The Committee recommended DHIN be held over and report back to the Committee in January 2020. At that time, the Committee will review the agency’s progress in implementing recommendations, the proposed draft legislation from the task force, and consider releasing from review.

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DEC UPDATE

MOUs for HCCD (Recommendation 2)

- DHIN has memorandum of understandings (“MOUs”) and data use agreements (“DUAs”) with the following state agencies and is currently engaged in the studies listed:
 - Delaware Health Care Commission
 - Report – Delaware Primary Care Total Spend
 - Report (pending contract) – Cost Transparency
 - Request in pipeline – Prevalence of certain diseases of interest
 - Division of Public Health
 - Data extract – Lung Cancer Cost Study
 - Request in Pipeline – Data extract: HPV immunization prevalence
 - Division of Medicaid and Medical Assistance (IAPD)
 - Data extract – supports various DMMA analytics
 - Special Council for Persons with Disabilities
 - Brain Trauma prevalence and geography
 - Delaware Health and Social Services
 - Gift of Life – DHIN is proceeding with making the required changes to statute to execute data requests.
 - Dept. of Correction – DHIN met with DOC team to discuss next steps in formalizing partnership and providing assistance with preliminary technical requirements.

Continued Federal Funding Initiatives (Recommendation 3)

- DHIN and DMMA received approval for proposed IAPD from CMS in May 2019. DMMA required separate contracting documentation for IAPD. DHIN signed the revised contract December 10, 2019.
 - As of December 20, 2019, DMMA has not yet countersigned.

Annual HCCD Status Report (Recommendation 4)

- DHIN completed and released an annual HCCD status report.¹

¹ Annual HCCD status report information provided in the DHIN holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

Reduce Overlap and Duplicated Efforts (Recommendation 7)

- DHIN has continued to investigate ways in which it can assist the State as its only sanctioned provider of health information services and an available “single point of contact” for delivery of health data on Delaware residents to assist state and federal public health efforts.
 - DHIN has already begun preparations to engage, if necessary, in the RFP that will be issued by the State Employee Benefits Committee relating to data warehousing and analytics services associated with the State’s employee health benefit plan.
- Certain tasks currently being performed by third parties and paid for by the State could be performed by DHIN, likely at a cost savings to the State. DHIN intends to bid on those services in any RFP process, and to engage in a dialogue with the agency to determine whether there are any other areas in which DHIN could provide the State with replacement or enhanced services on a more cost-effective basis than possible with entities that do not share DHIN’s status as a not-for-profit State instrumentality.
- DHIN also has begun conversations with DMMA with respect to data warehousing and analytics services contracts to maintain and improve the State’s Medicaid Program. Those conversations resulted in the IAPD project, discussed separately, that will both enhance the Health Care Claims Database and provide additional services to Medicaid at a reasonable (and federally matched) cost.
- DHIN intends to continue to work with DMMA to determine if there are other areas where it currently contracts with third parties – especially in the areas of data warehousing and analytics – where DHIN could leverage the data in the HCCD and its status as a not-for-profit State instrumentality to provide more cost-effective services to other areas of the Medicaid program.
- Finally, DHIN believes that it can provide additional services to healthcare-related state agencies at a competitive cost, with the added benefit of diversifying DHIN’s revenue stream and helping to ensure that the State-sanctioned provider of health information exchange services continues to thrive.
- DHIN will be discussing, with potential sponsors, an extension of the current statutory language that permits certain divisions of state government to contract with DHIN for healthcare data warehousing and analytics services without going through the typical procurement process.
 - The model for this legislation is Section 6904(m) of Title 29, which permits the Department of Education to contract directly with the University of Delaware, Delaware State University, and Delaware Technical and Community College for any goods and services.

- Under DHIN's proposed statutory edits, the Department of Health and Social Services and Department of Insurance will be able to contract directly with DHIN for goods and services without going through the more onerous procurement process.

Update Current Regulations (Recommendation 8)

- DHIN has begun the process of re-drafting its regulations. Given that legislation is being proposed as a result of the task force, DHIN has not finalized those regulations at this time.
 - Once any legislation recommended by the task force becomes law, DHIN will finish the process of drafting updated regulations and will submit them for public review and comment as is the standard process.
 - Currently, DHIN expects to be able to initiate the regulatory change process in the 3rd calendar quarter of 2020.

Update Current HCCD Internal Procedures (Recommendation 9)

- DHIN embraces the ITIL frameworks of Best Practices in the provision of IT services. One ITIL process that exists throughout DHIN's operational culture is the Continual Service Improvement process. Consistent with that process, DHIN is always engaged in a process of self-reflection and examination, with a goal towards improving the quality of services it offers to end users. Specifically concerning the HCCD, DHIN consistently reviews (along with its vendors) the internal procedures with respect to the processes of obtaining, storing and providing access to data in the HCCD.
- DHIN's report to the Governor and General Assembly (Recommendation 4 above) discusses some of the immediate improvements DHIN is working on implementing, including improvements designed to streamline the way in which its most consistent users of the HCCD – state agencies – apply for and access data.
 - DHIN management also has an internal goal of developing a three-year sustainability and business plan for the HCCD, and to present it to its Board for approval during this fiscal year.
 - Finally, with respect to data access pricing, DHIN's board approved a pricing paradigm earlier this fiscal year.²
- As applications continue to come in – and as DHIN continues to speak to potential users and researchers who would like to access data in the HCCD – it intends to take any feedback on our pricing model and approach the Board with any recommended changes.

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² DHIN Pricing Schedule and Budget information provided in the DHIN holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

Website Updates (Recommendation 10)

- Website updates are nearly complete.
 - a. Banner has been added.
 - b. Addition of banner makes the addition of an icon duplicative.
 - c. HCCD added to dropdown menus for Providers and Data Senders, in addition to appearing as a banner on each individual page.
 - d. “In the News” has been updated.
 - e. Two HCCD videos have been created, posted to dhin.org, and shared via social media.
 - f. Redesign is underway and ongoing.
 - g. Data access application requires updates; fillable web form functionality will be added to the updated application.
 - h. Link has been added.
- Additional website enhancements are planned per Recommendation 4 – Future Plans.

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TASK FORCE UPDATE

FACT SHEET

January 16, 2020 JLOSC Task Force on DHIN



Joint Legislative Oversight
& Sunset Committee

Task Force Composition and Objectives

- 11-member task force.
- 4 meetings to discuss JLOSC Recommendations 2, 4, and 6.
 - Recommendations relate to statutory changes to DHIN's governing statute and require additional research and discussion.
- DHIN provided PowerPoint presentations during meetings 2 and 3 which aided discussion.
- DHIN's General Counsel drafted 7 bills for Task Force discussion.

Legislative Proposals with Task Force Support

- Use of clinical data for research.
- Sharing with DHIN important data, such as pharmacy, dental, and post-acute.
- Gift of Life is excited to work with DHIN.
 - Secure direct access supports mission of coordinating organ and tissue donation and transplant efforts for Delaware.
 - DHIN information helped secure a life-saving liver transplant last year.

Legislative Proposals with Areas of Concern

- Division of Public Health noted there are conflicts regarding HIV and genetic testing results.
- Mike Records with the Department of Corrections voiced concerns with the cost and use of data.
- DHIN recognizes these concerns and agrees that proper measures need to be in place to ensure redisclosure rules are followed so that sensitive data is accessible only by those authorized.
- DHIN anticipates additional conversations to take place with DOC, further conversations are needed before moving forward with legislation involving DOC.
- The task force agreed that these areas of concern require further discussion prior to statutory changes.

08/27/2019



Orientation
and
Organization
Meeting

10/08/2019



Recommendation #4
and
Recommendation #6
(first three statutory
update items)

11/20/2019



Recommendation #2
and
Recommendation #6
(four remaining
statutory updates)

12/20/2019



Final report
review

LEGISLATION

The following recommendations were adopted and require legislation. JLOSC and DHIN staff will collaborate during the drafting process.

Statutory Update & Technical Corrections (Recommendation 5)

JLOSC will sponsor a bill to make technical corrections to DHIN's entire governing statute, Chapter 103, Title 16.

Statutory Updates to Strengthen HCCD & Ensure DHIN's Continued Success (Recommendation 6)

At DHIN's request, DHIN wishes to work with the Committee's legislative attorney to draft bills that will:

- a. Maximize the number and types of claims that are submitted to the Delaware HCCD.
- b. Permit more detailed reporting of claims related to sensitive diagnoses (by, for example, identifying DHIN as an appropriate holder of data associated with an HIV-related test (16 Del. C. § 717) or genetic testing (16 Del. C. § 1205)).
- c. Maximize the number and types of entities that submit clinical information to the DHIN.
- d. Permit use of clinical data for public health reporting and research.
- e. Permit the use of de-identified clinical data for appropriate research purposes.
- f. Ensure that pharmacy prescription fill data is provided to the DHIN.
- g. Permit DHIN to provide data to the Gift of Life program on potential donors (this would be needed to establish a partnership between the two entities as referenced in recommendation number 2).

TASK FORCE UPDATE: 7 drafts exist from the task force process.³

4 drafts have no known conflicts and can move forward (pending technical corrections and JLOSC review):

- DENTAL CLAIMS DATA
- LONG-TERM CARE FACILITIES
- DELAWARE PRESCRIPTION MONITORING PROGRAM DATA AND DHIN⁴
- TELEMEDICINE AND DHIN

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³ Draft legislation from the task force information provided in the DHIN holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

⁴ Attempts were made to receive comment from DPR on the draft. As of 1/31/2020, DPR has not submitted comments and could potentially have issues. This legislation would also require amendments to DPR's statute for the prescription monitoring program, which is currently not authorized to collect prescription data on prescriptions dispensed for non-controlled medications.

Conflicts exist with 3 drafts; DHIN is continuing discussions, but cannot move forward at this time:

- DOC PARTICIPATION IN DHIN
- GENETIC TESTING DATA AND CLAIMS INFORMATION
- HIV TEST RESULTS AND CLAIMS INFORMATION

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RECOMMENDATIONS

The following is an easy reference list of all recommendations adopted by the Committee for DHIN.

RECOMMENDATION 1: DHIN shall continue, subject to any further recommendations that JLOSC adopts.

RECOMMENDATION 2: DHIN shall continue to work with the Department of Health and Social Services, Delaware Office of Management and Budget, Division of Public Health, Division of Medicaid and Medical Assistance (“DMMA”), and Delaware Health Care Commission to finalize MOUs permitting those collaborating state agencies to access data in the HCCD.

Option: DHIN shall explore possible partnerships and develop MOUs with other agencies that will strengthen research and data for the HCCD. For example, DHIN could explore partnership with the Department of Correction (“DOC”) and organ procurement organizations (such as the Gift of Life program) to identify ways in which DHIN data can be used to safely and quickly assist with organ donation suitability determinations.

RECOMMENDATION 3: DHIN shall continue their work with DMMA to leverage their previously appropriated state funding for the HCCD by seeking a federal match through the Implementation Advance Planning Document (“IAPD”) process.

Option: Should the IAPD process be unsuccessful for any reason, DHIN shall work with JLOSC to ensure that the \$2 million already appropriated funds remain available to DHIN for its work setting up and maintaining the HCCD.

RECOMMENDATION 4: DHIN shall submit an annual status report, no later than January 1, to the Governor and General Assembly, regarding the HCCD. Reports shall include:

- a. Analysis of strengths and weakness of HCCD.
- b. Current status and future plans of HCCD.
- c. Detailed Budget for HCCD operations.
- d. Grant applications and status for HCCD operational funding.
- e. Status of contracts with vendors supporting HCCD operations.
- f. Number of data access requests submitted and granted.

Option 1: The first report shall be submitted no later than January 1, 2020.

Option 2: The annual reports shall be included on the DHIN website.

RECOMMENDATION 5: JLOSC will sponsor a bill to make technical corrections to DHIN’s entire governing statute, Chapter 103, Title 16.

RECOMMENDATION 6: At DHIN’s request, DHIN wishes to work with the Committee’s legislative attorney to draft bills that will:

- h. Maximize the number and types of claims that are submitted to the Delaware HCCD.
- i. Permit more detailed reporting of claims related to sensitive diagnoses (by, for example, identifying DHIN as an appropriate holder of data associated with an HIV-related test (16 Del. C. § 717) or genetic testing (16 Del. C. § 1205)).
- j. Maximize the number and types of entities that submit clinical information to the DHIN.
- k. Permit use of clinical data for public health reporting and research.
- l. Permit the use of de-identified clinical data for appropriate research purposes.
- m. Ensure that pharmacy prescription fill data is provided to the DHIN.
- n. Permit DHIN to provide data to the Gift of Life program on potential donors (this would be needed to establish a partnership between the two entities as referenced in recommendation number 2).

Option 1: Create a small JLOSC subcommittee to will discuss the proposed statutory amendments and report back to the JLOSC in January 2020. Subcommittee membership will include DHIN’s private counsel, the Committee’s legislative attorney, and other members the Committee deems appropriate.

Option 2: Same as Option 1 but create a task force instead of a JLOSC subcommittee.

RECOMMENDATION 7: At DHIN’s request, DHIN shall identify areas of overlap between its capabilities and those separately contracted for or provided by State agencies, and work with those agencies to eliminate overlap or redundancies. As a part of these efforts, DHIN shall explore whether it can reasonably be the “single point of contact” for delivery of health data on Delaware residents to assist state and federal public health efforts. By statute, DHIN is the “State’s sanctioned provider of health information exchange (HIE) services” (16 Del. C. § 10301).

Option: DHIN will report back to the JLOSC on progress of this research in January 2020.

RECOMMENDATION 8: DHIN shall update its regulations to reflect current operational procedures.

Option: DHIN will report back to the JLOSC on progress of these efforts in January 2020.

RECOMMENDATION 9: DHIN shall review and apply updates as needed to internal procedures involving HCCD operations. Areas of focus must include:

- a. Data staging, storage, and management.
- b. Reviewing and granting data access applications.
- c. Reviewing data access pricing.
- d. Reviewing and implementing marketing strategies and goals.

Option: DHIN will report back to the JLOSC on progress of these efforts in January 2020.

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RECOMMENDATION 10: DHIN shall make the following updates to their website to advertise and promote the use of the HCCD to increase private funding opportunities associated with granting data access applications:

- a. Create a banner for the HCCD on the DHIN homepage.
- b. Include an icon on the DHIN homepage for the HCCD (current icons only include Patients, Healthcare Providers, and Data Senders).
- c. Add a specific webpage menu for the HCCD that would be included at the top of all DHIN webpages.
- d. Update the “in the news” section of the DHIN website and include recent news regarding the HCCD. The most recent news item was from August 2018.
- e. Create and include a HCCD brochure for the website.
- f. Redesign the HCCD webpage in order to adequately market the HCCD and attract data access applications.
- g. Make the HCCD data access application a fillable PDF document or fillable web form for easier submissions.
- h. Include a prominent link to the HCCD Committee’s information including meeting agendas and minutes.

RECOMMENDATION 11: DHIN is held over and shall report to the Committee in January 2020.

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ANALYST RECOMMENDATIONS

DHIN has made admirable and positive progress on the Committee's recommendations regarding reducing overlap and duplicated efforts, updating current regulations and HCCD internal procedures, and updating the website. DHIN created and submitted an annual status report regarding the HCCD.⁵

As outlined in the HCCD annual status report, DHIN has made positive progress in seeking federal matching funds through the IAPD process for maintaining HCCD operations. As noted in the report, it is important to mention that other state sustainability models for All Payer Claims Databases, such as the HCCD, indicate that the sale of data products alone is not a viable sole funding source. Other states with functioning All Payer Claims Databases receive a combination of state, federal, and grant funding.

DHIN shall continue their work with DMMA to leverage their previously appropriated state funding for the HCCD by seeking a federal match through the Implementation Advance Planning Document ("IAPD") process.

Due to the many recommended statutory changes, the Committee recommended the creation of a task force in order to adequately review, discuss, and finalize draft legislation for the Committee. The task force held a total of four meetings and produced 7 pieces of draft legislation. There is still more work to accomplish, but the task force provided meaningful discussion and a good starting point.

The recommendations requiring legislation will be drafted jointly between JLOSC and DHIN staff using all information collected during the review and task force process. Legislative items such as updating DHIN's governing statute to strengthen the HCCD and overall DHIN operations will take additional time. The Committee's Analyst believes that this should not prevent a release from review.

ANALYST RECOMMENDATION: DHIN is released from review upon enactment of a bill to apply technical corrections to DHIN's entire governing statute.

⁵ 2019 HCCD annual report information provided in the DHIN holdover supplement presented to JLOSC during the February 11, 2020 meeting. Electronic copy available at https://legis.delaware.gov/Committee/Sunset/2019_JLOSCReviews.

APPENDIX A

DHIN Talking Points for JLOSC Holdover Review

Bold and highlighted items are those most urgently desired by DHIN.

JLOSC Recommendations Requiring Further Action

- Recommendation 3: Continued Federal Funding Initiatives
 - Since the December report provided to JLOSC, the MOU between DMMA and DHIN to execute the terms of the IAPD was signed and work has begun.
 - The current IAPD applies through FY21 (Sep 30, 2021). The bulk of enhanced Federal Financial Participation (FFP) in the first year is 90/10, transitioning to primarily 75/25 by the third year.
 - **DHIN requests that the unspent portion of the \$2M State appropriation in support of the HCCD be carried over to FY21 to ensure the availability of the required State match.**
 - **The State will need to commit 25% of HCCD operating costs on an ongoing basis in order to continue to secure 75% FFP in future years.** This is approximately \$500K per year in FY20 dollars.
- Recommendation 6: Task Force to Address Statutory Updates to Strengthen HCCD & Ensure DHIN's Continued Success

The specific elements of this recommendation can be grouped as follows:

- Maximize the number and type of claims submitted to the HCCD:
Draft legislation submitted to:
 - Include dental plans and Dept of Corrections as mandatory reporting entities.
 - Permit DHIN to collect claims for genetic testing and HIV testing – these are sensitive areas requiring further discussion.
- Expand the allowable uses of clinical data:
 - 16 Del. C. § 10307(a) currently specifies, “The DHIN shall by rule or regulation ensure that patient specific health information be disclosed only in accordance with the patient's consent or best interest to those having a need to know” (underlining added for emphasis).

- DHIN requests the addition of statutory language permitting the use of de-identified or limited data sets which do not include patient-specific health information to be used for all lawful purposes, to include analytics for purposes of evaluating utilization patterns, quality and outcomes, coverage and access, population and public health, and health system performance.
- DHIN requests the addition of statutory language permitting the use of de-identified or limited data sets which do not include patient-specific health information to be used for research purposes.
- DHIN requests the addition of statutory language permitting Gift of Life (the organization overseeing the matching of organ donors and recipients) and any other entity to whom holders of clinical data would be required to provide data if requested, to have direct access to the DHIN clinical data consistent with their statutory authority and obligations and subject to DHIN's privacy and security policies.
- DHIN requests the addition of statutory language stating that DHIN may provide access to data or reports to a public health authority legally authorized to receive such data or reports for a public health purpose on behalf of the entities who submitted such data.
- Maximize the amount and types of clinical data submitted to the DHIN:
 - Draft legislation previously introduced to require Urgent Care/Walk-in facilities to provide DHIN with an electronic summary of care for each episode.
 - Recommend similar legislation requiring telehealth providers and each long-term care facility that uses an electronic health record to provide DHIN with an electronic summary of care for each episode.
 - A possible generic approach to statutory language could be, "all providers of health services paid for in part or in whole through public funding, whether federal or state, shall submit to DHIN a summary of each visit or episode of care in an electronic format to be determined by DHIN."

Draft legislation submitted to:

- Request support and potential statutory language designating DHIN as a lawful holder of claims data governed by 42 CFR Part 2 ("Part 2"). DHIN will continue to be a lawful holder of clinical data governed by Part 2, if agreed to and supported by the organization(s) sending data to DHIN that is subject to Part 2. In any circumstance, DHIN will only disclose Part 2 data in accordance with patient consent and the requirements of Part 2 that are in effect at the time of disclosure.

- Allow the Delaware Prescription Monitoring Program to provide prescription drug data to the DHIN. Further legislation would be required to authorize the PDMP to collect all prescription data from participating pharmacies, not just controlled substances.
 - Require Dept of Corrections to send electronic summaries of each episode of Care to the DHIN. This will support transitions of inmates into the community health care system upon release. There would be costs to DOC for sending clinical data, consistent with the business model applied to all other clinical data submitters. Spurred by JLOSC, DHIN and DOC are currently in discussions and DOC is reviewing a pricing proposal from DHIN.
- Recommendation 7: Reduce Overlap and Duplicated Efforts:

DHIN believes that having all health data used by the State and its various agencies, departments, and divisions flow through DHIN would lead to a reduction in the number of interfaces and end points that the State must manage, as well as a reduction in redundant reporting and storage of the same or similar data in multiple databases and data warehouses. DHIN intends to bid on RFPs involving health data. An amendment to Title 29, Chapter 69 (State Procurement) could include an exception to the requirement for competitive procurements for services obtained from a public instrumentality, such as DHIN. The ability of a state agency to directly contract with DHIN could save time and money in the procurement process.

Additional Legislative Action DHIN Feels Would Be Helpful

- Current language in 16 *Del. C.* § 10301 identifies DHIN as the “State-sanctioned provider of health information exchange services.” The following additions could enhance the impact of that description:
 - “As such, submission of health data to any state agency, department, or division should be done through DHIN to the extent it is feasible to do so.”
 - DHIN is the State Designated Entity (SDE) authorized to apply for and receive Federal grants pertaining to health information technology and health information exchange.
 - Amend Title 29 Chapter 69 (State Procurement) § 6904(b) as follows: “This chapter shall not apply to any purchase of materials or services from the federal government or from the government of the State including any agency of the State, as defined in § 6902 of this title, or any public instrumentality of the State created by State statute and operated for public purposes.”

2020 Final Holdover Report (2019 Reviews)

Division for the Visually Impaired

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

Final Report Prepared by
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Representative Jeff N. Spiegelman

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*The full JLOSC Task Force on DVI report can be found on the Committee's website:
<https://legis.delaware.gov/Committee/Sunset>

ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Division for the Visually Impaired. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

2020 Recommendations

The task force process permitted additional time to research and gain additional perspectives on the previously drafted recommendations for the Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Committee”) review of the Division for the Visually Impaired (“DVI”). An overview of this information was presented to the Committee at the first DVI holdover meeting on January 28, 2020.¹ At the conclusion of that meeting, the Committee adopted the Committee Analyst’s recommendation to allow the Committee’s staff to revise the DVI recommendations within the scope of the JLOSC review process and based on all research obtained.

To provide a quick review for clarity and context, JLOSC performs periodic legislative reviews of agencies, commissions, or boards. The first objective in the review process is to determine if there is a public need for the entity. After determining public need, the review process then determines the entity’s effectiveness in performing duties to meet that need. In doing so, areas of improvement for the entity are discovered and addressed in the form of review recommendations.

It’s important to note that the purpose of the JLOSC review is not to terminate or “sunset” entities that are meeting a recognized State need and are providing accountability and responsiveness to public interests. **Rather, the purpose of the JLOSC review is to use the oversight mechanism to strengthen and support these entities.**

Keeping the oversight mechanism in mind, the research conducted on this review of DVI has highlighted the following key areas in need of strength and support:

- Statute
- Staffing
- Policy
- Funding
- Communication
- Education Services

Apart from recommendations 1 and 2, the following list of DVI recommendations were completely revised from the 2019 recommendations and presented for JLOSC to consider at their February 20, 2020 meeting.² JLOSC adopted all recommendations, which intend to address the matters identified in both the 2019 JLOSC Final Report and the 2020 Final Report of the JLOSC Task Force on DVI. DVI shall refer to these reports as guidance in meeting these recommendations.

Recommendation 1: Continue or Terminate

Under §10213(a), Title 29, the Committee must determine whether there is a genuine public need for an agency under review. To meet this requirement, the Committee may select one of the following options.

Option 1: DVI shall continue, subject to any further recommendations that JLOSC adopts.

- OR -

Option 2: DVI is terminated. The Committee will sponsor legislation to implement the termination.

05/09/2019: JLOSC adopted Option 1 after first consideration of this recommendation.

¹ See Appendix A for meeting minutes and Fact Sheet for JLOSC Task Force on DVI.

² See Appendix B for previous set of recommendations, first reviewed on May 9, 2019.

Recommendation 2: General Statutory Updates & Technical Corrections

JLOSC will sponsor a bill to make technical corrections to DVI's entire governing statute, including Chapter 79, Title 29; Chapter 21, Title 31.³

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 3: Additional Statutory Updates

The review process has highlighted several areas of the Delaware Code relating to DVI that will require amendments beyond technical corrections. It was also identified that many of these sections have not been amended in at least 9 years, for some sections it has been much longer.

DVI shall work with JLOSC staff in developing legislation to address the areas of concern identified during the JLOSC review of DVI. These areas include, DVI's governing statute, Chapter 79, Title 29; Chapters 21 and 23, Title 31; braille literacy rights and education in Chapter 2, Title 14, State appropriations in Chapter 17, Title 14, and BEP provisions under the State pension plan in Chapter 55, Title 29 and Statewide contracts under Chapter 96, Title 16.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 4: Analysis of Agency Structure – Staff and Funding

DVI shall review and identify necessary changes across all program units dealing with staff levels and positions focusing on funding structures and development opportunities. DVI may consider consulting with other State agencies such as the Department of Human Resources for assistance.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 5: Agency Staff – Training

DVI shall review and identify current training needs of its staff and implement appropriate training. DVI may consider participating in Mandt System® training for employees working outside of the office. DVI may also consider conducting a survey of their employees to solicit feedback and consulting with the State Department of Human Resources for assistance in scheduling and availability of training courses available in the Delaware Learning Center.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 6: Agency Staff – Policy and Procedure Manual

DVI shall create and implement an internal manual with policies and procedures that will enhance staff communications, recruitment, onboarding, and retention procedures.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

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³ The Committee's legislative attorney will draft any legislation resulting from approved recommendations, unless otherwise noted.

Recommendation 7: Create Agency Program Specific Policy and Procedure Manuals

DVI shall create and implement a policy and procedure manual for each of its 5 service units: Education, Vocational Rehabilitation (VR), Independent Living Services (ILS), Orientation & Mobility (O&M), Assistive Technology (AT). Any associated supporting units such as the instructional materials unit and Business Enterprise Program (BEP) shall also be included.

Additionally, DVI provides administrative support for several advisory boards identified in the JLOSC Final Report published in June 2019.⁴ In order to ensure clear communication, DVI will create a policy regarding the agency's coordination and administrative support provided to these groups.

Program policies will enhance service unit functionality and transparency. All policies shall be created by DVI using national standards and best practices, approved by the agency director, and posted on the agency's website. The following is not an exhaustive list but is an example of areas to address:

- Staff Standards, Qualifications, and Requirements
- Staff Training and Recruitment
- Staff Expectations
- Client Expectations (includes failure to cooperate)
- Requests for Services
- Authorization of Services
- Plan Development
- Service Standards
- Service Time Frames
- Qualifications and Requirements for Performing Assessments
- Case Management (opening, closing, re-opening, inactive)
- Closing and reopening cases due to "Failure to Cooperate"
- Coordination of Services
- Storage of Client Records
- Client's Rights to Records
- Informal/Formal Review Process and Mediation
- Client Transportation
- Communication of Policies
- Exceptions to Policies
- Technology Management
- Fiscal Management (could include payment for services and fee schedule)
- Staff Acting as a Family Member's Advocate (handling conflicts of interest)
- Coordination with the State's Department of Education (includes school districts)
- Coordination with Advisory Councils and Boards
- Coordination with Agencies and Non-Profits
- Coordination with Client's Family Members or Advocates
- Interns

02/20/2020: JLOSC adopted after first consideration of this recommendation.

⁴ See Appendix C for relevant section of the 2019 JLOSC Final Report.

Recommendation 8: Education Services – Funding

DVI shall continue working with national experts and the Delaware Department of Education in determining a suitable funding source for DVI services provided to students with blindness or visual impairment.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 9: Education Services – Communication

DVI shall continue working with the Delaware Department of Education (DOE) in efforts to improve communications which include creating or updating policies as follows:

- a. Develop and implement communication and procedure guidelines regarding DVI services for students in local school districts.
- b. Review its current Memorandum of Understanding (MOU) with DOE and work to bring meaningful modifications to the agreement.
- c. Develop a policy for education services from DVI to DOE.
- d. Develop a clear policy outlining the Individualized Education Program (IEP) process and protocol for blind and visually impaired students. This policy should include procedures and timeframes required for DOE and its districts to notify DVI of students with blindness or visual impairments.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 10: Accessibility of DVI Offices

DVI shall continue working with DelDOT, DART, and various agencies in addressing and implementing accessibility measures to their new office locations. DVI shall submit updates on each site's progress to JLOSC.⁵

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 11: Boards, Committees, or Councils related to DVI

DVI shall review and report to JLOSC regarding the number of advisory boards and groups that relate to their agency's mission. The JLOSC Final Report published in June 2019 lists 6 groups and outlines their composition and staffing.⁶ There are additional boards and councils that serve areas of interest and DVI could benefit from forming stronger communication channels. In some cases, DVI is not included in the board structure and would benefit from inclusion. The report shall include information such as board title, mission statement or purpose, statutory authority, and frequency of meetings. Additionally, the report should include a summary of DVI's current level of involvement with each board identified and any areas of improvement they have identified.⁷

⁵ JLOSC staff provided DVI with a report template and guidelines on March 30, 2020.

⁶ See Appendix C for relevant section of JLOSC Final Report.

⁷ JLOSC staff provided DVI with a report template and guidelines on March 30, 2020.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 12: Follow Up Reporting

DVI shall submit progress reporting to JLOSC staff⁸ regarding the progress and implementation of Recommendations 3 through 11 on the following schedule:

- Progress Report #1 – July 31, 2020
- Progress Report #2 – December 1, 2020

02/20/2020: JLOSC adopted after first consideration of this recommendation.

Recommendation 13: Release from Review or Hold Over

Option 1: DVI is released from review upon enactment of recommended policy and legislation.

- OR –

Option 2: DVI is held over and shall report to the Committee in January 2021.

02/20/2020: JLOSC adopted after first consideration of this recommendation.

⁸ JLOSC staff provided DVI with a report template and guidelines on March 30, 2020.

APPENDICES

Meeting Minutes – January 28, 2020

1 Chair Bentz called the meeting to order at 12:05 p.m. Committee members present included
2 Vice-Chair Lockman; Representatives Bennett, Dorsey Walker, Spiegelman, and Yearick;
3 Senators Delcollo, Hansen, Lopez, and Walsh. Staff present included Mark Brainard, Jr. &
4 Amanda McAtee, JLOSC Analysts; Holly Vaughn Wagner, Legislative Attorney for the JLOSC
5 and Deputy Director of the Division of Research; Natalie White, Administrative Specialist; Jeff
6 Chubbs, Legislative Fellow. A quorum was met.

7 Chair Bentz welcomed everyone to the meeting for the Joint Legislative Oversight and Sunset
8 Committee (“JLOSC”) of the 150th General Assembly, Second Session and called for
9 introductions.

10 Chair Bentz moved to item 2 on the agenda, the approval of the January 21, 2020 meeting minutes.
11 Representative Spiegelman motioned to approve the January 21, 2020 minutes, with necessary
12 changes, and Representative Dorsey Walker seconded the motion. The motion carried 9-0, with
13 Representatives Bentz, Bennett, Dorsey Walker, Spiegelman, and Yearick, and Senators Lockman,
14 Hansen, Lopez, and Walsh, voting in favor, no opposed, 1 member not present at the time of vote,
15 Senator Delcollo.

16 Chair Bentz moved to item 3 on the agenda, Division of the Visually Impaired (“DVI”) and
17 introduced Sandra Miller, acting Director of DVI. Ms. Miller provided an introduction and
18 personal background, as well as agency updates and accomplishments that have occurred since the
19 end of the first session of the 150th General Assembly.

20 Chair Bentz introduced JLOSC Analyst Amanda McAtee who provided an overview of the final
21 report of the JLOSC Task Force on DVI. Ms. McAtee requested the Committee permit its staff to
22 revise the Committee’s tabled recommendations from its May 9, 2019 meeting, based on all
23 information collected during the review and task force processes and within the scope of the
24 JLOSC review process. The revisions would be presented at the February 20, 2020 meeting for
25 the Committee’s review and consideration.

26 After discussion, a motion was made by Senator Delcollo and seconded by Representative Dorsey
27 Walker, for JLOSC staff to revise the Committee’s tabled recommendations and present revisions
28 at their February 20, 2020 meeting, with the original recommendations as reference. The motion
29 carried 10-0, with Representatives Bentz, Bennett, Dorsey Walker, Spiegelman, and Yearick, and
30 Senators Lockman, Delcollo, Hansen, Lopez, and Walsh, voting in favor, no opposed.

31 Chair Bentz provided an opportunity for members of the public to comment.

32 Chair Bentz reminded the Committee the next holdover meeting for Delaware Advisory Council
33 on Career and Technical Education (DACCTE) and the Council on Correction was scheduled for
34 February 6, 2020 at 6:00 p.m.

35 The meeting concluded at 1:01 p.m.

36 Respectfully prepared by:

37 Amanda McAtee and Mark Brainard, JLOSC Analysts, Joint Legislative Oversight and Sunset
38 Committee.

39 *Access to the audio recording of this proceeding is available upon request.*

FACT SHEET

January 15, 2020 JLOSC Task Force on DVI



Joint Legislative Oversight
& Sunset Committee

The Task Force held 6 meetings and collected data on 28 tabled Recommendations.

- Developed and distributed worksheets to collect feedback.
- 72 responses received in total.
- Feedback most valuable when accompanied by comments explaining the respondent's pros or cons of a recommendation.
- 4 meetings held to discuss the meeting worksheets.
- Additional data collected from meeting conversations and through research conducted by the JLOSC Analyst.

Additional Information about DVI

- 5 program units, serve low-incidence disabilities, would benefit from meaningful recommendations from the JLOSC review process.
- Delaware's DVI programs have been consulting with leading experts for several years.
- Customer Satisfaction Surveys began in September of 2018.
 - Overall customer satisfaction rate of 82.84%.
- New Office Locations: Expanded from 2 to 4 sites in 2019.
- Leadership Change 11/18/2019: Sandra Miller became the acting director for DVI, previously served as the agency's deputy director.

Additional JLOSC Analyst Research

- Blindness and visual impairments are considered specialized low-incidence disabilities.
 - Require specialized resources.
 - Have higher associated costs.
 - Assistive technology devices range from \$1000 to \$6000 per device.
 - Average cost for converting a textbook into braille can cost over \$15,000.

→ Due to complexity, careful consideration of research and best practices is necessary in all decision-making processes regarding DVI.

- Delaware's DVI program is unique; no other state program for the blind and visually impaired operates in the exact same manner.

- Most states have active non-profit support for the blind and visually impaired community.
 - Many states rely on robust non-profit resources to meet needs for blind and visually impaired services.
- 38 states have a dedicated school for the blind and visually impaired.
- Most states' programs are arranged into their labor departments.
 - Provide only vocational rehabilitation services and independent living services for older adults.
 - Delaware DVI program has 5 service units:
 - Education
 - Vocational Rehabilitation
 - Independent Living Services
 - Orientation & Mobility
 - Assistive Technology



DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 1: Continue or Terminate</p> <p>Under §10213(a), Title 29, the Committee must determine whether there is a genuine public need for an agency under review. To meet this requirement, the Committee may select one of the following options.</p> <p><u>Option 1:</u> DVI shall continue, subject to any further recommendations that JLOSC adopts.</p> <p>- OR -</p> <p><u>Option 2:</u> DVI is terminated. The Committee will sponsor legislation to implement the termination.*</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC adopted Option 1.</p>

THIS SPACE INTENTIONALLY LEFT BLANK.

* Unless otherwise noted, all legislation resulting from an approved recommendation will be drafted by the Committee's legislative attorney.

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 2: General Statutory Updates & Technical Corrections</p> <p>JLOSC will sponsor a bill to do the following:</p> <ul style="list-style-type: none"> a. Make technical corrections to DVI’s entire governing statute, including Chapter 79, Title 29; Chapter 21, Title 31; and braille literacy rights and education in Chapter 2, Title 14. b. Add standardize member removal provision. c. Add language for resolving a tie when voting on the Council’s chair. 	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 3: Reduce Teacher Student Ratio</p> <p>Based on DVI’s request, the Committee will sponsor a bill to amend § 206, Title 14 to reduce teacher/student ratio and provide statutory updates to include digital formats, as follows:</p> <p>(e) To meet the instructional needs of students who is blind <u>with visual impairments including blindness</u>, the Division for the Visually Impaired shall employ one (1) <u>1</u> teacher of students with visual impairments for every 28 <u>14</u> students (or major fraction thereof) who are eligible to receive services from the Agency. All teachers of students with visual impairments including blindness shall provide instructions to satisfy individualized educational programs requiring 12-month entitlement and extended school year services. At least 2 of these teacher units shall be 12-month employees in order to insure competent Braille instruction during the summer months.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 4: Publish By-Laws</p> <p>DVI shall post on its website all by-laws for advisory councils and committees that serve DVI, specifically for the Independent Living Advisory Committee (ILAC) and Committee of Blind Vendors.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 5: Council of the Blind By-law Requirement</p> <p>DVI shall direct the Council of the Blind to create and finalize Council by-laws.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 6: Remove Reference to the Delaware Industries for the Blind (DIB) from the Delaware Code and Administrative Code</p> <p>DVI reported that operations for the DIB closed in March 2017. Based on DVI's request:</p> <ul style="list-style-type: none"> a. The Committee will sponsor a bill to remove all references to the DIB from the Delaware Code, including § 7929, Title 29 and § 9605, Title 16. b. DVI will promulgate necessary amendments to remove all references to DIB from the Delaware Administrative Code, including § 9101, Title 16. 	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 7: Business Enterprise Program (BEP) Regulations</p> <p>There currently are no regulations governing the BEP. DVI shall direct the BEP to promulgate regulations to implement and operate the program. The regulations shall include provisions related to all of the following:</p> <ul style="list-style-type: none"> a. Participant eligibility. b. Personnel management. c. Fiscal controls. d. Marketing plans. e. Enforcement of production quality standards as stated under § 7929, Title 29. f. Set-aside requirements and procedures for Blind Operators. 	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 8: Removal Process for Members of the BEP, Blind Vendors Committee Board</p> <p>DVI shall direct the Business Enterprise Program, Blind Vendors Committee to adopt member removal and conflict of interest provisions in the committee's by-laws.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 9: BEP, Blind Vendors Committee Training Opportunities</p> <p>DVI shall offer training opportunities to and encourage the participation of the BEP, Blind Vendors Committee members in order to support and expand the program.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 10: Implementation of BEP Audit Recommendations</p> <p>DVI shall implement all recommendations that were included in the BEP audit that was completed by Cover and Rossiter. DVI shall provide JLOSC with implementation status updates [by specific date or on specified periodic basis].</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 11: BEP Set-Aside Requirements</p> <p>DVI shall review current set-aside requirements, determine whether they are adequate, and pursue appropriate remedies for inadequacies.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 12: BEP Public Outreach</p> <p>DVI shall:</p> <ul style="list-style-type: none"> a. Develop a BEP application. b. Update the BEP section of its website to include: <ul style="list-style-type: none"> (1) BEP educational and outreach materials, including information on the Randolph-Sheppard Act. (2) Links for regulations, rules, policies, or by-laws affecting BEP. (3) Access to the BEP application. 	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 13: Remove BEP from State Payroll and Pension Systems</p> <p><u>Option 1:</u> Remove the Blind Vendors of the BEP from the State's payroll and pension system.</p> <p style="text-align: center;">- OR -</p> <p><u>Option 2:</u> DVI shall submit a detailed proposal to the JLOSC regarding the functionality of the BEP's business and accounting operations without the support of the State's payroll and pension system, including consideration of the impact to current and past BEP participants.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 14: Strengthen State's Licensing Authority Under the Randolph-Sheppard Act</p> <p>DVI shall submit a detailed proposal to the JLOSC regarding legislation and measures to be taken to strengthen the State's licensing authority under the Randolph-Sheppard Act and to expand vending opportunities in institutions of higher learning, Department of Corrections, and interstate rest areas.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 15: Strengthen Business Programs</p> <p>The unemployment rate of those who are visually impaired is approximately 70%. DVI shall strengthen business programs and implement technology advances to provide training and employment for Delaware residents who are visually impaired.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 16: Fill Agency Vacancies</p> <p>There are currently 12 vacancies in DVI: 9 in the Education Unit, 2 in the Orientation and Mobility Unit, and 1 in the vocational rehabilitation unit. DVI shall work to fill these vacancies.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 17: Increase Staff Certifications</p> <p>DVI shall work to increase staff certifications. Only 5 DVI employees hold Academy for Certification of Vision Rehabilitation & Education Professionals (“ACVREP”) certifications. There is no known DVI employee that holds a certification from Rehabilitation Engineering and Assistive Technology Society of North America (“RESNA”) or a National Certification in Unified English Braille (“NCUEB”) by the National Blindness Professional Certification Board (“NBPCB”).</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 18: Increase Braille Resources</p> <p>DVI shall increase braille resources for its consumers. The Hadley School for the Blind offers braille instruction courses by mail to sighted and visually impaired students. They offer braille courses tuition-free for visually impaired students. The National Federation of the Blind has free resources for braille certification.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation & Status</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 19: Funding and Grants for Assistive Technology</p> <p>DVI shall actively search and procure funding and grants for assistive technology to aid the DVI consumers.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 20: DVI Staff Training on Assistive Technology</p> <p>DVI shall actively search and utilize training for DVI staff on the topic of Assistive Technology. Organizations such as RESNA offer resources.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 21: Equip Rapid Ready Rooms</p> <p>DVI shall equip rapid ready rooms with meaningful resources and explore technology advances. DVI shall search for and apply for any available training grants available from Apple or Microsoft.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 22: Encourage Teachers for the Visually Impaired (TVI) Education</p> <p>DVI shall work to expand public outreach and education programs for TVIs and include information on its website about the need for certified TVI instructors.</p> <p>Note: Delaware does not have a college certification program for TVIs, and there is a national and state shortage of TVI certified professionals. Kutztown University in Pennsylvania is the closest known program and offers it online.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 23: Recruitment</p> <p>DVI shall:</p> <ul style="list-style-type: none">a. Partner with high schools and colleges and participate in recruitment events to highlight careers available with DVI and the need for certified professionals in the field of special education.b. Explore offering internship programs to encourage students to pursue degrees and certifications in special education.	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 24: Orientation and Mobility (O&M)</p> <p>DVI shall incorporate the use of GPS technology in their Orientation and Mobility program.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 25: Communication with DOE</p> <p>DVI expressed a desire to improve communications between it and the Department of Education (DOE). DVI shall:</p> <ul style="list-style-type: none"> a. Develop and implement communication and procedure guidelines regarding DVI services for students in local school districts. b. Review its current MOU with the DOE and work to bring meaningful modifications to the agreement. 	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p style="text-align: center;">Recommendation 26: Implementing Education Service Model</p> <p>Based on DVI's suggestion, DVI shall implement a fee model to ensure education services are adequately funded.</p> <p>The following is a suggested model:</p> <ul style="list-style-type: none"> Level 1 (up to 8 consults/year) @ \$1,900 per student Level 2 (1 meeting/week) @ \$4,500 per student Level 3 (2-3 meetings/week) @ \$12,600 per student Level 4 (4 meetings/week) @ \$14,300 per student 	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 27: Braille Instruction for All Students</p> <p>DVI shall provide braille instruction to all students unless assessment indicates otherwise inappropriate.</p> <p><u>Option</u>: Codify this recommendation in DVI’s governing statute.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 28: DVI Resources for Individualized Education Program (IEP) Development</p> <p>DVI shall provide expertise to teachers, specialists, and counselors in the development of an IEP.</p> <p><u>Option</u>: Codify this recommendation in DVI’s governing statute.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 29: Reporting Requirement Regarding Task Force</p> <p>DVI shall report to the JLOSC on the implementation status of the recommendations made by the Blind and Visually Impaired Education Task Force.[†] DVI shall implement the task force recommendations.</p>	<p>05/09/19: First consideration of this recommendation. 05/09/19: JLOSC tabled this recommendation.</p>

[†] Final Report to the 148th General Assembly, June 2015.

DVI: Recommendations

<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 30: Release from Review or Hold Over</p> <p><u>Option 1</u>: DVI is released from review upon enactment of recommended legislation.</p> <p>- OR -</p> <p><u>Option 2</u>: DVI is held over and shall report to the Committee in January 2020.</p>	<p>05/09/19: First consideration of this recommendation.</p> <p>05/09/19: JLOSC adopted this Option 2.</p>
<u>Recommendation</u>	<u>Status</u>
<p>Recommendation 31: Establishing a Task Force</p> <p>The JLOSC will sponsor a bill establishing a task force addressing the implementation of recommendations 2-29 and any other recommendation deemed appropriate. The task force will issue a report to the JLOSC in January 2020.</p>	<p>05/09/19: First consideration of this recommendation.</p> <p>05/09/19: JLOSC adopted this recommendation.</p> <p>06/18/19: Senate Resolution 8 passed by Senate.</p>

Industry or Trade Publications		
Group or Association Name/Contact Person	Address	Phone Number Fax Number Internet Address
Delaware State Chamber of Commerce	PO Box 671 Wilmington, DE 19899	Phone: (302) 655-7221 info@dsc.com
Central Delaware Chamber of Commerce	435 N. DuPont Highway Dover, De 19901	Phone: (302) 734-7513 Fax: 302) 678-0189 info@cdcc.net
Journal of Blindness and Visual Impairment	AFB Press Customer Service 1000 Fifth Avenue, Suite 350 Huntington, WV 25701	304-710-3027
American Foundation for the Blind	1401 South Clark Street Suite 730 Arlington, VA 22202	Afb.org
New Castle County Chamber of Commerce	920 Justison Street Wilmington, DE 19801	Phone: (302) 737-4343 Fax: (302) 322-3593 chadwickb@ncccc.com
NAMA Magazine	20 N. Wacker Drive, Suite 3500 Chicago, IL 60606	Phone: (312) 346-0370 Fax: (312) 704-4140
Nutritional Magazine	131 West First Street Duluth, MN 55802	Phone: (866) 529-2922 Fax: (218) 740-7223

COMPOSITION AND STAFFING

Boards, Committees, or Councils related to DVI:

- Council on the Blind.
- Vocational Rehabilitation Advisory Council (aka State Rehabilitation Council).
- Independent Living Advisory Council.⁸
- Statewide Independent Living Council.⁹
- Business Enterprise Program/Blind Vendors Committee.
- Commission for Statewide Contracts to Support Employment for Individuals with Disabilities.¹⁰

Number of Members:

- Council on the Blind, 7 members.
- Vocational Rehabilitation Advisory Council, 8 voting members and 1 non-voting member. There are 6 vacant positions.
- Independent Living Advisory Committee, 11 members.
- Business Enterprise Program/Blind Vendors Committee, 3 members and 2 alternate members.

⁸ Public meeting calendar states that the DVI Director appoints members to this council. By-laws provided in Appendix B.

⁹ Additional information on this council, including how it was created or where it is housed, was not provided. The Council's website is <https://dvr.delawareworks.com/silc.php>.

¹⁰ See 16 Del. Code § 9603.

- Commission for Statewide Contracts to Support Employment for Individuals with Disabilities, 7 voting members and 2 non-voting members.

Current Vacancies:

The Vocational Rehabilitation Advisory Council consists of 15 members, but has 6 vacancies. The Governor's Office has been working to fill these vacancies for some time. The following is a list of the type of member and the date the vacancy started.

Blind Disability Advocate	12/8/2017
Business	3/15/2018
Business	5/21/2018
Business	1/31/2013
Parent	8/23/2018
Parent Information Center Rep	12/8/2017

Length of Terms and Qualifications:

- Council on the Blind:¹¹
 - Under its statute, the Council on the Blind consists of 7 members who are appointed for 3-year terms. Members may serve multiple terms.
 - 3 to 4 members may be affiliated with one of the major political parties, and 2 to 3 of the newly-appointed members may be affiliated with the other major political party. There may be no more than a bare majority representation of one major political party over the other major political party. Any person who declines to announce their political affiliation is eligible for appointment as a member of the Council.
- Vocational Rehabilitation Advisory Council (aka State Rehabilitation Council):¹²
 - Members typically serve 3-year terms and are limited to serving 2 consecutive terms with the following exceptions:
 - A member appointed to fill a vacancy appointed for the remainder of the vacancy's term.
 - The terms of service of the member initially appointed is for such fewer number of years as will provide for the expiration of terms on a staggered basis.
 - The Vocational Rehabilitation Advisory Council consists of the following:
 - At least 1 representative of the Statewide Independent Living Council.
 - At least 1 representative of a parent training and information center established under the Individuals with Disabilities Education Act.
 - At least 1 representative of the client assistance program.
 - At least 1 qualified vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who serves as an ex officio, nonvoting member if the counselor is an employee of the designated State agency.
 - At least 1 representative of community rehabilitation program service providers.
 - 4 representatives of business, industry, and labor.
 - Representatives of disability advocacy groups representing a cross section of:

¹¹ See 29 Del. Code § 7913.

¹² This council appears to be mandated by federal law. More information on this council can be found at <https://dvr.delawareworks.com/src-members.php> and <https://dvr.delawareworks.com/state-rehab-council.php>.

- Individuals with physical, cognitive, sensory, and mental disabilities.
- Individuals’ representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves.
- Current or former applicants for, or recipients of, vocational rehabilitation services.
- In a State in which one or more projects are funded under section 741 of this title, at least 1 representative of the directors of the projects located in the State.
- At least 1 representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services Individuals with Disabilities Education.
- At least 1 representative of the State workforce development board.
- The Director of the designated State unit is an ex officio, nonvoting member.
- The Independent Living Advisory Council has no term limits or restrictions. Members must include blind or visually impaired individuals, and may include parents and guardians of blind and visually impaired individuals, non-governmental agencies, or other groups of individuals who are concerned with services to the blind and visually impaired community. The majority of members must be blind and visually impaired individuals or parents or guardians of blind and visually impaired individuals.
- Business Enterprise Program/Blind Vendors Committee
 - Under the Committee’s by-laws, a member’s term of office is two years or until a successor is elected. Any blind vendor that is operating a location on the date of the election is eligible to vote for 3 candidates for the committee. Each eligible voter may be a candidate for the committee.¹³
- Commission For Statewide Contracts to Support Employment For Individuals with Disabilities¹⁴
 - Commission members do not have set terms. The members have 7 voting members and 3 non-voting members, made up of the following:
 - Voting members:
 - The Director of Government Support Services.
 - The Director of the Division of Vocational Rehabilitation.
 - The Secretary of Finance.
 - 4 public Governor-appointees.
 - 1 must be an individual with a disability or a family member of an individual with a disability, who is 14 years old or younger. Except for this member, no public member may be affiliated

¹³ By-laws in Appendix B.

¹⁴ See 16 *Del. Code* § 9603. JLOSC recently reviewed this commission, as summarized in the JLOSC 2016 Final Report: The Commission for the Purchase of Products and Services of the Blind and Other Severely Handicapped Individuals (“Commission”) was originally scheduled to be reviewed in 2014, however, severe storms led to the delay of the Sunset proceedings. The review was postponed until 2015. The Committee found that the Commission’s governing statute was in need of a significant update and that a perceived conflict of interest needed to be addressed. The Commission presented draft legislation to the Committee in January 2016, and after minor changes, House Bill 393 was approved and filed.

[HB 393, enacted in July 2016](#), modernized the commission’s name and made several other, significant updates to Delaware’s State Use Law, including renaming the law “Statewide Contracts to Support Employment for Individuals with Disabilities.”

with an entity or organization that has or is seeking to obtain a set-aside contract under this chapter.

- Non-voting members:
 - 1 representative of a CRP that employs individuals with disabilities.
 - The Director of the Ability Network of Delaware.
 - The Director of the Division for the Visually Impaired.

Member Removal Processes:

- Council on the Blind - Has no removal process, either by statute or by-law.¹⁵
- Vocational Rehabilitation Advisory Council
 - A member who misses 3 or more meetings in the preceding 12 months without reasonable cause is considered to have failed to fulfill their commitment to the Council and expected to return to active participation or tender resignation. A member representing an agency who terminates employment with that agency is no longer on the Council, and the Council must notify the Governor and recommend a new representative.
- Independent Living Advisory Committee
 - If a member has more than 2 unexcused absences, the Social Services Administrator will discuss their desire to continue on the committee. Leaves of absence are granted on a case-by-case basis.
- Business Enterprise Program/Blind Vendors Committee
 - This Committee has no removal process, by either statute or by-law.¹⁶
- Commission for Statewide Contracts to Support Employment for Individuals with Disabilities¹⁷
 - The office of a member who fails to attend 3 successive meetings without good cause or excuse or without leave of absence from the Chair is declared vacant by the Commission, and the Chair must notify the Governor of a vacancy on the Commission and request that the Governor shall fill the same.

Compensation:

- Council on the Blind
 - Members of the Council serve without compensation, but may be reimbursed for reasonable and necessary expenses incident to their duties as members.
- Vocational Rehabilitation Advisory Council (aka State Rehabilitation Council)
 - The Council may use funds allocated to the Council by the designated State unit under this subchapter (except for funds appropriated to carry out the client assistance program

¹⁵ By-laws were not provided.

¹⁶ By-laws in Appendix B. Statutory definition of Blind Vendors Committee could not be located. The Blind Enterprise Program was created under 29 *Del. Code* § 7929(b).

¹⁷ See § 9101-2.7, Title 16 of the Delaware Administrative Code.

under section 732 of this title and funds reserved pursuant to section 730(c) of this title to carry out part C of this subchapter) to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.¹⁸

- Independent Living Advisory Council
 - Members are not compensated.
- Business Enterprise Program/Blind Vendors Committee
 - Expenses incurred or authorized by the committee in the carrying out of its purposes and its statutory duties and responsibilities are paid for as management services from set-a-side and matching federal funds, or from general revenue, or grants and donations in part or in whole.
 - Committee members and members of standing and other committees are entitled to per diem and travel expenses (as state law provides for state employees) while engaged in official activities of the committee unless otherwise agreed to by the committee and DVI.
- Commission for Statewide Contracts to Support Employment for Individuals with Disabilities¹⁹
 - Members of the Commission shall serve without compensation other than reimbursement for expenses actually incurred in connection with the work of the Commission, and for travel expenses when away from their homes or regular places of business.

Member Trainings:

No specialized training is offered through the state, but DVI offers access to professional development. And, no training is required for the following:

- Council on the Blind.
- Vocational Rehabilitation Advisory Council (aka State Rehabilitation Council).
- Independent Living Advisory Council.
- Business Enterprise Program/Blind Vendors Committee.

New members of the Commission for Statewide Contracts to Support Employment for Individuals with Disabilities complete an orientation session and all members participate in training sessions.

Avoiding Conflicts of Interest:

- Council on the Blind – Because this is an advisory council, conflict of interest is limited.²⁰

¹⁸ Analyst's Note: Citation to this language was not provided.

¹⁹ See 16 *Del. Code* § 9603(g).

²⁰ Analyst's Note: It appears there is no process for guiding conflicts.

- Vocational Rehabilitation Advisory Council (aka State Rehabilitation Council)
 - Personal conflict of interest: While assisting the Council in carrying out its duties, staff and other personnel are not assigned duties by the Designated State Unit or any other agency or office of the State that would create a conflict of interest.
 - No member may vote on any matter that would provide direct financial benefit to the member or to a person or an organization with which the member is affiliated, or otherwise give the appearance of a conflict of interest. Each member is expected annually to sign and acknowledge that she or he has received notice of this requirement and agrees to abide by it.
- Independent Living Advisory Council - Because this is an advisory council, conflict of interest is limited.²¹
- Business Enterprise Program/Blind Vendors Committee
 - Blind Operators' bylaws do not include any reference to conflict of interest. As a matter of practice, members recuse themselves from votes that involve a conflict of interest.
- Commission for Statewide Contracts to Support Employment for Individuals with Disabilities
 - A Commission or subcommittee member with an interest in a matter presented to or considered by the commission or a subcommittee for recommendation, authorization, approval, or ratification must disclose their interest prior to its acting on the matter. A majority vote then determines whether the disclosure shows that a conflict of interest exists or can reasonably be construed to exist.²²
 - If the Commission or subcommittee determines that a conflict exists, the conflicted member shall not vote on, use personal influence on, or participate (other than to present information or respond to questions) in the discussions or deliberations with respect to the matter. The member may not be counted in determining the existence of a quorum for the portion of the meeting where the matter that includes the conflict is under discussion or is voted upon. The minutes of the meeting shall reflect the disclosure made, the vote thereon, and where applicable, the abstention from voting and participation, and whether a quorum was present.²³

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²¹ Analyst's Note: It appears there is no process for guiding conflicts.

²² See § 9101-3.1, Title 16 of the Delaware Administrative Code.

²³ See *id* at § 9101-3.2.

Current Membership:**Council on the Blind**

Individual	Appt. Date	Expiration Date	Position Held	Occupation	Professional/ Public Member
Lloyd Schmitz	9/6/2006	4/27/2019	Chair	Retired BEP Operator	Public
Jillian Queen	12/3/2015	9/7/2020	Secretary	Educator	Public
Ken Rolph	9/3/2013	4/29/2019	Member	Consumer	Public
Patricia Addison	11/4/2016	11/4/2019	Member	Consumer	Public
Pat Carzo	9/7/2017	9/7/2020	Member	Board Member-Blindsight Delaware	Public
Kathryn Bottner	9/7/2017	9/7/2020	Member	Consumer	Public
Deidre Morris	12/3/2015	12/3/2018	Member	Administrative Specialist	Public

Vocational Rehabilitation Advisory Council

Individual	Appt. Date	Expiration Date	Position Held	Occupation	Professional/ Public Member
Pat Burrell	4/11/2018	4/11/2021	Member	VR Counselor	Professional
Alice Coleman	8/28/2018	8/28/2021	Member	Retired Social Worker	Public
Darryl Garner	12/2/2013	1/2/2021	Member	Not employed/Volunteer	Public
Suzanne Howell	12/2/2013	1/2/2021	Chair	Retired	Public
Dale Matusевич	4/18/2018	4/18/2021	Member	Education Associate, DE Dept. of Education	Professional
William McCafferty	3/28/2018	3/28/2021	Member	Not employed	Public
Thang Pham	8/28/2018	8/21/2021	Member	Tech employee	Public
Jacqueline Poquette	1/2/2018	8/28/2021	Member	HR Professional	Public
Blake Roberts	10/26/2007	1/2/2021	Member	CAP representative	Public

Independent Living Advisory Committee

Individual	Appt. Date	Expiration Date	Position Held	Occupation	Professional/ Public Member
Wayne Marsh	6/8/2016	N/A	Chairperson- expires 12/8/2019	BEP Operator	Public
Patricia Addison	12/2010	N/A	Vice Chairperson- expires 12/8/2019	Peer Support Manager	Public
William Bartlett	3/2011	N/A	Member	Retired	Public
Kathryn Bottner	12/13/2016	N/A	Member	Consumer	Public
August Hazeur	6/2000	N/A	Member	Retired	Public
Carol King-Reis	10/4/2017	N/A	Member	Consumer	Public
Blake Roberts	2/18/2017	N/A	Member	Client Assistance Program	Public
Lynn Schneider	3/23/2017	N/A	Member	Consumer	Public
Ken Rolph	9/3/2013	N/A	Member	Center for Independent Living	Public
Suzanne Howell	06/15/2017	N/A	Member	Consumer	Public
Carol Miller	10/04/2017	N/A	Member	Consumer	Public
Wayne Marsh	6/8/2016	N/A	Chairperson- expires 12/8/2019	BEP Operator	Public
Patricia Addison	12/2010	N/A	Vice Chairperson- expires 12/8/2019	Peer Support Manager	Public
William Bartlett	3/2011	N/A	Member	Retired	Public
Kathryn Bottner	12/13/2016	N/A	Member	Consumer	Public
August Hazeur	6/2000	N/A	Member	Retired	Public
Carol King-Reis	10/4/2017	N/A	Member	Consumer	Public
Blake Roberts	2/18/2017	N/A	Member	Client Assistance Program	Public
Lynn Schneider	3/23/2017	N/A	Member	Consumer	Public

Independent Living Advisory Committee (continued)

Individual	Appt. Date	Expiration Date	Position Held	Occupation	Professional/ Public Member
Ken Rolph	9/3/2013	N/A	Member	Center for Independent Living	Public
Suzanne Howell	06/15/2017	N/A	Member	Consumer	Public
Carol Miller	10/04/2017	N/A	Member	Consumer	Public

Business Enterprise Program/Blind Vendors Committee

Individual	Appt. Date	Exp. Date	Position Held	Occupation	Professional/ Public Member
Wayne Marsh	7/1/2017	6/20/2019	Chairperson	Blind Operator	N/A
Gary Pizzolo	7/1/2017	6/29/2019	Co-Chairperson	Blind Operator	N/A
Anthony K. Paolini	7/1/2017	6/29/2019	Member-	Blind Operator	N/A

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Commission for Statewide Contracts to Support Employment for Individuals with Disabilities

Individual	Appt. Date	Expiration Date	Position Held	Occupation	Professional/ Public Member
Doyle Dobbins	6/6/2014	7/28/2016	Acting Chair	Retired	
Cindy Farmer	8/13/2018				
Carvella Jackson	6/27/2017				
Dean Stotler	n/a		State of Delaware- Government Support Services	Director	Professional
Cynthia Fairwell	n/a		Division of Vocational Rehabilitation	Administrator	Professional
Jamie Johnstone	n/a		State of Delaware Department of Finance	Deputy Principal Assistant	Professional
Elisha Jenkins	n/a		Division for the Visually Impaired	Director	Professional
Thomas Cook			Ability Network Of Delaware	A.N.D.	Professional
Julie Donoghue			Department of Justice- DAG	Counsel	Professional

DVI Staff:

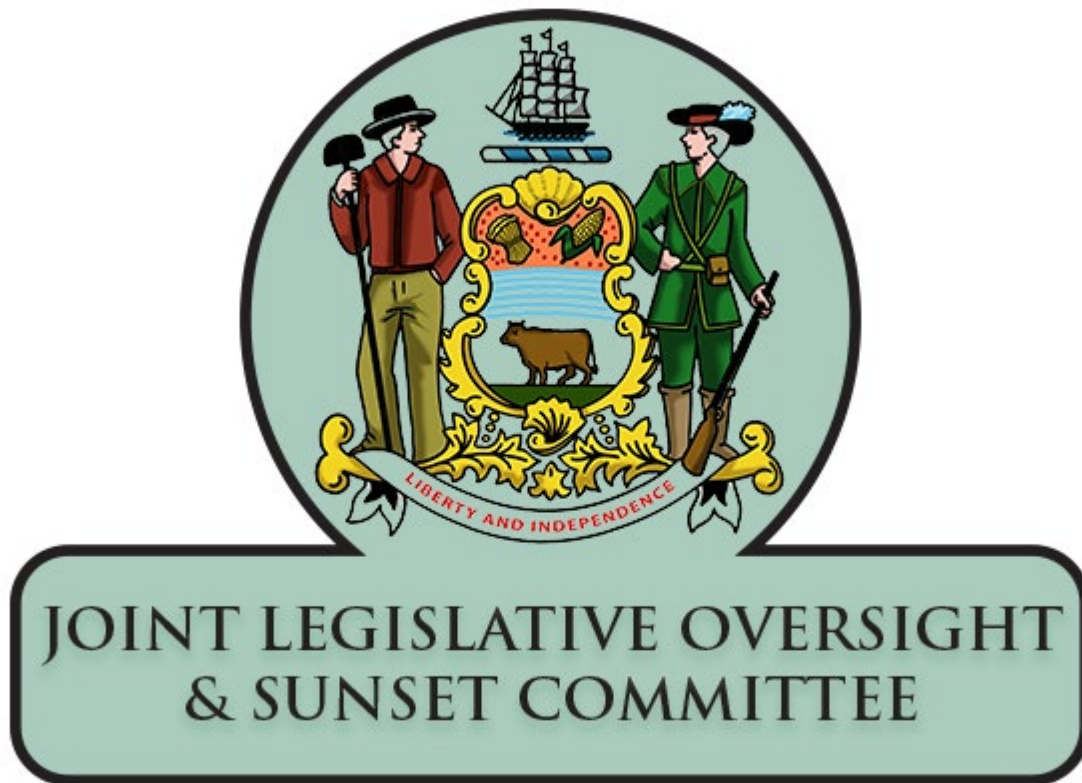
DVI's list of authorized positions includes 69 budgeted positions. DVI also has 14 budgeted positions for the BEP Program, 5 appointed positions, and 3 casual/seasonal positions. DVI had 1 contractual worker in fiscal year 2018 and 1 temporary worker during fiscal year 2016.

Like other agencies and programs across the nation, DVI experiences personnel shortages for vision rehabilitation fields, including Teachers for the Visually Impaired ("TVI") and Orientation and Mobility ("O&M") Specialists. Personnel shortage is due to the specialized nature of this field and the low incidence of the population. DVI collaborates with university preparation programs, contracts with staffing agencies, and offers incentives such as tuition assistance including, most recently, student loan assistance offered by the State of Delaware.

DVI recruits and hires staff using the State of Delaware's Employment Link. DVI also works with professional organizations for recruitment opportunities at conferences and members' lists. All new employees receive orientation materials. DVI uses the Delaware Learning Center to track training opportunities.

2020 Final Report

150th General Assembly, 2nd session



FINAL REPORTS (2020 REVIEWS)

CONSERVATION DISTRICT OPERATIONS (DNREC DIVISION OF WATERSHED STEWARDSHIP)
DELAWARE HEALTH RESOURCES BOARD
DELAWARE INTERSCHOLASTIC ATHLETIC ASSOCIATION
DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

2020 Final Report

Conservation District Operations (DNREC Division of Watershed Stewardship)

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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Representative Andria L. Bennett

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Representative Sherry Dorsey Walker

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FACT SHEET

March 6, 2020

Review of Drainage Program



Joint Legislative Oversight
& Sunset Committee

Tax Ditch

- ➔ Tax ditch organizations are political subdivisions whose primary purpose is to establish channel outlets for essential drainage, flood protection, and stormwater control practices.
- ➔ 3 distinct funding sources:
 - 3921 Funds (General Assembly).
 - Annual Bond Bill allocation (General Assembly).
 - Maintenance Tax (Tax Ditch Organization).
- ➔ Drainage Program provides administrative support for development, operation, maintenance, and other efforts associated with tax ditches.
- ➔ GIS map of all 234 individual tax ditch organizations is available through DNREC.

Drainage Projects (RC&D)

- ➔ Partnership between DNREC and Delaware's 3 county Conservation Districts.
 - NCCD leads projects in NCC while DNREC leads projects in Kent and Sussex counties.
- ➔ State appropriations provide for development and completion of projects.
 - From FY96 to present, 1,663 projects totaling over \$68 million were completed.
 - Appropriations from the Bond Bill has ranged from \$0 to \$5 million (FY 18, FY 19, FY 20).
- ➔ Project Prioritization List updated annually.
 - Ongoing process is flexible allowing funds to be directed to most critical projects.
 - Factors considered: public safety, flooding frequency, project status, damage, funding, age.
- ➔ 1,076 unfunded projects with deficit of \$88 million.

Challenges & Opportunities for Improvement

- ➔ Stable funding source would allow for better planning and an increase in completed projects.
- ➔ High demand for engineers and surveyors in the private sector has made hiring and retaining staff difficult.
- ➔ Aspects of the tax ditch system are not functioning well, and the drainage program is recommending a task force be established to investigate the causes and propose solutions to benefit the program.
- ➔ A realignment of the Drainage Program could lead to increased effectiveness. See below:

REALIGNMENT



TAX DITCH

TAX DITCH LAW

Implementation,
organizational support,
outreach, education,
evaluations

STATEWIDE SURVEY WORK & PERMITTING

For DNREC and
Conservation District
managed projects

PUBLIC DITCH

RC&D PROGRAM

Drainage concerns,
coordination with Districts,
project development

OVERSIGHT

Contract development and
oversight, project oversight,
landowner permission,
small projects

ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Conservation District Operations section of DNREC's Division of Watershed Stewardship. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

INTRODUCTION

About JLOSC and the Review Process

Delaware's Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions ("entity" or, collectively, "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity is not reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. The Committee is a bipartisan committee comprised of ten legislators. The Senate President Pro Tempore appoints five senators and the Speaker of the House appoints five representatives to serve on the Committee.

In general, the conduction of reviews spans a ten to twelve-month time period commencing in July. The Committee's Analysts compile a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepares a preliminary report for the use of Committee members during public hearings held each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine if there is a genuine public need for the entity, and if the entity is beneficial to the public's health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination (sunset) of an entity. Although the Committee has "sunset" a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity's overall performance and accountability.

About the JLOSC Performance Review Questionnaire

The information provided in this report is taken from the JLOSC Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire. Any changes made to the substance of what the agency reported are indicated by footnote. The section titled, "Additional Comment from the Committee Analyst" address any points of consideration which arose in analyzing the questionnaire and compiling this report.

In the final report the analyst applied substantive changes where required, resulted from findings made through the review processes. The appendices of the draft report included the statutes governing and applying to the agency under review. They were included as a reference for JLOSC members and are not included in the final report.

EXECUTIVE SUMMARY

The Drainage Program within the Conservation District Operations section is tasked with multiple responsibilities under two distinct umbrellas: tax ditches and drainage projects.

Tax Ditch: In 1951, a new drainage law allowed the creation of political subdivisions called tax ditches. The primary purpose of these ditches is to establish channel outlets for essential drainage and flood protection. From these outlets, individual landowners can construct private channels for use in management of their lands for all resources and installation of various conservation and stormwater control practices. The Drainage Program provides administrative support for the development, operation, maintenance, and efforts of the 234 individual tax ditch organizations statewide.

Tax Ditch funding can be divided into 3 distinct sources. 2 appropriations made by the General Assembly (3921 Funds and annual Bond Bill funds) and one maintenance tax.

Drainage Projects: Resource, Conservation and Development ("RC&D") projects are implemented by a partnership between DNREC and Delaware's 3 county Conservation Districts. The New Castle Conservation District leads projects located in New Castle County. DNREC leads projects in Kent and Sussex Counties, with assistance from the Kent and Sussex Conservation Districts.

Each year the Drainage Program, in consultation with the Conservation Districts, prepares a list of prioritized RC&D projects in each county. Project prioritization is used as a tool to guide project development. It is an ongoing process that is flexible and allows funds to be directed to the projects that are most critical. From fiscal year ("FY") 1996 to the present, 1,663 RC&D projects totaled \$68,539,286. There remain 1,076 unfunded projects, with an estimated deficit of approximately \$88 million.

Challenges:

Stable Funding: Over the years, the state budget process has yielded large fluctuations in allocations to the Drainage Program. A stable funding source would allow for better planning and, in turn, an increase in completed projects.

Staffing and Retention: In recent years, increased development statewide has created a high demand for engineering and surveying positions in the private sector. With state salaries not as competitive, the Drainage Program has had difficulty attracting qualified applicants.

Opportunity for Improvement:

Drainage Program Realignment: A realignment of the Drainage Program's functionality could lead to increased effectiveness. The Drainage Program could function as 2 separate operating units within the Conservation Programs section of the Division:

1. The Tax Ditch Program.
2. The Public Ditch Program.

JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

AGENCY HISTORY

Prior to 1951, drainage organizations in Delaware were established as corporations or ditch companies to address drainage issues on a larger scale. In 1951, a new drainage law allowed the creation of political subdivisions called tax ditches. The law had three elements:

1. Tax ditches were meant to be permanent organizations.
2. A maintenance tax for keeping the channels in good working order was required.
3. Tax ditch organizations would be formed for the purpose of conservation of the soil, water, wildlife, forest, and other resources of Delaware.

To accommodate and support the growing tax ditch systems, the Drainage Program was established in Title 7, Chapter 41 of the Delaware Code as “Drainage of Lands and Management of Waters; Tax Ditches.” The law mandates the Division of Watershed Stewardship to carry out a comprehensive drainage program providing a uniform system for establishing, financing, administering, maintaining, and dissolving tax ditch organizations in the State. Over the years, the Drainage Program has grown significantly. The largest growth occurred because of a legal settlement of \$220 million dollars in the mid-1990s. The Resource, Conservation and Development (“RC&D”) 21st Century Funds earmarked a portion of the settlement funds towards the management, oversight, and implementation of targeted drainage projects.

In 1993, a Supreme Court decision affirmed the state’s right to collect abandoned property held by Delaware incorporated brokers. In early 1994, SB 288 created the RC&D 21st Century Fund (“Fund”), authorizing the Secretary of Finance to deposit settlement dollars into the Fund. The strategy for the Fund was outlined in the fiscal year (“FY”) 1996 Bond Bill with ten programs identified in three areas: Preserving the Environment, Revitalization of Communities, and Improving Education and Economic Competitiveness. Under Revitalization of Communities, RC&D was targeted for funds in order to “enhance the health of communities by ameliorating watershed and drainage issues statewide.” These programs have dollar match requirements in addition to loan options to leverage funds from public and private sources.

The Department of Natural Resources and Environmental Control (“DNREC”) was designated as responsible for the funding earmarked to focus on management, oversight, and implementation of the funds, which led to the creation of the “Public Ditch Team” within the Drainage Program. RC&D projects are implemented by a partnership between DNREC and Delaware’s three county Conservation Districts. Continued funding has allowed these partnerships to address the ever-increasing demand for new RC&D projects. The size and scope of the drainage projects considered for the Fund fluctuate significantly as do the annual appropriations from the Bond Bill.¹

¹ See Appendix A for the RC&D Annual Report for FY20.

PURPOSE

The Drainage Program within the Conservation District Operations section is tasked with multiple responsibilities under two distinct umbrellas: tax ditches and drainage projects.

Tax Ditch: The primary purpose of tax ditches is to establish channel outlets for essential drainage and flood protection. From these channel outlets, individual landowners can construct private channels for use in management of their lands for all resources and installation of various conservation and stormwater control practices.

Tax ditch channels range in size from approximately 6 to 80 feet wide and 2 to 14 feet deep. Size varies based on the size of the site and topography of the area. The Drainage Program provides administrative support for the development, operation, maintenance, and efforts of the tax ditch systems. With 234 individual tax ditch organizations statewide, this support is critical for dependable drainage and flood protection. Tax ditch organizations range in size from the 56,000-acre Marshyhope Creek tax ditch to the two-acre Alban Park tax ditch in suburban Wilmington. These tax ditch organizations manage over 2,000 miles of channels and provide direct or indirect benefits to approximately 100,000 people and almost one-half of the state-maintained roads. Additionally, tax ditches and the support provided by the Drainage Program assist in the reduction of saturated soils allowing for efficient farming practices and the development of residential property. However, with the increased development of residential property, the processes surrounding tax ditches have become more challenging.

Drainage Projects: RC&D projects are implemented by a partnership between DNREC and Delaware's three county Conservation Districts. The New Castle Conservation District leads projects located in New Castle County. DNREC leads projects in Kent and Sussex Counties, with assistance from the Kent and Sussex Conservation Districts.

Each year the Drainage Program, in consultation with the Conservation Districts, prepares a list of prioritized RC&D projects in each county.² Project prioritization is used as a tool to guide project development. It is an ongoing process that is flexible and allows funds to be directed to the projects that are most critical. This flexibility has been necessary in recent years because it has allowed funds to be directed to areas damaged by the record rainfall. The following factors are considered when prioritizing projects:

- Public safety.
- Frequency of flooding.
- Project status.
- Property damage.
- Ability to leverage other funds.
- Project age.

From FY 1996 to the present, RC&D projects total \$68,539,286 for 1,663 completed projects. There remain 1,076 unfunded projects, with an estimated deficit of approximately \$88 million.

² See Appendix B for Proposed RC&D Projects for FY21.

MISSION

DNREC's Mission Statement

DNREC's mission is to ensure the wise management, conservation, and enhancement of the State's natural resources, protect public health and the environment, provide quality outdoor recreation, improve the quality of life, and educate the public on historic, cultural, and natural resource use, requirements, and issues.

Conservation Programs Section Mission Statement

The Conservation Programs Section's mission is to use an adaptive approach of education, research, technical, and financial assistance to improve water quality, conserve and protect natural resources, and preserve public health and safety.

Drainage Program Mission Statement

The Drainage Program's mission is to provide effective, environmentally balanced water management services that are sustainable to citizens of Delaware for the preservation of public health and safety.

GOALS & OBJECTIVES

Tax Ditch: The Drainage Program's goals and objectives are outlined in Title 7, Chapter 41 of the Delaware Code and include the following:

- Assistance with preparing and filing tax warrants.
- Assist in the efforts to pursue court ordered changes.
- Conduct tax assessments and property ownership updates.
- Provide technical and financial assistance to districts for final design, construction, repair, and maintenance.
- Assist with compliance of federal and state requirements for construction, repair and maintenance activities.
- Assist with maintenance and inspection of tax ditch systems.
- Update list of tax ditch systems and information.
- Modify court orders as required to meet ever changing needs of the tax ditch organizations.
- Resolve problems within and for the tax ditch organizations.
- Assist in commissioner appointments.

Technical assistance includes the following services that further address core responsibilities including:

- Drainage concern responses.
- Environmental permitting.
- Surveying.
- Construction review.
- Engineering guidance

Additional services focus on managing the data and mapping needs of internal and external customers. Additional services include:

- Tax ditch geographical information systems (“GIS”) data.
- Tax information.
- Officer contact database.
- Organization information.
- Application development and maintenance for internal customers.

Lastly, the Drainage Program provides in-depth technical outreach and educational services about drainage and tax ditches including:

- Online services.
- Guidance documents.
- Training to tax ditch officers and other stakeholders.

RC&D Projects: The DNREC Drainage Program, in cooperation with the Conservation Districts, is tasked with managing the Fund and ensuring RC&D projects are prioritized, developed, designed, engineered, and completed as available funding permits.³ The goals and objectives for the successful management of the Fund include the following:

- Receive, respond, and address a drainage complaint in a timely manner.
- Develop an appropriate recommendation for funding.
- Forward to appropriate agency if not within DNREC, DelDOT, or Conservation Districts.
- Secure project approval by legislature for addition to RC&D Fund project list.
- Develop project, secure landowner permission, and conduct survey of the project area.
- Develop appropriate environmental permit applications.
- Design, fund, construct, and monitor project for stabilization and success.

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW

JLOSC last reviewed the Conservation Districts in 2008. Several recommendations were adopted specific to each Conservation District including providing post-retirement health benefits, continuing oversight and public education surrounding retention ponds, making websites more user friendly, and providing more public awareness for the Board of Supervisor elections. The following adopted recommendations were specific to DNREC’s Division of Soil and Water Conservation of DNREC:

- DNREC to increase fines, “stop work” on a site, and update storm water regulations.
- Report back with recommendations on how to tighten up the Certified Construction Reviewers process.

³ See Appendix C for the list of the Prioritized Active RC&D Projects.

PUBLIC INFORMATION

The Drainage Program provides a vast amount of information and resources to Delaware residents, landowners, consultants, contractors, non-profit organizations; federal, state, and county agencies; and the tax ditch organizations across the State.⁴ The information that is available to the public relates to tax ditches and tax ditch organizations and their functions and responsibilities. Additionally, the Drainage Program provides detailed technical assistance to interest groups when addressing drainage concerns and issues regarding water quality improvement projects on private properties.

Landowners: Drainage Program staff provide technical assistance to landowners across the State with reported drainage concerns, including:

- Site visit and evaluation of reported concern.
- Field survey of problem area.
 - Process of survey data to provide potential solution or path forward towards resolution.
- Technical assistance and guidance in obtaining proper environmental permit coverage for a landowner's proposed project or activity.
- Technical assistance and guidance for landowners who petition for the creation of a tax ditch organization.
- Preliminary and final design of potential solutions.
- Engineers' cost estimate for proposed projects.
- Secure funding for proposed project.
- Administration and technical management of projects through construction.
- Obtaining all necessary landowner agreements for conducting projects when on private property.

Tax Ditch Officers: Information most frequently requested and supplied to the 234 tax ditch organizations on an annual basis include the following:

- Tax ditch organization system maps.
- Tax ditch organization assessment lists.
- Tax ditch system inventory and inspections.
- Tax ditch warrant change evaluation and guidance.
- Tax ditch expected revenue versus actual revenue reports.
- Tax ditch financial reporting guidance, record, audits, IRS inquiries, banking, and bonding guidance.
- Tax ditch annual meeting attendance, support, and advertisement assistance.
- Census Bureau survey assistance.
- Tax ditch right-of-way obstruction assistance.

Tax Ditch Organizations: The following items and information are provided to each tax ditch organization at least manually and as requested:

- Tax ditch field survey - frequency depends on problems faced by organization.

⁴ Reference information for stakeholders can be found here:

<http://www.dnrec.delaware.gov/swc/Pages/DrainageTaxDitchWaterMgt.aspx>.

- Tax ditch maintenance work stakeout - frequency depends on maintenance planned for the tax ditch organization.
 - Tax ditches may have multiple maintenance projects planned at various times throughout the year.
- Tax ditch maintenance inspections - frequency depends on maintenance activities planned and the scope of projects.
 - Maintenance activities pop-up throughout the year on multiple tax ditches.
- Tax ditch maintenance work permit applications - Drainage Program staff evaluate the site and determine permit needs to complete activities requested.
- Tax ditch pipe sizing requests - frequency depends on tax ditch organizations' needs.
 - Includes sizing all pipe crossings to be located within tax ditch channels whether they are replacements or new installations.
- Obtained tax ditch maintenance permits distributed and filed for tax ditch records.
- Hosting pre-construction meetings for tax ditch maintenance activities.
 - Drainage Program staff conduct pre-construction meetings with contractors selected by tax ditch organizations to review project scope, design, permit conditions, etc. prior to start of tax ditch maintenance activity.
 - Requests pop up throughout the year, on multiple tax ditches; tax ditch may have more than one project requiring a pre-construction meeting.

County Government Offices: The following information is supplied to each county's Data Processing section to ensure appropriate processing of a tax ditch on property tax bills issued by the counties annually:

- Tax ditch assessment updates.
- Data and GIS files that reflect changes throughout the tax ditch watershed.

Drainage Program staff supplies the following information to the Prothonotary's Office and Recorder of Deeds of each county on an annual basis for all tax ditch organizations:

- Tax ditch warrant change documentation and submission.
- Tax ditch certified lists.

DeIDOT: Drainage Program staff supplies the following information to DeIDOT:

- Review of DeIDOT's proposed plans as it relates to tax ditch channels.
- Minimum pipe size and specifications for road crossings in tax ditch channels.
- Stake out for road crossing installation or replacements in tax ditch channels.

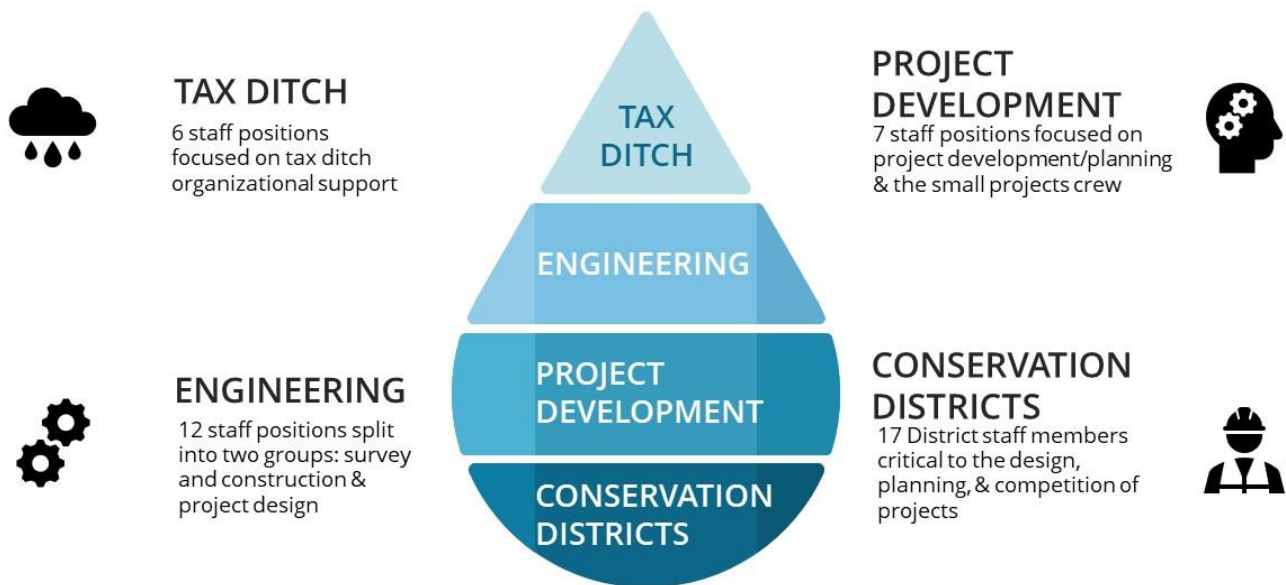
Taxable Parcels, Contractors, and Consultants: There are 60,383 parcels across Delaware located within a tax ditch watershed. The Drainage Program provides the following information to the owners of these taxable parcels, contractors, and consultants. The following items are often requested on a daily basis:

- Tax ditch right-of-way ("ROW") inquiry responses.
 - Tax ditch ROW inquiry web application.

- o Tax ditch map web application.
- Site evaluations for reported drainage or tax ditch concerns.
- Tax ditch annual meeting minutes on record in the Drainage Program office.
- Court-ordered change assistance for tax ditches including the following:
 - o Coordination among landowner, consultant, and tax ditch officers regarding landowner request.
 - o Drafting and editing document to request change to court order.
 - o Distribution of final court order change document for necessary signatures.
 - o Distribution of instructions for filing document to change court order to landowners once completed.
- Site plan review and coordination with tax ditch officers.
- Tax ditch stakeout for landowner's proposed and planned project for a tax ditch channel.
- Technical assistance and guidance for proposed projects at the landowner's request and on their property as it relates to tax ditch channels and the associated right-of-way (ROW).

COMPOSITION & STAFFING

The Drainage Program is currently divided into three distinct teams: Tax Ditch, Engineering, and Project Development.⁵



⁵ See Appendix D for the applicable Organizational Charts.

Positions not represented above are Project Manager II (“PMII”) and Administrative Assistant I. Staffing levels currently include 27 positions (10 Merit and 17 Conservation District) of which 11 positions (5 Merit and 6 Conservation District) are currently vacant. In the past, as many as 35 full-time employees were appointed to the Drainage Program. These numbers have declined as budget conditions have demanded staff level reductions.

The Drainage Program relies heavily on the 17 Conservation District staff members. These employees are defined as District co-op employees and are dedicated to the Drainage Program to fulfill the critical roles such as engineers, planners, surveyors, construction technicians, and other technical support specialists. Current vacancies are all in Kent County, as follows:

- Engineer, Planning and Surveying Technician IV.
- Engineer, Planning and Surveying Technician III.
- Engineer, Planning and Surveying Technician I.
- Engineer III.
- Engineer III.
- Construction Tech I.

The need to solve drainage and watershed issues has increased in the southern region of the State. To meet the increased need, the Drainage Program is adding positions and allocating additional resources. However, the recent construction boom in Sussex County has created a high demand for these technical positions within the same classifications (e.g. surveyors, engineers, and project managers). With higher pay availability in the private sector, the Drainage Program has experienced a higher than normal turnover rate. State salaries in these technical fields are no longer competitive with the private sector, and the Drainage Program has subsequently faced the difficult challenge of attracting qualified applicants for vacant positions.

ENACTED LEGISLATION IMPACTING DIVISION

DNREC was created in 1969-1970, along with the Division of Soil and Water Conservation.

- The Division of Soil and Water Conservation later became the Division of Watershed Stewardship. See Chapter 80, Title 29.
- The Drainage Program is under the Division of Watershed Stewardship and operates under the Division’s statutory authority. The Drainage Program provides administrative and technical support to tax ditch organizations under the 1951 Tax Ditch Law, last revised in July 2008. See Title 7, Chapters 39 and 41.
- Under DNREC’s authority and general programs, the three soil and water conservation districts now known as Sussex Conservation District, Kent

Conservation District and New Castle Conservation District were established in 1953. See Title 7, Chapter 39.

- Under DNREC's authority and supervision, tax ditches provide a basis for a uniform system for establishing, financing, administering, maintaining and dissolving tax ditch organizations in Delaware. Established in 1951 and last revised in 2008.
- Under DNREC's authority and supervision, a basis is provided for a uniform system of establishing, financing, administering, maintaining and dissolving lagoon organizations so that the improvement and management of lagoon waterways may be accomplished in a workable and practicable manner See Title 7, Chapter 43 established in 1951 and last revised in 2008.

Federal Laws and Regulations Impacting Division

- Permit requirements by the U.S. Army Corp of Engineers.
- Tax Identification Numbers for Government Entity required by the Internal Revenue Service for tax ditch organizations.
- U.S. Department of Commerce, Census Bureau - Responds to Census surveys required for tax ditch organizations.
- Environmental Protection Agency ("EPA") – Travel by boat in a tax ditch required to follow the U.S. rule of waters.
- Endangered Species Act ("ESA").
- National Oceanic and Atmospheric Administration ("NOAA").
- U.S. Fish and Wildlife Service ("USFWS").
- National Pollutant Discharge Elimination System ("NPDES"), federal EPA and state authority.

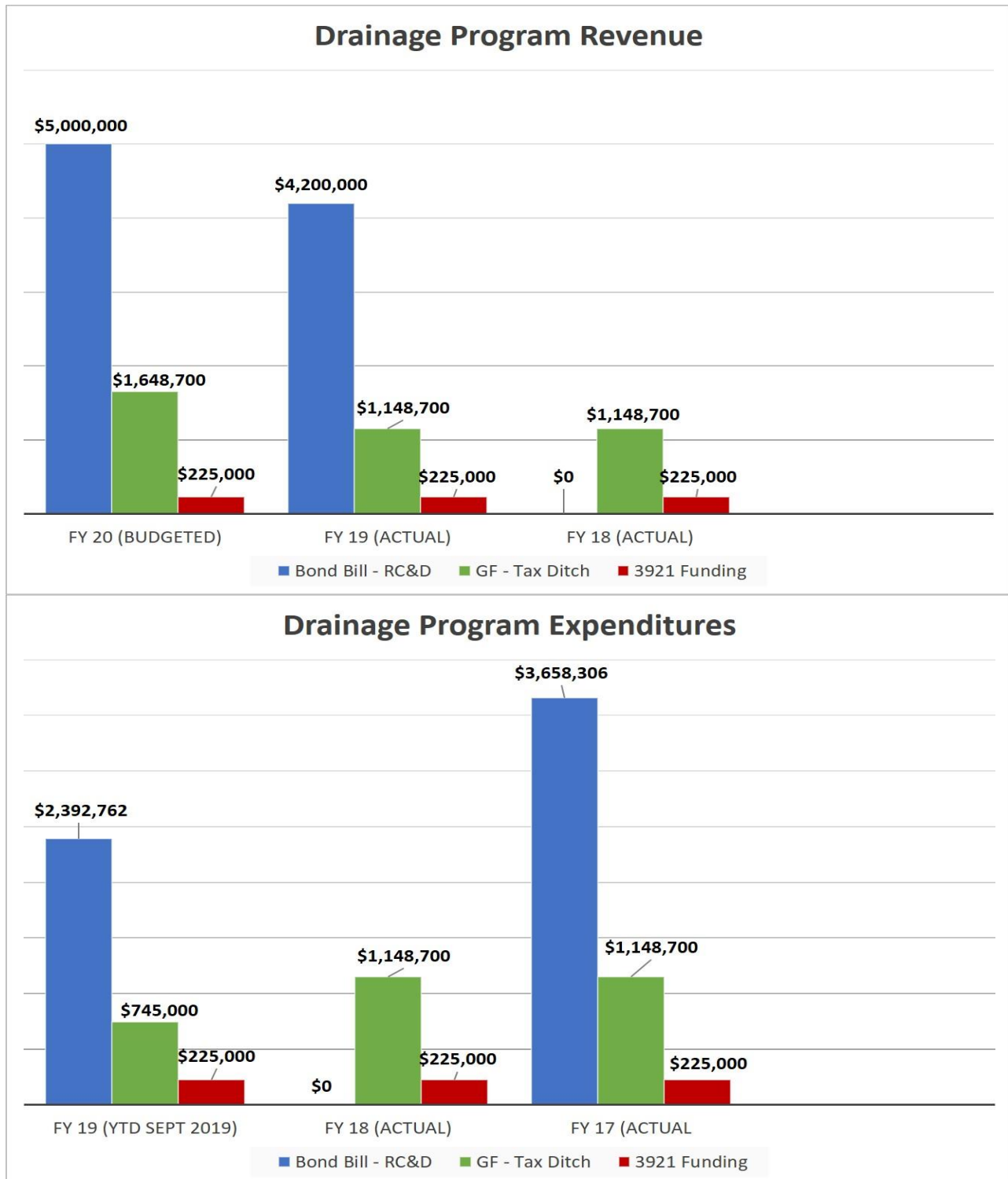
FREEDOM OF INFORMATION ACT COMPLIANCE

The Department of Watershed Stewardship follows DNREC's "Policies and Procedures Regarding FOIA Requests."⁶

When the Drainage Program assists a tax ditch organization with a "jump start" meeting, §4159, Title 7 requires notices be mailed first class to each of the taxable parcels within the watershed for the subject tax ditch. Drainage Program staff take meeting minutes, which are and available upon request.

⁶ See <https://regulations.delaware.gov/AdminCode/title8/900.pdf>.

FISCAL INFORMATION⁷



⁷ See Appendix E for updated RC&D expenditures for FY20.

Tax Ditch Funding

Tax Ditch funding can be divided into 3 distinct sources. 2 appropriations made by the General Assembly and 1 maintenance tax authorized under Title 7, Chapter 41.

1. State and County Matching Funds aka "3921 Funds"⁸

Sections 3921 through 3922, Title 7 authorize an annual state appropriation of \$75,000, with matching county funds. The Division of Watershed Stewardship passes the funds directly to each conservation district. The funds may be used to pay or assist in paying all costs, including personnel required for planning, construction, installation, and maintenance of tax ditches, public group ditches, highway ditches, and resource conservation projects in Sussex, Kent, and New Castle Counties.

2. Tax Ditch Bond Bill Funds

Annual tax ditch appropriations through the Bond Bill (GF) are used to support all tax ditch program efforts at the state level.⁹ This funding is used to:

- Continue to provide technical assistance to the state's 234 tax ditches.
- Develop both tax and public ditch projects, including drainage and watershed investigations, planning, surveying, engineering, permitting, and contract administration.
- Assist with grant opportunities such as U.S.D.A. Natural Resources Conservation Service's Regional Conservation Partnership Program and Chesapeake Bay Grants.

3. Tax Ditch Organization Funds

Delaware Code gives tax ditch organizations formed under Chapter 41, Title 7 the power to levy maintenance taxes and outlines how rates are established, and taxes are collected. Most tax ditch organizations collect only the minimum necessary to complete needed maintenance with the assistance of state and county matching funds.

Drainage Projects Funding

State appropriations provide for the development and completion of RC&D drainage projects administered through a partnership between DNREC and the conservation districts. As previously noted, New Castle Conservation District leads projects in New Castle County.¹⁰ DNREC leads projects in Kent and Sussex Counties, with assistance from the Kent and Sussex conservation districts. Current projects range from \$500 to \$4 million with the annual appropriations from the Bond Bill ranging from \$0 to \$5 million; no appropriations were allocated from FY 2009 to FY 2016 or FY 2018. The Bond Bill allocated \$4.2 million in FY 2019 and \$5 million in FY 2020.

⁸ See Appendix F for the 3921 District Agreement.

⁹ See Appendix G for the Tax Ditch Agreement.

¹⁰ See Appendix H for the New Castle Conservation District Agreement.

ACCOMPLISHMENTS

Tax Ditch

Gum Branch Tax Ditch: The Gum Branch Tax Ditch was originally divided into nine separate sections from 1961 until 2019. Each section collected tax for maintenance of the respective section or prong and the Main. The tax ditch organizations needed to borrow funds for maintenance.

Under the current law, tax ditch organizations are unable to borrow enough funds because of how the sections were originally established. The Drainage Program assisted the Gum Branch Tax Ditch in combining their 9 independently taxed and managed ditch sections into only one. At a special meeting on March 27, 2019, the affected landowners discussed and voted to combine the sections and borrow funds to perform needed maintenance work. The Drainage Program assisted the Gum Branch Tax Ditch in obtaining a loan from MidAtlantic Farm Credit. This was a first for a Delaware tax ditch organization and may be a model for other communities to obtain needed funding at a reasonable rate to perform necessary maintenance work.

Tax Ditch Auditing Procedures: The Drainage Program and State Auditor's Office developed auditing procedures for tax ditch organizations.¹¹ Training workshops for tax ditch officers were hosted across the State. Since then, the number of records submitted to the Drainage Program and conservation district offices has significantly increased, meaning more tax ditches are complying and eligible for state and county cost share funds.

Planning Grant: The Drainage Program coordinated efforts with the USDA - National Resource Conservation Service to develop an application for a watershed planning grant for the Upper Nanticoke. The grant was awarded, and planning activities will begin in FY2020.

Drone Technology: Staff certification and the development of policies and protocols for the implementation of drone technology have been conducted, allowing for tax ditch system inspections and aiding with the update of operation and maintenance plans.

Web Based Information Access: A GIS map of all tax ditches statewide is available online for public access and use. Similarly, a ROW inquiry is also available for landowners and the real estate community to acknowledge tax ditch channels and associated ROWs on a parcel.

¹¹ See Appendix I for the Tax Ditch Audit Procedures Guide.

Drainage Projects

From FY 1996 to the present, 1,663 completed RC&D projects totaled \$68,539,286. The Drainage Program, with its partners at each conservation district, saw several critical projects completed in FY 2019. Over \$3 million worth of projects were accomplished and FY 2020 is anticipated to exceed that amount. The New Castle Conservation District has been especially productive, completing 30 of their 50 highest priority projects. In Sussex County, a \$1.6 million project will improve drainage to over 50 properties and 4 state-maintained roads. In Kent County, a project reconstructed over 6,000 feet of privately-owned ditches.¹²

CHALLENGES

Stable Funding: State appropriations for RC&D projects and tax ditch management are the primary source of funding used to administer watershed and drainage related projects. Over the years, the state budget process has yielded large fluctuations in allocations to the Drainage Program. A stable funding source would allow for better planning and, in turn, an increase in completed projects.

Staffing and Retention: High turnover of staff has resulted in several vacancies. In recent years, the increased development statewide has created a high demand for engineering and surveying positions in the private sector. As such, the Drainage Program has faced higher than normal vacancy rates. Additionally, as State salaries are not as competitive as the private sector in these technical fields, the Drainage Program has faced the difficult challenge of attracting qualified applicants for vacant positions.

Shifting Resource Needs: A major shift in RC&D project locations has seen an increased demand for staff and resources. The number of drainage and watershed issues have increased in the southern region of the state. As such, the Drainage Program responded by adding positions and resources.

Overall, the Drainage Program and Conservation Districts do not have the capacity to complete all approved projects in a single year. Therefore, as part of the project prioritization process, the program looks at the next fiscal year to develop priorities, estimating the funding needs in each county. Consequently, the Prioritized Project List and annual priorities for each county can change in any given year. These changes could occur for several reasons including severe weather events, a public safety problem, issues with landowners, or the opportunity to leverage RC&D funds to get additional dollars through grants or matching funds.

¹² See Appendix J for a list of completed RC&D projects for FY20.

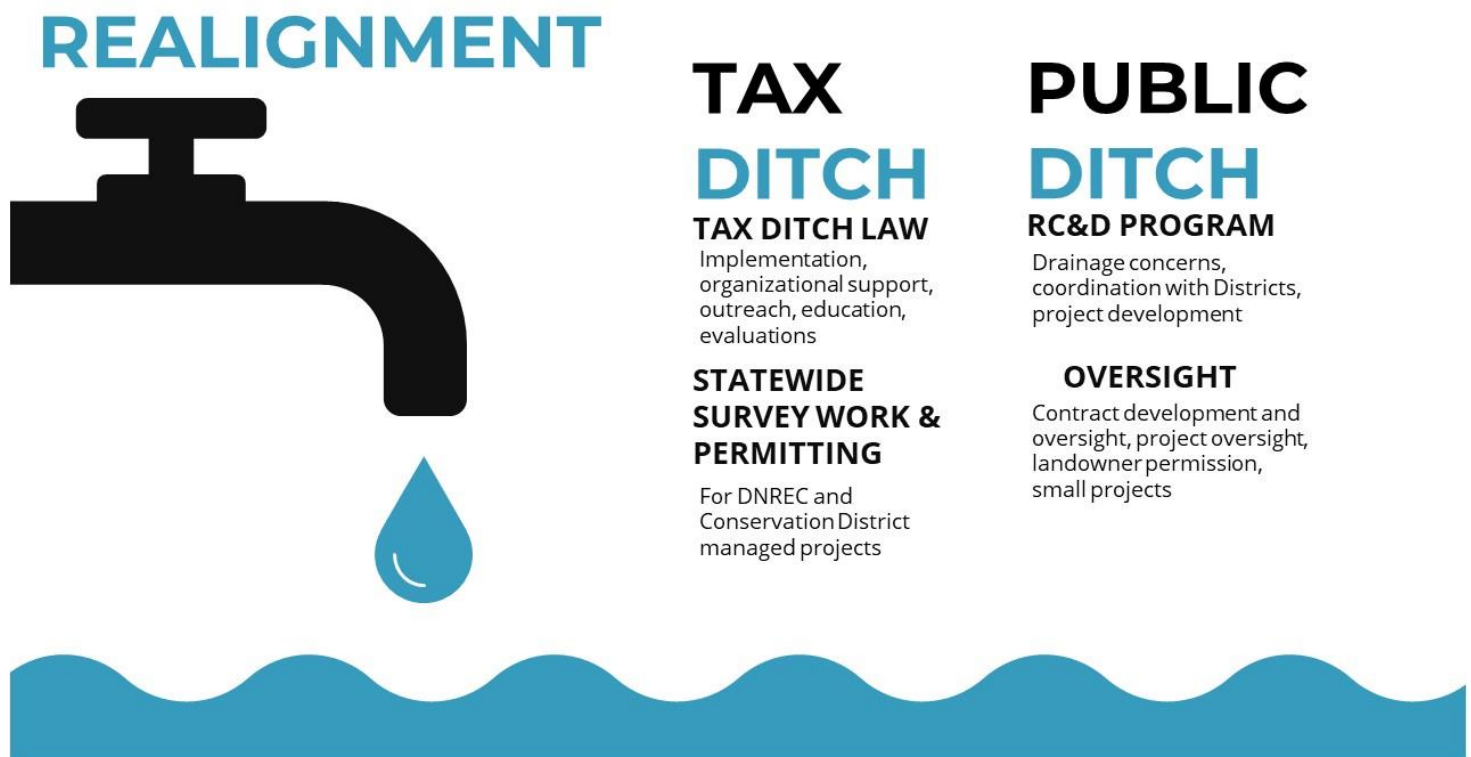
OPPORTUNITIES FOR IMPROVEMENT

Drainage Program Realignment: In addition to stable and reliable funding, a realignment of the Drainage Program's functionality could lead to increased effectiveness and project management. The Drainage Program could function as 2 separate operating units within the Conservation Programs Section of the Division of Watershed Stewardship as follows:

- The Tax Ditch Program
- The Public Ditch Program

Under this proposed realignment, an Environmental Program Manager II would lead each program unit and report directly to the Administrator of the Conservation Programs Section. The Tax Ditch Program would have an estimated 15 positions focused on tax ditch organization support and the survey and construction of related projects. The Public Ditch Program would focus on the design and planning of RC&D drainage projects and manage the small projects crew. The Public Ditch Program would also have 14 positions.

Given the nature of the responsibilities, both programs would have some overlapping responsibilities, but the intention is to assign the tasks as defined below:



With this realignment, an existing PMI position would need to be reclassified to a PMII within the Public Ditch Program. The request to do so was submitted to Department of Human Resources (“DHR”) in September 2019.¹³

Tax Ditch Modernization: Over 90% of the tax ditch channels were constructed before 1985. The recommended maintenance cycle is every 15-20 years. If maintained as recommended, most tax ditches should have undergone major maintenance 2 to 4 times since construction. After multiple maintenance cycles, tax ditches can experience significant issues regarding bank stability. In addition, many ditches have not been maintained on the recommended timetables, as many tax ditch managers have historically completed repair projects only after a problem occurs.

Maintenance and modernization matters have led to the following issues:

- Funding needs.
- Operational controls.
- Environmental issues and topics.
- Administrative oversight and tax ditch organizational leadership.

The Drainage Program recommends establishing a task force to investigate these issues and propose solutions that would benefit the diverse range of stakeholders.¹⁴

Redefine the Role of the Conservation Districts in Kent and Sussex Counties: With the uncertainty of funding and higher than normal vacancy rates, the Drainage Program has shifted responsibility of scalable and manageable RC&D projects to the Conservation Districts, particularly in Sussex County. For example, in 2019, DNREC entered into an agreement with the Sussex Conservation District (“SCD”), under which the SCD serves as the managing agency to 20 projects with an anticipated cost of \$400,000. The SCD is currently addressing these established drainage issues and ensuring prioritized projects are completed in a timely manner. DNREC serves in a technical and advisory capacity and provides engineering and permit advice, secures landowner agreements, and inspects for final completion.¹⁵ This cooperative arrangement is designed to expedite the project implementation process and address priority projects efficiently and effectively. If successful, DNREC intends to expand this arrangement with the Kent Conservation District.

¹³ See Appendix K for the Drainage Program realignment proposal.

¹⁴ See Appendix L for the tax ditch modernization document.

¹⁵ See Appendix M for the Sussex Conservation District agreement.

ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

On February 26, 2020, the following questions were submitted to the Department for clarification.

1. Clarification on the RC&D project timeline: What is the process from initial inquiry to the department to project completion?
2. How does the process of project prioritization work? Is there a mechanism that ranks the active projects that are then approved? Are they scored a specific way?
3. How would a member of the public submit a drainage concern? Is there an email address? Phone number? How does the Division typically become involved in a drainage issue?
4. Is there a list of the 234 tax ditch organizations broken out by county? A GIS map is available online but is there a comprehensive list available?
5. Are federal dollars ever applied to RC&D or tax ditch projects? If so, is it recurring or one-time? Additionally, is there a mechanism to try and attract federal dollars?

DNREC's response was received on March 6, 2020 and can be found in Appendix N.

FY 21 FUNDING

In the Governor's recommended FY21 Bond Bill ([HB 300](#)), \$5 million was allocated to the RC&D Fund with \$1.14 million appropriated to the tax ditch program. On June 29, 2020, the FY21 bond bill ([SB 242](#)) was adopted by the 150th General Assembly. Due to the significant changes to the state's revenue forecast, \$3 million was allocated to the RC&D Fund with \$900,000 appropriated to the tax ditch program.

Resource, Conservation & Development Projects

FY 2020 Annual Report

Presented to:

Joint Committee on Capital Improvement

Members:

Rep. Debra Heffernan (Co-Chair)	Sen. David P. Sokola (Chair)
Rep. Edward S. Osienski	Sen. Darius J. Brown
Rep. Kimberly Williams	Sen. Bryan Townsend
Rep. Gerald L. Brady	Sen. John Walsh
Rep. Ronald E. Gray	Sen. Colin Bonini
Rep. Michael Ramone	Sen. Brian Pettyjohn

June 1, 2020

Department of Natural Resources and Environmental Control
Division of Watershed Stewardship
Conservation Programs Section
Drainage Program

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Fiscal Year 2020 Annual Report

Resource, Conservation, and Development Fund

Background

The Resource, Conservation and Development (RC&D) Fund was established by the Twenty-First Century Fund Investments Act of 1995 that resulted from a settlement with the State of New York. The RC&D portion of the Act was created to provide funding to enhance the health of communities by improving watershed and drainage infrastructure statewide. The fund is implemented by a partnership between the Department of Natural Resources and Environmental Control (DNREC) and Delaware's three Conservation Districts. The New Castle Conservation District takes the lead on projects located in New Castle County. Historically, DNREC has taken the lead on projects in Kent and Sussex Counties with assistance from the Kent and Sussex Conservation Districts. Beginning Mid-FY2020 Kent and Sussex Conservation Districts have become leads on a portion of the prioritized projects lists as assigned by DNREC to increase the number of projects constructed. The amount the districts will receive in FY21 will be dependent on final legislative funding level.

Fund Status

Over \$75 million has been allocated to the fund since 1996. Table 1 summarizes the breakdown of allocations by county.

Table 1: Summary of allocations to the fund

	New Castle	Kent	Sussex	Total
FY 1996 – FY 2009	\$44,552,468	\$6,503,822	\$11,311,984	\$62,368,275
FY 2016	\$1,350,458	\$427,730	\$1,221,812	\$3,000,000
FY 2017	\$1,795,962	\$533,784	\$1,483,054	\$3,812,800
FY 2019	\$1,890,000	\$756,000	\$1,554,000	\$4,200,000
FY 2020	\$2,300,000	\$875,000	\$1,825,000	\$5,000,000
Total	\$51,888,888	\$9,096,336	\$17,395,850	\$78,381,075

The DNREC Drainage Program, with the Conservation Districts, completed 59 projects in FY 2020. Table 2 is an excerpt from the RC&D Fund Expenditure Report (Appendix A). It shows the funds expended between FY 2015 and FY 2020; a total of 295 projects were completed in this period, despite record rainfall in calendar year 2018 and the first half of calendar year 2019. A list of the projects that have been completed in FY 2020 is contained in Appendix B. The lists are reported by county and contain the total project cost and the legislative district where the project was located. Projects that DNREC or

one of the Conservation Districts is recommending be discontinued or removed from the approved list are also included in Appendix B.

Table 2: Expenditures

	New Castle		Kent		Sussex		Statewide
Total (FY 1996 – FY 2014)	\$	41,457,200	\$	4,729,014	\$	9,339,501	\$ 55,525,715
FY 2015	\$	1,309,287	\$	563,513	\$	586,974	\$ 2,459,775
FY 2016	\$	1,448,683	\$	568,644	\$	1,187,668	\$ 3,204,996
FY 2017	\$	1,315,066	\$	460,894	\$	541,334	\$ 2,317,294
FY 2018	\$	1,364,087	\$	206,186	\$	766,920	\$ 2,337,193
FY 2019	\$	1,002,390	\$	374,005	\$	1,533,732	\$ 2,910,127
FY 2020	\$	1,958,758	\$	44,422	\$	263,936	\$ 2,267,116
Total	\$	49,855,471	\$	6,946,679	\$	14,220,065	\$ 71,022,215

Table 3 summarizes the remaining balance of RC&D program funds as of April 30, 2020. Epilogue language requires, once funding is allocated to a particular county, that funding can only be spent within that county. It is important to consider the remaining balances within each county, rather than the remaining balances statewide. Unexpended funds are allocated dollars that have not been spent by DNREC. Encumbered funds are funds that are unspent, but committed to another entity, including the Conservation Districts, through a signed agreement or contract. Unencumbered funds are unspent funds that are available to be committed to a project through agreement or contract. One way to think of unencumbered funds is to view them as dollars available for future work.

Table 3: Total county & state fund balances by county

	Unexpended	Encumbered	Unencumbered
New Castle	\$3,835,791	\$3,835,791	\$0
Kent	\$2,149,658	\$1,256,867	\$892,791
Sussex	\$3,175,784	\$2,034,231	\$1,141,553
Statewide	\$9,161,234	\$7,126,889	\$2,034,344

Although, there are balances remaining for each county, the work currently planned in New Castle County and Sussex County exceeds available funding. The next section of this report provides an explanation of FY 2021 work planned in each county.

Approved and Proposed Projects

Each year DNREC, in consultation with the Conservation Districts, prepares a list of prioritized projects in each county (Appendix C). Project prioritization is used as a tool to guide project development. However, it is an ongoing process that is flexible and allows funds to be directed to the projects that are most critical. The following factors are considered when prioritizing projects.

- Public Safety
- Frequency of Flooding
- Status of Project
- Property Damage
- Ability to Leverage Additional Funds
- Age of Project

DNREC monitors the Statewide Drainage Concern Hotline, which provides a single point of contact to help constituents get assistance from the agency best suited to address their drainage issues. Constituent concerns not related to stormwater management and on private property are generally assigned to the DNREC Drainage Program in Kent and Sussex Counties, and the New Castle Conservation District in New Castle County, for investigation. Concerns that are investigated may be added to the list of proposed projects, if deemed appropriate. Table 4 provides a summary of active and proposed projects.

Table 4: Project Summary Table

	New Castle	Sussex	Kent	Total
Approved	530	267	213	1,010
Proposed	75	10	11	95
Total	605	277	224	1,105

There are now 1,010 projects that have been approved by the Joint Committee on Capital Improvement. Appendix D includes an additional 95 proposed projects that DNREC is recommending for approval. The total cost of just the proposed projects is over \$6.2 million. The proposed additions to the list already exceed the FY 2020 appropriation further increasing the funding deficit for future projects.

It is estimated that the total cost to complete all 1,105 active and proposed projects as described herein is \$105 million. If all projects are matched at the minimum requirement, (10%), then \$95 million of RC&D funds will be required to construct these projects. When including the \$9 million of unexpended RC&D funds, an additional \$86 million of RC&D funds will be needed to solve watershed and drainage issues identified in this report. DNREC is not suggesting an appropriation of \$86 million because there is not enough capacity to expend those dollars. However, the \$86 million is a useful reference to understand the statewide need for assistance with watershed and drainage issues. Table 5 summarizes the estimated funding to complete the active and proposed projects.

Table 5: Projected Project Costs Summary Table

	Approved Projects Est. Cost	FY21 New Projects Est. Cost	Est. Cost All Projects	RC&D Funds Required	RC&D Unexpended	Unfunded
New Castle	\$46,581,238	\$5,553,200	\$52,134,438	\$46,920,994	\$2,033,416	\$44,887,578
Kent	\$17,228,402	\$378,500	\$17,606,902	\$15,846,212	\$2,149,658	\$13,696,554
Sussex	\$35,265,750	\$322,500	\$35,588,250	\$32,029,425	\$3,175,784	\$28,853,641
Total	\$99,075,390	\$6,254,200	\$105,329,590	\$94,796,631	\$7,358,859	\$87,437,772

Fiscal Year 2021 Priorities

The DNREC and the Conservation Districts do not have the capacity to complete all of the approved projects in a single year. Therefore, as part of the project prioritization process, we look at the fiscal year ahead and develop priorities to estimate the funding needs in each county. As expected, the Prioritized Project List and Annual Priorities for each county can change over the course of any given year. Changes in priority may result from a few reasons including severe weather events, threat/risk to public safety, disapproval of essential landowners within the project scope, and/or the opportunity to leverage RC&D funds to obtain additional dollars for implementation. The DNREC and the Conservation Districts look for opportunities to leverage RC&D funds through grants; some grant programs have lengthy application and approval requirements which can delay project implementation. If a particular project meets grant criteria, it may be prioritized in order to take advantage of the opportunity. RC&D funds have been used to leverage federal dollars through the Chesapeake Bay Implementation Grant and the Section 319 Grant. Projects have also taken advantage of surface water planning grants from the Water Infrastructure Advisory Council and the National Fish and Wildlife Federation. The next three sections explain the priorities of each of the three counties as we move into FY 2021. These priorities are developed without consideration of available funding.

New Castle County Priorities FY 2021

This section explains what projects New Castle Conservation District and DNREC anticipates working on in FY 2021. This plan was developed with the assumption that funds are available. As always, it is worth noting that projects require 100% agreement from landowners. As such, the time required to obtain landowner agreement may affect the construction schedule.

Projects Currently Under Construction

- **Elsmere – Sycamore Avenue** – Installation of an enclosed stormwater drainage system
- **Simonds Gardens** – Construction of the 2nd and 3rd phases of the upgraded drainage systems began in May. Construction of the 1st phase was completed in March.
- **Scottfield – Dawson Drive Community Drainage Improvement** – Excavation and regrading of 2,200' of existing drainage ditches to reduce street and property flooding is underway.

Projects Approaching Construction (i.e. fully funded)

- **Marshallton – Washington Street Drainage Improvements** – Engineering plans for the installation of an enclosed stormwater drainage system is complete and out for landowner agreements.
- **Wiggins Mill Pond Structures** – Water quality and structural improvements to the pond inlet and stream are close to final design followed by the permitting phase.
- **Covered Bridge Farms – Trotters Turn** – Proposed water quality and stream stabilization improvements are awaiting permit approvals by DNREC and the US Army Corps of Engineers.
- **Upper Pike Creek Road Stream Restoration** – Restoring a stream channel while relocating outbuildings and improvements constructed by the adjoining property owner on a parcel formerly owned by the developer and now under the control of NCC.
- **Pennock Road-Pike Creek Road Drainage Improvements** – Installation of a multi-property system includes the installation of a drainage outlet beneath the access road to St. Marks High School and adjacent cemetery.

Key Projects in the Development Phase

- | | |
|---|---------------------------------------|
| • Odessa National Drainage Improvements | • Carrie Downie School Drainage |
| • Woods Road Tax Ditch | • Woodland Park Drainage Improvements |
| • Countryside Farms Tax Ditch | • Windybush Drainage Study |

Key projects needing funding

- **Port Penn Dike Rehabilitation Project** – Areas of Port Penn are at risk of flooding in the event of changes in the elevation of the Delaware Bay. Complex engineering is necessary to incorporate current and future flood management issues to prepare plans and specifications for a dike reconstruction project.
- **Brandywine Creek Dam Removal Project** – A consortium of conservation groups including Shad 2020, the University of Delaware, Hagley Museum, and others support the removal of over a

dozen dams on the Brandywine and White Clay Creeks with the goal of restoring the historically significant Shad fishery and migration in northern NCC.

- **Independence School Stream Stabilization Study and Project** – This project, when complete, will restore a section of a key tributary of Pike Creek and protect the fire lane access at the rear of the Independence School.
- **Woodland Park Drainage Improvements** – Redesign and restoration of several small tributaries of Little Mill Creek that are impacted by road surface runoff and outdated stormwater management features. Multiple residences in several developments can be impacted during higher intensity rain events.
- **Tilton Park Stormwater Management Park** – Initiated as a community-led project, Tilton Park serves as an inner-city focal point and a vital hub for school-age children and their families. This project will replace and upgrade stormwater management facilities within Tilton Park and possibly the adjacent intersection to redirect stormwater that is flooding the playground and limiting its use. This project could serve as a model for stormwater improvements on other parks throughout the City of Wilmington.

Kent County Priorities FY2021

This section explains what projects Kent Conservation District and DNREC anticipates working on in FY 2021. This plan was developed with the assumption that funds are available. As always, it is worth noting that projects require 100% agreement from landowners. As such, the time required to obtain landowner agreement may affect the construction schedule.

Projects Currently Under Construction

- **Town of Houston Phase I / Breeders Crown** – Drainage Improvements for Breeders Crown development

Projects Approaching Construction (i.e. fully funded)

- **Bush Drive / Morris** – Construction of an open ditch with pipe crossing installation, ready for construction
- **241 South Shore Drive / Green** – Drainage improvements to storm drain system along and South Shore Drive with an outlet towards Moores Lake
- **Wild Quail Phase II** – Stormwater infrastructure maintenance and repair in a portion of the Wild Quail development

Key projects in the Development Phase

- | | |
|---|---|
| • South Bowers Drainage Improvements | • 4948 Halltown Road / Butz |
| • Silver Lake Water Management / DelTech Terry Campus | • 4938 Halltown Road / Carey |
| • Gravelly Run Tax Ditch Main / Severson | • Pearsons Corner Road / Detweiler |
| • Hidden Acres Drainage Improvements | • Walnut Shade Road / Lavender |
| • Smyrna Leipsic Road / Scuse | • Pearson Corner Road / Trice |
| • Commerce Street, Cheswold / Caldwell | • Hazelwood Subdivision Drainage Improvements |
| | • Greenbriar Road / Pennypacker |

Key Projects Needing Funding

- **South Little Creek Road / Little** – Drainage improvements that will require a stream restoration effort as well as a DelDOT road crossing replacement and repair or replacement of an outlet structure on a pond. This project has an estimated cost of \$300,000 and is currently in the scoping phase. Constituents are beginning to reach out regarding the status and this project, funds will need to be committed for field work and engineering time to be committed in proceeding in design development.

Sussex County Priorities FY 2021

This section explains what projects Sussex Conservation District and DNREC anticipates working on in Sussex County during FY 2020. This plan was developed with the assumption that funds are available. As always, it is worth noting that projects require 100% agreement from landowners. As such, the time required to obtain landowner approval may affect the construction schedule.

Projects Under Construction

- **Raccoon Tax Ditch Bank Stabilization** – Stabilization of a tax ditch channel around private crossings

Projects Approaching Construction (i.e. fully funded)

- **Chesapeake, Delaware, and Inland Bays/Atlantic Ocean Violator of Probation Projects** – These projects utilize manual labor from the Sussex Community Corrections Center to remove debris from ditch channels in these three Sussex County watersheds. Over 30 projects have been requested to date for addition to FY 21.
- **Silver Lake Rehoboth Phase II** – Portion of sinkhole was backfilled in Fall of 2019. Pipe to be lined in 2020.
- **Oak Orchard Drainage Improvements - Phase 1 – Mercer Avenue** – drainage improvements to roadside ditches and associated infrastructure in the area of Mercer Avenue with an outfall extension into the Bay
- **Oak Orchard Drainage Improvements - Phase 4 - Captains Grant** – drainage improvements in cul-de-sac areas of Captains Grant and along Route 5, finalizing construction agreements
- **Bear Hole Tax Ditch / Johnson** – Stabilization of a tax ditch channel that is comprising private property, permitting phase
- **Pepper Creek Tax Ditch Bank Stabilization** – Stabilization of tax ditch channel where right-of-way is becoming comprised for maintenance activities, permitting phase
- **Herring Branch Tax Ditch Main / Johnson/McCabe** – replacement of deteriorated private stormdrain and catchbasin system located within the tax ditch system, finalizing construction agreements

Key projects in the Development Phase

- | | |
|--|---|
| • Russell Road / Harris | • Carsyljan Acres / Jordan Phase I |
| • Reid / Delmar Road | • Rd. 550 / Harry Simionick |
| • Old Rauetmack / Malone Drainage | • Trap Pond / White |
| • Mt. Joy Road / Hoopes | • Town of Bethel / Snake Road Drainage Improvements Phase I |
| • Frankford Library/Green Street Drainage Improvements | • Dukes Job Tax Ditch / Morris Bank Stabilization |
| • Little Bay Tax Ditch Oceanside Parkway Culvert Replacement | • Johnson Road (S434A) / Wojciechowski/ McCabe |
| • Heritage Village/Harper -Study | • Woodpecker Rd / Wollschlager Drainage Improvements |
| • Crestfield/Fluharty/ Valentine Drainage Improvements | • Ennis Road / Owens |
| • Anderson Corner Road / Marsh | • Pusey Road / Hudson |
| • Rt. 24 / Harper / Fox Hollow Improvements | • Clearbrooke Estates / Damms |
| | • Denton Manor/Jensen |

Key Projects Needing Funding

Oak Orchard Drainage Improvements – A drainage study of Oak Orchard identified 19 projects to reducing flooding issues in the area. The five highest priority drainage projects identified in the study are currently being designed by AECOM. Four contracts will be issued for the 5 locations and construction will be spread over multiple fiscal years. The Mercer Avenue and Captains Grant Projects have been planned first and funding has been set aside for these projects. However, the other projects will need substantial funding in future years to move forward.

FY 2021 Funding Need

As of April 30, 2020, there are \$2,034,344 of unencumbered funds available for future RC&D Fund projects (refer to Table 3). This balance includes funds appropriated to DNREC and then allocated to each county based upon each county's percentage of the estimated total cost of all projects (refer to Table 6). Epilogue language, in the Bond Bill, requires DNREC to track funds by county and mandates that funds allocated to a county be used within that county.

To determine the FY 2021 funding needs, DNREC has worked with the three Conservation Districts to identify priorities and estimate the funding needed to meet those priorities, as explained in the previous three sections of this report. Table 6 below shows the projected expenditures for each county and then the entire state based upon these priorities.

Table 6: Summary of projected year end balances				
	New Castle	Kent	Sussex	Statewide
FY 2020 Starting Balance	\$3,068,288	\$2,149,658	\$3,325,317	\$8,543,263
FY 2020 Projected Expenditures	\$1,958,757	\$544,422	\$1,463,955	\$3,967,134
FY 2021 Year End Balance	\$1,109,531	\$1,605,236	\$1,861,362	\$4,576,129
FY 2021 Projected Expenditures	\$7,033,050	\$1,312,800	\$1,707,960	\$10,053,810

These projections are based upon the priorities developed by each county and explained in the previous three sections of this report. Many factors impact expenditures including weather, landowner permission, permitting and DNREC's and the conservation district's capacity to plan and manage projects. There is a need for funding based on increased demand and priorities presented in this report.

Appendix B

Proposed FY 2021 RC&D Projects

Proposed FY 2021 Resource Conservation and Development Projects

21st Century Fund

New Castle County – 6/1/2020

Project	Remarks	Estimated Total Cost	Representative District	Senatorial District
4704 Old Capital Trail	Placeholder	\$ 15,000.00	19	9
1071 Alley Mill Rd.	Placeholder	\$ 50,000.00	11	14
Absalom Jones Community Center Drainage	Placeholder	\$ 600,000.00	19	9
Academy Hills - 7 & 9 Oklahoma State Drive	Placeholder	\$ 30,000.00	25	10
Alban Park I Tax Ditch Improvements	Install closed drainage system	\$ 18,000.00	2	3
Ardencroft - Harvey Road and Upper Greenbrier Road Intersection	Remove and replace curb	\$ 11,000.00	7	5
Berkshire - Braken Avenue	Placeholder	\$ 150,000.00	22	4
Blackbird Forest Road and Massey Church Road Ditch	Placeholder	\$ 60,000.00	11	14
Blackbird Landing Tax Ditch	Placeholder	\$ 30,000.00	9	14
Brandywine Park/The Point - N. Park Drive	Placeholder	\$ 50,000.00	4	4
Brandywine River Dam(s)	Remove dams	\$ 500,000.00	4	4
Breckenridge - 12 Balmoral Court	Placeholder	\$ 25,000.00	4	7
Brennan Berry Tax Ditch	Placeholder	\$ 50,000.00	11	14
Burn Brae - Highland Blvd	Clean and regrade ditch	\$ 13,500.00	5	13
Calverese Farms - 301 to 303 Caraway Drive	Placeholder	\$ 35,000.00	5	13
Caravel Farms - 307 Caravel Drive	Clean and regrade ditch	\$ 8,100.00	27	12
Caravel Farms - 31 Clipper Court	Clean and regrade ditch	\$ 23,000.00	27	12
Chatham - 2413 Graydon Road	Placeholder	\$ 25,000.00	6	5
Christina Hollow - Birchgrove Road	Placeholder	\$ 25,000.00	26	11
City of New Castle - 733 W. 12th Street	Install closed drainage system	\$ 69,600.00	16	12
Country Woods - 110 Country Wood Drive	Install closed drainage system	\$ 22,300.00	15	13
Dartmouth Woods - 35 Sturbridge Drive	Install closed drainage system	\$ 96,200.00	10	5
Dartmouth Woods - Abington Road	Install closed drainage system	\$ 39,400.00	10	5
Drummond Ridge Retaining Walls	Placeholder	\$ 175,000.00	21	9
Elmwood - 6 Majestic Drive	Install closed drainage system	\$ 38,500.00	24	9
Fairfax - 129 Devonshire Road	Placeholder	\$ 40,000.00	12	4
Forest Ridge - 201 Cunane Circle	Placeholder	\$ 25,000.00	25	10
Forwood Preserve Demonstration Project	Placeholder	\$ 250,000.00	6	5
Foult Woods - 2510 Deepwood Drive	Clean channel	\$ 63,400.00	7	5
Glasgow Pines - Ashkirk Place	Regrade area to drain.	\$ 8,500.00	15	12
Glen Bernie Estates - 104 Rothwell Drive	Clean and grade channel. Stabilize with rip rap.	\$ 39,600.00	19	9
Gray Acres - 248 East Flagstone Drive	Placeholder	\$ 60,000.00	26	11
Gray Acres - West Flagstone Drive	Placeholder	\$ 35,000.00	26	11
Graylyn Crest - 1005 to 1013 Crestover Road	Placeholder	\$ 80,000.00	6	5
Great Good Place - 2 Great Circle Road	Stabilize with rip rap	\$ 11,500.00	22	8
Hampton Pointe - Stonebridge Drive	Install closed drainage system	\$ 59,900.00	22	8
Harmony Hills - 534 Tamara Circle	Install closed drainage system	\$ 60,000.00	21	9
Harvey Run - 8 Philip Court	Install underdrain	\$ 42,700.00	7	1
Hickory Woods - 108 Dorothy Drive	Clean and grade ditch	\$ 22,500.00	27	12
Highlands of Heritage Park - 2716 & 2718 East Riding	Install closed drainage system	\$ 28,500.00	21	9
Independence School Stream Stabilization	Stream restoration	\$ 33,500.00	22	8
Kingsridge - 2331 Empire Drive	Install closed drainage system	\$ 27,800.00	7	5
Mariner's Watch Walking Path	Placeholder	\$ 550,000.00	15	12

Proposed FY 2021 Resource Conservation and Development Projects **21st Century Fund** **New Castle County – 6/1/2020**

Project	Remarks	Estimated Total Cost	Representative District	Senatorial District
Meeting House Meadow - 273 Pond Drive	Install closed drainage system	\$ 63,000.00	12	4
Melody Meadows - 14 Lullaby Lane	Regrade existing ditch.	\$ 24,500.00	27	10
Mendenhall Village - Cold Spring Circle	Grade and stabilize ditch	\$ 12,700.00	22	4
Montchan - Montchan Road	Placeholder	\$ 50,000.00	4	4
Pencader Tax Ditch	Placeholder	\$ 50,000.00	27	10
Post and Rail Farms - 101 Saddle Drive	Placeholder	\$ 35,000.00	8	10
Ramblewood - 1007 Timberwyck Road	Placeholder	\$ 25,000.00	10	5
Rolling Meadows - 911 & 913 Clydesdale Drive	Remove and replace failed pipe	\$ 30,000.00	15	12
Rolling Meadows - 307 Morgan Drive	Placeholder	\$ 20,000.00	15	12
Rose Hill - 24 Crimson King Drive	Placeholder	\$ 35,000.00	27	10
Sandom Branch Tax Ditch	Placeholder	\$ 50,000.00	11	14
Scottfield - 44 Woodfield Court	Install closed drainage system	\$ 63,300.00	24	11
Scottfield - Breezewood - Dawson Drive	Clean and grade ditch	\$ 90,000.00	24	11
Sharpley - 628 Halstead	Placeholder	\$ 25,000.00	12	4
Stone's Throw - 225-235 Cobble Creek Curve	Install inlet with underdrain	\$ 28,900.00	25	10
Tilton Park Drainage and Stormwater Management Design	Drainage improvements	\$ 175,000.00	4	3
Valley Run - 16 Thistle Court	Placeholder	\$ 40,000.00	10	5
Villa Monterey - Corinne Court	Placeholder	\$ 60,000.00	6	1
Weldin Farms - 9 & 11 Lombardy Drive	Placeholder	\$ 40,000.00	6	5
Westminster – Heritage Drive	Stream restoration	\$ 100,000.00	4	7
Westover Chase - 140 Moorfield Drive	Drainage improvements	\$ 49,600.00	12	4
Whethersfield - Dasher Avenue	Placeholder	\$ 60,000.00	18	13
Whethersfield - Daniels Court	Placeholder	\$ 25,000.00	18	13
Whethersfield - 67, 69, 71 Dasher Avenue	Install closed drainage system	\$ 50,400.00	18	13
White Clay Creek Dam Removal	Placeholder	\$ 500,000.00	23,24	8,9
Whitehall - 23 Auburn Drive	Install closed drainage system	\$ 61,500.00	18	13
Windybush - 136 Delview Drive	Replace damaged concrete gutter with rip rap	\$ 43,000.00	7	5
Windybush Stream Channel Study	Study	\$ 37,500.00	7	5
Wood Creek - 230 Barberry Drive	Install closed drainage system	\$ 30,900.00	21	4
Woodburne - 17 Richeson Drive	Install closed drainage system	\$ 18,300.00	5	13
Wynthorpe - 402 & 404 Wynthorpe Road	Install closed drainage system	\$ 49,600.00	17	12
Wynthorpe - 39 Bancroft Road	Regrade swale	\$ 12,500.00	17	12
SUBTOTAL -New Castle County FY21 New Projects	75 Projects	\$ 5,553,200		
SUBTOTAL - New Castle County FY21 New Projects 21st Century Funds Required		\$ 4,997,880		

Proposed FY 2021 Resource Conservation and Development Projects
21st Century Fund
Kent County – 6/1/2020

Project	Remarks	Estimated Total Cost	Representative District	Senatorial District
Rt.-14 / Glanden	Approx. 800' of tile system	\$ 12,000.00	30	18
Banning Rd. / Maxwell	Approx. 2,000' of open ditch	\$ 50,000.00	34	16
Rt.-12 / Stopper	Approx. 4,000' of open ditch	\$ 50,000.00	30	15
Upper King Rd. / Johnson Phase II	Approx. 3,000' of open ditch	\$ 30,000.00	34	16
104 King Ct. / Divver	Approx. 1,500' of open ditch and pipes	\$ 60,000.00	30	18
Town of Farmington	Drainage outlets	\$ 80,000.00	30	16
Cheswold / Strimel	Approx. 1,000' of open ditch	\$ 12,500.00	29	15
Sportsman Rd. / Moore	Approx. 4,000' of open ditch	\$ 50,000.00	30	15
Marydel Firehouse	Approx. 400' of open ditch	\$ 5,000.00	11	15
Brookfield Dr. / DelDOT	Approx. 200' of open ditch	\$ 4,000.00	34	16
Jockey Hollow / Spiegelman	Approx. 5,000' of open ditch	\$ 25,000.00	11	15
SUBTOTAL - Kent County FY21 New Projects	11 Projects	\$ 378,500		
SUBTOTAL - Kent County FY21 New Projects		\$ 340,650		
21st Century Funds Required				

Proposed FY 2021 Resource Conservation and Development Projects
21st Century Fund
Sussex County – 6/1/2020

Project	Remarks	Estimated Total Cost	Representative District	Senatorial District
Ross Station Rd. / Murphy	Dip out of a private ditch (350 ft.) that outlets a big area of roadside (Ross Station Rd.) drainage going back to the outlet at Herring Branch Tax Ditch (Main). S 2020-67 Murphy.	\$35,000.00	39	21
Lighthouse Rd. (Rt. 54) / Adkins	During the Rt. 54 expansion a stormwater pond was installed by Del-Dot and it outlets to a ditch that does not flow. The ditch borders a farm field and a development (Tea Berry Woods) and outlets to Roy Creek. This ditch would be considered tidal on the downstream end. Approx. 1,050' of dip out is needed on this ditch badly.	\$43,000.00	39	18
Phillips Ditch / Probert	Downed tree removal on a section of the ditch, sediment bar removal, and clear/grub near the outlet pipes. S 2020-102 Probert	\$25,000.00	41	20, 21
Picarello / Nicholas - Sanchez / Tranquility Lane	Connect private ditch to CB that outlets to Georgetown Vaughn TD - Prong 15. S 2018-387, S 2019-336, S 2020-20	\$27,000.00	37	19
Hudson Road Tax Ditch / Anicola	Drainage improvement to address drainage concerns in the vicinity of Prong 1 of the Hudson Road Tax Ditch.	\$100,000.00	20	6
Batson Branch Tax Ditch/ Prong 10	Drainage improvements to address deteriorated private piped section of Prong 10 of the Batson Branch Tax Ditch.	\$23,000.00	38	20
Town of Blades/ West Eighth Street	Install catch basin, approx. 20' of pipe, and 32' of curb to the catch basin.	\$9,500.00	39	19, 21
Spinnaker Court/Bay Harbor/Cannon	Repair of on street drainage collection/conveyance and repair/replacement of failing outfall pipe	\$20,000.00	14	6
Clendaniel Rd. / Fitzpatrick	Approx. 5,000' of existing ditch maintenance	\$40,000.00	18	35
Kovach / SW Milford Drainage Improvements	Cleanout and debris removal of approx. 3,000' of existing drainage course.	\$60,000.00	18	36
SUBTOTAL - Sussex County FY21 New Projects	10 Projects	\$ 382,500		
SUBTOTAL - Sussex County FY21 New Projects 21st Century Funds Required		\$ 344,250		

Appendix C

Prioritized Approved Projects

Status Key

Construction – Notice to proceed has been issued

Contracting – Process of obtaining contractor and purchase orders

Funding – needs additional funds to move forward (21st Century or Match)

Land Rights – Obtaining landowner permission

Permitting – Obtaining environmental permits

Engineering – Surveying and Design

Scoping – Project scope development & and permission to survey

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

New Castle County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
1	2020	Woodland Run Park Drainage Improvements	Stream restoration and improvements	Funding	\$ 800,000.00	26	11
2	2014	Port Penn Dike Rehabilitation	Rehabilitate dike	Funding	\$ 3,000,000.00	9	14
3	2019	Simonds Gardens Drainage Improvements	Drainage improvements	Construction	\$ 391,600.00	16	2
4	2018	Odessa National Study Phase 1 and 2	Study	Scoping	\$ 60,900.00	9	14
5	2020	Marshallton Drainage Study	Study	Engineering	\$ 60,000.00	19	7
6	2020	Marshallton - Washington Avenue	Drainage improvements	Engineering	\$ 175,000.00	19	7
7	2015	Marshallton - Old Capitol Trail	Drainage improvements	Engineering	\$ 225,000.00	19	7
8	2020	207 Wiggins Mill Road	Install control structures at the ponds	Engineering	\$ 160,000.00	11	14
9	2019	Covered Bridge Farms - 5 Trotters Turn	Stream restoration	Engineering	\$ 275,000.00	23	8
10	2020	Upper Pike Creek Road Stream Restoration	Stream stabilization	Engineering	\$ 130,000.00	22	4
11	2015	Elsmere - Sycamore Avenue	Install closed drainage system	Construction	\$ 408,300.00	13	7
12	2017	Edgemoor Gardens - Rysing Drive	Install closed drainage system	Engineering	\$ 238,000.00	6	1
13	2008	Bayview Beach flood protection	New Castle County project in partnership with NCCD	Construction	\$ 750,000.00	9	14
14	2020	Carrie Downie School Drainage	Drainage Study	Scoping	\$ 25,000.00	16	12
15	2015	Red Mill Farms - 14 to 20 Andries Road	Repair erosion with bank stabilization.	Engineering	\$ 62,900.00	24	9
16	2017	Timber Farms - 623 Timber Wood Blvd.	Install closed drainage system	Engineering	\$ 25,100.00	26	11
17	2018	Brandywood - 2133 Brandywood Drive	Install closed drainage system.	Engineering	\$ 27,000.00	10	5
18	2018	Heather Woods - 5 Pine Court	Install closed drainage system	Engineering	\$ 18,200.00	26	11
19	2018	Sycamore Gardens - Brewster Drive	Clean and regrade ditch	Engineering	\$ 16,700.00	24	9
20	2019	Enclave at Odessa - Barcelona & Madrid	Regrade swale	Engineering	\$ 45,800.00	9	14
21	2019	Hickory Woods - North Hickory Drive	Clean and regrade ditch	Engineering	\$ 114,700.00	27	12
22	2019	Odessa National - Loft Street	Install closed drainage system	Engineering	\$ 40,200.00	9	14
23	2019	Sherwood Forest - 39 Stature Drive	Regrade yard to drain	Engineering	\$ 9,300.00	24	9
24	2019	Sunnybrae - 13 Crenshaw Drive	Stream stabilization	Engineering	\$ 39,200.00	10	5
25	2020	1112 Smyrna Landing Road	Clean and regrade ditch	Engineering	\$ 23,500.00	9	14
26	2020	Brookmeade - Redstart Court	Install closed drainage system	Engineering	\$ 32,700.00	4	7
27	2020	Caravel Farms - Forrestal Drive	Clean and regrade ditch	Engineering	\$ 33,900.00	27	12
28	2020	Kirkwood Gardens - 2414 Hammond Place	Stabilize slopes	Engineering	\$ 25,000.00	19	7
29	2020	Mariners Watch -157 & 159 Portside Court	Regrade area to drain	Engineering	\$ 13,900.00	15	12
30	2020	Meadow Glen Ditch	Regrade ditch	Engineering	\$ 22,500.00	27	12
31	2020	Melody Meadows - Misty Court	Clean Ditch and Install Driveway Pipes	Engineering	\$ 41,500.00	27	10
32	2020	Oak Hill School Road - Ditch	Clean and regrade ditch	Engineering	\$ 37,000.00	11	14
33	2020	Pike Creek Road and Pennock Road	Install closed drainage system	Engineering	\$ 85,000.00	21	9
34	2020	River Ridge - Villa Road	Install closed drainage system	Engineering	\$ 100,000.00	6	1
35	2020	Stonefield - 21 Mica Street	Regrade ditch	Engineering	\$ 37,500.00	9	14
36	2020	Timber Farms - Timber Wood Blvd.	Install underdrain and grade	Engineering	\$ 55,000.00	26	11
37	2020	Westover Hills - Hopeton Road	Clean ditch	Engineering	\$ 23,900.00	4	4
38	2020	Westridge - 512 Thorndale Drive	Install ditch	Engineering	\$ 26,600.00	12	8
39	2017	1609 Joe Goldsborough Road	Install ditch	Construction	\$ 72,000.00	11	14
40	2019	North Star - 210 Mercury Road	Install closed drainage system	Construction	\$ 100,400.00	22	8
41	2020	Ashbourne Hills - 11 East Dickens Drive	Install closed drainage system	Construction	\$ 42,000.00	7	1
42	2020	Augustine Hills - Stone Hill Road	Curb Replacement	Construction	\$ 48,600.00	4	4
43	2020	Augustine Ridge - Rock Manor Avenue	Drainage improvements	Construction	\$ 67,000.00	4	4
44	2020	Dartmouth Woods - 31 Ross Road	Install swale and regrade yard to drain	Construction	\$ 19,500.00	10	5
45	2020	Duncan Woods - 3731 Wild Cherry Lane	Install closed drainage system	Construction	\$ 146,600.00	19	8
46	2020	Harvey Run - Nikhil Court	Install closed drainage system and underdrain	Construction	\$ 37,500.00	7	1
47	2020	Heatherbrooke - 2407 E. Heather Road	Install closed drainage system and underdrain	Construction	\$ 66,200.00	6	5
48	2020	Rose Hill - 16 Crimson King Drive	Install ditch	Construction	\$ 13,600.00	27	10
49	2020	Village of Red Lion Creek	Clean ditch	Construction	\$ 49,700.00	15	12
50	2019	1940 Rising Sun Lane	Install drainage system	Construction	\$ 90,500.00	4	1
51	2018	Country Woods - 202 Timber Knoll Drive	Place swale	Construction	\$ 18,500.00	15	13
52	2018	Fox Hunter Crossing - 401 Draper Drive	Install catch basin and regrade swale	Construction	\$ 22,500.00	8	10
53	2019	1012 Jamison Corner Road	Drainage improvements	Construction	\$ 44,000.00	9	12
54	2019	Alapocas - 17 & 19 Granite Road Drainage	install closed drainage system	Construction	\$ 32,000.00	4	4
55	2019	Augustine Ridge Drainage	install closed drainage system	Construction	\$ 36,200.00	4	4
56	2019	Beech Hill - 47 Beech Hill Drive	Install closed drainage system	Construction	\$ 33,400.00	22	8
57	2019	Brack Ex - 121 Exmore Avenue	Install closed drainage system	Construction	\$ 16,700.00	13	7
58	2019	Great Good Place II - 117 Great Circle Road	Install rip rap	Construction	\$ 20,500.00	22	8
59	2019	Harmony Crest Sec II - 108 Piano Drive	Install closed drainage system	Construction	\$ 16,000.00	18	9
60	2019	Highland Woods - 4 Big Oak Lane	Regrade ditch and place riprap	Construction	\$ 8,700.00	7	5
61	2019	Midway Little League Drainage	Regrade swale	Construction	\$ 21,400.00	21	9
62	2019	Saddlebrook - 154-168 Freedom Trail	Regrade swale	Construction	\$ 36,500.00	5	13
63	2019	Shallcross Place	Drainage improvements	Construction	\$ 90,000.00	8	10
64	2019	Westwoods - 311 Blue Jay Drive	Install underdrain	Construction	\$ 29,600.00	12	4
65	2019	Wynthorpe - 212 Southwyk & 38 Bancroft	Install closed drainage system	Construction	\$ 25,600.00	17	12
66	2009	DELAWARE CITY DRAINAGE IMP-PHASE II (Branch Canal)	DESIGN AND CONSTRUCT CITY DRAINAGE IMPROVEMENTS	Construction	\$ 2,700,000.00	15	12
67	2018	Old Cooches Bridge Road Drainage	Replace pipes and ditch	Construction	\$ 39,500.00	25	10

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68	2019	Whethersfield - Dasher Avenue	Install closed drainage system	Construction	\$ 47,750.00	18	13
69	2019	Whethersfield - Penny Lane	Install closed drainage system	Construction	\$ 42,300.00	18	13
70	2019	Whitebriar - 741 Whitebriar Road	Install underdrain	Construction	\$ 15,300.00	12	4
71	2019	Sharpley - Foulstone Road	Install closed drainage system	Construction	\$ 40,700.00	12	4
72	2019	Spring Creek Pond #1 and #2	Erosion at pond outfalls	Construction	\$ 105,000.00	9	14
73	2019	Oak Hill School Road	Remove and replace farm crossing pipe	Construction	\$ 20,800.00	11	14
74	2019	Morningside - Morning Glen Lane	Install closed drainage system	Construction	\$ 120,000.00	22	4
75	2019	Londonderry - Emerald Place	Install closed drainage system	Construction	\$ 29,250.00	10	5
76	2019	Devon - Malvern Ct. and Morningside Rd.	Install closed drainage system	Construction	\$ 49,900.00	10	5
77	2020	204 Eagles Landing Road	Install pipe and regrade	Construction	\$ 25,000.00	9	14
78	2020	409 Junction Street	Install closed drainage system	Construction	\$ 20,000.00	13	7
79	2020	409 New Road	Install closed drainage system	Construction	\$ 29,700.00	13	7
80	2020	4293 Dupont Parkway	Install closed drainage system	Construction	\$ 32,500.00	11	14
81	2020	Bellevue - 506 Calhoun Road	Install closed drainage system	Construction	\$ 20,500.00	6	1
82	2020	Brack Ex - 117 Exmore Avenue	Install closed drainage system	Construction	\$ 26,500.00	13	7
83	2020	Caravel Farms - 248 Benjamin Blvd.	Regrade backyard	Construction	\$ 13,500.00	27	12
84	2020	Carpenter Row Sign and Drainage	New sign and drainage improvements	Construction	\$ 11,500.00	4	4
85	2020	Edinburgh Villas - MacTavish Court	Install closed drainage system	Construction	\$ 57,200.00	5	13
86	2020	Estates of Red Lion - 8 S. Gabriel Drive	Install closed drainage system	Construction	\$ 36,600.00	15	12
87	2020	Forest Glen 2 - 312 Paddington Drive	Install closed drainage system	Construction	\$ 57,750.00	15	12
88	2020	Four Seasons - Autumn Horseshoe Bend	Clean and regrade ditch	Construction	\$ 95,000.00	25	10
89	2020	Gateway Townhomes - Beech Tree Lane	Install closed drainage system	Construction	\$ 30,000.00	12	4
90	2020	Melody Meadows - 53 Stardust Drive	Clean Ditch and Install Driveway Pipes	Construction	\$ 36,600.00	27	10
91	2020	Monterey Farms - 841 Reybold Drive	Clean ditch and install driveway pipes	Construction	\$ 42,700.00	5	13
92	2020	Pleasant Valley Estates - 125 and 127 Bartley Road	Clean and regrade ditch	Construction	\$ 39,300.00	27	10
93	2020	Sharpley - 722 to 726 Foulstone Road	Install closed drainage system	Construction	\$ 74,500.00	12	4
94	2020	Westover Chase - Moorfield Turn	Install closed drainage system	Construction	\$ 17,600.00	12	4
95	2020	Yorklyn Ridge - 3 Yorkridge Trail	Install cutoff swale	Construction	\$ 63,100.00	12	4
96	2020	109 N. Dupont Road	Placeholder	Funding	\$ 30,000.00	4	4
97	2020	705 Bay View Road	Placeholder	Funding	\$ 40,000.00	9	14
98	2020	960 S. Chapel Street	Placeholder	Funding	\$ 20,000.00	24	11
99	2020	3520 Newport Gap Pike	Placeholder	Funding	\$ 20,000.00	4	7
100	2020	Afton - 1603 Bolton Road	Placeholder	Funding	\$ 20,000.00	10	5
101	2020	Anglesey - 19 Harlech Drive	Placeholder	Funding	\$ 20,000.00	4	7
102	2020	Appoquin Farms - 8 Brant Court	Placeholder	Funding	\$ 10,000.00	14	
103	2020	Aspen Woods - 37 Cardenti Court	Placeholder	Funding	\$ 1,000.00	26	11
104	2020	Barrett Run - Barrett Run Place	Placeholder	Funding	\$ 1,000.00	26	11
105	2020	Beech Hill - 109 Beech Hill Drive	Placeholder	Funding	\$ 1,000.00	22	8
106	2020	Brackenville Road Drainage	Placeholder	Funding	\$ 1,000.00	12	4
107	2020	Brandywine Hunt - 405 Derby Way	Install closed drainage system	Funding	\$ 40,700.00	10	5
108	2020	Brookland Terrace - Bookland Ave. and Rhode Island Avenue	Placeholder	Funding	\$ 50,000.00	7	13
109	2020	Cedar Farms - 1 Cedar Farms Drive	Install closed drainage system	Funding	\$ 94,700.00	26	11
110	2020	Centerville Point - Centerville Terrace Circle	Install swale and regrade yards to drain	Funding	\$ 25,000.00	4	7
111	2020	Chelfonte - Granby Road and Oakmere Road	Placeholder	Funding	\$ 30,000.00	10	5
112	2020	Chestnut Valley - Renee Lane	Placeholder	Funding	\$ 30,000.00	22	4
113	2020	Chestnut Valley - Willow Creek Lane	Placeholder	Funding	\$ 30,000.00	22	4
114	2020	Cragmere Woods	Install closed drainage system	Funding	\$ 119,200.00	6	1
115	2020	Dartmouth Woods - 2611 Abington Road	Install closed drainage system	Funding	\$ 39,400.00	10	5
116	2020	Deerborne Woods - 47 Derrborne Trail	Placeholder	Funding	\$ 1,000.00	27	10
117	2020	Edinburgh Villas - MacKenzie Court	Install closed drainage system	Funding	\$ 40,000.00	5	13
118	2020	Exton - 2103 Exton Drive	Install closed drainage system	Funding	\$ 33,700.00	10	5
119	2020	Fairfax Farms - Nenagh Drive	Re-grade rear yard	Funding	\$ 18,200.00	12	4
120	2020	Faulkland Road Drainage	Placeholder	Funding	\$ 20,000.00	4	7
121	2020	Harmony Hills - 208 Catalina Drive	Install swale and regrade yard to drain	Funding	\$ 24,400.00	21	9
122	2020	Hockessin Greene	Placeholder	Funding	\$ 50,000.00	22	4
123	2020	Hockessin Valley Falls	Placeholder	Funding	\$ 10,000.00	22	4
124	2020	Hunters Ridge - Entrance	Placeholder	Funding	\$ 30,000.00	22	4
125	2020	Hunters Ridge - Haystack Drive	Drainage Improvements	Funding	\$ 61,500.00	22	4
126	2020	Hyde Run - 3316 Heritage Drive	Placeholder	Funding	\$ 20,000.00	4	7
127	2020	Lamatan - Flint and Quartz Mill Roads	Install closed drainage system	Funding	\$ 39,300.00	22	8
128	2020	Llangollen Estates - 316 Wooddale Ave.	Placeholder	Funding	\$ 5,000.00	17	12
129	2020	Manley - Robin Drive	Placeholder	Funding	\$ 20,000.00	22	4
130	2020	Milltown Road	Drainage improvements	Funding	\$ 80,000.00	21	9
131	2020	Northcrest - 1812 Walter Drive	Regrade yard to drain	Funding	\$ 33,200.00	10	5
132	2020	Oak Lane Manor - 2104 Allendale Road	Placeholder	Funding	\$ 1,000.00	12	4
133	2020	Rising Sun Lane - Drainage Improvements	Regrade area and support railroad abutment	Funding	\$ 225,000.00	4	1
134	2020	Rivers End - Bynum Place	Placeholder	Funding	\$ 1,000.00	18	11
135	2020	Rockland Mills Pond	Placeholder	Funding	\$ 50,000.00	4	4
136	2020	Salem Woods - 9 Linette Court	Placeholder	Funding	\$ 1,000.00	26	11
137	2020	Sedgley Farms - Stone Barn Lane	Placeholder	Funding	\$ 35,000.00	4	4

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138	2020	Shipley Road and Wilson Road Drainage	Placeholder	Funding	\$ 50,000.00	6	5
139	2020	Southwood - Slashpine Circle	Placeholder	Funding	\$ 15,000.00	22	8
140	2020	Spring Creek - 246 Labrador Lane	Install closed drainage system	Funding	\$ 37,700.00	9	14
141	2020	Stenning Woods - 302 Hadley Court	Placeholder	Funding	\$ 30,000.00	22	8
142	2020	Summer Hill - 2 Jaymar Drive	Placeholder	Funding	\$ 1,000.00	26	11
143	2020	The Ridge - Sleepy Hollow Court	Install underdrain and grade	Funding	\$ 26,350.00	22	4
144	2020	Timber Farms - West Hummock Lane	Placeholder	Funding	\$ 50,000.00	26	11
145	2020	Tybrook and Woodland Park Drainage Study	Study	Funding	\$ 25,000.00	4	7
146	2020	Tybrook - Frann Road	Drainage improvements	Funding	\$ 6,000.00	4	7
147	2020	Villages at Fairview Farm - 19 Fairview Avenue	Placeholder	Funding	\$ 20,000.00	8	10
148	2020	Weber Tract - Lloyd Place	Placeholder	Funding	\$ 40,000.00	10	5
149	2020	Webster Farms - 1115 Webster Drive	Placeholder	Funding	\$ 20,000.00	6	5
150	2020	Weldin Farms - 1506 Turkey Run Road	Regrade ditch	Funding	\$ 11,700.00	6	5
151	2020	Wellington Hills - Pierson Drive	Placeholder	Funding	\$ 30,000.00	10	8
152	2020	West Cedar Heights - 326 Clyde Street	Install closed drainage system	Funding	\$ 69,800.00	19	9
153	2020	Westhaven - Willing Way	Placeholder	Funding	\$ 50,000.00	4	4
154	2020	Westover Hills - 702 to 704 Hopeton Road	Install closed drainage system	Funding	\$ 82,000.00	4	4
155	2020	Westover Woods - Sarah Court	Clean channel	Funding	\$ 18,100.00	26	11
156	2020	Windy Hill - 34 Ferncliff Drive	Placeholder	Funding	\$ 10,000.00	24	9
157	2019	1109 Clayton Greenspring Road	Placeholder	Funding	\$ 1,000.00	11	14
158	2019	1163 Valley Road Drainage	install closed drainage system	Funding	\$ 20,200.00	12	4
159	2019	1515 Dexter Corner Road	Placeholder	Funding	\$ 1,000.00	11	14
160	2019	1920 Clayton Delaney Road	Repair Erosion	Funding	\$ 12,500.00	11	14
161	2019	Afton - 2603 Fairhope Road	install closed drainage system	Funding	\$ 45,500.00	10	5
162	2019	Alapocas - 17 and 19 Alapocas Road	install closed drainage system	Funding	\$ 32,000.00	4	4
163	2019	Ashbourne Hills - 30 East Avon Drive	Placeholder	Funding	\$ 1,000.00	7	1
164	2019	Breezewood - Noble Court & Newland Court	Placeholder	Funding	\$ 1,000.00	24	11
165	2019	Brookmeade - 8 Waxwing Court	Install trench drain and closed drainage system	Funding	\$ 36,600.00	4	7
166	2019	Chatam - 2401 Brookshire Drive	Placeholder	Funding	\$ 1,000.00	6	5
167	2019	Chelsea Estates - 107 Talbot Drive	Placeholder	Funding	\$ 1,000.00	17	13
168	2019	Christiana Village - Barnaby Street	Placeholder	Funding	\$ 1,000.00	26	11
169	2019	City of Wilmington - Helen Chambers Playground Drainage	Placeholder	Funding	\$ 1,000.00	3	3
170	2019	Estates of Red Lion	Clear and grade open space	Funding	\$ 10,000.00	15	12
171	2019	Fairway Falls	Placeholder	Funding	\$ 1,000.00	21	4
172	2019	Faulkland Woods - 2301 Woods Road	Install trench drain	Funding	\$ 66,400.00	4	7
173	2019	Food Bank of Delaware	Drainage improvements	Funding	\$ 40,000.00	8	10
174	2019	Glen Berne Estates - 1601 Glenmore Drive	Placeholder	Funding	\$ 1,000.00	19	9
175	2019	Gwinhurst - Laurel Avenue	Place trench drain and closed drainage system	Funding	\$ 40,000.00	7	1
176	2019	Hickory Woods - 651 Clifton Drive	Placeholder	Funding	\$ 1,000.00	15	12
177	2019	Lynnfield - Homewood Rd. and Ridgeland Rd.	Placeholder	Funding	\$ 1,000.00	6	5
178	2019	Monterey Farms - 856 Reybold Drive	Regrade and clean ditch	Funding	\$ 32,900.00	5	13
179	2019	Mt. Zion Cemetery Drainage	Placeholder	Funding	\$ 1,000.00	4	4
180	2019	North Grant Avenue	Repave street to address drainage issues.	Funding	\$ 63,000.00	4	1
181	2019	Oak Ridge - 3703 Oak Ridge Road	Reinstall swale and replace headwalls	Funding	\$ 88,000.00	22	4
182	2019	Odessa National - 220 - 224 Alloway Place	Placeholder	Funding	\$ 1,000.00	9	14
183	2019	Paper Mill Farms - 8 Ranch Court	Stabilize slopes	Funding	\$ 62,500.00	23	8
184	2019	Pencader Village - Garvey Lane	Placeholder	Funding	\$ 1,000.00	25	10
185	2019	Rambleton Acres Drainage	Clear area and install channel	Funding	\$ 158,000.00	5	13
186	2019	Stoney Batter Condominium Drainage	Create two outfalls and stabilize eroded areas	Funding	\$ 36,500.00	22	4
187	2019	Thornwood - Spur Ridge Court	Placeholder	Funding	\$ 1,000.00	27	10
188	2019	Village of Lindell	Placeholder	Funding	\$ 1,000.00	21	9
189	2019	Yorklynn - Center for the Creative Arts	Placeholder	Funding	\$ 1,000.00	8	4
190	2018	Asbury Chase Drainage	Placeholder	Funding	\$ 1,000.00	9	12
191	2018	Beau Tree Stormwater Pond	Stormwater pond rehabilitation	Funding	\$ 17,250.00	10	5
192	2018	Cambridge Gardens - 24 Beacon Lane	Install closed drainage system	Funding	\$ 22,400.00	5	13
193	2018	Cardiff - 3203 & 3205 Landsdowne Drive	Closed drainage system	Funding	\$ 10,950.00	10	5
194	2018	Christ The Teacher Stormwater Pond	Placeholder	Funding	\$ 1,000.00	27	10

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195	2018	Christine Manor - 101 Mason Drive	Stabilize eroded area.	Funding	\$ 5,000.00	23	8
196	2018	Colonial Woods - Brandywine Boulevard	Remove and replace deteriorated curb	Funding	\$ 50,000.00	12	5
197	2018	Guyencourt Road Drainage	Placeholder	Funding	\$ 1,000.00	12	4
198	2018	Hickory Woods - Clifton Drive	Placeholder	Funding	\$ 1,000.00	15	12
199	2018	Hockessin Glen Stormwater Pond	Placeholder	Funding	\$ 1,000.00	12	4
200	2018	Holly Oak Terrace - 1217 Washington Place	Install concrete gutter	Funding	\$ 26,700.00	6	1
201	2018	North Hills - Marsh Road - Brighton Road Drainage	Install closed drainage system	Funding	\$ 82,500.00	1	1
202	2018	Northshire - Graywood Road	Placeholder	Funding	\$ 1,000.00	7	5
203	2018	Pyles Lane and Pigeon Point Road Ditching	Placeholder	Funding	\$ 1,000.00	16	2
204	2018	Springfields - Charles Drive	Placeholder		\$ 1,000.00	5	13
205	2018	Valley Run - Thistle Court	Placeholder	Funding	\$ 1,000.00	10	5
206	2018	Village of Becks Pond - Becks Woods Road	Placeholder	Funding	\$ 1,000.00	15	12
207	2018	Wellington Meadows - Cromell Court & St. Thomas Lane	Placeholder	Funding	\$ 1,000.00	26	11
208	2018	Whethersfield - Daniels Place	Placeholder	Funding	\$ 1,000.00	18	13
209	2018	Wrangle Hill Estates - 124 Carlotta Drive	Install a grass swale	Funding	\$ 7,150.00	15	12
210	2017	3323 Silverside Road	Install closed drainage system	Funding	\$ 36,500.00	10	5
211	2017	Devonshire - Rockfield Drive	Install closed drainage system	Funding	\$ 37,500.00	10	5
212	2017	Drexel - 3210 Drexel Drive	Install closed drainage system	Funding	\$ 12,800.00	10	5
213	2017	Fox Fire - Foxfire Drive	Stabilize eroded area	Funding	\$ 5,800.00	22	4
214	2017	Massey's Church Tax Ditch	Tax ditch maintenance	Engineering	\$ 24,000.00	11	14
215	2017	Drawyer's Branch Tax Ditch	Tax ditch maintenance	Engineering	\$ 60,000.00	8	10
216	2017	Jefferson Farms Tax Ditch	Tax ditch maintenance	Engineering	\$ 20,000.00	16	2
217	2017	1038 Fieldsboro Road	Clean out ditch. Install crossroad pipes	Engineering	\$ 27,000.00	9	14
218	2017	Bristol Place Drainage	Install closed drainage system	Funding	\$ 25,300.00	27	12
219	2017	Caravel Farms - 255 Benjamin Drive	Grade and clean out ditch.	Funding	\$ 23,200.00	27	12
220	2017	Caravel Farms - 5 Congress Drive	Grade and clean out ditch.	Funding	\$ 30,900.00	27	12
221	2017	Castleshire - Dandenog Drive	Stabilize eroded areas	Funding	\$ 15,000.00	21	7
222	2017	Ballymeade Drainage	Placeholder	Funding	\$ 1,000.00	10	5
223	2017	Afton - Fairhope Road	Placeholder	Funding	\$ 1,000.00	10	5
224	2017	Northgate	Placeholder	Funding	\$ 1,000.00	10	5
225	2017	A-Street Ditch Project	Placeholder	Funding	\$ 1,000.00	16	2
226	2017	Barretts Run Ponds	Placeholder	Funding	\$ 1,000.00	26	11
227	2017	Becks Pond	Placeholder	Funding	\$ 1,000.00	26	11
228	2017	Chapelcroft - Burnett Drive	Armor bank with rip rap	Funding	\$ 6,500.00	10	5
229	2017	City of New Castle - Harmony Street	Placeholder	Funding	\$ 1,000.00	17	12
230	2017	City of New Castle - Stuyvesant Avenue	Placeholder	Funding	\$ 1,000.00	16	12
231	2017	City of New Castle - West Third Street	Placeholder	Funding	\$ 1,000.00	17	12
232	2017	Cotswold Hills	Placeholder	Funding	\$ 1,000.00	22	8
233	2017	Elmwood Pond	Placeholder	Funding	\$ 1,000.00	24	9
234	2017	Grantchester Ponds	Study	Funding	\$ 5,000.00	22	8
235	2017	Holly Oak Terrace - 3 Brookside Place	Replace failed pipe	Funding	\$ 20,500.00	6	1
236	2017	Leatherems Run Improvements	Placeholder	Funding	\$ 1,000.00		
237	2017	Lukens Drive - Zenith	Placeholder	Funding	\$ 1,000.00	17	2
238	2017	Owls Nest Road Drainage	Placeholder	Funding	\$ 1,000.00	12	4
239	2017	Owls Ridge Pond	Placeholder	Funding	\$ 1,000.00	12	4
240	2017	Perch Creek Ponds	Placeholder	Funding	\$ 1,000.00	27	10
241	2017	Westbrite - Westbrite Court	Placeholder	Funding	\$ 1,000.00	10	5
242	2017	Windy Hills - Dillwyn Road	Install underdrain	Funding	\$ 10,000.00	24	9
243	2017	Woods Road Tax Ditch	Placeholder	Funding	\$ 1,000.00	15	12
244	2017	185 Blackbird Station Road	Placeholder	Funding	\$ 1,000.00	11	14
245	2017	Brandywine Park Improvements	Placeholder	Funding	\$ 1,000.00	4	3
246	2017	City of Wilmington Drainage Improvements	Drainage and flooding problems in Wilmington	Funding	-		
247	2015	Boxwood Road	Flood study	Study	\$ 10,000.00	13	7
248	2016	Guthrie Tax Ditch	Tax ditch maintenance	Engineering	\$ 55,000.00	27	10,12
249	2016	Countryside Farms Tax Ditch	Tax ditch maintenance	Engineering	\$ 30,000.00	27	12
250	2016	David's Corner Tax Ditch	Tax ditch maintenance	Engineering	\$ 102,000.00	9	14
251	2016	130 Upper Pike Creek Road	Flood study	Study	\$ 120,000.00	21	9
252	2016	600 N. DuPont Parkway	Install curb	Funding	\$ 12,500.00	17	12
253	2016	Beacon Hill - East Court	Install closed drainage system	Funding	\$ 38,500.00	10	5
254	2016	Channin - 2501 Ruthwell Road	Recommend a study	Funding	\$ 5,000.00	10	5
255	2016	Christina River - Christiana Flood Study	Flood study	Funding	\$ 42,000.00	18	13
256	2016	Country Creek - 444 Barley Drive	Extend sump pump discharge to existing system	Funding	\$ 8,100.00	26	11
257	2016	Coventry - Dunsinane Drive	Install closed drainage system	Funding	\$ 25,400.00	18	13
258	2016	Governor Printz & Rolling Road	Install closed drainage system	Funding	\$ 39,000.00	6	1
259	2016	Harmony Hills - Kingsley Drive	Install closed drainage system	Funding	\$ 44,000.00	21	9
260	2016	Norwegian Woods - Penney Lane	Install trench drain	Funding	\$ 13,000.00	26	11
261	2016	Rolling Meadows - 900 & 902 Clydesdale Drive	Clean and restore drainage ditch	Funding	\$ 24,800.00	15	12

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262	2016	Rolling Meadows - 908 Clydesdale Drive	Replace driveway pipe	Funding	\$ 5,500.00	15	12
263	2016	Rutherford - 4 Rolling Drive	Install closed drainage system	Funding	\$ 74,000.00	18	9
264		LITTLE MILL CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 2,750,000.00	2,3,4,12,13,19	3,4,7
265		NAAMANS CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 750,000.00	7,10	15
266		NAAMANS WATERSHED PROJECTS	PROJECTS IDENTIFIED IN THE NAAMANS CREEK FLOOD ABATEMENT STUDY	Funding	\$ 100,000.00	7,10	1,5
267		RED CLAY CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 250,000.00	4,12,21,22	4,7,8,9
268		WHITE CLAY CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED	Funding	\$ 250,000.00	21,22,23,24,25	4,7,8,9
269		PIKE CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 147,000.00	12,17,18,19,21,22, 24	4,7,8,9
270		SHELLPOT CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 1,100,000.00	1,2,6,7,10,12	1,2,5
271		SHELLPOT CREEK- STORM WATER MANAGEMENT	DEVELOP LAND FOR STORMWATER CONTROL	Funding	\$ 2,000,000.00	1,2,6,7,10,12	1,2,5
272		CHRISTINA CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 300,000.00	2,3,4,5,12,13,16,17, 18,19,23,24,25,26,2 7	2,3,7,8,9,10,11,12, 13
273		DRAGON RUN CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 150,000.00	12,22	4,8
274	2012	2217 Pleasant Valley Road	Channel erosion and cleaning	Funding	\$ 25,000.00	27	10
275	2003	ABSALOM JONES DRAINAGE PHASE II	WALL REPAIR AND DRAINAGE IMPROVEMENTS OUTLETING TO STREAM UNDER CEDAR AVE	Planning	\$ 700,000.00	19	9
276		WILMINGTON SOUTH DRAINAGE	DRAINAGE PROBLEMS IN WATERSHED	Planning	\$ 250,000.00	16	2
277	2003	MILL CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA		\$ 300,000.00	12,19,21,22	4,7,8,9
278	2006	RIVER PARK CONDOMINIUM 1100 LORE AVENUE	STABILIZE DRAINAGE CHANNEL WITH BOULDER WALL AND RIPRAP	Funding	\$ 87,000.00	6	1
279	2004	WILMINGTON - WEBB ST.	STUDY FLOODING PROBLEMS	Funding	\$ 1,450,000.00	3,4	1,3,4
280	2014	Brairwood - Briar Road	Install closed drainage system that ties into DeIDOT's system.	Funding	\$ 26,650.00	6	5
281	2014	Caravel Farms - West Savannah Drive	Recommend a study be done.	Funding	\$ 37,200.00	27	12
282	2014	Devon - Rosetree Court	Install inlets with pipe.	Funding	\$ 26,200.00	10	5
283	2014	Elwin Manor - Godwin Drive	Erosion Repair at pipe outlet	Funding	\$ 14,500.00	25	10
284	2014	Jamison Corner Road	Placeholder		\$ 1,000.00	9	12
285	2014	Naamans Creek - Brandywine LL	Modify drainage system to correct problem.	Funding	\$ 250,000.00	10	5
286	2014	Post & Rail Farms - Old School House Road	Install swales to convey runoff to DeIDOT's system.	Funding	\$ 26,700.00	8	10
287	2014	Sharpley - Whitby Road	Replace curb and install 2 new drainage inlets	Funding	\$ 32,288.00	12	4
288	2014	Shellpot Creek - Flood/Drainage Study Cardiff, Woodbine and Tarleton	Study for FEMA Map Revision	Funding	\$ 24,300.00	10	5
289	2014	St. Georges Heights - Hybridge Avenue	Redirect swale to Colton Meadows.	Funding	\$ 18,500.00	9	14
290	2014	The Oaks - Split Rail Lane	Clear & grub easives. Needs wetlands permit	Funding	\$ 12,400.00	26	11
291	2014	Wilmington - 9th Avenue	Repair catch basin	Funding	\$ 4,500.00	2	3
292	2014	Wilmington Marsh Wetlands Project	Wetland rehabilitation	Funding	\$ 100,000.00	2	3
293	2014	Woodburne - Wildfire Lane	Install closed drainage system	Funding	\$ 30,200.00	5	13
294	2015	2018 Marsh Road	Remove and replace failed pipe and catch basin.	Funding	\$ 14,900.00	7	5
295	2015	Brandywood - Valley Avenue	Install closed drainage system	Funding	\$ 37,900.00	10	5
296	2015	Brennan Estates - Sarah Circle	Install underdrain along Sarah Court	Funding	\$ 62,000.00	27	10
297	2015	Chalfonte - Landon Drive	Install closed drainage system.	Funding	\$ 44,500.00	10	5
298	2015	Chestnut Hills Estates - 66 E. Stephen Drive	Clean out channel, remove tree and sediment	Funding	\$ 37,900.00	24	11
299	2015	Christiana - E. Main Street	Study on flooding conditions in Christiana.	Funding	\$ 50,000.00	18	13
300	2015	Christiana Green - Old Baltimore Pike	Placeholder		\$ 1,000.00	26	11
301	2015	Fairway Falls - Stream Stabilization	Stream Stabilization	Funding	\$ 210,000.00	21	4
302	2015	Grantchester - Findail Drive	Placeholder		\$ 1,000.00	22	8
303	2015	Hillcrest - Beverly Place	Install swale in back yard.	Funding	\$ 10,400.00	6	1
304	2015	Magazine Ditch	Placeholder		\$ 1,000.00	16	2
305	2015	Marrows Road - Marrows Court-Chaucer Drive	Study with City of Newark	Funding	\$ 50,000.00	24	11
306	2015	Marshallton Heights - Overlook Avenue	Clear & grub ditch remove sediment and armor with riprap.	Funding	\$ 29,500.00	19	7
307	2015	New Castle - Battery Park	Drainage improvements in the park	Funding	\$ 25,000.00	17	12
308	2015	Old Baltimore Pike (1205 & 1211)	Stabilize channel with riprap.	Funding	\$ 29,900.00	25	10
309	2015	Pleasant Hills - Kentucky Avenue	Install closed drainage system that ties into DeIDOTs.	Funding	\$ 65,000.00	19	9
310	2015	Rutherford - 123 & 125 Rolling Drive	Install closed drainage system.	Funding	\$ 61,600.00	18	9
311	2015	Saint Georges - Church Street	Replace driveway pipe and regrade as needed.	Funding	\$ 13,600.00	15	12
312	2015	Upper Pike Creek Road	Study on flooding conditions.	Funding	\$ 36,000.00	22	4
313	2015	Vineyards Maintenance Corporation	Install underdrain from rear yard to existing catch basin.	Funding	\$ 12,800.00	7	5

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314	2015	Wilmington - 2401 Paper Lane	Placeholder		\$ 1,000.00	10	5
315	2015	Wilton - 19 Blyth Court	Placeholder		\$ 1,000.00	18	13
316	2015	Windy Hills -314 North Dillwyn Road	Install slot drain and outlet into back yard.	Funding	\$ 18,000.00	24	9
317	2016	1010 Red Lion Road	Placeholder		\$ 1,000.00	15	12
318	2016	130 Upper Pike Creek Road	520 ft. of stream bank stabilization.	Funding	\$ 120,000.00	21	9
319	2016	202 East 6th Street	Placeholder		\$ 1,000.00	16	12
320	2016	600 N. DuPont Parkway	Install curb	Funding	\$ 12,500.00	17	12
321	2016	770 Blackbird Station Road	Placeholder		\$ 1,000.00	11	14
322	2016	Addicks Estates - 26 Marion Avenue	Placeholder		\$ 1,000.00	10	1
323	2016	Anglesey - Harlech Drive	Placeholder		\$ 1,000.00	4	7
324	2016	Beacon Hill - East Court	Closed drainage system to tie-in roof drains	Funding	\$ 38,500.00	10	5
325	2016	Benton - 15 Benton Court	Install closed drainage system	Funding	\$ 38,000.00	10	5
326	2016	Brandywine Falls Raceway Rehabilitation	Repair raceway	Funding	\$ 90,000.00	4	1
327	2016	Christianstead Pedestrian Bridge	STABILIZE STREAM BANKS WITH RIPRAP	Funding	\$ 45,000.00	23	8
328	2016	Commodore Estates II - 106 Bakerfield Drive	Placeholder		\$ 1,000.00	9	12
329	2016	Dunleith - Bunche Blvd	Placeholder		\$ 1,000.00	16	2
330	2016	Dunleith - Morehouse Drive	Placeholder		\$ 1,000.00	16	2
331	2016	Dunleith - Oval Circle	Placeholder		\$ 1,000.00	16	2
332	2016	Grande View Farms - Bullen Drive	Clean ditch		\$ 100,000.00	9	10
333	2016	Woodland Park - Glenoak Road	Drainage study	Study	\$ 50,000.00	4	7
334	2016	Woodrose - Rose Circle	Stabilize banks	Funding	\$ 460,000.00	21	9
335		CALF RUN WATERSHED	STUDY BANK STABILIZATION PROBLEMS AND IMPLEMENT SOLUTIONS	Funding	\$ 250,000.00	15	12
336		BRIDLESHIRE FARMS	DESIGN AND CONSTRUCT SECONDARY SPILLWAY TO POND	Funding	\$ 200,000.00	10	1
337		ARMY CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 50,000.00	19	7
338		BRANDYWINE CREEK WATERSHED	SEDIMENT CONTROL	Funding	\$ 120,000.00	5,17,18	1,2,13
339		BUTTONWOOD CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA -TIDE GATE REPLACEMENT	Funding	\$ 217,500.00	1,2,4,6,10,12	1,2,3,4
340		BACK CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 500,000.00	16,17	2
341		AUGUSTINE CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 50,000.00	22	8
342		Red Clay Creek Watershed - Hyde Run	Streambank stabilization & erosion control for water quality	Funding	\$ 50,000.00	16 & 17	2 & 12
343	2013	Rogers Road - Community Presbyterian Church	Remove sediment and debris from the pond along with increasing the ponds capacity	Funding	\$ 168,000.00	16	2
344	2013	Chelsea Estates - Mark Drive/Louise Road	Install underdrain to intercept spring that freezes on roadway.	Funding	\$ 71,200.00	17	13
345	2013	Hockessin Valley Falls - Peoples Way	Realign, reshape and stabilize existing channel.	Funding	\$ 23,300.00	22	4
346	2013	Wilmington - 6 to 12 Main Street	Eliminate drainage problem in street.	Funding	\$ 76,700.00	4	4
347	2013	Alapocas - Edgewood Road	Placeholder		\$ 1,000.00	4	4
348	2012	1117 Bohemia Mill Road	Drainage problem	Funding	\$ 110,500.00	8	10
349	2012	3097 New Castle Avenue	Redefine and improve drainage flow adjacent to 3097 and install closed drainage system behind units 233 to 239 Mansion Parkway	Funding	\$ 40,800.00	16	2
350	2012	3110 Old Limestone Road	Install closed drainage system of pipe and inlets from existng DelDOT C.B.	Funding	\$ 42,600.00	21	9
351	2012	Caravel Woods - 102 Savannah Drive	Reconstruct roadside swale	Funding	\$ 9,600.00	27	12
352	2012	Chalfonte - 2305 Berwyn Drive	Install pipe system with inlets & connect rear roof drains.	Funding	\$ 15,450.00	10	5
353	2012	Chatham - 1204 Windon Drive	Redirect sump pump outlet to DelDOT's drainage system.	Funding	\$ 15,000.00	6	5
354	2012	Chestnut Hills Estates - Merion & Davies	Clear & grub, remove sediment and replace any damaged concrete gutter	Funding	\$ 48,500.00	24	11
355	2012	Christiana Green - 504 Blacksmith Lane	Construct swale in backyards of 506, 504, 502 & 500 and adjust fences.	Funding	\$ 5,100.00	26	11
356	2012	Elmwood - Marie Court & Spectrum Drive	Install 2 lawn inlets with underdrain that ties into existing C.B. Repair C.B.	Funding	\$ 25,500.00	24	11
357	2012	English Creek - 1993 Carol Drive	Install underdrain under curb.	Funding	\$ 28,850.00	21	9
358	2007	GEORGE READ VILLAGE	FENCE REPAIRS	Funding	\$ 6,500.00	25	8
359	2006	GRANDE VIEW FARMS-WELLINGTON WAY	REESTABLISH DRAINAGE DITCH AND ALIGN TO PIPE CROSSING OF RT. 13	Funding	\$ 19,100.00	9	12
360	2012	Grears Acres - 923 Grears Corner Road	Drainage & swale improvements	Funding	\$ 11,800.00	11	14
361	2012	Hillcrest - 305 & 307 Woodsside Avenue	Install berm with swale and concrete curb.	Funding	\$ 22,150.00	6	1

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362	2012	Hockessin Valley Falls - 502 Wilson Drive	Replace with larger pipe	Funding	\$ 37,000.00	22	4
363	2005	HYDE PARK	FLOODING PROBLEMS IN AREA	Funding	\$ 150,000.00	19	7
364	2012	Lakeside at Riversedge - 107 Einstein Drive	Line channel from Providence Drive to pond with riprap. Permit may be required.	Funding	\$ 30,800.00	18	11
365	2012	Lancashire - Inwood Road	Parcels being considered for flood remediation.	Funding	\$ 1,280,000.00	7	5
366		New Castle County Flood Studies	Flood studies to revise poorly mapped floodplains in New Castle County	Funding	\$ 250,000.00	5	13
367	2012	Old Kennett Road near Way Road	Install underdrain	Funding	\$ 12,600.00	12	9
368	2008	PLEASANT VALLEY FARMS - FERRIS COURT	REALIGN AND STABILIZE A SECTION OF MUDDY RUN	Funding	\$ 136,600.00	27	10
369	2012	Ramblewood Pond	Water quality assessment & Improvement project	Funding	\$ 175,000.00	10	5
370	2012	Salem Woods - 1 White Drive	Debris pit remediation	Funding	\$ 100,000.00	26	11
371	2009	SHIPLEY ROAD - 1501	INSTALL A GRASS SWALL FROM A NEW DELDOT VALLEY GUTTER ACROSS TO THE EXISTING STREAM	Funding	\$ 13,180.00	6	5
372	2012	Stockdale - 11 Palace Drive	Construct swale with berm behind 11 Palace Drive & adjacent properties.	Funding	\$ 29,900.00	7	1
373	2012	Sunset Lake - Sediment Control & Habitat Enhancement	Water quality	Funding	\$ 225,000.00	24	10
374	2012	Sycamore Gardens - 3 Medill Lane	Install underdrain under sidewalk	Funding	\$ 17,000.00	24	5
375	2012	The Timbers - 7 Magnolia Court	Remove and replace damaged sections of concrete channel.	Funding	\$ 13,000.00	10	5
376	2012	Thornwood - 2 Hazelwood Drive	Request letter was dated June 16, 2010, but was received Oct. 4, 2010.	Funding	\$ 21,800.00	25	10
377	2012	Village of Lindell - 2315 & 2313 St. Francis Street	Repair or replace deteriorated timber retaining wall.	Funding	\$ 71,000.00	21	9
378	2012	Wedgewood - 128 Dutton Court	Install basin with pipe connection to existing basin	Funding	\$ 14,700.00	18	13
379	2012	Weldin Wood - Weldin Circle Drainage	Install closed drainage system.	Funding	\$ 99,700.00	6	5
380	2012	Willow Run - 10 Harrow Place	Construct swale/berm	Funding	\$ 6,200.00	13	7
381	2012	Brookside - Keller Road	Clear & regrade swale	Funding	\$ 38,000.00	24	11
382	2007	DIXIE LINE ROAD - NORTH OF I-95	RESOLVE FLOODING ISSUES	Funding	\$ 25,000.00	25	10
383		DEBRIS PITS	DEBRIS PIT REMEDIATION		\$ 150,000.00		
384		RUTHERFORD - W. RUTHERFORD DR. #102-#104	SOLUTION TO BE DETERMINED	Funding	\$ 13,000.00	18	9
385	2004	ROSEVILLE PARK - BOXWOOD AVENUE	RECONSTRUCT BOXWOOD AVE. BETWEEN OAK AVE. AND CHESTNUT AVE.	Funding	\$ 134,000.00	21	9
386	2010	ROBSCOTT MANOR 36 & 38 GILL DRIVE	REPLACE DRIVEWAY PIPE AT EAST CHESTNUT HILL ROAD	Funding	\$ 26,800.00	25	12
387	2006	ROLLING MEADOWS-HACKNEY DRIVE	INSTALL PIPE IN ROAD SIDE SWALE	Funding	\$ 15,400.00	15	12
388	2006	NAAMANS MANOR - VALLEY & CLEARVIEW AVES	INSTALL CURBING AND CLOSED SYSTEM FOR DRAINAGE CONTROL	Funding	\$ 93,400.00	7	5
389	2007	NAAMANS MANOR - VALLEY AVENUE #2204	SOLUTION TO BE DETERMINED	Funding	\$ 66,800.00	7	5
390	2005	RIVERS END WEST DRIVE	REPLACE CURB TO PROPER GRADE TO PREVENT RUNOFF ONTO DRIVEWAY	Funding	\$ 20,500.00	5	11
391	2008	BARLEY MILL COURT STREAM STABILIZATION	STREAM IMPROVEMENTS	Funding	\$ 105,000.00	12	4
392	2007	ARDEN - MARSH ROAD	INSTALL DRAINAGE SYSTEM TO CONTROL RUNOFF FROM MARSH ROAD	Funding	\$ 83,200.00	7	5
393	2005	RIVERS END EAST DRIVE	INSTALL UNDERDRAINS AND CATCH BASINS TO RESOLVE DRAINAGE PROBLEMS IN YARD	Funding	\$ 20,800.00	5	11
394	2010	RED CLAY WATERSHED SURFACE WATER CONTROL FOR AI DUPONT HS	AREA TO BE REGRADED TO PROVIDE FOR POSITIVE RUNOFF	Funding	\$ 52,000.00	12	4
395	2011	Buckingham Heights - 2116 Buckingham Road	Install closed drainage system behind homes.	Funding	\$ 28,200.00	7	5
396	2007	BROOKSIDE - KENMAR DRIVE	REESTABLISH AND STABILIZE DRAINAGE DITCH	Funding	\$ 37,000.00	24	11
397	2006	BROOKMEADE - SKYLARK ROAD	INSTALL CATCH BASINS AND PIPE IN STREET TO CONTROL SURFACE RUNOFF	Funding	\$ 17,700.00	4	7
398	2010	Brookhaven - 45 to 71 Green Ridge Road	Install closed drainage system behind homes.	Funding	\$ 167,800.00	21	9
399	2007	ROCKLAND - MT. LEBANON ROAD	DRAINAGE IMPROVEMENTS TO CONTROL FLOODING	Funding	\$ 350,000.00	12	4
400		CHESTNUT RUN	STUDY AND MODELING TO DEVELOP SOLUTIONS TO FLOODING	Funding	\$ 45,000.00	24	11
401	2006	CANNONSHIRE-CANNON RUN #16 & #18	INSTALL CLOSED DRAINAGE SYSTEM AND SWALE. CONNECT TO DELDOT	Funding	\$ 34,100.00	25	10

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402	2008	AIRPORT ROAD # 168 - # 174	CONSTRUCT DETENTION POND AND LATERAL DITCHING TO CONTROL RUNOFF	Funding	\$ 153,000.00	17	13
403	2006	ALBAN PARK - HOMESTEAD ROAD	REPLACE FAILED STORM SEWER SYSTEM	Funding	\$ 37,000.00	2	3
404		STONE CREEK WATERSHED	EROSION CONTROL ALONG STREAM	Funding	\$ 15,600.00	21	4
405		RED LION CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 50,000.00	5	13
406		PLUM RUN WATERSHED	EROSION AND STORMWATER CONTROL	Funding	\$ 125,000.00	1-13; 15-27	1,14
407		DRAWYERS CREEK WATERSHED	FLOODING PROBLEMS IN WATERSHED AREA	Funding	\$ 50,000.00	18	9
408	2009	SOUTH WILMINGTON - CENTRAL PARK	REGIONAL STORMWATER MANAGEMENT STUDY	Funding	\$ 150,000.00	2	3
409	2008	BECHTEL PARK - WALKING PATH BRIDGE	SOLUTION TO BE DETERMINED	Funding	\$ 36,600.00	10	5
410	2006	BELLE TERRE	STORMWATER MANAGEMENT POND	Funding	\$ 50,000.00	12	4
411	2006	BRANDYWINE SPRINGS MANOR- ADDISON DRIVE	INST. CLOSED DRAINAGE AND SWALE TO ELIMINATE BASEMENT FLOODING & EROSION	Funding	\$ 48,900.00	4	7
412	2006	BREEZEWOOD II - W. SHADY DRIVE	EXTEND EXISTING PIPE. CONSTRUCT DRAINAGE INLET. INSTALL PROTECTION GRATE	Funding	\$ 19,500.00	24	11
413	2007	BRANDYWOOD - VALLEY ROAD	FLOODPROOFING, BOULDER BANK STABILIZATION, SWALE CONSTRUCTION	Funding	\$ 66,800.00	10	5
414	2006	BRANDYWOOD - MAJESTIC DRIVE	CONSTRUCT DRAINAGE SWALES TO DIRECT RUNOFF AWAY FROM HOUSE STRUCTURE	Funding	\$ 9,700.00	10	5
415	2007	FAULKLAND ROAD # 2203	INSTALL DRAINAGE SYSTEM TO ALLEVIATE RUNOFF ENTERING HOUSE	Funding	\$ 37,600.00	4	7
416	2003	DUNLEITH - ANDERSON DR.	INSTALL UNDERDRAIN. CONNECT TO CB ON BUNCHE BOULEVARD	Funding	\$ 52,000.00	16	2
417	2009	SOUTH WILMINGTON - WEST	NEIGHBORHOOD WIDE DRAINAGE ISSUES	Funding	\$ 200,000.00	16	2
418		SILVERBROOK RUN	STUDY FLOODING PROBLEMS		\$ 100,000.00	12	4
419	2008	HARMONY WOODS - DIMINISH DRIVE #140	INSTALL CLOSED DRAINAGE SYSTEM TO ELIMINATE STANDING WATER	Funding	\$ 28,800.00	18	9
420	2010	HARMONY WOODS - DIMINISH DRIVE #150	INSTALL CLOSED DRAINAGE SYSTEM BEHIND 148 & 150	Funding	\$ 25,400.00	18	9
421	2008	HARMONY WOODS - MINOR COURT	INSTALL CLOSED DRAINAGE SYSTEM IN REAR YARD. CONNECT TO DOT ON DIMINISH DR.	Funding	\$ 32,200.00	18	9
422	2008	HARMONY WOODS - PIANO DRIVE # 106	CONSTRUCT SWALES TO RELIEVE STANDING WATER	Funding	\$ 13,100.00	18	9
423	2006	HARMONY HILLS - KINGSLEY DRIVE	INSTALL DRAINAGE SYSTEM IN REAR YARDS TO ELIMINATE FLOODING	Funding	\$ 44,400.00	21	9
424	2006	HYDE RUN EROSION CONTROL	EROSION CONTROL AND STABILIZATION MEASURES	Funding	\$ 110,000.00	12	7
425	2005	ELSMERE - TOWN WIDE	ANALYZE DRAINAGE INFRASTRUCTURE. SUGGEST IMPROVEMENTS TO REDUCE FLOODING	Funding	\$ 66,000.00	13	7
426	2006	ELSMERE - LOCUST AVENUE	STUDY & DEVELOP SOLUTION TO DRAINAGE PROBS BEHIND 242 TO 268 LOCUST AVE.	Funding	\$ 15,000.00	13	7
427	2006	COOPER FARMS - YALE ROAD	REPLACE EXISTING C&G WITH FULL HEIGHT C&G TO CONTROL RUNOFF FROM YALE ROAD	Funding	\$ 29,900.00	19	7
428	2005	COOPER FARM - LOCUST ROAD #15	INSTALL SWALE AND BERM TO DIRECT RUNOFF FROM SCHOOL PROPERTY TO A JUNCTION BOX CONVERTED TO A CATCH BASIN	Funding	\$ 9,400.00	19	7
429	2006	CHRISTIANA BRACE	STORMWATER MANAGEMENT POND	Funding	\$ 100,000.00	24	11
430	2005	DELPARK MANOR - REESE COURT	INSTALL CLOSED DRAINAGE SYSTEM. CONNECT TO DELDOT	Funding	\$ 59,800.00	19	9
431	2005	CEDARCREST	FLOOD DAMAGE REPAIRS	Funding	\$ 20,000.00	19	7
432	2006	CHANNIN - RAMBLEWOOD DRIVE	REPLACE FAILED DRAINAGE SYSTEM	Funding	\$ 26,800.00	10	5
433	2006	CHRISTIANA ACRES-MEADOW LANE	CLEAN AND RESHAPE TIDAL DRAINAGE DITCH	Funding	\$ 65,000.00	17	13
434	2008	CARAVEL HUNT - RICE DR.	SOLUTION TO BE DETERMINED	Funding	\$ 14,700.00	15	12
435	2000	WESTOVER HILLS- DRAINAGE- 5 LOCATIONS	STUDY OF DRAINAGE PROBLEMS IN WESTOVER HILLS	Funding	\$ 615,000.00	4	4
436	2006	WESTOVER HILLS-WESTOVER CIRCLE	STUDY AND DEVELOP SOLUTIONS AND ESTIMATES TO CORRECT RETAINING WALL AND SLOPE FAILURES	Funding	\$ 71,000.00	4	4
437	2007	WESTOVER HILLS - SECT. B	REPAIR /REPLACE DETERIORATED AND DAMAGED SIDEWALKS	Funding	\$ 31,100.00	4	4
438	2001	WILMINGTON - ROCKFORD & IVY/BANCROFT MILLS	INVESTIGATE DRAINAGE AND POLLUTION PROBLEMS	Funding	\$ 80,000.00	4	1
439	2007	PINE VALLEY FARMS - WHITE PINE DRIVE	REPLACE PIPE UNDER ROAD WITH ONE OF ADEQUATE CAPACITY	Funding	\$ 48,400.00	9	14
440	2006	VILLAGE OF LINDELL - GREENWAY	CONSTRUCT GREENWAY PATH	Funding	\$ 427,400.00	21	9
441	2005	SHELLBURNE DRAINAGE IMPROVEMENTS	CONST. STUDY SOLUTION TO DRAINAGE PROBS ON CARWELL, PASC10, SHELLBURNE	Funding	\$ 240,500.00	6	5

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442	2007	RADNOR GREEN - OSAGE ROAD	REESTABLISH SWALE WITH BERM ALONG SCHOOL PROPERTY TO CONTROL RUNOFF	Funding	\$ 80,800.00	7	1
443	2010	OLD CAPITOL TRAIL - 4400	REPAIR STREAM BANK EROSION	Funding	\$ 12,800.00	19	7
444	2009	NEWPORT GAP PIKE - 3704	RIPRAP PROTECTION AND WATER MANAGEMENT	Funding	\$ 68,000.00	22	4
445	2007	MORNINGSIDE - MORNING GLEN LANE # 2	REESTABLISH DRAINAGE DITCH AND STABILIZE WITH RIPRAP TO PREVENT EROSION	Funding	\$ 120,000.00	22	4
446	2009	MORNINGSIDE - MORNING GLEN LANE # 30	SOLUTION TO BE DETERMINED	Funding	\$ 16,200.00	22	4
447	2010	SHIPLEY ROAD - 1919	INSTALL RIPRAP PROTECTION AT CRITICAL POINTS ALONG BANK AND PIPE OUTLET	Funding	\$ 60,500.00	6	5
448	2007	FOX WOODS - FOX DRIVE # 106 (REINSTATE)	INSTALL DRAINAGE SYSTEM TO RELIEVE BACKYARD FLOODING	Funding	\$ 22,500.00	24	9
449	2007	GRAYLYN CREST - GRAYLYN ROAD	STABILIZE STREAM BANKS WITH RIPRAP	Funding	\$ 49,000.00	6	5
450	2006	COLONIAL PARK-ATKINS AVENUE	INSTALL CLOSED DRAINAGE SYSTEM TO RELIEVE BACK YARD FLOODING AND PONDING	Funding	\$ 40,400.00	13	3
451	2006	EDINBURGH VILLAS-SHETLAND WAY	INSTALL DRAINAGE SYSTEM IN REAR YARDS TO ELIMINATE STANDING WATER PROBLEMS	Funding	\$ 49,900.00	5	13
452	2009	Fairfax - 201 Pinehurst Drive	Install closed pipe system with inlet.	Funding	\$ 26,000.00	12	4
453	2008	MARSHALLTON - DUNCAN AND GREENBANK ROAD	REPLACE GUARDRAIL AND RETAINING WALL WITH CONCRETE CHANNEL AND DECORATIVE PARAPET	Funding	\$ 205,000.00	19	7
454	2008	GREENBANK ROAD # 610	INSTALL CLOSED DRAINAGE SYSTEM TO ELIMINATE BANK EROSION	Funding	\$ 24,400.00	19	7
455	2008	HOCKESSIN VILLAGE	IMPLEMENT STUDY RECOMMENDATIONS	Funding	\$ 100,000.00	20	4
456	2005	LIMESTONE HILLS - GREENWAY	REPAIR AND RESURFACE GREENWAY PATH	Funding	\$ 110,000.00	20	8
457	2005	HYDE PARK - DUNCAN ROAD	REMOVE AND REPLACE CURB TO PROPER GRADE. INSTALL CLOSED DRAINAGE SYSTEM	Funding	\$ 28,300.00	19	7
458	2005	GREEN ACRES - GRINNELL ROAD	INSTALL CLOSED DRAINAGE SYSTEM TO ELIMINATE PONDING IN REAR YARD	Funding	\$ 27,000.00	6	5
459	2008	LEXINGTON SQUARE - SENTRY LANE	REPAIR CATCH BASIN AND SINKHOLES. REGRADE SWALE	Funding	\$ 13,700.00	21	9
460	2004	WOODLAND TRAILS - DEFOE CIRCLE	INSTALL U-DRAIN SYSTEM CONNECTING TO CB ON TAYLOR DR. TO SOLVE PONDING	Funding	\$ 85,500.00	18	11
461	2008	STONEFIELD - BASALT STREET	CONSTRUCT DRAINAGE SWALE IN REAR YARDS FOR PROPER DRAINAGE	Funding	\$ 11,600.00	9	
462	2009	Stratford - 33 E. Edinburgh Drive	Install swale & lawn inlets	Funding	\$ 21,000.00	17	13
463	2008	WELDIN WOODS - WELDIN CIRCLE	INSTALL UNDERDRAIN AND SWALE TO DRAIN PROPERTY TO STREAM	Funding	\$ 77,700.00	6	5
464	2008	STONEFIELD - OLIVINE CIR.	INSTALL CB AND PIPE TO DRAIN PONDING AREA	Funding	\$ 7,600.00	9	14
465	2006	YORK FARMS-CORNWELL DRIVE	CLEAR VEGETATION AND INSTALL UNDERDRAIN TO ALLEVIATE ROAD ICING CONDITIONS	Funding	\$ 24,800.00	15	12
466	2006	CHARTER OAKS 1	STORMWATER MANAGEMENT POND	Funding	\$ 35,000.00	12	4
467	2005	SOUTHWOOD	IMPLEMENT STUDY SOLUTIONS FOR EROSION AND DRAINAGE PROBLEMS ON MILL CREEK	Funding	\$ 200,000.00	22	8
468	2006	STUYVESANT HILLS	STORMWATER MANAGEMENT POND	Funding	\$ 100,000.00	12	4
469	2006	MENDENHALL VILLAGE 1	STORMWATER MANAGEMENT POND	Funding	\$ 250,000.00	22	4
470	2008	MENDENHALL VILLAGE - BEECHWOOD CIRCLE TO TALL OAKS DRIVE	SOLUTION TO BE DETERMINED	Funding	\$ 10,800.00	22	4
471	2007	FOULK WOODS - DEEPWOOD DRIVE	RESOLVE EROSION CONDITIONS	Funding	\$ 50,000.00	10	5
472	2008	CANNONSHIRE - GENERAL MAXWELL COURT	SOLUTION TO BE DETERMINED	Funding	\$ 32,700.00	25	10
473	2008	ADDICKS ESTATE 14 MARION AVE	INSTALL CURB & GUTTER WITH CLOSED DRAINAGE SYSTEM TO DIVERT RUNOFF	Funding	\$ 54,800.00	10	1
474	2008	HARMONY WOODS - CORONET COURT # 5	CONSTRUCT SWALE TO DRAIN STANDING WATER AREAS IN FRONT AND SIDE YARDS	Funding	\$ 14,800.00	18	9
475	2010	HARMONY WOODS - HARMONY CREST DR. # 123	INSTALL A CLOSED DRAINAGE SYSTEM	Funding	\$ 26,100.00	18	9
476	2007	LUMS POND ESTATES III - HOPE COURT EAST	INSTALL DRAINAGE SYSTEM TO REDIRECT FLOW ALONG BACK OF PROPERTY	Funding	\$ 16,500.00	15	12
477	2008	FAULKLAND WOODS - WOODS ROAD	INSTALL NEW ROAD DRAINAGE SYSTEM	Funding	\$ 357,000.00	4	7
478	2006	THE MILLRACE (ROCKLAND)	DRAINAGE IMPROVEMENTS TO RESOLVE FLOODING PROBLEMS	Funding	\$ 344,400.00	10	4
479	2005	WESTMINSTER	DETENTION BASIN	Funding	\$ 100,000.00	4	7
480	2006	WESTGATE FARMS-WESTGATE DRIVE	INSTALL UNDERDRAIN SYSTEM, WITH INLETS, DISCHARGING INTO STREAM IN PARKLAND	Funding	\$ 75,700.00	4	7
481	2008	WEBSTER FARMS - WEBSTER DRIVE #1119 - #1121	INSTALL CLOSED SYSTEM TO RELIEVE FLOODING CONDITIONS	Funding	\$ 54,000.00	6	5

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New Castle County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
482	2006	CLELAND HEIGHTS-CLELAND COURSE	PE TO EVALUATE FLOODING PROBLEMS AND DEVELOP SOLUTIONS	Funding	\$ 15,000.00	13	3
483	2005	CONCORD MANOR - BETHEL STREET	INSTALL DRAINAGE SYSTEM TO RELIEVE BACK YARD PONDING	Funding	\$ 20,800.00	12	5
484	2007	CONCORD MANOR - BROOKFIELD AVE. & MARIANNA DRIVE	STUDY TO DEVELOP SOLUTION TO FLOODING OF INTERSECTION	Funding	\$ 30,000.00	12	5
485	2008	DARTMOUTH WOODS - STURBRIDGE DRIVE	INSTALL CLOSED DRAINAGE SYSTEM TO ELIMINATE SUMP PUMP DISCHARGE INTO STREET	Funding	\$ 34,500.00	10	5
486	2002	DEERHURST - PIERCE RD	INSTALL UNDERDRAIN AND CATCH BASINS	Funding	\$ 29,300.00	6	5
487	2008	DEVONSHIRE - ALTAMONT DRIVE	INSTALL CLOSED DRAINAGE SYSTEM TO CONTROL RUNOFF DIRECTED AT BASEMENT WALL	Funding	\$ 12,500.00	10	5
488	2006	DRUMMOND FARMS - DRUMMOND FARMS LANE	INSTALL SLOTTED DRAIN IN CURB AND BUILD CB TO ELIMINATE FREEZING WATER ON ROAD	Funding	\$ 39,400.00	22	4
489	2010	MEADOWOOD - 118 FORSYTHIA DRIVE	INSTALL CLOSED DRAINAGE SYSTEM IN REAR YARDS.	Funding	\$ 20,900.00	21	9
490	2005	LINDAMERE - NORTH RD	REMOVE PCC SLAB AND BUILD CATCH BASIN	Funding	\$ 7,400.00	6	1
491	2007	HOCKESSIN HUNT - BRIDLE PATH EAST	REDEFINE AND STABILIZE DRAINAGE CHANNEL	Funding	\$ 17,400.00	22	4
492	2006	HICKORY WOODS - CHRISSY COURT & SHAGBARK COURT	REESTABLISH DRAINAGE SWALE	Funding	\$ 48,500.00	27	12
493	2006	GREEN VALLEY-6TH STREET	CONSTRUCT SWALE TO CONVEY RUNOFF OUT OF REAR YARDS	Funding	\$ 11,800.00	21	9
494	2008	MIDDLETOWN-SLOOP LANE	INSTALL CLOSED DRAINAGE SYSTEM WITH DROP STRUCTURES TO CHECK EROSION	Funding	\$ 34,000.00	9	10
495	2006	MILLCREEK ROAD # 2802	INSTALL UNDERDRAIN SYSTEM TO CONTROL SPRING ACTIVITY	Funding	\$ 14,900.00	21	7
496	2010	1125 Old Baltimore Pike	Install lawn inlet in back yard of 704 Springcreek Ct. with pipe that outlets into SWMP	Funding	\$ 12,700.00	25	10
497	2006	ASHBOURNE HILLS - 8 RUBY DRIVE	REPLACE FAILED STORM SEWER PIPE. INSTALL CB TO CONTROL STREET RUNOFF	Funding	\$ 15,000.00	7	1
498	2008	BELLEFONTE - PROSPECT AVENUE	IMPLEMENT STREAM STABILIZATION AND EROSION CONTROL MEASURES	Funding	\$ 58,600.00	6	1
499	2006	BELLEFONTE-BEESON ROAD	INSTALL CLOSED DRAINAGE SYSTEM TO RELIEVE BASEMENT AND GARAGE FLOODING	Funding	\$ 47,300.00	6	1
500	2006	BRANDON-SMITH LANE	INSTALL CLOSED SYSTEM TO ELIMINATE PONDING IN REAR YARD OF 2313 SMITH LN.	Funding	\$ 30,700.00	10	5
501	2005	POSSUM HOLLOW ROAD	SURVEY, INVESTIGATE, AND PREPARE PLANS AND ESTIMATES FOR DRAINAGE IMPROVEMENTS	Funding	\$ 30,000.00	21	8
502	2006	NORTHCREST - WALTER DRIVE	INSTALL SWALE TO DRAIN REAR YARDS	Funding	\$ 24,800.00	10	5
503	2006	SCOTTFIELD - BROADFIELD DRIVE	INSTALL CLOSED DRAINAGE SYSTEM WITH SWALES TO RELIEVE PONDING	Funding	\$ 15,500.00	24	11
504	2004	VALLEY RUN - BUTTERNUT LANE	INSTALL CLOSED DRAINAGE SYSTEM ALONG VALLEY ROAD (BITTERSWEET DRIVE)	Funding	\$ 14,000.00	10	5
505	2006	WEMBLEY-WEMBLEY DRIVE	INSTALL COMBINED DRAINAGE/UNDERDRAIN SYSTEM TO SOLVE SPRING & ICING PROBS.	Funding	\$ 39,100.00	7	1
506	2006	WESTWOOD MANOR-BEECHWOOD DRIVE	REPLACE FAILED DRAINAGE SYSTEM	Funding	\$ 30,300.00	7	5
507	2006	WOODMILL II-W. WOODMILL DRIVE	INSTALL CLOSED DRAINAGE SYSTEM TO CONTROL RUNOFF	Funding	\$ 24,900.00	21	9
508	2005	EAGLE GLEN-WINBURNE DRIVE	INSTALL CLOSED DRAINAGE SYSTEM TO ELIMINATE SWALE DISCHARGE ONTO PAVEMENT	Funding	\$ 10,800.00	18	13
509	2008	EDENRIDGE - MT. LEBANON ROAD # 721	INSTALL CATCH BASIN AND PIPE TO DRAIN LOW AREA IN REAR YARD	Funding	\$ 41,000.00	12	4
510	2007	HICKMAN ROAD	CONSTRUCT CURB AND SIDEWALK ALONG HICKMAN RD.	Funding	\$ 33,200.00	10	1
511	2008	THE TIMBERS - MAGNOLIA COURT	INSTALL CATCH BASIN AND PIPE TO ELIMINATE PONDING IN LOW AREA OF CURB	Funding	\$ 19,600.00	10	5
512	2004	WOODS - SIOUX COURT	INSTALL U-DRAIN TO RELIEVE PONDING. CONNECT TO DELDOT.	Funding	\$ 17,000.00	18	9
513	2012	DuRoss Heights		Funding	\$ 225,000.00	17	13
514	2005	WEST BRANCH -EAST MILL STATION DRIVE	STUDY AND DEVELOP AND IMPLEMENT SOLUTION FOR STABILIZING FAILING BOULDER RETAINING WALL	Funding	\$ 220,320.00	23	8
*E		Woodland Run - 12 Buttonwood Court	Place topsoil in low area & regrade to drain.	Funding	\$ 2,600.00	22	4
E		CANNONSHIRE-CANNON RUN #41-#43	REPLACE FAILED CURB	Funding	\$ 2,100.00	6	1

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

New Castle County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
E		Chestnut Hills Estates - 13 to 17 E. Stephens Drive	Install closed drainage system behind 13, 15 & 17 E. Stevens Drive	Funding	\$ 71,000.00	18	9
E		Deer Run Road - 145	Replace three driveways with elliptical arch pipes.	Funding	\$ 160,000.00	18	9
E		FAIRWINDS - GREEN STREET	SOLUTION TO BE DETERMINED	Funding	\$ 90,000.00	4	7
E		LIFTWOOD - WELDIN ROAD	PLACE TOPSOIL, REGRADE, SEED & MULCH TO ELIMINATE LOW AREAS IN FRONT YARD	Funding	\$ 14,000.00	4	7
E		Linden Heath - 6 Inverness Court	Construct a grass swale along side yard thru to back yard and 3LBGC open space.	Funding	\$ 13,500.00	4	7
E		LONGVIEW FARMS - SOUTH OVERHILL COURT	STUDY AND DESIGN SOLUTION TO FAILING RETAINING WALL	Funding	\$ 85,000.00	6	5
E		MIDDLE RUN CROSSING GREENWAY	CONSTRUCT GREENWAY PATH CONNECTING STARLING STREET TO PARK ON EBENEZER CHURCH ROAD	Funding	\$ 497,800.00	22	8
E		MILL CREEK- HOCKESSIN TO LANTANA	GREENWAY	Funding	\$ 463,800.00	25	10
E		MILL CREEK-PIERSONS RIDGE TO BRACKENVILLE	STUDY FLOODING PROBLEMS, PREPARE PRELIMINARY DESIGN, PERMITS, IMPLEMENT IMPROVEMENTS	Planning	\$ 1,200,000.00	10	5
E		MONTGOMERY WOODS - MONTGOMERY WOODS DR. # 616	CONSTRUCT SWALE TO DRAIN PONDING WATER ON PROPERTY	Funding	\$ 17,800.00	10	5
E		RADNOR GREEN - NEWCOMB COURT	CONNECT SUMP PUMP DISCHARGE TO DEDOT STORM SEWER SYSTEM	Funding	\$ 9,900.00	13	3
E		Stage Road - 33 Stage Road	Install approx. 150 lf of curbing.	Funding	\$ 16,300.00	12	5
E		THE LANDINGS TWIN C LANE	STUDY TO RESOLVE DRAINAGE ISSUES IN BACKYARDS	Funding	\$ 25,000.00	10	5
E		Village of Lindell - 2111 Lindell Blvd.	Recommend a concrete retaining wall.	Funding	\$ 68,400.00	6	5
SUBTOTAL** - New Castle County Active Projects					\$ 46,581,238		
* Too low of a priority for ranking							
** Does not include costs of proposed FY2020 projects contained in Appendix D							

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Kent County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
1	2012	Kent County Bay Beach Communities Drainage Studies / Improvements Phase V - South Bowers	Reconstruction of tidal ditch to provide an outlet to S. Bowers Beach Road.	Permitting	\$ 83,280.00	32	16
2	2007	City of Dover- Tarr Ditch	Improvements to drain system	Funding	\$ 8,000,000.00	32, 31	17
3	2017	Gravelly Run Tax Ditch Main / Severson	Replace crossing	Engineering	\$ 75,000.00	11	15
4	2003	Pearsons Corner Road / Detweiler	Approx. 7,000' of ditch reconstruction	Engineering	\$ 75,000.00	11, 29	15
5	2000	Silver Lake Water Management Project - DelTech Terry Campus	Design, construct and improve the drainage and stormwater system within DelTech Terry campus	Engineering	\$ 350,000.00	31	17
6	2016	4948 Halltown Rd / Butz	Repair pipe from Route 8 to the Tappahanna Tax Ditch Main and fill washout along the Main.	Engineering	\$ 20,000.00	11	15
7	2016	4938 Halltown Rd / Carey	Pipe replacement	Engineering	\$ 100,000.00	11	15
8	2002	Hidden Acres	Stream improvements	Permitting	\$ 40,000.00	29	15
9	2017	241 South Shore Drive / Green	Approx. 600' road side ditch with pipe replacements and rock outlet protection.	Funding	\$ 60,000.00	34	16
10.1	2012	Kent County Bay Beach Communities Drainage Studies / Improvements Phase II - Pickering Beach	Installation of approx. 1,250' of road side ditch and 50' of stormdrain near the intersection of Pickering Beach Road and entrance to Little Creek Wildlife Area.	Engineering	\$ 50,318.00	32	16
10.2	2012	Kent County Bay Beach Communities Drainage Studies / Improvements Phase III - Kitts Hummock	Installation of drainage inlets and approx. 100' of stormdrain with backflow prevention.	Engineering	\$ 53,044.00	32	16
10.3	2012	Kent County Bay Beach Communities Drainage Studies / Improvements Phase IV - Kitts Hummock	Installation of approx. 7' of roadside drainage with riprap protection.	Engineering	\$ 18,500.00	32	16
10	2012	Kent County Bay Beach Communities Drainage Studies / Improvements Phase V - Kitts Hummock	Maintain roadside ditches from the intersection of Bay Drive to community entrance.	Engineering	\$ 83,280.00	32	16
11	2019	Alley Corner Rd / Lowman	Installation of approx. 160' pipe and two catch basins	Engineering	\$ 15,000.00	29	15
12	2019	Bush Drive / Morris	Construction of open ditch with pipe crossing	Construction	\$ 10,000.00	29	17
13	2013	Walnut Shade Road / Lavender	Cleanout/flush pipe and area at outlet of pipe	Engineering	\$ 10,000.00	34	16
14	2008	Seeneytown Road / Peet	Approx. 4,000' of ditch reconstruction	Engineering	\$ 24,000.00	11	15
15	2010	Town of Houston Drainage Improvements Phase I	Improve drainage outlets for various low areas in and around the Town of Houston. Phase I is for Breeder's Crown	Construction	\$ 90,000.00	33	18
16	2006	Greenbriar Road / Penneypacker	Flood study	Engineering	\$ 15,000.00	11	15
17	2015	Pearsons Corner Road / Trice	Approx. 1,500' of pipe and catch basins	Engineering	\$ 100,000.00	29	15
18	2015	1778 Peachtree Run / Walsh	Approx. 4,000' of open ditch construction	Land Rights	\$ 40,000.00	34	16
19	2018	Smyrna Leipsic Rd / Scuse	Approx. 450' of stormdrain and 3 catch basin installation	Engineering	\$ 100,000.00	28	14
20	2017	Willow Grove Rd / Pratt	Approx. 1,000' of 6" tile and well installation	Scoping	\$ 10,000.00	30	15
21	2012	Voshells Cove, Richard Blvd. / Gibson	Approx. 2,000' of channel reconstruction	Scoping	\$ 30,000.00	29	15
22	2011	Persimmon Park Place	Approx. 4,000' of channel reconstruction	Scoping	\$ 675,000.00	28	17, 14
23	2002	Pearsons Corner Road / Sbriglia	Approx. 5,000' of ditch reconstruction	Land Rights	\$ 10,000.00	11, 29	15
24	2011	Plymouth Road / Langley Drainage Improvements	Approx. 750' of channel reconstruction	Engineering	\$ 8,000.00	30	15
25	2011	Plymouth Road / Miller Drainage Improvements	Approx. 450' of channel reconstruction	Engineering	\$ 5,000.00	30	15
26	2004	Barbara Blvd., Breezewood / Cerbone	Approx. 4,000' of ditch reconstruction	Engineering	\$ 37,800.00	34	16
27	2008	Bryn Zion Road / Timber Mills / Kreiger	Replace approx. 1,200' of deteriorated stormdrain and install approx. 4 catch basins	Engineering	\$ 200,000.00	11	15
28	2004	Raughley Hill Road / Faircloth	Approx. 2,400' of ditch reconstruction	Scoping	\$ 25,000.00	30	18
29	2017	N. Little Creek Rd / Denham	Pipe replacement	Engineering	\$ 50,000.00	32	17
30	2007	W. Denneys Road, near Maidstone Branch Road / Blose / Foltz	Reconstruct approx. 4,000' of channel outlet	Scoping	\$ 80,000.00	29	15
31	2013	Abbotts Pond Road / Gallagher	Reconstruct approx. 1,000' of channel outlet and replace DelDOT crossing pipe	Scoping	\$ 20,000.00	30	18
32	2010	Hazelwood Subdivision Drainage Improvements	Roadside swale or pipe along private road and improve drainage outlet for Hazelwood subdivision	Engineering	\$ 40,000.00	28	14
33	2011	Pearsons Corner Road / Durham	Reconstruct approx. 2,000' of channel outlet	Scoping	\$ 20,000.00	29, 11	15
34	2012	Andrews Lake Road / Baker	Approx. 4,000' of channel reconstruction	Scoping	\$ 40,000.00	33	16
35	2011	Dyke Branch Road / Kelty	Approx. 900' of channel reconstruction	Scoping	\$ 6,480.00	29	17
36	2011	West Big Woods Road / Lafon	Approx. 500' of channel reconstruction	Scoping	\$ 5,000.00	28	15
37	2011	West Evens Road / Seeley	Approx. 2,500' of channel reconstruction	Scoping	\$ 30,000.00	34	16
38	2007	Burnite Mill Road / Dearman	Reconstruct approx. 4,000' of channel outlet	Scoping	\$ 60,000.00	30	15
39	2011	Hidden Pond, Felton	Approx. 2,000' of channel reconstruction	Engineering	\$ 10,000.00	30	15
40	2017	751 Oak Point School Rd / Slack	Approx. 1,000' of ditch reconstruction and regrade yard	Scoping	\$ 10,000.00	11	15

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Kent County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
41	2012	North Rehoboth Blvd., Milford / Kent Sussex Industries	Bank stabilization	Scoping	\$ 35,000.00	33	18
42	2012	Rosebowl Road / Seeney	Approx. 2,000' of channel reconstruction	Scoping	\$ 30,000.00	29	15
43	2012	South State Street / Young	Stormdrain maintenance	Scoping	\$ 20,000.00	34	16
44	2012	Star Hill Village, Lingo Drive / Freeman	Stormdrain maintenance	Scoping	\$ 35,000.00	34	16
45	2012	Windward Drive, Lakewind / Whidby	Subdivision stormdrain maintenance	Scoping	\$ 30,000.00	33	16
46	2013	Big Ditch Road / Szweczyk	Reconstruct approx. 600' of channel outlet	Scoping	\$ 5,000.00	11	15
47	2013	Carpenters Bridge Road / Wooters	Reconstruct approx. 2,000' of channel outlet	Scoping	\$ 20,000.00	33	15, 18
48	2013	Clapham Road / Roe	Reconstruct approx. 1,000' of channel outlet	Scoping	\$ 15,000.00	33	16
49	2013	Deep Grass Lane / Griffith	Reconstruct approx. 4,000' of channel outlet	Scoping	\$ 40,000.00	30, 33	18
50	2013	Dickerson Street/Clayton/Pazdalski	Reconstruct approx. 600' of channel outlet	Scoping	\$ 5,000.00	28	14
51	2013	Evens Road / Stevens / Dill	Repair and/or replace 6" tile outlet	Scoping	\$ 7,500.00	34	16
52	2013	Little Mastens Corner Road / Alexander	Reconstruct approx. 1,000' of channel outlet	Scoping	\$ 10,000.00	30	15
53	2013	Paradise Alley Road / Wright	Solution to be determined	Scoping	\$ 20,000.00	30	15
54	2013	Twin Eagles Farms / Caldwell	Reconstruct approx. 7,000' of channel outlet	Scoping	\$ 70,000.00	11	15
55	2013	Willow Grove Road / Blawn	Reconstruct approx. 1,000' of channel outlet	Scoping	\$ 15,000.00	34	15
56	2014	Bethesda Tax Ditch / Shetzler	Bank stabilization	Scoping	\$ 15,000.00	11	15
57	2014	Bowers Beach Road / Tuthill	Reconstruct approx. 300' of channel outlet	Scoping	\$ 5,000.00	33?	16
58	2014	Bryn Zion Road / Tackett	Install approx. 300' of new stormdrain	Scoping	\$ 20,000.00	11	14
59	2014	Thompsonville Road / Cohee	Reconstruct approx. 3,500' of channel outlet	Scoping	\$ 25,000.00	33	16
60	2014	Vining Road, Pharsalia	Bank stabilization and/or stream restoration	Scoping	\$ 20,000.00	34	16
61	2014	Woodmill Drive / Hill	Reconstruct approx. 2,500' of channel outlet	Scoping	\$ 20,000.00	31	17
62	2004	Midtree Drive / Murphy	Approx. 600' of ditch reconstruction	Scoping	\$ 6,000.00	33	18
63	2004	North Little Creek Road / Maurer / Miller	Replace approx. 1,200' of stormdrain	Scoping	\$ 36,000.00	32	17
64	2005	Swain Ave., Tara Subdivision / Murray	Reconstruct approx. 1,200' of road side swale within Tara Subdivision	Scoping	\$ 24,000.00	33	16
65	2011	Owls Nest Road / Payes	Approx. 800' of channel reconstruction	Scoping	\$ 5,000.00	11	15
66	2006	Commerce Street, Cheswold / Caldwell	Repair approx. 500' of deteriorated stormdrain	Engineering	\$ 65,000.00	29	15
67	2006	Karl Drive, Eberton / Towery	Remove debris from existing ditch	Scoping	\$ 3,000.00	29	17
68	2006	Seven Hickories Road / Towery	Reconstruct approx. 1,000' of existing ditch	Scoping	\$ 12,000.00	29	15
69	2007	Carlson Way	Reconstruct approx. 3,500' of channel outlet	Scoping	\$ 60,000.00	29	15
70	2007	North Little Creek Road / Desanto	Install approx. 400' of stormdrain and reconstruct approx. 300' of channel	Engineering	\$ 20,000.00	32	17, 16
71	2008	Paradise Lane / Pallum / Looney	Beaver dam removal	Scoping	\$ 5,000.00	31	17
72	2009	Millington Road / Walsh	Approx. 1,000' of outlet reconstruction	Scoping	\$ 12,000.00	11	15
73	2010	McGinnis Pond Road / Wilgus	Reconstruct approx. 1,000' of channel outlet	Scoping	\$ 12,000.00	33	16
74	2010	Millchop Lane / Perry	Approx. 500' of ditch reconstruction	Scoping	\$ 6,000.00	34	16
75	2010	Mt. Friendship Road / Miller	Pipe replacement and ditch reconstruction	Scoping	\$ 20,000.00	29	15
76	2010	Westville Road / Hurd	Approx. 500' of ditch reconstruction	Scoping	\$ 4,000.00	29	15
77	2011	Moose Lodge Road / Larrimore Drainage Improvements	Approx. 2,500' of channel reconstruction	Scoping	\$ 30,000.00	34	16
78	2011	Woods Haven / New Wharf Road Drainage Improvements	Approx. 2,000' of channel reconstruction and replace and/or repair portion of stormdrain system	Engineering	\$ 65,000.00	33	18
79	2015	155 Carlisle Dr. / Macolley	Install yard basin and approx. 200' of pipe out to road side pipe.	Scoping	\$ 20,000.00	29	15
80	2015	128 Rocky Meadows Ln. / Reyna	Approx. 3,000' open ditch construction	Scoping	\$ 20,000.00	29	17
81	2015	1463 Hartly Rd. / Hightman	Approx. 200' of open ditch construction	Scoping	\$ 1,000.00	29	15
82	2015	272 Mt. Friendship Rd. / Sebastianelli	Replace approx. 1,000' of tile	Land Rights	\$ 8,000.00	29	15
83	2015	3 Vigil Ct. / Jester	Yard basin and approx. 200' of 6" tile installation	Scoping	\$ 2,000.00	29	15
84	2015	307 Gettysburg Rd. / Burton	Repair existing pipe joint.	Scoping	\$ 1,000.00	31	17
85	2015	50 Bulldog Dr. / Gondeck	Approx. 3,000' of open ditch construction.	Scoping	\$ 20,000.00	32	17
86	2015	53 East St. / Hutchins	Pipe replacement with catch basin	Scoping	\$ 50,000.00	29	15
87	2015	566 Upper King / Mathews	Approx. 4,000' of open ditch construction and approx. 500' of pipe replacement	Scoping	\$ 70,000.00	34	15
88	2015	651 Strauss Ave. / Pinder	Replace approx. 450' of 24" corrugated metal pipe and install three catch basins.	Scoping	\$ 40,000.00	29	15
89	2015	27 Wildwood Road / Fairfield Farms / Ott	Streambank stabilization on Isaac's Branch	Scoping	-	34	16
90	2015	7435 Pearsons Corner Rd. / Scott	Approx. 600' of open ditch construction.	Scoping	\$ 3,000.00	29	16
91	2015	75 Aspencade Dr. / Washington	Approx. 800' of open ditch construction and total disposal of debris.	Scoping	\$ 10,000.00	34	15
92	2015	86 Logan Dr. / Johnson	Approx. 500' of open ditch construction and approx. 90' of pipe replacement	Scoping	\$ 20,000.00	30	15
93	2015	Still Rd / Berhaier / Storage	Approx. 9,000' of open ditch	Scoping	\$ 45,000.00	30	15
94	2016	Tomahawk Tax Ditch / Greenwood Rd	Prong 6 bank stabilization	Scoping	\$ 40,000.00	30	18
95	2016	410 Holletts Corner Rd / Thorstenson	Approx. 4,000' of ditch reconstruction and pipe replacement	Permitting	\$ 40,000.00	11	15
96	2016	12338 South Dupont Hwy. / Alam	Approx. 2,500' of ditch reconstruction	Scoping	\$ 25,000.00	30	15
97	2016	703 Fence Post Ln. / Burgess	Approx. 4,000' of ditch reconstruction	Scoping	\$ 40,000.00	34	17
98	2016	2608 Hunting Quarter Rd. / Passwaters	Approx. 1,500' of ditch reconstruction	Scoping	\$ 10,000.00	30	18
99	2016	863 Peach Basket Rd. / Crouch	Approx. 1,500' of ditch reconstruction	Scoping	\$ 10,000.00	30	15

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Kent County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
100	2016	1335 Hazlettville Rd. / Rogers	Approx. 2,000' of ditch reconstruction and new pipe under road	Scoping	\$ 30,000.00	29	15
101	2016	3132 Kenton Rd. / Kaper	Approx. 300' of ditch reconstruction	Scoping	\$ 3,000.00	29	15
102	2016	866 Sunnyside Rd. / Jones	Approx. 150' of road side swale	Scoping	\$ 2,000.00	29	14
103	2016	52 Luther Marvel Rd. / Smith-Morlock	Approx. 600' of road side ditch and pipe	Scoping	\$ 6,000.00	11	15
104	2016	245 Artis Dr. / Emerson	Approx. 3,000' of ditch reconstruction	Scoping	\$ 30,000.00	29	17
105	2016	861 Rothermel Rd. / Runkel	Approx. 1000' of road side swale and/or ditch	Scoping	\$ 10,000.00	33	18
106	2016	936 Proctors Purchase Rd. / Walker	Approx. 500' of ditch reconstruction	Scoping	\$ 5,000.00	11	15
107	2016	3698 Judith Rd. / Gonzalez	Approx. 4,000' of ditch reconstruction	Scoping	\$ 40,000.00	11	15
108	2016	56 Myrtle St. / English	Backyard drainage improvements	Scoping	\$ 30,000.00	28	14
109	2016	2887 McKee Rd. / Pruett	Approx. 1,000' of ditch reconstruction and pipes	Scoping	\$ 20,000.00	29	15
110	2016	2484 Arthursville Rd / Metheny	Approx. 500' of open ditch	Scoping	\$ 10,000.00	11	15
111	2016	414 Turkey Point Rd / Thompson	Approx. 800' of open ditch	Scoping	\$ 16,000.00	34	16
112	2016	292 Evelynedale Dr. / Ballis	Approx. 2,000' of road side ditches	Scoping	\$ 75,000.00	29	17
113	2016	105 Fox Hall Dr / Posey	Approx. 800' of open ditch	Scoping	\$ 16,000.00	31	17
114	2016	219 Fox Crossing Dr. / Foltz	Approx. 1,000' of open ditch and replace 2 pipes	Scoping	\$ 30,000.00	11	15
115	2017	115 Stevenson Dr / McDonald	Approx. 4,500' of open ditch in yards	Scoping	\$ 70,000.00	34	16
116	2017	1472 Log Cabin Rd / Peterman	Approx. 4,500' of open ditch and pipe replacement	Scoping	\$ 35,000.00	33	16
117	2017	1697 Sorghum Mill Rd. / Hoffecker	Approx. 600' of ditch reconstruction and bank stabilization.	Scoping	\$ 20,000.00	34	16
118	2017	299 Daniel Rodney Dr. / Bryant	Pipe repair	Scoping	\$ 5,000.00	32	16
119	2017	4134 Dupont Hwy. / Kisner	Approx. 1,700' of ditch reconstruction.	Scoping	\$ 10,000.00	29	17
120	2017	727 Twin Willows Rd / Boyer	Approx. 100' of ditch reconstruction and repair or replace old dam.	Scoping	\$ 20,000.00	28	14
121	2017	Carlisle Village / Palchik	Approx. 350' of ditch reconstruction	Scoping	\$ 2,500.00	29	15
122	2017	Gunter Road / Hamonko	Approx. 700' of ditch reconstruction and replace two pipes	Scoping	\$ 10,000.00	11	15
123	2017	Millchop Lane / Shuford	Approx. 2,000' of ditch reconstruction and approx. 200' of pipe replacement	Scoping	\$ 40,000.00	34	16
124	2017	Pearsons Corner Rd / Mosley	Approx. 1,500' of ditch reconstruction	Scoping	\$ 7,500.00	29	15
125	2017	Pearsons Corner Rd / Simpers	Approx. 2,300' of ditch reconstruction	Scoping	\$ 25,000.00	29	15
126	2017	Brook Court / Nabb	Approx. 1,700' of ditch reconstruction	Scoping	\$ 15,000.00	11	15
127	2018	85 Laurel Dr / Malago	Approx. 600' of stormdrain system and 5 catch basins installation	Scoping	\$ 125,000.00	32	17
128	2018	Brookview Ave / Hans	Rock outlet protection	Scoping	\$ 7,000.00	34	16
129	2018	Central Church Rd / Pritchett	Approx. 800' of open ditch, approx. 500' of stormdrain, and 3 catch basins	Scoping	\$ 100,000.00	29	15
130	2018	Cypress Branch Rd / Goodwill	Approx. 300' of stormdrain system and 3 catch basins	Scoping	\$ 60,000.00	32	16
131	2018	Fast Landing Rd / Mack	Approx. 500' of open ditch	Scoping	\$ 10,000.00	28	14
132	2018	Gravelly Run Tax Ditch S-3 of S-12 of P-8	Approx. 800' of open ditch reconstruction	Scoping	\$ 10,000.00	11	15
133	2018	Heritage Dr / Hutchins	Approx. 2,000' of open ditch	Scoping	\$ 15,000.00	31	17
134	2018	Janice Dr / Reinholz	Approx. 2,000' of open ditch	Scoping	\$ 20,000.00	34	16
135	2018	Marvels Crossroads Tax Ditch Dipout	Approx. 3,200' of open ditch	Scoping	\$ 25,000.00	33	18
136	2018	Marydel Tax Ditch Prong H / Steele	Bank stabilization	Scoping	\$ 30,000.00	11	15
137	2018	The Mead / Cooper	Approx. 100' of open ditch, approx. 200' of stormdrain, and 2 catch basins installation	Scoping	\$ 50,000.00	33	18
138	2018	Tobacco Rd / Fulton	Approx. 600' of open ditch	Scoping	\$ 20,000.00	29	15
139	2018	Vernon Tax Ditch	Approx. 5,000' of tax ditch dip out	Scoping	\$ 10,000.00	30	15
140	2018	Westville Rd / Profaci	Approx. 1,000' of open ditch	Scoping	\$ 10,000.00	29	15
141	2018	Woodland Beach Rd / Richards	Approx. 2,000' of open ditch	Land Rights	\$ 15,000.00	28	14
142	2018	Woods Edge Rd / Loeffler	Approx. 300' of yard drainage	Scoping	\$ 10,000.00	30	15
143	2018	Woodyard Rd / Brubaker	Approx. 800' of open ditch and approx. 100' of tile drainage	Scoping	\$ 40,000.00	30	18
144	2019	Delshire Dr. / Bastian	Swale and/or tile construction	Scoping	\$ 10,000.00	29	17
145	2019	Fast Landing Road / Worshan	Regrading and open ditching	Scoping	\$ 20,000.00	29	17
146	2019	Fulton St. / Coker	Reconstruction of approx. 1,500' of open ditch and replacement of pipe crossings.	Scoping	\$ 20,000.00	29	15
147	2019	Glohaven Ct. / Harvey	Backyard drainage and/or reconstruct swale	Scoping	\$ 20,000.00	34	16
148	2019	Logan Dr. / Cooper	Reconstruction of approx. 1,100' of roadside swale and repair of driveways.	Scoping	\$ 80,000.00	29	17
149	2019	Lynnbury Woods Road / Kern	Reconstruction of approx. 1,000' of open ditch and replacment of 4 pipe crossings.	Scoping	\$ 80,000.00	29	18
150	2019	Midstate Road / George	Reconstruction of approx. 2,000' of roadside ditch and installation of 10 pipes	Scoping	\$ 40,000.00	33	16
151	2019	N. Erin Ave / Wright	Backyard drainage and/or tile system	Scoping	\$ 10,000.00	30	15
152	2019	Parkway Dr. / Lucas	Repair catchbasins and fill sinkhole around existing catchbasins	Scoping	\$ 10,000.00	29	17

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Kent County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
153	2019	Pinewood Acres Mobile Home Park / Moore	Reconstruction of approx. 2,000' of open ditch.	Scoping	\$ 12,000.00	29	15
154	2019		Reconstruction of approx. 2,000' of open ditch including a portion through residential yards.	Scoping	\$ 20,000.00	29	15
155	2019	W. Denneys Rd. / Opdyke					
156	2019	West Milby St. / Benson	Reconstruction of approx. 500' of ditch.	Scoping	\$ 5,000.00	30	18
157	2000	Rodney Village / Abbate	Approx. 2,000' of channel reconstruction	Scoping	\$ 25,000.00	32	17
158	2004	South Dupont Hwy. / McGowan	Approx. 1,600' of ditch reconstruction and replace approx. 3 private crossing pipes	Scoping	\$ 24,000.00	30	18
159	2004	Overlook on Silver Lake / Richardson	Retrofit catch basin	Scoping	\$ 20,000.00	31	17
160	2010	Lucky Estates Subdivision Drainage Improvements	Improve drainage outlet for Lucky Estates Subdivision	Scoping	\$ 50,000.00	30	18
161	2005	Dyke Branch Road / Friedman	Reconstruct approx. 1,000' of ditch through and along yards into wooded wetland	Engineering	\$ 8,000.00	29	17
162	2011	Chesapeake Bay, Kent County, Conservation Initiatives	Various channel and wetland restoration and creation projects	Scoping	\$ 100,000.00	11, 29, 30	15, 18
163	2010	Planters Woods Subdivision Drainage Improvements	Improve drainage outlet for Planter's Woods Subdivision stormwater ponds	Scoping	\$ 30,000.00	29	15
164	2002	Wyoming Mill Pond Spillway - Bank Stabilization	Approx. 750' of bank stabilization	Scoping	\$ 120,000.00	31, 34	17
165	2013	Town of Little Creek	Reconstruct, restore, and enhance approx. 6,000' of channel outlet	Scoping	\$ 60,000.00	28	16
166	2004	Kitts Hummock Drainage Improvements - Phase II	Approx. 3,000' of ditch reconstruction through marsh	Scoping	\$ 120,000.00	32	16
167	2000	Beech Drive, Eden Rock / Carson Phase II	Remove invasive species from pond and revegetate with native plants	Scoping	\$ 5,000.00	29	15
168	2007	Fairfield Drive / Krum Phase 2	Reestablish approx. 1,000' of drainage way through yards	Scoping	\$ 75,000.00	34	16
169	2000	Silver Lake Water Management Project - Dover Pool	Design and construct approx. 200' of a regenerative stormwater conveyance system	Scoping	\$ 100,000.00	28, 31	17
170	2008	Puncheon Run Drainage & Stormwater Improvements	Stream and drainage improvements	Scoping	\$ 250,000.00	31, 32	16, 17
171	2011	Fox Hall / Carnoustie Road	Approx. 1,000' of channel reconstruction	Scoping	\$ 3,600.00	31	17
172	2005	Rt. 44 / Fedewa	Reconstruct approx. 1,000' of channel outlet (Rt. 44 / Altemus Phase 2)	Land Rights	\$ 6,600.00	11	15
173	2012	Persimmon Park Place / Blanchfield	Reconfigure stormdrain system	Scoping	\$ 25,000.00	28	17, 14
174	2001	Town of Clayton Drainage Improvements Phase III	Stormdrain improvement for the west side of the Town of Clayton	Scoping	\$ 70,000.00	28	14
175	2006	Town of Camden West Street Drainage Improvements	Ditch reconstruction and stormdrain improvements within the Town of Camden in the vicinity of West Street	Scoping	\$ 350,000.00	34	17
176	2017	267 Pardoners Tale Ln. / Jefferson	Pipe repair	Scoping	\$ 5,000.00	30	15
177	2004	Rt. 44 / Altemus Phase 2	Approx. 500' of ditch reconstruction	Land Rights	\$ 15,000.00	11	15
178	1998	South Little Creek Road / Little	Approx. 4,000' of ditch reconstruction, replace DelDOT road crossing pipe, and repair and/or replace existing pond outlet structure	Scoping	\$ 300,000.00	32	17, 16
179	2010	Drake Ct., Wild Quail / Susan Cook	Approx. 200' of storm drain repair	Scoping	\$ 20,000.00	29	15
180	2011	Wild Quail Drainage Improvements Phase II	Replace and/or repair various stormdrains and stormdrain outlets	Funding	\$ 150,000.00	29	15
181	1998	Lockwood Chapel Road / Krupka Phase 2 (Main)	Approx. 3.5 miles of ditch reconstruction	Scoping	\$ 200,000.00	11	15
182	2002	Apple Grove School Road, Washington / Todds Mill Road	Stream improvements	Scoping	\$ 12,000.00	29, 31	15
183	2002	Hazletville Road / Blann	Approx. 4,000' of ditch reconstruction	Scoping	\$ 30,000.00	11, 29	15
184	2004	Judith Road / Sego	Approx. 6,000' of ditch reconstruction and replace 3 private crossing pipes	Scoping	\$ 36,000.00	11	15
185	2005	Deer Track Lane / Snyder	Approx. 4,000' of channel reconstruction	Scoping	\$ 35,000.00	29	17
186	2000	Silver Lake Water Management Project	Update water management practices for the Silver Lake Watershed	Scoping	\$ 387,000.00	31	17
187	2010	Town of Houston Drainage Improvements Phase II	Improve drainage outlets for various low areas in and around the Town of Houston. Phase II is for Front Street	Scoping	\$ 90,000.00	33	18
188	2010	Town of Houston Drainage Improvements Phase III	Improve drainage outlets for various low areas in and around the Town of Houston. Phase III is for Deep Grass Rd	Scoping	\$ 90,000.00	33	18
189	2000	Silver Lake Water Management Project - Central Middle School	Design and construct approx. 200' of a regenerative stormwater conveyance system	Scoping	\$ 25,000.00	31	17
190	2011	Deer Valley Road / Lear	Approx. 3,000' of channel reconstruction	Scoping	\$ 30,000.00	33	18
191	2012	Breeders Crown Farm, Foal Court / Roy Jones	Subdivision stormdrain upgrade	Scoping	\$ 25,000.00	33	18

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Kent County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
191	2013	Brownsville Road / Arthur Biggs	Reconstruct approx. 2,000' of channel outlet	Scoping	\$ 20,000.00	30	15
192	2020	Kitts Hummock Road / Webb	Tile drainage for crossroad pipe	Scoping	\$ 10,000.00	32	16
193	2020	Rt-9 / Wicks	Tile drainage for crossroad pipe	Scoping	\$ 30,000.00	28	14
194	2020	Downes Drive / Rodden	Channel reconstruction	Scoping	\$ 50,000.00	11	15
195	2020	W. Fairway Circle / Hugg	Channel construction and pipe installation	Scoping	\$ 80,000.00	29	15
196	2020	Pearsons Corner Road / Passwaters	Cleanout of roadside ditching and reset driveway pipes or tile drainage installation to the rear of property	Scoping	\$ 60,000.00	29	15
197	2020	Windrow Way / Moreau	Reconstruction of swales	Scoping	\$ 10,000.00	33	16
198	2020	Kenton Road / Stotler	Reconstruction of swales	Scoping	\$ 7,000.00	29	15
199	2020	Farmington Drainage / Butler	Open ditch reconstruction	Scoping	\$ 10,000.00	30	16
200	2020	Hopkins Cemetery Road / Peterson	Installation of new pipe system along road	Scoping	\$ 60,000.00	30	15
201	2020	Paradise Alley Road / Bailey	Installation of new tile system for road pipe	Scoping	\$ 30,000.00	30	15
202	2020	Fernwood Drive / Webber	Construct open ditch through Fernwood Development	Scoping	\$ 25,000.00	30	16
203	2020	Rose Dale Lane / Fleitz	Construction of open ditch and tile drainage	Scoping	\$ 50,000.00	11	15
204	2020	Plum Drive / Hurd	Fix pipe with a sink hole and construct outlet ditch	Scoping	\$ 50,000.00	34	16
205	2020	Ironmine Road / Ford	Construct open ditch	Scoping	\$ 20,000.00	30	15
206	2020	1679 DuPont Highway / KCD	Pipe and catch basin repair	Engineering	\$ 50,000.00	32	16
207	2020	Kenton Rd. / High Street	Storm drain system	Scoping	\$ 75,000.00	30	18
208	2020	McKee Rd. / Pruett	Reconstruction of open ditch and replacement of pipes	Scoping	\$ 25,000.00	29	15
209	2020	Moore's Meadows	Construction of open ditch	Scoping	\$ 50,000.00	29	17
210	2020	Williamsville Rd. / Pike	Reconstruction of open ditch and replacement of pipes	Scoping	\$ 50,000.00	11	15
SUBTOTAL - Kent County Active Projects					\$ 17,228,402		

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Sussex County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
1	2009	Chesapeake Bay Watershed VOP	Removal of debris from degraded drainage channels utilizing Violators of Probation (VOP) Program at the Sussex Community Correction Center	Construction	\$ 65,000	35, 40, 39, 37, 41, 36	18, 19, 20, 21
2	2009	Delaware Bay Watershed VOP	Removal of debris from degraded drainage channels utilizing Violators of Probation (VOP) Program at the Sussex Community Correction Center	Construction	\$ 125,000	14, 20, 35, 36, 37	6, 18, 19
3	2009	Inland bays Atlantic Ocean Watershed VOP	Removal of debris from degraded drainage channels utilizing Violators of Probation (VOP) Program at the Sussex Community Correction Center	Construction	\$ 167,000	14, 20, 37, 38, 40, 41	6, 19, 20, 21
4	2011	Diamond Acres / Jones Drainage Improvements	Retrofit failed infiltration pond.	Construction	\$ 160,000	41	20
5	2012	Silver Lake / Rehoboth Phase II	Improvements to outfall of Silver Lake.	Engineering	\$ 225,000	14	6
6	2007	Little Hill Rd / Leonard Drainage Improvements Phase I	Maintenance and pipe replacements of ditch through Trap Pond State Park that provide outlet to crossing beneath Little Hill Rd and roadside drainage maintenance along Little Hill Rd.	Land Rights	\$ 70,000	40	21
7	2015	Nanticoke Watershed Parrot Feather Eradication	Treatment program for the removal of Parrot Feather milfoil. Partnership with several tax ditches and SCD.	Planning	\$ 10,000	30, 35	18, 19
8	2013	Carslyan Acres / Jordan Drainage Improvements	Reconstruct drainage in the Carslyan Acres Development	Engineering	\$ 150,000	20	6
9	2019	Herring Branch Tax Ditch Main / Johnson / McCabe	Replacement of approx. 300' of stormdrain and catchbasins.	Land Rights	\$ 75,000	41	20
10	2004	Baltimore Avenue / Cheeks Public Ditch	Approx. 800' of ditch reconstruction, pipe installation, and spoil disposal	Construction	\$ 80,000	38	20
11	2014	Oak Orchard Drainage Improvements - Phase 1	Drainage improvements to the intersection of Mercer Avenue and Forest Drive. Oak Orchard Phase 1 and Phase 4 will be completed by the same contract.	Land Rights	\$ 750,000	37	20
11.1	2014	Oak Orchard Drainage Improvements - Phase 4	Drainage Improvements to Oak Orchard Road and Captains Grant. Oak Orchard Phase 1 and Phase 4 will be completed by the same contract.	Land Rights	\$ 76,000	37	20
12	2014	Little Bay T.D. / Oceanside Pkwy Culvert Replacement	Replacement of culvert under Oceanside Pkwy.	Engineering	\$ 400,000	38	20
13	2007	Rd 550 / Harry Simiomick Drainage Improvements	Proposed wetland/stormwater pond construction and approx. 4,500' of channel reconstruction.	Engineering	\$ 140,000	39	21
14	2017	Russel Rd. / Harris	Maintenance of approx. 1,900' of existing ditch with installation of crossing at farm lane.	Land Rights	\$ 50,000	35	19
15	2009	Trap Pond Rd / White Drainage Improvements	Floodplain enhancement and minor cleanout of sediment/debris from channel	Engineering	\$ 40,000	40	21
16	2017	Reid / Delmar Rd	Maintenance of nonfunctioning drainage ditch	Engineering	\$ 40,000	40	21
17	2013	Town of Bethel / Snake Road Drainage Improvements Phase I	Regrade swale and replace culvert under Sailor's Path	Engineering	\$ 25,000	40	21
18	2008	Bear Hole Tax Ditch / Johnson	Bank stabilization of Prong 9 of Bear Hole Tax Ditch	Permitting	\$ 35,000	38	20
19	2019	Dukes Job Tax Ditch / Morris Bank Stabilization	Bank stabilization on the Main of Dukes Jobs Tax Ditch above Prong 5	Engineering/Permitting	\$ 60,000	40	21
20	2008	Old Rauetmack / Malone Drainage Improvement Phase II	Westerlee Subdivision Development drainage improvements	Engineering	\$ 200,000	40	21
21	2019	Johnson Road (S434A) / Wojciechowski/McCabe	Reconstruction of 3,000' of channel and/or addition of Prong to Indian Drain Tax Ditch	Engineering	\$ 75,000	40	21
22	2019	Mt. Joy Road / Hoopes	Addition of Prong to L&T Tax Ditch	Engineering	\$ 40,000	18	37
23	2012	Woodpecker Rd / Wollschlager Drainage Improvements	Cleanout approx. 6,000' of ditch	Scoping	\$ 60,000	39	21
24	2012	Ennis Road/ Owens Drainage Improvements	Approx. 200' of ditch maintenance	Land Rights	\$ 15,000	37	19
25	2015	Pepper Creek Tax Ditch Bank Stabilization	Bank stabilization of Pepper Creek Tax Ditch downstream of the railroad crossing on Prong 6.	Land Rights	\$ 35,000	41	20
26	2019	Pusey Road / Hudson	Reconstruction of approx. 5,000' of agricultural drainage ditches	Land Rights	\$ 40,000	40	20
27	2018	Frankford Library/Green Street Drainage Improvements	Replacement of approx. 300' of stormdrain pipe and maintenance of approx. 250' drainage ditch	Scoping	\$ 75,000	38	20
28	2018	Clearbrooke Estates / Damms	Improve swale conveyance within development and add outlet to Hearn's pond. (DC 2017-173)	Scoping	\$ 750,000	35	19

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Sussex County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
29	2014	Oak Orchard Drainage Improvements - Phase 5	Drainage Improvements to Oak Meadows Subdivision.	Engineering	\$ 918,000	37	20
30.1	2012	Broadkill Beach Drainage Improvements Phase 1	Drainage inlet and 25' feet of storm drain with backflow prevention on Bayshore Drive. All Bay Beach Project will be completed with on the same construction contract	Engineering	\$ 37,000	36	18
30.2	2012	Broadkill Beach Drainage Improvements Phase 2	Regrade 130' of existing gravel roadway on California Avenue. All Bay Beach Project will be completed with on the same construction contract	Engineering	\$ 27,000	36	18
30.3	2012	Broadkill Beach Drainage Improvements Phase 3	Installation of a 50' gravel infiltration trench on Arizona Avenue. All Bay Beach Project will be completed with on the same construction contract	Engineering	\$ 40,000	36	18
30.4	2012	Primehook / Fowlers Beach Drainage Improvements Phase 1	340' of storm drain and inlets with backflow prevention on Shore Drive. All Bay Beach Project will be completed with on the same construction contract.	Engineering	\$ 94,000	36	18
30.5	2012	Slaughter Beach Drainage Improvements Phase 1	Regrade portions of Passwaters Drive and Marina Lane and install roadside drainage. All Bay Beach Project will be completed with on the same construction contract	Engineering	\$ 147,000	36	18
30.6	2004	Lewes Beach Drainage Improvements Phase 1	Installation of 130' gravel infiltration trench and storm drain outfall at the intersection of Fort Lewes Court and Henlopen Drive. All Bay Beach Project will be completed with on the same construction contract	Engineering	\$ 66,000	20	6
31	2014	Oak Orchard Drainage Improvements - Phase 3	Drainage improvements to the intersection of River Road, Cerise Avenue, & Roberta Lane.	Engineering	\$ 951,000	37	20
32	2014	Oak Orchard Drainage Improvements - Phase 2	Drainage improvements to River Road approx. 2,000' west of Chief Road.	Engineering	\$ 945,000	37	20
33	2006	Heritage Village / Harper	Connection of blind ditch within the Heritage Village Development to Atlanta Devonshire Tax Ditch and improvements if needed to the tax ditch system as the outlet.	Land Rights	\$ 90,000	39	21
34	2005	North Drive / Doris Kowolski	Installation of approx. 1,000' pipe with catch basins	Scoping	\$ 105,000	35	19
35	2008	Rt. 24 / Harper Fox Hollow Drainage Improvement	Approx. 500' of new pipe for drainage improvements to Fox Hollow	Planning	\$ 70,000	14	6
36	2014	Overbrook Shores / Frey Drainage Improvements	Install approx. 500' of pipe and catch basins to Carslylan Acres Tax Ditch	Engineering	\$ 150,000	20	6
37	2012	RD 207/213 Drainage Improvements	Approx. 2,700' of ditch maintenance	Engineering	\$ 75,000	35, 36	18
38	2014	East Drive / Harvey Trip Drainage Projects	Installation of approx. 700' of pipes, catch basins, and an outlet structure of existing pond.	Scoping	\$ 65,000	41	20
39	2012	Bunting Tax Ditch Prong 2 Bank Stabilization	Approx. 1,000' of bank stabilization and culvert replacement under Line Road	Engineering	\$ 150,000	38	20
40	2014	Discount Land Rd / Carter Drainage Improvements	Channel construction/addition to Prong 5 to Mirey Branch T.D. north of Discount Land Rd (S468)	Scoping	\$ 13,000	39	21
41	2015	Bay Haven Street / Scott Drainage Improvements	Drainage improvements in Roger's Haven Subdivision.	Scoping	\$ 25,000	38	20
42	2017	Whites Neck Rd / Vella	Approx. 3,200' of ditch reconstruction and cleanout of existing culvert. Drainage Improvements within White Neck Village (DC S 2019-224)	Scoping	\$ 150,000	38	20
43	2012	Crestfield / Fluharty / Valentine Drainage Improvements	Placeholder while project is developed	Planning	\$ 25,000	39	19
44	2019	Herring Branch Tax Ditch Prong 8 /Town of Frankford	Reconstruction of Prong 8 of Herring Branch Tax Ditch and improve connection with Town infrastructure	Scoping	\$ 100,000	41	20
45	2019	Anderson Corner Rd. / Marsh	Reconstruction of approx. 1,500' of ditch and replacement of culverts	Land Rights	\$ 25,000	20	19
46	2006	Shawnee Road / Weldon	Reconstruction of existing ditch and replacement of pipes (DC Kovach)	Scoping	\$ 35,000	36	18
47	2008	Walker Mill Rd / Country Glenn Drainage Improvement	Drainage improvements in development	Scoping	\$ 150,000	35	19
48	2015	Ocean Way Estates - Hoffmaster Drainage Improvements	Drainage Improvements to Ocean Way Estates	Scoping	\$ 75,000	38	20

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Sussex County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
49	2013	Town of Bethel / Snake Road Drainage Improvements Phase II	Approx. 3,000' of roadside drainage & approx. 3,000' of ag drainage with water quality features	Engineering	\$ 160,000	40	21
50	2014	Argyle Lane / Fise / Gugerty Drainage Improvements Phase II	Drainage improvements to Argyle Lane and construction of drainage conveyance to Kent Avenue.	Planning	\$ 175,000	38	20
51	2011	Avalon Woods / Frank Jewell Drainage Improvements	Plan, design, and construct a drainage system in the development.	Land Rights	\$ 550,000	37	19
52	2014	Reservation Trail / Grzybowski Drainage Improvements	Re-establish approx. 500' of drainage swales	Land Rights	\$ 12,000	38	20
53	2016	Harts Landing - Love Creek Pines Lane - Pizzadili Drainage Improvements	Drainage improvements to re-route flow from Harts Landing to Love Creek.	Land Rights	\$ 150,000	14	6
54	2012	Iron Mine Tax Ditch Bank Stabilization	Bank Stabilization on Main of Iron Mine Tax Ditch	Scoping	\$ 750,000	35	18, 19
55	2015	Long Neck Drainage Study	Drainage Studies and Improvements in the Long Neck Community	Scoping	\$ 100,000	37	6, 20
56	2014	Guinea Creek Tax Ditch	Creation of a new tax ditch to help Long Neck Drainage issues	Planning	\$ 600,000	37	20
57	2004	Rt. 5 & Rd. 290 / Cook Public Ditch	Creation of a new tax ditch to help intersection and adjoining drainage issues	Planning	\$ 400,000	20	6, 19
58	2005	Road 357 (Piney Point Dev.) / John Bauer	Approx. 200' pipe and catch basin installation & approx. 700' ditch maintenance	Land Rights	\$ 35,000	38	20
59	2004	Rd. 283 A / Kosinski Public Ditch	Approx. 500' ditch construction	Scoping	\$ 75,000	14	6
60	2017	Walston Walk Ct. / Greene	Clean and replace approx. 420' of open and piped ditch; coordinate with DelDOT	Scoping	\$ 50,000	38	20
61	2007	Rehoboth Beach Yacht & Country Club / Miller Drainage Improvements	Approx. 150' of pipe & catch basin installation	Scoping	\$ 50,000	14	6
62	2017	Oyster Bay / Bay Vista Rd	Ditch/swale ponding water to catch basin. Approx. 1,200' of proposed stormdrain to Rehoboth Canal	Scoping	\$ 250,000	14	6
63	2011	Teacher Rd / Cropper Drainage Improvements	Plan, design and construct drainage system in Forest Park Mobile Home Park & reconstruct approx. 3,000' of ditch.	Scoping	\$ 150,000	41	20
64	2014	Deer Run Acres Drainage Improvements	Stormwater management system upgrades to subdivision and Forest Rd (DC S292, S112-118)	Scoping	\$ 315,000	38	20
65	2014	Delaware Avenue / Godwin Drainage Improvements	Construct approx. 2,300' of ditch along Delaware Ave (S054A), private property, & railroad	Scoping	\$ 96,000	41	20
66	2006	Ockels Dr / Neal Public Ditch	Reconstruct approx. 1,800' of ditches upstream of Ockels Drive south of Blades.	Scoping	\$ 35,000	39	21
67	2004	Earnestine Hall Rd 569 nr Omar	Installation of a 18"x 250' pipe with 5 catch basins	Engineering	\$ 70,000	38	20
68	2004	Rt. 9 / Mirey Branch / Tyndall	Approx. 4,500' of ditch reconstruction	Scoping	\$ 500,000	39, 40	21
69	2008	Nanticoke River Tax Ditch Maintenance Dipout Phase III	Maintenance of approx. 4 miles of tax ditch system.	Scoping	\$ 500,000	35, 30	18, 19
70	2001	Bee Branch Bank Stabilization	Protection downstream of Rt. 13.	Scoping	\$ 60,000	35	18
71	2009	Bee Branch Tax Ditch Restoration	Design and construct approx. 2,000' of Tax Ditch stabilization and restoration	Scoping	\$ 685,000	35	18
72	2016	Bridgeville Branch Main Channel Restoration Phase II	Stabilize and/or restore Bridgeville Branch Tax Ditch between Route 13 and 13A.	Engineering/Permitting	\$ 500,000	35	19
73	2013	Georgetown Vaughn P-9	Redesign Prong 9 of Georgetown Vaugh Tax Ditch including the replacement of 500' of storm drain	Scoping	\$ 105,000	37	19
74	2015	Cart Branch Tax Ditch Prong C Bank Stabilization	Installation of approx. 300' of pipe and/or replacement piles.	Scoping	\$ 50,000	35	18
75	2010	Herring Branch Tax Ditch / Parson Bank Stabilization	Approx. 300' of bank stabilization of Herring Branch Tax Ditch Main below Rt 20	Engineering	\$ 30,000	41	20
76	2011	Deep Creek Tax Ditch Bank Stabilization Phase 1 (Purdue)	Approx. 400' of bank stabilization on the right side of the Deep Creek Tax Ditch Main Channel, located 6,600' upstream of Old Furnace Road.	Engineering	\$ 55,000	35	19
77	2008	Morgan Branch Prong 1 / Fleetwood Drainage Improvements	Reconstruct approx. 8,000' of drainage ditch Includes Hasting Estates Drainage Improvements project	Scoping	\$ 70,000	39	21
78	2010	Sandy Branch Development / Clarke	Approx. 1,200' of bank stabilization	Scoping	\$ 205,000	41	20
79	2006	Road 347 and 349 / Densmore	Approx. 2,200' of channel reconstruction and total disposal for drainage improvements to Whites Neck Village and West Ocean Farms	Scoping	\$ 70,000	38	20

Prioritized Approved Resource Conservation and Development Projects

21st Century Fund

Sussex County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
80	2008	Fawn Rd / Rantz Drainage Improvements	Reconstruct approx. 5,000' of existing ditch, approx. 500' of new stormdrain, and approx. 1,000' of new ditch	Scoping	\$ 120,000	35	18, 19
81	2008	Hudson Rd / Harvey Drainage Improvement	Regrade road ditch approx. 1,500' to stormwater pond and address culvert under road	Scoping	\$ 70,000	20	6
82	2008	Cedar Corners Rd / Jones Drainage Improvement	Approx. 2,000' of new ditch North of intersection with Deer Forrest	Scoping	\$ 20,000	35	19
83	2008	Baker Mill Rd / Massey Drainage Improvements	Approx. 800' of stormdrain installation	Scoping	\$ 140,000	35	21
84	2006	Memory Rd / Wilkens Public Ditch	Reconstruct approx. 3 miles of drainage ditches	Scoping	\$ 125,000	30	16
85	2006	Rd 224 Baird Public Ditch	Install new pipe and catchbasins to Maple Marsh Tax Ditch	Scoping	\$ 140,000	35	18
86	2007	Camp Arrowhead Rd / Angola Neck Park / Mangini Drainage Improvements	Approx. 2,000' of ditch maintenance	Scoping	\$ 16,000	14	6
87	2006	Route 26 / Lilly Public Ditch	Construction of new ditch	Scoping	\$ 21,000	38	20
88	2007	Peppers Creek S1 of P10 Bank Stabilization	Approx. 100' of bank stabilization	Scoping	\$ 28,000	41	20
89	2010	Road 213 / Driscoll / Drainage Improvements	Approx. 2,500' of new ditch	Scoping	\$ 28,000	35, 36	18
90	2006	Doddstown Road / Tice Public Ditch	Construction of approx. 5,000' of new ditch and pipe and catch basins	Scoping	\$ 275,000	20	19
91	2008	Bethany Forrest / Madavero Drainage Improvement	Reconstruct approx. 300' of existing ditch & approx. 800' of stormdrain installation	Scoping	\$ 41,000	38	20
92	2007	Peppers Creek Rd / Dogwood Acres / McNeill Drainage Improvements	Approx. 1,050' of stormdrain and catchbasin installation	Scoping	\$ 137,500	38	20
93	2007	Rd 305 & Rd 296 / Mifflin Drainage Improvements	Approx. 2,000' of stormdrain and catchbasin installation	Scoping	\$ 205,000	37	19
94	2008	Hearns Pond Rd / Ensminger	Reconstruct approx. 8,000' of ditch and replace culvert under road	Scoping	\$ 45,000	39	19, 21
95	2007	Forrest Rd / Lewis Drainage Improvements	Approx. 2,500' of new ditch	Scoping	\$ 45,000	20	6
96	2007	Doorman Rd / Holly Oaks Drainage Study	Drainage study to determine feasibility of drainage improvements in this watershed	Scoping	\$ 35,000	20	6
97	2002	Route 13A (O'Neal Public Ditch) Phase III	Approx. 200' addition to stormdrain system with catchbasins.	Scoping	\$ 30,000	39	19, 21
98	2008	Brittingham Rd / Justice Drainage Improvement Project	Reconstruct approx. 1,000' of drainage ditch	Scoping	\$ 21,000	40	21
99	2008	Concord Pond Rd / Hudson	Reconstruct approx. 5,000' of drainage ditch	Scoping	\$ 55,000	35, 39	19
100	2008	Jefferson Bridge Rd / Chandross	Reconstruct approx. 1 mile of existing ditch	Scoping	\$ 27,500	38	20
101	2008	Lawson Rd / Setzer Drainage Improvement	Approx. 4000' of new ditch	Scoping	\$ 35,000	37	19
102	2008	Nat Turner Street / Lane Drainage Improvements	Approx. 600' of new ditch	Scoping	\$ 7,000	35	19
103	2008	New Rd (391) / Higgs Drainage Improvement	Approx. 300' of ditch within woods	Scoping	\$ 14,000	38	20
104	2008	Old Furnace Rd / Bull Drainage Improvements	Approx. 1,000' of storm drain	Scoping	\$ 137,500	39, 35	19
105	2008	Rd. 350 / Gladwin Drainage Improvement	Reconstruct approx. 600' of existing ditch	Scoping	\$ 14,000	38	20
106	2008	Rt. 10 / Dorharty Drainage Improvement	Approx. 400' of new ditch and approx. 1,100' of storm drain	Scoping	\$ 275,000	35, 39	21
107	2008	Rt. 13A / Spicer Drainage Improvement	Approx 1,000' of new storm drain	Scoping	\$ 105,000	39	21
108	2008	Shingle Point Rd / Antonio Drainage Improvement	Reconstruct approx. 1,000' of drainage ditch	Scoping	\$ 21,000	20	6
109	2009	Sowbrise Rd / Hue Drainage Improvements	Cleanout approx. 2,000' of existing drainage ditch	Scoping	\$ 28,000	36	19
110	2009	City of Rehoboth Country Club Estates Drainage Improvements	Design and install a storm septic upgrade to the existing storm drain. Reduce total suspended solids discharged to Silver Lake.	Scoping	\$ 190,000	14	6
111	2010	Bay View Rd / Mahon Drainage Improvement	Approx. 100' of new storm drain and approx. 300' of ditch reconstruction	Scoping	\$ 35,000	14	6
112	2010	Old Meadow Rd (Hananfeld)	Approx. 2,500' of new ditch and regrade ditch	Scoping	\$ 22,000	39	19
113	2010	Parker House Rd / Noble	Installation of culvert under Oak Street	Scoping	\$ 21,000	38	20
114	2010	Stafford Tax Ditch Main Bank Stabilization / Hale	Approx. 100' of bank stabilization	Scoping	\$ 41,000	35	18
115	2010	Walley Lane / Glen Jones Drainage Improvements	Approx. 3,000' of ditch reconstruction	Scoping	\$ 11,000	39	21
116	2010	Woodenhawk Tax Ditch P4 Bank Stabilization / Lecates	Stabilization of tax ditch near Sawmill Road	Scoping	\$ 15,000	35	19
117	2010	Chesapeake Bay Watershed Channel and Wetland Restoration Projects	Small channel and wetland restoration projects	Scoping	\$ 105,000	35, 36, 37, 39, 40, 41	18, 19, 20, 21

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Sussex County

Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
118	2011	Bacons Way / Shawnee Place / Bacon	Cleanout approximately 1,000' of road ditch and replace 3 driveway pipes	Scoping	\$ 16,000	35	18
119	2011	Murphy Lane / Helen Carter Drainage Improvements	Approx. 1,000' of new ditch through woods into Redden Tax Ditch	Scoping	\$ 21,000	36	19
120	2011	Oakridge Development (Rd 258) / Foley Drainage Improvements	Construct outlet for pre-stormwater infiltration pond	Scoping	\$ 126,000	20	6
121	2011	S. Union Church / John Falk Drainage Improvements	Approx. 3,000' of storm drain	Scoping	\$ 160,000	35	18, 19
122	2011	Scotland Rd / Sabatrie Singh Drainage Improvements	Approx. 1,000' of storm drain along Scotland Rd.	Scoping	\$ 63,000	40	21
123	2011	Shawnee Rd / Donald Bolton Drainage Improvements	Approx. 4,000' of ditch reconstruction, 700' of storm drain, and 300' of new ditch	Scoping	\$ 60,000	35	18
124	2011	Woods Drive / Carolyn Ludwig Drainage Improvements	Plan, design, and construct drainage system in development.	Scoping	\$ 210,000	14	6
125	2012	Governor Stockley Rd / McCray Drainage Improvements	Reconstruct approx. 1,500' of ditch	Scoping	\$ 21,000	41	19
126	2010	Morgan Branch Road / Davenport Drainage Improvements	Reconstruct approx. 1,000' of channel outlet	Scoping	\$ 30,000	39	21
127	2013	Deer Forrest Rd / Price Drainage Improvements	Approx. 1,700' of pipe and catch basins	Scoping	\$ 525,000	35	19
128	2013	Elliott-Evans TD/ Evans Bank Stabilization	Approx. 700' of bank stabilization/stream restoration on lower end of main ditch	Scoping	\$ 210,000	40	21
129	2013	Line Rd / Lee Drainage Improvements	Agriculture drainage	Scoping	\$ 53,000	40	21
130	2013	North Oak Grove Rd / Willin Drainage Improvements	Reconstruct approx. 5,000' of existing agricultural drainage ditch	Scoping	\$ 28,000	39	19
131	2013	Shawnee Rd / Cummings Drainage Improvements	Culvert under Shawnee Rd and tie into Young-Patterson tax ditch	Scoping	\$ 27,000	35	18
132	2013	Town of Bridgeville / Mill Street Drainage Improvements	Installation of new catch basin and approx. 200' feet of storm drain.	Scoping	\$ 35,000	35	19
133	2013	Town of Millsboro / West State Street Drainage Improvements	Provide drainage outlet to Millsboro Little League with storm drain from little league to Millsboro Pond	Scoping	\$ 265,000	41	20
134	2014	Town of Millsboro / Wilson Hwy Drainage Improvements	Approx. 500' of storm drain replacement along Wilson Hwy.	Scoping	\$ 360,000	41	20
135	2014	Town of Oceanview / Atlantic Ave. Drainage Improvements	Improvements to stormwater management plan outlet along Atlantic Ave. (S026)	Scoping	\$ 65,000	38	20
136	2014	Beaverdam Rd / Hollymount Rd	Approx. 2000' of ditch regrading and piping. Addition of cross road pipes under road. (Barnes)	Scoping	\$ 52,000	20	6
137	2014	Burbage Rd / Mark Brown Drainage Improvements	Approx. 1,000' of open ditch.	Scoping	\$ 13,000	38	20
138	2014	Evans Real Estate Drainage Improvements	Approx. 60' of pipe and catch basin	Scoping	\$ 20,000	38	20
139	2014	Murray Estates Drainage Improvements	Repair and replacement of existing stormwater management infrastructure.	Scoping	\$ 32,500	38	20
140	2014	Vines Creek / Cathell Drainage Improvements	Clearing and snagging trees along Vines Creek.	Scoping	\$ 32,500	41	20
141	2014	Plantation Park / Silver Woods Public Ditch	Dip out of approx. 5,300' of ditch	Scoping	\$ 106,000	38	20
142	2014	City of Seaford / Virginia Ave (S639) Drainage Improvements	Stormwater management system upgrades	Scoping	\$ 75,000	39	21
143	2014	Yacht Basin Rd / Ellis Drainage Improvements	Dip out and reconstruction of approx. 1,800' of public ditch	Scoping	\$ 36,000	38	20
144	2014	Chapel Branch Prong / Lare	Dip out of approx. 7,300' of prong	Scoping	\$ 73,000	39	19
145	2014	Poplar Grove / Forest Rd Drainage Improvements	Upgrade stormwater management system to subdivision and Forest Rd. (S292)	Scoping	\$ 315,000	20	6
146	2014	Brasures Branch TD / Rickards Bank Stabilization	Bank stabilization of tax ditch	Scoping	\$ 35,000	38	20
147	2015	Anchorage Canal Drainage Area Highway Wetpond Stormwater Retrofit	Stormwater Retrofit to existing wetponds	Scoping	\$ 750,000	38	20
148	2015	Anderson Corner Rd / Giove Drainage Improvements	Dip out of approx. 500' of ditch and removal of large vegetation	Scoping	\$ 6,500	20	19
149	2015	Branchview / Niblett Phase II	Repair approx. 1,200' of existing corrugated metal pipe stormdrain in Branchview Development	Scoping	\$ 60,000	39	20
150	2015	Bunting Road - Buckalew Drainage Improvements	Install 1,500' of drainage from low area out to Pepper Creek.	Scoping	\$ 100,000	41	20
151	2015	Club House Rd / Hutson Drainage Improvements	Creation of ditch in backyards to outlet residential low spot to Derrickson Canal Tax Ditch.	Scoping	\$ 3,500	38	20
152	2015	Ellendale Tax Ditch/Beach Hwy Rt.16 / Wyatt Drainage Improvements	Drainage improvements to Ellendale Tax Ditch.	Scoping	\$ 25,000	36	18
153	2015	Hunter Drive / McGinnis Drainage Improvements	Drainage Improvements to failed infiltration pond	Scoping	\$ 36,000	20	6

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Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
154	2015	Little Bay Tax Ditch Restoration	Approx. 100' of bank stabilization and creation of a floodplain along Prong 1.	Scoping	\$ 35,000	38	20
155	2015	Mallard Lakes Drainage Improvements	Drainage improvements to community of Mallard Lakes	Scoping	\$ 200,000	38	20
156	2015	McColley Street/Stevens Drainage Improvements	Drainage improvements to the residences between McColley, Gilcrest, and Marshall Streets	Scoping	\$ 2,500	36	18
157	2015	Peddler's Village - DelDOT Drainage Improvements	Drainage improvements to existing infrastructure.	Scoping	\$ 50,000	14	6
158	2015	Overbrook Shores/Moore Drainage Improvements	Install catch basins and culverts under the driveways with an outfall at the marina.	Scoping	\$ 34,000	20	6
159	2015	Sherwood Forest /Jackson / Dawson	Stormwater management pond retrofit and conveyance from strip lots along Rt. 24	Scoping	\$ 30,000	37	19
160	2016	Crazy Ln & 5th St - Stinson Drainage Improvements	Drainage improvements to Bay Vista subdivision.	Scoping	\$ 20,000	14	6
161	2016	Highland Acres Drainage Improvements	Drainage improvements to Highland Acres subdivision.	Scoping	\$ 50,000	20	6
162	2016	Sea Aire Village - Kings Creek Drainage Improvements	Drainage improvements within Sea Aire Village and connection of blind ditch to outlet.	Scoping	\$ 50,000	14	6
163	2016	Swedes & Bayard Streets - Dewey Beach - Yorgiadis Drainage Improvements	Drainage improvements to outlet drainage from intersection and residential lots.	Scoping	\$ 25,000	14	6
164	2014	Longneck / Christina Hall Drainage Improvement	Install approx. 250' of open drainage to stormwater management plan	Scoping	\$ 9,750	37	19
165	2015	Ward Cordrey TD P3 Drainage Improvements	Re-install pipes and dip-out approx. 1,650' of channel to provide positive outfall to Prong 3 of tax ditch.	Scoping	\$ 40,000	40	21
166	2018	Gravel Hill Rd / Kershaw	Approx. 1,200' of open ditch to improve drainage and relieve flooding on property and buildings; catch basin nearby. (S2017-70)	Scoping	\$ 12,000	36	19
167	2018	King George III Street / McFadden	Re-grading and new swales and possible pipe installation in development adjacent to Indian River High School. (S2017-124)	Scoping	\$ 25,000	41	20
168	2018	Manchester Manor / Navarro	Drainage improvements within the Manchester Manor Subdivision (S 2017-83)	Scoping	\$ 100,000		
169	2018	Pepper Creek TD Sub Prong 3 of 1 Relocation	Relocate and dip-out sub-prong 3 of prong to create outlet that was previously filled in by Savannah Square Shopping Center project.	Scoping	\$ 25,000	41	20
170	2018	Sussex Avenue / Allen St. /Dunn	Rain garden with connection into City of Seaford drainage system. (S2017-30)	Scoping	\$ 20,000	39	21
171	2018	Woodland Road / Massey	Approx. 1,000' of new ditch to connect to DelDOT drainage	Scoping	\$ 18,000	39	21
172	2019	Bethesda Road / Gaskins	Approx. 800' of storm drain to provide an outlet for properties east of Bethesda Rd.	Scoping	\$ 100,000	41	20
173	2019	Chapel Branch Road / Davis	Approx. 2,000' of new ditch through agricultural lands	Scoping	\$ 20,000	39	19
174	2019	Dennis Lane / Pocomoke Tax Ditch Main Bank Stabilization	Stabilization of areas upstream and downstream of Dennis Lane along the right bank.	Scoping	\$ 75,000	41	21
175	2019	Holly Branch Tax Ditch / Dunn	Piping approx. 850' of Holly Branch Tax Ditch along Horsey Church Road (S510)	Scoping	\$ 455,000	40	21
176	2019	Indian Beach Drainage Improvements	Reconstruction of tidal ditches that provide an outlet to Route 1 and the Indian Beach Community	Scoping	\$ 50,000	14	5
177	2019	Kent Avenue / Middlesex Beach Drainage Improvements	Drainage improvements in the community and the outlet for community along Kent Avenue to the canal.	Scoping	\$ 150,000	38	20
178	2019	Neals School Road / Jester Drainage Improvements	Reconstruction of approx. 850' of existing ditch near the intersection of Neals School Road and Hill Road	Scoping	\$ 7,500	39	19
179	2019	Pear Tree Rd / Cooper	Reconstruction of approx. 2,000' of ditch through agricultural lands and woods.	Scoping	\$ 40,000	41	21
180	2019	Route 54 / James Branch Tax Ditch / McKelvey Drainage Improvements	Improvements to Prong 1 of Jame Branch Tax Ditch to improve the outlet for Rt. 54	Scoping	\$ 40,000	40	21
181	2019	Savannah Ditch Drainage Improvements	Reconstruction of approx. 5 miles of channels in the Savannah ditch watershed. Provides drainage outlet to Sand Hill Rd, Route 9, and the Northeast Quadrant of Georgetown.	Scoping	\$ 500,000	36, 37, 20	19, 5

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182	2019	Sea Country Estates / Suter/ Barton Drainage Improvements	Reconstruction of approx. 4,000' of existing ditch between developments and internal drainage within Sea Country Estates	Scoping	\$ 75,000	38	20
183	2019	Walnut Street / Town of Frankford / Garcia Gusman	Reconstruction of approx. 1,000' of ditch North of Walnut Street in Frankford.	Scoping	\$ 30,000	41	20
184	2015	Unity Branch/Holly Lake Campground Watershed Study	Drainage studies and improvements in the Unity Branch watershed upstream of Rt. 24.	Scoping	\$ 100,000	20, 37	6, 19
185	2011	Mirey Branch / Wan Yu Bank Stabilization	Approx. 150' of bank stabilization needed on the right side of Mirey Branch and nearby roadway.	Scoping	\$ 32,000	40	21
186	2010	Inland bays Atlantic Ocean Watershed Channel and Wetland Restoration Projects	Small channel and wetland restoration projects	Scoping	\$ 105,000	14, 20, 37, 38, 40, 41	6, 19, 20, 21
187	2010	Delaware Bay Watershed Channel and Wetland Restoration Projects	Small channel and wetland restoration projects	Scoping	\$ 105,000	14, 20, 35, 36, 37	6, 18, 19
188	2011	Atlanta Devonshire Development / Tveekrem Drainage Improvement	Approx. 1000' of new ditch in the development	Scoping	\$ 21,000	39	21
189	2009	Norman Eskridge Highway / Lowes	Cleanout outlet ditch of Del DOT storm drain	Scoping	\$ 70,000	39	21
190	2014	Angola Rd / Maietti Drainage Improvements	Drainage improvements through Angola By the Bay Subdivision south of Angola Rd. (S277)	Scoping	\$ 650,000	14	6
191	2014	Bay Colony Marina Sluice Replacement	Dilapidated sluice	Scoping	\$ 260,000	38	20
192	2004	Concord Pond Road / Jenkins	Approx. 1,500' of new ditch	Scoping	\$ 35,000	35	19
193	2005	Sunset Branch T.D. Prong 1 Pipe	Install approx. 150' of pipe with inlet protection in Prong 1 of Sunset Branch Tax Ditch	Scoping	\$ 21,000	41	21
194	2003	Jones Mill Branch	Stream restoration	Scoping	\$ 126,000	35	19
195	2004	Collins Russell Rt 16 Milton	Infiltration system	Scoping	\$ 7,000	20, 36	19
196	2004	Sr.1 / Sea Colony	Outlet drainage for SR 1 in Bethany Beach	Scoping	\$ 215,000	38	20
197	2010	Town of Bethany North Pennsylvania Avenue Storm Drain	Restoration and reconstruction of storm drain on North Pennsylvania Ave.	Scoping	\$ 2,500,000	38	20
198	2005	Bay City Mobile Home Park Drainage Study	Drainage study for community	Scoping	\$ 42,000	37	19
199	2014	Lakeview Rd / Donna Lanham Bank Stabilization	Approx. 200' of bank stabilization east of bridge.	Scoping	\$ 52,000	41	21
200	2012	Revel Road / DelDOT Drainage Improvements	Approx. 500' of new ditch and culvert under road	Scoping	\$ 100,000	41	20, 21
201	2004	Joe Dailey New Rd Lewes	Installation of 24" x 1,500' of pipe with catch basins	Scoping	\$ 25,000	20	6
202	2014	Rt. 30 Whitesville Rd / Philips Drainage Improvements	Replacement of failing catchbasin south of Whitesville Rd (S064).	Scoping	\$ 6,500	40	21
203	2006	Mayer Branch Public Ditch	Channel reconstruction of Mayer Branch where it outlets to Maryland	Scoping	\$ 210,000	40	21
204	2012	Dewey Beach Drainage Study	Drainage study	Scoping	\$ 35,000	14	6
205	2007	Route 9 / Britt Drainage Improvements	Approx. 1,000' of channel reconstruction	Scoping	\$ 14,000	40	19
206	2007	Cotton Patch Hills Drainage Improvements	Installation of approx. 500' of stormdrain to provide an outlet for Cotton Patch Hills and SR 1	Scoping	\$ 75,000	38	20
207	2007	Cool Spring Road / Swift Drainage Improvements	Reconstruct approx. 2,500' of an existing ditch that provides an outlet for Coolspring Road.	Scoping	\$ 21,000	37	18
208	2007	Patty Cannon Estates drainage improvements	Provide outlet for existing residential development	Scoping	\$ 70,000	40	21
209	2008	Rt 13A / Skateworld	Approx. 500' feet of stormdrain installation	Scoping	\$ 82,000	39	21
210	2017	Dartmouth Drive Congestion Relief Project / DelDOT	Stormdrain improvements for the relief route between Dartmouth Drive and SR1	Scoping	\$ 25,000	14	6
211	2007	Deep Hole Tax Ditch Maintenance Dipout	Maintain approx. 3 miles of tax ditch	Scoping	\$ 115,000	38	20
212	2008	Meadow Branch Tax Ditch Maintenance Dipout	Dipout of Tax Ditch approx. 24 miles	Scoping	\$ 275,000	40	21
213	2008	Marshyhope Tax Ditch Maintenance Dipout	Dipout of Tax Ditch approx. 13 miles	Scoping	\$ 140,000	35, 30	16, 19
214	2013	Falling Point Rd / Witmer Drainage Improvements	Replacement of approx. 120' of 24" stormdrain and removal of sediment from lagoon	Scoping	\$ 42,000	38	20
215	2011	Sand Hill Rd / Thelam Folke Drainage Improvements	Approx. 6,000' of ditch reconstruction	Scoping	\$ 26,000	36	19
216	2005	Cart Branch Main / Alan Pongratz	Bank stabilization project	Scoping	\$ 35,000	35	18
217	2005	Rt. 24 (Millsboro) / Kathy McGinnis	Install approx. 1,500' of pipe and catchbasins	Scoping	\$ 70,000	41	20
218	2012	Donovan Rd / Mifflin TD / DelDOT Drainage Improvements	Extend Mifflin Tax Ditch or construct new ditch approx. 1,500' to Donovan Road	Scoping	\$ 25,000	37	19
219	2014	Clogg Drive & Thorogoods Rd (S333) Drainage Improvements	Approx. 1,800' of channel maintenance	Scoping	\$ 21,000	41	20
220	2014	Munchy Branch Rd/Griffith Drainage Improvements	Approx. 1,300' of pipe and ditch regrading.	Scoping	\$ 80,000	14	6

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Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
221	2011	Marks Lane / Sally Marks Drainage Improvements	Approx. 5,280' of stormdrain installation	Scoping	\$ 525,000	37	19
222	2010	Doddstown Rd / Rich	Approx. 0.75 miles of stormdrain installation and open ditch construction	Scoping	\$ 275,000	20	19
223	2005	Road 442 / Jay Challman	Approx. 4,400' cleanout, minimal clearing, incorporate Rd. 74 Ciampo project	Scoping	\$ 135,000	40	21
224	2015	Bay Colony - Cripple Creek Drainage Improvements	Drainage improvements to structures within the Bay Colony and Cripple Creek subdivisions.	Scoping	\$ 550,000	38	20
225	2014	Town of Oceanview / Caroline St. Drainage Improvements	Approx. 2,000' of drainage improvements.	Scoping	\$ 39,000	38	20
226	2008	River Rd / Clark Drainage Improvements	Approx. 1,500' of new ditch and replace 12 driveway pipes	Scoping	\$ 35,000	39	21
227	2011	Neptune Rd / Luther Warren Drainage Improvements	Install approx. 600' of stormdrain to tie DelDOT drainage into Redden Wood Development stormwater system	Scoping	\$ 80,000	36	19
228	2010	Webb Farm Road (594) / Rose	Clean out approx. 900' of ag ditch	Scoping	\$ 7,000	35	18
229	2002	Columbia Ave. (Rehoboth), Surf Ave. / Phase III	Extend the drainage system on Surf Avenue up Colombia Avenue to the intersection at First Street	Scoping	\$ 145,000	14	6
230	2004	Town of Georgetown	Drainage Projects within in the Town of Georgetown	Scoping	\$ 75,000	37	19
231	2007	Rehoboth Beach / Stockley Street	Ocean block of Stockley to King Charles	Scoping	\$ 975,000	14	6
232	2020	Airport Road/Hearn	Placeholder while project is being developed (DC S2018-338)	Scoping	\$ 1,000	39	21
233	2020	Branch Acres/Taylor	Approx. 450' of new ditch construction and approx. 1,000' of channel reconstruction	Scoping	\$ 35,000	41	20
234	2020	Brickyard Road/Hearn	Approx. 1,700' of ditch maintenance that borders Mobile Gardens Mobile Home Park (DC S2018-355)	Scoping	\$ 1,000	39	21
235	2020	Byard Road/Langenfelder	Approx. 1,600' of channel reconstruction	Scoping	\$ 1,000	38	20
236	2020	Cedar Neck Road/Bullock	Approx. 5,000' of ag ditch maintenance, installation of approx. 1,500' of new stormdrain, and construction of approx. 800' of new ditch.	Scoping	\$ 200,000	36	18
237	2020	Clam Avenue/Brittingham	Drainage improvements in Beachwood Development	Scoping	\$ 1,000	38	20
238	2020	Gordy Road/Chapman	Placeholder while the project is being developed (DC S2018-259)	Scoping	\$ 1,000	40	21
239	2020	Lisa Avenue/Kaufman	Approx. 1,000' of channel reconstruction, approx. 400' new ditch (DC S2019-248), replacement of crossroad pipe (DC S2018-346 S2019-248)	Scoping	\$ 35,000	38	20
240	2020	Morgan Drive/Gale	New swale construction and driveway pipe installation. Approx. 1,000' of ditch cleanout	Scoping	\$ 25,000	35	18
241	2020	Nelsa Lane/Valente	Addition to the scope of Oak Orchard/Oak Meadows	Engineering	\$ 75,000	37	20
242	2020	Old Stage Road watershed study	Flood study of Cooper Branch tributary to Broad Creek	Scoping	\$ 60,000	40	21
243	2020	Paradise Road/Richardson	Approx. 7,000' of channel reconstruction	Scoping	\$ 75,000	40	19
244	2020	Rehoboth Manor/ Difrancesco	New street drainage on Canal and Bay Streets and rehabilitation of existing storm drains for approx. 930' (DC S2019-13)	Scoping	\$ 150,000	14	6
243	2020	Route 5/Thompson	Replacement of private crossroad pipe on Rock Switch Street and ditch cleanout.	Scoping	\$ 20,000	20	18
246	2020	Smithfield Acres/Lyons	Emergency addition to replace pipe under Smith Avenue and ditch cleanout.	Planning	\$ 21,000	38	20
247	2020	Spicer Road/Baynes	Approx. 4,500' of channel reconstruction	Scoping	\$ 75,000	36	18
248	2020	The Glade/August	Approx. 1,000' of channel reconstruction and replacement of 8 driveway pipes.	Planning	\$ 35,000	14	6
249	2020	Warwick Park/Fowler	Solve multiple drainage issues and rehabilitate storm drain within the community	Scoping	\$ 200,000	41	20
250	2020	Cannon Road/Cancel	Reconstruct approx. 1,500' of open ditch connecting to Bucks Branch Tax Ditch	Scoping	\$ 15,000	39	19
251	2020	Cross Keys Road/Messick	Approx. 4,500' of dipout and new ditch construction (DC S2019-376)	Scoping	\$ 60,000	41	21
252	2020	Denton Manor/Jensen	Approx. 2,000' of channel reconstruction. Replacement of culvert and storm drain along Railway Avenue. Reconstruction of drainage network inside of Denton Manor	Planning	\$ 225,000	38	20

Prioritized Approved Resource Conservation and Development Projects

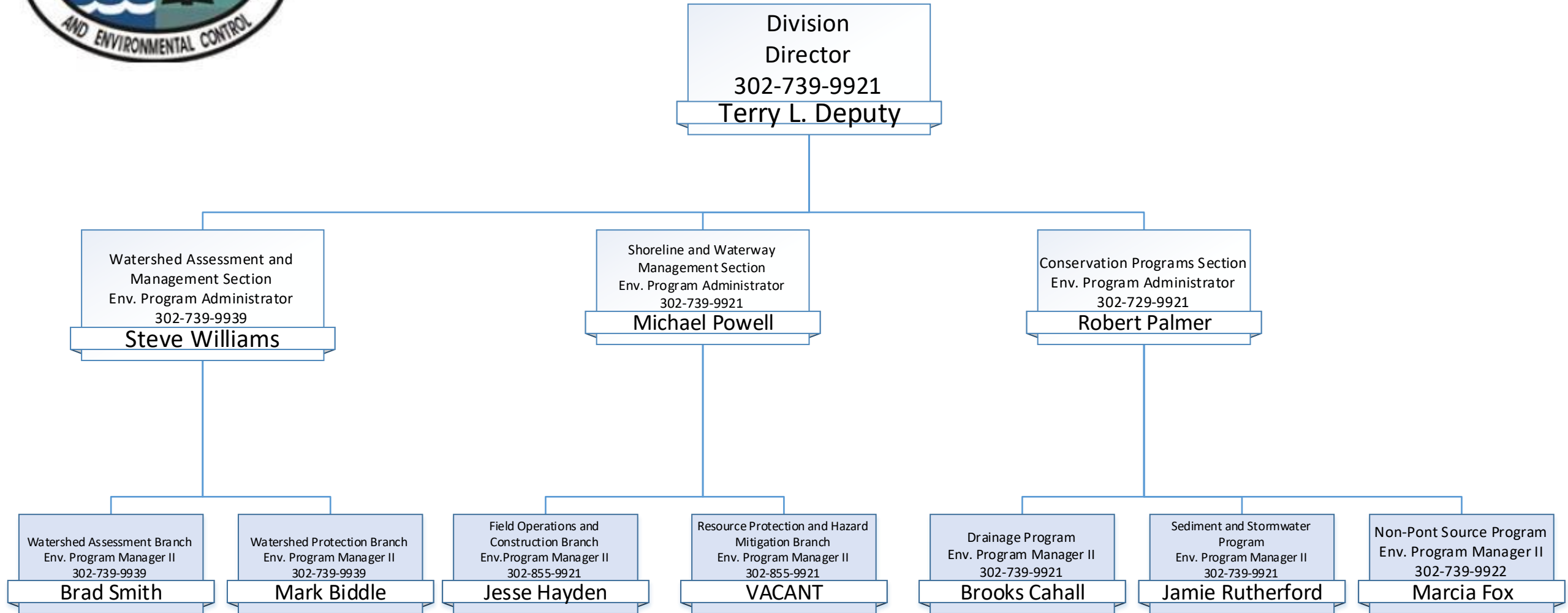
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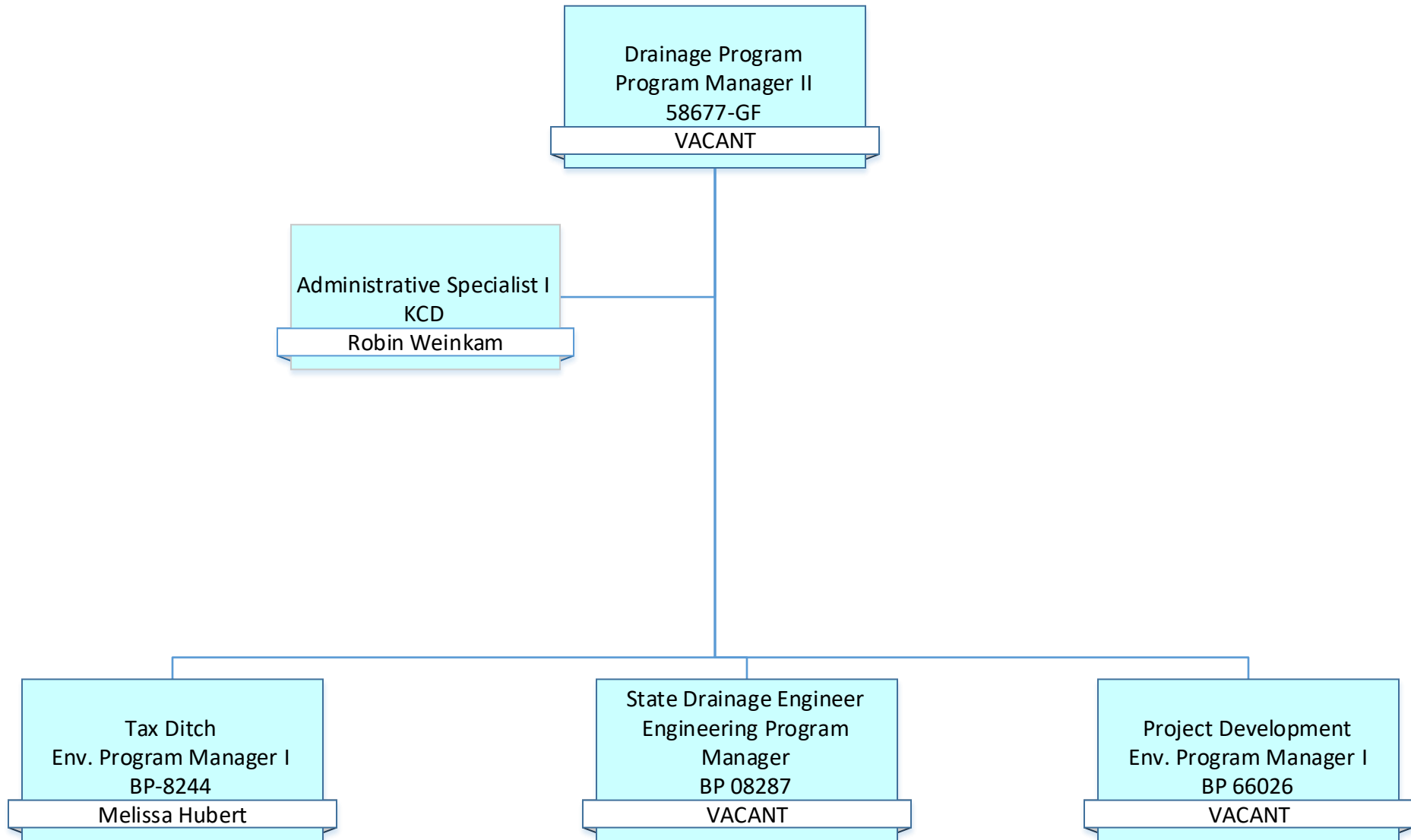
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Rank	Year	Project	Remarks	Status	Estimated Total Cost	Representative District	Senatorial District
253	2020	Gordy Road/Littleton	Reconstruct approx. 2,100' of agricultural drainage ditch. (DC S2019-249)	Scoping	\$ 30,000	40	21
254	2020	Magnolia Street Drainage / Town of Milton	Town of Milton project to improve the drainage of Magnolia Street and the Municipal parking lot.	Planning	\$ 150,000	20	6
255	2020	Midpark/Pertuccy	Installation of stormdrain system in development. Potential streetscape project	Scoping	\$ 200,000	14	6
256	2020	N. Union Church Rd. / Fitzgerald / Evans	Approx. 15,000' of ditch reconstruction and replacement of pipes. (DC S2019-205)	Scoping	\$ 100,000	35	18
257	2020	Quaint Acres / VanBergen / Pusey Drainage Improvement	Reconstruct approx. 2,000' of drainage swales and road crossings in the development. This project ties into the upper end of Sub 1 of Prong 3A (DC S2018-294 & S2019-327)	Scoping	\$ 75,000	38	20
258	2020	Shiloh Rd / Semat	Roadside drainage improvements and expansion of L&W Tax Ditch (DC S2019-241)	Scoping	\$ 50,000	40	21
259	2020	South Hampton / McCabe Tax Ditch	Replacement of 6 private cross road pipes in the South Hampton Development.	Scoping	\$ 150,000	38	20
260	2020	Wil King Road / Thomas	Approx. 2,000' of new ditch to provide an outlet to the northern end of Wilking Road. (DC S2019-355)	Scoping	\$ 25,000	14	6
261	2020	Wilson Hill Road / Klingensmith	Reconstruct approx. 4,500' of open ditches that outlet to Mifflin Tax Ditch (DC S2019 - 293)	Scoping	\$ 50,000	35	19
SUBTOTAL - Sussex County Active Projects					\$ 35,265,750		

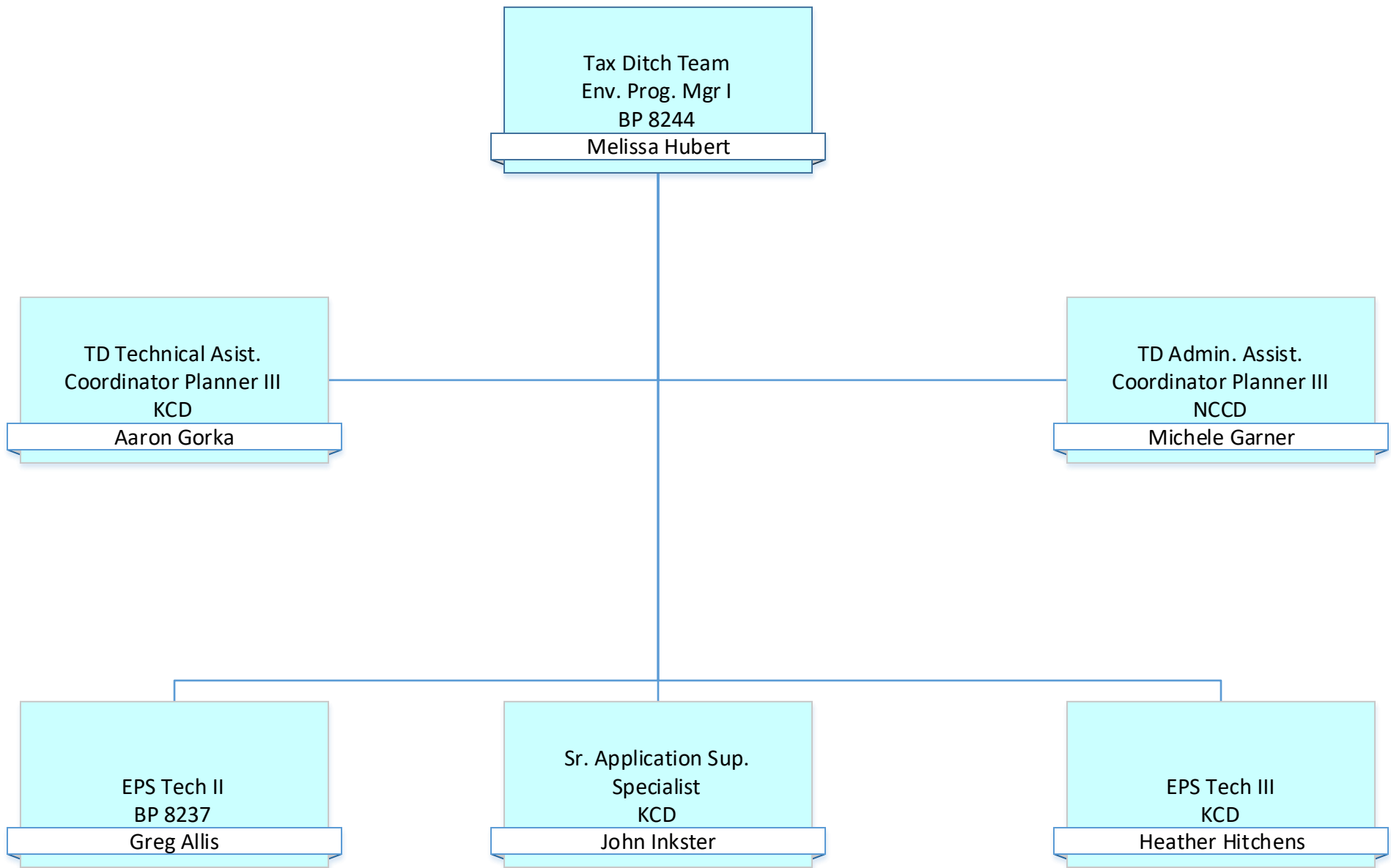


Division of Watershed Stewardship

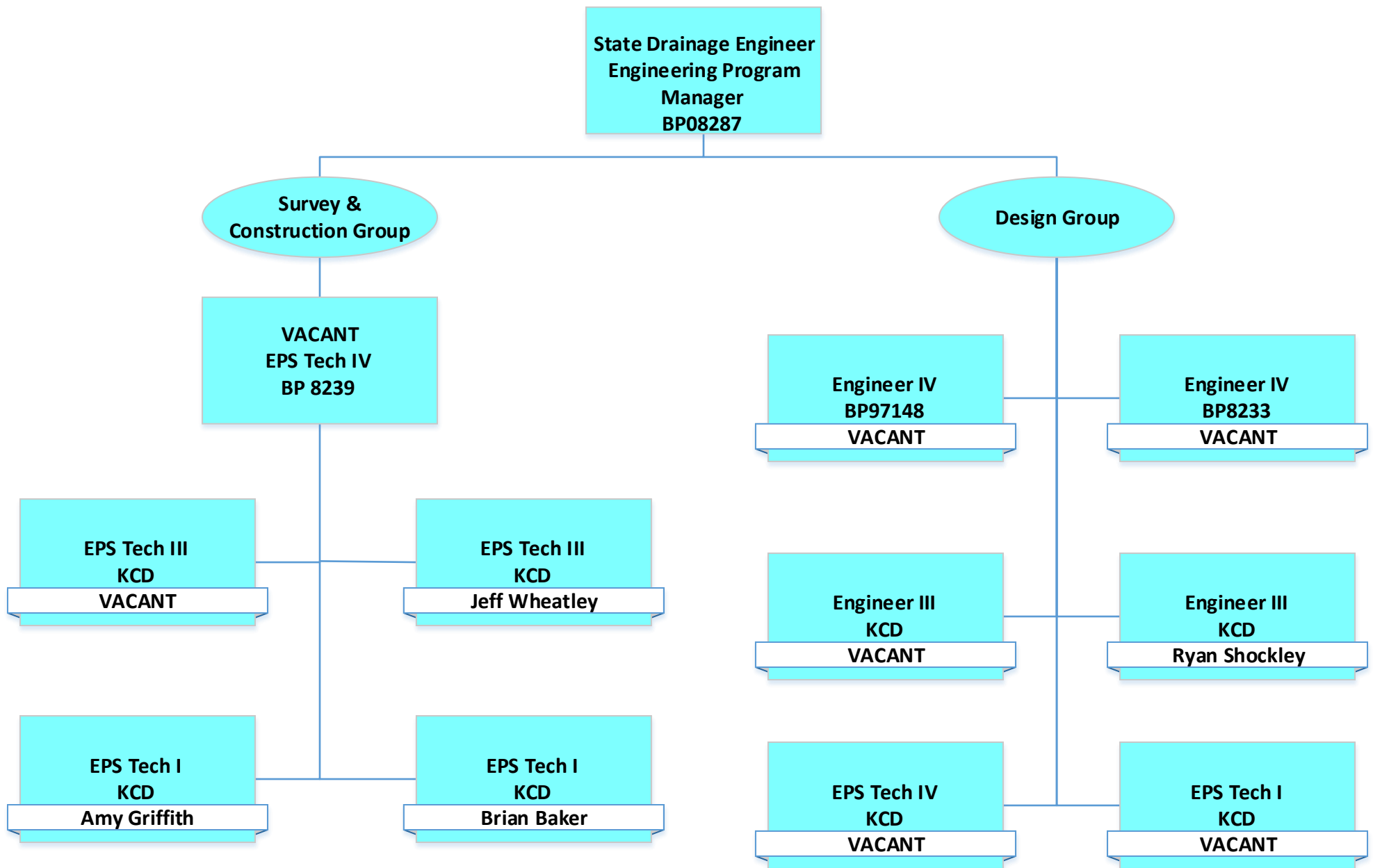




Watershed Stewardship
Tax Ditch Team



Watershed Stewardship
Drainage Engineering Team



Watershed Stewardship Drainage
Project Development Team

Project Development Team

VACANT
Environmental Program Manager I
BP66026

Drainage Project Planning Group

Planner III
KCD
Mike Biggs

EPS Tech III
KCD
Travis Schirmer

EPS Tech II
KCD
Karl Workman

Environmental Scientist II
BP53355
Alissa Buck

Small Projects Crew

Construction Tech III
KCD
Robert Johnson

Conservation Tech
KCD
VACANT

Appendix E

RC&D 21st Century Fund Expenditure Report

21st CENTURY DRAINAGE EXPENDITURE REPORT BY FISCAL YEAR BY COUNTY ALL BALANCES
REPORTED ARE ACCURATE AS OF 4/30/2020

	NEW CASTLE	KENT	SUSSEX	TOTAL
ALLOCATIONS				
Allocated - FY1996-FY2009	44,552,468	6,503,822.96	11,311,984.16	62,368,276.51
Allocated FY2016	1,350,458	427,730.00	1,221,812.00	3,000,000.00
Allocated FY2017	1,795,962	533,784.00	1,483,054.00	3,812,800.00
Allocated FY2019	1,890,000	756,000.00	1,554,000.00	4,200,000.00
Allocated FY2020	2,300,000	875,000.00	1,825,000.00	5,000,000.00
Total Allocated	51,888,888	9,096,336.96	17,395,850.16	78,381,075.51
EXPENDITURES				
Expended FY1996 - FY2000 ¹	8,915,505.23	459,453.32	2,794,700.40	12,169,658.95
Expended FY2001	2,828,047.97	1,002,739.97	1,034,837.73	4,865,625.67
Expended FY2002	2,032,709.00	368,542.09	1,073,955.21	3,475,206.30
Expended FY2003	2,294,880.69	408,426.48	657,955.19	3,361,262.36
Expended FY2004	3,822,120.89	289,670.17	516,527.73	4,628,318.79
Expended FY2005	3,351,503.89	199,981.65	521,911.91	4,073,397.45
Expended FY2006	3,424,161.21	257,838.23	94,696.80	3,776,696.24
Expended FY2007	6,103,467.71	150,146.12	219,643.52	6,473,257.35
Expended FY2008	2,866,456.54	177,039.78	360,432.13	3,403,928.45
Expended FY2009	1,523,192.53	51,198.86	424,434.06	1,998,825.45
Expended FY2010	356,680.46	97,794.90	359,652.66	814,128.02
Expended FY2011	1,958,027.79	279,398.81	199,290.88	2,436,717.48
Expended FY2012	705,170.52	223,112.44	108,293.12	1,036,576.08
Expended FY2013	747,352.18	342,501.04	690,257.45	1,780,110.67
Expended FY2014	527,924.11	421,170.61	282,912.79	1,232,007.51
Expended FY2015	1,309,287.48	563,513.23	586,973.82	2,459,774.53
Expended FY2016	1,448,682.90	568,644.41	1,187,668.40	3,204,995.71
Expended FY2017	1,315,066.12	460,894.13	541,334.10	2,317,294.35
Expended FY2018	1,364,086.61	206,185.89	766,920.26	2,337,192.76
Expended FY2019	1,002,389.99	374,004.83	1,533,732.23	2,910,127.05
Expended FY2020	1,958,757.97	44,422.08	263,935.58	2,267,115.63
Total Expended	49,855,472	6,946,679	14,220,066	71,022,217
Allocated Unexpended Balance	2,033,417	2,149,658	3,175,784	7,358,859
Allocated Open Encumbrances	2,033,417	1,256,867	2,034,231	5,324,515
Allocated Unencumbered Balance	0	892,791	1,141,553	2,034,344

¹ Not tracked by fiscal year by county for first 5 years



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF WATERSHED STEWARDSHIP
89 Kings Highway
DOVER, DELAWARE 19901

OFFICE OF THE
DIRECTOR

PHONE: (302) 739-9921
FAX: (302) 739-6724

MEMORANDUM

TO: Secretary Shawn M. Garvin

THRU: Terry L. Deputy, Director *TL*

FROM: Robert R. Palmer, Administrator *RP*

SUBJECT: State and County Matching Funds (3921 Funds)

DATE: August 28, 2019

Funding in the amount of \$225,000, as required by 7 Del. C. § 3921, is annually provided to the Department for distribution to New Castle, Kent and Sussex Conservation Districts. This equates to \$75,000 for use in in each County for the purpose to pay or assist in paying all costs including personnel required for planning, construction, installation and maintenance of tax ditches, public group ditches, highway ditches and resource conservation projects in Sussex, Kent and New Castle Counties. This funding is matched by the County government and then used as part of a Cost Share program that further leverages the funding by requiring matching funds from the tax ditch organization or landowners using the funding.

7 Del. C. § 3923 states: *"The money appropriated pursuant to § 3921 of this title shall be used by the Division of Watershed Stewardship to pay or assist in paying all costs including personnel required for planning, construction, installation and maintenance of tax ditches, public group ditches, highway ditches and resource conservation projects in Sussex, Kent and New Castle Counties, which tax ditches shall be organized under Chapter 41 of this title; Article 2, Chapter 65, and Article 1, Chapter 105 of the 1935 Revised Code of Delaware; and which public group ditches shall be ditches providing water management and drainage for groups of landowners and for landowners and portions of state highways and for which necessary construction permits, easements or rights-of-way for construction and maintenance operations shall have been acquired by this State or by Sussex, Kent or New Castle County, and which highway ditches shall be ditches maintained by the public on state or county-owned easements or rights-of-way adjacent to the roads of Sussex, Kent or New Castle County, and which resource conservation projects shall be defined in applications or project plans submitted to the Secretary of the United States Department of Agriculture for Watershed Planning or Resource*

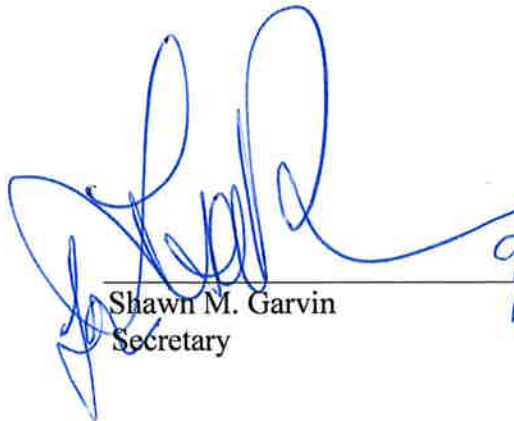
Delaware's good nature depends on you!

Conservation and Development assistance. The money appropriated shall be paid from time to time by the State Treasurer and the governments of Sussex, Kent and New Castle Counties to the Division of Watershed Stewardship, or to the Sussex Conservation District, the Kent Conservation District, or the New Castle Conservation District, or directly to the contractors and suppliers furnishing work, labor, services and materials for such projects or to landowners for rights-of-way or easements, or shall be paid or otherwise made available to other state agencies for work, labor, services and materials for certain portions of such projects as shall be determined by the Division and upon certification by the Division that such payments are proper and for the purposes authorized by this section”

Since this funding is stipulated by State of Delaware statute the funding should not be delayed. More importantly this funding is desperately needed to allow the Conservation Districts to assist Tax Ditch Organizations and other landowners in maintaining drainage infrastructure and alleviating drainage problems.

The importance of the 3921 funds are to assure the implementation of agriculture best management practices (BMPs) essential to provide environmental protection in specific areas of Delaware watersheds including the geographic areas the drain to the Chesapeake Bay, Delaware Bay and/or the Inland Bays.

✓ Approved _____ Disapproved


Shawn M. Garvin
Secretary

9/4/19
Date

Attachment



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF WATERSHED STEWARDSHIP

89 Kings Highway
DOVER, DELAWARE 19901

OFFICE OF THE
DIRECTOR

PHONE: (302) 739-9921
FAX: (302) 739-6724

MEMORANDUM

TO: Secretary Shawn M. Garvin
THRU: Terry L. Deputy, Director *TL*
FROM: Robert R. Palmer, Administrator *RRP*
SUBJECT: Conservation Cost Share Program
DATE: September 5, 2019

Using funds provided through the FY2020 Delaware Bond Bill, the Conservation Districts will manage appropriations of funding dedicated to the Tax Ditch organizations as detailed within Senate Bill 180, Section 88. The section appropriates \$500,000 to the Department of Natural Resources and Environmental Control (DNREC) for the purpose tax ditch maintenance work projects in Sussex, Kent and New Castle Counties.

Section 88 states: *"Tax Ditches. Section 1 Addendum of this Act makes an appropriation to the Department of Natural Resources and Environmental Control for Tax Ditches. Of this amount, \$500,000 shall be divided at a rate based on the total number of miles of tax ditch statewide and distributed to the three conservation districts based on the number of miles of tax ditch in each county. This funding shall be used for tax ditch maintenance work to be completed at the direction of the tax ditch organizations and/or their managers who are in compliance with 7 Del. C. c. 25."*

In accordance with the language above, the funds will be distributed to the three Conservation Districts based on the number of miles of tax ditch in each county. Funds will be distributed according to the following table:

Delaware's good nature depends on you!

County	Tax Ditch Miles	FY2020 Bond Bill Funding
New Castle County	57	\$ 14,095
Kent County	751	\$ 185,707
Sussex County	1214	\$ 300,198
Totals	2022	\$ 500,000

Since this funding is stipulated by statute the funding should not be delayed. More importantly this funding is desperately needed to allow the Conservation Districts to assist Tax Ditch Organizations and other landowners in maintaining drainage infrastructure and alleviating drainage problems.

The importance of the additional funding as appropriated through FY2020 Bond Bill, Senate Bill 180, Section 88 is a critical step to assure organizations overseeing Delaware's tax ditch systems can initiate much needed and important maintenance projects.

✓ Approved _____ Disapproved


Shawn M. Garvin
Secretary

September 10, 2019
Date

Attachment

INTERAGENCY PROJECT AGREEMENT

NEW CASTLE COUNTY RESOURCE, CONSERVATION & DEVELOPMENT PROJECT
IMPLEMENTATION
N-FY2020-001

TWENTY-FIRST CENTURY FUND
RESOURCE CONSERVATION AND DEVELOPMENT PROJECT
(FY20)
NEW CASTLE COUNTY, DELAWARE

THIS AGREEMENT, made this 21st day of August, 2019, BY AND BETWEEN, the Department of Natural Resources and Environmental Control, hereinafter called "The Department" and the New Castle Conservation District hereinafter called "NCCD".

WITNESSETH THAT:

WHEREAS; Senate Bill 180 of the 150th General Assembly, appropriated funds for Resource Conservation and Development Projects dedicated to improve the health of communities by addressing a variety of State-wide watershed and drainage issues consistent with the policies of the Cabinet Committee on State Planning Issues; and

WHEREAS, said appropriations provide funds for projects located in New Castle County; and

WHEREAS, House Bill 410, Section 76 of the 146th General Assembly requires that monies appropriated from the Twenty-First Century Fund have a funding match of at least 10%; and

WHEREAS, Resource Conservation and Development Projects have been approved by the Joint Legislative Committee on the Capital Improvements Program;

NOW, therefore, in consideration of the premises and of the several promises to be faithfully performed by the parties hereto as set forth, The Division and NCCD do hereby agree as follows:

- A. It is agreed that the NCCD will provide project management and construction using NCCD or contractor resources for any Twenty First Century Fund Project approved by the Joint Committee for Capital Improvement at an estimated total cost of \$2,555,556.
- B. It is agreed that this project will utilize Twenty-First Century Funds and non Twenty-First Century Funds for the required match as shown in the table below:

Project Name	Resource Conservation and Development Funds	Funds provided by the NCCD	Description
Approved New Castle Resource, Conservation, and Development Projects	FY2020 \$2,300,000	\$255,556	Project Management and Construction

C. The Department will:

1. Provide \$2,300,000 toward the cost of the work described in “A” and “B”.
2. Pay for the cost of said work up to \$2,300,000, directly to the NCCD on a monthly basis upon receipt of a statement for works performed or supplies purchased.
3. Provide administration and technical assistance as required.

D. NCCD will:

1. Obtain and provide \$255,556 toward the cost of construction of the projects described in item “A”.
2. Obtain and provide the necessary land rights needed for the construction of said projects.
3. Be responsible for obtaining any and all applicable permits.
4. Be responsible for complying with all relevant State and Federal laws.
5. Be responsible for undertaking, implementing and supervising all aspects related to said projects including but not limited to project planning, design, bid preparation and award, construction and inspection.
6. Arrange for final inspection of and certification that the projects meet the construction plans and specifications.
7. Keep accurate records of the expenditure of these funds and notify The Department in writing when the project is completed, such notification shall include the above stated inspections and certification documents.
8. Assure that these funds will only be on projects that have been approved by the Joint Committee for Capital Improvement.
9. Supply to The Department documentation of the required 10% match.

E. It is mutually agreed that:

- 1) Financial commitments are contingent upon the continuing availability of appropriations by the Legislature and County Government from which payment may be made. The Department or NCCD shall not be obligated if the Legislature or the County fails to appropriate funds.
- 2) The Department, nor NCCD, shall assume any responsibilities for future maintenance.
- 3) All parties hereby acknowledge that this Agreement has financial limits that cannot be exceeded except by agreement of all parties in writing.

NEW CASTLE CONSERVATION
DISTRICT


District Coordinator

Date:

August 20, 2019

DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL


Secretary, Shawn M. Garvin

Date:

August 21, 2019

Department of Natural Resources and Environmental Control (DNREC)

Division of Watershed Stewardship

Tax Ditch Internal Controls Advice & Audit Procedures Guide

DNREC provides administrative and technical assistance to tax ditch organizations. As a joint effort with the State of Delaware Office of Auditor of Accounts (AOA), we have developed this document to provide guidance in matters of internal controls, financial statement preparation, and audit procedures.

Tax ditch organizations are governmental subdivisions of the State of Delaware that are required by law to hold annual meetings, elect officers, keep meeting minutes, prepare financial statements, have financial statements audited, and secure bond for the secretary-treasurer. Once elected, tax ditch officers have a fiduciary responsibility to the landowners, also known as the taxables, to ensure the tax ditch functions properly and to ensure adequate safeguards are in place over tax ditch assets. A system of internal control that promotes efficiency, yet minimizes risk, is essential.

Internal Controls

As management and the fiscal stewards of the tax ditch, the managers are responsible for the creation and maintenance of a system of internal controls to ensure effective and efficient organizational operations. However, internal controls are not foolproof. Management's monitoring of and attitude towards the adherence to control procedures are critical to making controls work. Support for good controls must come from all levels of the organization without regard to title, position, or contribution to the organization. Support includes the willingness to recognize and take corrective steps when fraud, waste, or abuse is suspected or has occurred.

A well-designed system of internal controls must include written policies and procedures and good supporting documentation to ensure each control objective is met. Failure to meet control objectives constitutes a weakness in an entity's internal controls system. The three categories of objectives, as defined by COSO¹, are as follows:

- Operations objectives relate to the overall operations of the entity.
- Reporting objectives ensure that all information used and output by the entity are accurate and reliable.
- Compliance objectives relate to the entity's compliance with laws and regulations.

There are five components of internal control which include the control environment, risk assessment, control activities, information and communication, and monitoring. All of these components should be evident in each entity's system of internal controls.

- Control Environment
 - Sets the tone of the organization;
 - Provides discipline and structure;

¹ The Committee of Sponsoring Organizations of the Treadway Commission (COSO), *Internal Control – Integrated Framework* has been used as a blueprint for the private and public sectors to establish internal controls that promote efficiency, minimize risks, promote the accuracy and reliability of financial statements, and encourage compliance with laws and regulations. In addition to COSO, the tax ditch should consider the *Standards for Internal Control in the Federal Government* (known as the Green Book), issued by the United States Government Accountability Office (GAO), which may be adopted by state, local, and quasi-governmental agencies, as well as not-for-profit organizations. The Green Book can be found at <http://www.gao.gov/assets/670/665712.pdf>.

- Factors include: integrity, ethical values, competence, management's philosophy and operating style, and attention and direction provided by leadership.
- Risk Assessment
 - External and internal sources;
 - Identification and analysis of relevant risks;
 - Basis to determine how the risks should be managed.
- Control Activities
 - Policies and procedures that help ensure management directives are carried out;
 - Ensure that necessary actions are taken to address risks;
 - Includes: approvals, authorizations, verifications, reconciliations, reviews of operating performance, security of assets, and segregation of duties.
- Information and communication
 - Pertinent information must be identified, captured and communicated in a form and timeframe that enable people to carry out their responsibilities;
 - Effective communication flows down, across, and up the organization.
- Monitoring
 - A process that assesses the quality of the system's performance over time;
 - Ongoing monitoring activities such as review of monthly bank reconciliations;
 - Separate evaluations such as financial audits.

No organization is immune to the potential threat of fraud. Losses due to fraud can be especially devastating to smaller companies, especially non-profits, which have limited resources and smaller revenue streams. This makes the identification, mitigation, and deterrence of fraud risk for smaller organizations crucially important to their very survival.

Any employee, no matter what level they are in an organization, that has sufficient *opportunity* coupled with real or perceived economic pressure or other *motivation* and who can *rationalize* the criminal behavior can commit fraud. Those employees organizations consider "highly trusted" undertake a high percentage of fraud schemes because of the increased opportunity inherent in the trusted employee position.

It is much easier to prevent fraud than to detect fraud. Most experts agree that the single most effective way to prevent fraud is to increase the perception that fraud will be detected if perpetrated. This decreases the fraudster's perceived opportunity that the fraud will be successful. Effectively designed and implemented controls used for the detection of fraud are a good way to decrease the fraud risk in any organization. Below are some controls that could minimize the risk of fraud which should be adopted by the tax ditch:

- All accounts (including CD's and savings accounts) shall have at least two authorized signers who are current officers.
- Require two (2) officers to sign checks or withdraw funds.
- Checks should not be pre-signed.
- The officers should see a valid invoice or receipt prior to issuing/signing a check.
- Checks should never be written to cash.
- No debit cards or credit cards shall be issued.
- No cash payments.
- No petty cash.
- Personal reimbursement may be made only with supporting documentation (i.e., a detailed receipt) within 60 days of the expense.

Financial Statement Preparation

The excerpt of Delaware Code below describes the duties of the tax ditch secretary-treasurer.

Per 7 Del. C. §4163 (2) and (3). Duties of secretary-treasurer of tax ditch.

“(2) Prepare a complete financial statement at the end of each calendar year, including therein an itemized report of all funds received, all funds expended, all funds due from taxes not yet collected and all sums due and owing by the tax ditch, and this statement and the records of the secretary-treasurer shall be audited annually by 2 qualified persons and shall become part of the permanent records of the tax ditch;

(3) Provide for the safekeeping of any funds of the Tax Ditch which are placed in his or her custody.”

The fiscal year of a tax ditch is from January 1st to December 31st. DNREC and AOA developed the financial statement form at Appendix A to assist the tax ditch in the preparation of the annual financial statement. The form shows beginning and ending balances, receipt/disbursement amounts with explanations, fixed assets belonging to the tax ditch, funds due to or owed by the tax ditch (uncollected taxes, loans, outstanding bills, etc.), and a description of any related party transactions that have occurred.

Related parties may be defined as affiliates of the tax ditch (such as a smaller tax ditch that feeds into a larger tax ditch), management of the tax ditch and members of their immediate families, other parties the tax ditch may transact with if the party has control or significant influence over the management or operating policies of the tax ditch, or a tax ditch officer that has ownership interest in a transacting party. Transactions that, because of their nature, may be indicative of the existence of related parties include: borrowing or lending on an interest-free basis or at a rate of interest significantly above or below market rates prevailing at the time of the transaction, making loans with no scheduled terms for when or how the funds will be repaid, exchanging property for similar property in a nonmonetary transaction, and services received without charge. These transactions must be disclosed on the financial statement form.

A manager and the secretary-treasurer shall sign the financial statement when completed and then submit the complete financial statement package for audit. The audited financial statement package should be presented at your annual meeting.²

Audit Procedures

Delaware Code requires that an annual financial statement be prepared by the secretary-treasurer and that this statement be audited by two qualified persons. AOA recommends auditors are:

- Not tax ditch officers
- Not signers on the bank account
- Not related to signers on the bank account
- Two persons with a financial background
(DNREC can assist with this upon request 302-855-1930)
- Accountants with the Conservation District
Kent Conservation District, Gayle Wills, 302-741-2600
New Castle Conservation District, Bonnie Weiskott, 302-832-3100
Sussex Conservation District, Dan Lee, 302-856-2105
- A Certified Public Accountant (CPA) with a private accounting firm (paid or voluntary)

² Tax ditches which meet in early January may not be able to present an audited financial statement due to not having the December bank statements on hand. In these cases, the secretary-treasurer can present an un-audited statement at the meeting.

A *Tax Ditch Audit Checklist* is included as Appendix B of this document and is to be used by the auditors to document the procedures performed. Below is a general overview of what procedures should be included in a tax ditch audit:

- 1) Review financial statement and examine financial records and supporting documents (i.e. reconciled bank statements, invoices/bills, receipts, canceled checks front and back, payment authorization for officer compensation/reimbursement such as current meeting minutes reflecting approval of compensation).
- 2) Verify all authorized signers on the accounts are current (obtain from the bank).
- 3) Verify that fixed assets are accounted for. For example, if the tax ditch owns an all-terrain vehicle, computer, printer, etc., its whereabouts are known; the item is secure; and it is available for the managers to use. Current year purchases of items costing more than \$50 that are expected to last more than one year should be included in the list of fixed assets.
- 4) Should there be any discrepancies in the record, a meeting with the managers and the auditors is recommended.
- 5) Provide an overall assessment of the audit: Pass/Pass with immaterial deficiencies/Fail. Immaterial deficiencies are defined as differences attributable to rounding or unsupported expenditures less than \$100 (single item or aggregate). Any differences above these amounts constitute a "Fail" rating.
- 6) If there is an apparent or a suspected misappropriation of funds, we recommend that the auditors contact the DNREC Division of Watershed Stewardship immediately at 302-855-1930.

A copy of the audited financial statement, including the Audit Check List, reconciled December bank statements (checking, savings, CD), and meeting minutes must be submitted to the DNREC Division of Watershed Stewardship (see address below). This will assist in meeting eligibility requirements for State and County cost share funds for maintenance activities such as mowing, cleanout, pipe replacement, etc.

DNREC, Division of Watershed Stewardship
21309 Berlin Road, Unit #6
Georgetown, DE 19947
(302) 855-1930 e-mail: michele.garner@state.de.us

Bonding of Secretary-Treasurer

Delaware Code requires that the secretary-treasurer of a tax ditch be bonded. A bond is basically an insurance policy.

Per 7 Del C. §4164. Bond of secretary-treasurer.

"The secretary-treasurer shall, before assuming the duties of his office and within 15 days after his election, furnish a bond in favor of the tax ditch, in an amount satisfactory to the ditch managers and with a surety to be approved by the ditch managers, conditioned for the faithful performance of his duties and for the payment to his successor of all tax ditch funds. If any person elected secretary-treasurer neglects or refuses to give bond as aforesaid within the time specified, his right to hold such office shall be terminated, and the ditch managers shall call a special meeting of the taxables to elect a new secretary-treasurer who shall give bond and security as provided in this section."

DNREC and AOA recommend that all tax ditch officers be bonded. The tax ditch can choose the insurance agent or bonding company preferred. DNREC maintains a list of various companies that offer bonding. Costs vary between companies and by the type of bond purchased.

- Blanket Position Bond (Government Crime Policy) – bonds each officer position.
- Fidelity Bond – bonds each officer (an application must be completed for each officer with personal information such as name, address, occupation, and, with some companies, social security number).

The managers should ensure that the bond has been renewed annually. A copy of the Bond Certificate (proof of bonding) should be kept by each officer and an additional copy sent to the DNREC Division of Watershed Stewardship.

For questions regarding any of the above information, please contact:

DNREC, Division of Watershed Stewardship
21309 Berlin Road, Unit #6
Georgetown, DE 19947
(302) 855-1930 e-mail: michele.garner@state.de.us

_____ **Tax Ditch**
January 1 through December 31, _____ Financial Statement

Account #1: (Bank name and type of account) _____ Account #: _____

Beginning Balance January 1

\$

(agrees to bank statement and ending balance of prior year Financial Statements)

Receipts:

Date	Received from	Activity/Item	Amount
	Treasury Division	Deposit of Tax Funds (Jan)	
	Treasury Division	Deposit of Tax Funds (July)	
	Treasury Division	Deposit of Tax Funds (Nov)	
	Interest (checking/savings)	1/1/____ to 12/31/____	
	Cost Share Funds		

Total Receipts \$

Disbursements:

Date	Check #	Payment To	Activity/Item	Amount

Total Disbursements \$

Ending Balance December 31 *(agrees to bank statement)** \$

(Beginning Balance, plus Total Receipts, less Total Disbursements should equal Ending Balance)

*Attach copy of bank statement.

_____ **Tax Ditch**
January 1 through December 31, _____ Financial Statement

Account #2: (Bank name and type of account) _____ Account #: _____

Beginning Balance January 1

\$

(agrees to bank statement and ending balance of prior year Financial Statements)

Receipts:

Date	Received from	Activity/Item	Amount
	Interest (checking/savings)	1/1/____ to 12/31/____	

Total Receipts \$

Disbursements:

Date	Check #	Payment To	Activity/Item	Amount

Total Disbursements \$

Ending Balance December 31 *(agrees to bank statement)** \$

(Beginning Balance, plus Total Receipts, less Total Disbursements should equal Ending Balance)

*Attach copy of bank statement.

_____ **Tax Ditch**
January 1 through December 31, _____ Financial Statement

Certificates of Deposit

Account #	
Opened Date _____ Matures _____	
Beginning Balance January 1 (<i>agrees to bank statement and ending balance of prior year Financial Statements</i>)	
Interest earned	
Ending Balance December 31 (<i>agrees to bank statement</i>)*	\$

Account #	
Opened Date _____ Matures _____	
Beginning Balance January 1 (<i>agrees to bank statement and ending balance of prior year Financial Statements</i>)	
Interest earned	
Ending Balance December 31 (<i>agrees to bank statement</i>)*	\$

*Attach copy of bank statement.

Cash Summary

Account #1	\$ _____
Account #2	\$ _____
CD #1	\$ _____
CD #2	\$ _____
Total tax ditch cash (ending balance of all accounts)	\$ _____

Fixed Assets: items that cost more than \$50 and have a useful life greater than one year (examples: ATV, tractor, computer, printer, etc.)

Description	Date Acquired	Acquisition Cost	Location

Receivables/Liabilities (cost share due, uncollected taxes, loans, credit cards, bills to be paid, etc.)

Description (include statement)	Receivable (R) or Liability (L)?	Balance as of 12/31

If tax ditch has applied for cost share funds, attach approval letter(s) from the respective conservation district.

_____ **Tax Ditch**
January 1 through December 31, _____ Financial Statement

Related Party Transactions (see description in *Tax Ditch Internal Controls Advice & Audit Procedures Guide*)

Description of Transaction and Relationship	Date	Actual Cost or Estimated Value

We have read the Tax Ditch Internal Controls Advice & Audit Procedures Guide and acknowledge that we have followed these procedures. We also have prepared and reviewed the records and Financial Statement of _____ Tax Ditch and believe them to be true and accurate.

 Secretary/Treasurer (sign above)

Print Name _____

Contact # _____

Date _____

 Manager (sign above)

Print Name _____

Contact # _____

Date _____

Assemble Audit Package

_____ Complete Financial Statement.

_____ Provide prior year audited Financial Statement.

_____ Assemble all bank statements for the year for all accounts.

_____ Provide check register or ledger.

_____ Provide all invoices and receipts.

_____ Assemble all statements for Certificates of Deposit.

_____ Provide a list of authorized signers from each bank.

_____ Attach meeting minutes for the year.

_____ Attach cost share funds approval letter from conservation district.

_____ Attach *Expected vs. Actual Received Revenue* (from DNREC).

_____ Attach Bond Certificate.

Tax Ditch Audit Check List

Audit of _____ (year) Financial Statement of the _____ Tax Ditch

Yes (Y), No (N), Not-applicable (N/A)		
Auditor #1	Auditor#2	
		Verify each bank statement clearly shows the tax ditch account is held in the name of the tax ditch (and is spelled correctly) and is not shown as "Trading As" (T/A), "Doing Business As" (DBA), or as a joint account. Verify the authorized signers are current officers of the tax ditch.
___ Jan ___ Feb ___ Mar ___ Apr ___ May ___ June ___ July ___ Aug ___ Sept ___ Oct ___ Nov ___ Dec	___ Jan ___ Feb ___ Mar ___ Apr ___ May ___ June ___ July ___ Aug ___ Sept ___ Oct ___ Nov ___ Dec	Examine Bank statements Jan – Dec _____ (year) for all deposits and withdrawals along with supporting documentation. See below: <ul style="list-style-type: none"> • Receipts/Deposits – check for County deposits, bank interest, cost share funds, etc. and are reflected on the Financial Statement. • Invoices/Bills – check to see that expenses are legitimate and reflected on the Financial Statement. Auditor #1 & #2 check off in box to the left as you examine each statement. Verify the December bank statement has been reconciled to the checkbook register or ledger.
		<u>Certificate of Deposit (CD)</u> Look at prior year Financial Statement to make sure CDs not cashed in are still in existence and inquire if any new CDs have been purchased. Verify all CDs are reported on the Financial Statement. Agree amounts to the bank statement.
		Verify all amounts on the Financial Statement add properly. Agree the ending balance per account listed in the Financial Statement to the ending balance per the bank statement.
		Account Closed - Type of Account _____ Acct # _____ Verify ending balance of closed account matches the deposit into a new account or explain circumstances. Closing Balance \$ _____ Date _____ New Account Beginning Balance \$ _____ Date _____ DNREC notified Y / N (circle) County notified Y / N (circle)
		<u>Fixed Assets</u> Compare to last year's list to ensure it is complete and verify current year asset purchases have been included.
		<u>Receivables/Liabilities</u> Agree amounts reported to a statement of account, loan agreement, invoice, or other source as applicable.

We have read the Tax Ditch Internal Controls Advice & Audit Procedures Guide and acknowledge that we have followed these procedures. We have examined the records and Financial Statement of the _____ Tax Ditch and have assessed an overall rating of:

☐ Pass ☐ Pass with immaterial deficiencies ☐ Fail

Auditor #1 _____ Date _____

Print name & contact # _____

Auditor #2 _____ Date _____

Print name & contact # _____

Submit completed audit form and Financial Statement to DNREC, Division of Watershed Stewardship, 21309 Berlin Road, Unit #6, Georgetown, DE 19947.

Appendix J
Projects Completed in FY2020

Completed Resource Conservation and Development Projects

21st Century Fund

New Castle County

Fiscal Year Approved	Project Name	Total Expended	Rep. Dist	Sen. Dist
Completed Projects FY2020 to date				
2015	Dunleith - 422 Bethune Drive	\$ 14,850.00	16	2
2016	Melody Meadows - 70 Stardust Drive	\$ 14,350.00	27	10
2017	Gender Woods - Cypress Drive	\$ 63,300.00	24	11
2017	Little Falls Village	\$ 96,000.00	4	7
2017	Melody Meadows - 120 Cann Road	\$ 24,700.00	27	10
2017	Pleasant Valley Estates - Bartley Drive	\$ 25,300.00	27	10
2018	Caravel Farms - 304 Caravel Drive	\$ 33,250.00	27	12
2018	Chandeleur Woods- Niobrara Lane	\$ 10,000.00	15	12
2018	River Walk - Darling Street & Charles Court Drainage	\$ 28,500.00	26	11
2018	River Walk - Darling street & Lisa Drive	\$ 35,200.00	26	11
2018	Riveredge Estates Bio-Swale	\$ 11,500.00	17	12
2018	Rutherford - 107 Greenfield Road	\$ 10,000.00	18	9
2018	Rutherford - 107 Rutherford Drive	\$ 10,000.00	18	9
2018	Rutledge - Marlin Court	\$ 26,000.00	5	13
2018	Simonds Gardens Drainage Study	\$ 85,000.00	16	2
2018	Westover Hills - 703 Westover Road	\$ 9,700.00	4	4
2019	255 Union Church Road	\$ 28,650.00	9	14
2019	866 Black Diamond Road	\$ 106,850.00	9	14
2019	3734 Kirkwood Highway - Bulls Eye	\$ 110,000.00	19	7
2019	Beech Hill - 41 Beech Hill Drive	\$ 18,500.00	22	8
2019	Brandywood - 2611 Pennington Drive	\$ 47,200.00	10	5
2019	Breezewood - Eastwind Court	\$ 41,900.00	24	11
2019	Caravel Farms - 30 Kimmie Court	\$ 36,200.00	27	12
2019	Caravel Woods - McMahon Drive	\$ 17,900.00	6	12
2019	Centennial Village - 15 Warren Place	\$ 6,500.00	5	13
2019	Channin - 2403 Ramblewood Drive	\$ 19,400.00	10	5
2019	Colonial Park - 107 Atkins Avenue	\$ 97,700.00	13	3
2019	Colonial Park - 18 Atkins Avenue	\$ 62,250.00	13	3
2019	Cooper Farms - 12 Cornell Road	\$ 33,700.00	19	7
2019	Dunleith - 422 Carver Drive	\$ 19,700.00	16	2

2019	Graylyn Crest - 1813 Jaybee Drive	\$ 15,700.00	6	5
2019	Green Valley - 911 8th Street	\$ 27,700.00	21	9
2019	Jarrell Farms - 7 Jarrell Farms Drive	\$ 11,500.00	22	8
2019	Lindamere 503 River Road	\$ 39,800.00	6	1
2019	Melody Meadows - 84 Stardust Drive	\$ 17,350.00	27	10
2019	Stone's Throw - Cobble Creek Curve	\$ 10,000.00	25	10
2019	The Millrace - 649-657 Millrace Lane	\$ 102,000.00	12	4
2019	Timber Farms - 618 - 630 Timber Wood	\$ 60,900.00	26	11
2019	Whitebriar - 731 & 737 Whitebriar Road	\$ 29,600.00	12	4
2019	Whitehall - 152 W. Edinburgh Drive	\$ 38,400.00	18	13
2019	Woodburne - 33 Elks Trail	\$ 12,700.00	5	13
2019	Woodland Park - 2109 Peachtree Drive	\$ 16,500.00	4	7
2020	Sherwood Forest Stream Restoration	\$ 130,000.00	7	5
Totals	43 Projects	\$1,656,250.00		
Projects Recommended for Discontinuation				
2019	2404 North Grant Avenue		4	1

Completed Resource Conservation and Development Projects **21st Century Fund** **Kent County**

Fiscal Year Approved	Project Name	Total Expended	Rep. Dist	Sen. Dist
Completed Projects FY2020 to date				
2014	Viola Phase II drainage improvements	\$ 72,887.44	30, 34	15, 16
2018	Prospect Tax Ditch Main	\$ 45,472.50	30	15, 18
2003	Willow Grove Road / Blackwell	\$ 35,660.67	29	15
2017	Leipsic Tax Ditch Dip Out	\$ 10,800.00	28	14
1999	Bowers Beach Road / Mallek Phase II	\$ 47,952.96	33	16
2013	Shaws Corner Road / Miller / Tracy	\$ 32,500.00	11	15
2011	Lane View Drive, Scenic Acres / Sak	\$ 7,131.84	30	18
2015	Wheatley's Pond Road / Durham	\$ 24,528.24	29	15
Totals	8 Projects	\$ 276,933.65		
Projects Recommended for Discontinuation				
Fiscal Year Approved	Project Name	Reason for Discontinuation	Rep. Dist	Sen. Dist
2018	Hudson Branch Rd / Taubler	Completed by DeIDOT	33	16
2019	Shore Shore Drive / DeIDOT	Completed by DeIDOT	34	16
2017	54 West Huntington / Lundy Phase I	Completed by DeIDOT	29	15
2016	1142 Lynnbury Rd. / Knieriem	Completed by Landowner	29	15
2018	48 Joshua Dr (Church Creek Subd.)	Completed by Other Entity	33	16
2019	Elizabeth Avenue / O'Conner	Completed by DeIDOT	34	16
2019	Judith Road / Guzzie	Completed by Other Entity	29	15
2016	5402 Mud Mill Rd / Strouse	Completed by Other Entity	30	15

Completed Resource Conservation and Development Projects

21st Century Fund

Sussex County

Fiscal Year Approved	Project Name	Total Expended	Rep. Dist	Sen. Dist
Completed Projects FY2020 to date				
2017	Elliott-Nichols Tax Ditch Main Channel Pipe Replacements	\$ 42,622.42	40	21
2006	Highland Acres Tax Ditch Maintenance Dipout	\$ 65,000.00	20	6
1997	Johnson Development Phase II	\$ 1,269,802.92	39	21
2014	Argyle Lane / Fise / Gugerty Drainage Improvements Phase I	\$ 768.00	38	20
2020	Gentle Winds / Bear Hole Tax Ditch	\$ 20,466.83	38	20
2017	Bucks Branch Tax Ditch / Bruce's Welding Repair	\$ 14,064.00	39	19
2006	Racoon Tax Ditch Bank Stabilization	\$ 14,850.00	40	21
Totals	7 Projects	\$ 1,427,574.17		
Projects Recommended for Discontinuation				
Fiscal Year Approved	Project Name	Reason for Discontinuation	Rep. Dist	Sen. Dist
2020	Pepper Creek / Jerry Green	Resolved through CTF	41	20
2013	Bayview Rd / Simmons	Resolved through CTF	14	18
2020	Keenwick By the Bay Catch Basin	Resolved through CTF	38	20
2015	Branchview/ Niblett - Phase 1	Resolved through CTF	39	20
2020	Robin Hood Rd / Delmar	Resolved through CTF	40	21
2020	Shiloh Chruch Rd	Resolved through CTF	40	21



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF WATERSHED STEWARDSHIP

89 Kings Highway
DOVER, DELAWARE 19901

OFFICE OF THE
DIRECTOR

PHONE: (302) 739-9921
FAX: (302) 739-6724

MEMORANDUM

TO: Secretary Shawn M. Garvin

THRU: Terry L. Deputy, Director

FROM: Robert R. Palmer, Administrator

SUBJECT: Drainage Program Realignment

DATE: August 20, 2019

Executive Summary

Via this Memo, request approval for the realignment of the Drainage Program to function as two separate and distinct operating units within the Conservation Programs Section of the Division of Watershed Stewardship (the Division). The units will be titled: 1) the Tax Ditch Program, and 2) the Public Ditch Program. The names are subject to change but for the purpose of this discussion will remain as labeled. Each program will be led by an Environmental Program Manager II (EPMII) that will report directly to the Administrator of the Conservation Programs Section. As proposed, the Tax Ditch Program will have an estimated 15 positions focused on tax ditch organization support as well as the survey and construction of related projects. The Public Ditch Program will focus on the design and planning of projects and manage the small projects crew. The Public Ditch Program will also have 14 positions.

It should be noted, both programs will have some overlapping responsibility with interactions on both RC&D and tax ditch projects. In doing so, project funding will be split proportional to the tasks and relative projects. Staff resources will continue to be funded through the General Fund (Merit employees) and the Tax Ditch and Resource Conservation and Development (RC&D) Bond Bill appropriations (District employees).

The realignment will create the immediate need for a reclassification of an existing PMI position to a PMII within the Public Ditch Program. The PMII position vacated by Brooks Cahall will be processed immediately to manage the Tax Ditch Program.

Additionally, the Debris Pit Program and the New Castle County Surveying position will transition under the management of the Tax Ditch Program.

Delaware's good nature depends on you!

History

The Delaware General Assembly enacted the 1951 Delaware Drainage Law to establish ditch companies and to resolve related financial and maintenance issues. As an outgrowth of this Law, the Division was mandated to carry out a comprehensive drainage program through Title 7, Chapter 41 of the Delaware Code. In response, the Drainage Program was established and housed within the Conservation Programs Section.

Since inception, the Drainage Program has significantly grown. The largest programmatic growth occurred as a result of a \$220 million legal settlement in the mid-1990s, the State of Delaware had an unprecedented opportunity to use one-time monies (21st Century – RC&D funds) to make critical long-term investments to meet the economic challenges of the next century. Some of this funding became earmarked to focus on the management, oversight and implementation targeted drainage projects. This led to the creation of “*Public Ditch Team*” within the Drainage Program.

The size and scope of the drainage projects considered for the RC&D fund fluctuate wildly. Current projects range from \$500 to \$4 million dollars. Annual Bond Bill appropriations also vary ranging from \$0 up to \$5 million. No appropriations were made from FY2009 to FY2016. In recent years, allocations of at least \$3 million have been invested by the General Assembly. As such, the Drainage Program has maintained a heavy reliance on Tax Ditch Bond Bill appropriations to support staff and other programmatic needs.

Current Status

The Drainage Program is currently divided into three distinct teams: Tax Ditch, Engineering, and Project Development (see attached). Functions and position numbers are summarized below:

- Tax Ditch – 6 positions focused on tax ditch organization support.
- Engineering – 12 positions split into equal groups focused on: 1) survey and construction, and 2) design of projects.
- Project Development – 7 positions focused on: 1) project planning group, and 2) the small projects crew.

Not represented above are the PMII and an Administrative Assistant I. Staffing levels currently include 27 positions (10 Merit and 17 District) of which 11 are currently vacant. In the past, as many as 35 FTE were appointed to the Drainage Program. These numbers have declined as budget conditions have demanded reductions.

Funding

Merit positions within the Drainage Program are funded through the General Fund appropriations to the Department. District positions are supported by the annual Bond Bill, Tax Ditch appropriation. The FY20 Bond Bill, Tax Ditch appropriation was \$1,148,700 and has remained unchanged for 10+ years.

Issues

Issues facing the Drainage Program are similar to those for many agency led programs. More responsibilities have evolved and budgetary constraints continue to be a challenge. Specifically, a major shift in RC&D project locations has demanded a ramp up of staff and resources to address this shift. Use of the funds is directly tied to development trends. In recent years, the development growth has shifted from its peak in New Castle County years ago to the recent boom in Sussex County. The need to solve drainage and watershed issues has, in turn, increased in the southern region of the state. As such, the Drainage Program responded by adding positions and resources. Management of RC&D projects and drainage issues in New Castle County are administered by the New Castle Conservation District and New Castle County respectively. Other issues include:

- Large staff numbers with lower than average management positions. Organizationally, the Drainage Program has 27 positions. Of these positions, there is one PMII, two PMIs and one Environmental Engineer Program Manager I (EPPMI).
- High turnover of staff resulting in elevated vacancy rates. In recent years, the growth of the development community in Sussex County has created a high demand for engineering and surveying positions. As such, the Drainage Program has faced ever increasing vacancy rates.
- Although allowable, to date the Drainage Program has not billed against the RC&D Bond Bill appropriations. Instead, a greater reliance on the Tax Ditch appropriation has perpetuated. This places an undue burden on the Tax Ditch resources and removed potential funding opportunities for much needed program activities including tax ditch assessment and maintenance.
- Facing historically high rainfall events in 2018 and 2019, the Drainage Program was responsible to manage record numbers of drainage complaints. This shift of duties, combined with high vacancy rates, has drawn attention away from critical project management and oversight.
- Increased scrutiny by the Conservation Districts as well as members of the General Assembly.

Needs

To move forward and gain progress, some basic needs must be fulfilled to assure the Drainage Program is effectively and efficiently maintained:

1. Mechanism to accommodate variable workload and ever-changing staff resources. The program is made up of highly sought after engineering and surveying staff. As such, the Drainage Program faces many staff challenges.
2. Steady funding source to support RC&D projects, tax ditch and related activities.
3. Strengthened partnership with Conservation Districts.

Options

Although there are certainly many options and paths forward, I am limiting my consideration to three. These are:

1. Reclassify the vacant PMII position to an Administrative level position. The position Brooks Cahall occupied was originally an Administrator position that was cut as vacated during past budget challenges. No formal evaluation was conducted to demonstrate the efficiencies lost it just happened to be a vacancy that existed when a position needed to be cut.
2. Divide and support programs by function (Public Ditch Program and Tax Ditch Program). Contract much of our needed engineering and survey work. Evaluate and distribute current and vacant staff to accommodate needs. Anticipate no net loss of FTEs.
3. Leave as is and rehire PMII immediately.
4. Transition RC&D responsibility to Kent and Sussex Conservation Districts (the NCCD model). In doing so, the size, scope and scale of the Drainage Program would need to be evaluated and re-organized to accommodate the shift of workload.

Recommendation

If the reclassification of the PMII to an Administrator position is unlikely, I recommend consolidation of the Drainage Program from three teams to two distinct, independently operational, and separate programs. The appropriate split would be transitioned into the Public Ditch Program and a Tax Ditch Program. I am not set on the names and the realignment certainly could warrant a name change. However, as it's best to convey the path forward under familiar nomenclature, I am leaving the program names as those easily recognized.

The foundation for the Public Ditch Program will be the Project Development Team as is currently staffed and the addition of the Design Group split from the Engineering Team. Overall, I anticipate very few changes will be required for the Tax Ditch Program with the exception of the inclusion of the Survey & Construction Group as split from the Engineering Team. In so doing, the currently vacant PMI within the Project Development Team will warrant a reclassification to a PMII or potentially an Environmental Engineering PMII. The PMII vacated by Brooks Cahall will be immediately posted to serve as the manager for the Tax Ditch Program. While there will ultimately be overlap of tasks and responsibility, transition would make the broad responsibilities of what is now the Drainage Program more manageable on a day to day basis. As proposed, both PMII positions will report directly to the Administrator of the Conservation Programs Section.

Management of RC&D projects will transition from reliance on in-house resources to contracting and outsourcing the necessary activity including engineering and surveying. While this does not preclude internal staff from providing such services, this transition will simply relieve the reliance of such. Funding for the newly formed programs will be split accordingly between the Bond Bill allocation for tax ditches and RC&D. Staff will record activity to accurately support billing.

Staffing needs will be reviewed and assessed to assure adequate positions and resources are available to efficiently and effectively manage the tax and public ditch projects. For example, I would suggest a shift from multiple Design Engineers to positions that include project and budgetary oversight responsibilities as the transition will place a higher accountability on these activities. It should be noted, Engineers will continue to play a valuable role in the newly formed Tax Ditch and Public Ditch Programs and the numbers within the programs will more

than likely remain unchanged as it is advantageous for the Department to provide quality engineering oversight for many of the projects undertaken.

Additionally, I would suggest we expand the Small Projects Crew to provide for a more immediate response to small scale remedies. Addressing small concerns promptly, historically allowed the Drainage Program to keep small scale projects off the RC&D list by responding efficiently to such concerns.

To give an idea of the future responsibilities of the formed Programs, I am highlighting the activities below. Where appropriate, I highlighted the common overlapping activities:

Tax Ditch Program Tasks

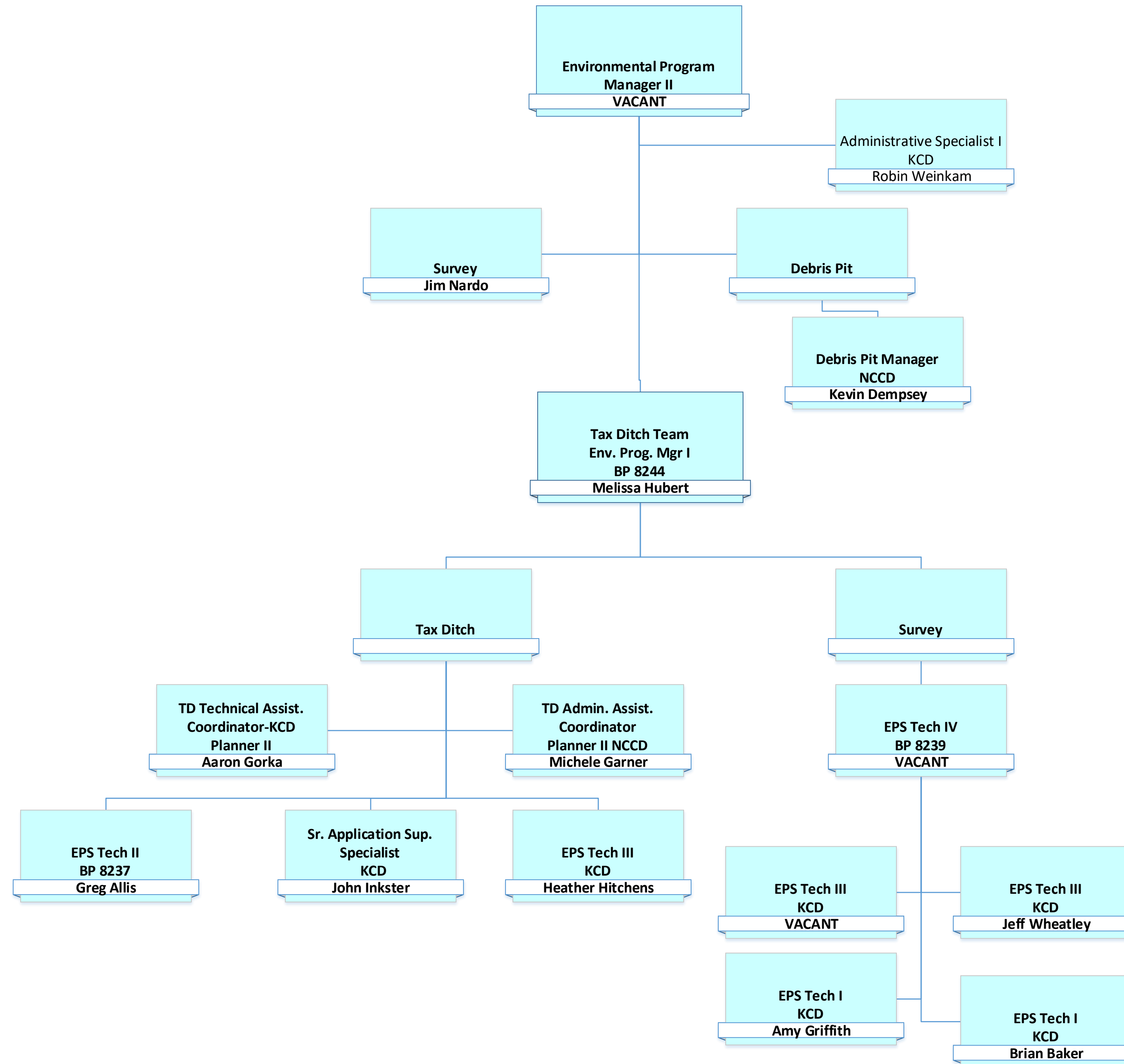
- Tax Ditch Law implementation
- Tax Ditch organization support
- Tax Ditch outreach and education
- Tax Ditch assessment and maintenance evaluations
- Statewide survey work for DNREC and District managed projects (including RC&D)
- Statewide permitting for DNREC and District managed projects (including RC&D)
- Debris pits

Public Ditch Program Tasks

- RC&D Program
- Coordination with Districts for drainage projects
- Drainage concerns
- Project development (including Tax Ditch projects)
- Contract development and oversight (including Tax Ditch projects)
- Landowner permission (including Tax Ditch projects)
- Project oversight
- Small projects (including Tax Ditch projects)

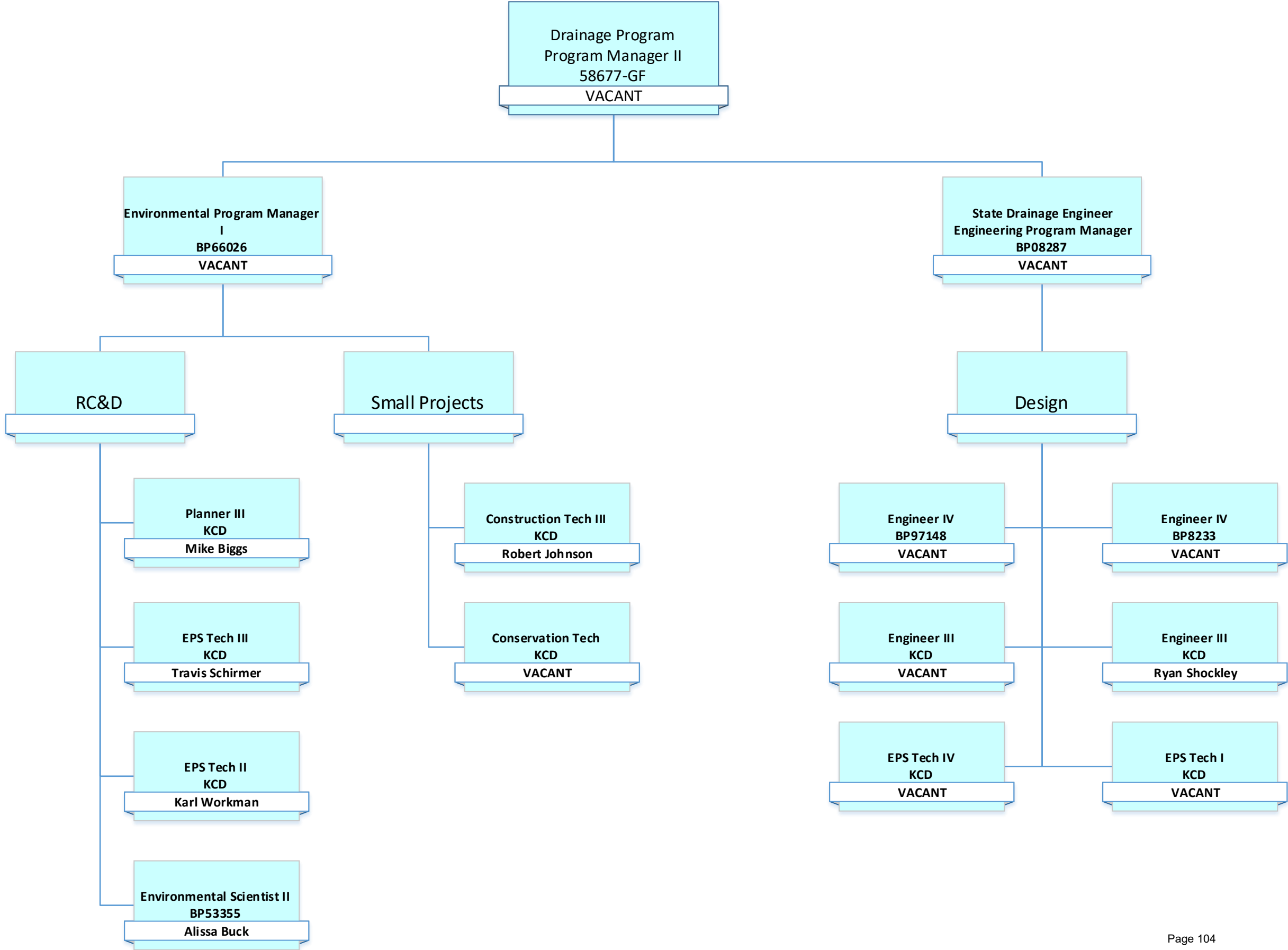
Other notable changes will include the Debris Pit Program and the New Castle County Surveying position currently filled by Jim Nardo transitioning under the management of the Tax Ditch Program. This transition will allow more support for these single position programs.

Watershed Stewardship Drainage Tax Ditch Program



Watershed Stewardship

Drainage Public Ditch Program



SYNOPSIS OF ISSUES FACING TAX DITCH ORGANIZATIONS TODAY

PREPARED BY:

Delaware Department of Natural Resources and Environmental Control
Conservation Program Section- Drainage Program

Members:

Brooks Cahall- Drainage Program Manager
Melissa Hubert- Tax Ditch Program Manager
Michele Garner- Tax Ditch Planner II
John Inkster- GIS Specialist
Heather Hitchens- Tax Ditch EPS Technician
Gregory Allis- Tax Ditch EPS Technician
Aaron Gorka- Tax Ditch Planner II

Delaware has 234 individual tax ditch organizations. These organizations manage over 2,000 miles of channels and provide drainage benefits to 46,292 properties in Delaware and almost one-half of the State-maintained roads. The Uniform Drainage Law also known as the Tax Ditch Law was passed to create a system of watershed based organizations to maintain drainage ditches throughout the state in perpetuity. This law replaced previous “Ditch Company” legislation that created ditch companies which only lasted for 7 years. Tax Ditch organizations were primarily created to provide agricultural drainage and were designed by the Soil Conservation Service (now known as the Natural Resources Conservation Service) for this purpose. However, Delaware has changed a lot in the last 68 years and the majority of tax ditch systems (90%) are at least 35 years old. Some aspects of the tax ditch system are not functioning well in the today’s environment. This report identifies reasons the tax ditch infrastructure has become degraded and suggests potential solutions for addressing each.

Degraded and Aging Tax Ditch Infrastructure

As mentioned above over 90% of tax ditch channels were constructed prior to 1985. The recommended major maintenance or “dipout” cycle is every 15-20 years. This means that if maintained as prescribed most tax ditches have undergone major maintenance between two to four times to date. What we have observed is after multiple maintenance cycles ditches can experience significant bank stability issues. In addition, many ditches have not been maintained on the expected cycle as tax ditch managers have chosen to react to problems instead of planning for maintenance. Both scenarios contribute to the current state of tax ditches. It is also important to note that while this report provides a general characterization of the systems there are tax ditch organizations that are doing an excellent job managing their infrastructure.

There are a variety of causes that have led to the current state. This document looks at them in four major groups:

- Funding
- Operational
- Environmental
- Administrative

The Drainage Program is recommending a task force be established to investigate these causes and propose solutions that would benefit the diverse range of stakeholders. Stakeholders that should be represented on the task force include:

- | | |
|--|------------------------------|
| • Members of each caucus of the General Assembly | • Delaware Farm Beau |
| • Delaware’s County Conservation Districts | • Land Development Community |
| • Tax Ditch Officers | • Homeowner Associations |
| • Tax Ditch Commissioners | • Banking Commissioner |
| | • State Auditor’s Office |
| | • Insurance Commissioner |

Cause A: Insufficient Funds for Maintenance

Tax ditch organizations across the State of Delaware do not have adequate funds to perform necessary maintenance activities. The lack of funds available to address routine needs is only compounded when issues arise that require significant funding and effort to address. Bank erosion and control of invasive species are two examples of high cost and/or high effort issues tax ditch organizations are facing. The urbanization of tax ditch watersheds and climate change are some of the drivers that cause these issues.

The Tax Ditch Law created a model where the construction cost estimate was established as the assessment base of the tax ditch. That base was then distributed to all of the properties in the watershed based on the benefit each property received. Annually, the tax ditch sets the warrant rate which is the percentage of the assessment base that will be collected each year. This warrant rate concept was established to adjust the taxes collected annually as funds are needed and as a method to adjust for inflation. Since maintenance costs are independent of the year a tax ditch is formed, older ditches require a higher warrant rate than newer ditches.

Potential Solutions

- 1. Update tax ditch assessment bases, across all tax ditches, using current year dollar values and benefit received based on current land use.**

Assessment bases assigned are based on relative benefit received by each specific property in the tax ditch watershed. The relative benefit calculations utilized today are the same and cannot be changed from the methodology used at formation for consistency and equitable distribution. However, when properties are subdivided and landuse changes so does the expectations and relative benefit of the parcel in regards to the existence of the tax ditch system and/or maintenance. There are concerns from tax ditch officers that the relative benefits established at formation do not accurately reflect the relative benefits of the parcels after landuse changes occur.

An update of tax ditch assessment bases, across all tax ditches, in the same manner would allow the relative benefits received and expectations of today's landuses/properties within tax ditch watersheds to be more accurately depicted. Geographic Information Systems (GIS) data including landuse/landcover and impervious area data that are currently available would assist this effort and allow for a consistent process. This would make explaining assessment bases and tax ditch warrants more understandable to the general public and future officers.

2. Tax Ditch officers should levy effective tax ditch warrants

A discussion of the tax ditch warrant rate is to be conducted at each tax ditch annual meeting. Adjusting the tax ditch warrant levied is a means to provide adequate funds for proposed maintenance plans and is the only way for tax ditch organizations to account for inflation. Levying appropriate and effective tax ditch warrants is essential to perform necessary maintenance activities. There is a process established by the Tax Ditch Law. However, convincing tax ditch managers that are often among the largest tax payers to raise their taxes has proven to be difficult.

3. Establish minimum ditch tax warrants to levy

While it is an expectation of tax ditch organizations to levy effective warrants, it does not always occur. Tax ditch officers and taxables are often reluctant to propose and approve increasing warrant rates due to increased taxation on themselves. Changing the law to establish a minimum warrant rate or collection amount would establish a floor that would force organizations to collect enough funds to complete at least the minimum necessary maintenance annually. Although difficult because of the varying dollar basis for assessments a minimum warrant rate could be established based on the fact that 90% of tax ditches were formed prior to 1985.

4. Increase State and County funds available for Cost Share Programs to reestablish the historical bench mark ratio of 50% Tax Ditch: 25% State: 25% County.

State and County matching funds were first passed by the General Assembly and signed by the governor in 1947. This law stated “neither State nor County funds can be expended until the landowners benefiting from such drainage raise an amount equal to both the State and County appropriations. In other words for every dollar raised by landowners, fifty cents (50¢) can be expended from State funds and fifty cents can be expended from County funds.” This was passed and implemented prior to passing of the current Tax Ditch Law in 1951. Therefore, every tax ditch was established with an understanding that State and County funds would be available to assist with maintenance because it has long been recognized that tax ditches provide benefits that extend beyond the landowners in the watershed.

Tax ditch organizations across the State rely on cost share assistance in order to perform necessary maintenance activities. Most tax ditch organizations have not been successful in levying tax ditch warrants that would allow them to save and pay for routine maintenance activities without outside funding sources. The assistance cost share funds provide varies across tax ditch organizations and Counties. Some tax ditches in Kent and Sussex County rely on cost share to perform mowing, dipout, pipe crossings, etc. while others, like the tax ditches in New Castle County are required to collect sufficient funds to perform routine maintenance with cost share only being provided when major or infrequent maintenance activities are required.

5. Develop additional options for tax ditch organizations to borrow money.

Tax Ditch organizations are able to borrow money. However, recently the DNREC Drainage Program has been working to assist a tax ditch organization in obtaining a loan they have requested and need in order to perform planned maintenance. This tax ditch organization has been trying for months to obtain the loan with more issues arising due to new bank requirements and fees that seem excessive for a \$15,000 loan. When a tax ditch organization needs a loan in order to perform routine maintenance activities, they do not have the funds to spend on expensive bank fees and/or high interest rates (as recently quoted). Alternative options need to be developed including:

- Identify new commercial lending options than those that currently exist.
- Establish eligibility guidelines for government lending options including the State Revolving Loan Fund and Rural Development Loan Programs
- Establish a Revolving loan for use by the Conservation Districts/Tax Ditches similar to the Heavy Equipment Revolving Loan fund already established.

6. Create an achievable method for tax ditches to combine/merge to allow organizations to take advantage of economies of scale.

Small tax ditch organizations have a real challenge maintaining their infrastructure because of modern costs associated with maintenance. Establishing a method including referendum requirements that would allow two organizations to merge would provide a tool for addressing this issue if the tax ditch officers and landowners so desire.

7. Create an achievable method for tax ditches to hand over their responsibilities to another agency (i.e. Municipality, Conservation District, DNREC)

The tax ditch law currently provides tax ditch organizations the ability to turn the operation of the tax ditch over to DNREC. However, the requirements set by the law make this nearly impossible to happen. When tax ditches become inactive it is generally because of lack of interest. Obtaining written consent of half the landowners, owning at least half of the land in a watershed is not achievable. Therefore, the law should be changed to an acceptable but obtainable level. One option would be at least 50% of the votes cast similar to that of a municipal or school referendum. Additionally, the law only provides DNREC as an option for taking over the responsibility of the tax ditch organizations (if desired and approved). This should be expanded to include the Conservation Districts and Municipalities especially since many Towns have grown to the point that entire tax ditch systems are within municipal boundaries.

Cause B: Operational Issues

The current maintenance needs on the majority of tax ditch systems across the State of Delaware are significant. Tax Ditch organizations are managed largely by three volunteer

officers; two managers, one is designated chairman, and a secretary-treasurer. Some larger organizations do have additional manager positions. Some tax ditches also pay their officers a small stipend. However, these volunteers struggle to meet the more sophisticated needs of the current era. The lack of annual inspections, maintenance planning, and record keeping regarding the condition of the tax ditch channels, banks, and associated rights-of-ways as a whole system may have resulted in maintenance decisions made and prioritized ineffectively.

Potential Solutions

1. Perform Annual Inspections

a. Develop and provide inspection training to tax ditch managers and chairmen.

The only requirement for an individual to hold a tax ditch officer position is to own property located within the tax ditch watershed. Currently, there is no formal training provided to individuals who become a tax ditch officer. With little to no formal training on the responsibilities of their positions and/or needs of the tax ditch organizations, it is difficult for tax ditch officers to have a clear understanding of what they are supposed to do without the DNREC Drainage Program's direct assistance. A clearer understanding of responsibilities and needs of the tax ditch organizations would result in officers being more active and confident when making tax ditch maintenance and management decisions.

b. Increase staffing at the DNREC Drainage Program and/or Conservation Districts to perform annual tax ditch inspections.

Currently, the DNREC Drainage Program staff is comprised of 6 individuals who assist the 234 tax ditch organizations as requested. Of our 6 staff members only 2 of them are field staff and even those 2 individuals have office responsibilities. The Drainage Program does not have the staff to complete tax ditch system inspections in a timely manner as they are requested now and this would only become more difficult if inspection requests were made to us by even more tax ditch organizations. The Conservation Districts each have a person responsible for working with tax ditch officers. However, the needs and therefore the responsibilities vary across the three counties. It should be noted that it is the responsibility of the Drainage Program to provide technical assistance. If each tax ditch requested assistance with inspections neither the Drainage Program nor the Conservation Partnership could meet that need at current staff levels.

c. Utilize drone technologies to increase effectiveness

The DNREC Drainage Program has been exploring the potential of utilizing drones to perform tax ditch inspections. Utilizing drones and their associated technologies may be a way to increase staff effectiveness and improve reporting and communicating existing conditions and maintenance needs for the tax ditch officers. Drones may allow the condition of inaccessible areas due to the lack of maintenance to be noted.

2. Enhance Planning and/or Establish Tax Ditch Maintenance Plans

- a. Identify and communicate responsibilities associated with culvert installation and replacement when located within tax ditch channels to both the landowner and tax ditch officers.**

Inconsistencies across tax ditch organizations with regard to the maintenance of culverts located within tax ditch channels has caused confusion amongst landowners, tax ditch officers, and even legislators. It is imperative to review and document concisely the responsibility and guidelines of culvert installation and maintenance for those located within tax ditch channels. Original formation documents of each tax ditch organization need to be reviewed and stipulations regarding culverts need to be communicated clearly to the tax ditch officers even when they change. In addition, this information must be communicated to the taxables when requesting a new crossing and or replacement of an existing crossing. Not all tax ditch officers reach out to the Drainage Program for guidance and consequently replacements are often handled on a case-by-case basis. This can be a problem if organizations are spending their limited funds on items that are not the tax ditch organizations responsibility. It may be necessary to change the Tax Ditch Law to establish a consistent standard for all tax ditch organizations. It is understood that the cost to replace these culvert can be a burden on the tax ditch and the landowner.

- b. Develop and provide maintenance planning training to tax ditch officers.**

As noted in 1a above, training is needed for tax ditch officers. Training officers on how to plan for maintenance will include understanding how to think about maintenance in 5 year intervals. Additionally, this type of training will assist in calculating an appropriate warrant rate to collect in order to perform the maintenance needs identified. It should also help to ensure tax ditch officers are holding their annual meetings at an appropriate time for their proposed warrant change to go into effect when needed.

- c. Update operation and maintenance plans for all tax ditch organizations and continue to update in 5 year intervals.**

At formation each tax ditch organization had an operation and maintenance plan (O & M Plan) developed. However, at this time these plans are outdated. This proposed solution will require all 234 tax ditch organizations to have their O & M Plan reviewed and updated based on the conditions of the tax ditch systems now. It is our recommendation to review and update the newly re-established plans on a 5 year basis.

3. Enhance and/or Establish Record Keeping Guidelines

- a. Develop a Tax Ditch Maintenance Database/GIS System**

Development of a Geographic Information System (GIS) database to summarize tax ditch maintenance performed, conditions of the tax ditch channels inspected, tax ditch drainage concerns reported, and tax ditch channel and culvert stipulations would provide data in a visual

and reportable manner to pass along to new and existing tax ditch officers. This information would be useful for tax ditch officers as they work to prioritize maintenance needs and adjust warrant collection.

b. Require reporting and/or establish guidelines for Meeting Minutes

Tax Ditch organizations are ran by volunteers with a one year term. While more often than not a tax ditch officer serves multiple terms, when the records change hands so do the record keeping techniques. There is no defined standard for record keeping except for financial reporting and having a formal audit completed. Even though required these guidelines are not always followed.

In addition, the development of the tax ditch maintenance database would require a formalized procedure for reporting these items by tax ditch officers, DNREC Drainage Program staff, and/or tax ditch hired contractors to have work completed and existing conditions accounted.

4. Removal of Tax Ditch Rights-of-Way Obstructions

a. Work with Deputy Attorney General (DAG) to define next steps if landowner is unwilling to remove obstructions.

Tax Ditches are unsure of the next step if a landowner does not willingly remove the obstructions. As neighbors they often are nervous about consequences. Working with the DAG's office to establish a protocol would provide a systematic process that would reduce uncertainty.

b. Define role of DNREC in removal of obstructions including enforcement options.

The current law does not provide DNREC a role in this process. We currently provide assistance to the tax ditch organization but there is no authority for DNREC to step in if the landowner is unwilling to remove the obstructions. Additionally, the Drainage Program believes there is a potential role for DNREC's enforcement arm to assist with compliance.

c. Work to include tax ditch rights-of-way requirements in building permits and other regulatory processes (ex. wells and septic)

The Drainage Program has had mixed results working with building permit offices and other regulated agencies in incorporating tax ditch rights-of-way into their processes. This may require language in State statute that creates consequences for building permits that are issued for construction within tax ditch rights-of-ways.

Cause C: Changing Environment

1. Changes in Landuse

A quick review of historic aerial photography will show that the biggest change to tax ditch watersheds since the 1960's is the increase in development. Although most noticeable in

southeast Sussex County all tax ditches have seen an increase in impervious area. This is not all from commercial and residential development. Increases in the size and number of poultry houses and the conversion of dirt roads are two additional examples of major changes in the still rural areas of the State. Increased runoff from changes in land use were not regulated until 1991 well after the construction of the most of the tax ditches. Even after regulations were put in place the increased volume has not been managed. These hydrologic changes have increased the importance of the tax ditch systems while also causing increased bank instability. Additionally, since tax ditches were designed for agricultural drainage they do not necessarily meet the expectations of residential property owners unfamiliar with the system.

a. Incorporate the downstream impacts into stormwater review and approval provided by the DNREC Stormwater Program and its delegated agencies.

The Tax Ditch Program is not a regulatory program and does not have jurisdiction in this area. However, section 5.3.3.1 of the Delaware Sediment and Stormwater regulations limits the increase of downstream water surface elevations to 0.05 feet. However, the Drainage Program is unsure if a downstream analysis is being performed for all projects. This solution would require a downstream analysis for all projects in tax ditch watersheds.

b. Work with land use agencies to incorporate tax ditch considerations into the planning and zoning processes.

County and municipal planning agencies have many requirements for when land is being developed. These agencies need to take tax ditch rights-of-way into consideration to conflicts with lot lines and buffers for example.

2. Climate Change

Changes in climate, whether it is an increase in frequency and intensity of storms and/or sea level rise, will increase the demands and stress on the tax ditch system. The tax ditch system is the backbone of drainage in many parts of the State and if not maintained the impacts of climate change will be magnified. Although, there are no proposed solutions to climate in this context the Drainage Program, Conservation Districts, and tax ditch organizations will be required to solve problems created by these stresses.

3. Invasive Species

Phragmites has long been an issue in many tax ditches. However, many organizations are dealing with additional invasive threats that in some cases restrict access (Japanese Knotweed) and in other cases restrict flow (Parrott Feather). All invasive species require a lot of effort to get under control.

a. Annual Inspections

Early recognition and treatment is the best and most cost effective way to manage invasive species. With training and documentation tax ditch officers could be trained to identify common invasive species during annual inspections. This would allow issues to be identified early before they become a significant problem.

b. Annual Contracts for vegetation control

An alternative to annual inspections would be annual maintenance contracts where contractors would be hired to find and treat invasive species.

Cause D: Administrative

The Tax Ditch Law requires the Division of Watershed Stewardship provide administrative assistance to the tax ditch organizations. This is becoming an increasingly challenging activity as officers are becoming difficult to retain and recruit, the banking industry enacts tighter privacy controls, and public awareness of tax ditches decrease. The outline below provides some of our Program's ideas for tackling these issues.

1. Officer Recruitment

- a. Standardized Transition Plan
- b. Secession Planning
- c. Better Informed Public (See #3 Below)

2. Banking

- a. Work with financial institutions to understand new banking regulations and requirements
- b. Update Tax Ditch Law to require compliance and reporting
- c. Give DNREC the legal authority to act as an agent on behalf of the tax ditch for banking issues
- d. Develop Option where tax ditch organizations can hand over financial management to another entity like the Conservation Districts

3. Education of general public and taxable on Tax Ditch System

- a. Improve Tax Ditch Web Page
- b. Social Media Presence
- c. Outreach materials
- d. Change requirements for annual meeting advertisements
- e. Email list serve
- f. Outreach Events
 - i. HOA meetings
 - ii. Community Events

INTERAGENCY PROJECT AGREEMENT
TWENTY-FIRST CENTURY FUND
RESOURCE CONSERVATION AND DEVELOPMENT PROJECT
IMPLEMENTATION
(FY20)
SUSSEX COUNTY, DELAWARE

THIS AGREEMENT, made this 6th day of September, 2019, BY AND BETWEEN, the Department of Natural Resources and Environmental Control, hereinafter called "Department" and the Sussex Conservation District hereinafter called "SCD".

WITNESSETH THAT:

WHEREAS; Senate Bill 180 of the 150th General Assembly, appropriated funds for Twenty-First Century Fund - Resource Conservation and Development (RC&D) Projects dedicated to improve the health of communities by addressing a variety of State-wide watershed and drainage issues consistent with the policies of the Cabinet Committee on State Planning Issues; and

WHEREAS, said appropriations provide funds for projects located in Sussex County; and

WHEREAS, House Bill 410, Section 76 of the 146th General Assembly requires that monies appropriated from the Twenty-First Century Fund – RC&D Project list have a funding match of at least 10%; and

WHEREAS, RC&D Projects have been approved by the Joint Legislative Committee on the Capital Improvements Program;

NOW, therefore, in consideration of the premises and of the several promises to be faithfully performed by the parties hereto as set forth, the Department and SCD do hereby agree as follows:

- A. It is agreed that the SCD will provide management and construction of projects located in Sussex County using SCD or contractor resources for any RC&D Project approved by the Joint Committee for Capital Improvement at an estimated total cost of \$444,444.
- B. It is agreed that this project will utilize RC&D Funds and non-RC&D Funds for the required match as shown in the table below:

Project Name	RC&D Funds	Funds provided by the SCD	Description
Approved Sussex County – RC&D Projects	FY2020 \$400,000	\$44,444	Project Management and Construction

C. The Department will:

1. Provide \$400,000 toward the cost of the work described in “A” and “B”.
2. Pay for the cost of said work up to \$400,000, directly to the SCD on a monthly basis upon receipt of a statement for works performed or supplies purchased.
3. Obtain and provide the necessary land rights needed for the construction of said projects.
4. Provide administration and technical assistance as required.

D. SCD will:

1. Obtain and provide \$44,444 as 10% project match toward the cost of construction of the projects described in item “A”.
2. Be responsible for obtaining any and all applicable permits.
3. Be responsible for complying with all relevant State and Federal laws.
4. When deemed necessary, unless otherwise agreed upon, utilize Department approved Professional Service Agreement for Watershed Engineering Service contractor(s).
5. Be responsible for undertaking, implementing and supervising all aspects related to RC&D projects including but not limited to project planning, design, bid preparation and award, construction and inspection.
6. Arrange for final inspection of and certification that the projects meet the construction plans and specifications.
7. Keep accurate records of the expenditure of these funds and notify the Department in writing when the project is completed, such notification shall include the above stated inspections and certification documents.
8. Assure that these funds will only be on projects that have been approved by the Joint Committee for Capital Improvement.
9. Supply to the Department documentation of the required 10% match.

E. It is mutually agreed that:

1. Financial commitments are contingent upon the continuing availability of appropriations by the Legislature and County Government from which payment may be made. The Department or SCD shall not be obligated if the Legislature or the County fails to appropriate funds.
2. The Department, nor SCD, shall assume any responsibilities for future maintenance.
3. All parties hereby acknowledge that this Agreement has financial limits that cannot be exceeded except by signed Amendment of this Agreement.

SUSSEX CONSERVATION
DISTRICT

Dan W. Baird

District Coordinator

Date: 9/3/19

DEPARTMENT OF NATURAL
RESOURCES AND
ENVIRONMENTAL CONTROL

Shawn M. Garvin
Secretary, Shawn M. Garvin

Date: September 6, 2019

JLOSC Responses

Prepared by DNREC's Division of Watershed Stewardship,
Conservation Programs Section, Drainage Program
March 6, 2020

Clarification on the RC&D Project Timeline

Kent and Sussex Counties

Process for Addition to the RC&D List

1. Drainage Program receives initial drainage concern/issue from resident/landowner/legislator.
2. Drainage Program field technician is assigned to evaluate reported drainage concern.
3. If the Drainage concern affects more than one landowner and requires coordination with multiple landowners/properties, the project is considered for the RC&D List. If the issue only affects one landowner and/or a single property, the Drainage Program staff will provide technical assistance for resolution or recommend hiring a consultant/contractor and/or contacting a partner agency for further assistance.
4. Drainage Program staff performs field visits and develops preliminary project scope, potential solution, and cost estimate for the RC&D list.
5. The Drainage Program maintains a list of proposed projects which are added to the RC&D Annual Report and presented to the Bond Bill Committee for approval.

Once Added to the RC&D List

6. Project is ranked on the RC&D List based on project priority. Criteria used to prioritize projects include the following: public safety, frequency of flooding, project status, property damage, ability to leverage other funds, and project age. The project remains on the list until it receives a high ranking and funding is secured.

Scoping Phase

7. Drainage Program and/or Conservation District obtain landowner and then complete field survey work of the project area.

Engineering/Design Phase

8. Engineering is conducted by the Drainage Program, Conservation Districts, and/or subcontractors. This stage requires time and coordination with other state agencies for review.

Permitting Phase

9. Permitting is conducted by Drainage Program, Conservation Districts, and/or subcontractors. Permit applications can be submitted when the project is 90% engineered.

Funding Phase

10. Cost estimates are secured based on design plans through Bid Process required (if applicable).
11. Requests for Community Transportation Funds (CTF) are made and commitments are received.
12. Drainage Program or Conservation Districts secure Landowner Agreements for Construction. If landowner agreements are not secured, the project does NOT move forward.
13. Bid Package completed (if applicable) or Vendor Selected.
14. Purchase Order secured by Drainage Program.

Construction Phase

15. Lead Agency coordinates construction with contractor, considering any requirements/stipulations received in any permits.
16. Project under construction and monitored during construction.
17. Final inspection required at the end of construction and any contractor issues are resolved.

Completion

18. Project monitored one year from successful final inspection and closed out.

New Castle County

Process for Addition to the RC&D List and Funding Phase

1. Project estimate is requested (via email or letter) by a State Senator or Representative.
2. NCCD visits project location, meets with landowner(s) to understand issue of concern.
3. Following this meeting(s) staff prepares a preliminary estimate letter which is reviewed by NCCD PE and District Coordinator.
4. Estimate letter is sent to Legislative member(s), their aide(s) & DelDOT CTF program representative. Project will be added to annual "New Project List" submitted to Bond Bill Committee.
5. Member(s) and NCCD agree on funding split between CTF and RC&D Funds; the agreed funding split is shared with DelDOT Community Transportation Fund (CTF) representative. Project must be listed on approved Resource Conservation & Development (RC&D) list of projects in order to be eligible for funding with CTF and/or RC&D funds.
6. Once 100% project funding is confirmed, DelDOT sends project agreement to NCCD.
7. NCCD returns project agreement signed by NCCD Board Chair back to DelDOT.
8. DelDOT sends NCCD the "Notice to Proceed" on the CTF share of the project funds.
9. With the Notice to Proceed, project is placed in NCCD's "active project" list. NCCD is required to have DelDOT's Notice to Proceed before NCCD can start any work on the project.

Engineering/Design Phase

10. NCCD Survey crew collects the field surveying information (slope and topography, landscape features, structures, etc.) to begin the layout and design of a project;
11. NCCD project P.E. prepares design/engineering plans which will be shared w/ affected property owners for review and approval. Plans can be modified based on landowner comments;
12. NCCD requires signed project construction easement agreements by all parties impacted by the project once there is agreement on the project design plans;
13. Construction plans & bid specifications will be prepared by NCCD based on the final design.

Vendor Selection Phase

14. Depending on estimated cost, and per State bid laws, project may be publicly advertised (twice over a 2-week period) by NCCD – a mandatory pre-bid meeting for contractors may be scheduled depending on the complexity of the project;
15. All project bids are received and opened by NCCD – bids submissions (bid bonds, etc.) are reviewed, and low bidder confirmed. Low bidder required to provide proof of insurance coverage(s) so that project can be awarded & contract between NCCD, and contractor can be signed;
16. NCCD issues Notice to Proceed to contractor/low bidder.

Construction Phase

17. Project starts subject to contractor schedule and weather.
18. NCCD will typically oversee construction and inspect project.
19. When project construction is completed by the contractor, NCCD PE will inspect project – this is NCCD’s “Semi-Final Inspection”; NCCD may require contractor to address any project construction related issues.
20. NCCD’s Final Project inspection is completed approximately 6-months after “Semi-Final Inspection”. NCCD may require contractor to return to address any project construction related issues. If project is deemed complete, NCCD notifies contractor in writing and releases final payment (5% of bid price) to contractor.
21. NCCD’s role and responsibility for project concludes.

Prioritization Process

RC&D Projects

The ranking and prioritization process for requests through RC&D are handled by DNREC’s Drainage Program and the Conservation Districts. The following factors are considered for prioritization:

- Public Safety
- Frequency of Flooding
- Project Status (level of effort or legislator influence)
- Property Damage(s)
- Ability to leverage other funds
- Age of Project (length of time on the list)

Once all factors are considered, projects are ranked by New Castle Conservation District in New Castle County and coordinated with DNREC staff and the Conservation Districts in Kent and Sussex County.

Tax Ditch Projects

The Drainage Program addresses Tax Ditch related requests on a first come, first served basis. Initial inquiries typically require a site visit to provide a landowner or tax ditch officer technical assistance. However, the following factors may also contribute to the ranking of project requests:

- Date of request
- Amount of information provided in the request
- Timeline for project completion provided by the requestor
- Availability of funds for project completion

At times drainage concerns from legislators may be given higher priority in order to provide a timely response.

Drainage Concern Submission Process

Drainage concerns are submitted in two ways: (1) a constituent call that is processed through a drainage and stormwater assistance hotline phone number or email, or (2) an inquiry from a legislator. New

Castle County concerns are handled by the New Castle Conservation District. Kent and Sussex County inquiries are handled by the Drainage Program Manager or the DNREC Director of Community Affairs. Once information is gathered, staff conduct a site visit to determine potential causes of poor drainage. The Drainage Program or Conservation Districts work with the landowner to determine if the problem can be resolved by the landowner. If the problem cannot be resolved and all causes are explored –i.e. outside of DelDOT right of way, outside of tax ditch organization watershed and/or tax ditch responsibility, outside of HOA responsibilities, outside of local municipality responsibilities - then DNREC can request to have the project added to the RC&D list.

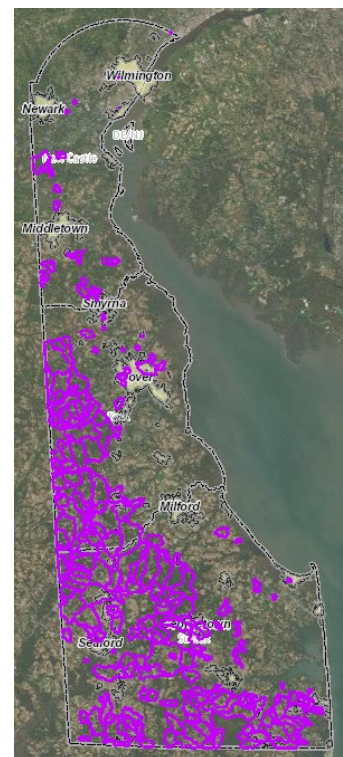
Tax Ditches by County

A total of 234 tax ditches exist within the State of Delaware, making up over 2,000 linear miles of ditches throughout the state (see map). Of those tax ditches, 78 are in Kent County, 26 in New Castle County, and 137 in Sussex County, as shown in the table below. However, seven (7) tax ditches have watershed boundaries in two counties – Kent and Sussex.

County	Number of Tax Ditches
New Castle	26
Kent	78*
Sussex	137*

**Seven ditches reside within two counties – Kent and Sussex.*

Citizens can use a web-based mapping application on their computer or smartphone. The map can be searched by street address or tax map number or tax ditch name to determine whether a property is located within a tax ditch watershed. The application illustrates approximate locations of tax ditch channels and their associated rights-of-ways for maintenance access and activities which may affect their property. <https://de.gov/taxditchmap>.



It should be noted that in addition to the 2,000+ miles of tax ditches throughout Delaware, there are also privately managed ditches that were created to address drainage problems. The privately managed ditches throughout the state are not a part of a Tax Ditch Association and are therefore not listed as a tax ditch. Despite this difference, the Drainage Program receives drainage concerns for both tax ditches and privately managed ditches.

Leveraging federal dollars to support tax ditch or RC&D projects

The Drainage Program and Conservation Districts strive to leverage state funds with federal funds when possible; however, there is no specific federal program that provides annual funding for these types of projects. Recently, when both water quantity and quality can be improved, a small portion of federal funding sources have been used for drainage projects. The Nanticoke Tax Ditch project, completed in 2015, is an example of federal funds combined with state dollars to restore over 4,300 linear feet of a tax ditch. Projects, like this, are applicable for federal funding due to the water quality and wildlife

habitat benefits that are being provided, in addition to addressing the drainage problems. The amount of federal grant funding fluctuates yearly and is at the discretion of the grant manager.

More recently, the Drainage Program and Conservation Districts received a \$1.0 million federal award from USDA-NRCS for watershed planning funds in the Upper Nanticoke Watershed. The award will lead to watershed improvement projects that could be placed on the RC&D list. The award aligns Delaware nicely to pursue the next phase and request approximately \$15.0 million for design, permitting and construction. Of this amount, we expect the State of Delaware's portion to be \$3-4 million within 3-5 years.

To assist with identifying alternative funding sources, the Drainage Program hired an Environmental Scientist. The Scientist's primary job duty is to obtain permits for RC&D projects; however, a secondary duty is to acquire grant funding. Additionally, the Drainage Program, Conservation Programs Section, and Conservation District staff have increased participation in meetings where grant opportunities are discussed; staff look for additional opportunities where applicable.

However, routine maintenance projects like tax ditch dip outs, ditch crossing installations, etc. are not eligible for federal funding and are typically funded through 3921 State funds.

Additional comments

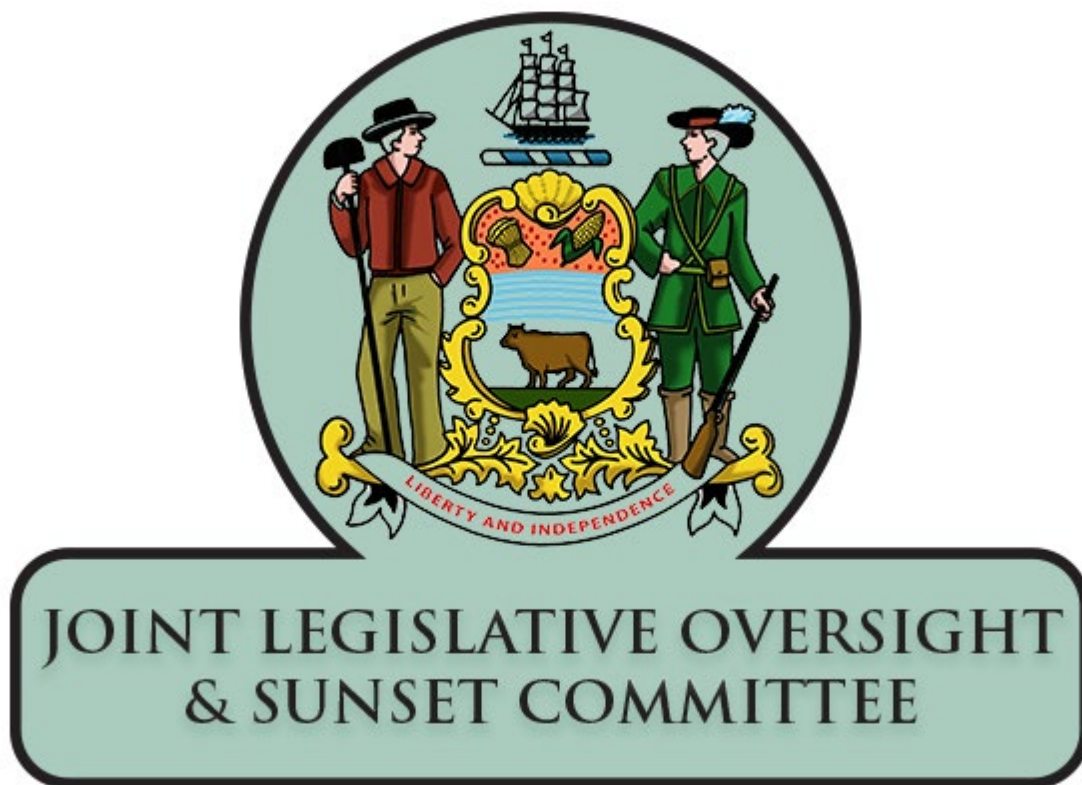
- The last paragraph on page 14 states the districts were established in 1953, which is incorrect. The act enabling the Districts to form was passed in 1943, but NCCD was formed in 1944, KCD and SCD were formed in 1943.

2020 Final Report

Delaware Health Resources

Board

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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Representative Andria L. Bennett

Senator Anthony Delcollo

Representative Sherry Dorsey Walker

Senator Stephanie L. Hansen

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Representative Jeff N. Spiegelman

Senator John J. Walsh

Representative Lyndon D. Yearick

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FACT SHEET

March 3, 2020

JLOSC Review of HRB



Joint Legislative Oversight
& Sunset Committee

Health Resources Board (“HRB”) Duties

- ➔ Reviewing CPR applications.
- ➔ Developing and maintaining a Health Resources Management Plan (“HRMP”).
 - Last updated in September 2017.
 - Assesses the supply of health care resources.
 - Outlines process for reviewing CPR applications.
- ➔ Identifying and gathering types of data and information needed to carry out responsibilities.
- ➔ Address specific health care issues requested by the Governor and General Assembly.

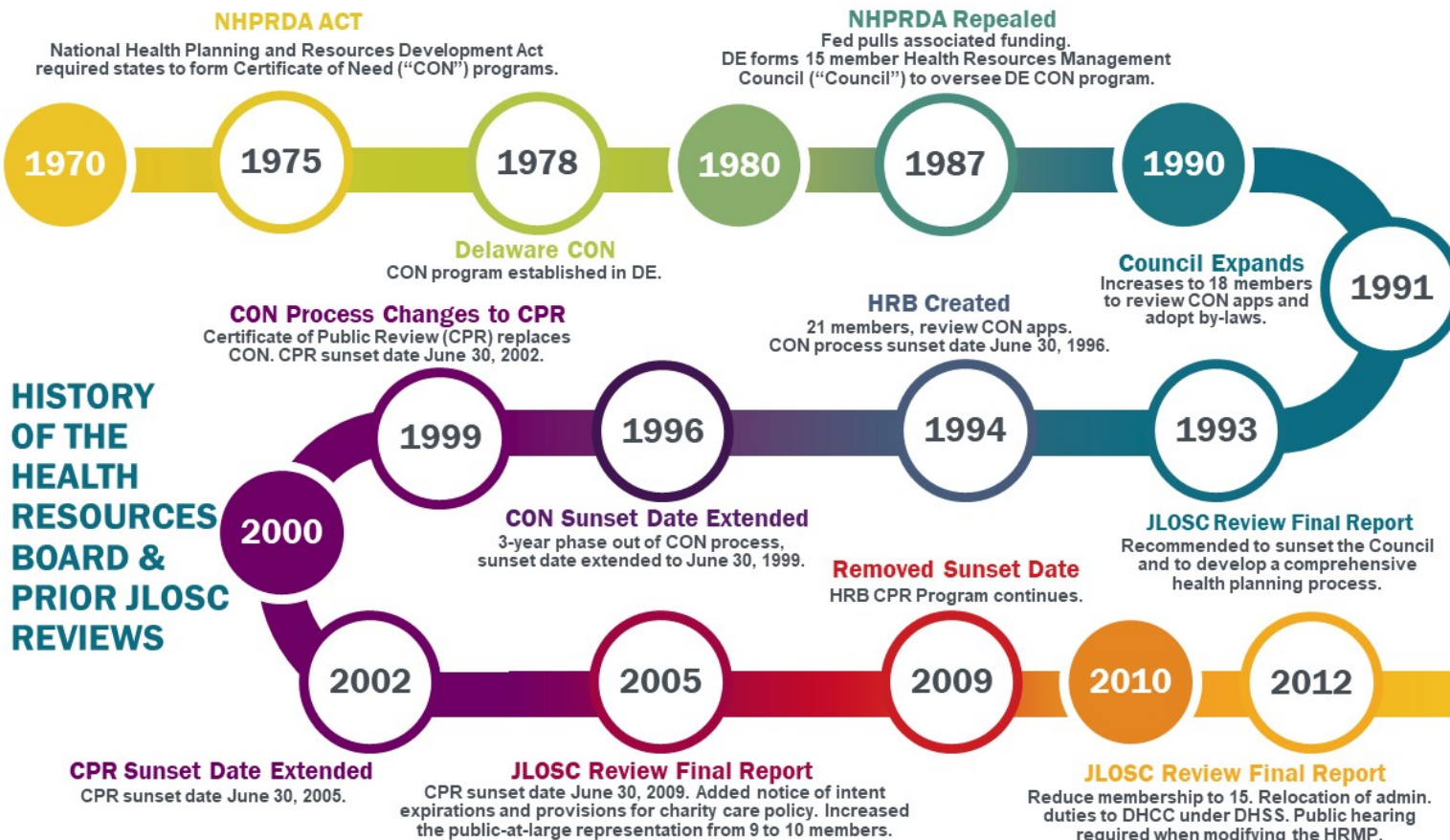
Certificate of Public Review (“CPR”) Process

- ➔ CPR required for the following 4 activities: *
 - Construction or development of a health care facility.
 - Capital expenditure more than \$5.8M.
 - Change in bed capacity by more than 10 beds or 10% of total licensed bed capacity in 2-year period.
 - Acquisition of major medical equipment.
- ➔ Applicant files “Notice of Intent.”
 - Once application is complete review begins.
 - Filing fees due 30 days after review notification.
- ➔ Overview presentation at HRB meeting.
 - Review Committee selected for review.
- ➔ Board reviews Review Committee’s recommendation and makes final decision based on 7 items of statutorily mandated CPR criteria.

*See HRMP for full details.

Opportunities for Improvement

- ➔ Evaluate Certificate of Public Review process and determine if it supports Delaware’s current health care delivery system and interest in health care innovation and transformation.
- ➔ Evaluate the activities subject to review and the current 7 items of statutorily mandated CPR criteria.
- ➔ Review the Board’s size and composition, consider adding clarity to the statutory definition of quorum.
- ➔ Review and update filing costs for capital expenditures. Consider allocating filing fees to DHCC.



ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Delaware Health Resources Board. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

INTRODUCTION

About JLOSC and the Review Process

Delaware's Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions ("entity" or, collectively, "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity is not reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. The Committee is a bipartisan committee comprised of ten legislators. The Senate President Pro Tempore appoints five senators and the Speaker of the House appoints five representatives to serve on the Committee.

In general, the conduction of reviews spans a ten to twelve-month time period commencing in July. The Committee's Analysts compile a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepares a preliminary report for the use of Committee members during public hearings held each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine if there is a genuine public need for the entity, and if the entity is beneficial to the public's health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination (sunset) of an entity. Although the Committee has "sunset" a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity's overall performance and accountability.

About the JLOSC Performance Review Questionnaire

The information provided in this report is taken from the JLOSC Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire. Any changes made to the substance of what the agency reported are indicated by footnote. The section titled, "Additional Comment from the Committee Analyst" address any points of consideration which arose in analyzing the questionnaire and compiling this report.

In the final report the analyst applied substantive changes where required, resulted from findings made through the review processes. The appendices of the draft report included the statutes governing and applying to the agency under review. They were included as a reference for JLOSC members and are not included in the final report.

EXECUTIVE SUMMARY

During the 1960s and 1970s the federal government saw a need for comprehensive health planning. This led to the creation of the National Health Planning and Resources Development Act of 1975, which required all 50 states to convene oversight agencies and Certificate of Need (“CON”) programs to provide a review of proposed new health facilities and services and major capital expenditures.

Delaware established its CON program in 1978 and, by 1987, the federal government repealed the National Health Planning and Resources Development Act and all its associated funding. This prompted Delaware to create a 15-member Health Resources Management Council (“Council”) to oversee the CON program. Since its creation, JLOSC reviews have resulted in numerous changes. The CON process evolved into the Certificate of Public Review (“CPR”) program and the Council changed to the Health Resources Board.

This 2020 review marks the fourth review conducted by JLOSC of the state’s CON process and its associated Board. Prior to this review, the program received 5 different sunset dates with the final sunset date removal occurring in 2009. The dollar amount threshold that triggers the CPR process increased numerous times and the activities of review have seen some decrease over the years. Common themes from all 4 reviews include size of board membership, conflicts of interest, and the structure and overall need for the program.

JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

AGENCY HISTORY

The Health Resources Board (“HRB”) originates from the National Health Planning and Resources Development Act (“NHPDA”) of 1975. The NHPDA required all 50 states to convene oversight agencies and Certificate of Need (“CON”) programs to provide a review of proposed new health facilities and services and major capital expenditures.

The NHPDA was based on the economic assumption that excess health care capacity directly results in health care price inflation. States established CON programs to restrain health care costs and allow for coordinated planning of new services and construction based on a genuine community need. CON programs also emphasized the importance of distributing health care services to disadvantaged populations or geographic areas that may be ignored by new and existing facilities.

The federal government repealed NHPDA in 1987 and dissolved all associated federal funding. Most recent data suggest 35 states and the District of Columbia have retained their CON programs, 12 states have discontinued their CON programs, and 3 states have variations.¹ Florida most recently repealed portions of their CON program in 2019 and 8 other states (Georgia, Maryland, Ohio, Rhode Island, Tennessee, Vermont, Virginia, and Washington) enacted legislation to modify CON regulations.

Delaware codified its CON program in 1978, placing CON oversight within the Department of Health and Social Services’ (“DHSS”) Bureau of Health Planning and Resources Development.² The General Assembly established HRB in 1994; it further modified the state-level CON program and replaced it with the Certificate of Public Review (“CPR”) program in 1999.³

The HRB CPR program, like other states’ CON programs, originated to regulate the number of beds in hospitals and nursing homes and to prevent excessive purchasing of expensive medical equipment. Since 1999, HRB has considered CPR applications within the context of Delaware’s dynamic health care delivery system. In 2012, administrative support for HRB moved under the DHSS, Office of the Secretary, Delaware Health Care Commission (“DHCC”).

PURPOSE

The HRB CPR program helps protect the statewide health care infrastructure necessary to meet the expected and projected health care needs of all Delawareans. Like other state CON programs, the HRB CPR process works to improve geographic and economic access to care for residents in the state. As available, data is provided to guide this public process.

¹ See Appendix A.

² HB 956 of the 129th General Assembly (1978).

³ HB 33 of the 137th General Assembly (1994) and SB 74 of the 140th General Assembly (1999).

Delaware's CPR process also provides a public comment forum where all interested parties, including citizens, can express their views pertaining to Delaware's health care delivery system. Additionally, any individual may submit a public hearing request in writing during the CPR process.⁴ Most recently, a public hearing was requested and held on June 5, 2019, on MeadowWood's CPR application for a 20-bed expansion.

Without the HRB CPR process, several implications would result:

- No formal oversight, review, and evaluation of new health care facilities expanded health services, and new or novel major medical equipment.
- No forum for public scrutiny and comment.
- Health care spending and costs could increase.
- Conversely, health care competition could increase and thereby reduce spending and costs.
- Potential overutilization of health care resources (facilities, services, equipment, etc.).
- Another state agency or entity may need to provide oversight, as was previously handled by the Bureau of Health Planning and Resource Management (currently located within the Division of Public Health).

In 2019, HRB reviewed 2 CPR applications that both requested to construct free standing emergency departments within 10 miles of each other, on the same road, in Sussex County. The Bayhealth and Beebe health systems argued that emergency medical services were needed in the area. After holding a formal review process and public hearing, HRB denied Beebe's application; Bayhealth withdrew their application before the vote. HRB denied Beebe's application for the following reasons:

- Comments made at the public hearing stated that emergency services are currently available within the proposed service areas.
- The proposal does not align with Delaware's initiative to lower the costs of health care.
- Less costly alternatives are available than additional freestanding emergency services.
- The proposed emergency department would have a negative impact to the existing health care system.

These applications are an example where there could have been a situation of over utilization of health care services, increased health care costs, and a potential negative impact to the existing health care system.

MISSION, GOALS, OBJECTIVES, & AUTHORITY

HRB's purpose is to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.⁵ The enabling legislation accurately reflects the mission of the HRB.

⁴ 16 Del. C. § 9303.

⁵ 16 Del. C. § 9303.

HRB's duties and responsibilities include:⁶

1. Develop a Health Resources Management Plan ("HRMP"), to assess the need for and supply of health care resources, particularly facilities and medical technologies.⁷
 - HRB maintains a HRMP, last updated in September 2017, which includes a statement of principles to guide the allocation of resources and rules and regulations which are formulated for use in reviewing CPR applications.⁸
2. Review filed CPR applications and make decisions.⁹
 - Decisions must reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent.
 - Decisions can be conditional, but the conditions must be related to the specific project in question.
3. Gather and analyze data and information needed to carry out HRB's responsibilities.
 - Identify the types of data not available so that efforts can assure that legitimate data needs are met in the future.
4. Address specific health care issues that the Governor or the General Assembly request.
5. Adopt by-laws as necessary for conducting HRB's affairs.¹⁰
 - HRB members must comply with the State Ethics Code and the Freedom of Information Act ("FOIA").
6. Coordinate activities with DHCC, DHSS, and other groups as appropriate.

HRB adheres to the HRMP for measuring the goals and objectives of the CPR program. The HRMP is a document that establishes the guiding principles for health care resources in the state and the rules and regulations for reviewing CPR applications.¹¹

HRB cooperates with DHCC and other state health policy activities.¹² HRB also works with DHSS's Division of Health Care Quality regarding licensing and certifications.

COMPOSITION & STAFFING

Membership:

According to statute, HRB consists of 15 members.¹³ As of February 2020, HRB has 3 vacancies, including the vice chair. The Governor appoints the vice chair from among HRB members.

⁶ 16 Del. C. § 9303.

⁷ See Appendix C.

⁸ See Appendix D.

⁹ 16 Del. C § 9304.

¹⁰ See Appendix E.

¹¹ See Appendix B.

¹² 16 Del. C. § 9303.

¹³ See Appendix F for current Board member roster.

The other 2 vacancies are for a representative involved in purchasing health care coverage for employers with more than 200 employees¹⁴ and a representative of a provider group other than a hospital, nursing home, or physician.¹⁵ The Governor's office has been advised of these vacancies.

Meeting Frequency¹⁶

HRB's by-laws require regular meetings be held on a bi-monthly basis and held at least 4 regular meetings per year.¹⁷ The Board can hold a special meeting at any time by request of the chair or at the written request of at least 8 members. HRB can create committees or task forces to assist in conducting HRB business.

Meeting Order, Quorum, and Voting:¹⁸

HRB conducts meetings under Roberts' Rules of Order. HRB's statute defines quorum as consisting "of at least 50% of the membership." which, when all HRB positions are filled, is 8 members.¹⁹ HRB has interpreted the statute to allow them to enact by-laws that require 8 members to achieve quorum regardless of vacancy. The by-laws further define a voting quorum as a majority of members who are present at the meeting and able to vote. Members who must abstain from a vote do not affect quorum.²⁰

Member Removal:

The Governor may at any time, after notice and hearing, remove a member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. A member is in neglect of duty if absent from 3 consecutive meetings without good cause or attend less than 50% of meetings in a calendar year. A member has not been removed since HRB has been under DHCC.

Member Compensation:

Members serve without compensation but may seek reimbursement for reasonable and necessary expenses incident to their duties, to the extent that funds are available, and the expenditures are in accordance with state laws.

Member Training and Handling Conflicts of Interest:

HRB does not offer special training opportunities. HRB's assigned Deputy Attorney General ("DAG") has reviewed the provisions of the Public Integrity Act with members to ensure that they are complying with the provisions in the law. Some members of the HRB have had individual consultations with the Public Integrity Commission ("PIC") for clarification regarding conflicts of interest.

HRB avoid conflicts of interest by complying with the State Ethics Code. Additionally, HRB by-laws regarding conflicts of interest.²¹ HRB does not permit members to participate in the review or disposition of any matter in which they have a conflict of interest and require members to declare their conflict at the earliest time possible. HRB by-laws indicate that a member has a conflict when:

¹⁴ Vacant as of October 18, 2012.

¹⁵ Vacant as of October 31, 2019.

¹⁶ Analyst Note: This section added by Analyst from by-laws as indicated.

¹⁷ See Appendix G for Board member meeting attendance as provided by DHCC.

¹⁸ Analyst Note: This section added by Analyst from by-laws as indicated.

¹⁹ 16 Del. C. § 9303.

²⁰ See Appendix E.

²¹ See Appendix E.

- Any action or inaction would result in a financial benefit or detriment to member or a close relative (parents, spouse, children, or siblings) to a greater extent than the benefit or detriment would accrue to others who are members of the same class or group of persons.
- The member or close relative has a financial interest in a private enterprise (whether profit or not for profit) and the enterprise or interest would be affected by HRB action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise. A member has a "financial interest" in a private enterprise if:
 - The member has a legal or equitable ownership interest in the enterprise of more than 10%, or 1% or more in the case of a corporation whose stock is regularly traded on an established securities market.
 - The member is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee, or independent contractor.
 - The member is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise, or 1% or more in the case of a corporation whose securities are regularly traded on an established securities market.

DHCC Staff for HRB:

DHCC staff perform administrative duties for HRB as follows:

- Manager of Statistics and Research (merit position) – 90% devoted to HRB:
 - 10% – Reviews CPR applications for technical completeness.
 - 10% – Collects information from applicants needed to assure applications are complete prior to the review by HRB.
 - 10% – Sends out meeting correspondence to HRB, staff, and the public, includes applicants.
 - 10% – Coordinate and provide staff support to HRB meetings, public hearings, and review committee meetings.
 - 10% – Post meeting materials to the HRB website and State of Delaware Public Meeting Calendar.
 - 10% – Send public notices to newspapers for CPR review announcements.
 - 10% – Composes agenda and meeting minutes. Conducts research and analysis for use by HRB in evaluating applications.
 - 10% – Prepares review committee reports for HRB.
 - 10% – Provide staff expertise on the CPR process and assist to ensure efficiency and accuracy of the CPR program.

- Executive Director (appointed position) – 10% devoted to HRB:
 - 5% – Provides the leadership to ensure the efficiency and accuracy of administering the CPR program and to enforce HRB is operating in accordance to statutory guidelines.
 - 5% – Attends HRB meetings and review committee meetings.
- DAG (non-merit position) – 10% devoted to HRB:²²
 - 5% – Provides legal guidance and counsel to HRB during HRB meetings, public hearings, and review committee meetings.
 - 5% – Prepares written orders of HRB decisions for CPR applications.

DHCC sufficiently staffs HRB, as described above.²³ In times of increased CPR applications, the workload is significant for the Manager of Statistics and Research, who works as HRB's program manager. In times of appeals, the workload for the DAG increases dramatically.

DHCC recruits administrative staff for HRB through the State hiring process. Currently, DHCC employs no temporary or contractual staff. There is no formal orientation session for new hires other than traditional State new employee onboarding. Staff receive HRB guidelines and procedures documents.

No training opportunities are available to staff regarding HRB. Staff has access to resources such as policies, statutes, and information readily available on the HRB website.

Certificate of Public Review (“CPR”) Process²⁴

CPR Process Guiding Principles:²⁵

The following general principles are intended to assist potential CPR applicants in understanding HRB's expectations and assist HRB in conducting CPR reviews, particularly in matters where specific guidelines are lacking.

The essential challenge that HRB faces is striking an appropriate balance in its consideration of access, cost, and quality of care issues. Evidence that an applicant has seriously embraced this challenge should permeate every CPR application. The problem of medical indigency is extremely complex. DHCC continues to provide leadership in this area. It is expected for CPR applicants to contribute to the care of the medically indigent.

Historically, health care delivery has too often been episodic and disjointed. Projects which support a managed, coordinated approach to serving the health care needs of the population are to be encouraged.

Given Delaware's small size and proximity to major metropolitan referral centers, particularly in Philadelphia and Baltimore, every health care service need not be available within its borders. Potential CPR applicants are expected to consider the availability of out-of-state resources.

²² In times of litigation the Board's DAG devotes an additional 25% of time to the HRB.

²³ See Appendix H.

²⁴ Analyst Note: Analyst added this section, where indicated, from the HRB website and materials supplied by DHCC. Information inadvertently not requested in the JLOSC Performance Review Questionnaire.

²⁵ Analyst Note: Analyst added this section, information obtained from HRB website.

The cost-based reimbursement system has historically provided little incentive for financial restraint; over-utilization has been encouraged, and revenue centers (not cost centers) were emphasized. Projects which reflect or promote incentives for over-utilization, including self-referral, are discouraged.

HRB has embraced DHCC's adopted a strategy of strengthening market forces as a central theme in health care reform. Projects resulting from or anticipated to enhance meaningful markets are encouraged. In the past, "competition" has often been based on amenities for physicians, as in the medical arms race, and patients, such as swanky waiting rooms. In meaningful markets, there must be a sensitivity to elements of both cost and quality.

Prevention activities such as early detection and the promotion of healthy lifestyles are essential to any effective health care system. The Choose Health, Delaware State Health Care Innovation Plan identifies several opportunities to improve the health status of Delawareans. The potential for a project to bring about progress in these areas will be viewed as a very positive attribute.

Requirement for a CPR:²⁶

In Delaware, a CPR is required for the following activities:

1. The construction, development, or other establishment of a health care facility or the acquisition of a nonprofit health care facility.
2. Any expenditure by or on behalf of a health care facility, not including a medical office building, more than \$5,800,000, which is considered a capital expenditure.
 - Expenditures more than \$5,800,000 may be exempt from review if they are necessary to maintain the physical structure of a facility and are not directly related to patient care.
3. A change in bed capacity of a health care facility which increases the total number of beds, distributes beds among various categories, or relocates beds from 1 physical site to another, by more than 10 beds or is more than 10% of total licensed bed capacity, whichever is less, over a 2-year period.
4. The acquisition of major medical equipment for use by students, employees of a school or university, or by inmates and employees of a prison, excluding the replacement of major medical equipment or major medical equipment acquired by a business or industrial establishment for a dispensary or first aid station.

CPR Procedures:²⁷

1. Applicant files Notice of Intent from the CPR Application Kit.²⁸
2. Applicant files application. When application is determined to be complete, applicant notified of the beginning of the review (Public Notice, etc.).

²⁶ Analyst Note: Analyst added this section, information obtained from HRB website.

²⁷ Analyst Note: Analyst added this section, information obtained from HRB website. See *Additional Comment from the Committee Analyst* for more information.

²⁸ See Appendix D.

3. At the first HRB meeting after an application is determined complete, there is an overview presentation by the applicant and an opportunity for questions. A Review Committee is selected.
4. Review Committee conducts public hearing, if requested.
5. Review Committee meets and deliberates as necessary to formulate a recommendation to HRB.
6. Review Committee submits report to HRB, who makes the final decision. From the date of notification referred to in step 2 above, maximum review period is 90 days, with exceptions for requested public hearing or if mutually acceptable to HRB and applicant.

CPR Criteria:²⁹

HRB's purpose is to assure that continued public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent.³⁰ Through HRB's the efforts, the State focuses on balancing concerns for cost, access, and quality in the best interest of Delawareans.

In conducting reviews under the HRMP, HRB must consider 7 statutorily mandated criteria:

1. Relationship of the proposal to the HRMP.
2. The need of the population for the proposed project.
3. The availability of less costly or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the state.
4. The relationship of the proposal to the existing health care delivery system.
5. The immediate and long-term viability of the proposal in terms of the applicant's access to financial management and other necessary resources.
6. The anticipated effect on the proposal on the costs of and charges for health care.
7. The anticipated effect of the proposal on the quality of health care.

Major Medical Equipment:³¹

A CPR is required prior to the acquisition of "major medical equipment," irrespective of whether the acquisition is made by a "health care facility." "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which:

1. Entails a capital expenditure as defined in the statute and which exceeds \$5,800,000 or more which HRB has designated following an annual adjustment for inflation.
2. Represents medical technology which is not yet available in Delaware.

²⁹ Analyst Note: Analyst added this section, information obtained from HRB website.

³⁰ 16 *Del. C.* § 9301.

³¹ Analyst Note: Analyst added this section, information obtained from HRB website.

3. Represents medical technology which HRB has designated as being subject to review.
 - HRB designates the following medical technologies as subject to review because they are major medical equipment:
 - Cardiac Catheterization.
 - Megavoltage Radiation Therapy.
 - Extracorporeal Shock Wave Lithotripsy.
 - Positron Emission Tomography (“PET”).

CPR Applications Received 2017-2019:³²

Since 2017, HRB has reviewed 17 CPR applications, with 15 receiving approval notices. The DHSS Division of Health Care Quality administers the licensing process for all CPR approvals.

	# of CPR applications received	# of CPR applications approved	# of CPRs issued	# of CPR applications rejected	# of CPR applications withdrawn
Calendar Year 2017	5	5	5	0	0
Calendar Year 2018	8	8	8	0	0
Calendar Year 2019	4	2	2	1	1

CPR Application Fees:³³

An application filing fee must accompany CPR applications.³⁴ Application fees are as follows:

Capital Expenditures	Application Fee
Less than \$ 500,000	\$100
\$500,000 to \$999,999	\$750
\$1,000,000 to \$4,999,999	\$3,000
\$5,000,000 to \$9,999,999	\$7,500
\$10,000,000 and over	\$10,000

Filing fees are due 30 days after the date of notification signaling the start of a review and may be extended up to 10 additional days at DHCC’s discretion. Failure to pay the filing fee results in the application being withdrawn.

³² Analyst Note: Information received from DHCC with completed JLSOC Performance Review Questionnaire.

³³ Analyst Note: Information received from DHCC with completed JLSOC Performance Review Questionnaire.

³⁴ 16 Del. C. § 9305.

DHCC has not conducted a financial analysis to determine if the current CPR application fees sufficiently cover the cost of the administration activities, data collection, and analysis. CPR application fees are deposited into the General Fund and are not directly allocated to the DHCC or HRB. Changes to application fees require legislative approval.³⁵

COMPLAINT AND DISCIPLINARY PROCESS

No complaints have been filed with the Attorney General's Office regarding HRB. HRB has not conducted complaint investigations and therefore has not issued any disciplinary actions. HRB does have the ability to revoke a CPR and impose sanctions.

RECONSIDERATION, APPEAL, SANCTIONS, REVOCATION

An organization or individual may file an appeal regarding HRB's decision on a CPR application or request a reconsideration of an HRB decision.³⁶

Administrative reconsideration, HRB procedure:

Any person may, for good cause, request in writing a public hearing for purposes of reconsideration of an HRB decision. A request for a hearing must be received within 10 days of the decision. HRB may not impose fees for the hearing and must hold a hearing within 45 days of the request. HRB must deem a request for a public hearing appropriate if the request shows good cause by exhibiting the following:

1. Presents newly discovered, significant, relevant information not previously available to or considered by HRB; and
2. Demonstrates significant changes in factors or circumstances that HRB relied upon in reaching its decision; or
3. Demonstrates that HRB has materially failed to follow its adopted procedures in reaching its decision.

Applicant appeal:

HRB's decision following review of an application, an administrative reconsideration, or the denial of a request for extension of a CPR may be appealed within 30 days to the Superior Court. The appeal must be on the record. HRB's assigned DAG handles all appeals.

Sanctions:

Any person undertaking an activity subject to review, without first being issued a CPR for that activity, shall have its license or other authority to operate denied, revoked or restricted as deemed appropriate by the responsible licensing or authorizing agency of the State and an order in writing to such effect shall be issued by that licensing or authorizing agency.

In addition, the Board or any adversely affected health care facility may maintain a civil action in the Court of Chancery to restrain or prohibit any person from undertaking an activity subject to review without first being issued a CPR.

³⁵ Analyst Note: These application fees have not changed since first implemented in July 1987.

³⁶ 16 *Del. C.* § 9305.

A person who willfully undertakes an activity subject to review and who has not received a CPR for that activity shall be fined not less than \$500 nor more than \$2,500 for each offense and each day of a continuing violation after notice of violation shall be considered a separate offense. The Superior Court has authority over criminal violations under this subsection.

Revocation:

A CPR may be revoked by the Board in the case of misrepresentation in the CPR application, failure to comply with conditions established by the Board, failure to undertake the activity for which the CPR was granted in a timely manner or loss of license or other authority to operate.

Prior to revoking a CPR, the Board shall provide written notice to the holder of the certificate stating its intent to revoke the certificate and providing the holder at least 30 days to voluntarily surrender the certificate or to show good cause why the certificate should not be revoked. The Board will not revoke a CPR without first providing the holder of the certificate an opportunity for a hearing. The Board's decision to revoke a CPR may be appealed.

ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

HRB is authorized to promulgate rules and regulations under the Administrative Procedures Act ("APA").³⁷ Revisions to the HRMP must comply with the APA. HRB's DAG has reviewed the current rules and regulations for compliance with HRB's governing statute.³⁸ No revisions are planned.

FREEDOM OF INFORMATION ACT COMPLIANCE

All FOIA requests are processed in accordance with Delaware's FOIA statute. HRB staff sends a written response within 15 business days. HRB has never received a FOIA violation complaint.

HRB posts its meeting agendas and minutes on the Statewide Public Meeting Calendar and the public can obtain a draft copy of the meeting minutes 7 business days after each meeting. Within the past 3 calendar years, the HRB has conducted 1 executive session, on September 27, 2018 related to receiving advice regarding legal strategy from its DAG. Minutes of the executive session are available to the public.

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW

JLOSC last reviewed HRB in 2012, which resulted in 12 recommendations. HRB reports they have complied with all but 2 recommendations.³⁹ JLOSC also conducted reviews in 1993 and 2005. The "*Additional Comment from the Committee Analyst*" section of this draft report provides more detailed information on all prior JLOSC reviews.

PUBLIC INFORMATION

HRB website is available to the public and provides guidelines, rules, regulations, and policies for HRB and the CPR program. Monthly reports on HRB's activities are posted on the HRB website. The Statewide Public Meeting calendar is updated on a consistent basis, at least once a month, to provide meeting information, minutes, and agendas.

³⁷ 16 Del. C. § 9303.

³⁸ See Appendix B.

³⁹ Information received with the JLOSC Performance Review Questionnaire and included in this draft report with the full list of recommendations in the last section, Additional Comment from the Committee Analyst.

Interest Groups (Groups affected by agency actions or represent others served by or affected by agency actions)		
Group or Association Name/Contact Person	Address	Phone Number Fax Number Internet Address
Delaware Health Care Association	1280 S. Governors Avenue Dover, DE 19904	(302) 674-2853
Delaware Health Care Facilities Association	726 Loveville Road, Suite 3000 Hockessin, Delaware 19707-1536	(302) 674-2853
Delaware Health Systems and Hospitals <ul style="list-style-type: none"> • Christiana • Beebe • Bayhealth • Nanticoke • Saint Francis Hospital • Nemours/Alfred I. DuPont Hospital for Children 	Christiana P.O. Box 1668 Wilmington, DE 19899 Beebe 424 Savannah Rd. Lewes, DE 19958 Bayhealth 640 S. State Street Dover DE 19901 Nanticoke 800 Middleford Rd. Seaford, DE 19973 Saint Francis Hospital 701 N. Clayton St. Wilmington, DE 19805 Nemours Alfred I. Dupont 1600 Rockland Road Wilmington, DE 19803	Christiana (302) 733-1000 Beebe (302) 645-3300 Bayhealth (302) 674-4700 Nanticoke (302) 629-6611 Saint Francis Hospital (302) 421-4100 Nemours (302) 651-4000

National Organizations or other State Entities (that serve as an information clearinghouse or regularly interact with the agency)		
Group or Association Name/Contact Person	Address	Phone Number Fax Number Internet Address
The Department of Health and Social Services, Division of Health Care Quality, Office of Health Facilities Licensing and Certification	261 Chapman Road, Newark, DE 19702	(302) 292-3930

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ENACTED LEGISLATION IMPACTING THE AGENCY

129th General Assembly, June 1978, HB 956 with HA 2 & 3

Established a system of health planning and review; defined the CON process and its period of effectiveness under the DHSS Bureau of Planning and Resources Management. Established CON review measures for health services subject to CON review, procedures and criteria for CON review, sanctions, immunity, and revocation.

134th General Assembly, July 1987, SB 132

Established the 15-member Council in the cessation of federal support and attendance requirements. Council created a new structure for health planning which involved the review of CON activities and established CON procedures for review, review considerations, and provisions to implement sanctions and CON revocations.

136th General Assembly, May 1991, HB 162 with HA 1

Increased Council membership to 18 members to review filed CON applications and adopt by-laws.

137th General Assembly, June 1994, HB 33 with HA 1, 3, 5, 7 & 8

Established the 21-member HRB to replace Council, develop a Health Resources Management Plan, review CON applications, and gather and analyze data to carry out responsibilities. The Bureau of Health Planning and Resources Management under DHSS provides administrative duties; the Bureau Director serves as HRB secretary. Additionally, DHCC tasked with completing a review of effectiveness of the CON process. Included a sunset date of June 30, 1996, for the CON process.

138th General Assembly, July 1996, HB 640

Provided for the 3-year phase out of the CON process and added a sunset date of June 30, 1999.

140th General Assembly, June 1999, SB 74

Changed all “CON” references to “CPR” and delayed the sunset date until June 30, 2002. Eliminated several categories of providers from the process of review, members of the HRB were permitted to serve for more than two consecutive terms, reviews were required for all acquisitions of nonprofit health care facilities, and failure to comply provisions to the language regarding revocation were added.

141st General Assembly, May 2002, SB 305

Extended the CPR program’s sunset date to June 30, 2005.

143rd General Assembly, July 2005, SB 181

Implemented JLOSC recommendations and extended the CPR program’s sunset provision to June 30, 2009. Added provisions for a charity care policy for free standing facilities, notice of intent expirations, continual care communities, and other non-traditional long-term care facilities to the scope of activities subject to HRB’s review. Increased the capital expenditure threshold that triggers HRB review from \$5 million to \$5.8 million. Authorized HRB to adjust this figure annually based on an annual inflation index determined by the US Dept. of Labor’s Bureau of Labor Statistics. Modified HRB membership, including removal of the member designated by the Delaware Health Care Coalition and the addition of an additional public-at-large member, increasing the public-at-large representation from 9 to 10 members.

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144th General Assembly, July 2007, SB 87

Corrected technical errors from the 2005 bill that inadvertently omitted wording to enable the enforcement of charity care requirements. Corrected references to the dollar amount that triggers the review of capital expenditures and the 15-day timeline for the review of applications.

145th General Assembly, July 2009, SB 181

At JLOSC's request, removed the CPR program's sunset provision.

146th General Assembly, August 2012, HB 326

Result of JLOSC recommendations, including reducing the number of members from 21 to 15; relocating administrative duties to the Office of the Secretary, DHSS under the DHCC; and requiring HRB to conduct a public hearing when modifying the HRMP. Additional requirements included requiring HRB establish rules and regulations for reviewing CPR applications and adding member removal provisions for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office.

147th General Assembly, June 2013, HB 89 with HA 1

Added a definition for freestanding inpatient rehabilitation hospitals and waived CPR requirement. Eliminated the need for an additional CPR for a 34-bed facility in Middletown which previously received a CON and included a December 31, 2016, sunset provision for this exemption.

148th General Assembly, June 2016, SB 226

Resulted from the work of the Behavioral and Mental Health Task Force which indicated a greater need for psychiatric services statewide. Eliminated additional CPR for a 90-bed psychiatric hospital in Georgetown, which previously received a CPR by the Board. Included a December 31, 2020, sunset provision for this exception.

PENDING & PROPOSED LEGISLATION**150th General Assembly, May 2019, SB 108**

Technical corrections and implementing 3 major changes to HRB, including reducing the number of members from 15 to 11, to aid in achieving quorum and filling vacancies, updating language to provide for 3-year terms, and authorizing members to elect a vice chair rather than requiring Governor appoint the vice chair. As of the printing of this report, SB 108 was voted out of the Senate Sunset Committee in June 2019 and has been placed on the Ready List for consideration.

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FISCAL INFORMATION

Revenue generates through the collection of CPR application fees. As outlined in the CPR process, application fees are collected based on the capital expenditure amounts of the proposals. Application fees are deposited into the State's General Fund and are not directly allocated to HRB. HRB is unable to budget or project how many applications will be filed, or the capital expenditure amounts, therefore budgeted revenue is not applicable for fiscal year 2019 in the chart below. Additionally, HRB does not receive federal funds.

Actual Revenue:

Fiscal Year	Source(s)	Amount
FY19 (budgeted)	General Fund	\$44,700
		TOTAL
FY18 (actual)	General Fund	\$19,118.06
		TOTAL
FY17 (actual)	General Fund	\$9,148
		TOTAL

Actual Expenditures:

Fiscal Year	Source of Funds	Amount
FY19 (budgeted)		
	General Funds	\$44,700
	Federal Funds	\$0.00
	TOTAL:	\$44,700
FY18 (actual)		
	General Funds	\$19,118.06
	Federal Funds	\$0.00
	TOTAL:	\$19,118.06
FY17 (actual)		
	General Funds	\$9,148
	Federal Funds	\$0.00
	TOTAL:	\$9,148

Breakdown of FY19 budgeted expenses:

Line Item	Source(s)	Amount of Expenditures
Transcription Services	General Fund	\$1,214.97
Public Notices	General Fund	\$1,262.46
Meeting facility costs	General Fund	\$7,267.05
Consultant HRB statistical analysis	General Fund	\$9,975.00
	TOTAL:	\$19,719.48

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ACCOMPLISHMENTS

1. HRB revised the HRMP effective September 11, 2017.⁴⁰
2. HRB revised their by-laws effective October 13, 2016.⁴¹
3. HRB has reviewed and rendered a decision on 16 CPR applications since 2017.
4. HRB has adopted a more efficient nursing home bed need methodology to calculate bed projections.⁴²
5. JLOSC last reviewed HRB in 2012 and approved 12 recommendations; 10 recommendations are complying. Two are in non-compliance as indicated in the below “*Additional Comment from the Committee Analyst*” section of this draft report.

CHALLENGES

1. **Recusals:** The Governor appoints all 15 HRB members. When rendering a decision on a CPR application, HRB by-laws require a quorum of 8 voting members. If a member recuses themselves from voting, that member does not count towards a quorum.⁴³
 - Many members need to recuse themselves during the CPR process due to conflicts of interest. As a result, HRB often does not have enough voting members available to render a decision.
 - CPR applications that need to be brought to a vote are sometimes not heard in a timely manner and statutory deadlines can be missed because of recusals.
 - Recusals and their effect on quorum can cause an inconvenience and negative impact for applicant and result with HRB not meeting statutory deadlines.
2. **Vacancies:** In October 2019, HRB had 3 vacancies. In February 2020, 1 vacancy was filled so that only 2 vacancies remain. Vacancies are counted for quorum, making it a challenge for HRB to meet quorum.
3. **Vice Chair:** HRB needs a vice chair to assist in situations when the chair is not able to attend a meeting or needs to recuse. Current statute requires the Governor to appoint a vice chair from among the members, but a vice chair has not been appointed since the last vice chair resigned in 2015.

⁴⁰ See Appendix C.

⁴¹ See Appendix E.

⁴² Additional information about this methodology found in Appendix C, HRMP page 32, Section X “Nursing Home Care.”

⁴³ Analyst Note: By-laws in Appendix E define a meeting quorum as 8 members and a voting quorum as a majority of members who are present at the meeting and able to vote. “The disqualification of a member from voting or a member abstaining from voting shall not affect the quorum. All matters, except as provided for in Article VI of these bylaws, shall be decided by a majority of the members present and voting. Members who abstain from voting on a particular matter are considered “present and voting” for purposes of determining a majority.” It was stated in HRB November 14, 2019 meeting minutes that, “recusals are not counted as a quorum because it is best practice for the Board member to leave the meeting if recusing from a Board matter. It was noted that the recusal process adheres to the Public Integrity Commission’s procedures.”

4. **Appeals:** An HRB decision can be appealed to Superior Court. Anyone, applicant or non-applicant, can appeal. The appeal process is lengthy and a significant burden to the HRB's DAG.
5. **General Assembly:** The General Assembly can pass legislation to circumvent an HRB CPR application decision and this undermines the CPR process.

OPPORTUNITIES FOR IMPROVEMENT

1. Evaluate the purpose and need of the CPR process, activities subject to review, and the 7 review criteria items in place.
 - Consider whether the CPR process in Delaware supports the current health care delivery system and interest in health care innovation and transformation.
2. Fill HRB vacancies.
3. Evaluate the size and composition of the HRB to determine if 15 members is an appropriate number and the correct representatives are part of the Board.
 - The representative involved in purchasing health care coverage for employers with more than 200 employees has been vacant since 2012.
4. Provide clarity for the statutory definition of a quorum.⁴⁴ Currently the statute reads “A quorum shall consist of at least 50% of the membership. This can be interpreted to mean 50% of the current filled positions or 50% of the composition of the Board.
5. Review and update the filing costs for capital expenditures.⁴⁵ Application filing fees are deposited into the General Fund; HRB would like a percentage of the filing fees allocated to the DHCC for operational costs and additional staff support.

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⁴⁴ 16 Del. C. § 9303.

⁴⁵ 16 Del. C. § 9305.

ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

JLOSC REVIEW HISTORY

JLOSC reviewed HRB and its predecessor in 1993, 2005, and 2012.

Summary from the 1993 JLOSC Final Report of the Council:

JLOSC reviewed Council 7 years after its creation and, in JLOSC's final report, highlighted problem areas such as conflict of interests, review committee dysfunction, FOIA compliance, and insufficient staff support from the Bureau of Health Planning and Resource Management. JLOSC concluded that Council spent most of its time reviewing CON applications and were performing a superficial review of the statutory data they were mandated to collect.

JLOSC recognized that there was a need for a comprehensive health planning process and recommended terminating Council and a reconfiguration of the CON program to better support the State's comprehensive health planning process.

1993 JLOSC Recommendations

Recommendation #1: The Health Resources Management Council be abolished (sunset), and that the Governor and General Assembly be advised of the need to develop a comprehensive health planning process. The various commissions, councils, and boards can be brought under one umbrella agency dealing with health care planning. The Joint Sunset Committee agreed that the Certificate of Need review, the development of a comprehensive health policy, the centralization of health planning, and the issue of a regionally based health care planning process will need to be part of a comprehensive health planning process.

Recommendation #2: The Governor and General Assembly develop a program of regulations to centralize health care planning resources under a smaller umbrella of oversight, so as to make better use of resources and to centralize the health care decision-making process. This Recommendation will be in the form of a Resolution to the General Assembly.

Recommendation #3: The Deputy Attorney General assigned to the Health Resources Management Council attend all Council meetings.

Recommendation #4: The Health Resources Management Council be included under those agencies covered by the Administrative Procedures Act (Chapter 101, 29 Del. D.).

Recommendation #5: Members of the Health Resources Management Council, by statutory change, be brought under the State Ethics Code Chapter 58, 29 Del. C.).

Recommendation #6: The members necessary for a quorum of the Health Resources Management Council be raised to 10 (ten).

Recommendation #7: All meetings of the Health Resources Management Council, including subcommittee and review committee meetings, be posted and open to the public.

Recommendation #8: Minutes be prepared for all meetings of the Health Resources Management Council, and that such Minutes be available to the public before decisions are reached by the Council as a whole.

Recommendation #9: The statute governing the Health Resources Management Council be amended by striking relevant sections of Chapter 93, 16 Del. C., regarding the Appeal panel.

Recommendation #10: The Health Resources Management Council set aside a specific period of time for public comment at Council meetings.

Recommendation #11: A quorum of subcommittee members of the Health Resources Management Council be present for Review Committee meetings, including those at which public comment is taken.

Recommendation #12: Minutes be prepared for all meetings of the Health Resources Management Council, and that such Minutes be available to the public before decisions are reached by the Council as a whole.

Summary from the 2005 JLOSC Final Report:

After the 1993 review of Council, several changes occurred, most importantly the Council's termination, creation of HRB in 1994, and the CPR process replacing the CON process in 1999. The various changes of HRB and the CPR process received 4 different sunset dates during this period which brought on the 2005 JLOSC review.

JLOSC concluded in their final report that several areas should be addressed, including HRB's charity care policy; providing the public access to meeting minutes and agendas; providing CPR applications and procedures electronically through the creation and maintenance of a website; and fully complying with the statutory requirement to coordinate health planning activities with the DHCC, DHSS, and other health care organizations.

The 2005 final report also cited other reports and research, such as the 1996 Health Care Commission report, that concluded the State's CON processes were not effective in reducing health care costs.

2005 JLOSC Recommendations

The Joint Sunset Committee recommends continuance of the Delaware Health Resources Board, but only upon its meeting certain conditions or making certain modifications as identified below.

A. The Joint Sunset Committee recommends the following statutory changes:

Recommendation #1: Delete the sunset provision.

Recommendation #2: Insert a provision sunsetting the Delaware Health Resources Board on June 30, 2009.

Recommendation #3: Create legislation allowing the Delaware Health Resources Board to establish and enforce a charity care policy for free standing facilities.

Recommendation #4: Delete the statutory provision to include “1 representative designated by the Delaware Health Care Coalition.”

Recommendation #5: Add one additional representative of the public-at large to the Board. This addition will increase the Board’s public membership from 9 to 10 members.

Recommendation #6: Include non-traditional long-term care facilities in the scope of activities subject to CPR review. For purposes of definition, non-traditional long-term care facilities shall include continual care communities and other facilities identified by Department of Health and Social Services or the Delaware Health Care Commission.

Recommendation #7: Increase the 2005 capital expenditure threshold that triggers a CPR review from \$5 million to \$5.8 million, based on an annual inflation index determined by the US Dept. of Labor’s Bureau of Labor Statistics.

Recommendation #8: Add a 180-day expiration date on the Notice of Intent.

B. The Joint Sunset Committee recommends that the Delaware Health Resources Board take the following action:

Recommendation #9: The Delaware Health Resources Board must comply with the statutory requirement to coordinate health planning activities with the Health Care Commission, the DHSS, and other health care organizations. (16 *Del. C.* §9303(d)(6))

Recommendation #10: The Delaware Health Resources Board shall revise the CPR application so that it directly addresses each of the statutory review criteria. (16 *Del. C.* §§9304, 9306)

C. The Joint Sunset Committee recommends the following action by the Division of Public Health:

Recommendation #11: The Division of Public Health shall create and maintain a CPR website with contact information, meeting minutes, agendas, the CPR application and CPR procedures. (16 *Del. C.* §9303(e))

Summary from the 2012 JLOSC Final Report:

In 2012, JLOSC conducted a third review of HRB and the CON process, which had evolved into the CPR process. Prior to this review, the program received 5 different sunset dates with the final sunset date removal occurring in 2009. The dollar threshold that triggers the CPR process increased many times and the activities of review saw decrease over the years.

In the 2012 final report, JLOSC highlighted the need to update CPR program documents, such as the HRMP and CPR application kit, and found issues in filling HRB vacancies, handling conflicts of interest, lack of program staff aid, and application filing fees.

Discussion about the need of the CPR program continued with this review. Then-Governor Markell and DHSS supported continuing the CPR process as a part of Delaware’s comprehensive health planning system. Thirty-six states used a CON program like Delaware’s CPR program, a number

unchanged from research presented in the 2005 JLOSC Final Report. In addition, the pros and cons for the CON and CPR programs are still largely unchanged as of the 2020 review.⁴⁶

In the 2012 final report, JLOSC concluded that HRB would receive help from a reduction in membership, moving administrative duties from the Bureau of Health Planning and Resource Management to DHCC, and requiring modifications of the HRMP to comply with the public hearing process.

2012 JLOSC Recommendations

The Joint Sunset Committee recommends the Delaware Health Resources Board be continued, provided HRB is meeting certain conditions or making certain modifications as identified below.

Recommendation #1: For administrative and budgetary purposes only, the Delaware Health Resources Board shall be relocated to the Office of the Secretary, Department of Health and Social Services. The Delaware Health Resources Board shall function in cooperation with the Delaware Health Care Commission, as well as other state health policy activities.

Recommendation #2: Amend 16 *Del. C.* § 9303 (c) as follows: The Delaware Health Care Commission and the Office of the Secretary, DHSS will be responsible for the administration and staffing for the Health Resources Board.

Recommendation #3: The total composition of the Delaware Health Resources Board shall be reduced from 21 members to 15 members. The membership shall be representative of all counties in the State.

Recommendation #4: Amend 16 *Del. C.* § 9303 (d) (1) to require that when revising the Health Resources Management Plan, the Board shall conduct a public hearing and shall establish rules and regulations published in accordance with the procedures specified in the Administrative Procedures Act for reviewing Certificate of Public Review applications.

Recommendation #5: Amend 16 *Del. C.* § 9303 (d) (1) to reflect that the Health Resources Management Plan should be reviewed and approved by the Delaware Health Care Commission prior to submission to the Secretary of DHSS for final written approval.

Recommendation #6: Amend 16 *Del. C.* § 9304 (1) to clarify that only for-profit acquisitions of a nonprofit health care facility are subject to the Certificate of Public Review process. Not-for-profit acquisitions of another nonprofit health care facility would not require a review.⁴⁷

Recommendation #7: Amend 16 *Del. C.* § 9303 to include a section as follows: The Governor may at any time, after notice and hearing, remove any Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office. A member shall be deemed in

⁴⁶ See Appendix A for current list of pros and cons from NCSL.

⁴⁷ Non-compliance note from JLOSC Performance Review Questionnaire: 16 *Del. C.* § 9304 (1) currently states: “The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility is subject to the CPR process”. This is not in compliance with recommendation 6 and would require a statutory amendment.

neglect of duty if they are absent from 3 consecutive Board meetings without good cause or if they attend less than 50% of Board meetings in a calendar year.

Recommendation #8: The Delaware Health Resources Board, with assistance provided by DHSS and the Delaware Health Care Commission, shall conduct a comprehensive review of 16 Del. C. c. 93 and the Certificate of Public Review program. The focus of this government efficiency review should be aimed at streamlining operations, increasing efficiency, simplifying the application process and updating the categories for review. This review shall include, but is not limited to, the following: activities subject to a review; criteria considered during a review; procedures to review; timelines/deadlines for a review; feasibility of quarterly Board meetings; documents used by the Board; application fees and fee structure; strengthening the charity care requirements; consider publishing the list of equipment triggering a review through the regulatory process; consider adding assisted living communities to CPR process; consider IT capabilities and an increased online presence. The Delaware Health Resources Board shall report the key findings identified and make recommendations to the Joint Sunset Committee by January 1, 2013.⁴⁸

Recommendation #9: The Delaware Health Resources Board shall review, and revise as needed, the conflict of interest definition enumerated in the by-laws. The Board shall develop guidelines for members to use when identifying and evaluating potential conflicts of interest. Additionally, the Board shall provide its members with the opportunity to participate in a Public Integrity Commission training session no less than once per year.

Recommendation #10: The Delaware Health Resources Board, with assistance provided by the Delaware Health Care Commission, shall undertake a comprehensive review of the Health Resources Management Plan and shall update the Plan to ensure that it supports the development of health services that are cost effective, consistent with meeting consumer needs and choice, and that the standards for a Certificate of Public Review are appropriate. Public hearings and forums should be held to solicit comment from all interested stakeholders and the public at large.

Recommendation #11: The Delaware Health Resources Board shall review and revise the current by-laws governing the Board to ensure consistency with Chapter 93, Title 16; by-laws shall be updated accordingly.

Recommendation #12: The Delaware Health Resources Board shall develop a toolkit for the CPR process. The toolkit should include, but not be limited to, the Board by-laws, the revised CPR applications, an overview of the CPR process outlining what applicants can expect at each step in the process, the options available for applications to be reconsidered if denied, as well as a general

⁴⁸ Non-compliance note from JLOSC Performance Review Questionnaire: According to the Board's by-laws, regular meetings of the Board will be held every two months. However, the Board may need to meet more frequently to conduct business. The HRMP has a charity care policy to include the intent, define services, eligibility and charity care guidelines, a formal charity care plan, annual reporting requirements and an enforcement clause. During the HRMP revision process, the Board discussed reviewing legislative changes during Phase 2 of the HRMP revision process.

timeline detailing the average time needed to complete each step in the process for applications to be approved or denied by the Board. Upon completion of the toolkit, the Board shall make these documents available to the public on the Board's website.

FURTHER CONSIDERATION AND RESEARCH

CPR Procedures and Review Committees:

After attending meetings and reviewing the HRB website a further point of consideration and research could be in streamlining the CPR process and clearly defining the CPR procedures in the HRMP and CPR application kit.

Under the third step of the CPR process outlined on the HRB website,⁴⁹ an applicant provides an overview presentation to HRB and has an opportunity for questions. After the presentation, HRB assigns the application as a staff review or appoints a Review Committee. During the drafting of this report, DHCC provided clarification and explained that the website's information is incorrect and that after the applicant's presentation the selection of the Review Committee occurs. HRB does not decide between a staff review or a Review Committee selection, there is no choice, a Review Committee selection occurs. The staff assist the Review Committee in their duties, which include compiling a report for HRB review. DHCC indicates that the website will be modified to resolve the discrepancy. After receiving this clarification, the materials in the draft report were changed to match the process as explained by DHCC. There was added confusion in this area because the CPR procedures as described on the website do not have a similar description in HRB documents such as the CPR application kit or the HRMP.

Prior to finalizing the draft report, the analyst observed two regular HRB meetings and a meeting held by a Review Committee. During a Review Committee meeting, the analyst observed the Review Committee expressing the need for additional information, but the Review Committee and applicant did not discuss the issue at the meeting. Instead, a DHCC staff member contacted the applicant after the meeting with the Review Committee's questions. The statute, HRMP, or website does not have a description of this process

After release of the draft report, the analyst found Review Committee meeting minutes from August 27, 2013 and September 13, 2013.⁵⁰ The minutes explained that the Review Committee meetings are held to deliberate on the application and since the record is considered closed, no new information could be received during the Review Committee meeting. The purpose of the Review Committee meeting is for the members to review the information received and determine if it meets the 7 pieces of review criteria. If the Review Committee cannot answer questions from application materials, then the administrative staff communicates with the applicant in writing after the meeting. After review and discussion, a report with the findings is drafted for HRB review. After learning more about the process, it is still unclear why this process is necessary and if meetings could be more productive if the discussions occurred during the meeting.

Purpose and Need of the CPR Process:

Recommendation 8 of the 2012 JLOSC review required HRB to conduct a comprehensive review of Chapter 16, Title 93, and the CPR program, with aid provided by DHSS and DHCC.

⁴⁹ See Appendix I.

⁵⁰ See Appendix J.

It is unclear if HRB conducted the comprehensive review or if a report holding the findings is available. Information in the JLOSC Performance Review Questionnaire show that the HRMP revision process occurred as prescribed by Recommendation 10.

Additionally, the healthcare industry has changed since the conclusion of the 2012 JLOSC review. Current trends encourage a shift from the traditional fee-for-service (cost-based reimbursement) to value-based reimbursement models, using options such as Accountable Care Organizations and Patient-Centered Medical Homes. These changing trends should be considered when analyzing the CPR process.

Filing Fee Structure:

The filing fee structure in use today is the same fee used since its implementation in 1987. Additionally, the filing fees have always deposited into the State's General Fund.

The 2012 JLOSC Final Report cited research showing that revenue from Delaware's CPR application filing significantly lags in comparison to other states. Since the fee evaluation, HRB reviewed a couple proposals to revise the filing fees; the last proposal was reviewed in 2010; HRB took no action although it agreed that the fee amount and structure should be revised to cover the cost of operations, including staff positions and contractual needs.

Since the 2012 JLOSC review, HRB has moved under DHCC. Information received in connection to this 2020 review shows that DHCC has not conducted a financial analysis to determine if the current CPR application fees are enough to cover the cost of the administration activities, data collection, and analysis. Legislative involvement and approval are necessary to revise the fees.⁵¹

Health Resources Management Plan ("HRMP"):

The HRMP was last updated in September 2017.⁵² The HRMP supplies CPR program and charity care policy guidance and explains the State's policy and vision for health care quality and cost reduction. The JLOSC 2012 review recommendations implemented a requirement that HRB conduct a public hearing and publish "rules and regulations" in the State's Register of Regulations per the Administrative Procedures Act for all revisions of the HRMP.

In reviewing the current Administrative Code, the text of the HRMP is not codified; instead, a link is provided to the HRMP document on HRB's website.⁵³ This does not follow the intent of JLOSC's recommendation, and is a questionable practice because it could allow HRB to modify the HRMP without following the formal APA process or requiring a public hearing on proposed modification. Additionally, any changes to the document's website location will result in a broken link and inaccessible information.⁵⁴

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⁵¹ 16 Del. C. § 9305.

⁵² See Appendix C.

⁵³ See Appendix B.

⁵⁴ DHCC Comment: "This is factually incorrect. There are statutory requirements for how the HRMP needs to be developed and revised. The statute does not require that it be codified in the Administrative Code. The board did follow the Administrative Procedures Act and all statutory requirements when revising the HRMP in 2017 including conducting a public meeting, obtaining approval of the Health Care Commission and the approval of the Secretary of the Department of Health and Social Services."

Public Presentation Hearing Follow-Up:

JLOSC held a public presentation hearing on March 11, 2020. During the hearing Committee members asked questions that required follow-up. After the presentation hearing, the Committee's research analyst reached out to HRB administrative staff with the following 5 follow-up questions.

1. Provide a complete list of applications denied by HRB since 2012. Include the reasons for denial and names of recused board members.

HRB Response: The Board has denied (3) applications since 2012.

- Capital Nursing and Rehabilitation Center-30 bed expansion of its long-term care skilled nursing facility.
 - Reason for denial: The application did not meet the need of the population. At the time of the application review, Kent County already had a surplus of 55 nursing home beds with a recent approval of The Center of Eden Hill (new construction of a new 100 bed skilled nursing facility in Dover, DE which will project a surplus of 155 beds). The Board found that the application did not meet the health resources plan, or the need of the population based on the over utilization of services.
 - Board members recused: Lynn Morrison
- Beebe Healthcare-Construction of freestanding emergency department in Georgetown.
 - Reason for denial: Comments made at the public hearing stated that emergency services are currently available within the proposed service areas. The proposal is not in alignment with Delaware's initiative to lower the costs of healthcare. There are less costly alternatives available rather than additional freestanding emergency services. The proposed emergency department will have a negative impact to the existing health care system.
 - Board members recused: Brett Fallon, Esq., Theodore Becker, Mark Thompson, Vincent Lobo, Jr. D.O. and Dennis Klima.
- First State Orthopedics-Construction of a freestanding surgical center in Dover DE.⁵⁵
 - Reason for denial: The application did not meet the need of the population. At the time there was a surplus of between 8 and 10 freestanding surgical beds in Kent County.
 - Board members recused: Suzanne Raab-Long and Mark Thompson

2. Provide a copy of the Public Integrity Commission's procedure HRB is following for recusals and the date of HRB implementation.

HRB Response: According to the Public Integrity Commission's (PIC) Counsel, recusals are very fact specific. There is no blanket rule that would work for all situations. PIC provided an advice letter containing the fact scenarios as they existed at that time. The letter states, "Indeed, it is fairly common for ethics boards to limit the applicability of their decisions to the circumstances of the particular matter being reviewed. "The decision as to whether a particular interest is sufficient to disqualify [a public official] is necessarily a factual one and depends on the circumstances of the particular case. No definitive test has been devised." (emphasis added) (Carrigan v. Commission on Ethics of State, 313 P.3d 880, 885 (Nev. 2013) citing 2 Sandra M. Stevenson, Antieau on Local Government § 25.08[1], at 25-43 (2d ed. 2012)).

⁵⁵ Analyst Note: Information on a 3rd denial received from entity on July 10, 2020.

3. **Provide copies of all presentations and decisions HRB has received from the Public Integrity Commission since 2012.**

HRB Response: Presentation from Public Integrity Commission is attached from February 28, 2013 HRB meeting. Advisory Opinion is attached.

4. **Provide the last 2 dates of Public Integrity Commission training sessions held for HRB members.**
- **Provide list of HRB members in attendance.**

HRB Response: 1 training and 1 advisory opinion meeting held.

- February 28, 2013 - This training was conducted at a monthly HRB meeting. Board members present:
 - Harold Stafford, Vice Chair.
 - Thomas Barnett.
 - David Hollen.
 - William Love.
 - Bettina Riveros.
 - Suzanne Raab Long.
 - Mark Thompson.⁵⁵
 - Yrene Waldron.
 - Faith Rentz.
 - John G. Walsh.⁵⁶
 - Gina Ward.
 - Lynn Fahey.
- October 1, 2015 Advisory Opinion Meeting.
 - The purpose of this meeting was to receive general guidance regarding circumstances which would require them to recuse from voting in their capacity as an HRB member. This was not a formal training session. This meeting was at the request of four HRB members:
 - Mark Thompson.⁵⁷
 - John G. Walsh.⁵⁸
 - Suzanne Raab-Long.
 - Yrene Waldron.

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⁵⁵ Analyst Note: Presently on HRB.

⁵⁶ Analyst Note: Presently on HRB.

⁵⁷ Analyst Note: Presently on HRB.

⁵⁸ Analyst Note: Presently on HRB.

5. Provide additional information regarding JLOSC 2012 Review Recommendation #8.⁵⁹

- **Since 2012, has a comprehensive review been completed? Why or why not?**
 - Recommendation #8 required the HRB with assistance provided by DHSS and the Delaware Health Care Commission to conduct a comprehensive review of 16 Del. C. c. 93 and the Certificate of Public Review program.
 - The non-compliance note provided does not address the main component of Recommendation #8, which was to complete a comprehensive review of 16 Del. C. c. 93 and the Certificate of Public Review program.

HRB Response: A review of 16 Del. C. c. 93 and the Certificate of Public Review program was completed during the revision process of the Health Resources Management Plan (HRMP). The HRB discussed addressing any legislative changes in Phase II of the HRMP revision process. Phase II would include items such as updating application fees and Assisted Living facilities as a category for review. The HRB's epidemiologist conducted research on the CON/CPR effectiveness and summarized the research. There was no report made to the JLSOC, however, the HRB discussed the items listed in Recommendation #8.

⁵⁹ **Recommendation #8:** The Delaware Health Resources Board, with assistance provided by DHSS and the Delaware Health Care Commission, shall conduct a comprehensive review of 16 Del. C. c. 93 and the Certificate of Public Review program. The focus of this government efficiency review should be aimed at streamlining operations, increasing efficiency, simplifying the application process and updating the categories for review. This review shall include, but is not limited to, the following: activities subject to a review; criteria considered during a review; procedures to review; timelines/deadlines for a review; feasibility of quarterly Board meetings; documents used by the Board; application fees and fee structure; strengthening the charity care requirements; consider publishing the list of equipment triggering a review through the regulatory process; consider adding assisted living communities to CPR process; consider IT capabilities and an increased online presence. The Delaware Health Resources Board shall report the key findings identified and make recommendations to the Joint Sunset Committee by January 1, 2013.

Non-compliance note from JLOSC Performance Review Questionnaire: According to the Board's bylaws, regular meetings of the Board will be held every two months. However, the Board may need to meet more frequently to conduct business. The HRMP has a charity care policy to include the intent, define services, eligibility and charity care guidelines, a formal charity care plan, annual reporting requirements and an enforcement clause. During the HRMP revision process, the Board discussed reviewing legislative changes during Phase 2 of the HRMP revision process.

APPENDICES

Appendix A: NCSL CON – Certificate of Need State Laws



CON–Certificate of Need State Laws

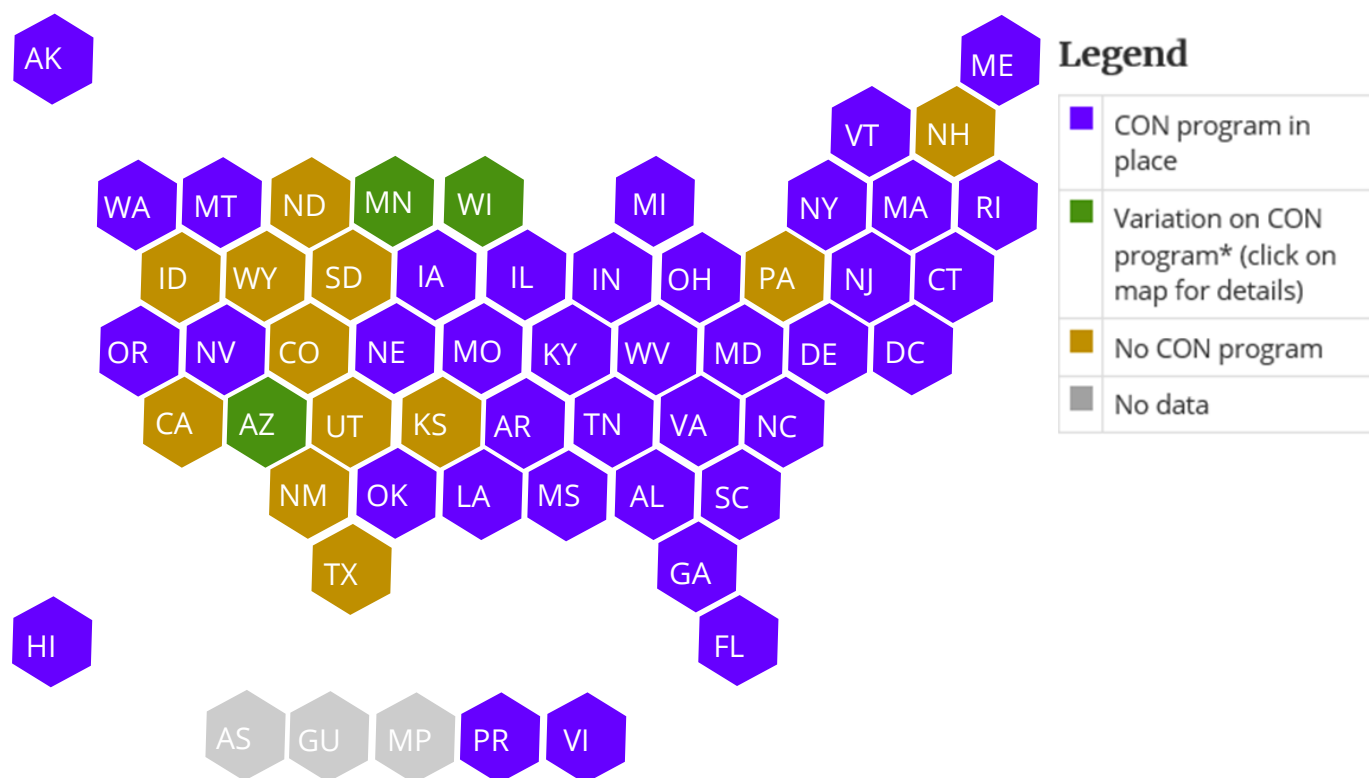
12/1/2019

Certificate of Need (CON) laws are state regulatory mechanisms for establishing or expanding health care facilities and services in a given area. In a state with a CON program, a state health planning agency must approve major capital expenditures for certain health care facilities. CON programs aim to control health care costs by restricting duplicative services and determining whether new capital expenditures meet a community need.

Interactive Map of State CON Laws

Currently, 36 states and Washington, D.C. operate a CON program with wide variation state-to-state. The following 50-state map lists the health care facilities and capital expenditures covered under the CON law for each state.

Certificate of Need State Laws



*Visit [NCSL.org](https://www.ncsl.org) for an interactive map and detailed information about CON programs.

Intent and Structure of CON

The basic assumption underlying CON regulation is that excess health care facility capacity results in health care price inflation. Price inflation can occur when a hospital cannot fill its beds and fixed costs must be met through higher charges for the beds that are used. Larger institutions generally have larger costs, so hospitals and other health facilities may raise prices in order to pay for new, underused medical services or empty beds. CON programs require a health care facility to seek a health planning agency's approval based on a set of

criteria and community need. Once a health facility has applied for state approval, the health planning agency may approve, deny or set certain limitations on a health care project.

While the effectiveness of CON programs continues to be a heavily debated topic, many states consider CON programs as one way to control health care costs and increase access to care. Below is a list of both arguments in favor and against CON laws.

Arguments In Favor and Against CON Laws	
Proponents of CON Laws Argue:	Opponents of CON Laws Argue:
<ul style="list-style-type: none"> Health care cannot be considered as a “typical” economic product. Most health services (like lab tests) are ordered by physicians, not patients. Patients do not shop around as they do for other goods and services. CON programs limit health care spending. CON programs help distribute care to disadvantaged populations or geographic areas that new and existing medical centers may not serve. Removal of CON will favor for-profit hospitals which may be less willing to provide indigent care. Removal of CON will lead to a proliferation of “low-volume” facilities, which some view as providing lower quality care. CON requirements do not block change, they mainly provide for an evaluation, and often include public or stakeholder input. 	<ul style="list-style-type: none"> By restricting new construction, CON programs may reduce price competition between facilities and keep prices high. Some changes in the Medicare payment system (such as paying hospitals according to Diagnostic Related Groups – “DRGs”) may make external regulatory controls unnecessary by sensitizing health care organizations to market pressures. CON programs vary state to state, with inconsistent metrics and management. CON programs allow for political influence in deciding whether facilities will be built, which can invite manipulation and abuse. Some evidence suggests that lack of competition encourages construction and additional spending. Identifying the “best interests” of a community isn’t always clear; decisions ostensibly made for the greater good could have unintended consequences in the long-term, particularly in an unsteady economy or, for example, in a rapidly-gentrifying community.

History

New York was the first state to enact a CON law in 1964; 26 states enacted CON laws throughout the following decade. Early CON programs typically regulated capital expenditures greater than \$100,000, facilities expanding their bed capacity and facilities establishing or expanding health care services.

In 1972, several states adopted Section 1122 waivers, which provided federal funding to states regulating new health care services receiving Medicare and Medicaid dollars. Congress then passed the National Health Planning and Resources Development Act of 1974 bolstering federal funding for state and local health planning regulations. The federal law required states to adopt CON laws similar to the federal model resulting in all states, except Louisiana, maintaining some form of a CON program by 1982. This meant states had broad regulatory oversight of several facilities—including hospitals, nursing and intermediate care facilities and ambulatory surgery centers—as well as the expansion or development of a facility's service capacity.

The federal mandate was repealed in 1987, along with the associated federal funding. Subsequently, several states repealed or modified their CON laws.

State Legislative Actions

In the past several years, many states have introduced or enacted legislation to change their CON program. Changes range from fully repealing an existing CON program to creating a new CON program. The following are state examples of legislative actions impacting CON programs:

- 35 states currently maintain some form of CON program. Puerto Rico, the US Virgin Islands and the District of Columbia also have CON programs. States retaining CON laws often regulate outpatient facilities and long-term care. This is largely due to an increase in free-standing, physician-owned facilities.
 - Indiana enacted legislation in 2018 establishing a certificate of need program, which the state initially repealed in 1999.
- Nine states—Florida, Georgia, Maryland, Ohio, Rhode Island, Tennessee, Vermont, Virginia and Washington—enacted legislation in 2019 to modify CON regulations for certain health facilities and services.
- Three states—Arizona, Minnesota and Wisconsin—do not officially operate a CON program, but they maintain several approval processes that function similarly to CON.
- 12 states fully repealed their CON laws. New Hampshire was the most recent repeal, effective 2016.

Moratoria

As part of a CON program, some states may place certain health care facilities and facility beds on moratorium. This means a state planning agency will grant no CONs for certain facility capital expenditures. Moratorium regulations most often affect nursing facilities and other long-term care facilities.

Several states—including Arkansas, Florida, Georgia, Hawaii, Illinois and Virginia—have restrictions on the development or expansion of certain health care facilities and beds through a needs and utilization assessment process. While not an outright moratorium, a state planning agency may determine there is no need for additional health care facility beds or services in a particular county or district.

Certificate of Need (CON) Moratoria		
STATE	MORATORIA?	FACILITIES COVERED UNDER MORATORIA
Alabama	No	
Alaska	No	
Arizona	No	
Arkansas	Yes	Psychiatric residential facilities, intermediate care facilities for the intellectually disabled and residential care facilities.
California	No	
Colorado	No	
Connecticut	Yes	Nursing home beds.
Delaware	No	
Florida	No	
Georgia	No	
Hawaii	No	
Idaho	No	

STATE	MORATORIA?	FACILITIES COVERED UNDER MORATORIA
Illinois	No	
Indiana	No	
Iowa	No	
Kansas	No	
Kentucky	No	
Louisiana	Yes	Intermediate care facilities for the developmentally delayed, nursing facilities, long-term care facilities and long-term care beds.
Maine	No	
Maryland	Yes	Acquisitions authorizing a general hospice to provide home-based hospice services on a statewide basis.
Massachusetts	Yes	Long-term care beds.
Michigan	No	
Minnesota	Yes	Hospitals and hospital beds, nursing home beds, intermediate care facilities for persons with developmental disabilities and radiation therapy facilities in certain locations.
Mississippi	Yes	Skilled nursing facilities; intermediate care facilities; intermediate care facilities for the mentally retarded; home health agencies; the conversion of hospitals beds to intermediate nursing home care; and Medicaid-certified child/adolescent psychiatric or chemical dependency beds.
Missouri	No	
Montana	No	
Nebraska	Yes	Long-term care beds and rehabilitation beds.
Nevada	No	

STATE	MORATORIA?	FACILITIES COVERED UNDER MORATORIA
New Hampshire	No	
New Jersey	No	
New Mexico	No	
New York	Yes	Licensed home care service agencies.
North Carolina	No	
North Dakota	No	
Ohio	Yes	Long-term care beds.
Oklahoma	No	
Oregon	No	
Pennsylvania	No	
Rhode Island	Yes	Nursing-facility licensed beds and increases to licensed capacity for existing nursing-facility licenses.
South Carolina	No	
South Dakota	No	
Tennessee	No	
Texas	No	
Utah	No	
Vermont	Yes	Home health agencies.
Virginia	No	
Washington	No	
West Virginia	Yes	Opioid treatment programs, skilled nursing facilities, intermediate care beds, skilled nursing beds, intermediate care facility beds for individuals with an intellectual disability.

STATE	MORATORIA?	FACILITIES COVERED UNDER MORATORIA
Wisconsin	Yes	Hospital beds, psychiatric/chemical dependency beds and nursing home beds.
Wyoming	No	
District of Columbia	No	
Puerto Rico	No data	
US Virgin Islands	No data	

Additional Resources

NCSL Resources

- State Legislation Relating to Transparency and Disclosure of Health and Hospital Charges - updated 2014.

Federal Resources

- The Federal Trade Commission (FTC) website
 - FTC Statement to the Alaska Senate Committee on Health and Social Services on CON laws and SB 1 - March 2019
 - FTC and Department of Justice's (DOJ) Antitrust Division joint statement on proposed Alaska CON-repeal legislation - April 2017
 - FTC and DOJ's Antitrust Division joint statement on proposed South Carolina CON-repeal legislation - January 2016
 - FTC report Certificate of Need Laws: A Prescription for Higher Costs - December 2015
- The Department of Health and Human Services' report Reforming America's Healthcare System Through Choice and Competition - November 2018

Other Resources

- The American Health Planning Association (AHPA) website
- State CON websites
- CON articles and essays



TITLE 16 HEALTH AND SAFETY DELAWARE ADMINISTRATIVE CODE

DEPARTMENT OF HEALTH AND SOCIAL SERVICES Delaware Health Care Commission

Delaware Health Resources Management Plan

This document is provided in PDF due to the size and formatting of the document.

[Delaware Health Resources Management Plan](http://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Delaware%20Health%20Care%20Commission/HRMP.pdf)

<http://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Delaware%20Health%20Care%20Commission/HRMP.pdf>

21 DE Reg. 222 (09/01/17)



**STATE OF DELAWARE
DELAWARE HEALTH CARE COMMISSION**

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DELAWARE HEALTH RESOURCES BOARD

Certificate of Public Review

Health Resources Management Plan

[Adopted/Effective: September 11, 2017]



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July 17, 2017

On Behalf of the State of Delaware Health Care Commission and the Delaware Health Resources Board (HRB), we are pleased to present the 2017 Health Resources Management Plan (HRMP) as approved by the Cabinet Secretary of the Department of Health and Social Services on July 13, 2017.

Pursuant to 16 *Del. C.* § 9303, the duties and responsibilities of the HRB include the development of a Health Resources Management Plan (HRMP) which shall include a statement of principles to guide health resource allocation within Delaware. The purpose of the HRMP is to establish the core set of common review considerations for use in reviewing Certificate of Public Review (CPR) applications submitted on behalf of applicants proposing health care-related projects falling under the jurisdiction of the HRB.

In 2012, the Joint Sunset Committee issued twelve (12) recommendations for HRB improvement to include the revision of the HRMP. This revised edition of the HRMP promotes the alignment of Delaware's existing health planning framework with statewide policy aimed at promoting health system improvement. In this manner, Delaware's health system infrastructure will align with the State's vision that all Delawareans receive accessible, effective, well-coordinated care throughout the health care system in a way that supports the "Triple Aim Plus One" framework – improved health care quality, health outcomes, patient experience and enhanced provider satisfaction.

As Delaware aspires to be a national leader on each dimension of the Triple Aim Plus One, the HRMP along with other health system transformational initiatives across the state, demonstrates the commitment of the State's leadership to achieve this aspiration.

Sincerely,

A handwritten signature in cursive script that reads "Nancy H. Fan".

Nancy H. Fan, MD
Chair

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EXECUTIVE SUMMARY

The Delaware Health Resources Board (HRB) Certificate of Public Review (CPR) program, like other national Certificate of Need (CON) programs, originated to regulate the number of beds in hospitals and nursing homes and prevent excessive purchasing of expensive medical equipment. Since relocation into the Department Health and Social Services, Office of the Secretary, the Delaware Health Care Commission (DHCC) has provided the administration and staffing for the HRB.

Delaware's CPR process, in tandem with community-based planning efforts, helps to protect the statewide health care infrastructure necessary to meet the expected and projected health care needs of all Delawareans. The CPR process works to improve geographic and economic access to care for residents in the state. And, subsequent to its procedural code, Delaware's CPR process provides a forum where all interested parties, including citizens, are able to express their views pertaining to Delaware's health care delivery system.

Pursuant to 16 *Del. C.* § 9303, the duties and responsibilities of the HRB include the development of a Health Resources Management Plan (HRMP) which shall include a statement of principles to guide health resource allocation within Delaware. Thus, the purpose of this HRMP is to establish the core set of common review considerations for use in reviewing CPR applications submitted on behalf of applicants proposing health care-related projects falling under the oversight jurisdiction of the HRB.

Since its adoption in 1995, the HRMP has been evaluated and adjusted to maintain pace with statewide health initiatives. This fully-updated edition of the HRMP promotes the alignment of Delaware's existing health planning framework with statewide policy aimed at promoting health system improvement. In this manner, Delaware's health system infrastructure will align with the state's vision that all Delawareans receive accessible, effective, well-coordinated care throughout the health care system in a way that supports the "Triple Aim Plus One" framework ((a) improved health outcomes; (b) improved health care quality and patient experience; (c) lower growth in per capita health care costs; and (d) enhanced provider satisfaction).

I. Introduction

A. Purpose

The purpose of this document, hereafter referred to as the Delaware Health Resources Management Plan (HRMP), is to establish the guiding principles for health care resource allocation within the state, as well as the rules and regulations for use in reviewing Certificate of Public Review applications pursuant to 16 *Del. C.* 93.

As stated in 16 *Del. C.* § 9301, “It is the purpose of this chapter to assure that there is continuing public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. This public scrutiny is to be focused on balancing concerns for cost, access, and quality.”

B. Authority

16 *Del. C.* §9303 establishes a Governor-appointed 15-member Delaware Health Resources Board (HRB) to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.

Also pursuant to 16 *Del. C.* §9303, the duties and responsibilities of the HRB include the development of an HRMP which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources. The HRMP shall include a statement of principles to guide the allocation of resources, as well as rules and regulations for use in reviewing CPR applications.

C. Certificate of Public Review (CPR) Program History

In 1975, the Federal government officially established state-level health resource oversight via the National Health Planning and Resources Development Act (NHPRDA). The NHPRDA required all 50 states to convene oversight agencies and Certificate of Need (CON) programs to provide a review of proposed new health facilities and services and major capital expenditures.

The NHPRDA was largely based on the primary underlying economic assumption that excess health care capacity directly results in health care price inflation. CON programs were established in an effort to restrain health care costs and allow for coordinated planning of new services and construction based on a genuine need in the community. CON program review activities also emphasized the importance of distributing health care services to disadvantaged populations or geographic areas that may be ignored by new and existing facilities.

When the NHPRDA was officially repealed in 1987, a majority of states retained their CON programs. In Delaware, the state-level CON program was replaced with the Certificate of Public Review (CPR) in June 1999. Since 1999, the HRB has considered CPR proposals within the context of Delaware’s dynamic health care delivery system.

Delaware's CPR process, in tandem with community-based planning efforts, helps to protect the statewide health care infrastructure necessary to meet the expected and projected health care needs of all Delawareans. The CPR process works to improve geographic and economic access to care for residents in the state. And, subsequent to its procedural code, Delaware's CPR process provides a forum where all interested parties, including citizens, are able to express their views pertaining to Delaware's health care delivery system.

D. HRMP Alignment with Delaware's State Health Care Innovation Plan

Delaware aspires to be a national leader on each dimension of the "Triple Aim Plus One": better health outcomes, improved health care quality and patient experience, lower growth in per capita health care costs, and enhanced provider satisfaction.

In 2013, the Delaware Health Care Commission (DHCC) convened stakeholders across the state – including consumers, providers, payers, community organizations, academic institutions and state agencies – to work together to build a strategy to achieve these goals. That work culminated in Delaware's State Health Care Innovation Plan, a statewide road map for achieving shared broad aspirations for improved health, health care quality and experience, and affordability for all Delawareans.

At a macro level, Delaware's State Health Care Innovation Plan is built upon several fundamental health care themes including prioritizing health care innovation and efficiency, respecting the voice of consumers, reaching public health milestones, utilizing best practice methods whenever possible, and achieving measurable quality and fiscal results. Additional areas of focus include strengthening community health services, creating linkages across the care continuum, and addressing Delaware's health care capacity shortages.

In 2014, Delaware was awarded a four-year, \$35 million State Innovation Model (SIM) Testing Grant from the Center for Medicare and Medicaid Innovation to support implementation of the State Health Care Innovation Plan. Through the SIM initiative, Delaware is building upon a strong local foundation for innovation to achieve a system-level transformative healthcare plan that can serve as a scalable model for the nation.

As noted in the original edition of Delaware's HRMP, the HRB is best served by a HRMP that embodies flexibility. Since its adoption in 1995, the HRMP has been evaluated and adjusted to maintain pace with statewide health initiatives. Present-day reform activities are paving the way for a higher quality, more efficient health care system in Delaware. The HRMP has evolved, accordingly, so that Delaware's CPR process may respond to changes in our health care system.

This current HRMP promotes the alignment of Delaware's existing health planning framework with statewide efforts aimed at promoting health system improvement. In this manner, Delaware's health system infrastructure will align with the state's vision that all Delawareans receive accessible, effective, well-coordinated care throughout the health care system in a way that supports the Triple Aim.

II. Activities Subject to CPR Review

In Delaware, a CPR **is required** for the following activities:

1. The (a) construction, development or other establishment of a new health care facility, or the (b) acquisition of a nonprofit healthcare facility as defined in 16 *Del.C.* §9302).
2. Any expenditure by or on behalf of a health care facility in excess of \$5.8 million, or some greater amount which has been designated by the Board following an annual adjustment for inflation using an annual inflation index determined by the United States Department of Labor, Bureau of Labor Statistics, is a capital expenditure. A capital expenditure for purposes of constructing, developing or otherwise establishing a medical office building shall not be subject to review under this chapter. When a person makes an acquisition by or on behalf of a health care facility under lease or comparable arrangement, or through donation which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review. The Board may exempt from review capital expenditures when determined to be necessary for maintaining the physical structure of a facility and not related to direct patient care. A notice of intent filed pursuant to 16 *Del.C.* § 9305 of this title, along with any other information deemed necessary by the Board, shall provide the basis for exempting such capital expenditures from review;
3. A change in bed capacity of a health care facility which increases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than 10 beds or more than 10 percent of total licensed bed capacity, whichever is less, over a 2-year period;
4. The acquisition of major medical equipment, whether or not by a health care facility and whether or not the acquisition is through a capital expenditure, an operating expense or a donation. The replacement of major medical equipment with similar equipment shall not be subject to review under this chapter. In the case of major medical equipment acquired by an entity outside of Delaware, the use of that major medical equipment within Delaware, whether or not on a mobile basis, is subject to review under this chapter. Major medical equipment which is acquired for use in a freestanding acute inpatient rehabilitation hospital, as defined in 16 *Del.C.* § 9302(4) of this title, a dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees or in a first aid station, dispensary or infirmary offering services exclusively for use by students and employees of a school or university or by inmates and employees of a prison is not subject to review.
5. **[Effective until Dec. 31, 2016].** Notwithstanding any other provision in this chapter to the contrary, any person who held, as of June 1, 2013, a certificate of public review issued by the Delaware Health Resources Board authorizing the construction of a 34-bed freestanding acute inpatient rehabilitation hospital in Middletown, Delaware, regardless of such certificate's date of expiration or whether the certificate has otherwise been challenged on appeal, shall not be required to obtain any additional certificate of public review pursuant to this chapter prior to the construction, development, or other establishment of freestanding

acute inpatient rehabilitation hospital. Any acute inpatient rehabilitation hospital constructed, developed, or established pursuant to this section shall not have any license or authority to operate denied, revoked, or restricted on the grounds that a certificate of public review has not been obtained or has otherwise been challenged on appeal.

In Delaware, a CPR is **NOT required** for the following activities:

1. The establishment of or amendments to health care facilities owned and operated by the federal government.
2. The establishment of offices by a licensed private practitioner, whether for individual or group practice, including, but not limited to physical therapist, dentist, physician assistant, podiatrist, chiropractor, an independently practicing nurse or nurse practitioner, optometrist, pharmacist, or psychologist.
3. The establishment of or amendments to dispensary or first aid stations located within a business or industrial establishment maintained solely for the use of employees, provided that the facility does not contain inpatient beds.
4. The establishment of or amendments to any first aid station or dispensary or infirmary offering non-acute services exclusively for use by students and employees of a school or university or by inmates and employees of a prison, provided that services delivered therein are not the substantial equivalent of hospital services in the same area or community.

Any person, facility, or institution that is unsure whether a CPR is required pursuant to this HRMP should send a letter to the HRB that describes the project and requests that the HRB make a determination as to whether a CPR is required.

III. CPR Application Procedure

Pursuant to 16 *Del. C.* § 9305, CPR reviews are conducted in accordance with a standardized review schedule. All necessary CPR application forms are available online via the Delaware HRB website. Note that the general public shall be provided access to all CPR applications reviewed by the HRB and to all other written materials pertinent to any review of a CPR application.

Please refer to 16 *Del. C.* § 9305 of the aforementioned title for additional review schedule details, including an abbreviated CPR review schedule in the case of a project required to remedy an emergency situation which threatens the safety of patients or the ability of a health facility to remain in operation.

Step 1: Notice of Intent. At least 30 days, but not more than 180 days, prior to submitting a CPR application for review, the applicant shall submit to the HRB a notice of intent. If no subsequent CPR application for review is submitted to the HRB within 180 days following the date on which the notice of intent is submitted, the notice is rendered invalid.

Step 2: CPR Application Submission. The applicant submits its completed application packet directly to Delaware Health Care Commission (DHCC) staff responsible for assisting the HRB. Application forms are available online via the HRB website and vary according to the nature of the proposed CPR application.

Step 3: Determination of Application Completeness. Upon receipt of a CPR application, DHCC staff responsible for assisting the HRB shall have a maximum of 15 business days to notify the applicant as to whether the CPR application is considered complete and thus accepted for HRB review. A CPR application is considered complete only if all of the following conditions are satisfied: (a) depending on the nature of the proposed project, the correct application form has been completed; (b) the application includes all required information and signatures; (c) the application is accompanied by all supporting evidence and documents referenced in the body of the application.

If the CPR application is determined to be complete, written notification will be provided to the applicant on behalf of the HRB. If incomplete, the applicant will be notified in writing on behalf of the HRB as to what additional steps are necessary before the application will be considered complete. Following receipt of any additional information, DHCC staff members assigned to the HRB will again have 15 business days to assess application completeness.

Step 4: Applicant Filing Fees. Within 5 business days of providing the applicant with written notification of an application being deemed complete, the HRB will notify the applicant of any filing fee due. Please refer to 16 *Del. C.* § 9305 for the current CPR application fee schedule.

Filing fees shall be due 30 calendar days after the date of notification of the beginning of CPR review (described in Step 5, below). The filing fee due date may be extended up to 10 additional calendar days at the discretion of the HRB. Applications for which filing fees have not been paid

within this time frame shall be considered to be withdrawn from CPR review. All filing fees shall be deposited into the General Fund.

Step 5: Notification of Impending CPR Application Review. Within 5 business days of providing written notification of CPR application being deemed complete, the HRB shall provide written notification of the beginning of a CPR review. This notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The date on which the notice appears in the newspaper serves as the date of notification to the general public.

This notification will identify the applicant, indicate the nature of the CPR application, specify the period during which a public hearing may be requested, and indicate the manner in which notice will be provided of the time and place of any hearing so requested.

Within 10 days of the notification described in this subsection, a public hearing in the course of review may be requested by any person; written request for a public hearing must be made directly to the HRB and submitted to DHCC staff assigned to assist the HRB. Upon receipt of written request for a public hearing, the HRB shall provide notification of the time and place for such a hearing in a newspaper of general circulation. A public hearing shall not be held less than 14 days after the notice appears in the newspaper. Fees are not imposed for public hearings; an opportunity must be provided for any person to present testimony.

Step 6: CPR Application Review. HRB review of a CPR application shall take no longer than 90 days from the date of notification of the beginning of review (Step 4, above). If a public hearing is requested (per Step 5, above), the maximum review period will be extended to 120 days from the date of notification.

Within 30 days from the date of notification of the beginning of review (60 days if a public hearing is requested), the HRB may extend the maximum review period up to 180 days from the date of notification. Extensions shall be invoked only as necessary to allow the development of appropriate review criteria or other guidance when these are lacking or to facilitate the simultaneous review of similar applications. The maximum review period can also be extended as mutually agreed to in writing by the HRP and the applicant.

Step 7: Notification of HRB Decision. Upon completion of a CPR review, the HRB shall notify in writing the applicant and anyone else upon request as to the Board's decision, including the basis on which the decision was made. Decisions may be conditional, but the conditions must be related to the specific proposed project in question.

Step 8: Completion of Required Registrations. Upon successfully obtaining a CPR, the applicant will comply with all appropriate state and federal licensure requirements and any operational procedures required including, but not limited to, the Centers for Medicare and Medicaid Services, the Delaware Division of Long Term Care Residents Protection, Delaware Office of Health Facilities and Licensing, Delaware Department of Health and Social Services, and the Delaware Division of Professional Regulation.

Step 9: Administrative Reconsideration (only if necessary). Any person may, for a good cause shown, request in writing a public hearing for the purposes of reconsideration of an HRB decision rendered per Step 7 (above). A request for administrative reconsideration must be received by the HRB within 10 days of the decision rendered per Step 7.

A request for a public hearing shall be deemed by the HRB to have shown good cause if it:

- a. Presents newly discovered, significant, relevant information not previously available or considered by the HRB; and
- b. Demonstrates that there have been significant changes in factors or circumstances relied upon by the HRB in reaching its decision; or
- c. Demonstrates that the HRB has materially failed to follow its adopted procedures in reaching its decision.

The hearing to determine whether the request shows good cause shall take place within 45 days of the hearing request. Notice of the hearing shall be sent, not less than 15 days prior to the date of the hearing, to the person requesting the hearing and to the applicant, and shall be sent to others upon request. Following completion of the hearing, the HRB shall, within 45 days, issue its written decision which shall set forth the findings of fact and conclusion of law upon which its decision is based. If good cause for reconsideration is found, the Board will schedule a meeting to reconsider the application. If the Board reconsiders the application, the Board shall issue a further written decision on the merits of the application.

Step 10: Applicant Appeal (only if necessary). Within 30 days, an appeal may be made to the Superior Court any of the following:

- a. A decision of the HRB following review of a CPR application
- b. A decision of the HRB following an administrative reconsideration hearing
- c. The denial of a request for extension of a CPR pursuant to 16 *Del. C.* § 9307.

IV. Certificate of Public Review (CPR) Common Review Considerations

The Delaware HRB conducts CPR application reviews using three categories of consideration:

1. **Statutory Criteria** pursuant to 16 *Del. C.* § 9306;
2. A core set of **Guiding Principles** that embody the major themes of Delaware's statewide health care reform model; and
3. Project-specific **Mathematical Need Calculations**

A. Statutory Criteria and Guiding Principles

In accordance with 16 *Del. C.* § 9306, the Health Resources Board reviews CPR proposals according to the seven **Statutory Criteria** (SC) outlined below. As stated by Delaware Code, the HRB shall consider as appropriate at least these seven standards.

Additionally, the HRB considers CPR proposals' alignment with seven **Guiding Principles**. Guiding principles align with Delaware's statewide health care reform efforts and succinctly capture the coordinated statewide approach to achieving the vision outlined in the State Health Care Innovation Plan. Guiding principles assist CPR applicants in understanding HRB expectations and inform the HRB, itself, when conducting CPR reviews, particularly in matters where specific guidelines are lacking.

Statutory Criteria and Guiding Principles aim to achieve similar broad goals related to the distribution of statewide health resources; therefore, the current version of the HRMP appends Statutory Criteria with the Guiding Principle(s) encompassing similar themes related to health resource allocation within the state.

SC1. The relationship of the proposal to the Health Resources Management Plan (HRMP).

Each proposal shall include a detailed narrative that provides a rationale for the proposed project.

The applicant will provide their relevant certification and accreditation statuses, including Medicare certification status, Medicaid certification status, and accreditation status with the Joint Commission and/or other accrediting organizations.

Include letters that have been received in support of the proposal. Additionally, submit a list of administrative, clinical, leadership and other positions related to the proposal as necessary. Attach a copy of their Curriculum Vitae.

Each proposal seeking to add beds or expand services shall document that the applicant has a signed participation agreement with the Delaware Health Information Network (DHIN) and is submitting service records and accessing data and information from DHIN

for care coordination purposes. Each proposal seeking to establish a new health care facility shall document that the applicant shall have a signed participation agreement with the DHIN and submit service records as well as access data and information from DHIN for care coordination purposes.

Related Guiding Principles: *The essential challenge faced by the HRB is striking an appropriate balance in its consideration of access, cost, and quality of care issues. Evidence that this challenge has been seriously embraced by the applicant should permeate every CPR application.*

Moreover, to adapt to the long-term effects of the Affordable Care Act's changing regulatory guidelines, the board will consider and align CPR reviews with a health care delivery system in transition. Thus, the board will review CPR applications and consider the proposal's relevance to access and continuity of care, chronic disease management, use of health information technology and affiliation with the Delaware Health Information Network (DHIN), care coordination and other strategies to facilitate Delaware's transition to value-based payment models to improve overall health outcomes.

Additionally, the problem of medical indigence is extremely complex. The Delaware Health Care Commission continues to provide leadership in this area. CPR applicants are expected to contribute to the care of the medically indigent.

SC2. The need of the population for the proposed project.

Each proposal shall demonstrate a clear public need for the health care facility or services proposed by the applicant, as well as identify the population to be served by the proposed project. Specific evidence, including demographic, incidence, prevalence, outcomes, and survival data should be included. All mathematical need calculations specified for a particular category of CPR proposal shall be calculated and addressed by the applicant. All population estimates and projections for use with any criteria contained within this HRMP shall be obtained from the Delaware Population Consortium and the U.S. Census Bureau. (<http://stateplanning.delaware.gov/information/dpc.shtml>).

Include any supporting documents (i.e., articles, scientific studies, or reports) that corroborate the statements made in this application justifying the need for the proposal, along with a brief explanation regarding the relevance of each supporting document.

If the proposed project is expected to enhance the health status of the user population, please reference any quantitative or qualitative supporting data, including improvements in accessibility, availability, new technology, advances in medical science, and morbidity and/or mortality data.

Each proposal shall specify its plan for care of patients without private insurance coverage, as well as its plan for care of medically underserved populations with the proposed service area.

SC3. The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the state.

Each proposal should provide information about alternative providers of the proposed service, referencing the specific providers that now offer the proposed service and the impact of those parties. If alternative providers currently offer the proposed service, include financial information indicating whether these alternative providers are more or less costly in the provision of the service.

***Related Guiding Principle:** Given Delaware's small size and close proximity to major metropolitan referral centers, particularly in Philadelphia and Baltimore, every health care service need not be available within its borders. Potential CPR applicants are expected to take into account the availability of out-of-state, yet geographically close, resources.*

SC4. The relationship of the proposal to the existing health care delivery system.

Each proposal shall describe in detail how and where the proposed patient population is currently being served. The applicant shall describe existing referral patterns in the proposed service area and satisfactorily demonstrate that the proposed project shall not result in an unnecessary duplication of existing or approved health care facilities or services.

To ensure appropriate continuity of care, accessibility, and related quality-enhancing considerations, include information regarding the applicant's established referral arrangements with other providers in the service area. The applicant will describe how their past and proposed provision of health services promote a continuum of care in Delaware's health care system.

The applicant shall also demonstrate that the proposed project will not negatively impact employment, the diversity of health care providers or patient choice in the defined service area.

SC5. The immediate and long-term viability of the proposal in terms of the applicant's access to financial, management, and other necessary resources.

The application shall satisfactorily demonstrate the financial feasibility of the proposed project. If a financial feasibility study has been performed, please include a copy of the study findings within the CPR application submission.

Provide proof of all funding or financing sources for the proposal and the dollar amount of each. Provide applicable details such as interest rate, term, monthly payment, pledges and funds received to date, and letter(s) of interest or approval from a lending institution.

SC6. The anticipated effect of the proposal on the costs of and charges for health care.

The applicant shall satisfactorily demonstrate how the proposal will impact the financial strength of the health care system in the state. Specifically, the applicant will demonstrate how the proposed project will improve cost-effectiveness of health care services within the service area. The applicant will also demonstrate how the proposal will impact cost and charges to the individual(s) for health services.

Related Guiding Principles: *"Historically, our cost-based reimbursement system has provided insufficient incentive for financial restraint and savings; over-utilization has frequently occurred. Cost centers were sometimes under emphasized. Projects which reflect or promote incentives for over-utilization are to be discouraged."*

Strengthening market forces is a central theme in the health care reform strategy adopted by the DHCC, a theme which is embraced by the HRB. Projects resulting from or anticipated to enhance meaningful markets that ensure appropriate/adequate coverage, access and quality that is affordable are to be encouraged. Competition has often been on the basis of amenities for physicians (the medical arms race) and patients (the plushiest waiting room). In meaningful markets there must be a sensitivity to elements of both cost and quality.

SC7. The anticipated effect of the proposal on the quality of health care.

Delaware's statewide health care reform model is focused on strengthening transitions of care across the health system, leading to a reduction in costly readmissions and improved quality of care.

The applicant will demonstrate how the proposed project will improve quality and accessibility of health care services within the service area, including but not limited to, the provision of or any change in the access to services for Medicaid recipients and indigent persons as well as the impact of providing services to these populations.

Related Guiding Principles: *Historically, health care delivery has too often been episodic and disjointed. Projects which support a managed, coordinated approach to serving the health care needs of the person/population are encouraged.*

Technology is a critical enabler to any health care transformation initiative. When implemented properly, technology solutions can achieve meaningful impact in under one year. Delaware's State Health Care Innovation Plan emphasizes the expanding roles of technology and telemedicine to achieve the Triple Aim. The HRB encourages CPR applicants to consider the impact of innovative technological advancements, especially in burgeoning areas of care such as Home and Community-Based Services (HCBS).

Prevention activities such as early detection and the promotion of healthy lifestyles are essential to any effective health care system. Delaware's statewide health care reform efforts include a number of opportunities to improve the health status of Delawareans.

The potential for a project to bring about progress in these areas will be viewed as a very positive attribute.

B. Project-Specific Mathematical Need Calculations (MNC)

The majority of activities subject to HRB review in Delaware are associated with one or more project-specific **Mathematical Need Calculations** -- quantitative guidelines used to estimate Delaware's need threshold related to the proposed project. Project-specific Mathematical Need Calculations are described later in this HRMP for each oversight category for which they exist.

CPR applicants, as well as the HRB, are reminded that estimating Delaware's future health care needs cannot be accomplished with the precision that mathematical need formulae often imply. While such formulae are essential to the CPR review process, health infrastructure planning requires more than mathematical calculations; thoughtful deliberation must occur.

Mathematical rigidity should not inhibit decision-making regarding health resource allocation throughout the state. Thus, project-specific Mathematical Need Calculations represent a necessary, but not always sufficient or all-encompassing component of the CPR decision-making process. HRB members will adopt a multi-faceted approach to CPR proposal reviews in which project-specific Mathematical Need Calculations are considered in conjunction with the Statutory Criteria and Guiding Principles described above.

V. Charity Care Policy

A. Intent

The goals of the HRMP charity care policy are to (a) promote access to care for low-income uninsured and underinsured Delawareans and (b) level the playing field between not-for-profit hospitals and freestanding health care facilities (i.e., facilities that deliver health care services and that are structurally separate and distinct from a hospital).

These goals reflect that not-for-profit, acute care hospitals use revenues generated from the provision of “profitable” services to offset the costs of providing “unprofitable” services that, nevertheless, are necessary and beneficial to society. A “profitable” service is a service for which a hospital is reimbursed an amount greater than the total cost of providing the service.

B. Defined Services

Charity care is defined as non-reimbursed charges for services to uninsured or underinsured Delawareans. Charity care may be determined prospectively or retrospectively. It does not include Medicaid or Medicare payment shortfalls or contractual allowances with third-party payers. It may include patient out-of-pocket expenses (e.g., deductibles, co-pays) for income-tested patients who are uninsured or underinsured. Charity care discounts may include the provision of free care or care provided in accordance with an income-based sliding fee scale.

In addition to directly providing medical services at reduced or no cost to the medically indigent, facilities can meet their charity care requirement by facilitating the development and operation of primary medical services to indigent persons. Examples include providing a new health service (e.g., a free clinic) or making a donation to a pre-approved safety net provider approved by the HRB whose mission is to care for the medically indigent. The list of pre-approved safety net providers is available on the HRB’s website:

<http://dhss.delaware.gov/dhss/dhcc/hrb/dhrbhome.html>

Freestanding health care facilities can also count toward their charity care contribution enabling services that make it possible for medically indigent patients to receive services at their facility whom otherwise would not be able to do so. Examples include free or reduced cost laboratory services, free or reduced cost transportation to and from the facility, and free or reduced cost home care following a surgical procedure for medically indigent patients.

C. Eligibility and Charity Care Guidelines

Patients eligible for charity care are those individuals whose annual income is less than or equal to 350 percent of the Federal Poverty Level, as published annually in the Federal Register, and who are uninsured or underinsured (i.e., overall medical expenses and/or health plan deductible equal to or exceeds 5 percent of annual income).

Freestanding health care facilities subject to the charity care provision are encouraged to accept all patients for medically necessary procedures regardless of ability to pay and strive to maintain a minimum Medicaid utilization level established by the Board.

D. Formal Charity Care Plan

As a condition of receiving a CPR, the applicant must develop a formal written charity care plan and file a copy of it with the Delaware HRB at the time of application for a CPR approval. The HRB may require that the applicant amend its charity care plan if it is determined to be unsatisfactory. If CPR approval is granted, the applicant will annually submit to the HRB a report from an independent, Delaware-licensed, certified public accountant that documents the amount of charity care they have provided during the previous fiscal year.

Charity care plans must include, but are not limited to the following:

- Explanations about the availability of charity care
- Time period and procedures for eligibility
- Applications and forms needed
- Facility location and hours during which information may be obtained by the general public

Health care facilities must notify patients of their charity care plan and their application processes. Such notice shall include visually prominent, multilingual postings. Centers shall also orally inform patients of their charity care plan. Patients who apply for charity care must be informed about the status of their application and, if approved, the level of discount for which he or she qualifies.

E. Annual Reporting Requirements

The charity care condition remains in effect over the operational life of the facility authorized by the CPR, unless otherwise notified by the Board. Freestanding health care centers approved for CPR must annually submit to the Board a report from an independent, Delaware-licensed, certified public accountant that documents the amount of charity care they have provided during the year.

Specifically, freestanding health care centers approved for CPR must, in accordance with the provisions of the federal Health Insurance Portability and Accountability Act and state law, maintain a charity care log that documents the services provided. The log must be certified as accurate by the facility administrator. The log shall include at a minimum the following data elements:

- Date of service provided
- Patient age
- ZIP code, city, and county of patient residence
- Total charges for the services provided
- Any amount charged to the patient
- Any associated physician and medical service fee (if known)

The facility shall submit a copy of the log and a summary data sheet within 180 days of the beginning of each calendar year for the previous calendar year to the Board. The form for submitting the summary information will be accessible via the Health Resources Board website. The summary data sheet shall include the following data elements:

- Date that the facility became operational
- Annual amount of total patient gross revenue collected by the facility for the fiscal year being reported
- Dollar amount and percentage of total gross patient revenue foregone to charity care
- Dollar amount written off as charity for “other”, with detailed description (e.g., provided a free service, facility-covered transportation costs, etc.)
- Dollar amount and percentage of total gross revenue written off as bad debt
- Dollar amount of Medicaid gross revenue as a percentage of total gross patient revenue
- Documentation of enrollment in other Board-approved charitable programs

F. Enforcement

Failure to participate in the charity care procedures set forth by the HRB shall result in the HRB making a report to the Delaware Department of Health and Social Services designee responsible for compliance with applicable state laws and regulations, in accordance with 16 *Del. C.* § 9312. The HRB will designate all fiscal remedies for non-compliance, including pre-approved health care facilities or services to which fiscal remedies for non-compliance will be directed.

If the charity care condition is not met, the specific procedures for enforcement are as follows:

1. At the end of the first year of providing services to patients:

- The facility shall provide a written explanation for why the charity care requirement was not met
- The facility shall also appear before the Board and provide an oral presentation on why the charity care requirement was not met
- The facility shall submit a proposed course of correction for approval by the Board

Should the Board determine that the proposed course of correction is not acceptable, the Board may require a monetary assessment equal to the amount of charity care that was to be provided during year one or the difference between what should have been provided and what was actually provided. The facility will submit this amount to a pre-approved safety net provider. A copy of the check shall be provided to the Delaware Department of Health and Social Services (please call to confirm mailing and fax address). The list of pre-approved safety net providers is available on the HRB’s website: <http://dhss.delaware.gov/dhss/dhcc/hrb/dhrbhome.html>

2. Subsequent years:

If the charity care condition is not met in subsequent years, the facility shall submit a monetary assessment to a pre-qualified safety net provider equal to the amount of charity care that was to be provided during that fiscal year or the difference between what should have been provided

and what was actually provided. A copy of the check shall be provided to the Delaware Department of Health and Social Services (please call to confirm mailing and fax address).

This policy may be amended by the Delaware HRB as it deems appropriate and/or necessary.

VI. Supporting Resources and Documents

The following are important resources and documents which may be of assistance to applicants during the preparation of a CPR proposal:

- **16 Del. C. § 9301-9312 Health and Safety, Hospitals and Other Health Facilities**
 - Contact: Office of the Registrar of Regulations
Division of Research, General Assembly
P.O. Box 1401
Dover, DE 19903
Telephone: (302) 744-4114
<http://delcode.delaware.gov/title16/c093/>
- **Delaware State Innovation Models (SIM) Initiative**
 - Documents include Delaware's State Health Care Innovation Plan; State Innovation Models Test Grant (abstract, project narrative, and approved project budget); CMMI SIM presentations; and summaries of public discussions
 - Contact: Delaware Health and Social Services
Delaware Health Care Commission
Margaret O'Neill Building, Third Floor
410 Federal Street - Suite 7
Dover, DE 19901
Telephone: (302) 739-2730
<http://dhss.delaware.gov/dhss/dhcc/sim.html>
- **Delaware Population Consortium (DPC) Population Projections**
 - Documents include DPC history, methodology, notes, and annual projections
 - Contact: Office of State Planning Coordination
The Delaware Population Consortium
Haslet Armory
122 Martin Luther King Jr. Blvd. South
Dover, DE 19901
Telephone: (302) 739-3090
http://stateplanning.delaware.gov/information/dpc_projections.shtml
- **Delaware Nursing Home Utilization Statistics**
 - Contact: Delaware Health and Social Services
Delaware Health Care Commission
Margaret O'Neill Building, Third Floor
410 Federal Street - Suite 7

Dover, DE 19901
 Telephone: (302) 739-2730
<http://dhss.delaware.gov/dhss/dhcc/hrb/nursutilizationstat.html>

- **Delaware Vital Statistics Annual Report**
 - Contact: Delaware Health and Social Services
 Division of Public Health
 Delaware Health Statistics Center
 Jesse S. Cooper Building
 417 Federal Street
 Dover, DE 19901
 Telephone: (302) 744-4700
<http://www.dhss.delaware.gov/dhss/dph/hp/annrepvs.html>
- **Delaware Hospital Discharge Summary Report**
 - Contact: Delaware Health and Social Services
 Division of Public Health
 Delaware Health Statistics Center
 Jesse S. Cooper Building
 417 Federal Street
 Dover, DE 19901
 Telephone: (302) 744-4700
http://www.dhss.delaware.gov/dhss/dph/hp/hosp_dis.html
- **State of Delaware State Health Assessment Goals and Strategies Report (April 2013)**
 - Contact: Delaware Health and Social Services
 Division of Public Health
 Jesse S. Cooper Building
 417 Federal Street
 Dover, DE 19901
 Telephone: (302) 744-4700
<http://www.dhss.delaware.gov/dhss/dph/files/shagasr.pdf>

VII. CPR Application: Document Property Guidelines

To facilitate efficient and thorough review of CPR applications, please limit application content to include only **required, relevant, and concise** information about the proposed project.

Strict page limits exist for each applicable section of the Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website. These page limits are as follows:

Background:	2 pages
Review Considerations:	10-15 pages
Statutory Criteria	
Guiding Principles	
Project-Specific Need Criteria	
Additional Considerations	
Financial Tables:	5 pages
Appendices:	≤10 pages

Additionally, CPR applications should adhere to the long-standing National Institutes of Health (NIH) guidelines pertaining to federal grant applications (please see below), which have been slightly adapted to meet the needs of Delaware-specific CPR applications. Specifically,

Use an Arial, Helvetica, Palatino Linotype, or Georgia typeface, a black font color, and a font size of 12 points. (A Symbol font may be used to insert Greek letters or special characters; the font size requirement still applies.)

Type density, including characters and spaces, must be no more than 15 characters per inch. Type may be no more than six lines per inch. Use standard paper size (8 ½" x 11). Use at least one inch margins (top, bottom, left, and right) for all pages. No information should appear in the margins.

If terms are not universally known, spell out the term the first time it is used and note the appropriate abbreviation in parentheses.

Use sub-headings, short paragraphs, and other techniques to make the application as easy to navigate as possible. Use bullets and numbered lists for effective organization. Indents and bold print add readability. Bolding highlights key concepts and allows reviewers to scan the pages and retrieve information quickly.

Be specific and informative, and avoid redundancies.

Use diagrams, figures and tables, and include appropriate legends, to assist the reviewers to understand complex information. These should complement the text and be appropriately inserted. Make sure the figures and labels are readable in the size they will appear in the application.

For figures, graphs, diagrams, charts, tables, figure legends, and footnotes: You may use a smaller type size but it must be in a black font color, readily legible, and follow the font typeface requirement. Color can be used in figures; however, all text must be in a black font color, clear and legible. We suggest that you do not use a font size smaller than 9. We suggest the font Georgia for these sections, as it is the most legible at a smaller size.

(**Source:** National Institutes of Health Office of Extramural Research. 2016. *Grants & Funding: Writing Your Application*. http://grants.nih.gov/grants/writing_application.htm.)

VIII. Acute Care

A. Definition

For the purposes of this HRMP, “acute care” is defined as short-term medical or surgical services, usually provided by a hospital, for the diagnosis or the immediate treatment of patients having a brief but severe episode of illness or injury, or recovering from surgery. Acute care typically has an end goal of patient discharge as soon as they are deemed healthy and stable.

An “acute care hospital” is defined as a hospital that provides 24-hour inpatient care including medical, surgical, anesthesia, nursing, laboratory, pharmacy, and radiology services. These hospitals are also capable of providing health services on an immediate basis via an established Emergency Department.

Acute care hospitals provide services to all individuals that seek care and treatment, regardless of the individual’s ability to pay for services. In Delaware, acute care hospitals are licensed as such by the Delaware Office of Health Facilities Licensing and Certification.

In contrast to an acute care hospital, a “specialty hospital” is defined as a facility offering limited specialized medical or surgical services. Specialty hospitals typically do not provide care on an immediate basis via an established Emergency Department.

B. Acute Care Hospital

For the purposes of this HRMP, an “acute care hospital” is defined as any non-federal facility licensed as such pursuant to 16 *Del. C.* §1001-1020.

In 2009, Delaware’s HRB placed a moratorium on new construction of acute care hospitals. No additional hospitals offering acute care beds shall be established in the state unless or until the moratorium is rescinded.

C. Acute Care Beds

An “acute care bed” is defined as a hospital bed licensed by the Delaware Office of Health Facilities Licensing and Certification. Hospitals utilize acute care beds when providing 24-hour medical services for the diagnosis and treatment of patients across a wide range of medical conditions.

A “special purpose acute care bed” includes, but is not limited to, intensive care unit (ICU) beds, cardiac care unit (CCU) beds, and neonatal intensive care beds. Note also that for the purposes of this HRMP, hospital-based obstetric beds are considered as a separate category from hospital-based acute care beds.

D. Review Considerations for CPR Proposals Involving an Increase in Acute Care Beds

Applicants seeking an increase in acute care beds will complete the full Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website.

Statutory Criteria. Via the narrative portion of the Application, the applicant shall satisfactorily address the seven statutory criteria pursuant to 16 *Del. C.* §9306 (also refer to section III, subsection A of this HRMP for a detailed summary of the seven statutory criteria).

Guiding Principles. Applicants are also encouraged to explain the relationship of the proposed project to the seven guiding principles outlined in section III, subsection A of this HRMP.

Project-Specific Mathematical Need Calculations. The applicant will calculate its hospital-specific estimated need for acute care beds using the following formulae and explain how the proposed project is consistent with bed need projections.

Step 1: Calculate the average daily census (ADC) in the base year by dividing the base year patient days by 365 [(Base Year ADC) = (Base Year Patient Days) ÷ 365].

Step 2: Calculate projected ADC by multiplying the base year ADC by a population change factor (PCF) [(Projected ADC) = (Base Year ADC) x (PCF)].

The PCF shall represent a weighted average of projected population changes in the following age categories: less than 18; 18-64; and 65 and over. Weights will be based on the estimated percentage of acute care patient days in each age category in the base year.

Example Scenario: Calculating County-Specific PCF for Acute Care Bed Need Formulae

Age Category	Percentage Acute Care Admissions (Base Year)		5-Year Projected Population Growth (County-Specific)		Weighted Percentage of Acute Care Admissions (Projected)
Less than 18	8.2	X	1.07	=	8.774
18-64	49.1	X	1.10	=	54.010
65 and Over	42.7	X	1.18	=	50.386
	100.00				113.170

$$PCF = [(113.170) \div (100.00)] = 1.132$$

Population change projections will be calculated for a five-year period, with Year 1 representing the year in which the proposed acute care beds would become licensed and staffed. Use Delaware Population Consortium (DPC) annual population projections to calculate the projected ADC, clearly identifying all underlying assumptions used.

Population estimates used in the acute care bed projections should be calculated using the following geographic areas:

- Christiana Hospital: New Castle County

- St. Francis Hospital: New Castle County
- Wilmington Hospital: New Castle County
- Kent General Hospital: Kent County
- Milford Memorial Hospital: Kent and Sussex Counties
- Beebe Medical Center: Sussex County
- Nanticoke Memorial Hospital: Sussex County

Step 3: Calculate the projected acute care bed need by dividing projected ADC by an occupancy factor of 75% [(Projected Bed Need) = (Projected ADC) ÷ .750].

The applicant will provide a detailed explanation of all assumptions used in the derivation of the mathematical need calculations.

Additional Considerations. In addition to addressing statutory criteria, guiding principles, and project-specific mathematical need calculations, the CPR application for a request to increase acute care beds include the following components:

1. Actual and Projected Utilization Measures

For the last three complete fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario), provide the following:

- a. Average Annual Admissions
- b. Average Annual Occupancy Rate
- c. Average Daily Census (including range in variability)
- d. Average Annual Patient Days

Provide a detailed explanation of all assumptions used in the derivation of the projected utilization measures. Explain any increases and/or decreases in utilization measures over the indicated time period.

The hospital shall document whether occupancy in the special purpose acute care beds is greater than 65 percent, preventing the conversion of special purpose acute care beds to acute care beds. Or, if the occupancy rate in the special purpose acute care beds is less than 65 percent, the hospital shall demonstrate whether the conversion of special purpose acute care beds to acute care beds would be insufficient to meet the hospitals total additional acute care bed need.

The hospital shall document whether during the base year (defined as the calendar year preceding the year in which the CPR proposal is submitted), its acute care occupancy rate has been higher than the target occupancy rate of 75 percent. Alternatively, the hospital will document whether its utilization of acute care beds has reached functional capacity during the base year. Functional capacity considerations will be based upon factors affecting acute care bed utilization rates such as the mix of private and semi-private rooms, patient matching limitations (e.g., for gender), or the need for medical isolation beds.

2. Actual and Projected Patient-Payer Mix

For the last three completed fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario), provide a patient-payer breakdown detailing the percentage of patients covered by Medicare, Medicaid, TriCare, commercial insurers, workers' compensation, and those patients who are uninsured.

Provide a detailed explanation of all assumptions used in the derivation of projected patient-payer mix. Explain any increases and/or decreases in patient-payer proportions over the indicated time period.

3. Clinical Impact

The applicant will provide rationale for selecting the proposed service location.

The applicant will also describe how and where the proposed patient population is currently obtaining acute care services, including a description of existing patient admission patterns in the county in which the project is proposed.

The applicant will provide an explanation of the anticipated effect of the proposed project on existing acute care providers. The applicant will demonstrate that the projected utilization estimates under a CPR approval scenario are medically necessary and will not unnecessarily duplicate other acute care services currently established within the proposed county of service.

4. Quality Measures

The applicant hospital will document its history of providing health care services in conformity with federal and state standards. The applicant will include documented plans of action-and when applicable provide actual results and identification of steps to improve scores that serve to prevent, identify, diagnose and control the following:

- Acute myocardial infarctions sustained after admission to the hospital
- Hospital-acquired infections
- Medication errors
- Hospital-acquired pneumonia
- Re-admittance within 24 hours of discharge
- Decubitus ulcers
- Post-operative respiratory failure
- Post-operative sepsis
- Adverse medication/transfusion reactions
- Fall-related injuries

The applicant shall make available copies of reports that are required and submitted to regulatory entities.

5. Financial Information

Complete the following financial information tables in the Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website:

- Estimated Capital Expenditures
- Sources of Financing
- Indicators of Financial Feasibility
- Debt Service Coverage
- Present Long-Term Debt

Prior to submission, the applicant will ensure that the application includes all pertinent financial information related to the proposed project, including, but not limited to, the following categories and subcategories: medical equipment lease/purchase, imaging equipment lease/purchase, non-medical equipment lease/purchase, land/building purchase, and construction/renovation; funding or financing sources associated with the proposal and the dollar amount of each; interest rate, term, monthly payments, pledges/funds received to date, and letters of interest/approval from lending institutions.

In reviewing CPR applications for acute care bed increases, the HRB will consider extenuating circumstances of the current health care market that influence bed need projections. A reasonable number of beds beyond the projected need for a hospital should not be considered to be inconsistent with this HRMP if it promotes greater efficiency. Likewise, proposed additions of a small number of beds which cannot be operated efficiently should not be construed as being consistent with this HRMP even if the proposed number of additional beds falls within the bed need range.

IX. Obstetric Care (Hospital-Based)

A. Definition

For the purposes of this HRMP, “obstetric care” is defined as maternity services including medical care during labor, delivery, and recovery.

B. Obstetric Care Beds

An “obstetric care bed” is defined as a hospital bed set aside for women for the purposes of delivering a baby. Such beds are staffed by trained professionals experienced in providing medical care for pregnant mothers and newborns which may include, but is not limited to, surgery, anesthesia, and blood transfusion procedures. Obstetric care beds are licensed by the Delaware Office of Health Facilities Licensing and Certification.

C. Review Considerations for CPR Proposals Involving an Increase in Obstetric Beds

Applicants seeking an increase in obstetric care beds will complete the full Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website.

Statutory Criteria. Via the narrative portion of the Application, the applicant shall satisfactorily address the seven statutory criteria pursuant to 16 *Del. C.* §9306 (also refer to section III, subsection A of this HRMP for a detailed summary of the seven statutory criteria).

Guiding Principles. Applicants are also encouraged to explain the relationship of the proposed project to the seven guiding principles outlined in section III, subsection A of this HRMP.

Project-Specific Mathematical Need Calculations. The applicant will calculate its hospital-specific estimated need for obstetric care beds using the following formulae and explain how the proposed project is consistent with bed need projections.

Step 1: Calculate the average daily census (ADC) for the base period (i.e., most recent three-year period) by dividing the base period patient days by 1,095 (the number of days in the base period; $365 \text{ days} \times 3 \text{ years} = 1,095 \text{ days}$). $[(\text{Base Period ADC}) = (\text{Base Period Patient Days}) \div 1,095]$.

Step 2: Calculate projected ADC by multiplying the base period ADC by a population change factor (PCF) $[(\text{Projected ADC}) = (\text{Base Period ADC}) \times (\text{PCF})]$.

The PCF shall represent the projected population change in the 15-44-year-old female category.

Example Scenario: Calculating County-Specific PCF for Obstetric Care Bed Need Formulae

Age Category	Percentage Obstetric Care Admissions (Base Period)		5-Year Projected Population Growth (County-Specific)		Weighted Percentage of Obstetric Care Admissions (Projected)
Females age 15-44	100.00	X	1.07	=	107.00
	100.00				107.00

$$PCF = [(107.00) \div (100.00)] = 1.07$$

Population change projections will be calculated for a five-year period, with Year 1 representing the year in which the proposed acute care beds would become licensed and staffed. Use Delaware Population Consortium (DPC) annual population projections to calculate the projected ADC, clearly identifying all underlying assumptions used.

Population estimates used in the acute care bed projections should be calculated using the following geographic areas:

- Christiana Hospital: New Castle County
- St. Francis Hospital: New Castle County
- Wilmington Hospital: New Castle County
- Kent General Hospital: Kent County
- Milford Memorial Hospital: Kent and Sussex Counties
- Beebe Medical Center: Sussex County
- Nanticoke Memorial Hospital: Sussex County

Step 3: Calculate the projected obstetric care bed need by adding to the projected ADC the product of 1.96 times the square root of the projected ADC.

$$[(\text{Projected Obstetric Bed Need}) = (\text{Projected ADC} + 1.96\sqrt{\text{Projected ADC}})]$$

The above methodology for calculating projected obstetric bed need is based on tenets of statistical theory related to 95% confidence intervals. Using the formulae above, projected obstetric bed need is calculated with the addition of a margin of error; thus, the end result is a conservative estimate of projected obstetric bed need for Delaware hospitals in which projected bed need errors on the side of slight overestimation.

The applicant will provide a detailed explanation of all assumptions used in the derivation of the mathematical need calculations.

Additional Considerations. In addition to addressing statutory criteria, guiding principles, and project-specific mathematical need calculations, the CPR application for a request to increase obstetric care beds includes the following components:

1. Actual and Projected Utilization Measures

For the last three complete fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario), provide the following:

- a. Average Annual Admissions
- b. Average Annual Occupancy Rate
- c. Average Daily Census (including range in variability)
- d. Average Annual Patient Days

Provide a detailed explanation of all assumptions used in the derivation of the projected utilization measures. Explain any increases and/or decreases in utilization measures over the indicated time period.

2. Actual and Projected Patient-Payer Mix

For the last three completed fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario), provide a patient-payer breakdown detailing the percentage of patients covered by Medicare, Medicaid, TriCare, commercial insurers, worker's compensation, and those patients who are uninsured.

Provide a detailed explanation of all assumptions used in the derivation of projected patient-payer mix. Explain any increases and/or decreases in patient-payer proportions over the indicated time period.

3. Clinical Impact

The applicant will provide rationale for selecting the proposed service location.

The applicant will also describe how and where the proposed patient population is currently obtaining hospital-based obstetric care services, including a description of existing patient admission patterns in the county in which the project is proposed.

The applicant will provide an explanation of the anticipated effect of the proposed project on existing hospital-based obstetric care providers. The applicant will demonstrate that the projected utilization estimates under a CPR approval scenario are medically necessary and will not unnecessarily duplicate other obstetric care services currently established within the proposed county of service.

4. Quality Measures

The applicant hospital will document its history of providing obstetric care services in conformity with federal and state standards. The applicant will include documented plans of action-and when applicable provide actual results and identification of steps to improve scores that serve to prevent, identify, diagnose and control the following:

- Obstetric lacerations (especially 3rd and 4th degree)
- Hospital-acquired infections

- Medication errors
- Hospital-acquired pneumonia

The applicant shall make available copies of reports that are required and submitted to regulatory entities.

5. Financial Information

Complete the following financial information tables in the Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website:

- Estimated Capital Expenditures
- Sources of Financing
- Indicators of Financial Feasibility
- Debt Service Coverage
- Present Long-Term Debt

Prior to submission, the applicant will ensure that the application includes all pertinent financial information related to the proposed project, including, but not limited to, the following categories and subcategories: medical equipment lease/purchase, imaging equipment lease/purchase, non-medical equipment lease/purchase, land/building purchase, and construction/renovation; funding or financing sources associated with the proposal and the dollar amount of each; interest rate, term, monthly payments, pledges/funds received to date, and letters of interest/approval from lending institutions.

In reviewing CPR applications for obstetric care bed increases, the HRB will consider extenuating circumstances of the current health care market that influence bed need projections. A reasonable number of beds beyond the projected need for a hospital should not be considered to be inconsistent with this HRMP if it promotes greater efficiency. Likewise, proposed additions of a small number of beds which cannot be operated efficiently should not be construed as being consistent with this HRMP even if the proposed number of additional beds falls within the bed need range.

X. Nursing Home Care

A. Definition

“Nursing Home” shall mean any non-federal facility licensed as such pursuant to 16 *Del. C.* 11 and more particularly 16 *Del.* Administrative Code, Section 3201.

"Nursing Home (NH) Bed" refers to all long-term care beds licensed as skilled nursing or intermediate care beds by the Delaware Office of Health Facilities and Licensing.

Skilled nursing beds are defined as beds occupied by patients who receive skilled nursing care and supportive care, and who require availability of skilled nursing care on a continuous basis. Intermediate care beds are defined as beds occupied by patients who receive skilled nursing supervision and supportive care on a recurring basis, but who do not require continuous skilled nursing care.

B. Review Considerations for CPR Proposals Involving an Increase in NH Beds

Applicants seeking an increase in nursing home beds will complete the full Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website.

Statutory Criteria. Via the narrative portion of the Application, the applicant shall satisfactorily address the seven statutory criteria pursuant to 16 *Del. C.* § 9306 (also refer to section III, subsection A of this HRMP for a detailed summary of the seven statutory criteria).

Guiding Principles. Applicants are also encouraged to explain the relationship of the proposed project to the seven guiding principles outlined in section III, subsection A of this HRMP.

Project-Specific Mathematical Need Calculations. On an annual basis, the HRB will calculate prospective 5-year nursing home bed need projections for the state and its three counties using the following formulae. The applicant will explain how the proposed project is consistent with nursing home bed need projections.

Step 1: The DHCC will annually obtain state- and county-level nursing home utilization statistics, represented by billable patient day data. These data are aggregated from monthly data submissions reported by nursing home facilities as part of the data submission requirements related to publication of the annual Delaware Nursing Home Utilization Statistics Report.

The total annual billable patient days for the state reflect the total of all billable patient days recorded by Delaware’s private and public nursing home facilities. The total annual billable patient days per county reflect all of the private nursing home billable patient days for that county, as well as an admissions-based proportion of billable patient days from Delaware’s public nursing home facilities.

Public nursing home facilities are available to all state residents. The supply of public nursing home billable patient days, therefore, are allocated to each of the three counties according to the percentage of patient origin. The number of public nursing home billable patient days

attributable to each county is calculated by multiplying the total number of public nursing home billable patient days by the percentage of admissions attributable to each county.

Note that while the Delaware Veterans Home (DVH; located in Milford, Delaware) operates as a private long-term care facility, *for the purposes of computing nursing home bed projections only*, the DVH is entered into calculations as a public nursing home. The DVH serves a unique patient population (i.e., Delawareans meeting defined military service, residency, and level of care requirements); consequently, DVH nursing home beds are not as equally accessible to the general Kent County population as are nursing home beds staffed by other private nursing homes within the county. Thus, regarding the DVH as a public nursing home *for bed projection calculations only*, reduces the artificial inflation of the supply of nursing home beds available to Kent County residents.

Step 2: Using the most recently-available Delaware Population Consortium (DPC) data, the DHCC will calculate projected state- and county-level population growth factors by age group (<65 years; 65-74 years; 75-84 years; and ≥ 85 years). Population growth factors will be calculated for the most immediate 5-year projection period, non-inclusive of the current year. For example, to calculate the 2015-2020 projected population growth factor for Delawareans age 65-74, divide the projected 2020 population of Delawareans age 65-74 by the current 2015 population of Delawareans age 65-74. Assuming positive population growth, resulting population growth factors will always be greater than 1.0.

Step 3: The DHCC will obtain the county-level proportion of nursing home admissions by age group (<65 years; 65-74 years; 75-84 years; and ≥ 85 years) using data aggregated from monthly data submissions provided as part of the reporting requirements related to publication of the annual Delaware Nursing Home Utilization Statistics Report.

Step 4: The DHCC will calculate state- and county-specific population change factors (PCFs). PCFs shall represent a weighted sum of projected population growth factors in the following age categories: <65 years; 65-74 years; 75-84 years; and ≥ 85 years. Weights are derived from the base year percentage of nursing home admissions attributable to each age category (<65 years; 65-74 years; 75-84 years; and ≥ 85 years). PCFs will be calculated for a projected 5-year period, non-inclusive of the current year (e.g., for nursing home bed projections calculated in 2015, the corresponding 5-year projection period is 2015-2020).

Example Scenario: Calculating PCF for Nursing Home Bed Need Formulae

Age Category	Percentage NH Admissions (Base Year)		5-Year Projected Population Growth Factors		Weighted Percentage of NH Admissions (Projected)
Less than 65	6.7	X	1.042	=	6.98
65-74	16.6	X	1.071	=	17.78
75-84	42.5	X	1.169	=	49.68
85 and over	34.2	X	1.180	=	40.36
	100.00				114.42

$$\text{PCF} = [(114.42) \div (100.00)] = 1.1442$$

Step 5: The DHCC will calculate the state- and county-specific projected billable patient day (PBPD) total by multiplying the base year billable patient day total by the state- or county-specific PCF:

$$[(\text{Projected Billable Patient Day Total}) = (\text{Base Year Billable Patient Day Total}) \times (\text{PCF})]$$

Step 6: For the county in which the project is proposed, the DHCC will divide the county-level projected billable patient day (PBPD) total by 365 to derive the projected average daily census (PADC).

Step 7: The DHCC will calculate the county-specific projected bed need (PBN) by dividing the projected average daily census (PADC) by 0.90 (Delaware's desired nursing home occupancy rate).

$$[(\text{Projected Bed Need}) = (\text{Projected Average Daily Census}) \div (0.90)]$$

Step 8: The DHCC will subtract the projected bed need (PBN) from the existing inventory of beds (at the state- or county-level) to determine bed surplus or shortage for that specific 5-year projection period.

Step 9: The DHCC will calculate projected nursing home bed shortage or surplus using a five-year rolling average.

Step 10: For a county with a projected shortage of nursing home beds and a base year occupancy rate of 94 percent or greater, the bed need determination is the projected shortage rounded up to the nearest unit of 10.

Additional Considerations. In addition to addressing statutory criteria, guiding principles, and project-specific mathematical need calculations, the CPR application for a request to increase nursing home beds includes the following components:

1. Actual and Projected Utilization Measures

For the last three complete fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario), provide the following:

- a. Average Annual Admissions
- b. Average Annual Occupancy Rate
- c. Average Daily Census (including range in variability)
- d. Average Annual Patient Days

Provide a detailed explanation of all assumptions used in the derivation of the projected utilization measures. Explain any increases and/or decreases in utilization measures over the indicated time period.

2. Actual and Projected Patient-Payer Mix

For the last three completed fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario), provide a patient-payer breakdown detailing the percentage of patients covered by Medicare, Medicaid, TriCare, commercial insurers, workers compensation, and those patients who are uninsured.

Provide a detailed explanation of all assumptions used in the derivation of projected patient-payer mix. Explain any increases and/or decreases in patient-payer proportions over the indicated time period.

3. Clinical Impact

The applicant will provide rationale for selecting the proposed service location.

The applicant will also describe how and where the proposed patient population is currently obtaining long-term care services, including a description of existing patient admission patterns in the county in which the project is proposed.

The applicant will provide an explanation of the anticipated effect of the proposed project on existing long-term care providers in the proposed service area. The applicant will demonstrate that the projected utilization estimates under a CPR approval scenario are medically necessary and will not unnecessarily duplicate other long-term care services currently established within the proposed county of service.

4. Quality Measures

The applicant facility will document its history of providing health care services in conformity with federal and state standards. The applicant will include documented plans of action-and when applicable provide actual results and identification of steps to improve scores that reduce the following:

- Percentage of residents whose need for help with daily activities has increased
- Percentage of residents who have moderate to severe pain
- Percentage of residents who lose mobility
- Percentage of residents who are physically restrained
- Percentage of residents who develop pressures sores
- Percentage of residents with a urinary tract infection
- Percentage of residents who spend most of their time in a bed or a chair
- Percentage of residents who report feeling more depressed or anxious
- Percentage of residents who lose too much weight

The applicant shall make available copies of reports that are required and submitted to regulatory entities.

5. Financial Information

Complete the following financial information tables in the Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website:

- Estimated Capital Expenditures
- Sources of Financing
- Indicators of Financial Feasibility
- Debt Service Coverage
- Present Long-Term Debt

Prior to submission, the applicant will ensure that the application includes all pertinent financial information related to the proposed project, including, but not limited to, the following categories and subcategories: medical equipment lease/purchase, imaging equipment lease/purchase, non-medical equipment lease/purchase, land/building purchase, and construction/renovation; funding or financing sources associated with the proposal and the dollar amount of each; interest rate, term, monthly payments, pledges/funds received to date, and letters of interest/approval from lending institutions.

In reviewing CPR applications for nursing home bed increases, the HRB will consider extenuating circumstances of the current health care market that influence bed need projections. For example, if capacity has been so restrained that the base year ADC is felt to understate legitimate demand, an upward adjustment of projected county-level nursing home beds may be made. Conversely, if financial access to nursing homes was threatened as a result of a change in Medicaid reimbursement policy, a downward adjustment of projected bed need may be appropriate.

To the extent that new uses are proposed for nursing home beds, the need for such beds must be evaluated based on the merits demonstrated during the review of specific CPR applications. Relatedly, as Delaware's health care system works to further embrace the principle of providing health services in the least restrictive setting, the expansion of home and community-based services (HCBS) may reduce the overall need for nursing home beds within the state.

XI. Freestanding Surgery Center (FSSC)

A. Definition

Free Standing Surgical Center abbreviated as FSSC, means a facility, other than a hospital or the office of a physician, dentist or podiatrist or professional association thereof, which is mandated and operated for the purpose of providing surgical services and in which the expected duration of services would not exceed 23 hours 59 minutes following and admission.

FSSCs include facilities which are state-licensed or Medicare-certified, or which provide ambulatory surgery as the primary business activity and operate as a separate and independent business. In Delaware, proposed projects involving endoscopy and pain management centers do not require CPR review.

B. Review Considerations for CPR Proposals Involving the Establishment of an FSSC

Applicants seeking to establish an FSSC will complete the full Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website.

Statutory Criteria. Via the narrative portion of the Application, the applicant shall satisfactorily address the seven statutory criteria pursuant to 16 *Del. C.* § 9306 (also refer to section III, subsection A of this HRMP for a detailed summary of the seven statutory criteria).

Guiding Principles. Applicants are also encouraged to explain the relationship of the proposed project to the seven guiding principles outlined in section III, subsection A of this HRMP.

Project-Specific Mathematical Need Calculations. The applicant will calculate projected need for FSSC rooms in the county in which the project is proposed, using the following formulae. The applicant will explain how the proposed project is consistent with FSSC room need projections.

Step 1: Calculate the projected number of patients needing FSSC services by applying the most current national ambulatory surgery use rate published by the National Health Statistics Center <https://www.cdc.gov/nchs/data/nhsr/nhsr011.pdf> (116.25 per 1,000 in 2006) to the current Delaware Population Consortium population estimate for the county in which the project is proposed.

Step 2: Calculate the number of surgical visits per room per year in the proposed county using the following equation and assumptions:

$$\text{Number of Surgical Visits Per Room Per Year} = A \times B \times C = 2,000$$

- | | | |
|----|---------------------------------------|-----|
| A. | Assumed Number of Surgeries Per Hour: | 1 |
| B. | Assumed Number of Hours Per Day: | 8 |
| C. | Assumed Number of Work Days Per Year: | 250 |

Step 3: Calculate the number of surgical visits that would justify approving an additional FSSC room by multiplying the utilization percentage needed to approve a new room (70%) by the number of surgical visits per room per year obtained in Step 2.

Number of Surgical Visits that Justify Approving an Additional Room = $2,000 \times 70\% = 1,400$

Step 4: Calculate the number of FSSC rooms needed in the proposed county by dividing the number of patients needing FSSC services in the proposed county (obtained in Step 1) by the number of surgical visits that would justify approving an additional room (obtained in Step 3).

Step 5: Calculate the total number of FSSC rooms available in the county in which the project is proposed by adding the number of currently licensed FSSC rooms in the proposed county to the number of HRB-approved FSSC rooms in the proposed county.

Step 6: Calculate the surplus or deficit of FSSC rooms available in the county in which the project is proposed by subtracting the number of FSSC rooms needed in the proposed county (obtained in Step 4) from the number of FSSC rooms available in the proposed county (obtained in Step 5).

Additional Considerations. In addition to addressing statutory criteria, guiding principles, and project-specific mathematical need calculations, the CPR application for a request to establish an FSSC includes the following components:

1. Projected Utilization Measures

For the first three full years of the proposed project (under a CPR approval scenario), the applicant shall report the projected ambulatory surgery volume, by procedure type.

Provide a detailed explanation of all assumptions used in the derivation of the projected volume units. Explain any increases and/or decreases in utilization measures over the indicated time period

2. Actual and Projected Patient-Payer Mix

For the first three full years of the proposed project (under a CPR approval scenario), provide a projected patient-payer breakdown detailing the percentage of patients covered by Medicare, Medicaid, TriCare, commercial insurers, workers' compensation, and those patients who are uninsured.

Provide a detailed explanation of all assumptions used in the derivation of projected patient-payer mix. Explain any increases and/or decreases in patient-payer proportions over the indicated time period.

3. Clinical Impact

The applicant will provide rationale for selecting the proposed service location.

The applicant will also describe how and where the proposed patient population is currently obtaining ambulatory surgery services (including hospital operating and procedure rooms), including a description of existing referral patterns in the county in which the project is proposed.

The applicant will document whether patients are not receiving the specific type of surgical procedures (as identified by procedure codes) proposed by the applicant at existing ambulatory surgery centers in the proposed service area. Applicants will also provide an explanation for any unmet need for a specific type(s) of ambulatory surgery procedure has not been reasonably addressed by providers in the county in which the project is proposed.

The applicant will provide an explanation of the anticipated effect of the proposed project on existing providers of ambulatory surgery procedures. The applicant will demonstrate that the projected number of procedures anticipated under a CPR approval scenario are medically necessary and will not unnecessarily duplicate other ambulatory surgery services currently established within the proposed county of service.

4. Quality Measures

The applicant will document its history of providing health care services in conformity with federal and state standards.

The applicant shall provide patient transfer protocols with the hospital(s) in close proximity to the proposed facility.

The applicant will identify all governmental and/or professional oversight agencies whose approval/accreditation is necessary before the applicant may initiate provision of ambulatory surgery procedures. Such oversight agencies include, but are not limited to, the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. (AAAASF), Accreditation Association for Ambulatory Health Care (AAAHC), American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP), and The Joint Commission (TJC). For each required approval/accreditation, the applicant will describe its progress toward securing such approval/accreditation.

The applicant shall make available copies of reports that are required and submitted to regulatory entities.

5. Financial Information

Complete the following financial information tables in the Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website:

- Estimated Capital Expenditures
- Sources of Financing
- Indicators of Financial Feasibility

- Debt Service Coverage
- Present Long-Term Debt

Prior to submission, the applicant will ensure that the application includes all pertinent financial information related to the proposed project, including, but not limited to, the following categories and subcategories: medical equipment lease/purchase, imaging equipment lease/purchase, non-medical equipment lease/purchase, land/building purchase, and construction/renovation; funding or financing sources associated with the proposal and the dollar amount of each; interest rate, term, monthly payments, pledges/funds received to date, and letters of interest/approval from lending institutions.

In reviewing CPR applications for the establishment or increase of FSSC rooms, the HRB will consider approving more rooms than indicated by the project-specific mathematical need calculations to accommodate facilities that provide comparatively higher utilization of ambulatory surgery services due to the in-migration of out-of-state patients or a higher percentage of patient referrals from other counties for specialized outpatient surgical services.

XII. Acquisition of Major Medical Equipment

A. Definition

CPR approval is required for all major medical equipment acquisitions by health care facilities, as well as non-health care facilities, regardless of whether the proposed acquisition will result from capital expenditure, operating expense, or donation.

For the purposes of this HRMP, major medical equipment is defined as a single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which:

- a. Entails a capital expenditure, operating expense, or donation which exceeds \$5,800,000 or some greater amount which has been designated by the Board following an annual adjustment for inflation;
- b. Represents medical technology which is not yet available in Delaware; or
- c. Represents medical technology which has been designated by the Board as being subject to review.

The Board may exempt from review a capital expenditure used to acquire major medical equipment which represents medical technology which is not yet available in Delaware. A notice of intent filed pursuant to 16 *Del. C.* § 9305, along with any other information deemed necessary by the Board, shall provide the basis for exempting such a capital expenditure from review.

Examples of major medical equipment acquisitions requiring CPR approval include, but are not limited to, the following:

- “Cardiac Catheterization”: a diagnostic procedure in which one or more catheters is inserted through a peripheral blood vessel in the arm or leg with x-ray guidance. Results inform providers of the functional status of a patient’s heart and blood vessels.
- “Computed Tomography (CT)”: a non-invasive diagnostic procedure in which a three-dimensional image of a patient’s internal body structure is digitally constructed from a series of cross-sectional x-ray images made along one or more angles or axes.
- “Extracorporeal Shock Wave Lithotripsy”: a technique for shattering kidney stones or gallstones with shock waves produced outside the body. Resulting small pieces of calcified stone are excreted from the body more easily than larger, intact stones. The process may involve sedatives or local anesthesia.
- “Magnetic Resonance Imaging (MRI)”: a non-invasive diagnostic procedure in which the application of radio waves induces the nuclear magnetic resonance of atoms within the body, producing computerized images of internal body structures.
- “Megavoltage Radiation Therapy”: a clinical modality consisting of the administration of high energy to a deep-seated cancer or cerebrovascular defect using a megavoltage radiation therapy unit (e.g., a linear accelerator).

- “Positron Emission Tomography (PET)”: an imaging procedure that reveals a patient’s tissue and organ functioning. Small amounts of a radioactive medication are introduced into a patient (usually via injection) and spontaneously produce positrons (positively charged electrons) as they decompose. Abnormal metabolic function is detected using a sophisticated camera that obtains sectional images of a patient’s body.

B. Review Considerations for CPR Proposals Involving the Acquisition of Major Medical Equipment

Applicants seeking CPR approval for the acquisition of major equipment will complete the full Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website.

Statutory Criteria. Via the narrative portion of the Application, the applicant shall satisfactorily address the seven statutory criteria pursuant to 16 *Del. C.* § 9306 (also refer to section III, subsection A of this HRMP for a detailed summary of the seven statutory criteria).

Guiding Principles. Applicants are also encouraged to explain the relationship of the proposed project to the seven guiding principles outlined in section III, subsection A of this HRMP.

Project-Specific Considerations.

Preference will be given to applications that involve multi-institutional arrangements (via contract, agreement, ownership, or other means) between two or more agencies for the purpose of coordinating services to capitalize on geographic proximity. A member of a multi-institutional arrangement shall not establish its own service or participate in another arrangement for the intended service until the intended service is operating at sufficient capacity to achieve acceptable levels of efficiency and quality of care.

Please include any additional information related to ways in which the proposed technology could be shared on a regional basis.

A CPR application for involving the acquisition of major medical equipment will also include the following components:

1. Technology Selection Process

The applicant will submit equipment information for the proposed equipment. At a minimum, equipment information shall include the manufacturer’s name, equipment make and model, unit strength of the proposed equipment, any necessary or recommended equipment upgrades or add-ons, and any other notable equipment specifications.

What is the estimated productive life of the proposed technology? What new improvements can be expected in the equipment, and over what time frame are these improvements likely to occur?

What other technologies could reasonably be expected to replace this technology, and over what time frame are these newer technologies likely to be developed?

The applicant will provide evidence of a thorough cost-benefit analysis resulting in the selection of the proposed equipment. The applicant will identify the criteria used in the equipment selection process and document why the proposed equipment was selected over other types evaluated.

The applicant will verify that the physical location(s) at which the medical procedures are to be performed conform to applicable federal standards, manufacturer specifications, and relevant licensing and accreditation requirements.

2. Clinical Impact

The applicant will demonstrate, via documentation, evidence of the efficacy of the proposed equipment in the diagnosis and/or treatment of one or more known medical conditions. Please include the specific medical diagnostic groups that may benefit from the proposed medical equipment.

The applicant will detail all other service modalities currently offered by the applicant's location(s). If the proposal involves a new site of service, identify the proposed service area and the basis for its selection.

The applicant will identify all existing providers that currently utilize the proposed equipment in the county in which the project is proposed.

The applicant will also describe how and where the proposed patient population is currently obtaining health services using the proposed equipment, including existing referral patterns in the county in which the project is proposed.

The applicant will provide an explanation of the anticipated effect of the proposed equipment on existing providers currently utilizing the proposed equipment. The applicant will demonstrate that the projected number of procedures anticipated using the proposed equipment are medically necessary and will not unnecessarily duplicate other services currently established within the proposed county of service.

To what extent will the medical equipment (a) supplement existing equipment and services? (b) Replace existing equipment and services? (c) Replace staff? (d) Increase the number of support staff required to assist in the operation of the proposed equipment?

If the medical equipment is to be leased or otherwise acquired on a contractual basis, the applicant will demonstrate that the lease or contract does not require that a specific minimum number of procedures be performed.

3. Actual and Projected Service Volume

For each of the applicant's existing and proposed pieces of equipment (of the type proposed, at the proposed location only), provide the units of service by piece of equipment for the last three completed fiscal years (FYs), the current FY-to-date, and the first three full years of the proposed project (under a CPR approval scenario).

Provide a detailed explanation of all assumptions used in the derivation of projected units of service. Explain any increases and/or decreases in units of service over the indicated time period.

What is the maximum number of procedures that could be performed using the proposed equipment per day, per week, and per year? Is there a minimum number of procedures that should be performed per day, per week, or per year to maintain staff expertise?

4. Quality Measures

The applicant shall demonstrate that the proposed equipment is efficacious (i.e., successful in producing the desired result). Provide relevant articles, studies, or reports to support the need to acquire the proposed equipment.

The applicant shall verify that the proposed equipment is certified for its intended use by the United States Food and Drug Administration (FDA). Please also indicate whether the equipment is still considered experimental.

The applicant will identify all governmental and/or professional oversight agencies (e.g., Joint Commission) whose approval/accreditation is necessary before the applicant may initiate operation of the proposed equipment. For each required approval/accreditation, the applicant will describe its progress toward securing such approval/accreditation.

The applicant shall demonstrate that all complementary diagnostic and treatment services necessary to support the proposed equipment are accessible and operational.

The applicant shall demonstrate that the physicians and clinicians who will staff the proposed equipment are qualified and adequately trained. Moreover, the applicant will demonstrate that a board-certified radiologist or other licensed physician will interpret all imaging scans performed.

The applicant will also describe the specialized training that each practitioner completed prior to their involvement with the proposed equipment. The applicant will describe its continuing education plan for physicians and clinicians staffing the proposed equipment.

The applicant will provide written protocols that have been established related to the operation of the proposed equipment. The applicant will also document its safety procedures to follow in the event of an emergency involving the equipment.

The applicant shall make available copies of reports that are required and submitted to regulatory entities.

5. Financial Information

Complete the following financial information tables in the Certificate of Public Review Application (Attachment II of the CPR Application Kit), available via the HRB website:

- Estimated Capital Expenditures
- Sources of Financing
- Indicators of Financial Feasibility
- Debt Service Coverage
- Present Long-Term Debt

Prior to submission, the applicant will ensure that the application includes all pertinent financial information related to the proposed project, including, but not limited to, the following categories and subcategories: medical equipment lease/purchase, imaging equipment lease/purchase, non-medical equipment lease/purchase, land/building purchase, and construction/renovation; funding or financing sources associated with the proposal and the dollar amount of each; interest rate, term, monthly payments, pledges/funds received to date, and letters of interest/approval from lending institutions.

Provide documentation if Medicare, Medicaid, or any private health insurer reimburses for this procedure or equipment.

The applicant will indicate if there any potential costs savings (e.g., reduced length of stay) associated with the proposed technology.

DELAWARE HEALTH RESOURCES BOARD

Certificate of Public Review Application Kit

**State of Delaware
Delaware Health Care Commission
Delaware Health Resources Board
410 Federal Street, Suite 7
Dover, Delaware 19901**

Adopted: April 13, 1995
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GENERAL INSTRUCTIONS

PLEASE READ BEFORE PROCEEDING!

The Delaware Health Resources Board is required to comply with the State of Delaware Freedom of Information Act, 29 Del. C. § 10001, et seq. (“FOIA”). FOIA requires that the State of Delaware’s records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once an application is received by the HRB the content of the application will likely become subject to FOIA’s public disclosure obligations. The HRB respects the applicant’s desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as “confidential business information”).

In order to allow the State to assess its ability to protect an applicant’s confidential business information, applicants will be permitted to designate appropriate portions of their application as confidential business information. Applicants may submit portions of a proposal considered to be confidential business information in a separate document titled “Confidential Business Information”. The document must contain a letter from the applicant’s legal counsel describing the document, representing in good faith that the information in each document is not “public record” as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

An applicant’s allegation as to its confidential business information shall not be binding on the State. The State shall independently determine the validity of any applicant designation as set forth in this section. Any applicant submitting an application or using the procedures discussed herein expressly accepts the HRB’s absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, applicants assume the risk that confidential business information included within a proposal may enter the public domain.

Application: Document Property Guidelines

To facilitate efficient and thorough review of Certificate of Public Review (CPR) applications, please limit application content to include only **required, relevant, and concise** information about the proposed project.

Strict page limits exist for each applicable section of the CPR Application (Attachment II of the CPR Application Kit). These page limits are as follows:

Background:	2 pages
Review Considerations:	10-15 pages
Statutory Criteria	
Guiding Principles	
Project-Specific Need Criteria	
Additional Considerations	
Financial Tables:	5 pages
Appendices:	≤10 pages

Additionally, CPR applications should adhere to the long-standing National Institutes of Health (NIH) guidelines pertaining to federal grant applications (please see below), which have been slightly adapted to meet the needs of Delaware-specific CPR applications. Specifically,

Use an Arial, Helvetica, Palatino Linotype, or Georgia typeface, a black font color, and a font size of 12 points. (A Symbol font may be used to insert Greek letters or special characters; the font size requirement still applies.)

Type density, including characters and spaces, must be no more than 15 characters per inch. Type may be no more than six lines per inch. Use standard paper size (8 ½" x 11). Use at least one inch margins (top, bottom, left, and right) for all pages. No information should appear in the margins.

If terms are not universally known, spell out the term the first time it is used and note the appropriate abbreviation in parentheses.

Use sub-headings, short paragraphs, and other techniques to make the application as easy to navigate as possible. Use bullets and numbered lists for effective organization. Indents and bold print add readability. Bolding highlights key concepts and allows reviewers to scan the pages and retrieve information quickly.

Be specific and informative, and avoid redundancies

Use diagrams, figures and tables, and include appropriate legends, to assist the reviewers to understand complex information. These should complement the text and be appropriately inserted. Make sure the figures and labels are readable in the size they will appear in the application.

For figures, graphs, diagrams, charts, tables, figure legends, and footnotes: You may use a smaller type size but it must be in a black font color, readily legible, and follow the font typeface requirement. Color can be used in figures; however, all text must be in a black font color, clear and legible. We suggest that you do not use a font size smaller than 9. We suggest the font Georgia for these sections, as it is the most legible at a smaller size.

(**Source:** National Institutes of Health Office of Extramural Research. 2016. *Grants & Funding: Writing Your Application*. http://grants.nih.gov/grants/writing_application.htm.)

This Application Kit is intended to provide potential applicants with a clear understanding of the nature, scope and depth of the preparation expected in conjunction with the filing of an application. Further, it is intended to gather and compile the information necessary for a timely, thorough and fair evaluation of the project proposed. Not all questions will be pertinent to all proposals. Such questions can be responded to by indicating "Not Applicable." Conversely, the applicant is encouraged to submit any information that will contribute to a clearer understanding of the proposal, even if not specifically requested in the application forms. To assist the applicant in preparing an application, this Application Kit (with the exception of Section B) is available in Word format.

It is felt that the application forms are largely self-explanatory. Potential applicants having any questions concerning the forms should contact the staff at the Delaware Health Care Commission/Delaware Health Resources Board at (302) 739-2730.

Applicants unfamiliar with Delaware's Certificate of Public Review (CPR) program may want to review the statutory provisions that appear immediately following these General Instructions.

There are three distinct application forms as discussed below:

- Attachment I:* This is the Notice of Intent Form that precedes the filing of the actual application by at least 30 days. The information to be included is quite rudimentary. Its purpose is to allow for anticipation of various proposals so that preparatory measures can be undertaken as appropriate.
- Attachment II:* This is the Application itself. It cannot be filed less than 30 days from filing the Notice of Intent (Attachment I) unless the Delaware Health Resources Board agrees in writing to waive this requirement.
- Attachment III:* This form will be used very infrequently. It is used only in conjunction with a project required to remedy an emergency situation that threatens the safety of patients or the ability of the health facility to remain in operation.

All forms are to be submitted to the Delaware Health Care Commission/Delaware Health Resources Board at the following address:

**Delaware Health Care Commission
Delaware Health Resources Board
Margaret O'Neill Building
410 Federal Street, Suite 7
Dover, Delaware 19901**

Submissions are to include 12 copies, one of which shall have an original signature, plus an electronic version which can be sent via email.

Supporting Resources and Documents

The following are important resources and websites which may be of assistance to applicants during the preparation of a CPR proposal:

[Delaware Health Care Commission](#)

[Delaware Health Resources Board](#)

[Delaware Nursing Home Utilization Statistics](#)

[Delaware Population Consortium \(DPC\) Population Projections](#)

[Office of Health Facilities Licensing and Certification \(OHFLC\)](#)

TITLE 16

Health and Safety

Hospitals and Other Health Facilities

CHAPTER 93. HEALTH PLANNING AND RESOURCES MANAGEMENT

§ 9301 Purpose.

It is the purpose of this chapter to assure that there is continuing public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. This public scrutiny is to be focused on balancing concerns for cost, access and quality.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 1; 72 Del. Laws, c. 64, § 2.; § 9302 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

- (1) "Board" shall mean the Delaware Health Resources Board established pursuant to § 9303 of this title.
- (2) "Bureau" shall mean the Bureau of Health Planning and Resources Management within the Department of Health and Social Services.
- (3) "Certificate of Public Review" shall mean the written approval of an application to undertake an activity subject to review as described in § 9304 of this title.
- (4) "Health care facility" shall include hospital, nursing home, freestanding birthing center, freestanding surgical center, freestanding acute inpatient rehabilitation hospital, and freestanding emergency center, whether or not licensed or required to be licensed by the State, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a unit of State or local government. The term also includes continual care communities and any other nontraditional, long-term care facilities identified by the Department of Health and Social Services or the Delaware Health Care Commission. The term does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts. The term shall not include any physician's office, whether an individual or group practice, any independent clinical laboratory or any radiology laboratory. The term shall also not include the office of any other licensed health care provider, including, but not limited to, physical therapist, dentist, physician assistant, podiatrist, chiropractor, an independently practicing nurse or nurse

practitioner, optometrist, pharmacist or psychologist. The term also shall not include any dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees, provided that the facility does not contain inpatient beds, nor shall it apply to any first aid station or dispensary or infirmary offering non-acute services exclusively for use by students and employees of a school or university or by inmates and employees of a prison, provided that services delivered therein are not the substantial equivalent of hospital services in the same area or community. Further:

- a. "Freestanding acute inpatient rehabilitation hospital" shall mean a facility that satisfies, or is expected by the person who will construct, develop or establish the facility to satisfy, the requirements of 42 C.F.R. § 412.23(b); provided that, if such facility is not paid under the prospective payment system specified in 42 C.F.R. § 412.1(a)(3) within 24 months after accepting its first patient, then it shall not be considered a freestanding acute inpatient rehabilitation hospital under this section.
 - b. "Freestanding birthing center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.
 - c. "Freestanding emergency center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly § 52 of the State Board of Health Regulations.
 - d. "Freestanding surgical center" shall mean any facility licensed as such pursuant to Chapter 1 of this title and more particularly in the State Board of Health Regulations.
 - e. "Hospital" shall mean any nonfederal facility licensed as such pursuant to Chapter 10 of this title and more particularly § 50 of the State Board of Health Regulations.
 - f. "Nursing home" shall mean any nonfederal facility licensed as such pursuant to Chapter 11 of this title and more particularly § 57 (Skilled care) and § 58 (Intermediate care) of the State Board of Health Regulations.
- (5) "Health services" shall mean clinically related (i.e., diagnostic, curative or rehabilitative) services provided in or through health care facilities.
- (6) "Major medical equipment" shall mean a single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which:
- a. Entails a capital expenditure as set forth in this chapter which exceeds \$5,800,000 or some greater amount which has been designated by the Board following an annual adjustment for inflation using an annual inflation index determined by the United States Department of Labor, Bureau of Labor Statistics;

- b. Represents medical technology which is not yet available in Delaware; or
- c. Represents medical technology which has been designated by the Board as being subject to review.

The Board may exempt from review a capital expenditure used to acquire major medical equipment which represents medical technology which is not yet available in Delaware. A notice of intent filed pursuant to § 9305 of this title along with any other information deemed necessary by the Board shall provide the basis for exempting such a capital expenditure from review.

(7) "Person" shall mean an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies and insurance companies), a state or political subdivision or instrumentality (including a municipal corporation) of a state.

61 Del. Laws, c. 393, § 1; 65 Del. Laws, c. 69, § 2; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 1, 2; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, § 2; 72 Del. Laws, c. 64, §§ 1, 3-5; 75 Del. Laws, c. 192, §§ 1, 2; 79 Del. Laws, c. 50, § 1.; § 9303 Delaware Health Resources Board.

(a) There is hereby established a Delaware Health Resources Board to foster the cost-effective and efficient use of health care resources and the availability of and access to high quality and appropriate health care services.

(b) The Board shall consist of a Chair, a Vice Chair and 13 other members, all of which shall be appointed by the Governor. Appointments shall be for 3-year terms, provided that the terms of newly appointed members will be staggered so that no more than 5 appointments shall expire annually. The Governor may appoint members for terms of less than 3 years to ensure that the board members' terms expire on a staggered basis. The membership shall be representative of all counties in the State. In addition to the Chair and the Vice Chair, the membership shall consist of 1 representative of the Delaware Health Care Commission; 1 representative from the Department of Health and Social Services recommended by the Secretary of the Department of Health and Social Services; 1 representative of labor; 1 representative of the health insurance industry; 1 representative with knowledge and professional experience in health care administration; 1 representative licensed to practice medicine in Delaware; 1 representative with knowledge and professional experience in long-term care administration; 1 representative of a provider group other than hospitals, nursing homes or physicians; 1 representative involved in purchasing health care coverage on behalf of State employees; 1 other representative involved in purchasing health care coverage for employers with more than 200 employees; and 4 representatives of the public-at-large. Public members may include but not be limited to representative from business, educational and nonprofit organizations. The Chair shall be an at-large position and shall be appointed by and serve at the pleasure of the Governor. The Governor shall designate a Vice Chair from among the members of the Board who shall serve in this capacity at the pleasure of the Governor. The Delaware Healthcare

Association, the Medical Society of Delaware, the Delaware Health Care Facilities Association, the Delaware State Chamber of Commerce, and other interested organizations may submit nonbinding recommendations to aid the Governor in making appointments to the Board. Any vacancy shall be filled by the Governor for the balance of the unexpired term. A quorum shall consist of at least 50% of the membership. Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with state laws.

(c) The Board is an independent public instrumentality. For administrative and budgetary purposes only, the Board shall be placed within the Department of Health and Social Services, Office of the Secretary. The Delaware Health Resources Board shall function in cooperation with the Delaware Health Care Commission, as well as other state health policy activities. Staff support for the Board shall be provided by the Delaware Health Care Commission and the Office of the Secretary, Department of Health and Social Services.

(d) The duties and responsibilities of the Board shall include, but not be limited to, the following:

(1) Develop a Health Resources Management Plan which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources. Essential aspects of the plan shall include a statement of principles to guide the allocation of resources, as well as rules and regulations which shall be formulated for use in reviewing Certificate of Public Review applications. Any revision of the Health Resources Management Plan shall be done in accordance with the provisions of the Administrative Procedures Act (Chapter 101 of Title 29). The Board shall also be required to conduct a public hearing. Also, prior to adoption, the plan or revision of the plan shall be submitted to the Delaware Health Care Commission for review and approval. Upon receiving written approval from the Commission, the plan or revision shall be submitted to the Secretary, Department of Health and Social Services. The plan or revision shall become effective upon the written approval of the Secretary;

(2) Review Certificate of Public Review applications filed pursuant to this chapter and make decisions on same. Decisions shall reflect the importance of assuring that health care developments do not negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. Decisions can be conditional but the conditions must be related to the specific project in question;

(3) Gather and analyze data and information needed to carry out its responsibilities. Identify the kinds of data which are not available so that efforts can be made to assure that legitimate data needs can be met in the future;

(4) Address specific health care issues as requested by the Governor or the General Assembly;

(5) Adopt bylaws as necessary for conducting its affairs. Board members shall comply with the provisions of Chapter 58 of Title 29 (State Ethics Code) and the Board shall operate in accordance with Chapter 100 of Title 29 (Freedom of Information Act); and

(6) Coordinate activities with the Delaware Health Care Commission, the Department of Health and Social Services and other groups as appropriate.

(e) The Governor may at any time, after notice and hearing, remove any board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office. A member shall be deemed in neglect of duty if they are absent from 3 consecutive board meetings without good cause or if they attend less than 50% of board meetings in a calendar year.

66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 3, 4; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, §§ 1, 6, 7; 75 Del. Laws, c. 192, §§ 3, 4; 78 Del. Laws, c. 394, § 1.; § 9304
Activities subject to review.

Any person must obtain a Certificate of Public Review prior to undertaking any of the following activities:

(1) The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility;

(2) Any expenditure by or on behalf of a health care facility in excess of \$5.8 million, or some greater amount which has been designated by the Board following an annual adjustment for inflation using an annual inflation index determined by the United States Department of Labor, Bureau of Labor Statistics, is a capital expenditure. A capital expenditure for purposes of constructing, developing or otherwise establishing a medical office building shall not be subject to review under this chapter. When a person makes an acquisition by or on behalf of a health care facility under lease or comparable arrangement, or through donation which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review. The Board may exempt from review capital expenditures when determined to be necessary for maintaining the physical structure of a facility and not related to direct patient care. A notice of intent filed pursuant to § 9305 of this title, along with any other information deemed necessary by the Board, shall provide the basis for exempting such capital expenditures from review;

(3) A change in bed capacity of a health care facility which increases the total number of beds (or distributes beds among various categories, or relocates such beds from 1 physical facility or site to another) by more than 10 beds or more than 10 percent of total licensed bed capacity, whichever is less, over a 2-year period;

(4) The acquisition of major medical equipment, whether or not by a health care facility and whether or not the acquisition is through a capital expenditure, an operating expense or a donation. The replacement of major medical equipment

with similar equipment shall not be subject to review under this chapter. In the case of major medical equipment acquired by an entity outside of Delaware, the use of that major medical equipment within Delaware, whether or not on a mobile basis, is subject to review under this chapter. Major medical equipment which is acquired for use in a freestanding acute inpatient rehabilitation hospital, as defined in § 9302(4) of this title, a dispensary or first aid station located within a business or industrial establishment maintained solely for the use of employees or in a first aid station, dispensary or infirmary offering services exclusively for use by students and employees of a school or university or by inmates and employees of a prison is not subject to review.

(5) [Effective until Dec. 31, 2016]. Notwithstanding any other provision in this chapter to the contrary, any person who held, as of June 1, 2013, a certificate of public review issued by the Delaware Health Resources Board authorizing the construction of a 34-bed freestanding acute inpatient rehabilitation hospital in Middletown, Delaware, regardless of such certificate's date of expiration or whether the certificate has otherwise been challenged on appeal, shall not be required to obtain any additional certificate of public review pursuant to this chapter prior to the construction, development, or other establishment of freestanding acute inpatient rehabilitation hospital. Any acute inpatient rehabilitation hospital constructed, developed, or established pursuant to this section shall not have any license or authority to operate denied, revoked, or restricted on the grounds that a certificate of public review has not been obtained or has otherwise been challenged on appeal.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, §§ 5, 6; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 446, §§ 3-5; 72 Del. Laws, c. 64, §§ 1, 8-11; 75 Del. Laws, c. 192, §§ 5, 6; 76 Del. Laws, c. 87, § 1; 79 Del. Laws, c. 50, §§ 2, 3.; § 9305 Procedures for review.

Reviews under this chapter shall be conducted in accordance with the following procedures:

- (1) *Notices of intent.* — At least 30 days but not more than 180 days prior to submitting an application for review under this chapter, applicants shall submit to the Bureau a notice of intent in such form as may be determined by the Board to cover the scope and nature of the project. An application may be submitted less than 30 days from submitting the notice of intent only with the written approval of the Board. A notice of intent expires and is rendered invalid if no subsequent application for review is submitted to the Board within 180 days following the date on which the notice of intent is submitted.
- (2) *Applications for review.* — Application forms will be developed by the Board and may vary according to the nature of the application.
- (3) *Deadlines and time limitations.* — Upon receipt of an application under this chapter, the Bureau shall have a maximum of 15 business days to notify the applicant as to whether the application is considered complete. If complete, written notification in accordance with paragraph (4) of this section will be

provided. If incomplete, the applicant will be notified in writing of such determination and will be advised of what additional information is required to make the application complete. When the additional information is received, the Bureau again has a maximum of 15 business days to determine whether the application is complete. The same steps shall be taken as with the initial submission each time that additional information is required.

Except as provided below, the review of an application shall take no longer than 90 days from the date of notification as covered under paragraph (4) of this section. If a public hearing is requested under paragraph (6) of this section, the maximum review period will be extended to 120 days from the date of notification. Within 30 days from the date of notification (60 days if a public hearing is requested), the Board may extend the maximum review period up to 180 days from the date of notification. Such extensions shall be invoked only as necessary to allow the development of appropriate review criteria or other guidance when these are lacking or to facilitate the simultaneous review of similar applications. The maximum review period can also be extended as mutually agreed to in writing by the Board and the applicant.

In the case of a project required to remedy an emergency situation which threatens the safety of patients or the ability of the health facility to remain in operation, an abbreviated application shall be submitted in such format as the Board prescribes. As quickly as possible, but within 72 hours after receipt, the Board shall render a decision as to whether or not the project shall be treated as an emergency and whether or not the application shall be approved. The Chair or Vice Chair of the Board shall be authorized to render such decision and shall have discretion as to the decision making process.

(4) *Agency review; notification.* — Within 5 working days of determining that an application under this chapter is complete, the Bureau shall provide written notification of the beginning of a review. Such notification shall be sent directly to all health care facilities in the State and to others who request direct notification. A notice shall also appear in a newspaper of general circulation which shall serve as written notification to the general public. The date of notification is the date on which such notice appears in the newspaper. The notification shall identify the applicant, indicate the nature of the application, specify the period during which a public hearing in the course of the review as covered in subdivision (6) of this section may be requested, and indicate the manner in which notice will be provided of the time and place of any hearing so requested.

(5) *Findings.* — Upon completion of a review under this chapter, and within the time frames outlined in subdivision (3) of this section, the Bureau shall notify in writing the applicant and anyone else upon request as to the Board's decision, including the basis on which the decision was made. Decisions can be conditional, but the conditions must be related to the specific project in question.

(6) *Public hearing in the course of review.* — Within 10 days after the date of notification as described in subdivision (4) of this section, a public hearing in the

course of review may be requested in writing by any person. The Board shall provide for a public hearing if requested and shall provide notification of the time and place for such hearing in a newspaper of general circulation. The public hearing shall be held not less than 14 days after such notice appears in the newspaper. Fees shall not be imposed for such hearings. An opportunity must be provided for any person to present testimony.

(7) *Administrative reconsideration — Procedure for Board.* — Any person may, for a good cause shown, request in writing a public hearing for purposes of reconsideration of a Board decision rendered under subdivision (5) of this section. The Board may not impose fees for such a hearing. For purposes of this subdivision, a request for a public hearing shall be deemed by the Board to have shown good cause if it:

- a. Presents newly discovered, significant, relevant information not previously available or considered by the Board; and
- b. Demonstrates that there have been significant changes in factors or circumstances relied upon by the Board in reaching its decision; or
- c. Demonstrates that the Board has materially failed to follow its adopted procedures in reaching its decision.

A request for such a hearing must be received within 10 days of the decision. The hearing shall commence within 45 days of the request.

Notice of such public hearing shall be sent, not less than 15 days prior to the date of the hearing, to the person requesting the hearing and to the applicant, and shall be sent to others upon request. Following completion of the hearing, the Board shall, within 45 days, issue its written decision which shall set forth the findings of fact and conclusion of law upon which its decision is based.

(8) *Appeal — Applicant.* — A decision of the Board following review of an application pursuant to subdivision (5) of this section, an administrative reconsideration pursuant to subdivision (7) of this section, or the denial of a request for extension of a Certificate of Public Review pursuant to § 9307 of this title, may be appealed within 30 days to the Superior Court. Such appeal shall be on the record.

(9) *Access by public.* — The general public shall be provided access to all applications reviewed under this chapter and to all other written materials pertinent to any review of an application.

(10) *Filing fees.* — Within 5 working days of determining that an application under this chapter is complete, the Bureau shall notify the applicant of any filing fee due.

Filing fees shall be determined from the following table:

Capital Expenditures

Filing Fee

Less than \$500,000	\$100
\$500,000 to \$999,999	\$750
\$1,000,000 to \$4,999,999	\$3,000
\$5,000,000 to \$9,999,999	\$7,500
\$10,000,000 and over	\$10,000

Filing fees shall be due 30 days after the date of notification of the beginning of review as covered under subdivision (4) of this section. This due date may be extended up to 10 additional days at the discretion of the Bureau. Applications for which filing fees have not been paid within this time frame shall be considered to be withdrawn. All filing fees shall be deposited in the General Fund.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 68 Del. Laws, c. 29, § 7; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1; 75 Del. Laws, c. 192, §§ 7, 8; 76 Del. Laws, c. 87, § 2.; § 9306 Review considerations.

In conducting reviews under this chapter, the Board shall consider as appropriate at least the following:

- (1) The relationship of the proposal to the Health Resources Management Plan adopted pursuant to § 9303 of this title. Prior to adoption of a Health Resources

Management Plan by the Board, the State health plan last in use by the Health Resources Management Council shall comprise such plan;

- (2) The need of the population for the proposed project;
- (3) The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State;
- (4) The relationship of the proposal to the existing health care delivery system;
- (5) The immediate and long-term viability of the proposal in terms of the applicant's access to financial, management and other necessary resources;
- (6) The anticipated effect of the proposal on the costs of and charges for health care; and
- (7) The anticipated effect of the proposal on the quality of health care. 61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1.; § 9307 Period of effectiveness of Certificate of Public Review.

- (a) A Certificate of Public Review shall be valid for 1 year from the date such approval was granted.

(b) At least 30 days prior to the expiration of the Certificate of Public Review, the applicant shall inform the Board in writing of the project's status. The Board shall determine if sufficient progress has been made for the Certificate of Public Review to continue in effect. If sufficient progress has not been made, the applicant may request in writing, to the Board, that a 6-month extension be granted. The Board shall either allow the certificate to expire or grant such extension. A decision by the Board to deny an extension may be appealed pursuant to § 9305(8) of this title.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1.;

§ 9308 Sanctions.

(a) Any person undertaking an activity subject to review as described in § 9304 of this title, without first being issued a Certificate of Public Review for that activity, shall have its license or other authority to operate denied, revoked or restricted as deemed appropriate by the responsible licensing or authorizing agency of the State and an order in writing to such effect shall be issued by that licensing or authorizing agency.

(b) In addition to subsection (a) of this section, the Board or any adversely affected health care facility may maintain a civil action in the Court of Chancery to restrain or prohibit any person from undertaking an activity subject to review as described in § 9304 of this title without first being issued a Certificate of Public Review.

(c) A person who willfully undertakes an activity subject to review as described in § 9304 of this title and who has not received a Certificate of Public Review for that activity shall be fined not less than \$500 nor more than \$2,500 for each offense and each day of a continuing violation after notice of violation shall be considered a separate offense. The Superior Court shall have jurisdiction over criminal violations under this subsection.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, § 1.;

§ 9309 Surrender, revocation and transfer of Certificate of Public Review.

(a) A Certificate of Public Review may be surrendered by the holder upon written notification to the Board and such surrender shall become effective immediately upon receipt of the Board.

(b) A Certificate of Public Review may be revoked by the Board in the case of misrepresentation in the Certificate of Public Review application, failure to comply with conditions established by the Board pursuant to § 9303(d)(2) of this title, failure to undertake the activity for which the Certificate of Public Review was granted in a timely manner or loss of license or other authority to operate. Prior to revoking a Certificate of Public Review, the Board shall provide written notice to the holder of the certificate stating its intent to revoke the certificate and providing the

holder at least 30 days to voluntarily surrender the certificate or to show good cause why the certificate should not be revoked. No Certificate of Public Review shall be revoked by the Board without first providing the holder of the certificate an opportunity for a hearing. The Board's decision to revoke a Certificate of Public Review may be appealed pursuant to § 9305(8) of this title.

(c) No Certificate of Public Review issued under this chapter, and no rights or privileges arising therefrom, shall be subject to transfer or assignment, directly or indirectly, except upon order or decision of the Board specifically approving the same, issued pursuant to application supported by a finding from the evidence that the public to be served will not be adversely affected thereby.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 72 Del. Laws, c. 64, §§ 1, 12.;

§ 9310 Immunity.

No member, officer or employee of the Board, the Bureau or health care facility shall be subject to, and such persons shall be immune from, any claim, suit, liability, damages or any other recourse, civil or criminal, arising from any act or proceeding, decision or determination undertaken or performed, or recommendations made while discharging any duty or authority under this chapter, so long as such person acted in good faith, without malice, and within the scope of such person's duty or authority under this chapter or any other provisions of the Delaware law, federal law or regulations or duly adopted rules and regulations providing for the administration of this chapter, good faith being presumed until proven otherwise, with malice to be shown by the complainant.

61 Del. Laws, c. 393, § 1; 66 Del. Laws, c. 90, § 1; 69 Del. Laws, c. 251, § 1; 70 Del. Laws, c. 186, § 1.;

§ 9311 Charity care.

Any person subject to a CPR review pursuant to this chapter shall perform and accept within this State charity care to the extent required by the Board to those individuals who meet the criteria for rendering charity care established by the Board, and shall continue to provide charity care in each fiscal year as determined by the Board. The authority to enforce charity care requirements shall rest with the Department of Health and Social Services.

75 Del. Laws, c. 192, § 10; 76 Del. Laws, c. 87, § 3; 77 Del. Laws, c. 132, § 2.; §

9312 Charity care.

Transferred to § 9311 of this title by 77 Del. Laws, c. 132, § 2, effective July 8, 2009.

NOTICE OF INTENT (CERTIFICATE OF PUBLIC REVIEW)

1. Name of Applicant:

2. Address:

3. Telephone: Fax: Email:

4. Person to Contact:

5. Type of Ownership:

☐ Public

☐ Proprietary (Individual)

☐ Private Non-profit

☐ Proprietary (Partnership)

☐ Proprietary (Corporation)

6. Anticipated Date of Filing Application:

7. Estimated Capital Expenditure: \$

8. Please attach a brief Narrative (one page or less if possible) which describes the project.

9. STATEMENT OF CERTIFICATION:

The statements and information provided herein are true and correct to the best of my knowledge and belief.

Signature of Chief Executive Officer

Date

(Attachment II)

CERTIFICATE OF PUBLIC REVIEW APPLICATION

The purpose of this application is to obtain the information necessary to make a determination of need pursuant to Title XVI, Chapter 93 of the Delaware Code. It is in the Applicant's interest to expand upon the issues raised to the point necessary to demonstrate that need for the proposed project does exist.

The application contains three (3) sections:

- A. Background Information
- B. Review Considerations
- C. Schedules

STATEMENT OF CERTIFICATION:

The statements and information provided in this Certificate of Public Review Application are true and correct to the best of my knowledge and belief.

Signature of Chief Executive Officer

Date

A. BACKGROUND INFORMATION

1. Name of Applicant:
2. Address:
3. Telephone: Fax: Email:
4. Person to Contact:
5. Please attach a list of all officers and members of the governing board. If applicable, please attach a list of all individuals, corporations or other organizations having at least a 10% equity interest in the applicant organization.
6. If the acquisition of real estate is involved, attach a copy of sales or lease agreement. If zoning changes are necessary, please provide documentation that the Applicant is in the process of obtaining all necessary waivers and clearances from zoning authorities.
7. Does the Applicant have a contract with Blue Cross and Blue Shield of Delaware?
☐ Yes ☐ No
If not, do you intend to seek? ☐ Yes ☐ No
8. Has the Applicant retained (or intend to retain) a firm that provides overall management services on a contract basis? ☐ Yes ☐ No

If “Yes”, please show the name of the firm, the services it provides, the terms of the contract, and the rationale for this relationship:

9. Please attach a Schedule of Implementation. (Use separate sheet.)
10. Please include a copy of most recent annual audited financial statements.
11. Does the Applicant have a long-range plan? () Yes () No If “Yes”, include copy with this application if not previously submitted.

B. REVIEW CONSIDERATIONS

Please provide a narrative describing the project in as much detail as the Applicant feels appropriate to a proper understanding of the need for the project. The narrative should be written with an understanding that the application will be evaluated on the basis of the following statutory criteria:

The relationship of the proposal to the Health Resources Management Plan.

- The need of the population for the proposed project.
- The availability of less costly and/or more effective alternatives to the proposal including alternatives involving the use of resources located outside the State of Delaware.
- The relationship of the proposal to the existing health care delivery system.
- The immediate and long-term viability of the proposal in terms of the Applicant's access to financial, management and other necessary resources.
- The anticipated effect of the proposal on the costs of and charges for health care.
- The anticipated effect of the proposal on the quality of health care.

In the end though, the applicant should ensure that the project elements demonstrate financial viability, increase in availability and access and improve the quality of care, efficiency, appropriateness and adequacy of the service intended to be provided in the service area.

CONFORMITY OF PROJECT WITH REVIEW CRITERIA

1. The Health Resources Management Plan

- Please discuss the conformity of the project with the Health Resources Management Plan.

2. Need

- Population's need for proposed services. (Discuss in the narrative.)
- Please define the Applicant's service area and its population. (Include relevant patient origin data.)
- Summarize the relevant demographic data that contribute to a clearer understanding of the need for the service being proposed.
- Is need for the project evidenced by the extent of utilization of like and existing services in the service area?

- What utilization rates have the exiting providers been experiencing given their capacities?

3. Alternatives to the project

- Are there alternative providers of this service readily accessible to the user population? () Yes () No
If not, how is the population currently being served?
Include reference to specific providers that now offer the proposed service and include evidence that the impact of this project has been discussed with this provider(s).
- If “Yes”, please discuss in the narrative why this project does not duplicate these resources unnecessarily.
- Are these alternative providers more costly in the provision of the service?

4. Relationship to the existing health care delivery system

- What is the applicant’ s relationship to the existing health care delivery system?
- What is the anticipated impact on existing providers on the health care system?
- Has the Applicant established referral arrangements with other providers to ensure appropriate continuity of care, accessibility and related quality enhancing considerations? () Yes () No

If “Yes”, please name these providers and describe the nature of the arrangements.

5. Access to financial, management and other necessary resources

- Please demonstrate that you have resources, including health manpower, management personnel and funds for capital and operating expenditures to not only complete the project, but also keep it as a viable operation. Schedules 4, 7, 10,11,12,13 & 14 have been provided to assist you. These Schedules may also help you to assess the economic and financial viability of the project.

6. Effect of project on costs and charges of health care

Financial Impact (first full year of operations):

Estimated effect on annual operating expenses \$

Estimated effect on annual revenues \$

Estimated effect on individual charges \$

Please discuss the derivation of the above figures in the narrative.

Will the proposed project have an impact on the costs and charges of existing health services being provided within the health care system?

7. Project's effect on quality of health care

- Is the applicant certified by Medicare? () Yes () No
- If not, do you intend to seek? () Yes () No
- Is the applicant certified by Medicaid? () Yes () No
- If not, do you intend to seek? () Yes () No
- Is the Applicant accredited by the Joint Commission on the Accreditation of Healthcare Organizations or some other accrediting organization? () Yes () No
- If not, do you intend to seek? () Yes () No
- If "Yes", and some other organization, please indicate the name of the accrediting organization:

Other Review Considerations

- A. Will the project offer economies and improvements in the delivery of the service? Please describe.
- B. Will the project foster competition to promote quality assurance and cost-effectiveness? Explain in the narrative.

- C. Please tell us your history in Delaware of providing health services to the Medicaid patients and the medically indigent. In the absence of a history, do you propose to provide health services to that population? If so, how do you intend to reach that population?
- D. In what way(s) do you believe your past and or proposed provision of services promote a continuum of care in the health care system.
- E. Will this project enhance the health status of the user population?

If “Yes”, please elaborate in the narrative. If possible, please cross-reference the demographic data mentioned above and reference any quantitative/qualitative information, including: improvements in accessibility, availability, new technology, advances in medical science, mortality data, morbidity data, and utilization rates of similar services elsewhere.

- F. Will this project enhance the efficiency with which the health care needs of the user population are being met? () Yes () No

If “Yes”, please discuss in the narrative. If possible, cross-reference the financial data in the Schedules and make reference to any quantitative/qualitative data information including ; improvements in operating costs, the services as an alternative to more costly alternative, improvements in the financial stability of the Applicant, , more cost-effective delivery modes, etc.

- G. Has a financial feasibility study been performed? () Yes () No If “Yes” please attach a copy.
- H. Has the Applicant evaluated alternative uses to which these monies, personnel and other resources could be used and has the Applicant concluded that the proposal in this Application is a cost-effective expenditure designed to meet the health care needs of the population being served? () Yes () No .

If “Yes”, please discuss the evaluative process in the narrative.

- I. Has the Applicant evaluated alternative ways to obtain the facility change that is needed?
() Yes () No

If “Yes”, please discuss in the narrative the evaluative process, the alternatives that were considered and the rationale for selecting this alternative.

- J. Does the Applicant intend to employ energy conservation principles in the design or other aspects of construction? () Yes () No

If “Yes”, please detail in the narrative the nature of the energy conservation program.

If “No”, please outline reasons for exclusion.

K. Will the proposed construction eliminate any architectural barriers to the handicapped?

☐ Yes ☐ No

If "Yes", please discuss briefly in the narrative, the types of barriers to be eliminated.

L. Please attach a copy of any study or analysis which has been conducted and contributed to a decision to file this application.

C-Schedules

The schedules in Section-C should be completed where germane to the project being proposed or to the type of provider making application. The level of detail anticipated will vary from one type of provider to another.

Schedule 1 - PROJECT ELEMENTS

Use additional copies as needed.

A. Program Changes - (Please check where appropriate.)

Health Services Affected	New Service	Service Expansion	Merger	Closing Service

B. Facility Changes

Equipment and Functional Areas Affected	New Construction	Renovation	Lease	Purchase

Schedule 2 - OBJECTIVES OF THIS PROPOSAL

List the objectives of the program and facility changes proposed in this application in order of relative priority to the Applicant.

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

Schedule 3 - PROGRAM CHANGE

[illegible]

¹ For example: M/S bed, home health visits, laboratory tests.

² Expressed as patient days, tests, visits, etc. for most recent fiscal year.

³ For the first full year of operation following project completion.

Schedule 4 - STATEMENT OF REVENUES AND EXPENSES

Please provide the following information for each of the past two fiscal years and for the first two years of full operation of the proposed service. Please attach assumptions on which projections are based. Base projections in current dollars (no provision for inflation).

REVENUE	Year	Year	Year	Year
Gross Patient Revenue				
Less: Contractual Adjustments				
Indigent Care				
Uncollectibles & Other				
Net Patient Revenue				
Other Operating Revenue				
Net Operating Revenue				
OPERATING EXPENSES				
Salaries and Wages				
Fringe Benefits				
Purchased Services				
a) Direct Patient Care				
b) All Others				
Energy Costs				
Supplies				
Depreciation				
Interest				
Other (Specify)				
TOTAL OPERATING EXPENSE				
Gain (loss) from operation				
Non-Operating Revenue				
Unrestricted Gifts				
Unrestricted Income from Investments				
Sale of Securities or Other Unrestricted Assets				
TOTAL NON-OPERATING REVENUE				

NET GAIN (LOSS)				

Schedule 5 - SOURCE OF REVENUE

(Most recent audited fiscal year.)

A. TOTAL OPERATIONS			
Source		Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
B. IN-PATIENT ROUTINE (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Patient Days	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
C. IN-PATIENT ANCILLARY (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Tests/Procedures	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			

Schedule 5 - SOURCE OF REVENUE CONT'D

D. OUT-PATIENT ANCILLARY (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Tests/Procedures	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
E. OTHER OUT-PATIENT SERVICES (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			
F. EMERGENCY ROOM (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			

Schedule 5 - SOURCE OF REVENUE CONT'D

G. HOME HEALTH CARE (IF AFFECTED BY PROJECT AND AVAILABLE)			
Source	Visits	Gross Revenue (Charges)	Net Revenue
Blue Cross & Blue Shield of Delaware			
Other Commercial Insurance			
Medicare			
Medicaid			
Self Pay			
Other			
TOTAL			

SCHEDULE 6 - BED USE DATA

Please provide data below for three (3) most recent fiscal years, for services affected by the project.

Service	Year	Number of Beds	Percent Occupancy Rate	Number of Discharges	Number of Patient Days	Average Length of Stay
M/S						
OB						
PED						
ICU						
CCU						
PSYCH						
SNF/ICF						

SCHEDULE 6 - BED USE DATA (CONT'D)

Service	Year	Number of Beds	Percent Occupancy Rate	Number of Discharges	Number of Patient Days	Average Length of Stay
OTHER						
OTHER						
OTHER						
TOTAL						

SCHEDULE 7 - CHANGES IN STAFFING

For those services affected by this Project in which the staffing patterns are expected to change.

[illegible]

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* For first year of operation following completion of the Project and stated in current dollars. Do not include fringe benefits.

SCHEDULE 8 - LOCATION OF BEDS BY FLOOR/BUILDING

Affected Service	Location*	Present # of Beds	Additions	Deletions	Future # of Beds

* Please attach block diagrams identifying each building (or wing); label each (A, B, C, etc.). In Column 2 (Location) indicate where the beds are housed and the floor on which they are located (e.g., B-3). If a specific service (e.g., *M I S* beds) is located, for example, in four different locations there should be four separate entries.

SCHEDULE 9 - FACILITY CHANGE

Functional Areas Affected*	Present Square Feet	SQ Feet to be Constructed	SQ Feet to be Renovated	SQ Feet On Completion
Total				

* Example of functional areas are: Nursing Units, Laboratory, Doctor's Office, Lobby, Medical Records, Storage, etc.

SCHEDULE 10 - ESTIMATED CAPITAL EXPENDITURE

ITEM	DESCRIPTION	MINIMUM	MAXIMUM
1.1	Land Acquisition Costs		
2.2	Building Acquisition Costs		
2.3	Construction Contract (include bonding costs)		
	(a) Site Development		
	(b) Building Cost		
	(c) Sub-Total		
2.4	Fixed Equipment (not in contract)		
2.5	Movable Equipment		
2.6	Site Survey & Soil Investigations		
2.7	Architect/Engineering Fees		
	(a) Architect		
	(b) Engineering		
	(c) Construction Management		
	(d) On-Site Representative		
	(e) Planning		
	(f) Sub-Total		

2.8	Financing and Underwriting		
2.9	Construction Loan Interest (Interest Rate = %)		
2.10	Legal Fees (and other)		
2.11	Estimated Range of Capital Expenditure		

This Schedule should be filled out using cost estimates as of the date of Application, and should not include any provision for inflation.

The range should not exceed 20% (minimum - maximum).

There should be no allowances for contingencies.

SCHEDULE 11 - SOURCES OF FINANCING

1. **Applicant's Investment:**
- | | | | |
|--------------------------|----|--|-----|
| (a) Cash on hand | \$ | | |
| (b) Trust or other funds | \$ | | |
| (c) Fund raising | \$ | | |
| Other | \$ | | (d) |
2. **Grants/Gifts**
(e.g., large bequeath, foundation or government grant) \$ _____
3. **Borrowing:**
- (a)
- _____
- (Type)
- | | | | |
|-------------------|----|--|--|
| Principal: | \$ | | |
| Interest Rate: | | | |
| Terms: (in years) | | | |
- (b)
- _____
- (Type)
- | | | | |
|-------------------|----|--|--|
| Principal: | \$ | | |
| Interest Rate: | | | |
| Terms: (in years) | | | |
- (c)
- _____
- (Type)
- | | | | |
|-------------------|----|--|--|
| Principal: | \$ | | |
| Interest Rate: | | | |
| Terms: (in years) | | | |
4. **Maximum project cost** (Total of 1, 2 &3) \$ _____
5. **Annual Debt Service** (Interest and Principal) \$ _____

If the requisite debt service is other than the traditional level debt payments covering interest and principal, please attach a brief description of these terms.

If the proposed financing is to be used for start-up or other operating costs, please attach a brief narrative describing the extent of and rationale for this use.

SCHEDULE 12 - INDICATORS OF FINANCIAL FEASIBILITY

Please compute the following based upon most recent audited statement (please indicate year).

$$1. \quad \text{CURRENT RATIO} = \frac{\text{Current Assets}}{\text{Current Liabilities}} = \underline{\hspace{2cm}}$$

$$2. \quad \text{DEBT OF WORTH} = \frac{\text{Long Term Debt}}{\text{Total Assets}}$$

$$3. \quad \text{EQUITY RATIO} = \frac{\text{Total Net Worth}}{\text{Total Assets}} = \underline{\hspace{2cm}}$$

$$4. \quad \text{CASH FLOW} = \frac{\text{Net Patient Revenue}}{\text{Net Accounts Receivable}} = \underline{\hspace{2cm}}$$

$$5. \quad \text{DEBT RATIO} = \frac{\text{Bad Debts BAD}}{\text{Gross Patient Revenue}} = \underline{\hspace{2cm}}$$

$$\text{Gross Patient Revenue} = \underline{\hspace{2cm}}$$

SCHEDULE 13 -DEBT SERVICE COVERAGE

		Most recent 2 years		Projected*	
		19	19	19	19
(1)	Revenue minus expenses:				
(2)	Interest:				
(3)	Depreciation (annual):				
(4)	Cash available for debt service (total of 1, 2 &3):				
(5)	Total Debt Service				
(6)	Debt Service Coverage Ratio (4 divided by 5):				

* First two years impacted by debt service associated with this project.

SCHEDULE 14 - PRESENT LONG TERM DEBT

[illegible]

* If Repayment Amount is other than periodic interim payments of equal amount, outline the terms in attached narrative.

If proposed borrowing is to include refinancing of all or part of the above, so indicate in space below.

SCHEDULE 15 - DETAILED EQUIPMENT LISTING

Please list each piece or related series of capital equipment in the table below. If the cost of individual or related series of equipment exceeds \$100,000, or constitutes a “new health service”, detail the use to which the equipment will be put in the attached narrative and attach the purchase/lease agreement, if available. If the equipment is a replacement and exceeds \$100,000, please explain why existing equipment is no longer adequate in attached narrative.

Item	Nature of the Equipment	Estimated Useful Life	Quantity	Price Each	Total Price	Total Lease Cost per Year
1.						
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						
11.						
12.						
13.						
14.						
15.						

* For example: for new beds -- 40 @ \$4,000.

DOCUMENTATION FOR APPROVAL OF “EMERGENCY SITUATION”
--

1. Name of Applicant:
2. Date of initial contact with the Delaware Health Care Commission/Delaware Health Resources Board
3. Please attach a brief statement describing the nature of the “Emergency Situation.”
4. Please attach a brief statement explaining how the “Emergency Situation” is proposed to be remedied, including the estimated capital cost involved.
5. Was an architect, engineer, or other consultant retained to assist the Applicant?
() Yes () No

If “yes”, please include copies of reports, recommendations, etc., issued by these consultants.
6. What is the expected date of completion of any necessary repairs?
7. Will the Applicant be filing a subsequent application to undertake more extensive capital expenditures to resolve this situation?
() Yes () No
8. STATEMENT OF AFFIRMATION:

The Signatory hereby affirms that the conditions affected by this Application represent an “Emergency Situation” which threatens the safety of patients and/or the ability of the health facility to remain in operation.

Signature of Chief Executive Officer

Date

E-1



**STATE OF DELAWARE
DELAWARE HEALTH CARE COMMISSION**

MARGARET O'NEILL BUILDING
410 FEDERAL STREET, SUITE 7, DOVER, DE 19901
TELEPHONE: (302) 739-2730
FAX: (302) 739-6927
www.dhss.delaware.gov/dhcc

**BYLAWS OF

DELAWARE HEALTH RESOURCES BOARD**

Adopted: February 27, 1995
Updated: October 13, 2016

Article I

Name, Place of Business, Purpose, Duties and Responsibilities

Section 1. Name-The name of this organization shall be the Delaware Health Resources Board, hereafter referred to as 'the Board'.

Section 2. Place of Business-The place of normal business of the Board shall be the Department of Health and Social Services, Delaware Health Care Commission, Dover, Delaware.

Section 3. Purpose -The purpose of the Board is to promote the cost effective and efficient use of health care resources while striving to ensure the availability of and access to high quality and appropriate health care services.

Section 4. Duties and Responsibilities -The duties and responsibilities of the Board are set forth 16 *Del. C. § 9303* and shall include, but not be limited to the following:

- a. Develop a Health Resources Management Plan which shall assess the supply of health care resources, particularly facilities and medical technologies, and the need for such resources.
- b. Review and make decisions regarding Certificate of Public Review (CPR) applications filed pursuant to this chapter.
- c. Gather and analyze data and information needed to carry out its responsibilities.
- d. Address specific health care issues as requested by the Governor or the General Assembly.
- e. Adopt bylaws as necessary for conducting its affairs.
- f. Coordinate activities with the Delaware Health Care Commission, the Department of Health and Social Services and other groups appropriate.

Article II

Membership, Compensation

Section 1. Membership - The Board shall consist of 15 members appointed by the Governor. Appointments shall be for 3-year terms, except that the initial appointment of an individual may be less than 3 years so that one- third of the terms expires each year. Members shall serve no more than 2 full terms consecutively provided that the terms of newly appointed members will be staggered so that no more than 5 appointments shall expire annually. The Governor may appoint members for terms of less than 3 years to ensure that the board members' term expire on a staggered basis. The membership shall be comprised in accordance with the provisions of 16 *Del. C. § 9303*.

Section 2. Compensation - Members of the Board shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties, to the extent that funds are available and the expenditures are in accordance with State laws.

Article III

Section 1. Section and Title- The Board shall consist of:

- a. Chair
- b. Vice Chair
- c. 13 other members

The Governor shall appoint one member of the Board to serve as Chair and one member to serve as Vice Chair. Both the Chair and Vice Chair shall be appointed from among the four representatives of the public-at-large. HCC staff shall serve as staff support to the Board. The Director of Policy and Planning of the HCC shall function as the Administrator Director to the Board.

Section 2. Powers and Duties of the Board Members and Staff - The powers and duties of the members of the Board and staff shall be as follows:

a. Chair - The Chair shall preside at all meetings of the Board except the Chair may under certain circumstances designate another member to preside at a particular meeting or at a certain part of a meeting. The Chair shall cause to be called regular and special meetings of the Board in accordance with these bylaws. The Chair shall perform such other duties as the Board, from time to time, shall designate.

b. Vice Chair - In the absence of the Chair, the Vice Chair shall have all of the powers and duties of the Chair. The Vice Chair shall perform such other duties as the Board, from time to time, shall designate.

c. HCC staff - The HCC staff which support the Board shall keep or cause to be kept the minutes of the meetings of the Board, in an appropriate manner, and shall be custodian of the records. In the absence of both the Chair and Vice Chair, the Executive Director from the Health Care Commission may designate a Board member to preside at a particular meeting or at a certain part of a meeting. HCC staff shall keep or cause to be kept a record, alphabetically arranged, showing the names of the Board members, their addresses and the respective dates of their appointment as members of the Board. HCC staff shall provide reasonable access by the general public the Board's records. HCC staff shall perform other duties such as conduct research for use by the Board in evaluating applications, provide staff expertise on the CPR process, track multiple processes and deadlines associated with Board activities, staff Review Committee meetings and prepare reports.

Article IV

Meetings

Section 1. Public Interest and Involvement - It is the policy of the Board to encourage public interest and involvement. The Board shall operate in accordance with [Title 29, Chapter 100](#). of the Delaware Code (Freedom of Information Act).

Section 2. Regular Meetings of the Board - Regular meetings of the Board will be held bi-monthly (every two months). There shall be no less than four regular meetings each calendar year. HCC staff shall send out a written notice of each regular meeting, to all members of the Board.

Section 3. Special Meetings of the Board - Special meetings of the Board may be called by the

Chair at any time and shall be called by the Chair upon written request of any 8 out of the 15 members of the Board. HCC staff shall send out a written notice of each special meeting, stating the purpose for which it is called to all members of the Board.-Such notice shall be sent to each member at least seven (7) days prior to the meeting.

Section 4. Parliamentary Procedures for Board Meetings - Parliamentary procedures at all meetings of the Board shall be in accordance with Roberts' Rules of Order.

Section 5. Quorum -The presence of at least 50 percent of the members of the Board shall constitute a quorum. There are 15 seats on the Board. A quorum must be a majority of the actual number of seats on the Board. Eight members present are needed for a quorum.

Section 6. Voting - All members are entitled to one vote on matters brought before the Board except when the member has a conflict of interest. The disqualification of a member from voting or a member abstaining from voting shall not affect the quorum. All matters, except as provided for in Article VI of these bylaws, shall be decided by a majority of the members present and voting. Members who abstain from voting on a particular matter are considered "present and voting" for purposes of determining a majority.

Section 7. Attendance at Meetings - The Board may request the Governor to declare a vacancy for any member who is absent from three consecutive meetings upon the recommendation of the membership. The Governor may at any time, after notice and hearing, remove any board member for gross inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office. A member shall be deemed in neglect of duty if they are absent from 3 consecutive board meetings without good cause or if they attend less than 50% of board meetings in a calendar year.

Section 8. Conflict of Interest-- Board members shall comply with [Title 29, Chapter 58](#) of the Delaware Code (State Ethics Code). A Board member may not participate in the review or disposition of any matter in which he has a conflict of interest except to respond to questions from another Board member or any other person with official responsibility with respect to the matter. A Board member has a conflict of interest with respect to any matter when:

- a. Any action or inaction would result in a financial benefit or detriment to accrue to the Board member or a close relative (parents, spouse, children or siblings) to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
- b. The Board member or close relative has a "financial interest" in a private enterprise (whether profit or not for profit) which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise. A person has a "financial interest" in a private enterprise if: (1) He has a legal or equitable ownership interest in the enterprise of more than 10% (1% or more in the case of a corporation whose stock is regularly traded on an established securities market); (2) He is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or (3) He is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more

in the case of a corporation whose securities are regularly traded on an established securities market).

- c. A Board member shall declare his conflict of interest at the earliest practicable time after learning of such conflict.

Article V

Committee, Task Forces

Section 1. Appointment of Committees or Task Forces -- The Board may create such committees, task forces, or such other work or study groups at any time as may be appropriate to assist in the conduct of the affairs of the Board. Such committees or task forces shall be appointed by the Chair and may include in their membership persons other than members of the Board. Such committees or task forces shall operate accordance with Title 29, Chapter 100 of the Delaware Code (Freedom of Information Act).

Article VI

Amendments

Amendments to the Bylaws - These Bylaws may be altered, amended, repealed or added to at any regular meeting or special meeting of the Board called for that purpose, providing that ten (10) days written notice shall have been sent to each member. Such notice shall describe, at least in general terms, the alterations, amendments, or changes which are proposed to be made in the Bylaws. Public Notice shall be provided in accordance with Title 29, Chapter 100 of the Delaware Code (Freedom of Information Act). Changes shall become effective upon the affirmative vote of at least 50 percent of Board members.

HEALTH RESOURCES BOARD MEMBERS

Number of Board Members	Name Address	Professional or Public member	Position Held	Profession or Occupation	Original Appointment Date and Term Expiration
1	Brett Fallon Hockessin, DE	Public Member	Chair at Large	Morris James, LLC Attorney	Original Appointment 12/4/2017 Expiration Date
N/A	Vacant as of 10/27/2015	The Governor shall designate a Vice Chair from among the members of the Board	Vice Chair	Vacant as of 10/27/2015	Vacant as of 10/27/2015
2	Edwin Barlow New Castle, DE	Public Member	Public at Large	Retired	Original Appointment 3/22/2018 Expiration Date 3/22/2021
3	Theodore Becker Lewes, DE	Professional Member	Representative of the Delaware Health Care Commission	Mayor of Lewes	Original Appointment 9/9/2016 Expiration Date 9/9/2019
4	Michael Hackendorn Middletown, DE	Professional Member	Representative of Labor	UA local 74, President	Original Appointment 8/16/2017 Expiration Date 8/16/2020
5	Leighann Hinkle Camden-Wyoming DE	Professional Member	Representative involved in purchasing health care coverage on behalf of State employees	Deputy Director, Statewide Benefits Office, DHR	Original Appointment 2/27/2014, Reappointment 12/01/2017 Expiration Date 12/01/2020
6	Vincent Lobo, Jr. D.O. Bethany Beach, DE	Professional Member	Representative licensed to practice medicine in Delaware	Physician	Original Appointment 7/17/2013 Expiration Date 10/18/2013
7	Elizabeth Brown, M.D. Philadelphia, PA	Professional Member	Representative from State of Delaware Department of Health and Social Services	DHSS - Medical Director for DMMA	Original Appointment 02/27/2020 Expiration Date 02/27/2023
8	Vacant as of 10/31/2019	Professional Member	Representative of a provider group other than hospitals, nursing homes or physicians	Vacant as of 10/31/2019	Vacant as of 10/31/2019
9	Julia O' Hanlon Wilmington DE 19803	Public Member	Public at Large	University of Delaware, Policy Researcher	Original Appointment 8/16/2017 Expiration Date 12/8/2018
10	Pamela Price Wilmington, DE	Professional Member	Representative of the health insurance industry	Highmark, Senior Government Affairs Representative	Original Appointment 7/31/2019 Expiration Date 7/31/2022
11	Margaret Strine Hockessin, DE	Public Member	Public at Large		Original Appointment 9/30/2019 Expiration Date 9/30/2022
12	Mark Thompson Dover, DE	Professional	Representative with knowledge and professional experience in health care administration	Medical Society, Executive Director	Original Appointment 10/18/2012 Expiration Date 10/18/2013
13	John Walsh Rehoboth Beach, DE	Public Member	Public at Large	Retired	Original Appointment 10/18/2012 Expiration Date 10/18/2015
14	Cheryl Heiks Wilmington, DE	Professional Member	Representative with knowledge and professional experience in long-term care administration	Delaware Healthcare Facilities Association, Executive Director	Original Appointment 10/7/2019 Expiration 10/7/2022
15	Vacant as of 10/18/2012	Professional Member	Representative involved in purchasing health care coverage for employers with more than 200 employees	Vacant as of 10/18/2012	Vacant as of 10/18/2012

Shaded areas indicate that a meeting was not held.

X indicates member was absent.

NA indicates member was not a member of the board, see the notes column for additional info.

DELAWARE HEALTH RESOURCES BOARD MEETING ATTENDANCE 2019

MEMBER NAME	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total Absences	Notes:
BRETT FALLON, CHAIR											X	X	2	
LYNN MORRISON	X					X			X		NA	NA	3	left board in Oct 2019
LEIGHANN HINKLE	X								X				2	
MARGARET STRINE	NA	NA				NA		NA					0	appointed 9/30/2019
D.R. VINCENT LOBO	X							X				X	3	
MARK THOMPSON								X			X	X	3	
PAMELA PRICE	NA	NA				NA			X				1	appointed 7/31/2019
JOHN WALSH													0	
MICHAEL HACKENDORN	X	X				X							3	
JULIA O'HANLON	X					X							2	
CAROLYN MORRIS	X												1	
EDWIN BARLOW													0	
TED BECKER												X	1	
CHERYL HEIKS	NA	NA				NA		NA	NA				0	appointed 10/07/2019

March meeting cancelled - no new business to conduct.

April meeting cancelled - no new business to conduct.

May meeting cancelled - no quorum.

July meeting cancelled - no quorum.

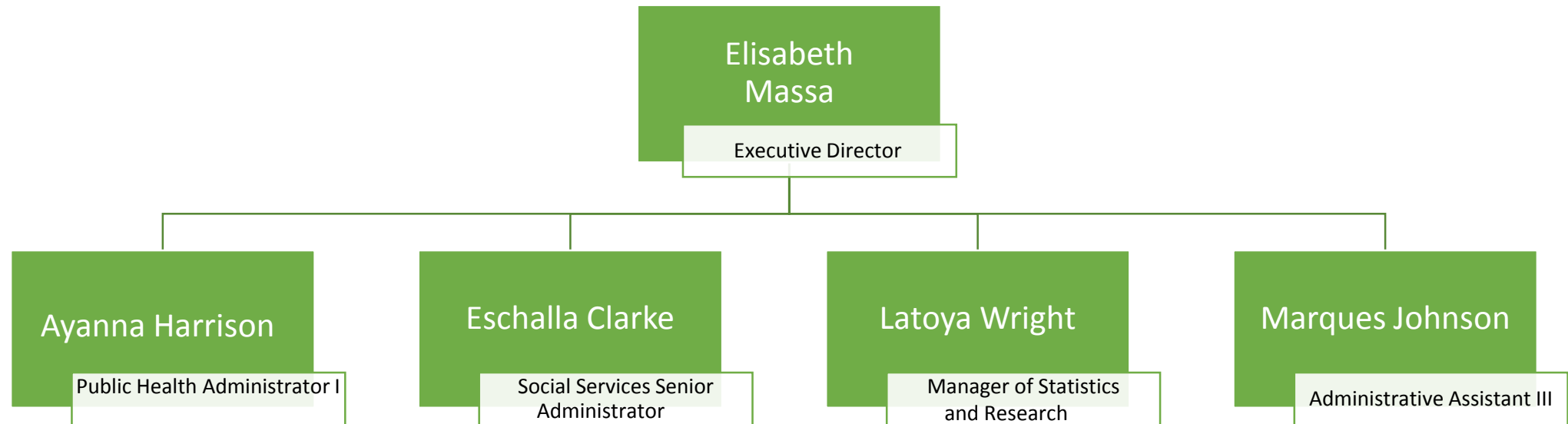
October meeting cancelled - no quorum.

DELAWARE HEALTH RESOURCES BOARD MEETING ATTENDANCE 2020

MEMBER NAME	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total Absences	Notes:
BRETT FALLON, CHAIR														
LEIGHANN HINKLE														
MARGARET STRINE														
D.R. VINCENT LOBO	X												1	
MARK THOMPSON														
PAMELA PRICE														
JOHN WALSH														
MICHAEL HACKENDORN														
JULIA O'HANLON														
ELIZABETH BROWN, M.D.	NA													appointed 02/27/2020
CHERYL HEIKS														
EDWIN BARLOW														
TED BECKER														

February meeting cancelled - no quorum.

Delaware Health Care Commission Staff





! Current Suspected Overdose Deaths in Delaware for 2020: 62 [Get Help Now!](#)

! Join us in March for Regulatory Review Town Hall meetings in all three counties. [More Info](#)



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CPR Procedures

1. Applicant files Notice of Intent, found within the CPR Application Kit.
 2. Applicant files application. When application is determined to be complete, there is notification of the beginning of the review (Public Notice, etc.).
 3. At the first meeting of the Delaware Health Resources Board after an application is determined complete, there is an overview presentation by the applicant and an opportunity for questions. At this meeting the application is assigned as a staff review or a Review Committee is appointed.
 4. If a public hearing is requested, this is conducted by Review Committee.
 5. Review Committee meets with the applicant and deliberates as necessary to formulate a recommendation to the Board.
 6. Review Committee report is submitted to the Board. The Board makes the decision.
- From the date of notification referred to in step 2 above, generally the maximum review period is 90 days. There are exceptions, such as a public hearing is requested or it is mutually acceptable to the Board and the applicant.



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Delaware Health Resources Board

The Delaware Health Resources Board (HRB) Certificate of Public Review (CPR) program, like other national Certificate of Need (CON) programs, originated to regulate the number of beds in hospitals and nursing homes and essentially prevent excessive purchasing of expensive equipment. Per the Joint Sunset Committee 2012 Final Report the Delaware Health Resources Board (HRB) transitioned from the Division of Public Health to the Department Health and Social Services, Office of the Secretary, the [Delaware Health Care Commission](#) (HCC). The HCC provides the administration and staffing for the board and the CPR program which is regulated through the Delaware Code [16 Del. Code 9301](#). The primary goal for the CPR process is to control health care cost through a formal review process used to ensure public scrutiny of certain health care developments in the state. These reviews are focused on balancing concerns for access, cost and quality. A Letter of Intent begins the CPR process and interested applicants will find the entire process, start to finish, on this website.

Featured News

- [Health Resources Management Plan \(HRMP\) Final Draft](#) incorporating public comments, as approved by the Health Care Commission on July 6, 2017.
 - [Public comments](#) derived from the Registrar of Regulation process.
- Delaware Regulations: Monthly Register of Regulations: [Delaware Health Resources Management Plan](#).

Certificate of Public Review Application Information

- [Health Resource Management Plan \(Printable PDF\)](#)
- [Guiding Principles](#)
- [CPR Procedures](#)
- [Requirements for a CPR](#)
- [Major Medical Equipment](#)
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- [Letter of Intent Submission Form](#)
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Guiding Principles

The following general principles are intended to assist potential Certificate of Public Review (CPR) applicants in understanding the Board's expectations and also to assist the Board itself in conducting CPR reviews, particularly in matters where specific guidelines are lacking.

- The essential challenge faced by the Board is striking an appropriate balance in its consideration of access, cost and quality of care issues. Evidence that this challenge has been seriously embraced by the applicant should permeate every CPR application.
- The problem of medical indigency is extremely complex. The Delaware Health Care Commission continues to provide leadership in this area. CPR applicants are expected to contribute to the care of the medically indigent.
- Historically, health care delivery has too often been episodic and disjointed. Projects which support a managed, coordinated approach to serving the health care needs of the person/population are to be encouraged.
- Given Delaware's small size and close proximity to major metropolitan referral centers, particularly in Philadelphia and Baltimore, every health care service need not be available within its borders. Potential CPR applicants are expected to take into account the availability of out-of-state resources.
- Historically, our cost-based reimbursement system has provided little incentive for financial restraint; over-

CPR applicants are expected to take into account the availability of out-of-state resources.

- Historically, our cost-based reimbursement system has provided little incentive for financial restraint; over-utilization has been encouraged. Revenue centers, not cost centers, were generally emphasized. Projects which reflect or promote incentives for over-utilization (including self-referral) are to be discouraged.
- Strengthening market forces is a central theme in the health care reform strategy adopted by the Delaware Health Care Commission, a theme which is embraced by the Board. Projects resulting from or anticipated to enhance meaningful markets are to be encouraged. In the past, "competition" has often been on the basis of amenities for physicians (the medical arms race) and patients (the plushest waiting room). In meaningful markets there must be a sensitivity to elements of both cost and quality.
- Prevention activities such as early detection and the promotion of healthy lifestyles are essential to any effective health care system. The [Choose Health Delaware State Health Care Innovation Plan](#) identifies a number of opportunities to improve the health status of Delawareans. The potential for a project to bring about progress in these areas will be viewed as a very positive attribute.



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Requirement for a Certificate of Public Review

In Delaware, a Certificate of Public Review (CPR) is required for the following activities:

1. The construction, development or other establishment of a health-care facility or the acquisition of a nonprofit health-care facility.
2. Any expenditure by or on behalf of a health care facility, not including a medical office building, in excess of \$5,800,000, which is considered a capital expenditure. Expenditures in excess of \$5,800,000 may be exempt from review if they are necessary to maintain the physical structure of a facility and are not directly related to patient care.
3. A change in bed capacity of a health care facility which increases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical or site to another) by more than 10 beds or is more than 10% of total licensed bed capacity, whichever is less, over a 2-year period.
4. The acquisition of **major medical equipment**; does not include the replacement of major medical equipment nor major medical equipment acquired by a business or industrial establishment for a dispensary or first aid station, for use by students, employees of a school or university or by inmates and employees of a prison.

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Major Medical Equipment

Title 16, Chapter 93 of the Delaware Code requires that a Certificate of Public Review be obtained prior to the acquisition of "major medical equipment." This requirement is irrespective of whether the acquisition is made by a "health care facility."

Major medical equipment is defined as follows:

A single unit of medical equipment or a single system of components with related functions which is used for the diagnosis or treatment of patients and which:

1. Entails a capital expenditure as set forth in this chapter which exceeds \$5,800,000 or some greater amount which has been designated by the Board following an annual adjustment for inflation;
2. Represents medical technology which is not yet available in Delaware; or
3. Represents medical technology which has been designated by the Board as being subject to review.

The following medical technologies have been designated by the Delaware Health Resources Board as being subject to review per (3.) above:

- Cardiac Catheterization
- Megavoltage Radiation Therapy
- Extracorporeal Shock Wave Lithotripsy
- Positron Emission Tomography (PET)

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CPR Criteria

Certificate of Public Review Statute

As stated in the **16 Del. Code §9301**, the purpose of the HRB is to assure that there is continued public scrutiny of certain health care developments which could negatively affect the quality of health care or threaten the ability of health care facilities to provide services to the medically indigent. Through the efforts of the HRB, the state focuses on balancing concerns for cost, access, and quality that is in the best interest of Delawareans. In conducting reviews under the HRMP, the HRB must consider seven (7) statutorily mandated criteria:

1. Relationship of the Proposal to the Health Resources Management Plan;
2. The Need of the Population for the Proposed Project;
3. The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the state;
4. The Relationship of the Proposal to the Existing Health Care Delivery System;
5. The immediate and long-term viability of the proposal in terms of the applicant's access to financial management and other necessary resources;
6. The Anticipated Effect on the Proposal on the Costs of and Charges for Health Care;
7. and The anticipated effect of the proposal on the quality of health care.

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Certificate of Public Review Application Fees

Certificate of Public Review applications must be accompanied by an application filing fee. Pursuant to Chapter 93 Health Planning and Resources Management, §9305, application fees shall be determined from the following table:

Capital Expenditures	Application Fee
Less than \$ 500,000	\$100
\$500,000 to \$999,999	\$750
\$1,000,000 to \$4,999,999	\$3000
\$5,000,000 to \$9,999,999	\$7500
\$10,000,000 and over	\$10,000

Filing fees shall be due 30 days after the date of notification of the beginning of review as covered under §9305 subdivision (4). This due date may be extended up to 10 additional days at the discretion of the Bureau. Applications for which filing fees have not been paid within this time frame shall be considered to be withdrawn. Make checks payable to: Treasurer, State of Delaware and remit to the Delaware Health Care Commission, 410 Federal Street, Suite 7, Margaret O'Neill Building, Third Floor, Dover, DE 19901

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Frequently Asked Questions(FAQs)

1. What activities are subject to Certificate of Public Review?

The activities subject to review are : The construction, development or other establishment of a health care facility or the acquisition of a nonprofit health care facility; Any expenditure by or on behalf of a health care facility in excess of \$5,800,000, or some greater amount; A change in bed capacity of a health care facility which increases the total number of beds (or distributes beds among various categories, or relocates such beds from 1 physical facility or site to another) by more than 10 beds or more ; The acquisition of major medical equipment, whether or not by a health care facility and whether or not the acquisition is through a capital expenditure, an operating expense or a donation. The replacement of major medical equipment with similar equipment shall not be subject to review under this chapter. For more information visit the HRB website at: www.dhss.delaware.gov/dhss/dhcc/hrb/cprphome.html.

2. How do I file a Certificate of Public Review application?

Notice of Intent must be submitted at least 30 days but not more than 180 days prior to submitting an application. The Notice of Intent and CPR Application can also be found within the [CPR Application Kit](#).

3. What is the entire process for submitting a Certificate of Public Review application and how long does it take?

Notice of Intent starts the process and must be filed first followed by a subsequent application. The CPR process and deadlines/time limitations can be found in the Title 16 Statute at delcode.delaware.gov/title16/c093/index.shtml.

4. What are the application fees to file a CPR application?

The application fees to file an application are:

Capital Expenditures

- Less than \$500k = \$100
- \$500k to \$999,999 = \$750
- \$1,000,000 to \$4,999,999 = \$3,000
- \$5,000,000 to \$9,999,999 = \$7,500
- \$10,000,000 and over = \$10,000

5. How are the applications determined?

The applications are reviewed in accordance to review considerations pursuant to [Title 16 Statute §9306](#).

6. Who do I contact to find out information about my Certificate of Public Review application?

To find out information about your application please contact the Health Resources Board Staff at the Delaware Health Care Commission or call 302-739-2730.

7. How do I obtain a copy of a CPR application filed by other facilities?

You can obtain a copy of a CPR application filed by contacting the Health Care Commission's office at 302-739-2730.

8. Are Assisted Living Facilities subject to the Certificate of Public Review process?

No, Assisted Living Facilities are not subject to the CPR process. More information on activities subject to review can be found at: delcode.delaware.gov/title16/c093/index.shtml.

9. How do I withdraw a CPR application?

To withdraw a CPR application, please submit the request in writing to the Delaware Health Care Commission, Health Resources Board, 410 Federal Street Suite 7, Margaret O'Neill Building, Dover, DE 19901.

10. Where do I submit my documentation to file a Certificate of Public Review application?

Documentation to file a Certificate of Public Review application can be submitted to the Delaware Health Care Commission, Health Resources Board, 410 Federal Street Suite 7, Margaret O'Neill Building, Dover, DE 19901.

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Program Contact Information

Certificate of Public Review Statute

All HRB correspondence, forms and applications* should be sent to the Delaware Health Care Commission/Delaware Health Resources Board at the following address:

Delaware Health Care Commission

Delaware Health Resources Board
Margaret O'Neill Building
410 Federal Street, Suite 7
Dover, Delaware 19901

*Application submissions require one (1) hard copy of the completed application via USPS, FedEx or UPS with an original signature, plus one (1) electronic version (CD).

Phone, Fax and Email Contact:

Main Office: (302) 739-2730

Fax: (302) 739-6927

Email*: DHCC@delaware.gov

HRB Staff from the Health Care Commission:

- Latoya Wright: Latoya.Wright@delaware.gov
Manager of Statistics and Research
- Elisabeth Massa: Elisabeth.Massa@delaware.gov
Executive Director

NOTICE OF INTENT
CERTIFICATE OF PUBLIC REVIEW

1. Name of Applicant: _____
2. Address: _____
3. Telephone: _____ Fax: _____ Email: _____
4. Person to Contact: _____
5. Type of Ownership:

☐ Public ☐ Proprietary (Individual)
☐ Private Non-profit ☐ Proprietary (Partnership)
☐ Proprietary (Corporation)
6. Anticipated Date of Filing Application: _____
7. Estimated Capital Expenditure: \$ _____
8. Please attach a brief Narrative (one page or less if possible) which describes the project.
9. STATEMENT OF CERTIFICATION:

The statements and information provided herein are true and correct to the best of my knowledge and belief.

Signature of Chief Executive Officer

Date

**Delaware Health Resources Board
Review Committee Meeting Minutes
Tuesday, August 27, 2013 10:00 AM
Margaret O'Neill Building
Second Floor Conference Room
410 Federal Street, Dover DE 19901**

Review Committee Members Present:

Harold Stafford, William Love, Mark Thompson.

Also Present:

Jason Sinclair, John Van Gorp, John Zhang, Bonnie Perratto.

Staff Present:

Rae Mims; Jill Rogers; and Latoya Wright.

Call to Order and Welcome

The meeting of the Health Resources Board Review Committee was called to order at 10:06 a.m. by Harold Stafford, Review Committee Chair.

Opening Comments

Harold Stafford welcomed everyone to the meeting. It was mentioned that the Review Committee would discuss the questions submitted to Bayhealth and their responses.

Review and discussion of questions from the Health Resources Board on Bayhealth Medical Center's application

The questions and responses are:

- 1) Please provide projections for ICU need as well as for bed types already provided.

Jill mentioned that in the Review Committee binder there is a cover sheet that has the answers to the questions. Jason Sinclair asked if Bayhealth should respond to any questions at this time and it was stated that the Review Committee would discuss the questions and responses among themselves. The PowerPoint presentation shows a graph for Kent General Occupancy Rates by Bed Type for fiscal years 2010-2013. There was a question concerning the projected occupancy rates showing a projected decline. Jill mentioned that there were questions from the Board Members surrounding assumptions and projections. Rae Mims clarified that the Review Committees are strictly for deliberations within the Review Committee members. These meetings are not for discussions with the applicant directly. It was also mentioned that some of the information in question 1 is explained in question number 2.

- 2) Please expand the chart on page 3 to provide average observation stay with demographic breakdowns. Please also provide average daily census for observation services with seasonal variations.

It was discussed that the Women's services and Pediatrics were combined together with a decline rate, however the General Med/Surg and Intensive Care (ICU) rates were increasing. The goal is to gather more detail surrounding the Women's Services/Pediatrics occupancy rates. The Review Committee members suggested that Bayhealth separate these two categories as well as provide historical data with detail concerning these rates. Also present data for observation days. This will be a follow up request to Bayhealth for the next Review Committee Meeting on 9/4/13.

Bill Love asked a question concerning the differences in the projections from the Health Resources Board and Bayhealth's projections. Bill Love requested clarification on the surplus of beds. It was mentioned that there was a surplus of beds according to the Health Resources Management Plan. In reviewing Bayhealth's observation days and peak hours; it was stated that Bayhealth has a different projection in bed need which needs to be addressed before making a recommendation on a decision to the Health Resources Board. Jill Rogers mentioned the Health Resources Board is required to follow the guidelines according to the Health Resources Management Plan. The disparity of the differences of projections according to Bayhealth and the Board should be reconciled.

- 3) Please provide more detail regarding bed projection methods, assumptions and projections on page 4.

Mark Thompson mentioned there was an issue concerning data sources. The response to question 3 was read out loud to the Committee Members, it states:

The majority of the assumptions relevant to the bed need projection numbers that were included on page 4 of the presentation are deeply ingrained in an excel based file that does not lend itself to being easily shared in hard copy fashion. Since this file is the case, it is Bayhealth's desire and intent to provide more detail regarding these assumptions in an electronic format during the meeting scheduled on the 27th of August.

Harold Stafford recommended sending the response to question 3 in an electronic file to Latoya Wright and Jill Rogers. John Van Gorp mentioned the electronic file would have multiple tabs and he was not sure if it could be understood by someone reading the material. He stated he would be happy to display that information in detail in a meeting format.

Jill mentioned that from her understanding for calculating the data, that Bayhealth would provide a method's document or methodology to accompany the statistical data.

Bill Love suggested that it would be helpful to review Bayhealth's application and review their calculations on page 4 of the narrative in the application, their methodology and high occupancy rates to gain a better prospective. Mark Thompson mentioned that

Bayhealth did take into consideration the Health Resources Management Plan's methodology. He also mentioned that the Review Committee can ask Bayhealth if their projections of bed need numbers are an average of their internal process and the Health Resources Management Plan.

Jill Rogers mentioned the Health Resources Board proposed a question concerning the narrative on page 9 referencing the Bayhealth Bed Projection Assumptions. The Board members are interested in receiving background information concerning the increase and decrease for the impact on patient days. Mark Thompson suggested the Review Committee may want to allow Bayhealth the opportunity to explain the data without asking them direct questions in today's meeting.

Rae Mims stated that this is a concern because this was not noted on the agenda that this action would occur today. Jill Rogers mentioned this can be an action item on the next meeting's agenda and also to invite Allison Shevock to the next meeting to give a presentation on the Health Resources Board bed need projection methodology.

Rae Mims stated the Review Committee must keep in mind that these meetings are for deliberation of the seven criteria in the Health Resources Management Plan relating to Bayhealth's application. Bill Love suggested the Review Committee request Bayhealth to present a presentation of their bed need projections at the next Review Committee meeting on 9/4/13.

Mark Thompson stated the Review Committee should be clear and concise on their requests from Bayhealth so they are prepared to address any questions or concerns. Bill Love suggested that Bayhealth explain their narrative on pages 4-15. He also asked if the Review Committee can ask Bayhealth questions during the presentation on 9/4/13. Rae Mims stated during the presentation that is fine, however during the actual deliberation that is not prohibited.

Rae Mims stated the Review Committee is prohibited from asking Bayhealth any questions or direct discussion with Bayhealth during the deliberation in the Review Committee meetings. The Review Committee must deliberate within themselves on the information Bayhealth presents; however if the Review Committee needs further information to make a decision on the application that can be requested and published as a public notice via an agenda to inform the public.

Jason Sinclair from Bayhealth asked if the Review Committee can ask questions during the presentation if they needed clarification on the data presented. Rae Mims stated yes the Review Committee can ask questions during the presentation, however once the Review Committee is in the deliberation process, there are no discussions between them and the Review Committee at that time. Rae Mims also mentioned if the Review Committee request additional information they can make a specific request separately outside of the deliberation process.

Jill Rogers stated the Review Committee will want Bayhealth to clarify if their bed need numbers are an average at the next Review Committee Meeting on 9/4/13. Harold Stafford mentioned that Bayhealth should provide historical occupancy rates separately for Women and Pediatrics. This information should be included in the presentation. Jill Rogers will draft all questions to Bayhealth to address before the next Review Committee meeting on 9/4/13 and send these electronically.

- 4) Please provide average length of stay in the intermediate care unit including data related to seasonal variation.

Jill mentioned the response to question 4 relates to Exhibit 1 which captures a single length of stay and also shows a Table on the IMC Average Length of Stay. She suggested requesting Bayhealth to provide a chart that displays the seasonal variations. Harold Stafford asked if this would be an additional chart to accompany the chart already presented. Jill mentioned yes that would be correct. She suggested Bayhealth provide a chart for the seasonal variations over several months to include the peak.

- 5) Please provide total cost per additional requested bed including capital and operating costs.

Bayhealth provided calculations showing the average operating cost per bed and a maximum cost. They provided a capital cost and an operational cost. Bill Love asked a question concerning the provision for bad debts noted and if this dollar amount considered the anticipation of expanded coverage due to the Health Benefits Exchange and Medicaid coverage. Jill Rogers stated she will research that information.

Mark Thompson mentioned that the Review Committee would need to be mindful of the Health Resources Management Plan when considering projections in the future.

Jill Rogers mentioned the Review Committee will need to be mindful of the Health Resources Management plan when reviewing bed need projections whereas the bad debt projections are related to financial projections.

- 6) Please provide bed need projections for OB and pediatrics separately.

Jill Rogers mentioned that Bayhealth addressed this question along with question 1. The Review Committee will request that Bayhealth provide occupancy rates separately for Women and Pediatrics.

Jill Rogers asked if the Review Committee has a preference for the length of the presentation. Bill Love mentioned that the presentation length would need to include a

discussion of the narrative. Mark Thompson wanted to ensure that Bayhealth has adequate time to present all their facts and data. The Review Committee agreed on 30 minutes being sufficient enough time for Bayhealth to give their presentation.

Review Considerations related to the seven criteria in the Health Resources Management Plan

The relationship of the proposal to the Health Resources Management

a. Plan.

It was stated that Bayhealth addressed emergency room issues in their application and their course of action to correct these issues.

b. The need of the population for the proposed project.

It was stated that clarification is required at the next Review Committee during Bayhealth's presentation to further address this criteria.

c. The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State.

Jill Rogers mentioned that the CMMI grant and the Patient Engagement grant recently submitted focused on creating an effective and efficient utilization in the health care system. It was stated that if half of the emergency room visits are avoidable and can be potentially treated in another setting, Delaware can be successful in the future ensuring that emergency room visits consist of patients that truly require emergency assistance opposed to primary care services.

d. The relationship of the proposal to the existing health care delivery system.

It was mentioned the existing health care system should be considered when reviewing Bayhealth's application.

e. The immediate and long-term viability of the proposal in terms of the applicant's access to financial management and other necessary resources.

The Review Committee agreed that Bayhealth met this criteria in the application.

f. The anticipated effect of the proposal on the costs of and charges for health care.

It was discussed that the Emergency department is a high cost and if this cost can be reduced this would save money. The goal would be to reduce the number of visits to the emergency room.

- g. The anticipated effect of the proposal on the quality of health care.

It was stated that if the bed need projections are clarified and are on target, then this proposal would meet this criteria on the quality of health care. This will be clarified at the next Review Committee meeting on 9/4/13.

Next Steps

There will be a second Review Committee meeting scheduled on 9/4/13 and also a third meeting will need to be scheduled before the Health Resources Board Meeting on 9/16/13. It was stated that there will be a Review Committee report drafted in detail to present at the Health Resources Board meeting by 9/16/13. John Van Gorp proposed that it may be beneficial to have the next Review Committee meeting on 9/4/13 at Bayhealth's facility. The Review Committee members agreed that would be fine. The location and agenda will be posted on the public meeting calendar.

Adjourn

The meeting was adjourned.

**Delaware Health Resources Board
Review Committee Meeting Minutes
Review of the Weston Group Application
Friday, September 13, 2013 10:00 AM
Margaret O'Neill Building
Second Floor Conference Room
410 Federal Street, Dover DE 19901**

Review Committee Members Present:

Suzanne Raab-Long, Chairperson, Vincent Lobo, Jr., D.O., and Gina Ward.

Also Present:

Adam Balick, Randall A. Weston and Joyce Winters.

Staff Present:

Rae Mims; Jill Rogers; and Latoya Wright.

Call to Order and Welcome

The meeting of the Health Resources Board Review Committee for the Weston Group application was called to order at 10:00 a.m. by Suzanne Raab-Long, Review Committee Chair.

Opening Comments

Ms. Raab-Long asked Deputy Attorney General Rae Mims for some guidance to make sure the Review Committee is within the parameters of where they need to be.

Ms. Mims said that, when an application is submitted and Review Committee meetings are held, the meetings are meant for deliberation. The record is closed and there is no new information. The Committee is to go strictly by the application, review the seven criteria, deliberate on whether the application meets each of the seven criteria and begin drafting a report. When the record is closed there is no exchange of conversation with the applicant. If questions are raised during deliberation it is preferable for them to be submitted to the applicant in writing and for the applicant to respond in writing.

Ms. Raab-Long said that the representatives of the Weston Group brought some letters from residents with them to the meeting that cannot be included in the record today. Ms. Mims said that it would be better if they mailed them to the staff to be added to the record. Again, this meeting is strictly deliberation.

Gina Ward asked for clarification that this was a public meeting so anyone who is present can just hear the deliberation and if they decide to respond in writing to add to the record then that can be done. Ms. Mims said yes. Typically the record is closed for outsiders. The applicant can certainly submit comments in writing but there is no verbal public comment during the meeting.

Jill Rogers added that no public hearing was requested for this application, so the Committee goes directly into deliberation. If a question comes up or more information is needed during the

Delaware Health Resources Board Review Committee

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Meetings Minutes

September 13, 2013

course of deliberations the staff can take that question to the applicant in writing and bring the answer back in advance of the next meeting.

Review Considerations related to the seven criteria in the Health Resources Management Plan

The Review Committee reviewed and discussed whether the Weston Group's Certificate of Public Review application met the following seven criteria.

Ms. Raab-Long noted that this is not a new facility or an expansion. It is the transfer of ownership of the facility to keep it running.

1. The relationship of the proposal to the Health Resources Management Plan.

Ms. Ward said, in terms of the Health Resources Management Plan, the most recent calculation of nursing home beds in New Castle County indicates a shortage. These beds are occupied so it would increase the shortage of beds if the Masonic Home did not stay open. In terms of managing the resources in New Castle County for this type of bed she sees that as a good fit.

All three Review Committee members agreed that the application meets criterion one.

2. The need of the population for the proposed project.

Ms. Raab-Long said that, since the Masonic Home is already there, obviously there is a need. When elderly people are in nursing homes one of the last things that they need is to be moved to another home. That is something that should be avoided if at all possible.

Ms. Ward noted that the facility is now open to a more general public beyond the Masonic group, including Medicaid and Medicare patients. It is meeting the need of the population in terms of anyone can now reside there.

Ms. Raab-Long said that there are only 25 licensed beds and then there are additional RR beds. She asked what the RR stands for.

Ms. Rogers responded that those are rest and residential beds which are not subject to review by the Health Resources Board. It is similar to assisted living which is not regulated by the Board but skilled nursing beds are. The 25 beds are specifically the number of beds that are licensed and considered by the Board.

Ms. Raab-Long said when other nursing homes have been reviewed the question has been raised as to what is the most economical number of beds to have and the answer has always been between 100 and 120. The number of beds at this facility is really low. She asked if they are planning at some point to make it more economically feasible by coming back and asking for more skilled nursing beds.

Ms. Ward observed that their budget projections do not indicate any planned capital expenditure. She asked if they are planning to make more money based on a higher utilization rate of the beds that they have. It did not look like they were planning to expand until the end of 2015.

Ms. Raab-Long noted that currently it would probably be difficult to get additional beds approved because the criteria for skilled nursing home beds are being reviewed.

All three Review Committee members agreed that the application meets criterion two.

3. The availability of less costly and/or more effective alternatives to the proposal, including alternatives involving the use of resources located outside the State.

Ms. Raab-Long said that she does not think that the resources outside the state have much impact on this particular application because if they do not want to move the nursing home patients they are not going to take them over the state border. Again, the beds are already in use.

Ms. Rogers said that the other issue that the Board has talked about is the availability of home and community based services which may or may not be appropriate.

The committee noted that there are other activities and initiatives going on but until there is more data and the methodology is changed to incorporate them it did not feel that it was important to consider them.

Ms. Ward asked what availability the residents of the rest and rehabilitation village have to the skilled nursing bed therapies provided by the Masonic Home.

The Review Committee agreed that Criterion number three should be kept open pending receipt of additional information.

4. The relationship of the proposal to the existing health care delivery system.

Ms. Raab-Long said that it is self evident that the facility is part of the health care delivery system.

Ms. Ward said that they are creating relationships with other institutions to be able to take patients. She thinks it would directly impact the system negatively if the Committee did not approve this criterion.

All three Review Committee members agreed that the application meets criterion four.

5. The immediate and long-term viability of the proposal in terms of the applicant's access to financial management and other necessary resources.

Ms. Ward asked how the acquisition price, including real estate, of \$4,525,000 is being financed.

Ms. Raab-Long said that the application states that this is a new company that is going to own and operate the facility; however, the company has the financial backing of the Weston Group.

She noted that Delaware has nursing staffing ratios for long term care facilities. She asked for verification that the financial numbers provided in the application would support the levels of staffing that would be required by Delaware.

Ms. Ward said that it would be helpful to confirm that they are planning to increase the utilization rate that they have and what rate they were using to calculate the numbers presented in the application. She asked what utilization rates were used for the first and second year projection and if they can really accomplish that without adding additional beds. She also asked if there are any other capital costs beyond the purchase price to maintain the facility. There are no major renovations noted in the application.

Ms. Raab-Long asked how they plan to maintain a 100 year old facility and bring it up to current standards.

The Review Committee agreed that criterion number five should be left open until responses to the questions are received.

6. The anticipated effect of the proposal on the costs of and charges for health care.

Ms. Raab-Long said that the facility is already part of the system. It is not something new coming in.

Ms. Ward said that the application states that there are currently residents in the facility on a sliding scale. The reported revenues from October of this year forward are increasing in the private category, Medicaid, Medicare and “other.” Assuming that “other” is the sliding scale category, it is good that it is growing in relative proportion to the other categories.

Ms. Raab-Long asked for verification that the “other” category in the projected statement of revenues and expenses includes those patients who are getting some type of subsidy or discount.

The Review Committee agreed to leave criterion number six open until they receive responses to their questions.

7. The anticipated effect of the proposal on the quality of health care.

Ms. Ward said that the facility should remain open to provide consistency for the residents. She would like to know if there are any questions about the Madeline Care Center, LLC running facilities, how happy the residents are and the care that they are receiving.

Ms. Raab-Long suggested asking for letters from the residents.

Ms. Ward asked what conditions are required to be met in order for them to maintain their license and if there is anything else that should be asked for.

Ms. Raab-Long asked if there is a skilled nursing home accreditation body. Ms. Rogers responded that she believes there is, but she is not certain. There are CMS ratings for facilities. The Committee can ask for data related to other facilities owned by the same organization.

Ms. Ward said that the application states that the effect of the project on cost and charges of health care is not applicable, so she is assuming that they are going to keep their rates the same. She would like confirmation that rates will remain the same for the current patients.

One of the questions under other review considerations in the application is asking if the project will offer economies and improvement in delivery of the service. Again, the application states that this is not applicable. She asked if that is because they are already present and have already made the improvements they need to make in the delivery of care. The presentation they gave to the Board alluded to some changes already made with managing the center, but it sounds like they are not planning to change anything greatly. Clarification and more detail are needed.

The Review Committee agreed that criterion seven will be left open until they receive more information.

Next Steps

Ms. Rogers will submit a list of questions to the Weston Group and provide the responses to the Review Committee for review in advance of the next meeting. Based on the responses Ms. Rogers will draft potential recommendations on criteria number three, five, six and seven and a draft report will be prepared. The draft recommendations and report will also be provided to the Review Committee for review in advance of the next meeting.

Subsequent to the meeting the following questions were submitted to the Weston Group for response by the close of business on Friday, September 20, 2013.

1. Does the applicant plan any bed expansion to achieve economies of scale?
2. Are therapeutic services described in the application available to residents of the rest/residential beds to retain function and avoid the need for skilled care?
3. Please provide additional information demonstrating that projected staffing expenditures are sufficient to support required staffing ratios.
4. Please provide projected utilization rates for years one and two in support of projected revenue.
5. Please provide the source of financing for purchase of the facility.
6. Please provide any other capital expenditures required to maintain and/or upgrade the facility.

7. Does the “other” category included in financial projections represent patients currently on a sliding fee scale? If not, how many patients are using the sliding fee scale and where are those revenues included?
8. Please provide indicators of quality/patient satisfaction for the Masonic Home facility.
9. Please provide CMS ratings for all other facilities owned by the Weston group
10. Will charges/daily rates remain the same after acquisition?

Next Meeting

The next meeting will be held on Thursday, October 17, 2013 at 1:30 p.m. in the Jesse Cooper Building, Third Floor Conference Room, 417 Federal Street, Dover.

Adjourn

The meeting adjourned at 10:40 a.m.

2020 Final Report

Delaware Interscholastic Athletic Association

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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FACT SHEET

March 13, 2020 JLOSC Review of DIAA



Joint Legislative Oversight
& Sunset Committee

Delaware Interscholastic Athletic Association ("DIAA") Overview

- ➔ Promote the educational significance of interscholastic athletics & provide leadership by prioritizing health and safety, academics, leadership, & sportsmanship.
- ➔ Members schools participate under DIAA's regulatory authority.
 - 62 high schools & 54 middle schools.
 - Across all 3 counties.
 - Nonpublic schools can become members.
- ➔ Staffed by Executive Director, Coordinator of Interscholastic Athletics, administrative assistant.
- ➔ Financially supported through ticket sales with all revenue being deposited to the Secondary Interscholastic Athletic Fund.

DIAA Board of Directors

- ➔ 19 voting members and 1 non-voting member:
 - Representation: superintendents, principals, nonpublic schools, school boards, athletic directors, coaches, DDOE, a physician, and the public.
 - All 3 counties represented in membership.
- ➔ 22 standing committees with 250 volunteer staffers to manage DIAA state tournaments and advise Board.
 - 17 sport-specific committees
 - Rules and Regulations, Sportsmanship. Officials, Unified Sports, & Sports Medicine.
- ➔ Complaint, disciplinary, & eligibility processes set by regulations.
 - Board is authorized to impose penalties for violations.
- ➔ Waiver process when special circumstances allow for an exception to the rules and regulations.

Opportunities for Improvement

- ➔ Develop strategic plan to guide the Association, Board, and Executive Director to utilize resources more effectively and improve function.
- ➔ Streamline Board processes to use the time during meetings more efficiently.
- ➔ Update the regulations to provide clarity to member schools and ensure compliance.
- ➔ Review and restructure the current fee schedule. Fines have never been updated and no member school has been fined over the last several years.

DIAA Participation Summary*

Sport	Athletes	Schools
Field Hockey	1525	51
Soccer	1701	54
Cross Country	881	52
Cheer	1009	39
Basketball	1147	59
Wrestling	12	8
Indoor Track	868	40
Swimming/Diving	812	41
Softball	1082	48
Crew	121	5
Golf	126	32
Lacrosse	1140	35
Outdoor Track	1279	48
Tennis	566	36
Volleyball	1623	56
TOTAL	13,817	



*2017-2018

Sport	Athletes	Schools
Football	2777	45
Soccer	2104	55
Cross Country	1012	52
Cheer	26	8
Basketball	1653	59
Wrestling	1040	46
Indoor Track	892	32
Swimming/Diving	716	40
Baseball	1525	55
Crew	86	3
Golf	407	49
Lacrosse	1767	48
Outdoor Track	1603	47
Tennis	455	33
Volleyball	154	8
TOTAL	16,217	

ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Delaware Interscholastic Athletic Association. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

INTRODUCTION

About JLOSC and the Review Process

Delaware's Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions ("entity" or, collectively, "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity is not reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. The Committee is a bipartisan committee comprised of ten legislators. The Senate President Pro Tempore appoints five senators and the Speaker of the House appoints five representatives to serve on the Committee.

In general, the conduction of reviews spans a ten to twelve-month time period commencing in July. The Committee's Analysts compile a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepares a preliminary report for the use of Committee members during public hearings held each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine if there is a genuine public need for the entity, and if the entity is beneficial to the public's health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination (sunset) of an entity. Although the Committee has "sunset" a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity's overall performance and accountability.

About the JLOSC Performance Review Questionnaire

The information provided in this report is taken from the JLOSC Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire. Any changes made to the substance of what the agency reported are indicated by footnote. The section titled, "Additional Comment from the Committee Analyst" address any points of consideration which arose in analyzing the questionnaire and compiling this report.

In the final report the analyst applied substantive changes where required, resulted from findings made through the review processes. The appendices of the draft report included the statutes governing and applying to the agency under review. They were included as a reference for JLOSC members and are not included in the final report.

EXECUTIVE SUMMARY

History: Prior to 1900, athletic associations were formed within Delaware schools. These associations were open to any student who wanted to join and initially run by students with faculty guidance. As participation grew, schools began to take initiative in athletics supervision by using faculty to manage programs. From 1921 to 1934, the original Delaware Interscholastic Athletic Association (“DIAA”) governed interscholastic athletics. From 1944 to 1966, interscholastic athletics operated as part of the Delaware Association of Secondary School Administrators (“DASA”). The Delaware Secondary School Athletic Association (“DSSAA”) replaced DASA in 1966. In 1997, DSSAA consolidated into the Delaware Department of Education (“DDOE”), which was authorized to propose rules and regulations. In 2002, JLOSC voted to sunset DSSAA with the General Assembly reestablishing DIAA under DDOE.

Purpose and Participation: DIAA strives to provide leadership for education-based middle and secondary school interscholastic athletics by prioritizing health and safety, academics, leadership, and sportsmanship. As of September 2019, membership in DIAA consists of 62 high schools and 54 middle schools across all 3 counties. During the 2017-2018 school year, 30,034 students (16,217 males and 13,817 females) participated in interscholastic athletics at the high school level. The current rate of female participation stands at 46%, exceeding the national rate of 42.2%.

DIAA Board of Directors: The Board consists of 19 voting members and 1 non-voting member. Representation includes superintendents, principals, nonpublic schools, school boards, athletic directors, coaches, DDOE, a physician, and the public with all 3 counties represented. Complaint, disciplinary, and eligibility processes are set by regulations with the Board authorized to impose penalties for violations. A waiver process exists when special circumstances allow for an exception to the rules and regulations.

Staff and Funding: DIAA is staffed by an Executive Director, a Coordinator of Interscholastic Athletics, and an administrative assistant. 22 standing committees (17 are sport-specific) have 250 volunteer staffers to manage DIAA state tournaments and advise the Board. DIAA operations are financially supported through ticket sales with the revenue deposited into the Secondary Interscholastic Athletic Fund.

Challenges:

- Non-DIAA sports organizations.
- Escalating State Tournament costs and decrease in certified officials.
- DIAA staff size.

Opportunities for Improvement:

- Increase staff size
- Development of a Strategic Plan
- Structure of the Committees and Board management
- Clarity of regulations
- Financial analysis and fee restructuring

JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

AGENCY HISTORY

Prior to 1900, athletic associations were formed within Delaware schools with football and baseball teams. These associations were open to any student who wanted to join and initially run by students with faculty guidance. As more schools formed football and baseball teams, other sports such as track, basketball, cross country, soccer, and tennis grew in popularity. As participation grew, problems emerged in areas such as student athlete eligibility, officiating, and proper playing surfaces. In response, schools began to take initiative in athletics supervision by using faculty to manage programs. However, oversight and supervision standards did not exist and, as a result, student athlete groups were playing games with no minimum practice requirements, enduring long schedules, and, at times, competing against collegiate teams. School administrators found that individual schools should not be regulating interscholastic athletics.

Around 1920, a legislative movement began, to form an athletic association directed by the State. From 1921 to 1934, the original Delaware Interscholastic Athletic Association (“DIAA”) governed interscholastic athletics. Due to widespread non-compliance with the organization’s rules and the resulting overemphasis on winning, the original DIAA dissolved, leaving no state athletic association until 1944, when an athletic commission formed at the urging of the Wilmington and Suburban Principals Association. From 1944 to 1966, the athletic commission operated as part of the Delaware Association of Secondary School Administrators (“DASA”).

The Delaware Secondary School Athletic Association (“DSSAA”) replaced DASA in 1966, with school administrators believing interscholastic athletics should have a separate governing body. DSSAA became affiliated with the State Board of Education in 1980 after the State Board of Education was authorized to approve regulations governing the conduct of interscholastic athletics. In 1997, DSSAA consolidated into the Delaware Department of Education (“DDOE”), which was authorized to propose rules and regulations governing the conduct of interscholastic athletics, subject to the State Board of Education’s approval. In addition, the DDOE delegated to DSSAA the authority to implement necessary regulations, with DDOE oversight and State Board of Education review.

JLOSC reviewed DSSAA in 2001 and made numerous recommendations. In 2002, JLOSC determined compliance with these recommendations were not acceptable and voted to sunset DSSAA on May 9, 2002. The General Assembly reestablished DIAA later that year.¹

¹ See Appendix A for DIAA’s governing statute. DIAA was reestablished in 2002 through HB 475.

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW

Conditions that led to DIAA's creation	How DIAA alleviated the concern
1. All DSSAA financial processes will be moved to the DDOE and administered in accordance with the state's policies and procedures.	DIAA is now a unit of DDOE and required to adhere DDOE's financial policies and procedures. DIAA's governing statute establishes the Secondary Interscholastic Athletic Fund, a special fund. Expenditures from the fund must be in accordance with the Division of Accounting budget and accounting procedures.
2. Statutory amendments needed to require that DSSAA produce a combined annual activity and financial report for the Governor, General Assembly, and public.	DIAA's governing statute requires that DIAA, in consultation and cooperation with DDOE, make an annual report to the Governor and General Assembly on or before January 31 each year.
3. Compose the DSSAA Board of 1/3 public members.	The DIAA Board of Directors includes 6 public members, 2 from each county. Public members must be Delaware residents at least 3 years, knowledgeable of athletics, and have no personal or financial interest in any member school.
4. Allow DSSAA to enter executive session only for reasons permitted under the Delaware Freedom of Information Act ("FOIA") and note for the record the statutory reason.	DIAA's governing statute requires FOIA compliance.
5. Require DSSAA keep minutes of its executive sessions until the reason required is no longer applicable. Require DSSAA review all decisions to enter executive session with the DDOE's Deputy Attorney General ("DAG").	DIAA's governing statute requires FOIA compliance. DIAA is assigned a DAG through the Delaware Department of Justice.
6. The DSSAA Board to rewrite and update its rules and regulations to ensure it regulates only athletic activities and not extraneous matters.	DIAA, in consultation and cooperation with DDOE, promulgated regulations relating to middle and secondary school interscholastic athletics for member schools.
7. DSSAA Board should define the criteria for review of the executive director's decisions.	Criteria for review enacted in 14 Del. Admin. C. §1006.
8. Prohibit DSSAA Board from entering executive session to consider requests for waivers of the Board's bylaws.	DIAA's governing statute requires FOIA compliance. For waiver requests, the Board enters executive session to protect the privacy rights of students.

9. DSSAA Board should explain in its minutes the reasons for its decisions to approve or deny waiver requests.	DIAA's governing statute requires FOIA compliance. The Board provides its written decision to the student and the student's school within 20 days of the waiver request hearing.
10. DDOE and DSSAA should be charged with formulating a plan for presentation to the JLOSC on how DDOE can best absorb DSSAA, with the report due in January 2002.	DIAA is now a unit of DDOE.
11. DSSAA Board should be assigned a DAG.	A DAG is assigned to DIAA.
12. All DSSAA Board hearings should be recorded by a court reporter and conform to the Administrative Procedures Act ("APA"). All appeals should be on the record.	DIAA's governing statute requires DIAA to prepare a record of hearings from which verbatim transcripts can be prepared. All appeals to the State Board of Education are on the record.

The 2008 JLOSC Final Report recommended the following changes:

- Amend the statute to provide that 1 member of the Board is a licensed Delaware physician add an additional representative of school district boards of education, so each county has a representative.
- Amend the current voting requirements so only changes to the budget or regulations require 10 votes whereas all other decisions, including waivers, require a simple majority.
- Continue to work to tighten rules and regulations concerning student recruitment for athletics.²
- Continue to promote academic standards as criteria for athletic eligibility.³

PURPOSE & MISSION

DIAA's purpose is set in its governing statute:

Preserve and promote the educational significance of interscholastic athletics; to ensure that interscholastic athletics remains compatible with the educational mission of the member schools; to provide for fair competition between the member schools; to promote sportsmanship and ethical behavior; to establish and enforce standards of conduct for athletes, coaches, administrators, officials, and spectators; to protect the physical well-being of the athletes; and to promote healthy adolescent lifestyles.⁴

² See Appendix D for Section 10 of 14 *Del. Admin. C.* § 1008 and Appendix E for 14 *Del. Admin. C.* § 1009.

³ See Appendix D for Section 2.6 of 14 *Del. Admin. C.* § 1008 and Appendix E for 14 *Del. Admin. C.* § 1009.

⁴ 14 *Del. C.* § 301.

Student Athlete Opportunity: Interscholastic athletics provide an opportunity for any middle or secondary school student to participate on an athletic team regardless of the student's financial status or geographic location. DIAA's regulatory authority levels the playing field for all student athletes while ensuring a healthy balance between academics and athletics.

Student Athlete Safety: Students who participate in athletics outside of DIAA member schools are not subject to the same safety standards and protocols as students who participate at a DIAA member school, such as preventing overuse injuries. Additionally, club sports and travel programs may not regulate the length or frequency of practices, leading to lack of preparedness and a higher potential for injury.

Officiating: DIAA member schools are required to use officials from 1 of the 19 DIAA-approved officials' associations.⁵ These officials are required to attend a rules interpretation clinic and pass a rules examination annually for the sport they officiate.⁶ This ensures uniformity and consistency in interpretation and application of playing rules across the state.

Sportsmanship and Code of Conduct Standards: DIAA has a responsibility to ensure that all member schools, administrators, coaches, student athletes, officials, and spectators are adhering to the highest ideals of interscholastic athletics and must hold them accountable when they do not. DIAA investigates an alleged violation of its regulations, including the Code of Interscholastic Athletics.⁷ With regulations and other guidelines in place, DIAA must ensure that all interscholastic athletic programs have equal opportunities and fair chances.

GOALS & OBJECTIVES

DIAA strives to provide leadership for education-based middle and secondary school interscholastic athletics by prioritizing health and safety, academics, leadership, and sportsmanship.

Protect the Physical Well-Being of Athletes and Promote Healthy Adolescent Lifestyles: DIAA has established the Sports Medicine Advisory Committee, charged with making recommendations to the DIAA Board of Directors regarding concussion, cardiac arrest, and protection of physical well-being. DIAA takes seriously its charge to develop and implement rules and regulations that preserve the integrity of interscholastic athletics and encourage safe play for all student athletes.

Preserve and Promote the Educational Significance of Interscholastic Athletics: DIAA operates with the philosophy that academics and athletics need to exist in a balance, realizing that athletics are an extension of the classroom and an environment for learning, not just competing.

Promote Sportsmanship and Ethical Behavior and Establish and Enforce Standards of Conduct for Athletes, Coaches, Administrators, Officials, and Spectators: DIAA developed regulations with promoting sportsmanship and ethical

⁵ See Appendix F for the 2019-2020 DIAA Officials Associations.

⁶ See Appendix G for the agreement between DIAA and the approved Officials Associations.

⁷ See Appendix C for 14 Del. Admin. C. § 1007.

behavior in mind. The Code of Interscholastic Athletics provides the standards of conduct for sportsmanlike behavior for student athletes, coaches, administrators, officials, and spectators involved with DIAA-regulated interscholastic athletics.⁸

Ensure that Interscholastic Sports Remain Compatible with the Mission of the Member Schools: DIAA establishes the minimum criteria for a student athlete's eligibility to participate in interscholastic athletics. DIAA member schools are required, at minimum, to match those criteria. Any member school may adopt and enforce stricter criteria for its own student athletes. For example, the High School Passing Work Rule requires a student athlete to pass a certain number of courses required to graduate from high school to be eligible to participate in interscholastic athletics.⁹ Member schools may establish a minimum grade point average for eligibility.

Provide for Fair Competition Between Member Schools: DIAA is affiliated with the National Federation of State High School Associations ("NFHS") for DIAA recognized sports. The NFHS playing rules, codes of conduct, sanctions, and guidelines are adopted except as the DIAA Board has modified them. DIAA member schools use the playing rules to ensure safe and fair competition for interscholastic sports at the middle school and high school levels.

PUBLIC INFORMATION: MEMBER SCHOOLS, COMMITTEES, & OTHER AFFILIATIONS

DIAA Member Schools and Participation¹⁰

When the current DIAA was created in 2002, membership consisted of 48 high schools and 55 middle schools. As of September 2019, membership in DIAA consists of 62 high schools and 54 middle schools across all 3 counties.¹¹

During the 2017-2018 school year, 30,034 students (16,217 males and 13,817 females) participated in interscholastic athletics at the high school level. The current rate of female participation stands at 46%, exceeding the national rate of 42.2%.¹²

⁸ See Appendix C for 14 *Del. Admin. C.* § 1007.

⁹ See Appendix E for 14 *Del. Admin. C.* § 1009-2.6.

¹⁰ See Appendix H for the list of member schools.

¹¹ See Appendix I for the MOU between DIAA and member schools.

¹² See Appendix J for the 2018 DIAA Annual Report.

DIAA Participation Summary*

Sport	Athletes	Schools
Field Hockey	1525	51
Soccer	1701	54
Cross Country	881	52
Cheer	1009	39
Basketball	1147	59
Wrestling	12	8
Indoor Track	868	40
Swimming/Diving	812	41
Softball	1082	48
Crew	121	5
Golf	126	32
Lacrosse	1140	35
Outdoor Track	1279	48
Tennis	566	36
Volleyball	1623	56
TOTAL	13,817	



*2017-2018

Sport	Athletes	Schools
Football	2777	45
Soccer	2104	55
Cross Country	1012	52
Cheer	26	8
Basketball	1653	59
Wrestling	1040	46
Indoor Track	892	32
Swimming/Diving	716	40
Baseball	1525	55
Crew	86	3
Golf	407	49
Lacrosse	1767	48
Outdoor Track	1603	47
Tennis	455	33
Volleyball	154	8
TOTAL	16,217	

DIAA Standing Committees and Rules Interpreters

DIAA has 22 standing committees with 250 volunteer staff members, which is crucial to the mission of DIAA.¹³ There are several standing committees: Rules and Regulations, Sportsmanship, Officials, Unified Sports, Sports Medicine, and 17 other sport-specific committees. All committees operate under FOIA. The major functions of the sport-specific committees include the management of DIAA state tournaments resulting in 32 state championship titles (12 male, 11 female, and 2 unified). Other committee functions include advising the DIAA Board of Directors on issues affecting each sport and related sports projects.¹⁴

DIAA appoints rules interpreters to assist member schools, coaches, and officials in the proper interpretation and application of playing rules. Rules interpreters are appointed in the following sports: baseball, softball, basketball, cheer/spirit, field hockey, football, golf, lacrosse, soccer, swimming, diving, tennis, track and field, cross country, volleyball, and wrestling.

¹³ See Appendix K for Standing Committee list.

¹⁴ See Appendix L for DIAA Standing Committee rules.

National Federation of High School Associations (NFHS)

DIAA is affiliated with NFHS. NFHS, based in Indianapolis, Indiana, is the national organization for education-based high school athletics and activities. NFHS builds awareness and support, improves the participation experience, establishes consistent standards and rules for competition, and helps those who oversee high school sports. NFHS writes playing rules for 17 co-ed sports at the high school level. Through its 50-member state associations and the District of Columbia, NFHS reaches more than 19,000 high schools and 12 million participants in high school activity programs, including more than 7.9 million in high school sports. As the recognized national authority on education-based high school athletics, NFHS conducts national meetings, sanctions interstate events, offers online publications and services for high school coaches and officials, and sponsors professional organizations for high school coaches and officials. Additionally, NFHS serves as the national source for interscholastic coach training and serves as a national information resource of interscholastic athletics. DIAA benefits from NFHS leadership and resources by being a member state association.¹⁵

National Interscholastic Athletic Administrators Association (NIAAA)

The National Interscholastic Athletic Administrators Association (“NIAAA”) Leadership Training Institute certifies athletic administrators at member schools as Certified Athletic Administrators (“CAA”) and Certified Master Athletic Administrators (“CMAA”).

COMPOSITION & STAFFING

Board of Directors

The DIAA Board of Directors (“the Board”) consists of 19 voting members and 1 non-voting member:¹⁶

- 2 school district superintendents/assistant superintendents who are residents of different counties.
- 3 representatives of school district boards of education who are residents of different counties.
- 3 public school principals/assistant principals, 1 of which must be from each county.
- 2 public school athletic directors/coaches, who must be residents of different counties.
- 2 nonpublic school representatives, of which 1 must be a secondary school administrator and 1 must be either a secondary school athletic director or coach.
- 1 Department of Education representative, which may be the Secretary of Education or the Secretary’s designee and is a nonvoting member.
- 1 physician licensed by the Delaware Board of Medical Practices and is knowledgeable about sports medicine.

¹⁵ See Appendix M for NFHS Membership Benefits.

¹⁶ 14 *Del. C.* § 305(a).

- 6 public members, of which 2 must be from each county. The public members must be residents of Delaware for a minimum of 3 years and knowledgeable about athletics but may not be employees of any member school or have a material financial interest in providing goods or services to DIAA or any member school.

Board members can receive a \$100 stipend per board meeting.¹⁷

As of October 16, 2019, the Board has 17 voting members and 1 non-voting member. The Board currently has 2 vacancies:

- A District Superintendent/Assistant Superintendent Board position has been vacant since October 2018.
- Kent County's public member position has been vacant since September 2019.

Three Board members' terms currently expired but the members are holding over:

- Principal from Sussex County (Board chair).
- Superintendent from Kent County.
- Athletic Director from Sussex County.

The Governor's Office has been informed of the vacancies.

Board Member Training

Board members are offered training on various topics at the DIAA Annual Meeting held in January. The DAG assigned to DIAA conducts trainings on waiver hearing procedure; formulating motions; the Board's duties, powers, and authority; and board members' ethics, as needed. These trainings have not previously been required but will be going forward for all members.

DIAA Staff¹⁸

DIAA staff consists of 3 employees: the Executive Director, the Coordinator of Interscholastic Athletics, and an administrative assistant. The administrative assistant remains in the office to answer the phone, provide information, and complete routine daily tasks. The Executive Director and Coordinator cover all events, including meetings and games, while continuing to provide services to member schools. During each of the 3 state tournament seasons, fall, winter, and spring, as many as 24 separate contests could be conducted in 1 day, with only the Executive Director and Coordinator covering DIAA's responsibilities.

DIAA Service Contracts

For all tournament venues, DIAA enters into limited service contracts with site directors, ticket sellers, program sellers, ticket takers, security, scoreboard operators, announcers, and trainers certified by the National Athletic Trainers' Association or school nurses. DIAA also contracts with tournament directors to organize and seed the state tournaments for

¹⁷ 14 Del. C. § 305(c).

¹⁸ See Appendix N for DDOE and DIAA Organizational Charts.

each of the DIAA-recognized sports. During the last 2 fiscal years, DIAA contacted 150 individuals for these services during the state tournaments. Tournament directors are not DIAA employees, but they are necessary to the effective and efficient operation of state tournaments.

Below is a breakdown of the number of workers providing services for DIAA state tournaments. These numbers can vary based on anticipated attendance:

- Ticket sellers: 2 per game.
- Program sellers: 1 per game.
- Ticket takers: 1 per game.
- Security: 2 per game.
- Scoreboard operators: 1 per game.
- Announcers: 1 per game.
- NATA trainers: 1 per game, if not provided by the participating teams.
- Site directors: 1 per game.
- Tournament directors: 1 per sport.

DIAA conducts 18 state tournaments which include approximately 228 games. Many games, especially opening round games, are held at member schools, where the host school employs the workers listed above. In these instances, DIAA reimburses the member schools.

COMPLAINT, DISCIPLINARY, & WAIVER PROCESS

The complaint process for alleged violations of the Sportsmanship Rule is set within the regulations.¹⁹ The Board is authorized to impose penalties for violations of the rules and regulations, including official reprimand, placement on probation, fine, suspension, and other action as deemed appropriate.²⁰ Additionally, the Board is authorized to assess fines if a member school, administrator, coach, student athlete, official, or spectator is found in violation of the Sportsmanship Rule. All decisions are subject to appeal by the State Board of Education.

Regulations outline the complaint process for alleged violations of all rules concerning middle and high school interscholastic athletics, the Board's investigative process, and the executive director's investigative process.²¹

Typically, complaints to DIAA originate from member schools, officials' associations, and the public. Not all complaints directed to DIAA are official complaints or disciplinary in nature. Common complaints include discontent with individual officials or coaches, the location of championship sites to accommodate upstate and downstate teams and spectators, and not having an option to use a credit card to pay for tickets onsite at tournament competitions. Another common complaint comes from member schools and concerns the eligibility of athletes. Additionally, DIAA receives inquiries about a student athlete's eligibility to compete for a certain team or school. The School District Enrollment

¹⁹ See Appendix C for 14 *Del. Admin. C.* § 1007.

²⁰ 14 *Del. C.* § 304(3).

²¹ See Appendix B for 14 *Del. Admin. C.* § 1006.

Choice Program²² and the Transfer Rule²³ become a factor when a student athlete is alleged to be playing for a school or team in violation of the rules and regulations.

	Calendar Year 2017	Calendar Year 2018	Calendar Year 2019
Total Number of Complaints Received	1	1	1
Total Number of Complaints Investigated	1	1	1
Total Number of Complaints Found to be Valid	0	0	1
Total Number of Complaints Forwarded to the Attorney General	0	0	0
Total Number of Complaints Resulting in Disciplinary Action	0	0	1

DIAA recognizes that special circumstances will, at times, indicate that an exception to the established rules and regulations is appropriate. To accommodate such situations, the DIAA has adopted a waiver procedure. Parents and students can find the Waiver Request Form and guidelines for the process on the DIAA website.²⁴

ENACTED LEGISLATION IMPACTING DIAA²⁵

- HB 475 (141st General Assembly): Established DIAA.
- SB 111 (146th General Assembly): Required DIAA to develop regulations regarding the appropriate recognition and management of concussions.
- SB 205 (147th General Assembly): Outlined procedures for dealing with Sudden Cardiac Arrest in student athletes.
- HB 98 (149th General Assembly): Established a waiver for those student athletes that choice from one school to another.
- SB 241 (149th General Assembly): Provided DIAA the authority to establish fees for officiating.
- SCR 79 (149th General Assembly): Directs DDOE and DIAA to promulgate regulations permitting coaches to coach student athletes out of season.

²² 14 Del. C. Ch. 4.

²³ See Appendix D for subsection 2.4 of 14 Del. Admin. C. § 1008 and Appendix E for 14 Del. Admin. C. § 1009.

²⁴ See Appendix O for Waiver Request Form and Guidelines and <https://www.doe.k12.de.us/Page/2163>.

²⁵ See Appendix P for copies of the enacted legislation impacting DIAA.

The following federal laws and regulations guide or otherwise directly affect DIAA's functions, responsibilities, and operations:

- Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education.
- Title IX of the Education Amendments of 1972 prohibits exclusion from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance on the basis of sex.
- Family Educational Rights and Privacy Act protects the privacy of student education records.
- McKinney Vento Homeless Assistance Act authorizes the federal Education for Homeless Children and Youth (EHCY) Program and relates to the education of children and youth experiencing homelessness.

ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

Current Regulations²⁶

DIAA promulgates regulations in accordance with Delaware's Administrative Procedures Act. The regulations are:

- 14 *Del. Admin. C.* § 1006 Delaware Interscholastic Athletic Association (DIAA) includes DIAA and Board processes as well as the complaint process for alleged violations of all rules concerning middle and high school interscholastic athletics, the Board's investigative process, and the executive director's investigative process.
- 14 *Del. Admin. C.* § 1007 DIAA Sportsmanship provides the standards of conduct for sportsmanlike behavior for student athletes, coaches, administrators, officials, and spectators involved with DIAA-regulated interscholastic athletics.
- 14 *Del. Admin. C.* § 1008 DIAA Junior High and Middle School Interscholastic Athletics provides the standards and processes that govern middle school interscholastic athletics including recruitment and eligibility.
- 14 *Del. Admin. C.* § 1009 DIAA High School Interscholastic Athletics provides the standards and processes that govern high school interscholastic athletics including recruitment and eligibility.

All regulations were adopted in June 1, 2004. The DAG assigned to DIAA has reviewed the current rules and regulations for compliance with DIAA's governing statute.

²⁶ See Appendices B, C, D, E.

Proposed Changes to Regulations

In September 2019, the Board unanimously voted to amend the Committees of the Board of Directors regulation,²⁷ striking the requirement that DIAA's executive director and the Board's chair serve as ex officio members of each committee and adding the requirement that a current Board member serve on each committee. The DAG assigned to represent DIAA reviewed and approved these changes.

DIAA is in the process of reviewing the following regulations, which the DAG has not yet:

- DIAA published proposed changes to the regulation surrounding coaching out of season as part of the APA process.²⁸ After reviewing public submissions regarding the proposed changes, DIAA withdrew the published changes and established a process for revising and drafting additional changes to the regulation.
- DIAA received a request to examine the scrimmage process.²⁹ Currently, a scrimmage is defined as an informal competition between member schools in which officials are not compensated. An officials' association requested that scrimmage be defined to allow officials to be compensated.
- DIAA received a request to establish a regulation that would allow member schools with small programs in wrestling to practice with each other. Allowing joint practices would provide student athletes the opportunity to apply their skills against student athletes in a similar weight class, thereby helping to diminish the risk of injuries during practices.

FREEDOM OF INFORMATION ACT COMPLIANCE

Since 2010, DIAA has received 2 complaints of FOIA violations.

- DOJ concluded that the Board did not violate FOIA's open meetings requirement by listing an incorrect posting date on a special meeting notice that was posted on the Statewide Meeting Calendar. The Department of Technology and Information confirmed that the notice was posted 24 hours in advance of the meeting as required. See Del. Op. Atty. Gen. 10-IB15.
- DOJ concluded that DIAA was in violation of FOIA's open meeting law because, although the Sportsmanship Committee's July 2019 meeting agenda accurately described the source of a complaint, it did not provide adequate notice to the public of the subject intended for discussion. See Del. Op. Atty. Gen. 19-IB55.

DIAA follows DDOE FOIA policy and procedures.³⁰ The DDOE's FOIA coordinator serves as the point of contact for FOIA requests, works in cooperation with DIAA staff to identify records sought, and coordinates the responses to requests. Monthly meeting notices and agendas are posted at least 7 days in advance on the Statewide Public Meeting Calendar and posted the Board's eBOARD site. A paper copy of the agenda is posted on the

²⁷ See Appendix B for subsection 3.2 of 14 *Del. Admin. C.* § 1006.

²⁸ Appendix D for 14 *Del. Admin. C.* § 1008 and Appendix E for 14 *Del. Admin. C.* § 1009.

²⁹ See Appendix E for subsection 1.5.1.1 of 14 *Del. Admin. C.* § 1009.

³⁰ <https://education.delaware.gov/about-doe/foia/>.

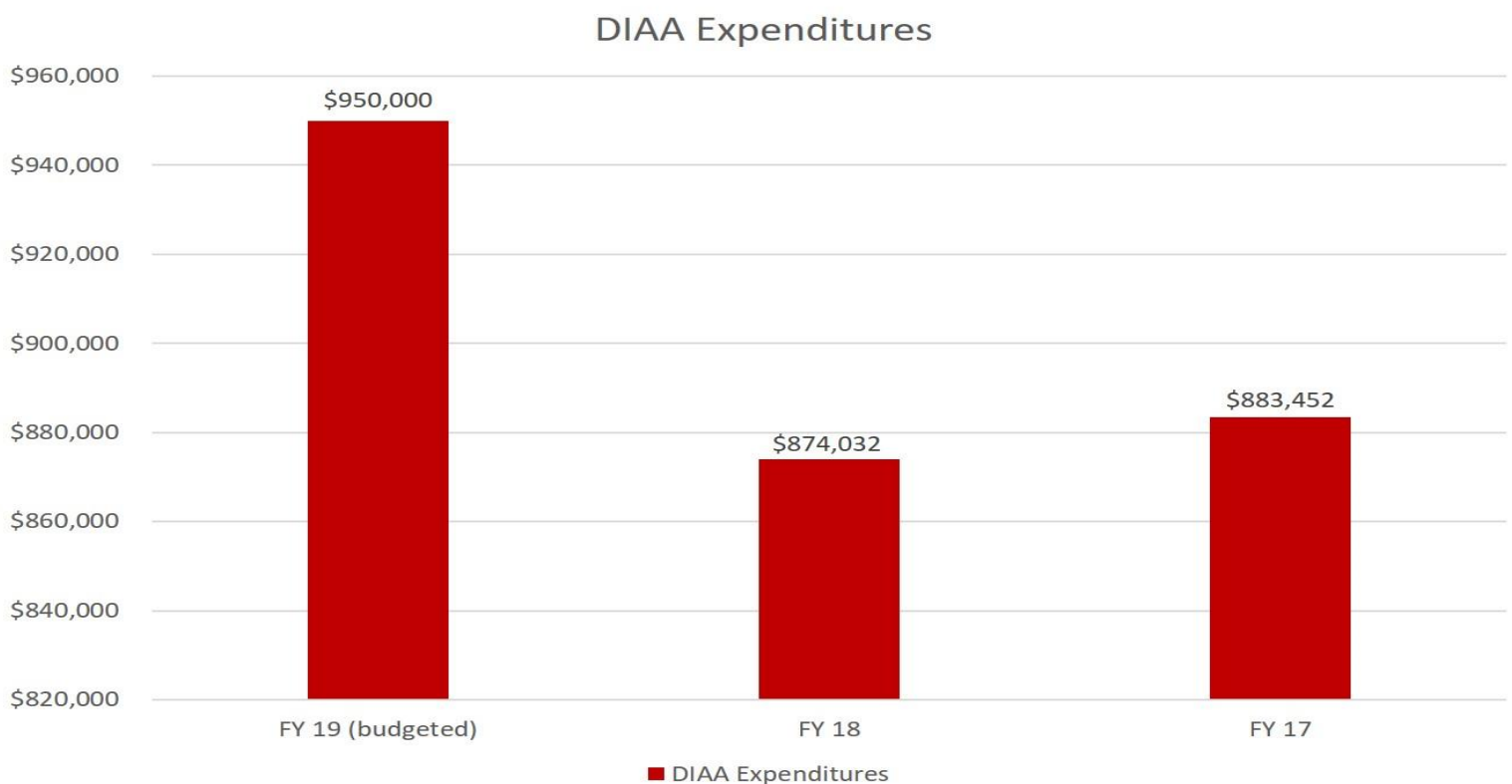
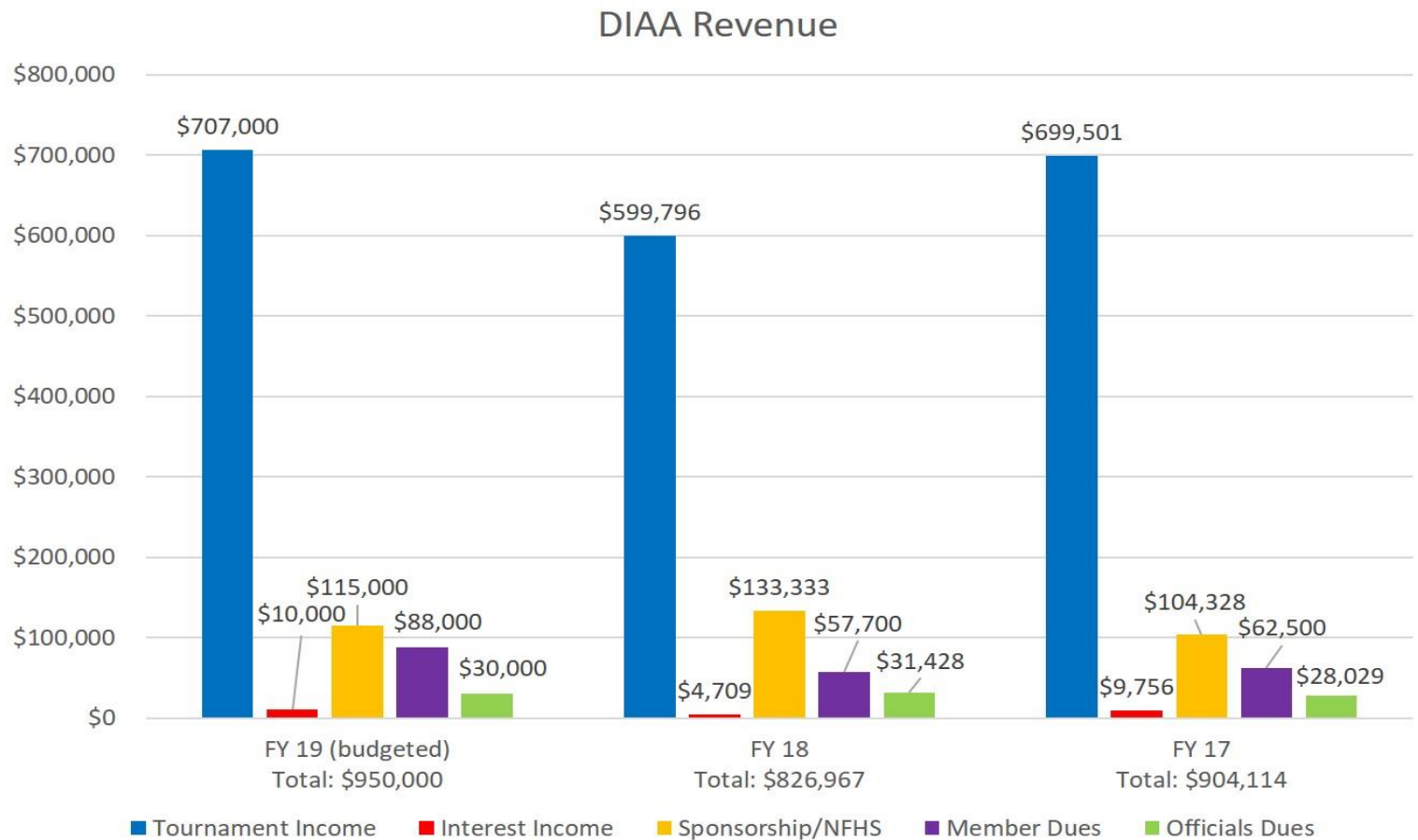
bulletin board at the Collette Education Resource Center, where DIAA's offices are located, and on the bulletin board on the second floor of the Townsend Building. Meeting minutes are regularly transcribed. Board meeting minutes are made publicly available on the Statewide Public Meeting Calendar and the DDOE's website within 5 working days of the Board's approval. Committees, which meet 4 or fewer times per year, post draft minutes on the Statewide Public Meeting Calendar with the final version posted within 5 working days of a committee's approval.

DIAA has conducted executive sessions in the last 3 calendar years. In compliance with FOIA, the Board of Directors note on its agenda if it intends to enter executive session. The Board utilizes the executive session process for waiver hearings to protect students' privacy rights³¹.

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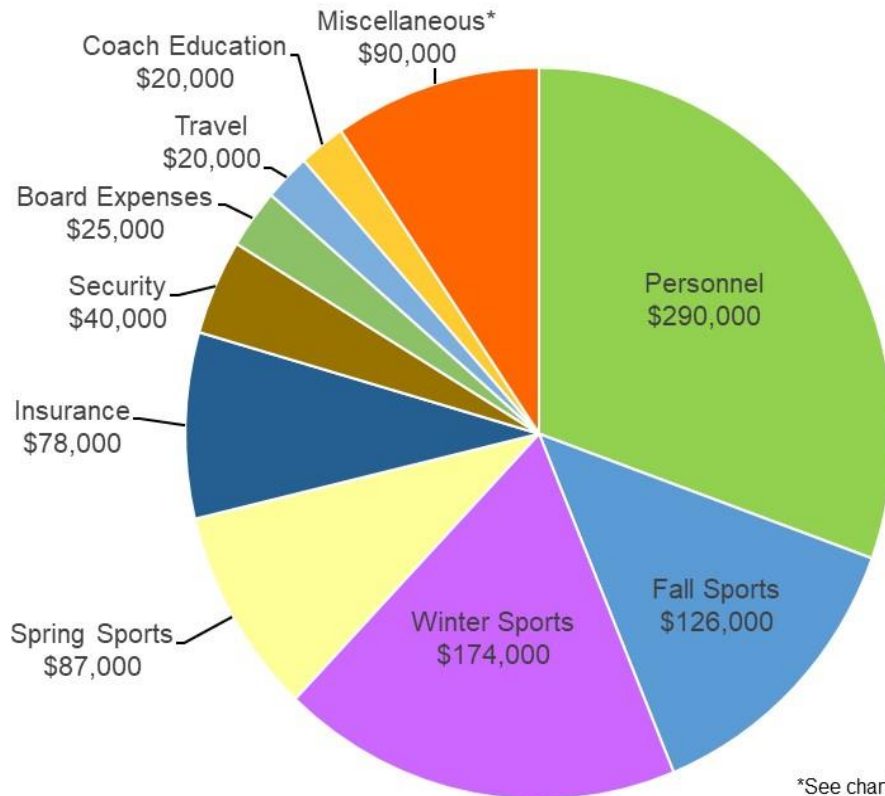
³¹ See Appendix Q for a breakdown of the Board's Executive Sessions.

FISCAL INFORMATION³²



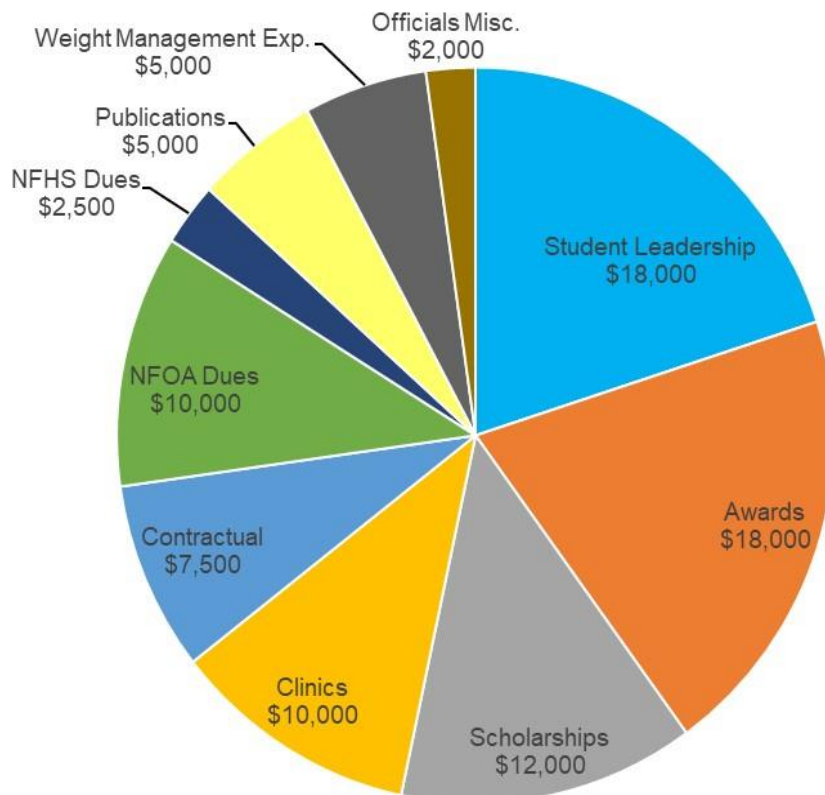
³² See Appendix R for complete DIAA Financial Reports 2017-2019.

DIAA Detailed Expenditures FY 19



*See chart below for
Miscellaneous expenditures

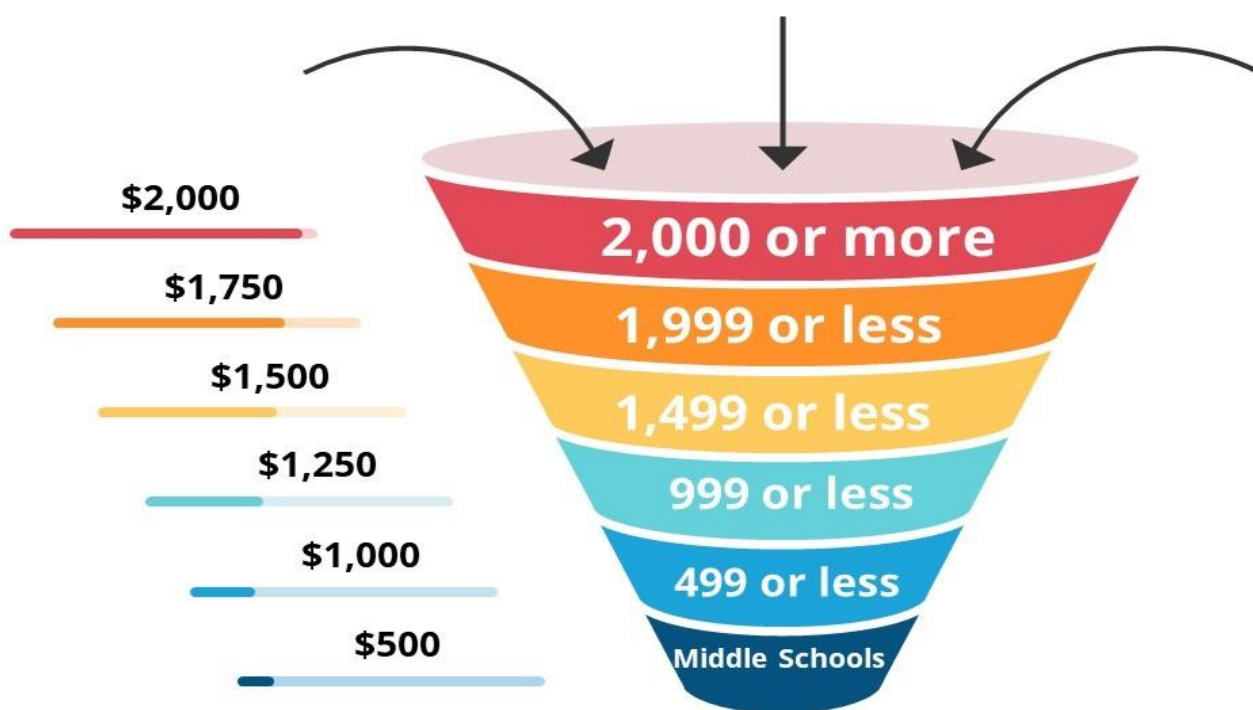
DIAA Miscellaneous Expenditures FY 19: \$90,000



DIAA is supported primarily through revenue derived from ticket sales at state championship and tournament events. DDOE created a special fund called the “Secondary Interscholastic Athletic Fund” to receive and track DIAA’s revenue streams. All membership dues, sponsorship funds, and other revenues from DIAA championships are deposited into this fund.

DIAA and member schools have MOUs that require member schools to pay an annual membership fee and a sports participation fee to DIAA. Middle and high schools located in the same administrative unit and combined enrollment of grades 6th through 12th with enrollment of 499 or less pay the high school fees and are exempt from the middle school fee. The amount a member school pays for annual membership is based on the enrollment counts as of September 30 of the previous school year. If the member school sponsors 1 or more approved sports, the school submits payment of the sports participation fee associated with the sport to DIAA. Sports participation fees cover costs associated with conducting a sport during the regular season.

Below is the fee schedule for all other schools based on enrollment numbers:



According to the Agreement between DIAA and DIAA Approved Officials Associations for State Tournaments, each association submits on behalf of its members payment to DIAA for each member’s dues. Each member’s dues are \$35 annually, which include \$17 in NFHS dues and \$18 in DIAA dues, and are due at the time the member registers for the first sport the member will officiate during the school year. If an individual member has previously officiated for a sport, the member’s dues for each additional sport are \$18.

Description of Fine or Fee	Current Fine or Fee
Late Fees on Submission of Member Dues	10% total
Participation against an illegal opponent (1008/1009-1.5.7)	\$500
Appeal of a forfeit for use of an ineligible athlete in Team sports (1008/1009-2.10.2.2)	\$200-\$1000 plus a reprimand and referral to Sportsmanship Committee
Failure of the Host School of an Interscholastic Football game to provide a Qualified Healthcare Professional (1008/1009-3.4.1)	\$250
Team participates in more than the allowable contests in a season (1008/1009-4.3.6)	\$500 if a non-qualifying state tournament team or suspended from playoffs if a qualifying team
Team exceeds the weekly limits of contests (1008/1009-4.3.6.1)	\$250 plus forfeiture of game
School that fails to comply with established practice requirements (1008/1009-4.2.4)	\$500 for each day of non-compliance
Participating in a game prior to the first allowable date (1008/1009-4.1.4)	\$500 for each contest
Participating in a practice prior to the first allowable date (1008/1009-4.1.5)	\$500 for each day
Participation in a non-sanctioned event (1008/1009-5.2.2)	\$100: 1 st offense; \$250: 2 nd offense and loss of eligibility for season; \$500: 3 rd offense and loss of eligibility for the year.
Participation in an approved DIAA All-Star event and not filing a Financial Report within 90 days. (1008/1009-5.4.5)	\$300

ACCOMPLISHMENTS

Unified Sports: Unified Sports® brings together persons with intellectual disabilities, Special Olympics Athletes, and without intellectual disabilities, Unified Partners, to train and compete on athletic teams. In 2013, DIAA partnered with Special Olympics Delaware to offer Unified Track & Field as a recognized sport to student athletes with intellectual disabilities. Thereafter, Unified Flag Football and Unified Basketball became DIAA recognized sports. During the 2018-19 school year, 225 Special Olympics Athletes and 184 Unified Partners participated in Unified Sports®, which are offered at 19-member high schools statewide.

Ongoing Athletic Director, Coach, and Official Training: DIAA presents annual rules clinics for coaches and officials for field hockey, football, soccer, volleyball, basketball, swimming/diving, wrestling, baseball, softball, lacrosse, and track and field. DIAA also offers coaches' and officials' clinics for tennis and golf every 2-3 years. DIAA supports the work of the Delaware Association of Athletic Directors ("DAAD") to educate and certify member school athletic administrators through the National Interscholastic Athletic Administrators Association ("NIAAA") Leadership Training Institute.

Advancement in Sport Safety: DIAA and the Sports Medicine Advisory Committee ("SMAC") are national leaders on several issues related to the health and well-being of student athletes in Delaware. Together they worked with the General Assembly to authorize DIAA to adopt regulations to ensure appropriate management of athletes with a suspected head injury. SMAC supported the expansion of athletic training services at all high schools and many middle schools. Heat acclimatization policies were established to reduce the risk of heat-related illness, the leading cause of death among athletes. Likewise, cold acclimatization policies were established to reduce the risk of hypothermia and frostbite. The work of DIAA and SMAC has helped ensure that all schools in Delaware now have an automated external defibrillator ("AED") and appropriate training for its use. In addition, DIAA and SMAC have formalized a statewide student athlete pre-participation physical examination form.³³ Finally, measures have been put in place to increase eye protection in sports such as field hockey.

Expansion of State Tournaments to Meet the Needs of Sports: With the addition of comprehensive vocational technical schools, charter schools, and private schools to the existing public-school base, additional tournament slots were needed to provide extended opportunities for student athletes and member schools. Initially, only a small number of schools offered soccer, but more schools offered soccer as the sport's popularity grew, creating the need to add tournament slots or, in some cases, a second division. It also became clear that in certain sports, such as football, the size of a school's student population created inequity, so separate divisions were created for small and large schools. A smaller school division created more opportunities for participation in tournaments, thus increasing the number of small schools wanting to participate.

³³ See Appendix S for the Student Athlete Pre-Participation Physical Examination Form.

Fiscal Responsibility: DIAA is revenue-neutral for the State, operating within the Secondary Interscholastic Athletic Fund. DIAA funding operates under the DDOE's finance office for consistency and oversight and has kept a balanced budget annually by streamlining office expenses, negotiating corporate sponsorships, promoting DIAA state tournament events to increase attendance, streamlining state tournament expenses, and working within a small full-time staff.

Scholarships: The annual DIAA/Harry Roberts Senior Scholar-Athlete Awards are based on students' academic, athletic, and leadership achievements. First place recipients receive \$2,000, second place receive \$1,500, and third place receive \$1,000.

CHALLENGES

Non-DIAA Sports Organizations: Interscholastic sports are only 1 opportunity for middle school and secondary student athletes to participate in sports. Club and travel teams provide youth opportunities to participate on a year-round basis against other student athletes in Delaware and surrounding states, but the lack of organizational oversight make it difficult to prevent overuse or injury.

Escalating State Tournament Costs: Security costs are increasing with schools requiring uniformed security at most state tournament events. The average cost per hour is \$65.00, at a minimum of 3 hours, for a minimum of 2 officers. In addition, facility costs are increasing due to the increase in events that have gone to multiple division participation requiring more personnel and rentals.

Decrease in Certified Officials and Sportsmanship Issues: For the last 3 years, the number of certified officials has averaged 830, but DIAA is concerned that the number will start to decrease. Some sports have increased the number of officials used per game, with basketball decreasing from 2 to 3 and football from 5 to 6, and game times have moved to the afternoon when officials working full-time jobs are not available. Field hockey, girls' lacrosse, and baseball have had to "close out" dates, playing only a set number of contests due to the lack of available officials. New officials coming into the officials' association has declined due to the negative environment created by verbal and sometimes physical abuse towards officials, few opportunities to advancement to higher levels, low pay, and the times events are held.

DIAA Staff Size and Available Technology: DIAA is a resource for all 100+ member schools, but the current structure does not allow the staff to provide sufficient service and support to member schools. Only 3 DIAA staff members cover compliance oversight, student athlete development, coach and athletic director education, board support, and marketing. In addition, productivity is hampered because software to help manage databases and workflow processes is not updated. Most work is still done manually, impacting staff time and the ability to maximize productivity. For example, tracking sportsmanship incidents is done through a spreadsheet that does not provide statistics, while committee seeding and gathering qualifying information is done manually and takes hours to obtain.

OPPORTUNITIES FOR IMPROVEMENT

Increase Staff Size: An increase in the number of staff would better address the DIAA's responsibilities and ensure member schools are provided with efficient service. Increased staff will allow DIAA to implement programs to enhance student athlete experiences and development, provide more effective professional development to coaches and administrators of member schools, and ensure association members are compliant with rules and regulations while continuing to conduct investigations in a fair and timely manner.

Development of a Strategic Plan to Guide the Organization, Board, and Executive Director: DIAA is exploring the implementation of a strategic plan that will provide a formal guide to establish its direction, priorities, and vision. Overall, the goal of the strategic plan is to enable DIAA to utilize its resources more effectively and function more efficiently. Input from the Board, member schools, and committees will guide DIAA to improve its overall performance.

Structuring the Processes and Procedures for All Committees: DIAA is creating policies and procedures to facilitate better communication between the Board and its committees, to allow the Board to make more informed decisions in a timely manner.

Board Management: Currently, the Board spends much of its monthly meetings conducting hearings. Many of these meetings last several hours and are an inefficient use of time. The Board has discussed the idea of delegating authority to a hearing officer to conduct hearings and make recommendations to the Board. This will streamline DIAA's processes and provide the Board more time to work on developing strategic plans and updating regulations.

Increase the Significance of Education within Interscholastic Athletics: DIAA can develop programming for student athletes to enhance their educational value. For example, a student's involvement with the Student Athlete Advisory Committee will give student athletes a voice in interscholastic athletics while providing support for leadership and development opportunities off the field.

Clarity of Regulations: The current regulations are difficult for member schools to interpret as they work to ensure compliance. DIAA staff is looking to restructure the regulations, FAQs, and tournament manuals into more user-friendly formats. In addition, DIAA looks to provide more training to coaches and athletic directors and implement regulations that would require completion of the training.

Financial Analysis and Fee Restructuring: The current fines schedule has never been updated and needs review. Over the past several years, no member school has been fined.

ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

Staff Turnover and Vacancy: August 2019 saw the retirement of DIAA Executive Director, Tommie Neubauer. In October 2019, his replacement stepped down after two months.³⁴ On January 28, 2020, the DIAA Board of Directors and Secretary of Education Susan Bunting announced DIAA's Coordinator of Interscholastic Athletics, Donna Polk, as the new Executive Director of DIAA, leaving her position vacant.³⁵ With only 3 full-time staff positions, the Board, and DDOE are moving as quickly as possible to fill the coordinator position.

Tournament Cancellation: On March 12, 2020, due to the state of emergency announced in wake of the coronavirus pandemic, DIAA cancelled the 2020 state basketball tournament. The 8 remaining teams (4 boys and 4 girls) received Final Four trophies while the 2 Unified teams are named co-champions.³⁶

2020 Spring Sports Suspended: On April 24, 2020, DIAA announced the suspension of the spring sports season in response to Governor Carney's announcement that school buildings would remain closed for the remainder of the 2019-2020 school year. DIAA is continuing to assess the impact of COVID-19 on summer activities and the 2020-2021 sport seasons.

³⁴ <https://delawarestatenews.net/sport/cimaglia-exits-as-diaa-head-two-months-into-job/>.

³⁵ <https://www.nfhs.org/articles/polk-named-diaa-executive-director/>.

³⁶ <https://www.delawareonline.com/story/sports/high-school/2020/03/12/diaa-basketball-tournaments-delayed-crowd-sizes-limited/5030754002/>.

TITLE 14

Education

Free Public Schools

CHAPTER 3. Delaware Interscholastic Athletic Association

§ 301 Purpose.

There is hereby established the Delaware Interscholastic Athletic Association. The Association is intended to preserve and promote the educational significance of interscholastic athletics; ensure that interscholastic sports remains compatible with the educational mission of the member schools; provide for fair competition between member schools; promote sportsmanship and ethical behavior; establish and enforce standards of conduct for athletes, coaches, administrators, officials and spectators; protect the physical well-being of athletes; and promote healthy adolescent lifestyles. To these ends, the General Assembly intends for the Association to work in consultation and cooperation with the Department of Education toward full implementation of this chapter.

73 Del. Laws, c. 374, § 3.;

§ 302 Definitions.

The following definitions apply to this chapter:

- (1) “Association” means the Delaware Interscholastic Athletic Association.
- (2) “Board” means the Board of Directors of the Delaware Interscholastic Athletic Association.
- (3) “Department” means the Delaware Department of Education.
- (4) “Member school” means a full or associate member school of the Association.
- (5) “Secretary” means the Secretary of the Delaware Department of Education.
- (6) “State Board” means the State Board of Education.

73 Del. Laws, c. 374, § 3.;

§ 303 Rules and regulations.

(a) The Association shall be a unit of the Department of Education. The General Assembly intends for the Association to work in consultation and cooperation with the Department of Education in the development of rules and regulations relating to member school interscholastic athletics. The Association and the Department of Education are authorized to develop all necessary policies and procedures to implement the provisions of this chapter.

(b) The Association, in consultation and cooperation with the Department, shall develop rules and regulations relating to secondary and middle school interscholastic athletics for schools in the State. Such regulations shall include the regulation of athletic programs of all public schools in the State and such nonpublic schools as may elect to become member or associate member schools as provided in regulations

adopted pursuant to this chapter, eligibility of students to participate in interscholastic athletes, nonschool competitions, coaches and sports officials of interscholastic sports in the State, sanctioning of school team competitions, and other matters affecting interscholastic athletics in the State. However, the Association shall not approve any rule or regulation that denies a student the right to simultaneously try out for, practice with, or participate in games on a team similar to the school team on which that student is a member, except that such dual membership and participation on a similar team shall be authorized only upon written consent by the parent, custodian or guardian of the student. Such written consent shall clearly state the authority to participate on a particularly specified team of a designated organization or institution.

(c) The Association shall adopt rules and regulations as to which sports over which they have jurisdiction.

(d) The Association shall adopt rules and regulations applicable to member schools regarding the appropriate recognition and management of student athletes exhibiting signs or symptoms consistent with a concussion. The rules and regulations shall include, but not be limited to, the following requirements which shall be effective no later than the 2012-2013 school year:

(1) Each student athlete and the athlete's parent or guardian shall annually sign and return a concussion information sheet designed by the Association prior to the athlete initiating practice or competition.

(2) Each coach shall complete concussion training consistent with a timetable and curriculum established by the Association.

(3) A student athlete shall be promptly removed from play if the athlete is suspected of sustaining a concussion or exhibits signs or symptoms of concussion until completion of assessment by a qualified healthcare professional or medical clearance.

(4) Written clearance for return to play after a concussion shall be from a qualified physician (Doctor of Medicine or Doctor of Osteopathic Medicine) only.

(e) The Association shall adopt rules and regulations applicable to member schools regarding student athletes and awareness, recognition, and management of sudden cardiac arrest which shall be effective no later than the 2015-2016 school year. The Association, either through rules and regulations or policy adopted pursuant thereto, at a minimum, shall:

(1) Develop and make publicly available a sudden cardiac arrest information sheet that includes information regarding the nature and warning signs of sudden cardiac arrest;

(2) Prior to participating in practice or competition, require each student athlete and the athlete's parent or guardian, sign and return a sudden cardiac arrest information sheet designed by the Association;

(3) Require each student athlete to complete a heart history questionnaire as part of the preparticipation physical examination;

(4) Hold a current cardiopulmonary resuscitation ("CPR") certification for all school-appointed head coaches, which includes training on the use of an automated external defibrillator; and

(5) Present to coaches and officials sudden cardiac arrest awareness information.

73 Del. Laws, c. 374, § 3; 70 Del. Laws, c. 186, § 1; 78 Del. Laws, c. 192, § 1; 79 Del. Laws, c. 419, § 1.;

§ 304 Other duties, powers and authority.

The Board shall have such duties, powers and authority as may be necessary for the enforcement of this chapter and for the enforcement of the Department's rules and regulations adopted under this chapter, which must include all of the following:

(1) To establish annual membership fees.

(2) To establish standing committees.

(3) To determine the existence of violations of the rights and regulations by full and associate member schools and penalize violations by official reprimand, placement on probation, fine, suspension or other action as deemed appropriate.

(4) To investigate, conduct hearings and take action on alleged violations committed by schools, athletes, coaches, administrators, officials or spectators of the Department's rules and regulations made under this chapter.

(5) To interpret the Department's rules and regulations made pursuant hereto, conduct hearings and take action on requests for a waiver of the rules and regulations.

(6) To establish fees for officiating contests and competitions.

73 Del. Laws, c. 374, § 3; 81 Del. Laws, c. 329, § 1.;

§ 305 Composition of the Delaware Interscholastic Athletic Association.

(a) The Board shall consist of 19 voting members and 1 nonvoting member as follows:

(1) Two school district superintendents/assistant superintendents, who shall be residents of different counties.

(2) Three representatives of school district boards of education, who shall be residents of different counties.

(3) Three public school principals/assistant principals, 1 of which shall be from each county.

(4) Two public school athletic directors/coaches, who shall be residents of different counties.

(5) Two nonpublic school representatives, of which 1 shall be a secondary school administrator and 1 shall either be a secondary school athletic director or coach.

(6) One Department of Education representative, which may be the Secretary of Education or the Secretary's designee, who shall be the nonvoting member.

(7) One physician licensed by the Delaware Board of Medical Practices knowledgeable about sports medicine.

(8) Six public members, of which 2 shall be from each county. The public members shall be residents of Delaware for a minimum of 3 years and shall be knowledgeable about athletics, but shall not be employees of any member school or have a material financial interest in providing goods or services to the Association or any member school.

(b) Voting board members shall be appointed by the Governor with the advice and consent of the Senate. The Governor shall take into consideration geographic representation, knowledge of athletics in general, and an interest in high school athletics in deciding whether or not to appoint a nominee.

(c) All members of the Board, with the exception of the Secretary of Education or the Secretary's designee, who shall be a permanent member, and the licensed physician, who shall serve at the pleasure of the Governor shall be appointed for a 3-year term, provided, however, that the Governor may appoint members to terms less than 3 years if necessary to ensure that the Board members' terms remain appropriately staggered. The Governor shall strive to assure that, the terms of the members of the Board are staggered so that the terms of no more than 7 members shall expire in any given year. Board members shall be paid \$100 per meeting.

(d) A member of the Board shall serve until that member's successor is appointed. A member appointed to fill a vacancy shall serve for the remainder of the term of the member whom that member replaces.

(e) A person who has never served on the Board may be appointed to the Board 2 consecutive times, but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice-appointed to the Board or who has served on the Board for 6 years within any 9-year period shall again be

appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(f) Any act or vote by a person appointed in violation of subsection (e) of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (e) of this section unless such amendment or revision amends this section to permit such an appointment.

(g) No school district or nonpublic school shall have more than 1 member on the Board.

(h) A member who fails to attend 3 consecutive meetings, unless excused for good cause by a majority of the members of the Board, or fails to attend at least half of all regular business meetings of the Board during any calendar year or who ceases to be a resident of the county in which such member resided when appointed to the Board shall automatically upon such occurrence be deemed to have resigned from office, and a replacement shall be appointed.

73 Del. Laws, c. 374, § 3; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 247, §§ 1-9.;

§ 306 Quorum and voting.

A majority of the voting members of the Board shall constitute a quorum. A quorum must be present to pass any motion or resolution. No motion, resolution or other act of the Association to adopt or amend the Association's budget or rules and regulations may be adopted without agreement of the majority of the voting members of the Board. All other motions, resolutions or acts of the Association shall require a simple majority of the voting members present in order to pass.

73 Del. Laws, c. 374, § 3; 76 Del. Laws, c. 247, § 10.;

§ 307 Chairperson; administration.

(a) The Board shall elect annually from its members a Chairperson, Vice Chairperson and such other officers as it may deem necessary. In the event of a vacancy in 1 of the officers, a replacement shall be elected at the next Board meeting or a meeting called for that purpose.

(b) The Association shall hire an Executive Director to work in collaboration with the Department of Education. The Executive Director shall be an employee of the Department and receive compensation commensurate with the Department salary scale at the education associate level.

(c) There shall be a secretary who is employed by the Department of Education, and who shall serve as staff for the Association and the Department of Education. The secretary shall receive compensation commensurate with the Department salary scales and shall be evaluated according to Department policies and procedures. The Secretary of Education shall employ other such employees as provided in the budget.

(d) The Executive Director shall become a bona fide resident of the State within 6 months following the Executive Director's date of hire.

73 Del. Laws, c. 374, § 3.;

§ 308 Meetings of the Association.

(a) The Association shall hold regularly scheduled meetings at least once a month and at such other times as the Chairperson deems necessary or at the request of a majority of the Board members.

(b) The Board shall meet at such place within the State as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting.

(c) Notice of all meetings of the Board shall be given in the manner prescribed by law.

(d) Board meetings and hearings shall be open to the public in accordance with the provisions of Chapter 100 of Title 29.

(e) Minutes of all meetings shall be recorded and copies shall be maintained by the Association at the offices of the Department of Education. At any hearing in which evidence is presented, a record from which a verbatim transcript can be prepared shall be made and the expense of preparing any transcript shall be incurred by the person requesting the transcript.

(f) Board decisions in cases involving requests for waivers will be released in writing within 20 days from the date of hearing.

73 Del. Laws, c. 374, § 3.;

§ 309 Secretary; powers and duties.

The Association shall be a unit of the Department of Education. The Secretary of Education shall promulgate any rules and regulations necessary to the establishing of the Association as such a unit.

73 Del. Laws, c. 374, § 3.;

§ 310 Payment of expenses; deposits of receipt.

A special fund is hereby created and shall be known as the “Secondary Interscholastic Athletic Fund.” The expenses of the Association shall be paid from this special fund. Any appropriations made to the Department by the General Assembly for the Association shall be allocated to this fund. The Association shall be authorized to receive state appropriations, federal moneys, membership dues, tournament revenues, fees, fines, official dues, merchandising and licensing revenue, and interest. The Association is authorized to establish special fund accounts for the purposes of tracking revenue, and these accounts shall be interest bearing and not subject to reversion. The Association is exempt from the state bid law. The Association shall not operate any accounts outside of the state accounting system and the fund shall be interest bearing. Funds shall be utilized to support the activities and operations of Delaware interscholastic athletics. During the fiscal year, the expenditure of funds from the Delaware Interscholastic Athletic Fund will be in accordance with the Division of Accounting budget and accounting procedures.

73 Del. Laws, c. 374, § 3; 80 Del. Laws, c. 298, § 302.;

§ 311 Annual report.

The Association, in consultation and cooperation with the Department of Education, shall make an annual report to the Governor and the General Assembly on or before January 31 in each year.

73 Del. Laws, c. 374, § 3.;

§ 312 Appeals of decisions by the Association.

The Association shall decide on all controversies involving the rules and regulations, including any waiver thereof, adopted pursuant to this chapter, and any waiver of the ineligibility in § 410(a) of this title. Any party to such a controversy may appeal to the state Board by setting forth such grievance in a petition which shall be served upon the Executive Director of the Association by certified or registered mail within 30 days after receiving notice of the decision. The state Board shall provide by rules and regulations for adequate procedures for the hearing of any such appeal and shall decide the controversy. All such appeals shall be on the record, and the state Board shall overturn the Association’s decision only if it decides that the Association’s decision was not supported by substantial evidence or was arbitrary or capricious. The decision of the state Board shall be final and not subject to further appeal.

73 Del. Laws, c. 374, § 3; 81 Del. Laws, c. 72, § 1.;



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DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY 1000 Student Activities

1006 Delaware Interscholastic Athletic Association (DIAA)

1.0 Organization Name, Purpose, and Definitions

- 1.1 The organization shall be known as the Delaware Interscholastic Athletic Association (DIAA) and shall function as the official designee of the Secretary of Education with the authority to implement the Department of Education's Rules and Regulations governing the conduct of interscholastic athletics.

1.2 Definitions

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

"Administrative Head of School" means the chief or head individual in charge of the school traditionally referred to or generally known as the principal or headmaster.

"Board" means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 Del.C. Ch. 3.

"Department" means the Delaware Department of Education.

"Guardian or Legal Guardian" means an individual who legally has responsibility for the care and management of the student during the student's minority. The relationship is a legal one and shall be created by a court order signed by a judge, commissioner, or master of a court of competent jurisdiction.

"Individualized Education Program" or "IEP" means a written statement for a child with a disability as defined in 14 DE Admin. Code 922.

"Legally in attendance" means present at school as determined by a pre-established written policy adopted by the local school board or governing body of the school.

"Member school" means a full or associate member school of the DIAA.

"Principal" or "Headmaster" means the Administrative Head of School and includes but is not limited to Head of School, Administrator, Executive Director, or Charter Head.

"School day(s)" shall mean actual school attendance days during the regular academic school year including a partial day that children are in attendance at school for instructional purposes as adopted by the district or governing body of the school not to include weekends, holidays, summer school, etc.

"State Board" means the State Board of Education of the State of Delaware pursuant to 14 Del.C. §104.

11 DE Reg. 1632 (06/01/08)

15 DE Reg. 69 (07/01/11)

2.0 Membership in DIAA

- 2.1 Full Member Schools: Any middle and secondary school located within the boundaries of the state of Delaware and containing grades 6 through 8, or 8 through 12, or any grouping of such grade levels, including nonpublic, private, and public schools, authorized by Title 14 of the Delaware Code, may become a full member school of DIAA. Membership requires the payment of dues and a signed affirmation of the obligations of membership.

- 2.1.1 A full member school is a non voting member of DIAA and does not participate in its day to day governance. A full member school may at any time make appropriate recommendations for policy action to the DIAA Board of Directors for its consideration.

- 2.1.2 Membership shall include all middle and secondary and middle public schools participating in interscholastic athletics and such nonpublic schools that may elect to become full or associate members.

- 2.2 Associate Member School: Any school, not a full member school, located within the boundaries of the state of Delaware and containing grades 6 through 8, or 8 through 12, or any grouping of such grade levels, may apply for status as an associate member school provided the applicant sets forth good cause and sufficient justification why such school cannot become a full member school. The initial application may be submitted at any time but renewal applications shall be submitted to the DIAA office no later than May 1 of each year.

- 2.2.1 Associate Membership Criteria: The membership application shall contain a statement that the school will abide by the Rules and Regulations of the Department of Education and the Delaware Interscholastic

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Athletic Association and in those cases wherein the school cannot comply, the application shall set forth the specific rule and regulation, and a sufficiently acceptable explanation of why the rule or regulation cannot be kept in force or why the school is incapable of compliance. Full compliance shall be made with all rules and regulations when an associate member school competes with a full member school of DIAA or a comparable state association; participates in DIAA sanctioned tournaments and meets in cross country, indoor track, wrestling (except dual team tournaments), outdoor track, and golf involving the aforementioned full member schools; or participates in a state championship event.

- 2.2.2 Such associate member schools, after initial approval, shall be reviewed each year by the DIAA Board of Directors for the purpose of approving, rejecting, or modifying their application for renewal of associate member status.
 - 2.3 Membership Dues Schedule: Yearly dues for full member and associate member schools shall be as follows:
 - 2.3.1 \$500 for middle schools.
 - 2.3.1.1 If a middle school and high school are located in the same administrative unit and the combined student enrollment of grades 6th through 12th is 499 or less then the school shall pay only the high school fee and be exempt from the middle school fee.
 - 2.3.2 \$750 for high schools with enrollments of 499 or less.
 - 2.3.3 \$1,000 for high schools with enrollments of 999 or less.
 - 2.3.4 \$1,250 for high schools with enrollments of 1,499 or less.
 - 2.3.5 \$1,500 for high schools with enrollments of 1,999 or less.
 - 2.3.6 \$1,750 for high schools with enrollments of 2,000 or more.
 - 2.3.7 Enrollment figures are based on the September 30 enrollment count from the prior school year as verified by the Department of Education.
 - 2.3.8 Membership dues shall be paid each year by October 1st. Member schools which have not paid dues by January 1st shall be assessed a 10% late fee. Full member and associate member schools which fail to comply may be subject to penalties as determined by the DIAA Board of Directors.
 - 2.4 Participation in State Championship Tournaments and Meets: Member schools must meet all the following criteria to be eligible to participate in the DIAA approved state championship tournament and meet:
 - 2.4.1 Be in compliance with all DOE and DIAA regulations,
 - 2.4.2 Be a DIAA member school in good standing including but not limited to paying all fees,
 - 2.4.3 Sponsor a team in the given sport,
 - 2.4.4 Be in compliance with and meet all requirements of the tournament manual for that sport,
 - 2.4.5 Sponsor one varsity sport per season, co-ed schools must sponsor at least one varsity sport per gender per season,
 - 2.4.6 Sponsor a minimum of two grades, one of which must be the eleventh grade, and
 - 2.4.7 Has been a DIAA member school for a minimum of two full school years (eligible in the 3rd year).
 - 2.5 Compliance with Regulations: Member schools shall comply with the regulations of the Delaware Interscholastic Association and acceptance of membership shall be construed as an agreement to that effect.
- 11 DE Reg. 1632 (06/01/08)**
15 DE Reg. 69 (07/01/11)

3.0 DIAA Board of Directors

- 3.1 Conflict of Interest: Any member of the Board who may be directly affected or whose school or school district may be directly affected by a potential decision related to an appeal or waiver request shall recuse himself or herself from consideration of the matter and shall not vote on that appeal or waiver request. The Chairperson of the Board is responsible for maintaining the integrity of the decision making process.
- 3.2 Committees of the DIAA Board of Directors
 - 3.2.1 Standing Committees
 - 3.2.1.1 The Board has established the following standing committees:
 - 3.2.1.1.1 The recognized sport committees are:
 - 3.2.1.1.1.1 Baseball
 - 3.2.1.1.1.2 Boys' Basketball

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- 3.2.1.1.1.3 Boys' Lacrosse
- 3.2.1.1.1.4 Boys' Soccer
- 3.2.1.1.1.5 Cross Country
- 3.2.1.1.1.6 Field Hockey
- 3.2.1.1.1.7 Football
- 3.2.1.1.1.8 Girls' Basketball
- 3.2.1.1.1.9 Girls' Lacrosse
- 3.2.1.1.1.10 Girls' Soccer
- 3.2.1.1.1.11 Golf
- 3.2.1.1.1.12 Softball
- 3.2.1.1.1.13 Swimming and Diving
- 3.2.1.1.1.14 Tennis
- 3.2.1.1.1.15 Track and Field
- 3.2.1.1.1.16 Volleyball
- 3.2.1.1.1.17 Wrestling
- 3.2.1.1.2 The other committees are:
 - 3.2.1.1.2.1 Officials
 - 3.2.1.1.2.2 Rules and Regulations
 - 3.2.1.1.2.3 Sports Medicine Advisory Committee
 - 3.2.1.1.2.4 Sportsmanship
 - 3.2.1.1.2.5 Unified Sports®
- 3.2.1.2 The Board may appoint additional committees to assist in the performance of its duties.
- 3.2.2 Committee Membership
 - 3.2.2.1 Committees shall consist of no less than 10 and no more than 15 committee members in addition to one current Board member.
 - 3.2.2.1.1 Each committee shall include a current Board member as a member of the committee.
 - 3.2.2.1.2 The Coordinator of Interscholastic Athletics or his or her designee shall be a voting, ex officio committee member of the Sportsmanship Committee.
 - 3.2.2.1.3 Each recognized sport committee, as provided in subsection 3.2.1.1.1, shall consist of at least one athletic director.
 - 3.2.2.2 Committee members shall have expertise in the committee's subject matter.
 - 3.2.2.3 Committee membership shall be geographically representative of the three counties and may include administrators, athletic directors, coaches, local school board members, officials, public members, and licensed sports medicine professionals.
 - 3.2.2.4 The Executive Director shall make a call for applications to fill vacancies on committees. Prospective committee members shall submit a DIAA Committee Application to the DIAA Office. The Executive Director and the committee's chairperson shall review the applications and make recommendations to the Board for approval and appointment.
 - 3.2.2.5 The Board's Chairperson, with the advice of the Executive Director, shall appoint a committee member to serve as the committee's chairperson. The committee chairperson shall preside over all meetings of the committee. The committee may elect a vice chairperson who shall serve in the capacity of the committee chairperson in the committee chairperson's absence.
 - 3.2.2.6 Committee members shall serve staggered 3-year terms.
 - 3.2.2.7 Prior to the expiration of a committee member's term, the Executive Director shall verify the committee member's continued interest in serving on the committee. The Executive Director shall submit the names of the committee members who are interested in serving another term to the Board for reappointment.
 - 3.2.2.8 Committee members who miss 3 consecutive meetings shall be reported to the Board, which may appoint replacement committee members.

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- 3.2.2.9 The Board may remove a committee member whose actions are contradictory to the committee's purpose or DIAA's purpose or are in violation of applicable law. In such case, the Board shall appoint a replacement committee member.
- 3.2.3 Committee Reports and Recommendations
- 3.2.3.1 The recognized sport committees, as provided in subsection 3.2.1.1.1, shall provide a report to the Board at the conclusion of the state tournament for their sport. The other committees, as provided in subsection 3.2.1.1.2, shall provide a progress report to the Board after each meeting.
- 3.2.3.1.1 Committees shall submit the report in writing to the DIAA Office or designate at least one committee member to deliver the report in writing at the Board's next regularly scheduled meeting.
- 3.2.3.2 Recommendations to the Board from committees shall be submitted in writing to the DIAA Office at least one week prior to the Board's next regularly scheduled meeting. The committee shall designate at least one committee member to attend the Board's meeting and present the committee's recommendation to the Board.

22 DE Reg. 56 (07/01/18)

23 DE Reg. 376 (11/01/19)

4.0 Responsibilities of the Executive Director

- 4.1 The Executive Director shall interpret the rules and regulations and may grant waivers of rules and regulations: Any waiver granted shall be temporary and shall be subject to review and approval by the DIAA Board at a subsequent or special meeting. All decisions or actions as noted above shall be documented and shall be a part of any hearing or appeal procedure.
- 4.2 The Executive Director may decide issues between meetings of the Board of Directors. The Executive Director shall initiate a review of or fully investigate an alleged violation of the Rules and Regulations that he/she has seen, heard or read about, or which has been reported to him/her. The Executive Director may also refer investigations to committees referenced in subsection 3.2.1.2 or employ special investigators as necessary to conduct such investigations. Subsequent action by the Executive Director may include an official reprimand, placement on probation, a fine, the imposing of sanctions, or the suspension from participation for a designated period of time of a player, team, coach or official to ensure the necessary, orderly, and proper conduct of interscholastic competition.
- 4.3 The Executive Director shall carry on the business of the DIAA Board and DIAA between meetings: Waiver requests decided by the Executive Director shall be temporary and shall be subject to review and final approval by the Board of Directors. No school or individual shall be penalized in any case in which the DIAA Board reverses an earlier ruling of the Executive Director. In addition, the Executive Director shall administer the day to day operation of the organization.
- 4.4 In the event that the Executive Director is unavailable to perform his or her duties due to a conflict of interest or otherwise, and a matter requires immediate action, the Executive Director may delegate the matter to a subordinate, the Sportsmanship Committee, special committees referenced in subsection 3.2.1.2, or to the Chairperson or Vice Chairperson of the DIAA Board of Directors. In such a case, the action shall be treated as the action of the Executive Director under the DIAA rules and regulations.

15 DE Reg. 69 (07/01/11)

22 DE Reg. 56 (07/01/18)

5.0 Responsibilities, Powers, and Duties of the Administrative Head of School

- 5.1 Responsibilities of Administrative Head of School
- 5.1.1 The administrative head of middle level and high school member schools shall be responsible for the conduct of the interscholastic athletic program in which representative teams participate including the organization and scheduling of individuals and teams. The administrative head may delegate his or her authority, but such delegation will not negate the responsibility for a violation of the DIAA Regulations by his/her school.
- 5.2 Powers and Duties of Administrative Head of School
- 5.2.1 The administrative head of each member school shall exercise general control over all of the interscholastic athletic matters of his/her school which include but are not limited to the following:

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- 5.2.1.1 Sanctioning all interscholastic athletic contests in which his/her school participates.
- 5.2.1.2 Excluding any contestant because of improper conduct or ineligibility.
- 5.2.1.3 Excluding any contestant whose physical health would be jeopardized by such participation, because of illness or injury suffered, until such time as the contestant is declared physically fit by the school or attending physician.
- 5.2.1.4 Protecting the well being of all visitors and officials attending interscholastic athletic contests conducted by his/her school. Administrative heads of member schools shall be expected to provide adequate security and, in the absence of such provisions, penalties may be imposed.
 - 5.2.1.4.1 When a contest is conducted at a neutral site, the administrative heads of the participating schools shall be held jointly responsible for the protection and well being of all visitors and officials. In the absence of adequate security, penalties may be imposed upon either or both of the schools.
- 5.2.1.5 Protecting the well being of the school's participants by providing them with safe and suitable uniforms and equipment and conducting practices and contests in a manner which minimizes risk to the health and safety of student athletes.
- 5.2.1.6 Ensuring that all required contracts for athletic contests in which the school participates are in writing and bear the proper signatures.
- 5.2.1.7 Designating a staff member of the school as the faculty manager for the teams representing the school or to serve as the faculty manager. If no such designation is made, the coach shall serve as the faculty manager.
- 5.2.1.8 Ensuring that an authorized representative accompanies the school's teams to all contests.
- 5.2.1.9 Certifying in writing the eligibility of his/her school's contestants in accordance with the Regulations of the Department of Education.
- 5.2.1.10 Exercising such other powers regarding the interscholastic athletic program of the school as are consistent with the needs of the school and with the provisions and spirit of the Regulations of the Department of Education.
- 5.2.1.11 Urging all students competing on the school's teams to obtain medical accident insurance which covers athletic participation.
- 5.2.1.12 Notification to DIAA of any official delegation of authority.

15 DE Reg. 69 (07/01/11)

6.0 Amendments to Department of Education Regulations

- 6.1 The DIAA Board, the Secretary of Education, the Executive Director of DIAA or any member school may propose changes, additions or deletions to the Department of Education regulations.
 - 6.1.1 Proposed changes shall be submitted in writing by a member school(s) to the Executive Director and these proposed changes and any other changes submitted by the Secretary of Education or the Executive Director of DIAA or the DIAA Board of Directors shall be reviewed by the Rules and Regulations Committee.
 - 6.1.2 Any proposed changes to the Regulations along with comments received from the Rules and Regulations Committee, shall be considered at a scheduled meeting of the DIAA Board. Proposed changes adopted by the Board shall thereafter be submitted to the Secretary of Education who will place them on the State Board of Education agenda for review and final approval.
 - 6.1.2.1 All member schools shall then be advised in writing of any proposed changes. The member schools and the public shall have an opportunity to review and comment on the proposed changes during the thirty day period that the regulations are advertised in the Register of Regulations (as per the Administrative Procedures Act).

7.0 Reporting Violations of Department of Education Regulations and Protests and Complaints to DIAA

- 7.1 Reporting violations of Department of Education regulations
 - 7.1.1 If a school violates a provision of the Department of Education regulations the administrative head or his/her designee shall notify the Executive Director in writing of the violation. The Executive Director may impose immediate penalties. All violations shall be reviewed by the DIAA Board of Directors which may impose additional penalties.

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- 7.1.1.1 The Executive Director or DIAA Board of Directors may impose additional penalties above the automatic penalties listed within the specific regulation violated as deemed necessary to assure proper conduct of interscholastic athletics or for repeat offenses.

7.2 Reporting Protests and Complaints

- 7.2.1 All protests involving game competition that are allowable as defined in the NFHS (name of sport) Rule Book, and deemed by the Executive Director to be the responsibility of DIAA, and not a local conference, shall be heard by a three person protest panel. This panel will include the DIAA Executive Director, the DIAA Chairman or Vice Chairman of the Board and the State Tournament Director of the given sport. Protests must be submitted in writing within 48 hours of the conclusion of the contest or earlier if required by NFHS rules. The decisions of the DIAA protest panel may not be appealed.
- 7.2.2 All complaints other than protests involving game competition brought before DIAA shall follow the procedures in 1006 8.0 and 1007 2.1.

9 DE Reg. 117 (07/01/05)

15 DE Reg. 69 (07/01/11)

19 DE Reg. 1085 (06/01/16)

8.0 DIAA Board of Directors Investigative Procedure

- 8.1 The following investigative procedure shall be followed when the DIAA office receives information indicating that an incident has occurred which is not in the best interests of the interscholastic athletic programs of the member schools of DIAA.
- 8.1.1 The administrative head of the member school involved shall be notified by telephone and confirmed by letter of the pending investigation (copy to be forwarded to the chief school officer). The notification shall contain an explanation of the nature of the investigation and identify the person(s) conducting the investigation.
- 8.1.1.1 If such complaint is regarding the administrative head of school, the complaint may be referred directly to the superintendent, governing body or the equivalent supervising authority.
- 8.1.2 Permission shall be sought from the administrative head of the member school to interview students and staff members and each person interviewed shall be informed of the nature of the investigation. Parents may also provide permission to interview their child.
- 8.1.3 Upon completion of the investigation, a written statement of charges shall be presented to the administrative head of the charged school (copy to be forwarded to the chief school officer).
- 8.1.4 When immediate punitive action by the Executive Director is necessary, the action taken shall be stated in writing.
- 8.1.5 When charges are to be presented to the DIAA Board of Directors, the charged school shall be advised of the meeting date, time, and location and shall be provided with an opportunity to respond to the charges.

15 DE Reg. 69 (07/01/11)

9.0 Waiver of DIAA Rules and Regulations

9.1 General

- 9.1.1 The DIAA Board has the authority to set aside the effect of any athletic rule or regulation, subject to any limitations set forth in the specific rule or regulation, when the affected party establishes by the preponderance of the evidence, all of the following conditions:
- 9.1.1.1 In the case of eligibility waiver requests, there exists a hardship as defined by subsection 9.2.1;
- 9.1.1.2 Strict enforcement of the rule in the particular case will not serve to accomplish the purpose of the Rule;
- 9.1.1.3 The spirit of the rule being waived will not be offended or compromised;
- 9.1.1.4 The principle of educational balance over athletics will not be offended or compromised; and
- 9.1.1.5 The waiver will not result in a safety risk to teammates or competitors.
- 9.1.2 Waivers are exceptional and extraordinary relief from the athletic rules and regulations. Ignorance of any rule alone, whether by the student athlete, his/her family or school, shall not be sufficient reason for waiving a rule. The burden of proof rests on the applicant (the student, his/her parents or guardians, principal, headmaster or other affected party) to show extenuating circumstances warranting waiver.

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- 9.1.3 The waiver request shall contain all facts pertaining to the case, including sufficient data to make it possible to reach a decision without further investigation. It is not the duty of the Executive Director or the DIAA Board to produce or collect information.
- 9.1.4 Waiver requests should be filed promptly when it becomes apparent to the student, principal, headmaster or other affected party, that a waiver will be required. In any event, all requests for a waiver of the rules, with all documentation complete, must be received by the Executive Director at least 21 calendar days before the next regularly scheduled meeting of the DIAA Board in order to be placed on the agenda for that meeting.
 - 9.1.4.1 Notwithstanding this requirement, the Chairperson of the DIAA Board may at his/her discretion add a waiver request to an agenda in an emergency situation. Failure to file a waiver request in a timely manner when all information is available shall not be considered an emergency situation.
- 9.1.5 The applicant is entitled to a hearing on his/her waiver request. Waiver hearings shall be conducted in an informal manner that affords all parties the opportunity to present all information and all relevant arguments.
 - 9.1.5.1 The DIAA Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.
 - 9.1.5.2 Any party to a proceeding before the DIAA Board may be represented by counsel. An attorney representing a party in a proceeding before the Board shall notify the Executive Director of the representation in writing as soon as practicable.
 - 9.1.5.3 Strict rules of evidence do not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.
 - 9.1.5.4 Any document introduced into evidence at the hearing shall be marked by the Board and shall be a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties, if any, and to each of the Board members present for the hearing unless otherwise directed.
 - 9.1.5.5 Any request by the DIAA Board for additional information pertaining to a waiver request shall be promptly supplied by the affected students, coaches, and member schools.
 - 9.1.5.6 DIAA shall provide a stenographic reporter at a hearing at its own expense.
- 9.1.6 The DIAA Board shall consider the entire record of the case in reaching its final decision. Unless otherwise provided, a decision made on a waiver request shall be effective immediately.
- 9.1.7 The DIAA Board's decision shall be incorporated into a final order, which shall be signed and mailed to the parties within twenty (20) days of the hearing.
- 9.2 Eligibility Rule Waiver Request
 - 9.2.1 Unless specifically defined in the eligibility rule in question, "hardship" means a hardship peculiar to the student athlete caused by unforeseen events beyond the election, control, or creation of the student athlete, his or her family, and his or her school, which deprive him or her of all or part of one of his or her opportunities to participate in a particular sports season. Ignorance of any rule alone, whether by the student athlete, his or her family, or his or her school, shall not be sufficient reason for waiving a rule. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.
 - 9.2.2 All eligibility hardship waiver requests shall be processed on forms approved by the DIAA Board and in accordance with the following procedures:
 - 9.2.2.1 A request for a waiver of the eligibility rules must be directed by the student to the involved member school's principal, headmaster or their designee who shall then file a written request stating the full particulars of the case and the reasons felt by the student or the administrator, or both, for granting the waiver.
 - 9.2.2.1.1 All requests for eligibility rule waivers must be signed by the Principal or Headmaster of the school requesting the waiver and must include a letter from the Principal or Headmaster indicating whether the school supports the waiver request.
 - 9.2.2.1.2 The school shall submit a waiver request form when requested by individual student athletes. The DIAA Board, however, may take into consideration the school's position on the waiver request when rendering its decision.

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- 9.2.2.2 To aid the DIAA Board in making an informed decision, the waiver request shall include the student's:
- 9.2.2.2.1 Official transcripts from the sixth grade through the current school year and semester grades for the current school year;
 - 9.2.2.2.2 Attendance records for the last two (2) years;
 - 9.2.2.2.3 A letter from the Principal or Headmaster of the school requesting the waiver either supporting or not supporting the waiver request;
 - 9.2.2.2.4 Any documentation specifically required by the rule;
 - 9.2.2.2.5 Medical records (if applicable);
 - 9.2.2.2.6 Legal documentation (if applicable);
 - 9.2.2.2.7 IEP's (if applicable); and
 - 9.2.2.2.8 Any documentation or evidence to substantiate a hardship or extenuating circumstance exists.
 - 9.2.2.2.9 For waiver requests involving 1008.2.4 or 1009.2.4, documentation of official withdrawal from the sending school and official registration or acceptance to the receiving school.
- 9.2.3 An appearance by the student and his or her parent, guardian or Relative Caregiver before the DIAA Board is mandatory on requests for an eligibility waiver. An appearance by a school representative is strongly encouraged.
- 9.3 Waiver Requests of Non eligibility Rules
- 9.3.1 The Principal or Headmaster of a member school, or any other individual may request a waiver of a rule, regulation, guideline, policy or procedure of DIAA not directly related to student eligibility when special circumstances arise that, in the Principal or Headmaster's opinion, or in the opinion of the individual, call for relief from, or modification of the effects of the rule.
 - 9.3.2 All requests for non eligibility waivers must be in writing, signed by the Principal or Headmaster.
 - 9.3.3 An appearance by the Principal or Headmaster or his/her designee or other individual requesting the non eligibility waiver is optional. If the Principal or Headmaster or his/her designee or other individual requesting the non eligibility waiver choose to appear before the DIAA Board he/she must notify the Executive Director of his/her intent to do so at the time the request for waiver is filed. Otherwise, the principal or his/her designee, or other individual, may attend the meeting but may not be permitted to address the DIAA Board.
 - 9.3.4 If the waiver requested would affect more than one member school, the waiver applicant shall provide the position of the other affected member schools on the waiver request in their written application. The failure to provide this information may result in a delay in the Board's consideration of the waiver request.
- 11 DE Reg. 1632 (06/01/08)**
15 DE Reg. 69 (07/01/11)
19 DE Reg. 1085 (06/01/16)
22 DE Reg. 469 (12/01/18)

10.0 Appeal Procedure to the DIAA Board of Directors

- 10.1 Decisions of the Executive Director or Sportsmanship Committee, with the exception of those to uphold or rescind the suspension resulting from a game ejection, may be appealed de novo to the DIAA Board of Directors. The Board of Directors has been designated by the Secretary of Education to conduct fact finding hearings or conferences in matters regarding interscholastic athletics.
- 10.1.1 Initiation of an Appeal to the DIAA Board
- 10.1.1.1 Whenever a right of appeal of a decision to the DIAA Board of Directors is provided, an aggrieved person who is under the regulatory authority of DIAA and who has, in fact, suffered a direct injury due to the decision, may initiate an appeal by filing a Notice of Appeal with the Executive Director. The notice shall be in writing, shall be signed by the person making the request (or by the party's authorized representative), and shall be delivered to the Executive Director by certified mail.
 - 10.1.1.2 The notice of appeal shall briefly state the decision from which the appeal is taken, the law, rule or regulation involved in the decision, the names of the parties, and the grounds for the appeal.
 - 10.1.1.3 The notice of appeal shall be filed within a reasonable time after the controversy arises, but in no event shall a notice be filed more than thirty (30) calendar days after the appellant's receipt of

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written notice that official action has been taken by the Executive Director or other authorized person or body.

- 10.1.1.3.1 Notwithstanding the above, the notice of appeal shall be served ten (10) calendar days after appellant's receipt of written notice that official action has been taken by the Executive Director or the Sportsmanship Committee pursuant to 14 **DE Admin. Code** 1007.
- 10.1.1.4 A copy of the notice of appeal shall be delivered to all other parties to the proceeding at the same time it is sent to the Executive Director. A copy of any other paper or document filed with DIAA shall also be provided to all other parties to the proceeding. If a party is represented by legal counsel, delivery to legal counsel is sufficient.
- 10.1.1.5 Upon receipt of an adequately detailed notice of appeal, the Executive Director shall place the appeal on the next meeting agenda of DIAA.
- 10.1.1.6 An appeal shall not stay the decision of the Executive Director, the Sportsmanship Committee, or any other subordinate.
- 10.1.2 Record of Prior Proceedings
 - 10.1.2.1 If proceedings were previously held on the matters complained of in the notice, the committee which conducted those proceedings shall file a certified copy of the record of the proceedings with the Executive Director.
 - 10.1.2.2 The record shall contain any written decision, a copy of the rule or regulation involved, any minutes of the meeting(s) at which a disputed action was taken, a verbatim transcript of the hearing conducted by the party below, and all exhibits presented at the agency.
 - 10.1.2.3 The record shall be filed with the Executive Director within ten (10) calendar days of the date the Executive Director notifies the committee that the notice was filed, unless directed otherwise. A copy of the record shall be sent to the appellant when it is submitted to the Executive Director.
- 10.1.3 DIAA Board Hearing Procedures for Appeals
 - 10.1.3.1 Record Review
 - 10.1.3.1.1 If a hearing was previously held on the matters complained of in the notice, the parties to the proceeding before the DIAA Board may agree to submit the matter to the Board on the existing record without the presentation of additional evidence. The parties shall inform the Executive Director in writing of their agreement to submit the matter to the Board on the existing record no later than ten (10) calendar days after the notice was filed.
 - 10.1.3.1.2 If the parties agree to submit the matter for decision on the existing record, they shall support their positions in written statements limited to matters in the existing record. The written statements shall be filed no later than ten (10) calendar days before the consideration date, unless otherwise directed.
 - 10.1.3.1.3 If the parties agree to submit the matter for decision on the existing record, they may nonetheless request oral argument be heard on the consideration date. A request for oral argument shall be submitted with the written statement of appeal. There will be no oral argument unless it is requested when the written statement of appeal is submitted. Oral argument shall be limited to the matters raised in the written statements and shall be limited to fifteen (15) minutes per side with an additional five (5) minutes for rebuttal.
 - 10.1.3.1.4 If the parties agree to submit the matter for decision on the existing record, the DIAA Board's decision shall be based on the existing record, the written statements and oral argument, if any.
 - 10.1.3.2 Evidentiary Hearings
 - 10.1.3.2.1 Evidentiary hearings will be held when there has not been a prior hearing, when the parties do not agree to rest on the existing record, or when the DIAA Board otherwise decides to receive additional evidence.
 - 10.1.3.2.2 The Chairperson or his/her designated representative shall be the hearing officer. The hearing officer shall conduct the hearing and make rulings on the admissibility of evidence.
 - 10.1.3.2.3 The DIAA Board of Directors may continue, adjourn, or postpone a hearing for good cause on motion of a party or upon its own motion.
 - 10.1.3.2.4 Objections to the admission of evidence shall be brief and shall state the grounds for such objections. Objections with regard to the form of question will not be considered.

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- 10.1.3.2.5 The hearing will proceed with the appellant first presenting its evidence and case. The responding party may then present its case. The appellant will have an opportunity to present rebuttal evidence.
- 10.1.3.2.6 Opening and closing arguments and post hearing submissions of briefs or legal memoranda will be permitted in the discretion of the DIAA Board.
- 10.1.3.2.7 Any person who testifies as a witness shall also be subject to cross examination by the other parties to the proceeding. Any witness is also subject to examination by the DIAA Board.
- 10.1.3.2.8 The Board may administer oaths, take testimony, hear proofs and receive exhibits into evidence at any hearing. Testimony at any hearing shall be under oath or affirmation.
- 10.1.3.2.9 Any party to a proceeding before the DIAA Board may be represented by counsel. An attorney representing a party in a proceeding before the Board shall notify the Executive Director of the representation in writing as soon as practicable.
- 10.1.3.2.10 Strict rules of evidence do not apply. Evidence having probative value commonly accepted by reasonably prudent people in the conduct of their affairs may be admitted into evidence.
- 10.1.3.2.11 Any document introduced into evidence at the hearing shall be marked by the DIAA Board and shall be a part of the record of the hearing. The party offering the document into evidence shall provide a copy of the document to each of the other parties, if any, and to each of the DIAA Board members present for the hearing unless otherwise directed.
- 10.1.3.2.12 DIAA shall provide a stenographic reporter at a hearing at its own expense.
- 10.1.3.2.13 The Board's decision shall be incorporated into a final order, which shall be signed and mailed to the parties within twenty (20) calendar days of the hearing.

11 DE Reg. 1632 (06/01/08)

15 DE Reg. 69 (07/01/11)

11.0 Appeal to the State Board of Education

Any party to a controversy involving the athletic rules and regulations, including a waiver thereof, may appeal to the State Board of Education by setting forth such grievance in a petition. The petition or notice of appeal shall be served on the Secretary of Education no later than thirty (30) calendar days after receipt of the decision. In addition, a copy of the petition or notice of appeal shall be served on the Executive Director of DIAA by certified or registered mail. Any decision shall otherwise be final. All appeals to the State Board of Education shall be on the basis of the record. (See 14 Del.C. §312 and the State Board of Education Procedures Manual). An appeal shall not stay the decision of the DIAA Board of Directors.

1 DE Reg. 725 (12/01/97)

6 DE Reg. 280 (09/01/02)

7 DE Reg. 1692 (06/01/04)

9 DE Reg. 117 (07/01/05)

11 DE Reg. 1632 (06/01/08)

15 DE Reg. 69 (07/01/11)

19 DE Reg. 1085 (06/01/16)

22 DE Reg. 56 (07/01/18)

22 DE Reg. 469 (12/01/18)

23 DE Reg. 376 (11/01/19)



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DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY 1000 Student Activities

1007 DIAA Sportsmanship

1.0 Definitions and Sportsmanship

1.1 Definitions

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

"Board" means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 Del.C. Chapter 3.

"DIAA" means the Delaware Interscholastic Athletic Association.

"Executive Director" means the Executive Director of the Delaware Interscholastic Athletic Association.

"Member School" means a full or associate member school of the Delaware Interscholastic Athletic Association.

"Principal" or **"Headmaster"** means the chief or head individual in charge of a school who is traditionally referred to or generally known as the principal or headmaster, including Head of School, Administrator, Executive Director, or Charter Head.

"School Days" shall mean actual school attendance days during the regular academic school year including a partial day that children are in attendance at school for instructional purposes as adopted by the district or governing body of the school not to include weekends, holidays, summer school, etc.

1.2 Sportsmanship

1.2.1 Member Schools are required to conduct all of their athletic affairs with other schools in a spirit of good sportsmanship. Acts which are prima facie evidence of a failure to abide by this rule are those which are noted below and others of a similar nature which transgress the usually accepted code for good sportsmanship.

1.2.1.1 Failure to provide for proper control of spectators at a contest. When the number of spectators is expected to be large in relation to the seating capacity of the facility, uniformed State, county, or local police or constables appointed in accordance with 10 Del.C. Ch. 27 shall be provided for crowd control. The host school is expected to take reasonable and proper steps to assure crowd control under any foreseeable conditions.

1.2.1.2 Failure of a team or competitor to stay in a contest until its normal end when failure to do so is related to dissatisfaction with the officiating of the contest, unless the physical safety of the team or competitor would have been endangered by continuing the contest.

1.2.1.3 Harassment of game officials by a coach. Going onto the playing surface to interrupt a contest in protest of a decision by an official; conduct by a coach, team member, or any individual in the official party which invokes a penalty against the team; continued and visible actions by a coach which indicate to the team and to the spectators that the coach believes the game is being improperly officiated; public demonstrations with game officials which indicate to others extreme dissatisfaction with the officiating; and such related actions when exhibited in aggravated form are evidence of poor sportsmanship.

1.2.1.4 Failure of a school to use every means at its disposal to impress upon its faculty, student body, team members, coaching staff, and spectators the importance of good sportsmanship before, during, and after athletic contests. The host school is encouraged to read a brief statement concerning sportsmanship prior to the start of each athletic contest.

1.2.1.5 Failure of an administrator, athletic director, coach, athlete, official, or spectator to comply with the directions stipulated in the following Code of Interscholastic Athletics:

1.2.1.5.1 The School Administrator and Athletic Director shall:

1.2.1.5.1.1 Encourage and promote friendly relations and good sportsmanship throughout the school by requiring courtesy and proper decorum at all times, by familiarizing students and others in the community with the ideals of good sportsmanship, and by publicizing these concepts and

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attitudes so that all members of the school community understand and appreciate their meaning.

- 1.2.1.5.1.2 Review the Sportsmanship Rule with all athletic staff.
- 1.2.1.5.1.3 Insist upon strict compliance with all DIAA rules and regulations.
- 1.2.1.5.1.4 Insist upon adequate safety provisions for both participants and spectators in all activities.
- 1.2.1.5.1.5 Encourage all to judge the success of the interscholastic athletic program based on the attitude of the participants and spectators rather than on the number of games won or lost.
- 1.2.1.5.1.6 Insist that all participants adhere to the highest standards of good sportsmanship as a means of ensuring desirable spectator attitudes.
- 1.2.1.5.1.7 Provide sanitary and attractive facilities for the dressing and housing of visiting teams and officials.
- 1.2.1.5.1.8 Develop and implement policies for their interscholastic athletic programs to discourage acts of bullying, hazing, and taunting.
- 1.2.1.5.2 Coaches: The function of coaches is to educate students through participation in interscholastic athletics. An interscholastic program shall be designed to enhance academic achievement and shall never interfere with opportunities for academic success. Each student shall be treated with the utmost respect and his welfare should be considered in decisions by the coach at all times. Therefore, coaches shall:
 - 1.2.1.5.2.1 Demonstrate high ideals, good habits, and desirable attitudes in their personal and professional behavior and demand the same of their players. Coaches must uphold the dignity and honor of the profession of educator-coach. Their interaction with all students, officials, school staffs, athletic directors, administrators, the state association, the media and the general public (fans) shall be of the highest ethical and moral standard.
 - 1.2.1.5.2.2 Recognize that the purpose of competition is to promote the physical, mental, social, and emotional well being of the individual players and that the most important values of competition are derived from playing the game fairly. Coaches must recognize the tremendous influence they have on their student-athletes and must never place the value of winning above the value of instilling the highest ideals of character. Coaches must never exert pressure on faculty members to give students special consideration.
 - 1.2.1.5.2.3 Be a modest winner and a gracious loser. Sportsmanship shall be a key component of their coaching.
 - 1.2.1.5.2.4 Maintain self control at all times and accept adverse decisions without public display of emotion or dissatisfaction with the officials. Register disagreement through proper channels. Coaches shall exert their influence to enhance sportsmanship by spectators.
 - 1.2.1.5.2.5 Employ accepted educational methods in coaching and give players an opportunity to develop and use initiative, leadership, and judgment.
 - 1.2.1.5.2.6 Pay close attention to the physical well-being of players, refusing to jeopardize the health of an individual for the sake of improving their team's chances to win. Coaches must be properly informed of all required national, state and local safety policies and procedures.
 - 1.2.1.5.2.7 Teach athletes that it is better to lose fairly than to win unfairly.
 - 1.2.1.5.2.8 Establish policies which discourage the unlawful use of drugs, medications, and non-prescribed drugs. Coaches shall set an example to athletes by not using these products in their presence. Do not allow gambling, profanity, abusive language, and similar violations of the true sportsman's or sportswoman's code.
 - 1.2.1.5.2.9 Refuse to disparage an opponent, an official, or others associated with interscholastic athletics and discourage gossip and rumors about them. Actively set an example of respect and support for contest officials and opponents. Coaches must be highly ethical in all forums, chat rooms and all forms of social media and communication regarding the sport and participants.
 - 1.2.1.5.2.10 Properly supervise the athletes under their immediate care.
 - 1.2.1.5.2.11 Enforce school policies regarding bullying, hazing, and taunting and never tolerate any of these actions by team members or others.

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- 1.2.1.5.2.12 Know the playing rules and procedures of their sport and teach them to team members. Coaches shall insist upon strict compliance with all DIAA rules and regulations and never seek an advantage by circumvention of the spirit or letter of the rules.
- 1.2.1.5.2.13 Never illegally recruit athletes.
- 1.2.1.5.3 Participants (athletes and cheerleaders) shall:
 - 1.2.1.5.3.1 Be responsible for the perpetuation of interscholastic athletics. Strive to enhance the image of athletics not only as a member of a team but also as a member of their school and community.
 - 1.2.1.5.3.2 Be courteous to the visiting team. The opponent wants to excel as much as the home team. Respect their efforts.
 - 1.2.1.5.3.3 Play hard to the limit of personal ability regardless of discouragement. The true athlete does not give up, quarrel, cheat, bet, or grandstand.
 - 1.2.1.5.3.4 Be modest when successful and be gracious in defeat. A true sportsman or sportswoman does not offer excuses for failure.
 - 1.2.1.5.3.5 Understand and observe the playing rules of the game and the standards of eligibility.
 - 1.2.1.5.3.6 Respect the integrity and judgment of the officials and accept their decisions without complaint.
 - 1.2.1.5.3.7 Respect the facilities of the host school and do not violate the trust entailed in being a guest.
 - 1.2.1.5.3.8 Refrain from participating in or encouraging the acts of bullying, hazing, and taunting.
 - 1.2.1.5.3.9 Respect others including fellow students, athletes, opponents, coaches, officials in all areas including public forums and social media. Display highly ethical conduct in all forums, chat rooms and all forms of social media and communication.
- 1.2.1.5.4 Officials: Officials at an interscholastic athletic event are participants in the educational development of high school students. As such, they must exercise a high level of self-discipline, independence and responsibility. Therefore, officials shall:
 - 1.2.1.5.4.1 Know the rules and interpretations and mechanics of their sport and be thoroughly trained to administer them. Be prepared and qualified both mentally and physically for the contest they are officiating, dress neatly and appropriately, and comport themselves in a manner consistent with the high standards of the profession.
 - 1.2.1.5.4.2 Maintain self control in all situations and with all persons.
 - 1.2.1.5.4.3 When enforcing the rules, do not make gestures or comments that will embarrass the players or coaches. Be mindful that their conduct influences the respect and conduct of students, coaches and the public. Remember the field, court, pool or mat is a classroom.
 - 1.2.1.5.4.4 Be impartial and fair, yet firm, in all decisions. A good official will not attempt to compensate later for an unpopular decision.
 - 1.2.1.5.4.5 Refrain from commenting upon or discussing a team, player, or game situation with those not immediately concerned. This shall include all forms of public communication and social media. The official must be highly ethical in all forums, chat rooms and all forms of social media and communication regarding the sport and participants.
 - 1.2.1.5.4.6 Conduct the game so as to enlist the cooperation of the players, coaches, and spectators in promoting good sportsmanship. Set a professional example by being punctual and under control at all times. Uphold the honor and dignity of the profession in all interaction with student-athletes, coaches, athletic directors, school administrators, colleagues and the public.
 - 1.2.1.5.4.7 Refrain from participating in or encouraging the acts of bullying, hazing, and taunting. Do not tolerate nor let go unpenalized any of these actions.
 - 1.2.1.5.4.8 Be educated in all national, state and local safety procedures that are required of them. Work with event management and the state association to eliminate unsafe conditions or situations.
- 1.2.1.5.5 Spectators shall:
 - 1.2.1.5.5.1 Realize that they represent the school just as definitely as does a member of the team, and that they have an obligation to be a true sportsman or sportswoman and to encourage through their behavior the practice of good sportsmanship by others.

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1.2.1.5.5.2 Recognize that good sportsmanship is more important than victory by approving and applauding good team play, individual skill, and outstanding examples of sportsmanship and fair play exhibited by either team. The following are some examples of poor sportsmanship which shall not be tolerated:

- 1.2.1.5.5.2.1 Profanity, vulgarity, obscene gestures, abusive language, or derogatory remarks.
- 1.2.1.5.5.2.2 Throwing objects.
- 1.2.1.5.5.2.3 Going onto the playing surface and interrupting a contest.
- 1.2.1.5.5.2.4 Use of alcohol or other controlled substances.

1.2.1.5.5.3 Respect the judgment and integrity of the officials, recognizing that their decisions are based upon game conditions as they observe them.

1.2.1.5.5.4 Treat visiting teams and officials as guests extending to them every courtesy.

1.2.1.5.5.5 Be modest in victory and gracious in defeat.

1.2.1.5.5.6 Refrain from participating in or encouraging the acts of bullying, hazing, and taunting.

11 DE Reg. 1635 (06/01/08)

15 DE Reg. 72 (07/01/11)

19 DE Reg. 493 (12/01/15)

22 DE Reg. 162 (08/01/18)

23 DE Reg. 114 (08/01/19)

2.0 Processing Violations

2.1 Procedures

2.1.1 The Executive Director is specifically authorized to pursue any matter which, on the surface, has indications of being a sportsmanship violation.

2.1.2 Within twenty calendar days of the incident, an alleged sportsmanship violation must be reported in writing to the Executive Director by the administrative head of a Member School or by the Executive Board of an officials' association.

2.1.2.1 However, investigations involving contest ejections or altercations involving students or coaches may require an expedited procedure and must be reported to the Executive Director within 24 hours. The Executive Director is authorized to expedite the procedure in order to assure a ruling prior to the next contest played at that level of competition including post season play.

2.1.3 The Executive Director shall transmit a copy of the report to the Principal or Headmaster or official designee of the school(s) involved.

2.1.4 Each Principal or Headmaster concerned shall investigate and provide such information or answers to the report as are appropriate.

2.1.5 The Executive Director shall provide Member Schools and officials' associations with a specially designed form to facilitate the proper reporting of sportsmanship related incidents.

2.1.6 Upon receipt of all reports, the Executive Director shall review the documents and inform the school(s) involved of his disposition of the matter. The Executive Director may, in turn, refer the matter to the Sportsmanship Committee to investigate and adjudicate what appears to be a violation of the Sportsmanship Rule.

2.1.7 The Sportsmanship Committee shall review such available evidence as it deems necessary to reach a conclusion. Actions such as requesting reports and conducting interviews should not be interpreted as casting aspersions on a school adhering to DIAA regulations, but as an effort to keep all parties properly informed. Penalties up to and including suspensions of Member Schools may be imposed by the Sportsmanship Committee.

2.1.8 A copy of the Sportsmanship Committee's action shall be filed with the Executive Director and the administrative head of the school(s) involved.

2.2 Policies

2.2.1 The basis for the following policy statement is that a Member School shall not be represented by individuals whose conduct reflects discredit upon the school. Insofar as unsportsmanlike actions by participants and spectators are concerned, the Sportsmanship Committee shall refer to the items previously identified in the Code of Interscholastic Athletics as well as the following guidelines:

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- 2.2.1.1 The school whose administrator or athletic director behaves in a manner likely to have an adverse influence on the attitudes of the players or spectators may be provided with a choice of:
 - 2.2.1.1.1 Reprimanding its administrator or athletic director and providing written documentation to the Executive Director, or
 - 2.2.1.1.2 Suspending its administrator or athletic director from representing the school in athletic events for a specified period of time not to exceed 180 School Days, or
 - 2.2.1.1.3 Having the entire school disciplined by DIAA.
 - 2.2.1.2 An athlete shall not strike an official, opponent, coach, or spectator or display gross misconduct before, during, or after an athletic event. The athlete, depending on the seriousness of the act, may be declared ineligible by the Principal, Headmaster, Executive Director, or Sportsmanship Committee for a specified period of time not to exceed 180 School Days.
 - 2.2.1.3 In the case of spectators physically assaulting an official, coach, or player, the school may be given the option of either taking punitive action against the offender or accepting discipline from DIAA.
 - 2.2.1.4 Member Schools that do not fully cooperate in promoting the spirit of the Sportsmanship Rule may be disciplined by DIAA.
 - 2.2.1.5 The school whose coach behaves in a manner likely to have an adverse influence on the attitudes of the players or spectators may be provided with a choice of:
 - 2.2.1.5.1 Reprimanding its coach and providing written documentation to the Executive Director, or
 - 2.2.1.5.2 Suspending its coach from representing the school in athletic events for a specified period of time not to exceed 180 School Days, or
 - 2.2.1.5.3 Having the entire school disciplined by DIAA.
 - 2.2.1.6 An administrator, athletic director, or coach may be considered as having committed an unsportsmanlike act if:
 - 2.2.1.6.1 He or she makes disparaging remarks about the officials during or after a game either on the field of play, from the bench, or through any public news media, or
 - 2.2.1.6.2 He or she argues with the official or indicates with gestures or other physical actions his or her dislike for a decision, or
 - 2.2.1.6.3 He or she detains the official on the field of play following a game to request a ruling or explanation of some phase of the game, or
 - 2.2.1.6.4 He or she makes disparaging or unprofessional remarks about another school's personnel.
 - 2.2.1.7 All actions by a Member School resulting from an investigation relative to the above policies shall be subject to approval by the Executive Director or the Sportsmanship Committee.
- 2.3 Penalties
- 2.3.1 Unless otherwise limited, the Executive Director and Sportsmanship Committee may impose penalties on a Member School, a particular team of a Member School, a particular athlete, coach, or administrator of a Member School, an official, or a spectator, as deemed necessary based on the particular circumstances. The following are examples of possible penalties and represent degrees of discipline in enforcing the Sportsmanship Rule:
 - 2.3.1.1 Reprimand: a reprimand is official written notice that an unethical or unsportsmanlike action has occurred and that such an occurrence must not be repeated. A reprimand is a matter of record.
 - 2.3.1.2 Probation: probation is a more severe penalty and may be expressed in one of the following ways:
 - 2.3.1.2.1 Conditional probation wherein the offending individual or Member School may participate in regular season contests, sanctioned events, and conference and state championships provided he, she, or the school files with the DIAA office a plan indicating the measures that shall be taken to alleviate the problem which caused him or her or the school to be placed on probation; or
 - 2.3.1.2.2 Restrictive probation wherein a Member School or a particular team of a Member School may engage in its regular season schedule but may not enter any sanctioned events, participate in any playoff toward a conference or state championship, or be awarded a conference or state championship.
 - 2.3.1.3 Suspension: a suspension means that the offending individual or Member School shall not attend or participate in any DIAA sanctioned interscholastic competition and may also include tryouts.

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2.3.2 Game Ejection

- 2.3.2.1 A player or coach disqualified before, during, or after a contest for an unsportsmanlike act shall be suspended from the next complete (a winner is determined or a tie is declared) contest at that level of competition and all other complete or suspended contests in the interim at any level of competition in addition to any other penalties which DIAA may impose.
 - 2.3.2.1.1 A player who leaves the team bench area and enters the playing field, court, or mat during a fight or other physical confrontation shall be ejected from the contest. Additional penalties may be imposed if a player leaving the bench area becomes involved in the altercation.
- 2.3.2.2 A disqualified player or coach shall not be physically present at any contest in that sport during the suspension.
 - 2.3.2.2.1 The coach or player shall not be present at any game-related activities immediately before the contest, during the intermission, or immediately after the contest. The coach or player must be "out of sight and sound" of the game and game-related activities regardless of whether the coach or player is physically on school premises.
 - 2.3.2.2.2 If the offending coach or player is present at a game or game-related activity during the suspension in any capacity, including but not limited to: manager, statistician, site worker, spectator, etc., the coach or player shall be suspended for one additional game at that level of competition.
- 2.3.2.3 If a coach or athlete is disqualified from the final contest of the season, the suspension shall carry over to the next year in that sport.
 - 2.3.2.3.1 Coaches who do not fulfill their penalty in the same sport shall be disqualified for the appropriate length of time in their subsequent coaching assignment.
 - 2.3.2.3.2 Athletes who do not fulfill their penalty in the same sport or who do not retain eligibility shall be disqualified for the appropriate length of time in their next sport.
 - 2.3.2.3.2.1 Seniors shall fulfill their penalty in another sport during the same season or another sport during a subsequent season.
 - 2.3.2.3.2.2 When a senior is disqualified from the last game of his or her high school career, the Member School shall take appropriate administrative action to discipline the offending student, which may include withdrawing the student from a post-season all-star game. The Member School shall report the action taken to the Sportsmanship Committee.
- 2.3.2.4 A player or coach ejected for a second time during the same season shall be subjected to a two game suspension and shall meet, in a timely fashion, with the Sportsmanship Committee accompanied by the Principal or his or her designee and, in the case of an athlete, by the coach.
- 2.3.2.5 Appeal of a contest suspension resulting from a game ejection
 - 2.3.2.5.1 A coach or player may appeal a contest suspension resulting from a game ejection to the DIAA Executive Director. Contest suspensions that may be appealed include suspensions from game ejections under the individual sport playing rules, other DIAA policies, or a suspension under subsections 2.3.1.1 or 2.3.1.1.1. The Executive Director may decide the appeal or, in his or her discretion, refer it to the Sportsmanship Committee or a subcommittee that may include the Board's Chairperson, the Sportsmanship Committee's Chairperson, the committee chairperson of the applicable recognized sports committee, the State rules interpreter for the applicable sport, a representative of the applicable officials' association, and any other individuals the Executive Director deems necessary.
 - 2.3.2.5.2 If the Executive Director is unable to make a decision before the next contest, the suspension remains in effect. The Executive Director's, Sportsmanship Committee's, or subcommittee's decision to uphold or rescind the suspension resulting from a game ejection may not be appealed to the Board.

2.4 Appeals

- 2.4.1 Decisions of the Executive Director or Sportsmanship Committee with the exception of those to uphold or rescind the suspension resulting from a game ejection may be appealed to the DIAA Board of Directors in accordance with the procedure found in 14 **DE Admin. Code** 1006.10. In accordance with subsection 1006.10.1.1.3.1, the notice of appeal shall be served by certified mail within ten calendar days after the appellant's receipt of the written notice that official action has been taken by the Executive Director or

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Sportsmanship Committee. An appeal shall not stay the decision of the Executive Director, the Sportsmanship Committee, or any other subordinate.

3 DE Reg. 436 (09/01/99)

6 DE Reg. 285 (09/01/02)

7 DE Reg. 1692 (06/01/04)

11 DE Reg. 1635 (06/01/08)

15 DE Reg. 69 (07/01/11)

19 DE Reg. 493 (12/01/15)

22 DE Reg. 162 (08/01/18)

23 DE Reg. 114 (08/01/19)



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DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY 1000 Student Activities

1008 DIAA Junior High and Middle School Interscholastic Athletics

1.0 National Federation of State High Schools, Conferences, Contracts, Equivalency Rules and Definitions

1.1 Definitions

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

"Administrative Head of School" means the chief or head individual in charge of the school traditionally referred to or generally known as the principal or headmaster.

"Attendance Zone" means the geographical area set by law or the governing body of a public school that entitles a student to attend a certain public school.

"Board" means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 Del.C. Chapter 3.

"Department" means the Delaware Department of Education.

"Guardian or Legal Guardian" means an individual who legally has responsibility for the care and management of the student during the student's minority. The relationship is a legal one and must be created by a court order signed by a judge, commissioner, or master of a court of competent jurisdiction.

"Individualized Education Program" or "IEP" means a written statement for a child with a disability as defined in 14 DE Admin. Code 922.

"Legally in attendance" means present at school as determined by a pre-established written policy adopted by the local school board or governing body of the school.

"Member school" means a full or associate member school of the DIAA.

"Principal" or "Headmaster" means the Administrative Head of School and includes but is not limited to Head of School, Administrator, Executive Director, or Charter Head.

"Qualified Healthcare Professional" means a Doctor of Medicine (MD); a Doctor of Osteopathic Medicine (DO); or a school nurse, nurse practitioner, physician assistant, or athletic trainer. Qualified Healthcare Professionals shall be licensed by their state and in good standing with the State of Delaware.

"Qualified Physician" means a Doctor of Medicine (MD) or a Doctor of Osteopathic Medicine (DO) who is licensed by their state and in good standing with the State of Delaware.

"Receiving School" means the school a student transfers to after leaving his or her previous school.

"Relative Caregiver" means an adult who by blood, marriage or adoption is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the student.

"School day(s)" means actual school attendance days during the regular academic school year including a partial day that students are in attendance at school for instructional purposes as adopted by the district or governing body of the school not to include weekends, holidays, summer school, etc.

"Sending School" means the school a student transfers from to go to a different school.

"State Board" means the State Board of Education pursuant to 14 Del.C. §104.

"Student With a Disability" means a "child with a disability" as that term is defined in 14 DE Admin. Code 922 or a qualified person with a disability under Section 504 of the Rehabilitation Act of 1973.

"Superintendent" means the chief school officer of a school district.

"Transfer" means the student has officially withdrawn from the sending school and has officially enrolled in the receiving school in accordance with the receiving school's established registration process.

1.2 National Federation of High School Associations

- 1.2.1 DIAA is affiliated with the National Federation of State High School Associations (NFHS). The playing rules, codes of conduct, sanctions, and guidelines in the NFHS rules books are adopted except as modified by the DIAA Board of Directors.

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- 1.2.1.1 The playing rules of the United States Tennis Association, the United States Golf Association and the United States Lacrosse Association are adopted for the sports of tennis, golf and girls' lacrosse respectively except as modified by the DIAA Board of Directors.
- 1.3 Conferences
 - 1.3.1 Member schools may establish voluntary conference organizations that may be composed of public and nonpublic schools. When established they must submit its proposed membership and its constitution and bylaws to the DIAA Board of Directors and must be approved by the DIAA Board of Directors before the schools may enter into any contractual agreements.
 - 1.3.1.1 All subsequent amendments to the constitution and bylaws of the conference must be compatible with all provisions of the DIAA Regulations; interpretations and rulings of the Executive Director, Sportsmanship Committee, and Board of Directors; state tournament regulations; and DIAA approved playing codes.
- 1.4 Contracts
 - 1.4.1 Contracts between DIAA member schools or between DIAA Member schools and full member schools of comparable state associations are encouraged but not required.
 - 1.4.1.1 Conference master contracts are approved substitutes for individual contracts.
 - 1.4.1.2 In the case of a dispute and provided either a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question, appeal may be made to the Executive Director or the DIAA Board of Directors which, after review of the circumstances, may assign an appropriate penalty.
 - 1.4.1.2.1 Without a signed individual contract or conference master contract, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors.
 - 1.4.2 Contracts between DIAA member schools and nonmember or associate member schools of comparable state associations are required.
 - 1.4.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DIAA member school being assessed a \$50.00 fine.
 - 1.4.2.2 In the case of a dispute, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors unless a signed individual contract is in place.
 - 1.4.3 Contracts shall be interchanged according to the following provisions:
 - 1.4.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.
 - 1.4.3.2 Contracts shall be drawn up by the faculty manager or other designated staff member of the home school of the earlier contest.
 - 1.4.3.3 A signed contract or any part thereof may not be nullified or modified except by mutual agreement of both schools involved.
 - 1.4.4 If a game is not played, it shall be considered a "no contest." Notwithstanding the above, if a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question and one of the participating schools breached the agreement, the non-breaching school may appeal for a forfeit to the Executive Director or the DIAA Board of Directors. If the Executive Director or Board finds a forfeit is appropriate, the no contest shall be replaced with the forfeit.
- 1.5 Equivalency Rules
 - 1.5.1 A full member school shall not participate in a scrimmage or contest with an instate middle school that is not a member in good standing of DIAA.
 - 1.5.1.1 Scrimmage is defined as: an informal competition between schools in which officials are not compensated, a final score is not kept, the time periods are permitted to be modified, the results of the competition are not reported to the media, the coaches are permitted to interrupt the play to provide instruction and the competition is strictly for practice purposes. All participating schools must consider the event to be a scrimmage and therefore cannot count the results as part of their regular season results.
 - 1.5.2 A full member school shall not participate in a scrimmage or contest with an associate or nonmember school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.

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- 1.5.3 An associate member school shall not participate in a scrimmage or contest with an in state school that is not a member in good standing of DIAA unless the opposing school complies with the conditions specified in 1.5.2. However, the opposing school shall be exempt from those rules which DIAA has waived for its associate member school.
- 1.5.4 Member schools shall not participate in a practice, scrimmage, or contest with a non school sponsored team.
- 1.5.5 Member schools shall not participate in a practice, scrimmage, or contest with a non-middle school team.
- 1.5.6 Member schools shall not participate in a practice, scrimmage, or contest with elementary, high school or college-aged students. This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.
- 1.5.7 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$500.00 fine.

11 DE Reg. 1639 (06/01/08)

15 DE Reg. 74 (07/01/11)

19 DE Reg. 743 (02/01/16)

22 DE Reg. 395 (11/01/18)

2.0 Eligibility: No Student Shall Represent a School in an Interscholastic Scrimmage or Contest if the Student Does Not Meet the Following Requirements

2.1 Eligibility, Grades and Age

- 2.1.1 The junior high and middle school interscholastic program shall include grades 6 to 8, inclusive. No junior high or middle school student who has completed a season at the junior high or middle school level shall compete in the same sport at the senior high school level during the same school year. A junior high or middle school student who participates in a varsity or sub varsity game at the high school level shall be ineligible to participate at the junior high or middle school level in the same sport. This does not prohibit an eighth grade school student attending a school approved to play eighth grade students at the high school level from trying out for a varsity or sub varsity sport at the high school level.
 - 2.1.1.1 Eighth grade students who become 15 years of age on or after June 15 immediately preceding the school year in a school terminating in the eighth grade shall be eligible for all sports during the current school year provided all other eligibility requirements are met.
 - 2.1.1.2 Permission shall be granted for 15 year old eighth grade students in a school terminating in the eighth grade who are ineligible for junior high or middle school competition to participate in the district high school athletic program provided they meet all other eligibility requirements. In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.
- 2.1.2 Requests for waiver of the age requirement shall be considered only for participation on an unofficial, non scoring basis in non contact sports.

2.2 Eligibility, Residence

- 2.2.1 With the exception of boarding school students, a student must be living with their custodial parent(s) legal guardian(s) or Relative Caregiver in the Attendance Zone of the school which he/she attends in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court action. In the case of shared placement or where residential placement has not been determined by a court, the parent(s) must commit to sending the student to a particular school for the year. Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.
 - 2.2.1.1 A student who, pursuant to established school board policy or administrative procedure, remains in a school they have been attending after their legal residence changes to the Attendance Zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at their current school and thereby not lose athletic eligible. If a student chooses to remain at their current school and then transfers to the school in a new Attendance Zone on or after the first official student day of the subsequent academic year, the student shall be ineligible under subsection 2.4.

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- 2.2.1.2 A student who changes residence to a different Attendance Zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, is granted permission to continue attending his/her present school, the student shall retain their athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.
- 2.2.1.3 A student may be residing outside of the Attendance Zone of the school which they attend if the student is participating in the Delaware School Choice Program as authorized by 14 Del.C. Ch.4.
- 2.2.1.4 A student who is a non resident of Delaware shall be eligible to attend a public school if, in accordance with 14 Del.C. §607, their custodial parent, legal guardian or Relative Caregiver is a full time employee of that district.
- 2.2.1.5 Notwithstanding 2.2.1, a student shall be eligible at a public school if he/she is enrolled in accordance with 14 Del.C. §202(f), the Relative Caregivers School Authorization.
 - 2.2.1.5.1 An exception would be a student whose Relative Caregiver does not provide the documentation required by the Relative Caregiver School Authorization (proof of relation and proof of full time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the Relative Caregiver has provided the aforementioned required documentation or has received a signed court order designating them as the student's legal guardian.
- 2.2.1.6 Notwithstanding 2.2.1, a student who is homeless as defined in the McKinney-Vento Act, 42 U.S.C. 11434a(2) shall be eligible to participate at the public school in which he/she is enrolled.
- 2.2.1.7 For purposes of eligibility, a child placed within the Department of Services for Children, Youth and Their Families (DSCYF) custody is eligible to participate in interscholastic athletics immediately at the school they attend.
- 2.3 Eligibility, Enrollment and Attendance
 - 2.3.1 A student must be legally enrolled in the junior high or middle school which they represent in order to participate in a practice, scrimmage, or contest.
 - 2.3.2 Students with disabilities who are placed in special schools or programs.
 - 2.3.2.1 Definitions:
 - "Campus" means a contiguous land area containing one or more school buildings.
 - "Special School or Program" means a school or program approved by the Department of Education with the approval of the State Board of Education to serve students with disabilities, but does not include alternative schools.
 - 2.3.2.2 A student with a disability who is placed in a special school or program administered by a school district or charter school which sponsors junior high or middle school interscholastic athletics shall be eligible to participate in interscholastic athletics as follows:
 - 2.3.2.2.1 If the special school or program sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program.
 - 2.3.2.2.2 If the special school or program does not sponsor the interscholastic sport in question and the student is served in a regular junior high or middle school for all or part of the school day, the student shall be eligible only at that regular junior high or middle school.
 - 2.3.2.2.3 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is located on the campus of a regular junior high or middle school, the student shall be eligible only at the regular junior high or middle school on the same campus.
 - 2.3.2.2.4 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is not located on the campus of a regular junior high or middle school the student shall be eligible only at the regular junior high or middle school designated to serve the special school's or program's students.
 - 2.3.2.2.4.1 School districts or charter schools which administer special schools or programs and have multiple middle schools or junior high schools shall decide which of its regular middle schools or junior high schools shall be designated to serve special school or program students in these circumstances.

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- 2.3.3 Enrollment Requirements for the School District Enrollment Choice Program:
- 2.3.3.1 Pursuant to 14 Del.C. §407(a)(2), a student who is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program shall remain enrolled in the school for a minimum of two years. A waiver request is not required and the student is not ineligible under this subsection if one of the exceptions as provided in 14 Del.C. §407(a)(2) applies or the student's enrollment in the school is terminated as provided in 14 Del.C. §407. Even if a waiver request is not required and the student is not ineligible under this subsection, a waiver request may be required and the student may be ineligible under subsection 2.4 of this regulation.
 - 2.3.3.2 Pursuant to 14 Del.C. §506(d), a student who is in his or her first year of attendance at a charter school shall remain enrolled in the charter school for a minimum of one year. A waiver request is not required and the student is not ineligible under this subsection if good cause exists as provided in 14 Del.C. §506(d).
 - 2.3.4 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in school or out of school, is in effect or during the time they are assigned to an alternative school for disciplinary reasons.
 - 2.3.5 A student must be legally in attendance at school in order to participate in a practice, scrimmage, or contest except when excused by proper school authorities in accordance with pre-established written school policy.
 - 2.3.5.1 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.
 - 2.3.6 A Student who fails to complete a semester or absence for one or more semesters for reasons other than personal illness or injury shall be ineligible for 90 school days from his/her reentry to school.
 - 2.3.7 An ineligible student who practices in violation of 2.3.1 through 2.3.6 shall, when the student regains their eligibility, be prohibited from practicing, scrimmaging or competing for an equivalent number of days.
- 2.4 Eligibility, Transfers
- 2.4.1 Purpose
 - 2.4.1.1 The intent of the Junior High and Middle School Transfer Rule is to deter students from transferring schools for athletic purposes, to help discourage recruitment, and to reduce the opportunity for undue influence to be exerted by persons who seek to benefit from a student's athletic talent. DIAA recognizes that, because of the number of transfers that occur each year, it is difficult to carry out that intent if an individualized determination is required for all students who transfer schools. The exceptions in subsection 2.4.3 of this regulation involve circumstances in which establishing a hardship for eligibility purposes is not required; strict enforcement of the rule will not serve to accomplish the purpose of the rule; the spirit of the rule will not be offended or compromised; the principle of educational balance over athletics will not be offended or compromised; and there is no safety risk to teammates or competitors.
 - 2.4.2 Junior High and Middle School Transfer Rule
 - 2.4.2.1 Unless one of the exceptions found in subsection 2.4.3 of this regulation applies, a student who has previously participated in interscholastic athletics that transfers to a DIAA member school shall be ineligible in all sports for a period of 90 school days commencing with the first day of official attendance in the Receiving School.
 - 2.4.3 Exceptions to the Junior High and Middle School Transfer Rule
 - 2.4.3.1 A student, the student's family, and the student's Receiving School are not required to submit a waiver request and establish the conditions for granting a waiver set forth in subsection 9.1.1 of 14 DE Admin. Code 1006, including hardship, and the period of ineligibility shall not apply if the student meets one of the following exceptions and the student's Transfer was not for athletic advantage as provided in subsection 2.4.5 of this regulation:
 - 2.4.3.1.1 McKinney-Vento Act (Homeless Students) - The period of ineligibility shall not apply if the Transfer is the result of the student becoming homeless as defined in the McKinney-Vento Education for Homeless Children and Youths Act, 42 U.S.C. §11434a(2).
 - 2.4.3.1.2 Transfer Because of Administrative Assignment - The period of ineligibility shall not apply if the Transfer is within a school district and is approved by the district's Superintendent pursuant to established school board policy or administrative procedure. This subsection shall not apply if

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the student is enrolled in a traditional public, vocational, or charter school through the School District Enrollment Choice Program and transfers to the student's feeder pattern school within the district unless the student satisfies the conditions stipulated in subsections 2.4.3.1.9.1 through 2.4.3.1.9.4. For the purpose of this subsection, a student's feeder pattern consists of the public schools in which the student would normally be enrolled based on the student's place of residence. This subsection shall also not apply if the student is enrolled in a traditional public, vocational, or charter school through the School District Enrollment Choice Program and transfers to a different traditional public, vocational, or charter school within the district through the program.

- 2.4.3.1.3 No previous interscholastic athletic participation - A student who has not previously participated in interscholastic athletics, is released by a proper school authority from a Sending School, has completed the registration process at the Receiving School, and is pursuing an approved course of study shall be eligible immediately upon registration provided the student meets all other DIAA eligibility requirements.
- 2.4.3.1.4 Transfer Due to Court Action - A student may transfer without loss of athletic eligibility if the Transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship or custody, the Transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship or custody, an affidavit (except as permitted by subsection 2.4.3.1.5 of this regulation), or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.
 - 2.4.3.1.4.1 Sole, Joint, or Shared Custody - In cases of sole, joint, or shared custody once a primary residence is established, a change in the student's primary residence without court action renders the student ineligible unless one of the other exceptions in subsection 2.4.3 of this regulation applies.
 - 2.4.3.1.4.2 DSCYF Custody - For the purposes of eligibility, a student placed within DSCYF custody is eligible to participate in interscholastic athletics immediately at the school he or she attends.
- 2.4.3.1.5 Transfer Based Upon Relative Caregivers School Authorization - A student may Transfer without loss of athletic eligibility if the transfer is based upon the submission of a Caregivers School Authorization in accordance with 14 Del.C. §202(f).
 - 2.4.3.1.5.1 An exception would be a student whose caregiver does not provide the documentation required by the Relative Caregivers School Authorization (including proof of relationship and proof of full time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the caregiver has provided a custody or guardianship petition to the receiving school in accordance with 14 Del.C. §202(f)(1).
- 2.4.3.1.6 Transfer Due to Change of Residence - The Transfer is the result of a change in residence by the custodial parent(s), Legal Guardian(s), or Relative Caregiver to the Attendance Zone of a public school that student was not attending. If, as a result of the change of residence, the student could now enroll in a different public school, the student may make a one-time election and select any school including a private school. A change in residence has occurred when all occupancy of the previous residence has ended and a new legal residence has been established. Maintaining dual residency for purposes of athletic eligibility shall render the student ineligible.
- 2.4.3.1.7 Transfer under Unsafe School Choice Policy - A student may transfer without loss of athletic eligibility if the student attends a persistently dangerous school or is the victim of a violent felony while in or on the grounds of a school in which he or she is enrolled and the student opts to transfer to a safe school in the same school district in accordance with 14 DE Admin. Code 608 Unsafe School Choice Option Policy.
- 2.4.3.1.8 Transfers with Fewer Than 90 Days Left in Academic Year - If a student transfers with fewer than ninety (90) school days left in the academic year, the student shall be ineligible for the remainder of the school year but shall be eligible beginning with the subsequent fall sports season provided the student is in compliance with all other eligibility requirements.

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- 2.4.3.1.9 Transfers after the Close of an Academic Year and Prior to the Start of a New Academic Year - The period of ineligibility shall not apply if the Transfer is after the close of the Sending School's academic year and prior to the first official student day of the Receiving School's academic year provided:
 - 2.4.3.1.9.1 The student has completed the registration process at the Receiving School prior to the first official student day of the academic year. The first official student day shall be defined as the first day on which students in any grade in that school are required to be in attendance.
 - 2.4.3.1.9.2 The student has not attended class, excluding summer school, or participated in a scrimmage or contest at the Sending School since the close of the previous academic year.
 - 2.4.3.1.9.3 The student's legal residence is located in the Attendance Zone of the Receiving School.
 - 2.4.3.1.9.4 All other DIAA eligibility requirements have been met.
- 2.4.4 Transfer Because of a Financial Hardship. If a waiver of the Junior High and Middle School Transfer Rule is requested due to a financial hardship, the parent(s), Legal Guardian(s) or Relative Caregiver is responsible for providing documentation to the Board to support the request.
 - 2.4.4.1 Documentation for Financial Hardship: Documentation for financial hardship shall include:
 - 2.4.4.1.1 Proof of extreme financial hardship caused by significant and unexpected reduction in income or increase in expenses; and
 - 2.4.4.1.2 A statement from the Principals or Headmasters of both the Sending and Receiving Schools that the student is not transferring for athletic advantage as that term is used in subsection 2.4.5 of this regulation.
- 2.4.5 Transfers for Athletic Advantage - The exceptions listed in subsection 2.4.3 of this regulation shall not apply if the Transfer was for athletic advantage. If the student transfers for athletic advantage, the student may still request a waiver of the transfer rule. A transfer for athletic advantage includes but is not limited to any transfer where the primary reason for the student's transfer was for any of the following:
 - 2.4.5.1 To seek a superior team;
 - 2.4.5.2 To seek a team more compatible with the student's abilities;
 - 2.4.5.3 Dissatisfaction with the student's position or playing time;
 - 2.4.5.4 The student follows the coach to another school to which the coach has transferred;
 - 2.4.5.5 Dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics;
 - 2.4.5.6 To avoid disciplinary action imposed by another state athletic association; or
 - 2.4.5.7 To avoid disciplinary action imposed by the Sending School related to or affecting interscholastic athletic participation.
- 2.4.6 Transfers under the School District Enrollment Choice Program (14 Del.C. Ch. 4)
 - 2.4.6.1 If a student is enrolled in a public or private school and transfers to a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program, the student shall be eligible immediately provided the Transfer occurs after the close of the Sending School's academic year and prior to the first official student day of the Receiving School's academic year and the student meets all other eligibility requirements.
 - 2.4.6.2 If a student is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program and transfers to a different traditional public, vocational, or charter school outside of the student's feeder pattern through the program, the student shall be ineligible to participate in interscholastic athletics during the student's first year of attendance at the Receiving School.
 - 2.4.6.2.1 A waiver request is not required and the period of ineligibility under subsection 2.4.2 shall not apply if the student meets all other eligibility requirements and:
 - 2.4.6.2.1.1 One of the exceptions to the Junior High and Middle School Transfer Rule as provided in subsection 2.4.3 applies; or
 - 2.4.6.2.1.2 The student wishes to participate in an interscholastic sport that was not offered at the Sending School.
 - 2.4.6.3 If a student is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program and transfers to a private or

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public school, he or she shall be immediately eligible provided the Transfer occurs after the close of the Sending School's academic year and the student meets all other eligibility requirements.

- 2.4.6.4 For the purpose of this subsection, a student's feeder pattern consists of the public schools in which the student would normally be enrolled based on the student's place of residence.

2.5 Eligibility, Amateur Status

- 2.5.1 A student may not participate in an interscholastic sport unless they are considered an amateur in that sport. A student forfeits their amateur status if they do any of the following:
- 2.5.1.1 Knowingly plays on or against a professional team which is defined as a team having one or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.
 - 2.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.
 - 2.5.1.3 Enters competition under an assumed name. The surname and given name used by any player in the first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the Principal or Headmaster of the school.
 - 2.5.1.4 Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.
 - 2.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 9.1.4) or a merchandise discount (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of their participation in an organized competition or instructional camp or clinic. Accepting an event program or a complimentary item(s) (T shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150.00, and is provided to all of the participants, shall not jeopardize his/ her amateur status.
 - 2.5.1.6 Sells or pawns awards received.
 - 2.5.1.7 Uses their athletic status to promote or endorse a commercial product or service on the internet; in a newsprint, radio, or television advertisement or any other form of media; or personal appearance.
- 2.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize their amateur status.
- 2.5.3 A student who forfeits their amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. They may be reinstated after a period of up to 180 school days provided that during the suspension, they comply with all of the provisions of this rule. The suspension shall date from the time of the last offense.

2.6 Eligibility, Passing Work

- 2.6.1 The intent of the Passing Work Rule is to promote educational standards, underscore the educational values of participating in interscholastic athletics, encourage appropriate academic performance, and allow the use of interscholastic participation as a motivator for improved classroom performance.
- 2.6.2 In order to be eligible for participation in interscholastic athletic contests and scrimmages, a student must pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least four full-year courses. Two of those courses must be in the areas of English, Mathematics, Science, World Language or Social Studies.
- 2.6.2.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study, shall be adjudged eligible by the Principal or Headmaster if the student is making satisfactory progress in accordance with the requirements of his or her Individualized Education Program (IEP).
- 2.6.3 A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in an interscholastic athletic contest or scrimmage for the next marking period.

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- 2.6.3.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.
- 2.6.3.2 The final accumulation of passed coursework shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required passing grade(s) during the summer, the student shall become eligible provided he or she successfully completed the course work prior to the first official student day of the school year.
- 2.6.3.3 Written verification of the successful completion of a correspondence course must be received before a student shall regain eligibility.
- 2.6.4 A student forfeits or regains eligibility, in accordance with the provisions of this rule, on the day when marking period grades are issued or published. The calendar used to establish when marking period grades are issued or published must be established by the governing body of the school prior to the start of the school year.
- 2.6.5 Local school boards and nonpublic schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.
- 2.7 Eligibility, Years of Participation
 - 2.7.1 The intent of the Years of Participation Rule is to promote timely progress toward graduation by discouraging students from delaying or interrupting their junior high or middle school education; to disallow students to enroll for one semester each school year to increase athletic ability and skill; to promote equality of competition; to diminish risks stemming from unequal competition; and to place emphasis on the academic mission of the school. In addition, the intent of the rule is to help prevent redshirting; to avoid exploitation by coaches who might otherwise seek to obtain transfers or to delay a student's normal progress through school; and to prevent displacement of younger student-athletes by older student-athletes who wish to unfairly prolong their junior high or middle school careers.
 - 2.7.2 Years of Participation Rule
 - 2.7.2.1 Students enrolled in a grade below the sixth grade shall not be permitted to practice, scrimmage, or compete on junior high or middle school interscholastic teams.
 - 2.7.2.2 Schools Which Allow Students in Grades 6, 7, and 8 to Participate
 - 2.7.2.2.1 Participation in interscholastic athletics on the part of a sixth grade student shall be at the discretion of the student's school.
 - 2.7.2.2.1.1 Sixth grade students shall not be permitted to participate in football unless the conference develops a classification system that is approved by the Board.
 - 2.7.2.2.1.2 If a student attends a school that competes in football but has not developed a Board-approved classification system, the student shall have four (4) consecutive semesters of eligibility (two (2) consecutive opportunities) to play football from the first time the student enters the seventh grade.
 - 2.7.2.2.2 No student shall represent a school in an interscholastic athletic contest or scrimmage after six (6) consecutive semesters from the date of the student's first entrance into the sixth grade in schools which permit students in grades 6, 7 and 8 to participate in interscholastic athletics unless a waiver is granted.
 - 2.7.2.2.3 No student shall have more than three (3) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.
 - 2.7.2.3 Schools Which Allow Students in Grades 7 and 8 to Participate
 - 2.7.2.3.1 No student shall represent a school in an interscholastic athletic contest or scrimmage after two (2) consecutive school years from the date of the student's first entrance into the seventh grade in schools which restrict participation in interscholastic athletics to students in grades 7 and 8 unless a waiver is granted.
 - 2.7.2.3.2 No student shall have more than two (2) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.
 - 2.7.2.4 Participation shall be defined as taking part in a school sponsored practice, scrimmage, or contest on or after the first allowable date for practice in that sport.
 - 2.7.2.5 In the event that a student transfers between the types of schools described in subsections 2.7.2.2 and 2.7.2.3, the student shall not represent a school in interscholastic contests or scrimmages

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after six (6) consecutive semesters from the date of student's first entrance into sixth grade unless a waiver is granted.

2.7.3 Waiver of the Years of Participation Rule

2.7.3.1 "**Hardship**" shall be defined as extenuating circumstances peculiar to the student athlete caused by unforeseen events beyond the election, control, or creation of the student athlete, the student's family, and the student's school which (1) deprive the student of all or part of one of the student's opportunities to participate in a particular sports season; (2) preclude the student from completing the academic requirements for graduation within the normal period of eligibility; and (3) deprive the student of all or part of one of the student's opportunities to participate in a particular sport. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness, or accidents, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.

2.7.3.1.1 A waiver shall not be granted under this subsection where DIAA finds that the student was academically eligible pursuant to DIAA's minimum passing work standards but was ineligible to participate under more stringent locally adopted academic standards and where the local school board has adopted its own waiver or exemption policy.

2.7.3.1.2 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for promotion within the normal period of eligibility and the loss of all or part of one of the student's opportunities to participate in a particular sports season.

2.7.3.1.3 The burden of proof rests with the student in conjunction with the waiver process as described in Section 9.0 of 14 **DE Admin. Code** 1006. Claims of extended illness, debilitating injury, emotional stress, etc. must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student or his or her parent(s), Legal Guardian(s), or Relative Caregiver sought assistance to ameliorate the effects of the hardship condition.

2.8 Student Eligibility Report Forms

2.8.1 Member schools shall use eligibility forms approved by the Executive Director. A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$50.00 fine against the school.

2.8.1.1 In the case of a student who met all DIAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, he/she shall be adjudged eligible and the school assessed a \$25.00 fine.

2.9 Use of an Ineligible Athlete:

2.9.1 If a school uses an ineligible athlete, the administrative head or their designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es) or point(s) won.

2.9.2 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.

2.9.2.1 If the infraction occurs during a tournament, the offending school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament. Team and individual awards shall be returned to the event sponsor and team and individual records and performances shall be nullified.

2.9.2.2 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty. If the forfeiture penalty is waived, the offending school shall be reprimanded and fined a minimum of \$200.00 but no more than \$1,000.00 and referred to the DIAA Sportsmanship Committee for consideration of further action unless the athlete or their parent(s) or legal guardian(s) knowingly withheld information or provided false information that caused them to be eligible for interscholastic competition. The burden of proof, in both cases, rests entirely with the offending school. A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings. A forfeit shall be automatic and not subject to refusal by the offending school's opponent.

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- 2.9.3 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and points earned by the ineligible athlete or by a relay team of which they were a member. The points contributed by an ineligible athlete to their team score shall be deleted and the contest score as well as any affected placements will be adjusted according to the rules of that sport.
- 2.9.3.1 If the infraction occurs during a tournament, the ineligible athlete shall be replaced by his/her most recently defeated opponent or next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.
- 2.9.3.2 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor. Individual records and performances by the ineligible athlete shall be nullified.
- 2.9.4 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules but in accordance with a temporary restraining order or injunction against their school or DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties as stipulated in 2.9.1 and 2.9.2 shall be imposed.
- 2.9.5 The intentional use of an ineligible athlete by a Member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for the number of days up to the length of the school year from the date the charge is substantiated.
- 2.9.6 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for up to the number of days up to the length of the school year from the date the charge is substantiated.
- 2.9.7 If an athlete or their parent(s), legal guardian(s), or Relative Caregiver knowingly withholds information or provides false information that causes the athlete to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to the number of days up to the length of the school year from the date the charge is substantiated.
- 2.10 Determination of Student Eligibility and the Appeal Procedures
- 2.10.1 Determining student athletic eligibility is the responsibility of each member school's administration. Member schools shall maintain records verifying athletic eligibility. Upon the Executive Director's request, the member school shall provide all information verifying eligibility.
- 2.10.2 In cases of uncertainty or disagreement, the eligibility of a student shall be determined by the Executive Director. Any request from a member school regarding an eligibility determination shall be in writing and contain the school's eligibility determination and all information used to reach the determination. When necessary within the Executive Director's discretion, the Executive Director may also make eligibility determinations without an official request from the member school. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.
- 2.10.3 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DIAA Board of Directors.
- 2.10.4 Decisions of the DIAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the Executive Director may be appealed to the State Board of Education in accordance with the procedure described in 14 DE Admin. Code 1006.10.1.3.

9 DE Reg. 1954 (06/01/06)

11 DE Reg. 1639 (06/01/08)

15 DE Reg. 74 (07/01/11)

19 DE Reg. 743 (02/01/16)

22 DE Reg. 60 (07/01/18)

22 DE Reg. 395 (11/01/18)

22 DE Reg. 765 (03/01/19)

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3.0 Physical Examinations, Concussion Protocol, Weight Control Programs for Wrestling and Required Medical Personnel in Attendance at All Football Games**3.1 Physical Examinations**

- 3.1.1 A student shall not be eligible to try out, practice, scrimmage, or compete in an interscholastic contest unless a licensed physician (MD or DO), a licensed nurse practitioner, or a licensed physician assistant verifies in writing on or after April 1 and before beginning such athletic activity for the current school year that the student has been adequately examined within the last 12 months and is cleared medically to participate. However, should any conditions found in subsection 3.1.3 of this regulation occur since the last examination, a reexamination is required before the student can be medically cleared. A student who participates in a contest without a preparticipation physical evaluation shall be considered an ineligible athlete and the athlete and the school shall be subject to the penalties stipulated in subsection 2.9.
- 3.1.2 A DIAA approved form certifying the examination to that effect, as well as the parent's, legal guardian's or Relative Caregiver's consent, shall be on file with the administrative head of the school prior to the student participating in a practice, scrimmage, or game.
- 3.1.3 For any subsequent sports season in the school year, a limited reexamination shall be performed if any of the following circumstances exist: the athlete has been treated for an injury during the preceding sports season, the athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset, an operation has been performed on the athlete during the preceding term, or the athlete has a remedial defect.
- 3.1.4 The medical history of the student shall be available at the time of each examination.
- 3.1.5 A player is temporarily ineligible to participate if the player who is otherwise properly certified to participate in interscholastic athletics but is physically unable to participate due to illness or injury for five (5) consecutive days on which a practice, scrimmage, or contest is held. Prior to resuming participation, the player must present to the Administrative Head of School or his or her designee, a statement from a licensed physician (MD or DO), a nurse practitioner, or a physician assistant that the player is again physically able to participate. If a player is physically unable to participate due to a head injury, the concussion protocol in subsection 3.2 shall be followed.

3.2 Concussion Protocol

- 3.2.1 If an athlete is suspected of sustaining a concussion or exhibits signs or symptoms of a concussion, he or she shall be removed from the practice or game immediately.
- 3.2.2 A Qualified Healthcare Professional shall determine whether an apparent concussion has occurred. The Qualified Healthcare Professional shall be approved by the host to provide on-site evaluations of athletes who are suspected of sustaining a concussion or exhibit signs or symptoms of a concussion. If a Qualified Healthcare Professional is not present or is not appointed or approved by the host, the injury shall be treated as a concussion and the athlete shall not return to play until he or she is evaluated by a Qualified Healthcare Professional in an appropriate medical setting.
- 3.2.3 If a Qualified Healthcare Professional determines that an athlete did not sustain a concussion, the athlete may return to play.
- 3.2.4 If a Qualified Healthcare Professional determines that the athlete sustained a concussion or is unable to rule out a concussion, the athlete shall be referred for further evaluation by a Qualified Physician. The athlete shall be ineligible to participate in practices, scrimmages, or contests until he or she receives written clearance from a Qualified Physician on the DIAA Acute Concussion Evaluation (ACE) and Return to Play Form.
- 3.2.5 Failure to comply with the requirements of this regulation shall result in the athlete being considered ineligible. The athlete and member school shall be penalized according to subsection 2.10 of this regulation.
- 3.2.6 If an official observes an apparent injury, the official shall report the injury to the athlete's coach.
- 3.2.7 The Sports Medicine Advisory Committee may recommend amendments to the Concussion Protocol to the Rules and Regulations Committee and the Board.

3.3 Middle School Wrestling

- 3.3.1 **Weight Control Program** - Each year, four weeks from the first day the student appears at practice, a wrestler must establish his/ her minimum weight class at a weigh in witnessed by and attested to in writing by the athletic director or a designated staff member (excluding coaches) of the school the wrestler attends. A wrestler may recertify at a lower weight during the 4 weeks from the first day they appear at

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practice. However, once certified at a weight, a wrestler may not weigh in more than one class above the weight of the certification without automatically recertifying at a higher weight. Once recertified to a higher weight class the wrestler can no longer recertify lower. After 4 weeks from the first practice day a wrestler may not compete in a weight class below his duly established weight class.

- 3.3.1.1 By the end of four weeks of practice, a certified team roster listing the established minimum weight class of each wrestler shall be sent to the Executive Director of DIAA. Further, duly attested notices of additions to the certified roster shall be sent to the Executive Director without delay.
- 3.3.2 Weight classifications and length of match shall be designated by the DIAA Board of Directors.
- 3.3.3 A team which begins its season in October shall receive a one pound growth allowance in November and an additional pound in December. A team which begins its season in November shall receive a one pound growth allowance in December, an additional pound in January, and a third pound in February.
- 3.3.4 Schools which desire to conduct their wrestling program at a time other than the specified season must request permission from the Executive Director.
- 3.3.5 Except as modified by this section, the current edition of the NFHS Wrestling Rules Book shall apply.
- 3.4 Required Medical Personnel In Attendance at All Football Games
 - 3.4.1 Provision shall be made for a Qualified Healthcare Professional to be present at all interscholastic football games in which a Member School participates. The Qualified Healthcare Professional must be approved or appointed by the Administrative Head of School or his or her designee. The host school shall provide this service. Failure by the host school to provide this service shall result in a \$250.00 fine.

11 DE Reg. 1639 (06/01/08)

15 DE Reg. 74 (07/01/11)

19 DE Reg. 743 (02/01/16)

22 DE Reg. 395 (11/01/18)

4.0 Sports Seasons, Practice Sessions and Maximum Game Schedules and designated Sports Seasons

4.1 Sports Seasons

- 4.1.1 The fall sports season shall begin on the Monday 1 week before Labor Day and end not later than December 1. Practice for any fall sport shall not begin earlier than the Monday 1 week before Labor Day. The first allowable competition date in the fall sports season shall be on the first Monday 2 weeks after Labor Day.
 - 4.1.1.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to noncontact activities. Coaches may introduce offensive formations and defensive alignments, run plays on "air", practice noncontact phases of the kicking game, and teach noncontact positional skills. Protective equipment shall be restricted to helmets, mouth guards and shoes on the first day of practice. Shoulder pads may be added on the second and third day of practice. The use of dummies, hand shields, and sleds in contact drills is prohibited until the fourth day of practice. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited until the fourth day of practice.
 - 4.1.1.2 No member school shall participate in spring football games nor shall a member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament. "Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule.
- 4.1.2 The winter sports season shall begin on the Monday of the 19th week of the NFHS standardized calendar and end not later than March 1. Practice for any winter sport shall not begin earlier than on the Monday of the 19th week of the NFHS standardized calendar. The first allowable competition date in the winter sports season shall be on the Wednesday on the 22nd week of the NFHS standardized calendar.
- 4.1.3 The spring sports season shall begin on the Monday of the 35th week on the NFHS standardized calendar and end not later than the last school day. Practice for any spring sport shall not begin earlier than the Monday of the 35th week on the NFHS standardized calendar. The first allowable competition date in the spring sports season shall be on the Monday on the 38th week of the NFHS standardized calendar.

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- 4.1.4 A school which participates in a game prior to the first allowable date shall be required to forfeit the contest and be assessed a \$500.00 fine per each illegal contest. The school shall be referred to the DIAA Sportsmanship Committee for consideration of further action.
- 4.1.5 A school which conducts practice prior to the first allowable date shall pay a \$500.00 fine per each illegal practice day. The school shall be referred to the DIAA Sportsmanship Committee for consideration of further action.
- 4.1.6 No Member school shall participate in a post season contest without the written approval of the Executive Director.

4.2 Practice Sessions

- 4.2.1 Member schools shall comply with the following for all practice sessions:
 - 4.2.1.1 All practice sessions shall be conducted under the supervision of the school's certified, emergency or approved volunteer coaching staff.
 - 4.2.1.2 Member schools may conduct practice sessions during the approved sports seasons as defined in subsection 4.1.
 - 4.2.1.3 Member schools shall conduct practice sessions regularly during the 21 calendar days prior to the first scheduled contest.
 - 4.2.1.4 There must be one day of no activity (practice, scrimmage, or contest) during any seven-day period.
 - 4.2.1.5 A student that has not previously participated in that sports season shall be required to participate with the team for a period of at least seven calendar days prior to participating in a contest. Eligibility for participation in a contest shall begin on the eighth calendar day of participation with the team. However, if a student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven calendar days before the team's first contest, student shall be exempt from this requirement.
 - 4.2.1.6 Students shall have unrestricted access to drinking water and be permitted a minimum of one five-minute rest period during each hour of practice.
 - 4.2.1.7 Member schools shall comply with the heat related practice modifications designated by the DIAA Board of Directors.
 - 4.2.1.8 Holding practice on holidays and weekends shall be left to the discretion of the member schools. However, the restrictions on non-school day practice sessions apply and there must be one day of no activity (practice, scrimmage, or contest) during any seven day period.
- 4.2.2 Practice on Non School Days - Member schools shall comply with the following for all practice sessions held on non-school days. A non-school day is defined as a day when, in accordance with the approved school calendar, students are not scheduled for academic instructional activities.
 - 4.2.2.1 Each practice session shall be no more than three hours in length.
 - 4.2.2.2 Practice session on a non-school day is defined as the time a participant engages in physical or instructional activity.
 - 4.2.2.3 The hourly practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.
 - 4.2.2.4 Students shall not participate in more than two practice sessions totaling no more than five hours of practice on non-school practice days including a one-hour walk-through session. A walk-through shall be defined as a teaching opportunity with no protective equipment (e.g., shin guards, helmets, etc.) or equipment related to a given sport (e.g., soccer balls, field hockey sticks, etc.).
 - 4.2.2.5 On days when two practice sessions are conducted, no practice session shall exceed three hours in length and must be separated with at least one hour of recovery time between the end of the first practice and the beginning of the next practice.
 - 4.2.2.6 Split sessions, defined as a practice session held for different groups of students playing the same sport, may be conducted but practice time shall not exceed three hours per session and five hours total daily for any individual athlete.
- 4.2.3 Practice on Official Student School Day - Member schools shall comply with the following for all practice sessions held on official student school days.
 - 4.2.3.1 Practice sessions shall be limited to two hours.

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- 4.2.3.2 The two hour limit on practice sessions on official school days includes all instructional activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, blackboard sessions, warm-up and cool-down exercises, drills or mandatory strength training.
- 4.2.3.3 The two hour practice session limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.
- 4.2.3.4 Split sessions may be conducted but practice time shall not exceed two hours for any individual athlete.
- 4.2.4 A school which fails to comply with these practice requirements shall pay a \$500.00 fine for each day of non-compliance.
- 4.3 Maximum Game Schedules and Designated Sports Seasons:
 - 4.3.1 The maximum number of regularly scheduled interscholastic contests or competition dates for each team and individual in the recognized sports and their sports season shall be designated by the DIAA Board of Directors.
 - 4.3.2 Game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than three contests and competition dates in a week.
 - 4.3.3 A student shall participate in a particular sport for only one season during each academic year.
 - 4.3.4 A school which participates in more than the allowable number of contests in a season shall be fined \$500.00 for each contest.
 - 4.3.5 A school which exceeds the weekly contest limitation shall forfeit the contest and pay a \$250.00 fine. A week shall be designated as starting on Monday and ending on Sunday for all sports except football. A football week shall begin the day of the middle school varsity game and end the day preceding the next middle school varsity game or the following Friday.
 - 4.3.6 A student who exceeds the weekly or daily contest limitation shall be considered an ineligible athlete and the school subject to the penalties stipulated in 2.9.

9 DE Reg. 124 (07/01/05)

11 DE Reg. 1639 (06/01/08)

15 DE Reg. 74 (07/01/11)

19 DE Reg. 743 (02/01/16)

23 DE Reg. 122 (08/01/19)

5.0 School and Team Competition, Sanctioning of Competitions and All Star Contests

- 5.1 School and Team Competition
 - 5.1.1 Sponsoring Interscholastic Teams: Interscholastic competition is defined as any athletic contest between students representing two or more schools. Member of school clubs who participate in noncompetitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition. Students are considered to be representing a school if the school does any of the following:
 - 5.1.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).
 - 5.1.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.
 - 5.1.1.3 Permits the students to compete under the name of the school.
 - 5.1.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.
 - 5.1.1.5 Presents or displays individual or team awards.
 - 5.1.2 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:

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- 5.1.2.1 The governing body of the participating district or nonpublic school approves participation in the sport. The administrative head of the school shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.
- 5.1.2.2 The governing body of the participating district or nonpublic school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgment that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the administrative head of the school.
- 5.1.2.3 The participating schools agree to comply with all applicable DIAA rules and regulations as stated in the current DIAA Official Handbook.
- 5.1.3 Levels of Participation
 - 5.1.3.1 Level 1 or developmental sport, less than seven participating schools. DIAA rules and regulations shall not be in effect.
 - 5.1.3.2 Level 2 or recognized sport, seven or more participating schools. Participating schools must petition the DIAA Board of Directors for official recognition of the sport.
 - 5.1.3.2.1 At the time of official recognition, DIAA shall provide rules publications to the participating schools, designate an approved official's association, conduct an annual or biannual rules clinic for coaches and officials, and establish a maximum game schedule. DIAA rules and regulations shall then be in effect.
 - 5.1.3.2.2 Withdrawal of level 2 status: If, for two consecutive years, less than the required number of schools participate in a sport, DIAA may withdraw official recognition for a period of time as determined by the Board of Directors.
- 5.1.4 Membership on Coed Teams
 - 5.1.4.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams compete during different seasons. Sports are considered to be the same when one set of NFHS Rules govern both genders. If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team but if a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team. Notwithstanding the restrictions herein, a transgendered student, defined as a student whose gender identity differs from the student's assigned sex at birth, may be eligible to participate on a team other than their assigned sex at birth in accordance with a member school policy that meets the minimum standards designated by the DIAA Board of Directors.
- 5.2 Sanctioning of Competitions
 - 5.2.1 Member schools may participate in tournaments and meets involving four or more schools only if the event has been sanctioned by DIAA and, if applicable, by the NFHS. Tournaments and meets shall be sanctioned in accordance with the following criteria:
 - 5.2.1.1 The event shall not be for determining a state, regional or national champion.
 - 5.2.1.2 The event shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.
 - 5.2.1.3 Non symbolic competition awards shall have a value of not more than \$50.00 per recipient and shall require the prior approval of the Executive Director.
 - 5.2.1.4 Non school event organizers shall submit a full financial report to the DIAA office within ninety (90) calendar days of the completion of the event.
 - 5.2.1.5 The event organizer shall submit a list of out of state schools which have been invited to participate and such schools shall be subject to approval by the Executive Director.
 - 5.2.1.6 Out of state schools which are not members of their state athletic association shall verify in writing that their participating athletes are in compliance with their state athletic association's eligibility rules and regulations.

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- 5.2.1.7 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.
 - 5.2.1.8 The event organizer shall comply with all applicable NFHS sanctioning requirements.
 - 5.2.2 Participation in a non sanctioned event shall result in payment of a \$100.00 fine. A second offense shall result in a \$250.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the sport season. A third offense shall result in a \$500.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the school year.
 - 5.3 All Star Contests: Junior high and middle school students shall not participate in an all-star event until they have completed their high school eligibility in that sport.
- 11 DE Reg. 1639 (06/01/08)**
15 DE Reg. 74 (07/01/11)
19 DE Reg. 743 (02/01/16)

6.0 Athletic Camps and Clinic Sponsorship, Commercial Camps and Clinics and Open Gyms, Conditioning Programs and Non School Competition

- 6.1 Out of Season Athletic Camps and Clinic Sponsorship
 - 6.1.1 DIAA does not restrict a student's decision to attend an out of season athletic camp or clinic. However, schools, school organizations, coaches, or school related groups, such as booster clubs, may not sponsor an athletic camp, tournament, league or clinic which limits membership to their own district, locale, or teams. Coaches employed by an out of season athletic camp or clinic may only instruct their own athletes in accordance with 7.5.
- 6.2 Team Attendance at Out of Season Commercial Camps and Clinics
 - 6.2.1 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's enrolled students at an out of season athletic camp or clinic, may do so with the approval of the local school board or governing body. School funds shall not be used for this purpose. The disbursement of funds to pay for camp or clinic related expenses (fees, travel costs, etc.) shall be administered by the Principal or Headmaster or their designee and the funds shall be allocated according to the following guidelines:
 - 6.2.1.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.
 - 6.2.1.2 All applicants shall share equally in the funds provided.
 - 6.2.1.3 All applicants shall be academically eligible to participate in interscholastic athletics.
 - 6.2.1.4 All applicants shall have one year of prior participation in the sport for which the camp or clinic is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp or clinic.
- 6.3 Individual Attendance at Commercial Camps and Clinics
 - 6.3.1 Commercial camps and clinics are defined as a camp or clinic operated for profit which provides coaching or other sports training for a fee.
 - 6.3.2 A student may participate in a commercial camp or clinic, including private lessons, both during and out of the designated sport season provided the following conditions are observed:
 - 6.3.2.1 The student must participate unattached and may not wear school uniforms.
 - 6.3.2.2 The student may use only school equipment whose primary purpose is to protect the wearer from physical injury.
 - 6.3.2.3 The school may not provide transportation or pay fees.
 - 6.3.2.4 The school coach may not require athletes to participate in a camp or clinic or provide instruction to returning athletes in a camp or clinic except as in accordance with 7.5.
- 6.4 Open Gym Programs
 - 6.4.1 A Member school may open its gymnasium or other facility for informal, recreational activities in accordance with the following provisions:
 - 6.4.1.1 The open gym must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.

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- 6.4.1.2 Student participation must be voluntary and the open gym must not be a prerequisite for trying out or being selected for a particular team.
- 6.4.1.3 The activities must be unstructured and student generated. Organized drills in the skills or techniques of a particular sport are prohibited. Organized competition with fixed team rosters is also prohibited.
- 6.4.1.4 A coach may not predetermine that the open gym will include only their sport and publicize the open gym as being restricted to that sport. It is the responsibility of the adult supervisor to permit as many different activities as the facility can effectively and safely accommodate.
- 6.4.1.5 A coach may open the facility and distribute playing equipment but may not instruct, officiate, participate, organize the activities, or choose teams in their assigned sport.
- 6.4.1.6 Playing equipment is restricted to that which is customarily used in a contest in a particular sport. Playing equipment which is only used in a practice session is prohibited.
- 6.4.1.7 The participants must provide their own workout clothing.
- 6.4.1.8 Open gyms may not be limited to members of a particular team, but they are restricted to students enrolled at the school and are not available to students enrolled at other schools regardless of grade.
- 6.5 Conditioning Programs
 - 6.5.1 A member school may conduct a conditioning program in accordance with the following provisions:
 - 6.5.1.1 The conditioning program must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.
 - 6.5.1.2 Student participation must be voluntary. The conditioning program must not be a prerequisite for trying out for a particular team.
 - 6.5.1.3 Permissible activities include stretching, lifting weights, jumping rope, running, calisthenics, aerobics, and similar generic conditioning activities. Organized drills in the skills or techniques of a particular sport are prohibited.
 - 6.5.1.4 A coach may not provide instruction in sport specific skills or techniques.
 - 6.5.1.5 Sport specific equipment is prohibited.
 - 6.5.1.6 The participants must provide their own workout clothing.
 - 6.5.1.7 Conditioning programs may not be limited to members of a particular team but they are restricted to students enrolled at the school and are not available to students enrolled at other schools regardless of grade.
- 6.6 Non School Competition in which Participants are Competing Unattached and are Not Representing Their Schools
 - 6.6.1 A student may participate on a nonschool team or in a non-school individual event both during and out of the designated sport season. However, the student owes their primary loyalty and allegiance to the school team of which they are a member. A school shall have the authority to require attendance at practices and contests and students not in compliance shall be subject to disciplinary action as determined by the school.
 - 6.6.2 Participation on a non school team or in a non school individual event shall be subject to the following conditions:
 - 6.6.2.1 With the exception of organized intramurals, the student may not wear school uniforms.
 - 6.6.2.2 With the exception of organized intramurals, the student may use only school equipment whose primary purpose is to protect the wearer from physical injury.
 - 6.6.2.3 The school or a school affiliated support group may not provide transportation.
 - 6.6.2.4 The school or a school affiliated support group may not pay entry fees or provide any form of financial assistance.
 - 6.6.2.5 The school coach may not require athletes to participate in non school competition or provide instruction to athletes in non school competition except as in 7.5.
 - 6.6.2.6 Nothing in this regulation shall be construed as prohibiting schools from providing transportation or school-supplied assistive technology and equipment to or for non-school activities for students with disabilities.
 - 6.6.3 14 Del.C. §122(b)(14) requires written parental permission prior to participation on a similar team during the designated sport season. Written authorization must be on file in the student's school prior to engaging

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in a tryout, practice, or contest with a similar team. Consent forms shall be available in all member schools. Similar teams shall include organized intramural teams as well as non school teams in that sport.

9 DE Reg. 1954 (06/01/06)

11 DE Reg. 1639 (06/01/08)

15 DE Reg. 74 (07/01/11)

19 DE Reg. 743 (02/01/16)

7.0 Certified, Emergency, and Volunteer Coaches, Student Teaching, and Coaching Out of Season

7.1 Certified Coaches

7.1.1 Only those professional employees certified by the Department and whose salary is paid by the State or local Board of Education, or in the case of charter and nonpublic schools by a similar governing body, if acceptable as a coach by the governing body, shall coach, assist in coaching, or direct Member school teams in any district. The terms of employment must be for the regular school year and the professional assignment shall be no less than half of the school day, exclusive of coaching duties.

7.1.2 All head coaches shall be required to attend the DIAA rules clinic for their sport or, if applicable, pass an open book rules examination supplied by the DIAA office. A school shall pay a \$50.00 fine and the head coach shall be placed on probation if they fail to attend the DIAA rules clinic or pass the open book rules examination in their sport. Failure to comply for a second consecutive year shall result in the school paying a \$50.00 fine and the coach being suspended for up to five contests as determined by the Executive Director.

7.1.2.1 Certified coaches at all levels of competition shall be required to hold a current certification in adult CPR.

7.1.2.2 Certified coaches at all levels of competition shall complete the NFHS' "Concussion in Sports" course online through NFHSlern.com every two years.

7.2 Emergency Coaches

7.2.1 An emergency coach shall be defined as an individual who is either not certified by the Department, or is certified by the Department but is not employed for the school year or whose professional assignment is less than half of the school day. An individual who meets the requirements of a certified coach as specified in subsection 7.1.1, but whose professional assignment is located in a different school or district than his/her coaching assignment shall not be considered an emergency coach by DIAA.

7.2.1.1 Emergency coaches at all levels of competition shall be required to hold a current certification in adult CPR.

7.2.1.2 Emergency coaches at all levels of competition shall complete the NFHS' "Concussion in Sports" course online through NFHSlern.com every two years.

7.2.2 Member schools shall be required to annually reopen all positions that are held by emergency coaches.

7.2.3 Emergency coaches may be employed provided the local governing body adheres to the following procedures:

7.2.3.1 The employing Board of Education must attempt to locate an acceptable, certified professional staff member by advertising the coaching vacancy in the district for as many days as are required by the district's collective bargaining agreement.

7.2.3.2 If an acceptable, certified professional staff member is not available, an individual who is acceptable to the employing Board of Education may be hired as an emergency coach.

7.2.3.3 Any individual employed as a coach under the emergency provision must comply with the following regulations:

7.2.3.3.1 A coach must be officially appointed by the local Board of Education. The Superintendent or his/her designee may temporarily appoint an individual if a coaching vacancy arises and the sport season begins during the interim between meetings of the local Board of Education.

7.2.3.3.2 The coaching salary must be paid exclusively by the local Board of Education.

7.3 Volunteer Coaches

7.3.1 In addition to the members of the school's regular coaching staff, the local governing body may supplement a school's coaching staff with volunteer coaches. Volunteer coaches are individuals who donate their services to a school, who have been approved by that school's local governing body, and who are supervised by a certified or emergency coach. A current list of approved volunteer coaches shall be on

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file in the school's administrative office before any coaching duties are assumed. Volunteer coaches at all levels of competition shall complete the NFHS' "Concussion in Sports" course online through NFHSLearn.com every two years.

7.4 Football Coaches

- 7.4.1 All football coaches (including certified, emergency, and volunteer coaches) at all levels of competition shall annually complete Heads Up Football training.

7.5 Student Teaching and Coaching

- 7.5.1 Students who are practice teaching in a Member school shall be permitted to assist in all professional activities during their practice teaching period.

7.6 Coaching Out of Season

- 7.6.1 From August 2nd through the first day after the last spring sport DIAA state tournament event, a certified, emergency, or volunteer coach shall not be allowed to provide instruction out of the designated season in his or her assigned sport to any student registered in the school at which he or she coaches.

- 7.6.1.1 A coach shall not be allowed to participate on a team in his or her assigned sport with the aforementioned players.

- 7.6.1.2 A coach shall also be prohibited from officiating contests in his or her assigned sport if the aforementioned players are participating except in organized league competition.

- 7.6.1.2.1 The league shall not be organized, conducted, and funded by the employing school, the employing school's booster club, or the employing school's coaching staff.

- 7.6.1.2.2 The league shall have written rules and regulations that govern the conduct of contests and establish the duties of contest officials.

- 7.6.1.2.3 The league shall have registration and entry procedures, forms, and fees; eligibility requirements; and fixed team rosters, team standings, and a master schedule of contests.

- 7.6.1.3 A certified, emergency, or volunteer coach shall not be allowed to provide instruction or coach during the designated season in his or her assigned sport to current members of the varsity or subvarsity teams of the school at which he or she coaches outside of school sponsored practices, scrimmages, and contests.

- 7.6.1.4 A coach who is in violation of this section shall be suspended from coaching in the specified sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.

- 7.6.2 From the first day after the last spring sport DIAA state tournament event through August 1st, a certified, emergency or volunteer coach shall be allowed to provide instruction in his or her assigned sport to all accepted and registered students of the school at which he or she coaches. Instructional contact with all accepted and registered students must be approved by the member school and shall be subject to the following conditions:

- 7.6.2.1 Participation in a formal league and tournament or instructional camp or clinic, or informal instruction, shall be open, voluntary, and equally available to all accepted and registered students of the member school.

- 7.6.2.2 Coaches are permitted to hold an organizational practice for formal league/tournament competition only as permitted by the written, pre-established rules of the formal league/tournament. In no event shall more than one organizational practice be permitted and the number of games and practice shall not exceed three in one week. If the formal league/tournament does not have written, pre-established rules regarding practice, then no practice is permitted.

- 7.6.2.3 A coach shall not receive any compensation, from any source, for the instruction of their returning school team members. Reimbursement for out of pocket expenses (e.g. gas, food, lodging) incurred by returning school team members and coaches to attend leagues or tournaments or instructional camps or clinics are not prohibited provided that no local school or state educational funds are used.

- 7.6.2.4 A coach may provide instruction to an unlimited number of accepted and registered students in formal league or tournament competition or in formal instructional camps or clinics provided the league or tournament or instructional camp or clinic is insured, organized and conducted by a non school affiliated organization. A coach may provide instruction to returning accepted and registered students with the member school's permission.

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7.6.2.5 Use of school equipment shall be approved by the Principal or Headmaster and shall be subject to the following conditions:

7.6.2.5.1 Helmets and shoulder pads shall not be used in lacrosse and football.

7.6.2.5.2 Protective equipment, the primary purpose of which is to protect the wearer from physical injury, may be used in the following sports: baseball, field hockey, and softball.

7.6.2.6 A coach in violation of this section shall be suspended from coaching in the specific sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.

7.6.3 Effective Date

7.6.3.1 Subsection 7.6 shall be effective on June 2, 2019.

11 DE Reg. 1639 (06/01/08)

15 DE Reg. 74 (07/01/11)

19 DE Reg. 743 (02/01/16)

21 DE Reg. 717 (03/01/18)

22 DE Reg. 395 (11/01/18)

8.0 Required Use of Officials, Recognition of Officials' Associations, Attendance at Rules Clinics, and Fees for Officiating Contests and Competitions

8.1 Required Use of Officials

8.1.1 Member Schools and tournament sponsors shall be required to use officials recognized and approved by DIAA for interscholastic contests. Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a \$100.00 fine per game per non-approved official.

8.1.1.1 In the case of emergencies, such as an act of God, refusal by an association to work games, or a shortage of qualified officials, Member Schools which desire to use other than approved officials must obtain permission from the Executive Director.

8.1.2 If more than one association is approved to officiate a particular sport, a conference or, in the absence of a conference affiliation, an individual school shall determine which association shall provide the officials for its home contests.

8.2 Recognition of Officials' Associations

8.2.1 The officiating of interscholastic contests in the state of Delaware which involve one or more Member Schools shall be under the control of the DIAA and such control may include, but not be restricted to, giving examinations, evaluating officials, setting game fees, determining the number of officials per game, and assigning officials.

8.2.2 An officials' association which desires to officiate middle school and high school contests and competitions shall request recognition and approval from DIAA by submitting the following documents to the DIAA Officials' Committee:

8.2.2.1 A letter of request to be recognized by DIAA and indicating the association's willingness to abide by the Department's rules and regulations. The president of the requesting officials' association or his or her designee shall petition the Board to render a decision.

8.2.2.2 A brief history of the association including but not limited to the officiating experience (if any) of the members and if a new association is being formed, the purpose for which the association is being formed.

8.2.2.3 A copy of the association's constitution and bylaws including a statement that it does not discriminate on the basis of age, gender, race, religion, etc.

8.2.2.4 A description of the association's evaluation and rating system.

8.2.2.5 A description of the association's recruiting and training programs for new members.

8.2.2.6 A membership roster indicating the number of years of experience at the subvarsity, varsity, and state tournament levels for each member and also their most recent rating in a previous association. This information must be documented and is subject to verification.

8.2.2.7 Letters of recommendation or names of references from leagues which the association has serviced during its existence.

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- 8.2.3 The Officials' Committee shall review the aforementioned documents and meet with the officers of the association to discuss their petition.
- 8.2.4 The Officials' Committee may consult with any other interested parties during the evaluation process.
- 8.2.5 The Officials' Committee shall report its findings to the Board and recommend that the officials' association be granted recognition, granted recognition with conditions, or denied recognition.
- 8.2.6 The Board shall consider the petition for recognition and the Officials' Committee's recommendation and make a decision to approve or deny the request. The petitioner may request an evidentiary hearing before the Board pursuant to the procedures in subsection 10.1.3.2 of 14 **DE Admin. Code** 1006. The Board shall decide if the petitioning officials association shall be granted recognition, granted recognition with conditions, or denied recognition.
- 8.2.7 An approved association shall serve a minimum two year probationary period during which time the association shall be evaluated. An association designated as probationary is ineligible to provide officials to work the applicable DIAA State Tournament.
 - 8.2.7.1 Members of the Officials' Committee and the applicable Sport Committee shall comprise the Officials Association Evaluation Committee (Evaluation Committee). The new officials association shall be evaluated according to the following criteria:
 - 8.2.7.1.1 Total number of games worked at the varsity level.
 - 8.2.7.1.2 Total number of officials who worked games at the varsity level.
 - 8.2.7.1.3 Total number of Member Schools who contracted the services of the association.
 - 8.2.7.1.4 A comparison of the percentage of games the association worked against the percentage of games worked by other DIAA recognized officials associations in that sport.
 - 8.2.7.1.5 A comparison of the percentage of the association's registered officials against the number who worked varsity level games.
 - 8.2.7.1.6 A comparison of the ratio from subsection 8.2.7.1.5 against any existing association(s)' same ratio.
 - 8.2.7.1.7 In addition, the evaluation may be based on any other available information which may include but is not limited to: the associations ability to work a minimum of 25 percent of all varsity contests played by DIAA Member Schools in that sport; written complaints by contracted schools; evaluations by Member Schools; input from Member Schools; or any other relevant information.
 - 8.2.7.2 The results of all evaluations shall be shared with the probationary association at the end of each season. The association shall have the opportunity to add comments to the final evaluation.
- 8.2.8 At the end of the minimum two-year probationary period the Evaluation Committee shall recommend to the Board one of the following options based on the evaluations and the probationary association's ability to work varsity contests equal to or greater than twenty-five (25) percent of all varsity contests played by Member Schools:
 - 8.2.8.1 Re-approve conditionally for another year on probationary status.
 - 8.2.8.2 Disapprove so as to no longer remain as an approved association.
 - 8.2.8.3 Re-approve conditionally with state tournament consideration based upon the sport worked.
 - 8.2.8.4 Completely approve the association with full state tournament consideration equal to any existing association(s).
- 8.2.9 The Board shall consider the petition for recognition and the Evaluation Committee's recommendation and make a decision. The probationary officials association may request an evidentiary hearing before the Board pursuant to the procedures in subsection 10.1.3.2 of 14 **DE Admin. Code** 1006. The Board shall decide if the petitioning officials association shall be:
 - 8.2.9.1 Re-approved conditionally for another year on probationary status.
 - 8.2.9.2 Disapproved so as to no longer remain as an approved association.
 - 8.2.9.3 Re-approved conditionally with state tournament consideration based upon the sport worked.
 - 8.2.9.4 Completely approved with full state tournament consideration equal to any existing association(s).
- 8.2.10 Once an officials' association is completely approved, it is required to annually submit a written report on the appropriate form to the Officials' Committee. The report shall include information on the association's executive board, membership, and recruitment strategies.

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8.2.11 The Officials' Committee shall review the submitted report to ensure that the association is meeting the goals of education-based athletics. If the Officials' Committee determines that the association is not meeting the goals of education-based athletics, the Officials' Committee shall notify the association of the goals it has not met, the association may be placed on an improvement plan, and the Officials' Committee shall decide whether to recommend revocation of the association's approval and recognition to the Board.

8.3 Attendance at Rules Clinics

8.3.1 Officials shall be required each year to both attend the DIAA rules interpretation clinic and to pass the rules examination provided by the DIAA office for the sport(s) they officiate.

8.3.2 Failure on the part of an official to attend the DIAA rules interpretation clinic and pass the rules examination in the same season shall cause the official to be placed on probation and to lose his or her eligibility to officiate a state tournament contest during that season.

8.3.3 Failure to satisfy both requirements in the same season for two consecutive years shall cause the official to lose varsity officiating status during the second season. Failure to fulfill this obligation in subsequent years shall cause the official to continue to be restricted to subvarsity contests until both requirements have been satisfied in the same season.

8.3.4 Attending the fall soccer rules interpretation clinic shall satisfy the clinic attendance requirement for both the boys' and girls' soccer seasons. Attending the spring soccer rules interpretation clinic shall satisfy the clinic attendance requirement for only the girls' soccer season.

8.3.5 If, for a legitimate reason which is documented by the president of their association, an official is unable to attend the DIAA rules interpretation clinic, the official may complete an online course or, in the absence of an online course, attend a clinic conducted by another NFHS member state association provided the following procedures are observed:

8.3.5.1 No later than the day of the DIAA rules interpretation clinic, the president of the association shall notify the DIAA office, in writing, of any officials who are unable to attend the clinic.

8.3.5.2 The out of state clinic shall be conducted by an individual either trained by the NFHS or designated as a clinician by the state's athletic association.

8.3.5.3 The official shall arrange for a letter to be sent to the Executive Director from the state's athletic association office verifying the official's attendance at the clinic.

8.4 Fees for Officiating Contests and Competitions

8.4.1 The Board has established the following fees for officiating regular season contests and competitions:

Sport	Level	Number of Officials per Contest	Time Adjustment	Rate per Official (Regular Season Contests)
Baseball	Varsity	2		\$75
	Subvarsity	2		\$55
	Middle School	2		\$54
Basketball	Boys' Varsity	3, or 2 if mutually agreed		\$75
	Girls' Varsity	2, or 3 upon request		\$75
	Subvarsity	2	8 minute quarters	\$64
	Subvarsity	2	7 minute quarters	\$59
	Subvarsity	2	6 minute quarters	\$55
	Middle School	2	6 minute quarters	\$54
Cross Country	Starter/Referee	Upon request		\$67
	Timer/Judge	Upon request		\$64

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Field Hockey	Varsity	2		\$75
	Subvarsity	2		\$55
	Middle A	2	25 minute halves	\$54
	Middle B	2	25 minute or less halves at the Member School's discretion	\$54
Football	Varsity	5		\$75
	Timer	1		\$52
	Subvarsity	3	8 or 10 minute quarters	\$55
	Middle School	3	8 minute quarters	\$54
Lacrosse (Boys' and Girls')	Varsity	2, or 3 if requested		\$75
	Subvarsity	2		\$55
	Middle School	2		\$54
Soccer (Boys' and Girls')	Varsity	2, or 3 if requested		\$75
	Subvarsity	2		\$55
	Subvarsity	3		\$48
	Middle A	2	30 minute halves	\$54
	Middle B	2	30 minute or less halves	\$54
Softball	Varsity	2		\$75
	Subvarsity	2		\$55
	Middle School	2		\$54
Swimming and Diving	Referee	1		\$67
	Judge	1		\$64
Track and Field	Starter/Referee	Upon request		\$67
	Timer/Judge	Upon request		\$64
Volleyball	Varsity	2		\$75
	Linesman	2 by request		\$37
	Subvarsity	2		\$55
	Middle School	2		\$54
Wrestling	Varsity	1		\$75
	Subvarsity	1		\$55
	Varsity+	1		\$75, then \$5 per match, up to 7 matches; not to exceed \$35
	Middle School	1		\$54
	Middle+	1		\$54, then \$4 per match, up to 7 matches; not to exceed \$28

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8.4.2 The fee for state tournament contests and competitions shall be the rate at the varsity level as provided in subsection 8.4.1 and an additional:

8.4.2.1 \$5 for first, second, and quarterfinal rounds of competition.

8.4.2.2 \$10 for the semi-final round of competition.

8.4.2.3 \$15 for the final or championship contest.

8.4.3 The Officials' Committee shall work with the Executive Director to help determine the fee amount for officiating a state tournament contest.

11 DE Reg. 1639 (06/01/08)

19 DE Reg. 743 (02/01/16)

21 DE Reg. 717 (03/01/18)

22 DE Reg. 765 (03/01/19)

9.0 Awards

9.1 Awards

9.1.1 Member schools and support groups affiliated with a Member schools, such as an alumni association or booster club, shall be allowed to present recognition awards for team and individual accomplishments. The awards, including artwork and lettering, shall require the approval of the administrative head of the school and their value shall be mostly symbolic, not more than \$250.00. Member schools and support groups affiliated with Member schools are also permitted to sponsor banquets.

9.1.2 A non profit group such as a coaches association, booster club not affiliated with a member school, or community service organization shall be allowed to present recognition awards for team and individual accomplishments with the approval of the administrative head of the school. Non profit groups shall also be permitted to sponsor banquets.

9.1.3 Commercial organizations shall be allowed to present recognition awards for team and individual accomplishments with the approval of the administrative head of the school.

9.1.4 Permissible awards include trophies, plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms, and similar items if properly inscribed (reference to the team or individual athletic accomplishment) are also acceptable. The awards shall have symbolic value only, awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$250.00 per team or per recipient and shall require prior approval of the Executive Director.

11 DE Reg. 1639 (06/01/08)

19 DE Reg. 743 (02/01/16)

10.0 Use of Influence for Athletic Purposes

10.1 Definition: The use of influence for athletic purposes shall include, but not be limited to, the following:

10.1.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or their parent(s), legal guardian(s) or a Relative Caregiver.

10.1.2 Offer of waiver or reduction of tuition or financial aid if based, even partially, on athletic considerations. Non-school affiliated scholarship or financial aid programs which are primarily restricted to students of one school if the aid is based, even partially, on athletic considerations.

10.1.3 Preference in job assignments or offer of compensation for work performed in excess of what is customarily paid for such services.

10.1.4 Offer of special privileges not accorded to other students.

10.1.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or their parent(s), legal guardian(s) or Relative Caregiver to change residence.

10.2 Illegal Contact with Students, Student's Parent(s), Legal guardians, or a Relative Caregiver

10.2.1 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or their parent(s), legal guardian(s) or a Relative Caregiver in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.

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- 10.2.2 If a coach or athletic director is contacted by a prospective athlete or their parent(s), legal guardian(s) or Relative Caregiver, the former must refer the individual(s) to the Principal or Headmaster or school personnel responsible for admissions.
- 10.3 Permitted Activities
- 10.3.1 A school employee or Board approved volunteer may do the following:
- 10.3.1.1 Discuss the athletic program with a prospective student or their parent(s), legal guardian(s) or Relative Caregiver during an open house or approved visit initiated by the parent(s), legal guardian(s) or Relative Caregiver.
- 10.3.1.2 Provide information concerning sports offered, facilities, conference affiliation, and general athletic policies. However, they are not permitted to state or imply in any way that their athletic program is superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at their school.
- 10.3.1.3 Conduct an informational presentation at a feeder school.
- 10.4 School Choice
- 10.4.1 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.
- 10.5 Penalties
- 10.5.1 The use of influence or illegal contact including but not limited to violations of 10.1 and 10.2 by a person(s) employed by or representing a Member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes may render the student ineligible for up to one full school year from the date the charge is substantiated. In addition, the offending school may be placed on probation, as determined by the DIAA Board of Directors, and the offending employee, if a coach, may be suspended for up to one full school year from the date the charge is substantiated.
- 7 DE Reg. 1692 (06/01/04)
- 9 DE Reg. 124 (07/01/05)
- 9 DE Reg. 1954 (06/01/06)
- 11 DE Reg. 1639 (06/01/08)
- 14 DE Reg. 1184 (05/01/11)
- 15 DE Reg. 74 (07/01/11)
- 19 DE Reg. 743 (02/01/16)
- 21 DE Reg. 717 (03/01/18)
- 22 DE Reg. 60 (07/01/18)
- 22 DE Reg. 395 (11/01/18)
- 22 DE Reg. 765 (03/01/19)
- 23 DE Reg. 122 (08/01/19)



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DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY 1000 Student Activities

1009 DIAA High School Interscholastic Athletics

1.0 National Federation of State High Schools, Conferences, Contracts, Equivalency Rules, and Definitions

1.1 Definitions

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

"Administrative Head of School" means the chief or head individual in charge of the school traditionally referred to or generally known as the principal or headmaster.

"Attendance Zone" means the geographical area set by law or the governing body of a public school that entitles a student to attend a certain public school.

"Board" means the Delaware Interscholastic Athletic Association Board of Directors established pursuant to 14 Del.C. Chapter 3.

"Department" means the Delaware Department of Education.

"Guardian or Legal Guardian" means an individual who legally has responsibility for the care and management of the student during the student's minority. The relationship is a legal one and must be created by a court order signed by a judge, commissioner, or master of a court of competent jurisdiction.

"Individualized Education Program" or "IEP" means a written statement for a child with a disability as defined in 14 DE Admin. Code 922.

"Legally in attendance" means present at school as determined by a pre-established written policy adopted by the local school board or governing body of the school.

"Member School" means a full or associate member school of the DIAA.

"Principal" or "Headmaster" means the Administrative Head of School and includes but is not limited to Head of School, Administrator, Executive Director, or Charter Head.

"Qualified Healthcare Professional" means a Doctor of Medicine (MD); a Doctor of Osteopathic Medicine (DO); or a school nurse, nurse practitioner, physician assistant, or athletic trainer. Qualified Healthcare Professionals shall be licensed by their state and in good standing with the State of Delaware.

"Qualified Physician" means a Doctor of Medicine (MD) or a Doctor of Osteopathic Medicine (DO) who is licensed by their state and in good standing with the State of Delaware.

"Relative Caregiver" means an adult who, by blood, marriage or adoption, is the child's great grandparent, grandparent, step grandparent, great aunt, aunt, step aunt, great uncle, uncle, step uncle, step parent, brother, sister, step brother, step sister, half brother, half sister, niece, nephew, first cousin or first cousin once removed but who does not have legal custody or legal guardianship of the student.

"School day(s)" means actual school attendance days during the regular academic school year including a partial day that students are in attendance at school for instructional purposes as adopted by the district or governing body of the school not to include weekends, holidays, summer school, etc.

"State Board" means the State Board of Education pursuant to 14 Del.C. §104.

"Student With a Disability" means a "child with a disability" as that term is defined in 14 DE Admin. Code 922 or a qualified person with a disability under Section 504 of the Rehabilitation Act of 1973.

"Superintendent" means the chief school officer of a school district.

1.2 National Federation of High School Associations

1.2.1 DIAA is affiliated with the National Federation of State High School Associations (NFHS). The playing rules, codes of conduct, sanctions, and guidelines in the NFHS rules books are adopted except as modified by the DIAA Board of Directors.

1.2.1.1 The playing rules of the United States Tennis Association, the United States Golf Association, and the United States Lacrosse Association are adopted for the sports of tennis, golf, and girls' lacrosse respectively except as modified by the DIAA Board of Directors.

1.3 Conferences

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- 1.3.1 Member schools may establish voluntary conference organizations that may be composed of public and nonpublic schools. When established, they must submit their conferences' proposed membership and its constitution and bylaws to the DIAA Board of Directors and be approved by the DIAA Board of Directors before the schools may enter into any contractual agreements.
 - 1.3.1.1 All subsequent amendments to the constitution and bylaws of the conferences must be compatible with all provisions of the DIAA Regulations; interpretations and with the rulings of the Executive Director, Sportsmanship Committee, and Board of Directors; state tournament regulations; and DIAA approved playing codes.
- 1.4 Contracts
 - 1.4.1 Contracts between DIAA member schools or between DIAA member schools and full member schools of comparable state associations are encouraged but not required.
 - 1.4.1.1 Conference master contracts are approved substitutes for individual contracts.
 - 1.4.1.2 In the case of a dispute and provided either a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question, appeal may be made to the Executive Director or the DIAA Board of Directors which, after review of the circumstances, may assign an appropriate penalty.
 - 1.4.1.2.1 Without a signed individual contract or conference master contract, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors.
 - 1.4.2 Contracts between DIAA member schools and nonmember or associate member schools of comparable state associations are required.
 - 1.4.2.1 A copy of the signed contract must be either received by the Executive Director or postmarked prior to the contest for which the agreement was drawn up. Failure to file a signed contract as prescribed shall result in the DIAA member school being assessed a \$50.00 fine.
 - 1.4.2.2 In the case of a dispute, a member school has no right of appeal to the Executive Director or the DIAA Board of Directors unless a signed individual contract is in place.
 - 1.4.3 Contracts shall be interchanged according to the following provisions:
 - 1.4.3.1 Contracts on the accepted form shall be arranged by the competing schools for each season's interscholastic athletic contests.
 - 1.4.3.2 Contracts shall be drawn up by the faculty manager or other designated staff member of the home school of the earlier varsity contest.
 - 1.4.3.3 A signed contract or any part thereof may not be nullified or modified except by mutual agreement of both schools involved.
 - 1.4.4 If a game is not played, it shall be considered a "no contest." Notwithstanding the above, if a signed individual contract or conference master contract was received in the DIAA office or postmarked prior to the contest in question, and one of the participating schools breached the agreement, the non-breaching school may appeal for a forfeit to the Executive Director or the DIAA Board of Directors. If the Executive Director or Board finds a forfeit is appropriate, the no contest shall be replaced with the forfeit.
 - 1.4.4.1 If a game is not played because an out of state opponent qualifies for its state championship series and the date of the playoff game conflicts with the date of the regular season game, a forfeit shall not be awarded.
- 1.5 Equivalency Rules
 - 1.5.1 A full member school shall not participate in a scrimmage or contest with an in state school that is not a member in good standing of DIAA.
 - 1.5.1.1 Scrimmage shall be defined in as: an informal competition between schools in which the officials are not compensated, a final score is not kept, the time periods are permitted to be modified, the results of the competition are not reported to the media, the coaches are permitted to interrupt the play to provide instruction and the competition is strictly for practice purposes. All participating schools must consider the event to be a scrimmage and therefore cannot count the results as part of their regular season results.
 - 1.5.2 A full member school shall not participate in a scrimmage or contest with an associate or non member school of another state association unless the opposing school, as part of a written contract, certifies that its contestants are eligible under the rules of its home state association.

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- 1.5.3 An associate Member school shall not participate in a scrimmage or contest with an associate or non Member school of another state association unless the opposing school complies with the conditions specified in 1.5.2. However, the opposing school shall be exempt from those rules which DIAA has waived for its associate member school.
- 1.5.4 Member schools shall not participate in a practice, scrimmage, or contest with a non school sponsored team.
- 1.5.5 Member schools shall not participate in a practice, scrimmage, or contest with post graduate students or college students. This provision shall not apply to games played against the alumni or faculty of the school when the game is sponsored by school authorities.
- 1.5.6 Member schools shall not participate in a practice, scrimmage, or contest with a non-high school team.
- 1.5.7 A school which participates in a game against an illegal opponent shall be required to forfeit the contest and be assessed a \$500.00 fine.

11 DE Reg. 1642 (06/01/08)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

21 DE Reg. 719 (03/01/18)

22 DE Reg. 398 (11/01/18)

2.0 Eligibility: No Student Shall Represent a School in an Interscholastic Scrimmage or Contest if the Student Does Not Meet the Following Requirements

2.1 Eligibility, Age

- 2.1.1 Students who become 19 years of age on or after June 15 immediately preceding the student's year of participation shall be eligible for all sports provided all other eligibility requirements are met. In determining the age of a contestant, the birth date as entered on the birth record of the Bureau of Vital Statistics shall be required and shall be so certified on all eligibility lists.

- 2.1.1.1 Requests for a waiver of the age requirement shall only be considered for participation on an unofficial, nonscoring basis in non contact or non collision sports.

2.2 Eligibility, Residence

- 2.2.1 With the exception of boarding school students, a student must be living with their custodial parent(s), legal guardian(s), or Relative Caregiver in the attendance zone of the school which the student attends, or be a student 18 years of age or older and living in the attendance zone of the school which the student attends (2.2.1.7) in order to be eligible for interscholastic athletics in that school. In cases of joint custody, the custodial parent shall be the parent with actual physical placement as determined by court. In the case of shared placement or where residential placement has not been determined by a court, the parents must commit to sending the student to a particular school for the year. Maintaining multiple residences in order to circumvent this requirement shall render the student ineligible.

- 2.2.1.1 A student who, pursuant to established school board policy or administrative procedure, remains in a school the student has been attending after their legal residence changes to the attendance zone of a different school in the same school district, may exercise, prior to the first official student day of the subsequent academic year, a one time election to remain at their current school and thereby not lose athletic eligibility. If a student chooses to remain at their current school and then transfers to the school in a new attendance zone on or after the first official student day of the subsequent academic year, the student shall be ineligible under subsection 2.4.

- 2.2.1.2 A student who changes residence to a different attendance zone after the start of the last marking period and, pursuant to established school board policy or administrative procedure, shall be granted permission to continue attending their present school. The student shall retain their athletic eligibility in that school for the remainder of the school year provided all other eligibility requirements are met.

- 2.2.1.3 A student shall be permitted to complete their senior year at the school the student is attending and remain eligible even though a change of legal residence to the attendance zone of another school has occurred. This provision shall refer to any change of legal residence that occurs after the completion of the student's junior year.

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- 2.2.1.4 A student may be residing outside of the attendance zone of the school which the student attends if the student is participating in the Delaware School Choice Program as authorized by 14 Del.C. Ch. 4.
- 2.2.1.5 A student who is a non resident of Delaware shall be eligible to attend a public school, charter school or career technical school if, in accordance with 14 Del.C. §607, the student's custodial parent or legal guardian or Relative Caregiver is a full time employee of that district.
- 2.2.1.6 Notwithstanding 2.2.1, a student shall be eligible at a public or career technical school if the student is enrolled in accordance with 14 Del.C. §202(f), the Caregivers School Authorization.
 - 2.2.1.6.1 An exception would be a student whose Relative Caregiver does not provide the documentation required by the Relative Caregiver School Authorization (proof of relation and proof of full time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the Relative Caregiver has provided the aforementioned required documentation or has received a signed court order designating the Relative Caregiver as the student's legal guardian.
- 2.2.1.7 A student who reaches the age of majority (18) and leaves their parents' place of residency and jurisdiction thereof, and moves to another attendance zone to continue their high school education shall be ineligible to participate in athletics for 180 school days commencing with the first day of official attendance on or after their 18th birthday. This provision shall not apply to a student participating in the Delaware School Choice Program, as authorized by 14 Del.C. Ch. 4, provided the student's choice application was properly submitted prior to a change of residence.
- 2.2.1.8 Notwithstanding 2.2.1, a student who is homeless as defined in the McKinney-Vento Act, 42 U.S.C. 11434a(2) shall be eligible to participate at the public school in which the student is enrolled.
- 2.2.1.9 For purposes of eligibility, a child placed within the Department of Services for Children, Youth and Their Families (DSCYF) custody is eligible to participate in interscholastic athletics immediately at the school they attend.
- 2.3 Eligibility, Enrollment and Attendance
 - 2.3.1 A student must be legally enrolled in the high school which they represent in order to participate in a practice, scrimmage or contest.
 - 2.3.2 A student who attends two (2) different schools during the regular school day shall be eligible to participate only at the school at which the student is receiving instruction in the core academic areas, and is satisfying the majority of graduation requirements; not a school at which they are receiving only specialized educational instruction such as vocational training.
 - 2.3.3 Students with disabilities who are placed in special schools or programs
 - 2.3.3.1 Definitions:
 - "Campus" means a contiguous land area containing one or more school buildings.
 - "Special School or Program" means a school or program approved by the Department of Education with the approval of the State Board of Education to serve students with disabilities, but does not include alternative schools.
 - 2.3.3.2 A student with a disability who is placed in a special school or program shall be eligible to participate in interscholastic athletics as follows:
 - 2.3.3.2.1 If the special school or program sponsors the interscholastic sport in question, the student shall be eligible to participate only at the school or program.
 - 2.3.3.2.2 If the special school or program does not sponsor the interscholastic sport in question and the student is served in a regular high school for all or part of the school day, the student shall be eligible only at that regular high school.
 - 2.3.3.2.3 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or program is located on the campus of a regular high school, the student shall be eligible only at the regular high school on the same campus.
 - 2.3.3.2.4 If the special school or program does not sponsor the interscholastic sport in question, and the student is served exclusively in the special school or program, and the special school or

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program is not located on the campus of a regular high school, the student shall be eligible only at the regular high school designated to serve the special school's or program's students.

2.3.3.2.4.1 School districts or charter schools which administer special schools or programs and have multiple high schools shall decide which of its regular high schools shall be designated to serve special school or program students in these circumstances.

2.3.4 Enrollment Requirements for the School District Enrollment Choice Program:

2.3.4.1 Pursuant to 14 Del.C. §407(a)(2), a student who is enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program shall remain enrolled in the school for a minimum of two years. A waiver request is not required and the student is not ineligible under this subsection if one of the exceptions as provided in 14 Del.C. §407(a)(2) applies or the student's enrollment in the school is terminated as provided in 14 Del.C. §407. Even if a waiver request is not required and the student is not ineligible under this subsection, a waiver request may be required and the student may be ineligible under subsection 2.4 of this regulation (the High School Transfer Rule), including subsection 2.4.7 (Transfers under the School District Enrollment Choice Program).

2.3.4.2 Pursuant to 14 Del.C. §506(d), a student who is in his or her first year of attendance at a charter school shall remain enrolled in the charter school for a minimum of one year. A waiver request is not required and the student is not ineligible under this subsection if good cause exists as provided in 14 Del.C. §506(d).

2.3.5 A student may not participate in a practice, scrimmage, or contest during the time a suspension, either in school or out of school, is in effect or during the time the student is assigned to an alternative school for disciplinary reasons.

2.3.6 A student must be legally in attendance at school in order to participate in a practice, scrimmage, or contest except when excused by proper school authorities in accordance with pre-established written school policy.

2.3.6.1 A student who is not legally in attendance at school due to illness or injury shall not be permitted to participate in a practice, scrimmage, or contest on that day.

2.3.7 A student who fails to complete a semester or is absent for one or more semesters for reasons other than personal illness or injury shall be ineligible for 90 school days from the date of their reentry to school.

2.3.8 An ineligible student who practices in violation of 2.3.1 through 2.3.7 shall, when regaining eligibility, be prohibited from practicing, scrimmaging, or competing for an equivalent number of days.

2.4 Eligibility, Transfers

2.4.1 Purpose

The intent of the High School Transfer Rule is to deter students from transferring schools for athletic purposes, to help discourage recruitment, and to reduce the opportunity for undue influence to be exerted by persons who seek to benefit from a student's athletic talent. DIAA recognizes that, because of the number of transfers that occur each year, it is difficult to carry out that intent if an individualized determination is required for all students who transfer schools. The exceptions in subsection 2.4.4 of this regulation involve circumstances in which establishing a hardship for eligibility purposes is not required; strict enforcement of the rule will not serve to accomplish the purpose of the rule; the spirit of the rule will not be offended or compromised; the principle of educational balance over athletics will not be offended or compromised; and there is no safety risk to teammates or competitors.

2.4.2 Definitions:

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

"First year of eligibility" means the school year during which a student first becomes eligible for and participates in high school interscholastic athletics and ending on the day prior to the first day of school of the student's second year of eligibility.

"One school year" means the number school attendance days or required hours in a school year as adopted by the student's district or school (i.e. 180 attendance days).

"Previous participation" means having participated in interscholastic athletics at the high school level, including eighth grade students pursuant to 14 DE Admin. Code 1009-2.7.3 and students enrolled in grades 9 through 12.

"Receiving school" means the school a student transfers to after leaving his or her previous school.

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"Second year of high school eligibility" means the next school year after a student first becomes eligible for and participates in high school interscholastic athletics and includes sophomores, repeating freshmen, and freshmen who participated during the eighth grade.

"Sending School" means the school a student transfers from to go to a different school.

"Transfer" means the student has officially withdrawn from the sending school and has officially enrolled in the receiving school in accordance with the receiving school's established registration process.

2.4.3 High School Transfer Rule

- 2.4.3.1 Unless one of the exceptions found in subsection 2.4.4 of this regulation applies, a student who has previously participated in interscholastic athletics that transfers to a DIAA member school shall be ineligible in all sports that the student previously participated in during the preceding 180 school days. The period of ineligibility shall be one school year commencing with the first day of official attendance in the receiving school. The period of ineligibility shall continue to the next grade/school year, if necessary, until the total number of school days in the school year has passed.

2.4.4 Exceptions to the High School Transfer Rule

- 2.4.4.1 A student, the student's family, and the student's receiving school are not required to submit a waiver request and establish the conditions for granting a waiver set forth in subsection 9.1.1 of 14 **DE Admin. Code** 1006, including hardship, and the period of ineligibility shall not apply if the student meets one of the following exceptions and the student's transfer was not for athletic advantage as provided in subsection 2.4.6 of this regulation:
- 2.4.4.1.1 McKinney-Vento Act (Homeless Students) - The period of ineligibility shall not apply if the transfer is the result of the student becoming homeless as defined in the McKinney-Vento Education for Homeless Children and Youths Act, 42 U.S.C. §11434a(2).
- 2.4.4.1.2 Transfer Because of Promotion or Administrative Assignment - Transfer because of promotion or administrative assignment to the ninth grade from a school whose terminal point is the eighth grade, or to the tenth grade from a junior high school whose terminal point is the ninth grade, shall not constitute a transfer. Students so promoted or administratively assigned shall be eligible.
- 2.4.4.1.3 No previous interscholastic athletic participation - A student who has not previously participated in interscholastic athletics, is released by a proper school authority from a sending school, has completed the registration process at the receiving school, and is pursuing an approved course of study shall be eligible immediately upon registration provided the student meets all other DIAA eligibility requirements.
- 2.4.4.1.4 Previous interscholastic athletic participation - A student who has previously participated in interscholastic athletics may transfer one time during his or her first or second year of eligibility at the high school level without loss of athletic eligibility provided that the student meets all other eligibility requirements, including subsection 2.4.7 of this regulation.
- 2.4.4.1.4.1 Students shall not participate in a contest at the varsity level for two different schools in the same sport during the same school year unless one of the other exceptions in subsection 2.4.4 of this regulation applies.
- 2.4.4.1.4.2 A student who has previously participated in interscholastic athletics and transfers more than one time during his or her first or second year of eligibility at the high school level, shall be ineligible in any sport for a period of 90 school days commencing with the first day of official attendance in the receiving school unless one of the other exceptions in subsection 2.4.4 of this regulation applies. The period of ineligibility shall continue to the next grade/school year until 90 school days have passed.
- 2.4.4.1.5 No Participation in a Sport within the Preceding 180 School Days - A student who previously participated in interscholastic athletics but did not participate in a sport within the preceding 180 school days and was eligible by both DIAA and local school rules to do so during the previous school year shall be eligible to participate in that sport at the receiving school.
- 2.4.4.1.6 Transfer to School of Residence - A student may transfer to his or her school of residence, which is based on the legal address of the student's custodial parent(s) or court-appointed legal guardian(s), one time without loss of athletic eligibility. For this exception to apply, the transfer must be the student's first transfer during his or her years of high school interscholastic athletic eligibility.

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- 2.4.4.1.7 Transfer Due to Court Action - A student may transfer without loss of athletic eligibility if the transfer is caused by court action, court action being an order from a court of law affecting legally committed students. In the case of a transfer of guardianship or custody, the transfer shall be the result of a court order signed by a judge, commissioner, or master of a court of competent jurisdiction. A petition for the transfer of guardianship or custody, an affidavit, (except as permitted by subsection 2.4.4.3.2.1 of this regulation), or a notarized statement signed by the affected parties shall not be sufficient to render the student eligible to participate in interscholastic athletics.
- 2.4.4.1.7.1 Sole, Joint, or Shared Custody - In cases of sole, joint, or shared custody once a primary residence is established, a change in a student's primary residence without court action renders the student ineligible unless one of the other exceptions in subsection 2.4.4 of this regulation applies.
- 2.4.4.1.7.2 DSCYF Custody - For purposes of eligibility, a student placed within DSCYF custody is eligible to participate in interscholastic athletics immediately at the school he or she attends.
- 2.4.4.1.8 Transfer Based Upon Relative Caregivers School Authorization - A student may transfer without loss of athletic eligibility if the transfer is based upon the submission of a Caregivers School Authorization in accordance with 14 Del.C. §202(f).
- 2.4.4.1.8.1 An exception would be a student whose caregiver does not provide the documentation required by the Relative Caregiver School Authorization (including proof of relationship and proof of full time care) but is permitted to register on the basis of a petition for the transfer of guardianship. A student who registers on the basis of a petition for the transfer of guardianship is not eligible to scrimmage or compete until the caregiver has provided a custody or guardianship petition to the receiving school in accordance with 14 Del.C. §202(f)(1).
- 2.4.4.1.9 Transfer Due to Change of Residence - The transfer is the result of a change in residence by the custodial parent(s), legal guardian(s) or Relative Caregiver to the attendance zone of a public school that student was not attending. If, as a result of the change of residence, the student could now enroll in a different public school, the student may make a one-time election and select any school including a private school. A change in residence has occurred when all occupancy of the previous residence has ended and a new legal residence has been established. Maintaining dual residency for purposes of athletic eligibility shall render the student ineligible.
- 2.4.4.1.10 Transfer Due to Seat Opening in Receiving School - A student may transfer without loss of athletic eligibility if the transfer is a result of a seat opening in the receiving school, and the student had previously applied to the school and had been rejected due to a lack of capacity. For this exception to apply, the receiving school must have appropriate documentation including: a student application from a previous school year; a letter in response to the application notifying the student that they were not accepted; and a letter dated after the start of the school year offering the student a seat in the receiving school.
- 2.4.4.1.11 Transfer under Unsafe School Choice Policy A student may transfer without loss of athletic eligibility if the student attends a persistently dangerous school or is the victim of a violent felony while in or on the grounds of a school in which he or she is enrolled and the student opts to transfer to a safe school in the same school district in accordance with 14 DE Admin. Code 608 Unsafe School Choice Option Policy.
- 2.4.4.1.12 Transfer Because Sending School Closed or Dropped Sport/Athletic Program - A student may transfer without loss of athletic eligibility if the transfer is a result of any of the following:
- 2.4.4.1.12.1 The closure of the sending school;
- 2.4.4.1.12.2 The sending school discontinuing a single sport at the varsity level. In order for this exception to apply when a school discontinues a single sport at the varsity level, the student must have previously participated in that sport.
- 2.4.4.1.12.3 The sending school dropping their entire athletic program. Dropping their athletic program is defined as the school discontinuing all of their interscholastic athletics sports programs. For this exception to apply, adequate documentation must be submitted to the receiving school and sent to the DIAA Executive Director for approval as sufficient.

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- 2.4.5 Transfer Because of a Financial Hardship: If a waiver of the High School Transfer Rule is requested due to a financial hardship, the parent(s), legal guardian(s) or Relative Caregiver is responsible for providing documentation to the DIAA Board of Directors to support the request.
- 2.4.5.1 Documentation for Financial Hardship: Documentation for financial hardship shall include:
- 2.4.5.1.1 Proof of extreme financial hardship caused by significant and unexpected reduction in income or increase in expenses; and
- 2.4.5.1.2 A statement from the principals or headmasters of both the sending and receiving schools that the student is not transferring for athletic advantage as the term is used in subsection 2.4.6 of this regulation.
- 2.4.6 Transfers for Athletic Advantage - The exceptions listed in subsection 2.4.4 of this regulation shall not apply if the transfer was for athletic advantage. If the student transfers for athletic advantage, the student may still request a waiver of the transfer rule. A transfer for athletic advantage includes but is not limited to any transfer where the primary reason for student's transfer was for any of the following:
- 2.4.6.1 To seek a superior team.
- 2.4.6.2 To seek a team more compatible with student's abilities;
- 2.4.6.3 Dissatisfaction with the student's position or playing time;
- 2.4.6.4 The student follows the coach to another school to which the coach has transferred;
- 2.4.6.5 Dissatisfaction with the philosophy, policies, methods, or actions of a coach or administrator pertaining to interscholastic athletics;
- 2.4.6.6 To avoid disciplinary action imposed by another state athletic association;
- 2.4.6.7 To avoid disciplinary action imposed by the sending school related to or affecting interscholastic athletic participation.
- 2.4.7 Transfers under the School District Enrollment Choice Program (14 Del.C. Ch. 4)
- 2.4.7.1 Pursuant to 14 Del.C. §410(a), if a student was enrolled in a traditional public, vocational, or charter school outside of the student's feeder pattern through the School District Enrollment Choice Program during the preceding school year and the student transfers to and enrolls in grades 10, 11, or 12 at a different traditional public, vocational, or charter school outside of the student's feeder pattern through the program, the student shall be ineligible to participate in interscholastic athletic contests or competitions during the student's first year of enrollment at the receiving school.
- 2.4.7.1.1 For the purpose of subsection 2.4.7.1, a student's feeder pattern consists of the public schools in which the student would normally be enrolled based on the student's place of residence.
- 2.4.7.2 If a student is ineligible under subsection 2.4.7.1, a student, the student's family, and the student's receiving school may submit a waiver request. A waiver may be granted if the student, the student's family, and the student's receiving school establish the conditions for granting a waiver set forth in subsection 9.1.1 of 14 DE Admin. Code 1006, including hardship, and the student's transfer was not for athletic advantage as provided in subsection 2.4.6 of this regulation.
- 2.4.7.3 A waiver request is not required and the period of ineligibility under subsection 2.4.7.1 shall not apply if:
- 2.4.7.3.1 One of the exceptions to the High School Transfer Rule as provided in subsection 2.4.4 applies; or
- 2.4.7.3.2 The student wishes to participate in an interscholastic sport that was not offered at the sending school; or
- 2.4.7.3.3 The receiving school is a charter school in its first year of operation; or
- 2.4.7.3.4 The receiving school is a charter school in its first year of serving grades 10, 11, or 12.
- 2.5 Eligibility, Amateur Status
- 2.5.1 A student may not participate in an interscholastic sport unless they are considered an amateur in that sport. A student forfeits amateur status if they do any of the following:
- 2.5.1.1 Knowingly plays on or against a professional team which is defined as a team having one or more members who have received or are receiving directly or indirectly monetary consideration for their athletic services.
- 2.5.1.2 Signs a professional contract, accepts reimbursement for expenses to attend a professional tryout, or receives financial assistance in any form from a professional sports organization.

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- 2.5.1.3 Enters a competition under an assumed name. The surname and given name used by any player in the student's first game of interscholastic competition shall be used during the remainder of the student's interscholastic career. Any change in spelling or use of another name shall be regarded as an attempt to evade this rule unless the change has been properly certified by the player to the principal or headmaster of the school.
- 2.5.1.4 Receives remuneration of any kind or accepts reimbursement for expenses in excess of the actual and necessary costs of transportation, meals, and lodging for participating in a team or individual competition or an instructional camp or clinic. Reimbursement for the aforementioned expenses is permitted only if all of the participants receive the same benefit.
- 2.5.1.5 Receives cash or a cash equivalent (savings bond, certificate of deposit, etc.), merchandise (except as permitted by 9.1.4) or a merchandise discount, (except for discount arranged by school for part of team uniform) a reduction or waiver of fees, a gift certificate, or other valuable consideration as a result of the student's participation in an organized competition or instructional camp or clinic. Accepting an event program or a complimentary item(s) (t shirt, hat, equipment bag, etc.) that is inscribed with a reference to the event, has an aggregate retail value of no more than \$150.00, and is provided to all of the participants, shall not jeopardize the student's amateur status.
- 2.5.1.6 Sells or pawns awards received.
- 2.5.1.7 Uses the student's athletic status to promote or endorse a commercial product or service on the internet; in a newsprint, radio, television advertisement or any other form of media; or personal appearance.
- 2.5.2 Accepting compensation for teaching lessons, coaching, or officiating shall not jeopardize the student's amateur status.
- 2.5.3 A student who forfeits their amateur status under the provisions of this rule is ineligible to participate at the interscholastic level in the sport in which the violation occurred. The student may be reinstated after a period of up to the number of days in the school year provided that during the suspension, the student complies with all of the provisions of this rule. The suspension shall date from the time of the last offense.
- 2.6 Eligibility, Passing Work
 - 2.6.1 The intent of the Passing Work Rule is to promote educational standards, underscore the educational values of participating in interscholastic athletics, encourage appropriate academic performance, and allow the use of interscholastic participation as a motivator for improved classroom performance.
 - 2.6.2 In order to be eligible for participation in interscholastic athletic contests and scrimmages, a student must pursue a regular course of study or its equivalent as approved by the local governing body, and must be passing at least five (5) credits. Two (2) of those credits must be in the areas of English, Mathematics, Science, World Language, or Social Studies. However, in the case of a student in the twelfth grade, the student must be passing all courses necessary for graduation from high school in order to be eligible for participation. A course necessary for graduation shall be any course, whether taken during or outside the regular school day, that satisfies an unmet graduation requirement.
 - 2.6.2.1 A student who is receiving special education services and is precluded from meeting the aforementioned academic requirements due to modifications in the grading procedure or course of study shall be adjudged eligible by the principal or headmaster if the student is making satisfactory progress in accordance with the requirements of his or her Individualized Education Program (IEP).
 - 2.6.3 A student whose work in any regular marking period does not meet the above standards shall be ineligible to participate in an interscholastic athletic contest or scrimmage for the next marking period.
 - 2.6.3.1 In the case of a conflict between the marking period grade and the final grade, the final grade shall determine eligibility.
 - 2.6.3.2 The final accumulation of credits shall determine eligibility for the first marking period of the following school year. When a student makes up a failure or earns the required credit(s) during the summer, the student shall become eligible provided he or she successfully complete the course work prior to the first official student day of the school year.
 - 2.6.3.3 Written verification of the successful completion of a correspondence course must be received before a student shall regain eligibility.

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- 2.6.4 A student forfeits or regains eligibility, in accordance with the provisions of this rule, on the day when marking period grades are issued or published. The calendar used to establish when marking period grades are issued or published must be established by the governing body of the school prior to the start of the school year.
- 2.6.5 Local school boards and nonpublic schools may establish more stringent requirements for academic eligibility than the minimum standards herein prescribed.
- 2.7 Eligibility, Years of Participation
- 2.7.1 The intent of the Years of Participation Rule is to promote timely progress toward graduation by discouraging students from delaying or interrupting their high school education; to disallow students to enroll for one semester each school year to increase athletic ability and skill; to promote equality of competition; to diminish risks stemming from unequal competition; and to place emphasis on the academic mission of the school. In addition, the intent of the rule is to help to prevent redshirting; to avoid exploitation by coaches who otherwise might seek to obtain transfers or to delay a student's normal progress through school; and to prevent displacement of younger student-athletes by older student-athletes who wish to unfairly prolong their high school athletic careers.
- 2.7.2 Years of Participation Rule
- 2.7.2.1 No student shall represent a school in an interscholastic athletic contest or scrimmage after four (4) consecutive years from the date of the student's first entrance into the ninth grade unless a waiver is granted for hardship reasons.
- 2.7.2.1.1 Eighth grade students who are enrolled in or transfer to schools that allow eighth grade participation at the high school level in accordance with subsection 2.7.5 of this regulation begin their five years of eligibility for high school participation the first year they enter eighth grade.
- 2.7.2.2 No student shall have more than four (4) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.
- 2.7.2.2.1 Eighth grade students who are enrolled in schools that allow eighth grade participation at the high school level in accordance with subsection 2.7.5 of this regulation shall have no more than five (5) opportunities to participate in a fall sport or combination of fall sports, in a winter sport or combination of winter sports, or in a spring sport or combination of spring sports.
- 2.7.3 Waiver of the Years of Participation Rule
- 2.7.3.1 "**Hardship**" shall be defined as extenuating circumstances peculiar to the student athlete caused by unforeseen events beyond the election, control, or creation of the student athlete, the student's family, and the student's school which (1) deprive the student of all or part of one of the student's opportunities to participate in a particular sports season; and (2) preclude the student from completing the academic requirements for graduation within the normal period of eligibility; and (3) deprive the student of all or part of one of the student's opportunities to participate in a particular sport. The waiver provision is intended to restore eligibility that has been lost as a result of a hardship situation. Injury, illness, or accident, which cause a student to fail to meet the basic requirements, are possible causes for a hardship consideration.
- 2.7.3.1.1 A waiver shall not be granted under this section where DIAA finds that the student was academically eligible pursuant to DIAA's minimum passing work standards but was ineligible to participate under more stringent locally adopted academic standards and where the local school board or board of directors has adopted its own waiver or exemption policy.
- 2.7.3.1.2 A clear and direct causal relationship must exist between the alleged hardship condition and the failure of the student to complete the academic requirements for graduation within the normal period of eligibility and the loss of all or part of one of the student's opportunities to participate in a particular sports season.
- 2.7.3.1.3 The burden of proof rests with the student in conjunction with the waiver process as described in Section 9.0 of 14 **DE Admin. Code** 1006. Claims of extended illness, debilitating injury, emotional stress, etc. must be accompanied by appropriate documentation. Evidence must be submitted to verify that the student, their parent(s), legal guardian(s) or Relative Caregiver sought assistance to ameliorate the effects of the hardship condition.

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- 2.7.4 Satisfactory completion of studies in accordance with promotion policies established by the local governing body shall determine a student is beyond the eighth grade.
- 2.7.5 Limited Participation - Eighth Grade Students
- 2.7.5.1 A high school may elect to allow students in the eighth grade to participate at the high school level to extent allowed in this section if the eighth grade is part of the same administrative unit as grades 9 through 12. Beginning with the 2016-2017 school year, prior to allowing any eighth grade participation, Member schools are required to adopt policies consistent with this section and submit a request to the DIAA Board of Directors for approval. The request must provide sufficient evidence to determine that the school is eligible to permit eighth grade students to represent the school in high school interscholastic athletics. The burden shall be on the school to establish they are eligible under this regulation.
- 2.7.5.2 It is the school's discretion to allow eighth grade participation at the high school level.
- 2.7.5.3 Effective with the 2016-2017 school year, only rising eighth graders who have been in regular attendance at the eligible school for at least one full school year immediately prior to the eighth grade are eligible to represent the school in high school interscholastic athletics. Students who transfer into the eligible school for the eighth grade are ineligible to represent the high school at any level in any interscholastic sport. This subsection does not apply to schools that begin with the eighth grade.
- 2.7.5.4 A junior high or middle school student who participates in a sub varsity or varsity contest at the high school level shall be ineligible to participate at the junior high or middle school level in the same sport during the same season. This subsection does not preclude an eighth grade student from participating in a try-out at the high school level while still retaining middle school eligibility.
- 2.7.6 Seventh grade students shall not be permitted to participate on high school interscholastic teams.
- 2.7.7 Participation of Postgraduates
- 2.7.7.1 Participation shall be defined as taking part in a school sponsored practice, scrimmage or contest on or after the first allowable date for practice in that sport.
- 2.7.7.2 Postgraduates shall not be eligible to participate in interscholastic athletics. All graduates of recognized high schools shall be considered postgraduates.
- 2.7.7.3 A regularly enrolled student taking courses in an institution of higher education shall be eligible provided he or she meets all other DIAA requirements.
- 2.7.7.4 Students whose commencement exercises are prior to the completion of the school's regular season schedule and the state tournament shall be eligible to compete.
- 2.8 Eligibility of Foreign Exchange Students and International Students
- 2.8.1 For the purpose of subsection 2.8, a foreign exchange or international student is a high school student who:
- 2.8.1.1 Is in the United States on a J-1 (Exchange Visitors) or F-1 (Academic Student) Visa;
- 2.8.1.2 Is enrolled at a DIAA Member School;
- 2.8.1.3 Is participating in a program or placed at a school that is approved by the Student and Exchange Visitors Program and recognized by DIAA;
- 2.8.1.4 Is randomly selected for or placed in the program or school and not on any basis relating to the student's athletic abilities or interests;
- 2.8.1.5 If applicable, is randomly assigned to a host family by a method that ensures the assignment is not for an athletic purpose;
- 2.8.1.6 Does not reside with any members of the coaching or athletic staff of the Member School; and
- 2.8.1.7 Meets all of the eligibility requirements except for subsections 2.2 (Residence) and 2.4 (Transfers) of this regulation.
- 2.8.2 A foreign exchange or international student who participates in a DIAA-recognized program, as provided in subsection 2.8.3, is eligible to participate in interscholastic athletic contests and competitions.
- 2.8.3 For the purpose of subsection 2.8, a DIAA-recognized program is either a Council on Standards for International Educational Travel (CSIET)-approved program or a DIAA-recognized international student academic program.

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- 2.8.3.1 CSJET Approved Programs - All international student programs which are included on the Advisory List of International Educational Travel and Exchange Programs of the CSJET shall be considered recognized by DIAA.
- 2.8.3.2 DIAA Recognized International Student Academic Programs - A Member School may obtain recognition of its international student academic program by submitting its program for approval to the DIAA Executive Director with adequate documentation. The Member School must provide a copy of its policies and enrollment applications and agreements to the DIAA Executive Director for recognition. The burden is on the Member School to establish its program meets all the requirements.
 - 2.8.3.2.1 In order to obtain approval as a DIAA recognized international student academic program, the Member School must, at a minimum, specifically incorporate and formally adopt the following requirements, policies, participation limits, and notification requirements in its program:
 - 2.8.3.2.1.1 A student may not be accepted in the school or program for athletic purposes, including recruiting by an outside party. The school must include a statement in its application and program materials providing notice of the prohibitions on recruitment and athletic purposes and advising that based on its program requirements and DIAA regulations that recruitment based on athletics by anyone including an outside source will result in the student being permanently ineligible in interscholastic athletics at any DIAA Member School. The school, student, and parent must all sign a statement verifying that the student was not athletically recruited in any way and attesting that the student did not enroll for athletic purposes and has enrolled in the school for educational purposes.
 - 2.8.3.2.1.2 With the exception of the requirement in subsection 2.2 that a student must be living with their custodial parent, legal guardian, or relative caregiver in the attendance zone of the school, the program must require that students meet all other eligibility requirements including a pre-participation evaluation or physical including a parent's signature.
 - 2.8.3.2.1.3 The program must specify that the student's participation is limited to the sub-varsity level for the first year of attendance at the school and that students will be ineligible for state tournament competition during the first year of attendance. If a school does not have a sub-varsity team, a student may practice at the varsity level during his or her first year of attendance. After one year of attendance at the school in an approved international student academic program, the international student may be eligible for varsity participation and state tournament competition.
 - 2.8.3.2.1.4 All of the specific requirements must be part of the school's international student academic program and must be communicated to the students in advance of registration.
 - 2.8.3.1.2 At least annually and prior to athletic participation, the school shall provide to the DIAA Executive Director a list of the international students enrolled in its programs and include signed copies of the required forms.
 - 2.8.3.1.3 If the Member School changes its program, the Member School shall notify the Executive Director who must approve the changes for the purpose of subsection 2.8.
- 2.8.4 International students who are not in the United States on a J-1 or F-1 Visa and are not participating in a CSJET-recognized program or DIAA recognized international student academic program are considered to be transfer students and are ineligible to compete in interscholastic athletics unless they are in compliance with all DIAA eligibility requirements including subsection 2.2.
- 2.8.5 Athletic recruitment of foreign exchange and international students by a Member School is prohibited. Any such students recruited shall be ineligible for the duration of their attendance at the Member School.
- 2.8.6 Effective Date
 - 2.8.6.1 Subsection 2.8 of this regulation shall be effective on July 1, 2018.
- 2.9 Student Eligibility Report Forms
 - 2.9.1 Member schools shall use eligibility forms approved by the Executive Director. A copy of the original eligibility report and subsequent addenda must be either received by the Executive Director or postmarked prior to the first contest for which the students listed are eligible. Failure to file an eligibility report as prescribed shall result in a \$50.00 fine against the school.

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- 2.9.1.1 In the case of a student who met all DIAA eligibility requirements but was omitted from the eligibility report due to administrative or clerical error, they shall be adjudged eligible and the school assessed a \$25.00 fine.
- 2.10 Use of an Ineligible Athlete:
- 2.10.1 If a school uses an ineligible athlete, the administrative head or their designee shall notify the opposing school(s) or event sponsor, in the case of a tournament or meet, and the Executive Director in writing of the violation and the forfeiture of the appropriate game(s), match(es), and point(s) won.
- 2.10.2 The deliberate or inadvertent use of an ineligible athlete in the sports of soccer, football, volleyball, field hockey, basketball, baseball, softball, and lacrosse shall require the offending school to forfeit the contest(s) in which the ineligible athlete participated.
- 2.10.2.1 If the infraction occurs during a tournament, including a state championship, the offending school shall be replaced by its most recently defeated opponent. Teams eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament, team and individual awards shall be returned to the event sponsor and team and individual records and performances shall be nullified.
- 2.10.2.2 The offending school may appeal to the DIAA Board of Directors for a waiver of the forfeiture penalty. If the forfeiture penalty is waived, the offending school shall be reprimanded and fined a minimum of \$200.00 but no more than \$1,000.00 and referred to the DIAA Sportsmanship Committee for consideration of further action unless the athlete or their parent(s) or legal guardian(s) knowingly withheld information or provided false information that caused the student to be eligible for interscholastic competition. The burden of proof, in both instances, rests entirely with the offending school. A forfeit shall constitute a loss for the offending school and a win for its opponent for purposes of standings and playoff eligibility and shall be automatic and not subject to refusal by the offending school's opponent.
- 2.10.3 The deliberate or inadvertent use of an ineligible athlete in the sports of cross country, wrestling, swimming, track, golf, and tennis shall require the offending school to forfeit the matches won and points earned by the ineligible athlete or by a relay team of which the student was a member. The points contributed by an ineligible athlete to their team score shall be deleted and the contest score as well as the affected placements will be adjusted according to the rules of the sport.
- 2.10.3.1 If the infraction occurs during a tournament, including a state championship, the ineligible athlete shall be replaced by their most recently defeated opponent or the next highest finisher. Contestants eliminated prior to the most recently defeated opponent shall not be allowed to reenter the tournament.
- 2.10.3.1.1 Individual awards earned by the ineligible athlete and team awards, if necessary because of adjustments in the standings, shall be returned to the event sponsor. Individual records and performances by the ineligible athlete shall be nullified.
- 2.10.4 If an ineligible athlete participates in interscholastic competition contrary to DIAA rules, but in accordance with a temporary restraining order or injunction against their school and DIAA, and the injunction is subsequently vacated, stayed, or reversed, or the courts determine that injunctive relief is not or was not justified, or the injunction expires without further judicial determination, the penalties stipulated in 2.10.1 and 2.10.2 shall be imposed.
- 2.10.5 The intentional use of an ineligible athlete by a member school or repeated indifference to its responsibility to determine the eligibility of its athletes will subject the school to additional penalties which may include suspension for the amount of days up to length of the school year from the date the charge is substantiated.
- 2.10.6 If a coach knowingly withholds information or provides false information that causes an athlete to be eligible for interscholastic competition, the coach shall be suspended from coaching in any sport at any DIAA member school for the amount of days up to length of the school year from the date the charge is substantiated.
- 2.10.7 If an athlete or their parent(s), legal guardian(s) or Relative Caregiver knowingly withholds information or provides false information that causes the student to be eligible for interscholastic competition, the athlete shall be suspended from participation in any sport at any DIAA member school for up to the amount of days up to the length of the school year from the date the charge is substantiated.
- 2.11 Determination of Student Eligibility and the Appeal Procedures

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- 2.11.1 Determining student athletic eligibility is the responsibility of each member school's administration. Member schools shall maintain records verifying athletic eligibility. Upon the Executive Director's request, the member school shall provide all information verifying eligibility.
- 2.11.2 In cases of uncertainty or disagreement, the eligibility of a student shall be determined by the Executive Director. Any request from a Member school regarding an eligibility determination shall be in writing and contain the school's eligibility determination and all information used to reach the determination. When necessary within the Executive Director's discretion, the Executive Director may also make eligibility determinations without an official request from the Member school. If the Executive Director determines that the student is ineligible, the school and the student shall be notified and the student suspended immediately from participation in interscholastic athletics.
- 2.11.3 The school and the student shall be informed that the decision of the Executive Director may be appealed to the DIAA Board of Directors.
- 2.11.4 Decisions of the DIAA Board of Directors to affirm, modify, or reverse the eligibility rulings of the Executive Director may be appealed to the State Board of Education in accordance with 14 DE Admin. Code 1006.11.

9 DE Reg. 126 (07/01/05)

11 DE Reg. 1642 (06/01/08)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

21 DE Reg. 147 (08/01/17)

21 DE Reg. 218 (09/01/17)

21 DE Reg. 719 (03/01/18)

22 DE Reg. 61 (07/01/18)

22 DE Reg. 767 (03/01/19)

3.0 Physical Examinations, Concussion Protocol, Weight Control Program for Wrestling and Required Medical Personnel in Attendance at All Football Games

3.1 Physical examinations

- 3.1.1 A student shall not be eligible to try out, practice, scrimmage, or compete in an interscholastic contest unless a licensed physician (MD or DO), a licensed nurse practitioner, or a licensed physician's assistant verifies in writing on or after April 1 and before beginning such athletic activity for the current school year that the student has been adequately examined within the last 12 months and is cleared medically to participate. However, should any conditions found in subsection 3.1.3 of this regulation occur since the last examination, a reexamination is required before the student can be medically cleared. A student who participates in a contest without a preparticipation physical evaluation shall be considered an ineligible athlete and the athlete and the school shall be subject to the penalties stipulated in subsection 2.10.
- 3.1.2 A DIAA approved form certifying the examination as well as the parent's, legal guardian's, or Relative Caregiver's consent, shall be on file with the Administrative Head of School prior to the student participating in a practice, scrimmage, or game.
- 3.1.3 For any subsequent sports season in the school year, a limited reexamination shall be performed if any of the following circumstances exist: the athlete has been treated for an injury during the preceding sports season, the athlete has been out of school during the preceding sports season with an illness other than the usual minor upper respiratory or gastrointestinal upset, an operation has been performed on the athlete during the preceding sports season, or the athlete has a remedial defect.
- 3.1.4 The medical history of the student shall be available at the time of each examination.
- 3.1.5 A player is temporarily ineligible to participate if the player who is otherwise properly certified to participate in interscholastic athletics is physically unable to participate due to illness or injury for five (5) consecutive days on which a practice, scrimmage or contest is held. Prior to resuming participation, the player must present to the Administrative Head of School or his or her designee, a statement from a licensed physician (MD or DO), a nurse practitioner, or a physician's assistant that the player is again physically able to participate. If a player is physically unable to participate due to a head injury, the concussion protocol in subsection 3.2 shall be followed.

3.2 Concussion Protocol

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- 3.2.1 If an athlete is suspected of sustaining a concussion or exhibits signs or symptoms of a concussion, he or she shall be removed from the practice or game immediately.
- 3.2.2 A Qualified Healthcare Professional shall determine whether an apparent concussion has occurred. The Qualified Healthcare Professional shall be approved by the host to provide on-site evaluations of athletes who are suspected of sustaining a concussion or exhibit signs or symptoms of a concussion. If a Qualified Healthcare Professional is not present or is not appointed or approved by the host, the injury shall be treated as a concussion and the athlete shall not return to play until he or she is evaluated by a Qualified Healthcare Professional in an appropriate medical setting.
- 3.2.3 If a Qualified Healthcare Professional determines that an athlete did not sustain a concussion, the athlete may return to play.
- 3.2.4 If a Qualified Healthcare Professional determines that the athlete sustained a concussion or is unable to rule out a concussion, the athlete shall be referred for further evaluation by a Qualified Physician. The athlete shall be ineligible to participate in practices, scrimmages, or contests until he or she receives written clearance from a Qualified Physician on the DIAA Acute Concussion Evaluation (ACE) and Return to Play Form.
- 3.2.5 Failure to comply with the requirements of this regulation shall result in the athlete being considered ineligible. The athlete and member school shall be penalized according to subsection 2.10 of this regulation.
- 3.2.6 If an official observes an apparent injury, the official shall report the injury to the athlete's coach.
- 3.2.7 The Sports Medicine Advisory Committee may recommend amendments to the Concussion Protocol to the Rules and Regulations Committee and the Board.
- 3.3 **Wrestling Weight Control Program**
 - 3.3.1 For health and safety reasons, the DIAA State Wrestling Committee has established the Delaware Wrestling Weight Control Program which requires each wrestler to establish their minimum weight class via body composition testing. The Delaware Wrestling Weight Control Program as established by the DIAA State Wrestling Committee is adopted and may be amended or updated as necessary by the Delaware Wrestling Committee with approval of the Board. The program requires hydration testing with a specific gravity not greater than 1.025, which immediately precedes the body composition assessment. A minimum weight class is determined by a body fat assessment. Male wrestlers may not compete at a weight class lower than 7% body fat and female wrestlers may not compete at a weight class lower than 12% body fat. Any wrestler's assessment that is below seven percent for males and twelve percent for females shall require a medical release signed by a licensed physician (MD or DO). The release shall not allow a wrestler to participate at a weight class below that for which the initial assessment allows. The program restricts wrestlers to an average weight loss of 1.5 percent a week, with descent, until the wrestler has reached the minimum weight determined by the initial body composition testing. A two-pound growth allowance shall be permitted on or after December 26th each year for wrestlers who have certified at their approved minimum weight class. Wrestlers shall not receive the two pound growth allowance until they have certified at their minimum weight.
 - 3.3.1.1 Wrestlers must certify at their minimum weight class on or before the last competition date for wrestling in order to be eligible to participate at their minimum weight class in the dual meet and state tournaments series including qualifying tournaments.
 - 3.3.2 The Delaware Wrestling Weight Control Program includes an online roster management program utilizing the National Wrestling Coaches Association weight management program. The program creates an "alpha master roster" which must be presented to the opposing coach or tournament director prior to weighing in. Each DIAA member school shall have access to the alpha master roster of all DIAA member schools.
- 3.4 **Required Medical Personnel In Attendance at All Football Games**
 - 3.4.1 Provision shall be made for a Qualified Healthcare Professional to be present at all interscholastic football games in which a Member School participates. The Qualified Healthcare Professional must be approved or appointed by the Administrative Head of School or his or her designee. The host school shall provide this service. Failure by the host school to provide this service shall result in a \$250.00 fine.

11 DE Reg. 1642 (06/01/08)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

22 DE Reg. 398 (11/01/18)

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4.0 Sports Seasons, Practices Sessions and Maximum Game Schedules and Designated Sports Seasons**4.1 Sports Seasons**

- 4.1.1 The fall sports season shall begin on the Monday 3 weeks before Labor Day and end with the start of the state championship tournament in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. A conference championship game must also be completed before the start of the state tournament in that sport. Practice for any fall sport shall not begin earlier than the Monday 3 weeks before Labor Day. The first allowable competition date in the fall sports season shall be the first Wednesday after Labor Day.
- 4.1.1.1 The first three (3) days of football practice shall be primarily for the purpose of physical conditioning and shall be restricted to non contact activities. Coaches may introduce offensive formations and defensive alignments, run plays "on air," practice non contact phases of the kicking game, and teach non contact positional skills. Protective equipment shall be restricted to helmets, mouth guards, and shoes on the first day of practice. Shoulder pads may be added on the second and third day of practice. The use of dummies, hand shields, and sleds in contact drills is prohibited until the fourth day of practice. Blocking, tackling, and block protection drills which involve any contact between players are also prohibited until the fourth day of practice.
- 4.1.1.2 No Member school shall participate in spring football games nor shall a Member school conduct football practice of any type outside of the regular fall sports season except when participating in the state tournament. "Organized football" or "organized football practice" shall be defined as any type of sport which is organized to promote efficiency in any of the various aspects of football. Touch football, featuring blocking, tackling, ball handling, signaling, etc. shall be considered "organized football" and shall be illegal under the intent of this rule.
- 4.1.2 The winter sports season shall begin with the first approved day for practice and end with the start of the state championship tournament in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport. Practice for any winter sport shall begin on the Monday of the 19th week of the NFHS standardized calendar. Competition for the winter sports season shall begin on the Wednesday of the 22nd week of the NFHS standardized calendar.
- 4.1.3 The spring sports season shall begin on the Monday of the 35th week of the NFHS standardized calendar and ends with the start of the state championship in that sport. Any regular season contest that was postponed must be rescheduled and played before the beginning of the state tournament in that sport. Conference championships must also be completed before the start of the state tournament in that sport. Practice for any spring sport shall not begin earlier than the Monday of the 35th week of the NFHS standardized calendar. Competition for the spring sports season shall begin on the Monday of the 38th week of the NFHS standardized calendar.
- 4.1.4 A school which participates in a game prior to the first allowable date or after the start of the state championship shall be required to forfeit the contest and be assessed a \$500.00 fine per each illegal contest. The school shall be referred to the DIAA Sportsmanship Committee for consideration of further action.
- 4.1.5 A school which conducts practice prior to the first allowable date shall pay a fine of \$500.00 per each illegal practice day. The school shall be referred to the DIAA Sportsmanship Committee for consideration of further action.
- 4.1.6 No Member school shall participate in a post season contest without the written approval of the Executive Director.

4.2 Practice Sessions

- 4.2.1 Member schools shall comply with the following for all practice sessions:
- 4.2.1.1 All practice sessions shall be conducted under the supervision of the school's certified, emergency or approved volunteer coaching staff.
- 4.2.1.2 Member schools may conduct practice sessions during the approved sports seasons as defined in 1009.4.1.
- 4.2.1.3 Member schools shall conduct practice sessions regularly during the 21 calendar days prior to the first scheduled contest.

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- 4.2.1.4 There must be one day of no activity (practice, scrimmage, or contest) during any seven-day period.
- 4.2.1.5 A student that has not previously participated in that sports season shall be required to participate with the team for a period of at least seven calendar days prior to participating in a contest. Eligibility for participation in a contest shall begin on the eighth calendar day of participation with the team. However, if a student has been participating in a state tournament during the preceding sports season and is unable to begin practicing at least seven calendar days before the team's first contest, student shall be exempt from this requirement.
- 4.2.1.6 Students shall have unrestricted access to drinking water and be permitted a minimum of one five-minute rest period during each hour of practice.
- 4.2.1.7 Member schools shall comply with the heat related practice modifications designated by the DIAA Board of Directors.
- 4.2.1.8 Holding practice on holidays and weekends shall be left to the discretion of the member schools. However, the restrictions on non-school day practice sessions apply and there must be one day of no activity (practice, scrimmage, or contest) during any seven day period.
- 4.2.2 Practice on Non School Days- Member schools shall comply with the following for all practice sessions held on non-school days. A non-school day is defined as a day when, in accordance with the approved school calendar, students are not scheduled for academic instructional activities.
 - 4.2.2.1 Each practice session shall be no more than three hours in length.
 - 4.2.2.2 Practice session on a non-school day is defined as the time a participant engages in physical or instructional activity.
 - 4.2.2.3 The hourly practice limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.
 - 4.2.2.4 Students shall not participate in more than two practice sessions totaling no more than five hours of practice on non-school practice days including a one-hour walk-through session. A walk-through session shall be defined as a teaching opportunity with no protective equipment (e.g., shin guards, helmets, etc.) or equipment related to a given sport (e.g., soccer balls, field hockey sticks, etc.).
 - 4.2.2.5 On days when two practice sessions are conducted, no practice session shall exceed three hours in length and must be separated with at least one hour of recovery time between the end of the first practice and the beginning of the next practice.
 - 4.2.2.6 Split sessions, defined as a practice session held for different groups of students playing the same sport, may be conducted but practice time shall not exceed three hours per session and five hours total daily for any individual athlete.
- 4.2.3 Practice on Official Student School Day- Member schools shall comply with the following for all practice sessions held on official student school days.
 - 4.2.3.1 Practice sessions shall be limited to two hours.
 - 4.2.3.2 The two hour limit on practice sessions on official school days includes all instructional activity on the field, court, mat, or track or in the pool, weight room, or classroom such as team meetings, film reviews, blackboard sessions, warm-up and cool-down exercises, drills or mandatory strength training.
 - 4.2.3.3 The two hour practice session limitation does not include time for non-instructional activities such as dressing, showering, transportation, or training room care.
 - 4.2.3.4 Split sessions may be conducted but practice time shall not exceed two hours for any individual athlete.
- 4.2.4 A school which fails to comply with these practice requirements shall pay a \$500.00 fine for each day of non-compliance.
- 4.3 Maximum Game Schedules and Designated Sports Seasons:
 - 4.3.1 The maximum number of regularly scheduled interscholastic contests or competition dates for each team and individual in the recognized sports and their sports season shall be designated by the DIAA Board of Directors.

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- 4.3.2 The third contest or competition date in a week shall be held on Friday (no early dismissal permitted), Saturday or Sunday. This requirement is waived when a school is closed for the entire week such as during winter or spring vacation.
- 4.3.2.1 A team shall not participate in two or more different events at the same level of competition on the same day. However, a team shall be permitted a one time per season exception to participate in two different events on the same day. If a team elects to use the exception it shall count as two contests or two competition dates as applicable toward the season team limitation.
- 4.3.2.2 With the exception of cross country, indoor track, outdoor track and golf, participation in a triangular meet shall count as two contests and participation in a quadrangular meet shall count as three contests toward the seasonal limitation.
- 4.3.2.3 Participation in any part of a quarter or half shall count as a quarter or half toward the weekly and daily limitations in that sport. However, in the case of football, participation on a free kick or a play from a scrimmage kick formation shall not count as a quarter. Overtime periods shall be considered as part of the fourth quarter or second half.
- 4.3.3 A week shall be designated as starting on Monday and ending on Sunday for all sports except football. A football week shall begin the day of the varsity game and end the day preceding the next varsity game or the following Friday.
- 4.3.3.1 The preceding game limitations, with the exception of the individual daily limitation, shall not prohibit the rescheduling of postponed games at the discretion and convenience of the member schools involved provided the game was postponed due to inclement weather, unplayable field conditions, failure of the assigned officials to appear for the game, breakdown of the bus or van carrying the visiting team, or any other circumstances beyond the control of site management which preclude playing the game. However, a team may not participate in more than four contests or competition dates in a week.
- 4.3.4 The maximum number of regularly scheduled contests for each of the recognized sports, except football, shall be exclusive of conference championships, playoffs to determine tournament state berths, and the state tournament or meet. Member schools are limited to one conference championship event. In wrestling, the state meet qualifying tournaments shall count as the only permissible event in addition to the regular season and state meets. The maximum number of regularly scheduled football contests shall be exclusive of the state tournament.
- 4.3.4.1 Any playoffs to determine state tournament berths shall be under the control and supervision of the DIAA tournament committee.
- 4.3.5 A student shall participate in a particular sport for only one season during each academic year.
- 4.3.6 A school which participates in more than the allowable number of contests in a season shall be suspended from the state playoffs or, if a nonqualifying team, fined \$500.00 for each contest.
- 4.3.6.1 A school which exceeds the weekly contest limitation shall be required to forfeit the contest and pay a \$250.00 fine.
- 4.3.6.2 A student who exceeds the weekly or daily contest limitation shall be considered an ineligible athlete and the school subject to the process stipulated in 2.10.

9 DE Reg. 126 (07/01/05)

9 DE Reg. 1964 (06/01/06)

11 DE Reg. 1642 (06/01/08)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

23 DE Reg. 123 (08/01/19)

5.0 School and Team Competition, Sanctioning of Competitions, State Championships and All Star Contests

5.1 School and Team Competition

- 5.1.1 Sponsoring Interscholastic Teams: Interscholastic competition is defined as any athletic contest between students representing two or more schools. Members of school clubs who participate in non- competitive, recreational activities or compete unattached are not considered to be engaged in interscholastic competition students who are considered to be representing a school if the school does any of the following:

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- 5.1.1.1 Partially or wholly subsidizes the activity (providing equipment, uniforms, transportation, entry fees, etc.).
- 5.1.1.2 Controls and administers the funds, regardless of their source, needed to conduct the activity.
- 5.1.1.3 Permits students to compete under the name of the school.
- 5.1.1.4 Publicizes or promotes the activity through announcements, bulletins, or school sponsored publications in excess of what is customarily done for "outside" organizations.
- 5.1.1.5 Presents or displays individual or team awards.
- 5.1.2 Schools may sponsor teams for interscholastic competition in a sport provided the following criteria are met:
 - 5.1.2.1 The governing body of the participating district or nonpublic school approves participation in the sport. The administrative head of the school shall notify the Executive Director in writing of the school's intent to sponsor a team in a new sport.
 - 5.1.2.2 The governing body of the participating district or nonpublic school controls the funds needed to support the proposed team, regardless of their source, in the same manner as existing teams (coaches' salaries, purchase and repair of equipment, medical supervision, transportation, preparation and maintenance of practice and game facilities, awards, etc.). Requests from outside sources to make financial contributions or to donate equipment or services must be submitted in writing and must include an acknowledgment that the equipment becomes the property of the school. The contribution or donation must be approved in writing by the administrative head of the school.
 - 5.1.2.3 The participating schools agree to comply with all applicable DIAA rules and regulations as stated in the current DIAA Official Handbook.
- 5.1.3 Levels of Participation
 - 5.1.3.1 Level 1 or developmental sport, less than 12 participating schools at the varsity level. DIAA rules and regulations shall not be in effect.
 - 5.1.3.2 Level 2 or recognized sport, 12 or more participating schools at the varsity level. Participating schools must petition the DIAA Board of Directors for official recognition of the sport.
 - 5.1.3.2.1 At the time of official recognition, DIAA shall provide rules publications to the participating schools, designate an approved officials' association, conduct an annual or biannual rules clinic for coaches and officials, establish a maximum game schedule, and form a committee to promote the continued development of the sport and prepare for a future state championship. All DIAA rules and regulations shall then be in effect.
 - 5.1.3.3 Level 3 or championship sport 16 or more participating schools at the varsity level. Upon petition by the sport committee and adoption of a tournament proposal, DIAA shall establish a state championship.
 - 5.1.3.4 Withdrawal of level 2 or level 3 status. If, for two consecutive years, less than the required number of schools participate in a sport, DIAA may withdraw official recognition or suspend the state tournament/meet for a period of time as determined by the Board of Directors.
- 5.1.4 Membership on Coed Teams
 - 5.1.4.1 If a school sponsors a boys' team and a girls' team in a particular sport, boys shall participate on the boys' team and girls shall participate on the girls' team even if the teams compete during different seasons. Sports are considered to be the same when one set of NFHS Rules govern both genders. If a school sponsors only a boys' team in a particular sport, girls shall be permitted to participate on the boys' team but if a school sponsors only a girls' team in a particular sport, boys shall not be permitted to participate on the girls' team. Notwithstanding the restrictions herein, a transgendered student, defined as a student whose gender identity differs from the student's assigned sex at birth, may be eligible to participate on a team other than their assigned sex at birth in accordance with a Member school policy that meets the minimum standards designated by the DIAA Board of Directors.
 - 5.1.4.2 Coed teams shall participate only in the boys' state championship tournament or meet.
- 5.2 Sanctioning of Competitions
 - 5.2.1 Member schools may participate in tournaments or meets involving four or more schools only if the event has been sanctioned by DIAA and, if applicable, by the NFHS. Tournaments or meets shall be sanctioned in accordance with the following criteria:

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- 5.2.1.1 The event shall not be for determining a state, regional or national champion.
- 5.2.1.2 The event shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.
- 5.2.1.3 Non symbolic competition awards shall have a value of not more than \$50.00 per recipient and shall require the prior approval of the Executive Director.
- 5.2.1.4 Non school event organizers shall submit a full financial report to the DIAA office within ninety (90) calendar days of the completion of the event.
- 5.2.1.5 The event organizer shall submit a list of out of state schools which have been invited to participate and such schools shall be subject to approval by the Executive Director.
- 5.2.1.6 Out of state schools which are not members of their state athletic association shall verify in writing that their participating athletes are in compliance with their state athletic association's eligibility rules and regulations.
- 5.2.1.7 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.
- 5.2.1.8 The event organizer shall comply with all applicable NFHS sanctioning requirements.
- 5.2.2 Participation in a non sanctioned event shall result in payment of a \$100.00 fine. A second offense shall result in a \$250.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the sport season. A third offense shall result in a \$500.00 fine and loss of eligibility to participate in sanctioned events for the remainder of the school
- 5.3 State Championships
 - 5.3.1 State Championships: The minimum number of high schools which must sponsor a sport at the varsity level in order for DIAA to approve a state championship shall be 16.
 - 5.3.1.1 State championship play shall be permitted at the varsity level only in football, basketball, indoor and outdoor track, cross country, swimming, wrestling, golf, baseball, soccer, tennis, field hockey, softball, girls' volleyball, and lacrosse provided such tournament or meet is under the direct control and supervision of or has the approval of DIAA.
 - 5.3.1.2 A member school which does not pay all fines incurred during the school year by July 1st shall be ineligible to participate in a state championship event in any sport during the following school year until such time as all fines are paid.
 - 5.3.2 All state championships shall be managed by committees established by the DIAA Board of Directors.
 - 5.3.2.1 Each tournament format, as well as the criteria and procedures for selecting and seeding the participating teams, must be approved by the Board of Directors and any subsequent changes must also be approved by the Board. The Executive Director shall advise the committees as to which proposed changes must be presented to the Board. If the Executive Director and the committee cannot agree, the proposed change must be presented to the DIAA Board of Directors for approval.
 - 5.3.2.2 All financial arrangements, including the collection of monies and expenditures, must be approved by the Executive Director
 - 5.3.2.3 Championship play in other sports must be confined to the individual conferences and conducted in accordance with the rules of the conference as approved by the DIAA Board of Directors.
- 5.4 All Star Contests
 - 5.4.1 An all star contest shall be defined as an organized competition in which the participants are selected by the sponsoring organization or its designee on the basis of their performance during the interscholastic season in that sport.
 - 5.4.2 Students who have completed their eligibility in a sport may participate in all star contests in that sport, if approved by DIAA, prior to graduation from high school.
 - 5.4.3 Member schools shall not make their facilities, equipment, or uniforms available to the sponsoring organization or the participants unless the all star contest is approved by DIAA.
 - 5.4.4 The all star contest must be approved by DIAA in accordance with the following criteria:
 - 5.4.4.1 The contest shall not be for determining a regional or national champion.

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- 5.4.4.2 The contest shall be organized, promoted, and conducted by and all profits go to a nonprofit organization. Involvement by a commercial organization shall be limited to providing financial support.
- 5.4.4.3 The awards given shall be in compliance with 9.0.
- 5.4.4.4 Exceptions to the adopted rules code for the sport, including uniform regulations, shall require the approval of DIAA.
- 5.4.5 A full financial report must be filed with the Executive Director within ninety 90 days of the contest. Failure to submit a financial report within the specified period of time shall result in the sponsoring organization being assessed a \$300.00 fine.
- 5.4.6 The event organizer shall not accept financial support or sell advertising to companies involved in the production or distribution of alcohol and tobacco products.

11 DE Reg. 1642 (06/01/08)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

6.0 Athletic Camps and Clinics Sponsorship, Commercial Camps and Clinics and Open Gyms, Conditioning Programs and Non School Competition

6.1 Out of Season Athletic Camps and Clinic Sponsorship

- 6.1.1 DIAA does not restrict a student's decision to attend an out of season athletic camp or clinic. However, schools, school organizations, coaches, or school related groups, such as booster clubs, may not sponsor an athletic camp, tournament, league or clinic which limits membership to their own district, locale, or teams. Coaches employed by an out of season athletic camp or clinic may only instruct their returning athletes in accordance with 7.5.
 - 6.1.1.1 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's enrolled students at an out of season athletic camp or clinic, may do so with the approval of the local school board or governing body. The disbursement of funds to pay for camp or clinic related expenses (fees, travel costs, etc.) shall be administered by the principal or headmaster or their designee and the funds shall be allocated according to the following guidelines:
 - 6.1.1.1.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.
 - 6.1.1.1.2 All applicants shall share equally in the funds provided.
 - 6.1.1.1.3 All applicants shall be academically eligible to participate in interscholastic athletics.
 - 6.1.1.1.4 All applicants shall have one year of prior participation in the sport for which the camp or clinic is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp or clinic.

6.2 Team Attendance at Out of Season Commercial Camps and Clinics

- 6.2.1 School related groups, such as booster clubs, which desire to sponsor the attendance of their school's enrolled students at an out of season athletic camp or clinic, may do so with the approval of the local school board or governing body. School funds shall not be used for this purpose. The disbursement of funds to pay for camp or clinic related expenses (fees, travel costs, etc.) shall be administered by the principal or headmaster or their designee and the funds shall be allocated according to the following guidelines:
 - 6.2.1.1 All students and team members shall be notified of the available sponsorship by announcement, publication, etc.
 - 6.2.1.2 All applicants shall share equally in the funds provided.
 - 6.2.1.3 All applicants shall be academically eligible to participate in interscholastic athletics.
 - 6.2.1.4 All applicants shall have one year of prior participation in the sport for which the camp or clinic is intended or, absent any prior participation, he/she shall be judged by the coach to benefit substantially from participation in the camp or clinic.

6.3 Individual Attendance at Commercial Camps and Clinics:

- 6.3.1 Commercial camps and clinics are defined as a camp or clinic operated for profit which provides coaching or other sports training for a fee.

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- 6.3.2 A student may participate in a commercial camp or clinic, including private lessons, both during and out of the designated sport season provided the following conditions are observed:
 - 6.3.2.1 The student must participate unattached and may not wear school uniforms.
 - 6.3.2.2 The student may use only school equipment whose primary purpose is to protect the wearer from physical injury.
 - 6.3.2.3 The school may not provide transportation or pay fees.
 - 6.3.2.4 The school coach may not require athletes to participate in a camp or clinic, or provide instruction to returning athletes in a camp or clinic except as provided in 7.5.
- 6.4 Open Gym Programs
 - 6.4.1 A Member school may open its gymnasium or other facility for informal, recreational activities in accordance with the following provisions:
 - 6.4.1.1 The open gym must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.
 - 6.4.1.2 Student participation must be voluntary and the open gym must not be a prerequisite for trying out or being selected for a particular team.
 - 6.4.1.3 The activities must be unstructured and student generated. Organized drills in the skills or techniques of a particular sport are prohibited. Organized competition with fixed team rosters is also prohibited.
 - 6.4.1.4 A coach may not predetermine that the open gym will include only their sport and publicize the open gym as being restricted to that sport. It is the responsibility of the adult supervisor to permit as many different activities as the facility can effectively and safely accommodate.
 - 6.4.1.5 A coach may open the facility and distribute playing equipment but may not instruct, officiate, participate, organize the activities, or choose teams in their assigned sport.
 - 6.4.1.6 Playing equipment is restricted to that which is customarily used in a contest in a particular sport. Playing equipment which is only used in a practice session is prohibited.
 - 6.4.1.7 The participants must provide their own workout clothing.
 - 6.4.1.8 Open gyms may not be limited to members of a particular team, but they are restricted to students enrolled at the school and are not available to students enrolled at other schools regardless of grade.
- 6.5 Conditioning Programs
 - 6.5.1 A Member school may conduct a conditioning program in accordance with the following provisions:
 - 6.5.1.1 The conditioning program must be available to all interested students, must not be restricted to members of a particular team, and must be publicized as such.
 - 6.5.1.2 Student participation must be voluntary. The conditioning program must not be a prerequisite for trying out for a particular team.
 - 6.5.1.3 Permissible activities include stretching, lifting weights, jumping rope, running, calisthenics, aerobics, and similar generic conditioning activities. Organized drills in the skills or techniques of a particular sport are prohibited.
 - 6.5.1.4 A coach may not provide instruction in sport specific skills or techniques.
 - 6.5.1.5 Sport specific equipment is prohibited.
 - 6.5.1.6 The participants must provide their own workout clothing.
 - 6.5.1.7 Conditioning programs may not be limited to members of a particular team, but they are restricted to students enrolled at the school and are not available to students enrolled at other schools regardless of grade.
- 6.6 Non-School Competition in which Participants are Competing Unattached and are Not Representing Their Schools
 - 6.6.1 A student may participate on a non school team or in a non school individual event both during and out of the designated sport season. However, the student owes their primary loyalty and allegiance to the school team of which the student is a member. A school shall have the authority to require attendance at practices and contests and students not in compliance shall be subject to disciplinary action as determined by the school.

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- 6.6.2 Participation on a non school team or in a non school individual event shall be subject to the following conditions:
- 6.6.2.1 With the exception of organized intramurals, the student may not wear school uniforms.
 - 6.6.2.2 With the exception of organized intramurals, the student may use only school equipment whose primary purpose is to protect the wearer from physical injury.
 - 6.6.2.3 The school or a school affiliated support group may not provide transportation.
 - 6.6.2.4 The school or a school affiliated support group may not pay entry fees or provide any form of financial assistance.
 - 6.6.2.5 The school coach may not require athletes to participate in non school competition or provide instruction to athletes in non school competition except as in 7.5.
 - 6.6.2.6 Nothing in this regulation shall be construed as prohibiting schools from providing transportation or school supplied assistive technology and equipment to or for non-school activities for students with disabilities.
- 6.6.3 14 Del.C. §122(b)(14) requires written parental permission prior to participation on a similar team during the designated sport season. Written authorization must be on file in the student's school prior to engaging in a tryout, practice, or contest with a similar team. Consent forms shall be available in all member schools. Similar teams shall include organized intramural teams as well as non school teams in that sport.

9 DE Reg. 1964 (06/01/06)

11 DE Reg. 1642 (06/01/08)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

7.0 Certified, Emergency, and Volunteer Coaches, Student Teaching and Coaching, and Coaching Out of Season

7.1 Certified Coaches:

- 7.1.1 Only those professional employees certified by the Department and whose salary is paid by the State or local Board of Education, or in the case of charter and nonpublic schools by a similar governing body, if acceptable as a coach by the governing body, shall coach, assist in coaching, or direct member school teams in any district. The terms of employment must be for the regular school year and the professional assignment shall be no less than half of the school day, exclusive of coaching duties.
- 7.1.2 All varsity head coaches (junior varsity if the school does not sponsor a varsity team) shall be required to attend the DIAA rules clinic for their sport or, if applicable, pass an open book rules examination supplied by the DIAA office. A school shall be assessed a \$50.00 fine and the head coach shall be placed on probation if the head coach fails to attend the DIAA rules clinic or pass the open book rules examination in their respective sport. Failure to comply for a second consecutive year shall result in the school being assessed a \$50.00 fine and the coach being suspended for up to five contests as determined by the Executive Director.
 - 7.1.2.1 Certified coaches at all levels of competition shall be required to hold a current certification in adult CPR.
 - 7.1.2.2 Certified coaches at all levels of competition shall complete the NFHS' "Concussion in Sports" course online through NFHSLearn.com every two years.

7.2 Emergency Coaches

- 7.2.1 An emergency coach shall be defined as an individual who is either not certified by the Department, or is certified by the Department but is not employed for the regular school year or whose professional assignment is less than half of the school day. An individual who meets the requirements of a certified coach but whose professional assignment is located in a different school or district than their coaching assignment shall not be considered an emergency coach by DIAA.
 - 7.2.1.1 Emergency head coaches at all levels of competition shall be required to hold a current certification in adult CPR.
 - 7.2.1.2 Emergency coaches at all levels of competition shall complete the NFHS' "Concussion in Sports" course online through NFHSLearn.com every two years.
- 7.2.2 Member schools shall be required to annually reopen all positions that are held by emergency coaches.

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- 7.2.3 Emergency coaches may be employed provided the local governing body adheres to the following procedures:
- 7.2.3.1 The employing Board of Education must attempt to locate an acceptable, certified professional staff member by advertising the coaching vacancy in the district for as many days as are required by the district's collective bargaining agreement.
 - 7.2.3.2 If an acceptable, certified professional staff member is not available, an individual who is acceptable to the employing Board of Education may be hired as an emergency coach.
 - 7.2.3.3 Any individual employed as a coach under the emergency provision must comply with the following regulations:
 - 7.2.3.3.1 Emergency coaches must be officially appointed by the local Board of Education. The Superintendent or his or her designee may temporarily appoint an individual if a coaching vacancy arises and the sport season begins during the interim between meetings of the local Board of Education.
 - 7.2.3.3.2 The Emergency Coaches' coaching salary must be paid exclusively by the local Board of Education.
- 7.3 Volunteer Coaches
- 7.3.1 In addition to the members of the school's regular coaching staff, the local governing body may supplement a school's coaching staff with volunteer coaches. Volunteer coaches are individuals who donate their services to a school, who have been approved by that school's local governing body, and who are supervised by a certified or emergency coach. A current list of approved volunteer coaches shall be on file in the school's administrative office before any coaching duties are assumed. Volunteer coaches at all levels of competition shall complete the NFHS' "Concussion in Sports" course online through NFHSLearn.com every two years.
- 7.4 Football Coaches
- 7.4.1 All football coaches (including certified, emergency, and volunteer coaches) at all levels of competition shall annually complete Heads Up Football training.
- 7.5 Student Teaching and Coaching
- 7.5.1 Students who are practice teaching in a member school shall be permitted to assist in all professional activities during their practice teaching period.
- 7.6 Coaching Out of Season
- 7.6.1 From August 2nd through the first day after the last spring sport DIAA state tournament event, a certified, emergency, or volunteer coach shall not be allowed to provide instruction out of the designated season in his or her assigned sport to any student registered in the school at which he or she coaches.
- 7.6.1.1 A coach shall not be allowed to participate on a team in his or her assigned sport with the aforementioned players.
 - 7.6.1.2 A coach shall also be prohibited from officiating contests in his or her assigned sport if the aforementioned players are participating except in organized league competition.
 - 7.6.1.2.1 The league shall not be organized, conducted, and funded by the employing school, the employing school's booster club, or the employing school's coaching staff.
 - 7.6.1.2.2 The league shall have written rules and regulations that govern the conduct of contests and establish the duties of contest officials.
 - 7.6.1.2.3 The league shall have registration and entry procedures, forms, and fees; eligibility requirements; and fixed team rosters, team standings, and a master schedule of contests.
 - 7.6.1.3 A certified, emergency, or volunteer coach shall not be allowed to provide instruction or coach during the designated season in his or her assigned sport to current members of the varsity or subvarsity teams of the school at which he or she coaches outside of school sponsored practices, scrimmages, and contests.
 - 7.6.1.4 A coach who is in violation of this section shall be suspended from coaching in the specified sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.
- 7.6.2 From the first day after the last spring sport DIAA state tournament event through August 1st, a certified, emergency or volunteer coach shall be allowed to provide instruction in his or her assigned sport to all accepted and registered students of the school at which he or she coaches. Instructional contact with all

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accepted and registered students must be approved by the member school and shall be subject to the following conditions:

- 7.6.2.1 Participation in a formal league and tournament or instructional camp or clinic, or informal instruction, shall be open, voluntary, and equally available to all accepted and registered students of the member school.
 - 7.6.2.2 Coaches are permitted to hold an organizational practice for formal league/tournament competition only as permitted by the written, pre-established rules of the formal league/tournament. In no event shall more than one organizational practice be permitted and the number of games and practice shall not exceed three in one week. If the formal league/tournament does not have written, pre-established rules regarding practice, then no practice is permitted.
 - 7.6.2.3 A coach shall not receive any compensation, from any source, for the instruction of their returning school team members. Reimbursement for out of pocket expenses (e.g. gas, food, lodging) incurred by returning school team members and coaches to attend leagues or tournaments or instructional camps or clinics are not prohibited provided that no local school or state educational funds are used.
 - 7.6.2.4 A coach may provide instruction to an unlimited number of accepted and registered students in formal league or tournament competition or in formal instructional camps or clinics provided the league or tournament or instructional camp or clinic is insured, organized and conducted by a non school affiliated organization. A coach may provide instruction to returning accepted and registered students with the member school's permission.
 - 7.6.2.5 Use of school equipment shall be approved by the Principal or Headmaster and shall be subject to the following conditions:
 - 7.6.2.5.1 Helmets and shoulder pads shall not be used in lacrosse and football.
 - 7.6.2.5.2 Protective equipment, the primary purpose of which is to protect the wearer from physical injury, may be used in the following sports: baseball, field hockey, and softball.
 - 7.6.2.6 A coach who is in violation of this section shall be suspended from coaching in the specified sport at any DIAA member school for up to the total number of days in the school year from the date the charge is substantiated.
 - 7.6.3 Effective Date
 - 7.6.3.1 Subsection 7.6 shall be effective on June 2, 2019.
- 11 DE Reg. 1642 (06/01/08)**
15 DE Reg. 75 (07/01/11)
19 DE Reg. 745 (02/01/16)
22 DE Reg. 398 (11/01/18)
22 DE Reg. 767 (03/01/19)

8.0 Required Use of Officials, Recognition of Officials' Associations, Attendance at Rules Clinics, and Fees for Officiating Contests and Competitions

8.1 Required Use of Officials

- 8.1.1 Member Schools and tournament sponsors shall be required to use officials recognized and approved by DIAA for interscholastic contests. Use of non-approved officials without permission from the Executive Director shall result in the school or tournament sponsor being assessed a \$100.00 fine per game per non-approved official.
 - 8.1.1.1 In the case of emergencies, such as an act of God, refusal by an association to work games, or a shortage of qualified officials, Member Schools which desire to use other than approved officials must obtain permission from the Executive Director.
- 8.1.2 If more than one association is approved to officiate a particular sport, a conference or, in the absence of a conference affiliation, an individual school shall determine which association shall provide the officials for its home contests.

8.2 Recognition of Officials' Associations

- 8.2.1 The officiating of interscholastic contests in the state of Delaware which involve one (1) or more Member Schools shall be under the control of the DIAA and such control may include, but not be restricted to,

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giving examinations, evaluating officials, setting game fees, determining the number of officials per game, and assigning officials.

- 8.2.2 An officials' association which desires to officiate middle school and high school contests and competitions shall request recognition and approval from DIAA by submitting the following documents to the DIAA Officials' Committee:
- 8.2.2.1 A letter of request to be recognized by DIAA and indicating the association's willingness to abide by the Department's rules and regulations. The president of the requesting officials' association or his or her designee shall petition the Board to render a decision.
 - 8.2.2.2 A brief history of the association, including, but not limited to, the officiating experience (if any) of the members and if a new association is being formed, the purpose for which the association is being formed.
 - 8.2.2.3 A copy of the association's constitution and bylaws including a statement that it does not discriminate on the basis of age, gender, race, religion, etc.
 - 8.2.2.4 A description of the association's evaluation and rating system.
 - 8.2.2.5 A description of the association's recruiting and training programs for new members.
 - 8.2.2.6 A membership roster indicating the number of years of experience at the subvarsity, varsity, and state tournament levels for each member and also their most recent rating in a previous association. This information must be documented and is subject to verification.
 - 8.2.2.7 Letters of recommendation or names of references from leagues which the association has serviced during its existence.
- 8.2.3 The Officials' Committee shall review the aforementioned documents and meet with the officers of the association to discuss their petition.
- 8.2.4 The Officials' Committee may consult with any other interested parties during the evaluation process.
- 8.2.5 The Officials' Committee shall report its findings to the Board and recommend that the officials' association be granted recognition, granted recognition with conditions, or denied recognition.
- 8.2.6 The Board shall consider the petition for recognition and the Officials' Committee's recommendation and make a decision to approve or deny the request. The petitioner may request an evidentiary hearing before the Board pursuant to the procedures in subsection 10.1.3.2 of 14 **DE Admin. Code** 1006. The Board shall decide if the petitioning officials association shall be granted recognition, granted recognition with conditions, or denied recognition.
- 8.2.7 An approved association shall serve a minimum two year probationary period during which time the association shall be evaluated. An association designated as probationary is ineligible to provide officials to work the applicable DIAA State Tournament.
- 8.2.7.1 Members of the Officials' Committee and the applicable Sport Committee shall comprise the Officials Association Evaluation Committee (Evaluation Committee). The new officials association shall be evaluated according to the following criteria:
- 8.2.7.1.1 Total number of games worked at the varsity level.
 - 8.2.7.1.2 Total number of officials who worked games at the varsity level.
 - 8.2.7.1.3 Total number of Member Schools who contracted the services of the association.
 - 8.2.7.1.4 A comparison of the percentage of games the association worked against the percentage of games worked by other DIAA recognized officials associations in that sport.
 - 8.2.7.1.5 A comparison of the percentage of the association's registered officials against the number who worked Varsity level games.
 - 8.2.7.1.6 A comparison of the ratio from subsection 8.2.7.1.5 against any existing association(s)' same ratio.
 - 8.2.7.1.7 In addition, the evaluation may be based on any other available information which may include but is not limited to: the associations ability to work a minimum of 25 percent of all varsity contests played by DIAA Member Schools in that sport; written complaints by contracted schools; evaluations by Member Schools; input from Member Schools; or any other relevant information.
- 8.2.7.2 The results of all evaluations shall be shared with the probationary association at the end of each season. The association shall have the opportunity to add comments to the final evaluation.

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- 8.2.8 At the end of the minimum two-year probationary period, the Evaluation Committee shall recommend to the Board one of the following options based on the evaluations and the probationary association's ability to work varsity contests equal to or greater than twenty-five (25) percent of all varsity contests played by Member Schools:
- 8.2.8.1 Re-approve conditionally for another year on probationary status.
 - 8.2.8.2 Disapprove so as to no longer remain as an approved association.
 - 8.2.8.3 Re-approve conditionally with state tournament consideration based upon the sport worked.
 - 8.2.8.4 Completely approve the association with full state tournament consideration equal to any existing association(s).
- 8.2.9 The Board shall consider the petition for recognition and the Evaluation Committee's recommendation and make a decision. The probationary officials association may request an evidentiary hearing before the Board pursuant to the procedures in subsection 10.1.3.2 of 14 **DE Admin. Code** 1006. The Board shall decide if the petitioning officials association shall be:
- 8.2.9.1 Re-approved conditionally for another year on probationary status.
 - 8.2.9.2 Disapproved so as to no longer remain as an approved association.
 - 8.2.9.3 Re-approved conditionally with state tournament consideration based upon the sport worked.
 - 8.2.9.4 Completely approved with full state tournament consideration equal to any existing association(s).
- 8.2.10 Once an officials' association is completely approved, it is required to annually submit a written report on the appropriate form to the Officials' Committee. The report shall include information on the association's executive board, membership, and recruitment strategies.
- 8.2.11 The Officials' Committee shall review the submitted report to ensure that the association is meeting the goals of education-based athletics. If the Officials' Committee determines that the association is not meeting the goals of education-based athletics, the Officials' Committee shall notify the association of the goals it has not met, the association may be placed on an improvement plan, and the Officials' Committee shall decide whether to recommend revocation of the association's approval and recognition to the Board.
- 8.3 Attendance at Rules Clinics
- 8.3.1 Officials shall be required each year to both attend the DIAA rules interpretation clinic and to pass the rules examination provided by the DIAA office for the sport(s) they officiate.
- 8.3.2 Failure on the part of an official to attend the DIAA rules interpretation clinic and pass the rules examination in the same season shall cause the official to be placed on probation and to lose his or her eligibility to officiate a state tournament contest during that season.
- 8.3.3 Failure to satisfy both requirements in the same season for two consecutive years shall cause the official to lose varsity officiating status during the second season. Failure to fulfill this obligation in subsequent years shall cause the official to continue to be restricted to subvarsity contests until both requirements have been satisfied in the same season.
- 8.3.4 Attending the fall soccer rules interpretation clinic shall satisfy the clinic attendance requirement for both the boys' and girls' soccer seasons. Attending the spring soccer rules interpretation clinic shall satisfy the clinic attendance requirement for only the girls' soccer season.
- 8.3.5 If, for a legitimate reason which is documented by the president of the association, an official is unable to attend the DIAA rules interpretation clinic, the official may complete an online course or, in the absence of an online course, attend a clinic conducted by another NFHS member state association provided the following procedures are observed:
- 8.3.5.1 No later than the day of the DIAA rules interpretation clinic, the president of the association shall notify the DIAA office, in writing, of any officials who are unable to attend the clinic.
 - 8.3.5.2 The out of state clinic shall be conducted by an individual either trained by the NFHS or designated as a clinician by the state's athletic association.
 - 8.3.5.3 The official shall arrange for a letter to be sent to the Executive Director from the state's athletic association office verifying the official's attendance at the clinic.
- 8.4 Fees for Officiating Contests and Competitions

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8.4.1 The Board has established the following fees for officiating regular season contests and competitions:

Sport	Level	Number of Officials per Contest	Time Adjustment	Rate per Official (Regular Season Contests)
Baseball	Varsity	2		\$75
	Subvarsity	2		\$55
	Middle School	2		\$54
Basketball	Boys' Varsity	3, or 2 if mutually agreed		\$75
	Girls' Varsity	2, or 3 upon request		\$75
	Subvarsity	2	8 minute quarters	\$64
	Subvarsity	2	7 minute quarters	\$59
	Subvarsity	2	6 minute quarters	\$55
	Middle School	2	6 minute quarters	\$54
Cross Country	Starter/Referee	Upon request		\$67
	Timer/Judge	Upon request		\$64
Field Hockey	Varsity	2		\$75
	Subvarsity	2		\$55
	Middle A	2	25 minute halves	\$54
	Middle B	2	25 minute or less halves at the Member School's discretion	\$54
Football	Varsity	5		\$75
	Timer	1		\$52
	Subvarsity	3	8 or 10 minute quarters	\$55
	Middle School	3	8 minute quarters	\$54
Lacrosse (Boys' and Girls')	Varsity	2, or 3 if requested		\$75
	Subvarsity	2		\$55
	Middle School	2		\$54
Soccer (Boys' and Girls')	Varsity	2, or 3 if requested		\$75
	Subvarsity	2		\$55
	Subvarsity	3		\$48
	Middle A	2	30 minute halves	\$54
	Middle B	2	30 minute or less halves	\$54

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Softball	Varsity	2		\$75
	Subvarsity	2		\$55
	Middle School	2		\$54
Swimming and Diving	Referee	1		\$67
	Judge	1		\$64
Track and Field	Starter/Referee	Upon request		\$67
	Timer/Judge	Upon request		\$64
Volleyball	Varsity	2		\$75
	Linesman	2 by request		\$37
	Subvarsity	2		\$55
	Middle School	2		\$54
Wrestling	Varsity	1		\$75
	Subvarsity	1		\$55
	Varsity+	1		\$75, then \$5 per match, up to 7 matches; not to exceed \$35
	Middle School	1		\$54
	Middle+	1		\$54, then \$4 per match, up to 7 matches; not to exceed \$28

8.4.2 The fee for state tournament contests and competitions shall be the rate at the varsity level as provided in subsection 8.4.1 and an additional:

8.4.2.1 \$5 for first, second, and quarterfinal rounds of competition.

8.4.2.2 \$10 for the semi-final round of competition.

8.4.2.3 \$15 for the final or championship contest.

8.4.3 The Officials' Committee shall work with the Executive Director to help determine the fee amount for officiating a state tournament contest.

11 DE Reg. 1642 (06/01/08)

19 DE Reg. 745 (02/01/16)

21 DE Reg. 719 (03/01/18)

22 DE Reg. 767 (03/01/19)

9.0 Awards and Scholarships

9.1 Awards

9.1.1 Member schools and support groups affiliated with a member schools, such as an alumni association or booster club, shall be allowed to present recognition awards for team and individual accomplishments. The awards, including artwork and lettering, shall require the approval of the administrative head of the school and their value shall be mostly symbolic, no more than \$250.00. Member schools and support groups affiliated with member schools are also permitted to sponsor banquets.

9.1.2 A non profit group such as a coaches association, booster club not affiliated with a member school, or community service organization shall be allowed to present recognition awards for team and individual accomplishments with the approval of the administrative head of the school. Non profit groups shall also be permitted to sponsor banquets.

9.1.3 Commercial organizations shall be allowed to present recognition awards for team or individual accomplishments with the approval of the administrative head of the school.

9.1.4 Permissible awards include trophies, plaques, medals, letters, certificates, photographs, and similar items. Jackets, sweaters, shirts, watches, rings, charms, and similar items if properly inscribed (reference to the

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team or individual athletic accomplishment) are also acceptable. The awards shall have symbolic value only, awards with utilitarian value are prohibited. The aggregate retail value of the award shall not exceed \$250.00 per team or per recipient and shall require prior approval of the Executive Director.

9.2 Scholarships

- 9.2.1 Member schools and support groups affiliated with member schools shall be permitted to present post secondary scholarships.
- 9.2.2 Non profit organizations cosponsoring a tournament shall be allowed to give post secondary scholarships to participating schools provided they are not awarded on the basis of team or individual performance in the tournament. Scholarship monies shall be administered in accordance with DIAA and NCAA regulations.

11 DE Reg. 1642 (06/01/08)

10.0 Use of Influence for Athletic Purposes

- 10.1 Definition: The use of influence for athletic purposes shall include, but not be limited to, the following:
 - 10.1.1 Offer of money, room, board, clothing, transportation, or other valuable consideration to a prospective athlete or their parent(s) or legal guardian(s) or Relative Caregiver.
 - 10.1.2 Offer of waiver or reduction of tuition or financial aid if based, even partially, on athletic considerations. Non-school affiliated scholarship or financial aid programs which are primarily restricted to students of one school if the aid is based, even partially, on athletic considerations.
 - 10.1.3 Preference in job assignments or offer of compensation for work performed in excess of what is customarily paid for such services.
 - 10.1.4 Offer of special privileges not accorded to other students.
 - 10.1.5 Offer of financial assistance including free or reduced rent, payment of moving expenses, etc., to induce a prospective athlete or his/her parent(s), legal guardian(s) or Relative Caregiver to change residence.
- 10.2 Illegal Contact with Students, Student's parent(s), legal guardians, or a Relative Caregiver
 - 10.2.1 A school employee or Board approved volunteer may not initiate contact or request that a booster club member, alumnus, or player initiate contact with a student enrolled in another school or his/her parent(s), legal guardian(s) or a Relative Caregiver in order to persuade the student to enroll in a particular school for athletic purposes. Illegal contact shall include, but not be limited to, letters, questionnaires or brochures, telephone calls, and home visits or personal contact at athletic contests.
 - 10.2.2 If a coach or athletic director is contacted by a prospective athlete or their parent(s), legal guardian(s) or a Relative Caregiver, the former must refer the individual(s) to the principal or headmaster or school personnel responsible for admissions.
- 10.3 Permitted Activities
 - 10.3.1 A school employee or Board approved volunteer may do the following:
 - 10.3.1.1 Discuss the athletic program with a prospective student or their parent(s), legal guardian(s) or Relative Caregiver during an open house or approved visit initiated by the parent(s), legal guardian(s) or Relative Caregiver.
 - 10.3.1.2 Provide information concerning sports offered, facilities, conference affiliation, and general athletic policies. However, they are not permitted to state or imply in any way that their athletic program is superior to that of another school or that it would be more beneficial or advantageous for the prospective student to participate in athletics at their school.
 - 10.3.1.3 Conduct an informational presentation at a feeder school.
- 10.4 School Choice
 - 10.4.1 If the number of applicants under the Delaware School Choice Program exceeds the number of available student openings, the selection criteria established by the district shall not include athletic considerations.
- 10.5 Penalties
 - 10.5.1 The use of influence or illegal contact including but not limited to, violations of 10.1 and 10.2 by a person(s) employed by or representing a member school including members of alumni associations, booster groups, and similar organizations to persuade, induce, or facilitate the enrollment of a student in that school for athletic purposes may render the student ineligible for up to one full school year from the date the charge is substantiated. In addition, the offending school may be placed on probation, as determined by the DIAA

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Board of Directors, and the offending employee, if a coach, may be suspended for up to one full school year from the date the charge is substantiated.

7 DE Reg. 1692 (06/01/04)

9 DE Reg. 126 (07/01/05)

9 DE Reg. 1954 (06/01/06)

11 DE Reg. 1642 (06/01/08)

14 DE Reg. 1186 (05/01/11)

15 DE Reg. 75 (07/01/11)

19 DE Reg. 745 (02/01/16)

21 DE Reg. 147 (08/01/17)

21 DE Reg. 218 (09/01/17)

21 DE Reg. 719 (03/01/18)

22 DE Reg. 61 (07/01/18)

22 DE Reg. 398 (11/01/18)

22 DE Reg. 767 (03/01/19)

23 DE Reg. 123 (08/01/19)

DIAA
Officials Association
2019-2020

Sport	Officials Association	President
Field Hockey	Southern Delaware Field Hockey Officials Association	Vicki Rhodes
Field Hockey	Delaware Field Hockey Umpires Association	Mike Van Sickle
Football	Delmarva Football Officials Association	James Duncan
Football	Northern Delaware Football Officials Association	Steve Tolliver
Soccer	Diamond State Soccer Officials Association	Tim Finley
Soccer	Delaware Soccer Officials Association	Michael Vincent
Volleyball	Delaware Volleyball Officials Association	Wendy Kite
Basketball	IAABO #11	Walter Connor
Basketball	IAABO #129	Howard Smack
Basketball	Northern Delaware Basketballs Officials	Keith Lake
Swimming & Diving	Delaware Swimming and Diving Officials Association	Kim Witman
Wrestling	Delaware Wrestling Officials Association	Joe Loboizzo
Baseball	Delaware Umpires Association	Jonathan Beck
Baseball	Interstate Baseball Umpires Association	Joe Archangelo
Softball	Delaware Softball Umpires Association	Jeff Smith
Softball	Delaware Umpires Association	Jonathan Beck
Boys Lacrosse	Delaware Lacrosse Officials Association	Greg Bulger
Girls Lacrosse	Diamond State Women's Lacrosse Officials Association	Gail Ruffins
Track and Field	Delaware Sports Club	Mark Armstrong

AGREEMENT BETWEEN DIAA AND DIAA APPROVED OFFICIALS' ASSOCIATION For STATE TOURNAMENTS 2019-2020

This AGREEMENT is made and entered into effective July 1, 2019 by and between the Delaware Interscholastic Athletic Association (hereinafter the "DIAA"), a unit of the Delaware Department of Education (the "Department"), and (Officials Association) (hereinafter the "Association"). In consideration of the mutual promises, terms, and conditions set forth herein, the parties hereby agree as follows:

- I. **TERM.** The terms of this Agreement shall be for the 2019–2020 school year, commencing on July 1, 2019 and expiring on June 30, 2020 (hereinafter the "2019–2020 school year"), unless this Agreement is terminated in accordance with the terms and conditions of this Agreement.
- II. **INDEPENDENT CONTRACTOR.** The Association, including any agents, subcontractors, and employees of the Association in the performance of this Agreement, is an independent contractor. The Association shall not be deemed to be an employee of DIAA, the Department, or the State. The Association shall be solely responsible for payment of all wages, benefits, and other compensation to the Association's agents, subcontractors, and employees. The Association, without any cost or expense to DIAA, shall comply with all applicable laws and regulations concerning workers' compensation and unemployment insurance, social security, and withholding of income tax from wages. The Association has total control over the means, manner, and method of the performance of this Agreement. The Association must comply with the requirements of Title 30 of the Delaware Code.
- III. **ROSTERS.** The Association must provide a membership roster of the Association's members in order for the Association's members to be registered for the 2019– 2020 school year. The roster must be submitted in the required format (Microsoft Excel spreadsheet) with the approved names, home addresses, and e-mail addresses. These members of the Association will be registered with DIAA and the National Federation of State High School Associations (hereinafter "NFHS") and will be eligible by DIAA standards for assigned level of competition to officiate interscholastic contests at the high school and middle school levels. The membership roster should include only those individuals who are active members of the Association during the 2019–2020 school year.
 - A. Additions to the membership roster can be made at any time during the 2019– 2020 school year but only individuals who are registered with DIAA and NFHS and have paid their dues in full will be eligible to officiate contests in DIAA sanctioned tournaments.
 - B. A member must be registered with DIAA before he or she receives a game assignment. Use of non-registered members may result in the Association forfeiting state tournament assignments as determined by the DIAA Executive Director or DIAA Board of Directors.
 - C. Only officials who are have current varsity status and meet the qualifications of this Agreement and the Association will be eligible for tournament assignments subject to approval of the **Sport** Tournament Committee.
- IV. **OFFICERS.** The Association shall provide a list of officers (including the Assignor and Incidents Coordinator) with the officers' mailing and email addresses, and all telephone numbers (home, work, and cell) in the required format.
- V. **DUES.** The Association, on behalf its members, shall submit payment in the form of a check made payable to DIAA for each member's dues to the DIAA Office.
 - A. Each member's dues shall be \$35, which include \$17 in NFHS dues and \$18 in DIAA dues, and shall be paid at the time the individual member registers for the first sport he or she will officiate during the 2019–2020 school year.
 - B. If an individual member has previously officiated for a sport for the 2019-2020 school year, the member's dues for each additional sport shall be \$18.
 - C. Any payment of dues made by the Association on behalf of its members shall be non-refundable.
- VI. **REPORTS.** Any sportsmanship issues or ejections must be immediately reported to the DIAA Tournament Committee representative on site on the date of the contest.
- VII. **REQUIRMENTS – Training & Testing.** Officials shall meet all clinic and testing requirements as specified in 14 Del. Admin. C. 1008-8.3 and 1009-8.3. In addition, all officials shall complete the "Concussion in Sports" free online class on NFHSlearn.com every two years.
- VIII. **RULES OF THE GAME.** The Association will comply and strictly enforce the designated playing rules of **Sport**, including the approved DIAA Policies and Procedures, except as modified by the DIAA Board of Directors, the DIAA Handbook, DIAA state tournament regulations, and all other

articles, bylaws, policies, and procedures related to officiating found in the current edition of the NFHS Rules book, including all Guidelines and Codes of the NFHS. Noncompliance may result in the forfeiture of state tournament assignments and/or other penalties as determined by the Executive Director, the DIAA Board of Directors, or a designated DIAA committee.

IX. CONTEST FEES.

A. INVOICE. The Association shall send an itemized invoice to the DIAA Office after the Association has provided officiating services for a state tournament contest in accordance with the terms and conditions of this Agreement.

B. PAYMENT. DIAA will pay the Association for providing officiating services for a state tournament contest as set forth in Paragraphs B.1 – 2 below:

1. For state tournament contests the DIAA will pay the Association:
 - a. \$80.00 per member who is assigned to officiate and has completed officiating a full contest during a first, second, or quarterfinal round.
 - b. \$85.00 per member who is assigned to officiate and has completed officiating a full contest during a semifinal round.
 - c. \$90.00 per member who is assigned to officiate and has completed officiating a full contest during a final round.
 - d. an administrative fee equal to three (3) percent of the total amount of Paragraphs B.1.a – c above and excluding any travel fee(s).
2. DIAA will pay the Association a travel fee for each official who is assigned to officiate on the field, court or mat and has completed officiating the full contest to which the official was assigned.
 - a. The amount of the travel fee is determined by the prevailing gas rate as cited by the State of Delaware on September 1 (for fall tournament contests), December 1 (for winter tournament contests), and March 1 (for spring tournament contests).
 - i. If the prevailing gas rate is less than \$3.00 per gallon and the member resides in one of the three counties in Delaware, DIAA will pay the Association \$5.00 for each county line in Delaware that the member crosses on a one-way basis, not to exceed \$10.00.
 - ii. If the prevailing gas rate is less than \$3.00 per gallon and the member does not reside in Delaware, DIAA will pay the Association \$5.00 for the member entering Delaware and an additional \$5.00 for crossing one additional county line in Delaware on a one-way basis, not to exceed \$10.00. DIAA will not pay a travel fee for any county the member crosses that is located outside of Delaware.
 - iii. If the prevailing gas rate is more than \$3.00 and less than \$4.00 per gallon and the member resides in one of the three counties in Delaware, DIAA will pay the Association \$7.50 for each county line in Delaware that the member crosses on a one-way basis, not to exceed \$15.00.
 - iv. If the prevailing gas rate is more than \$3.00 and less than \$4.00 per gallon and the member does not reside in Delaware, DIAA will pay the Association \$7.50 for the member entering Delaware and an additional \$7.50 for crossing one additional county line in Delaware on a one-way basis, not to exceed \$15.00. DIAA will not pay a travel fee for any county the member crosses that is located outside of Delaware.
 - v. If the prevailing gas rate is more than \$4.00 per gallon and the member resides in one of the three counties in Delaware, DIAA will pay the Association \$10.00 for each county line in Delaware that the member crosses on a one-way basis, not to exceed \$20.00.
 - vi. If the prevailing gas rate is less than \$4.00 per gallon and the member does not reside in Delaware, DIAA will pay the Association \$10.00 for the member entering Delaware and an additional \$10.00 for crossing one additional county line in Delaware on a one-way basis, not to exceed \$20.00. DIAA will not pay a travel fee for any county the member crosses that is located outside of Delaware.
 - b. DIAA will not pay the Association a travel fee for any members who are assigned as alternate officials, timers, or other side officials in a state tournament contest.
3. DIAA is solely responsible to the Association for fees that DIAA incurred as a result of this Agreement.

X. NUMBER OF OFFICIALS. The DIAA Tournament Committee for each specific sport will assign the number of officials to officiate each state tournament contest.

XI. TERMINATION. DIAA has the right to terminate this Agreement, in whole or in part, if DIAA determines termination to be in the best interest of the State Tournament. Termination shall be effective upon written notice to the Association. The Association shall be paid for officiating services satisfactorily completed prior to the effective date of the termination.

XII. APPLICABLE LAW. This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the State of Delaware and the decisions of Delaware courts, except where federal law has precedence. The Association consent to jurisdiction and venue in the State of Delaware.

XIII. INTEGRATION. This Agreement constitutes the entire agreement between the parties. No agent, representative, employee, or officer of either DIAA or the Association has authority to make, or has made, any statement, agreement, or representation, oral or written, in connection with this Agreement, which in any way can be deemed to modify, add to, or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Agreement. No modifications, alterations, changes, or waiver to the Agreement or any of its terms shall be valid or binding unless accompanied by a written agreement signed by both parties.

XIV. CONTACT INFORMATION. Unless otherwise provided in writing, all notices, consent, or approval shall be provided in writing to the following designated individuals:

DIAA

Gary Cimaglia
Executive Director
Delaware Interscholastic Athletic Association
35 Commerce Way, Suite 1
Dover, DE 19904-5747

Association

(President Name, Association Name, Address)

XV. APPROVAL. The undersigned authorized individuals of the DIAA and the Association commit their respective organizations to the terms and conditions of this Agreement.

The undersigned hereby agree to the terms of this Agreement on this 16th day of August 2019.

***For Delaware Interscholastic Athletic
Association***

***For _____ Officials
Association***

**Bradley Layfield, Ed. D.,
DIAA Chairperson**

**Name
President**

DIAA Athletic Director Directory 2019-2020

School	AD Name	School	AD Office	Cell	Email	District/Grades	Updated
Blue Hen Conference	A.I. DuPont	John Barr	651-2626	584-2991	john.barr@redclay.k12.de.us	Red Clay/9-12	
	Appoquinimink	Chris Muscara	449-3840	302-602-1058	Christopher.Muscara@appo.k12.de.us	Appoquinimink/9-12	
	Brandywine	Rick Shea	479-1600	482-5475	rick.shea@bsd.k12.de.us	Brandywine/9-12	
	Christiana	Jen Mayer	631-2400	521-0287	jennifer.mayer@christina.k12.de.us	Christina/6-12	
	Concord	Larry Jacobs	475-3951	302-377-4395	laurence.jacobs@bsd.k12.de.us	Brandywine/9-12	
	Delcastle	Jeff Hewes	995-8100	563-2074	jeffrey.hewes@ncvt.k12.de.us	NCCVT/9-12	
	Dickinson	Andy Dick	992-5500	388-1679	andrew.dick@redclay.k12.de.us	Red Clay/9-12	
	Glasgow	Robert Peterson	631-5600		Robert.Peterson@christina.k12.de.us	Christina/9-12	9/5/2019
	Glasgow	Carmen Delcampo	631-5601		cdelcamp@jdqinc.org	Christina/9-12	9/5/2019
	Hodgson Vo-Tech	Dave Collins	834-0990	302-563-8500	dave.collins@ncvt.k12.de.us	NCCVT/9-12	
	Howard	Dan Ritter	571-5400	598-9726	daniel.ritter@ncvt.k12.de.us	NCCVT/9-12	
	McKean	Matt Carre	992-5520	547-9437	matthew.carre@redclay.k12.de.us	Red Clay/9-12	
	Middletown	Colleen Kelley	376-4149	383-9882	colleen.kelley@appo.k12.de.us	Appoquinimink/9-12	
	Mt. Pleasant	Keith Neff	762-7125	438-2695	keith.neff@bsd.k12.de.us	Brandywine/9-12	
	Newark	Jason Bedford	631-4700	545-1745	Jason.bedford@christina.k12.de.us	Christina/9-12	
	St. Georges	Mark Robinson	449-3600	463-5583	mark.robinson@ncvt.k12.de.us	NCCVT/9-12	
	William Penn	Matt Sabol	323-2800	897-7533	matthew.sabol@colonial.k12.de.us	Colonial/9-12	
	Sanford	Joan Samonisky	235-6523	302-218-8159	samoniskyjoan@sanfordschool.org	Private/8-12	
	St. Andrew's Boys	Al Wood	378-9511	302-463-5386	awood@standrews-de.org	Private/9-12	
	St. Andrew's Girls	Heidi Pearce	378-9511		hpearce@standrews-de.org	Private/9-12	
	Tatnall	Patrick Jones	998-2292	302-363-0865	patrickjones@tatnall.org	Private/8-12	
Independent Conference	Tower Hill	Seth Kushkin	575-0550	720-245-5528	skushkin@towerhill.org	Private/8-12	
	Wilm Christian	Pam Love	239-2121	302-521-6410	plove@wilmingtonchristian.org	Private/8-12	
	Wilm. Friends	Jeff Ransom	576-2900	302-502-5949	jransom@wilmingtonfriends.org	Private/8-12	
	Wilm. Friends (asst.)	Joe Thompson	576-2900	302-362-2077	jthomson@wilmingtonfriends.org	Private/8-12	
	Archmere	Dave Oswinkle	798-6632	401-932-9916	doswinkle@archmereacademy.com	Private/9-12	
	Conrad	Pat Williamson	992-5545	463-3216	patrick.williamson@redclay.k12.de.us	Red Clay/8-12	
	Charter/Cab	Chris Eddy	651-2727	598-8899	ceddy@charterschool.org	Red Clay/9-12	
	DMA	Jeremy Jeanne	998-0745	442-0286	Jeremy.jeanne@dma.k12.de.us	Charter/9-12	7/30/2019
	First State Military	Blair Newman	233-2150		blair.newman@fsmilitary.k12.de.us	Charter/9-11	
	Newark Charter HS	Greg Shivery	369-2001	302-743-3164	greg.shivery@ncs.k12.de.us	Charter/8-11	
Diamond State Athletic Conference	MOT Charter	Alycia Jefferson	696-2000	302-245-5775	alycia.jefferson@mot.k12.de.us	Charter/8-12	
	RLCA/ (Tall Oaks)	Kenneth Anderson	834-2526	302-345-6182	kanderson@reachschools.online	Private/8-12	

School	AD Name	School	AD Office	Cell	Email	District/Grades	Updated
Caesar Rodney	Bob Beron	697-2161	697-2161 Ext 1057	632-1511	robert.beron@cr.k12.de.us	Caesar Rodney/9-12	
Cape Henlopen	Bob Ciento	645-7711	645-7099	302-228-4470	Robert.ciento@cape.k12.de.us	Cape Henlopen/9-12	
Delmar	David Hearn	846-9544	846-9544 Ext 116	302-381-4061	david.hearn@delmar.k12.de.us	Delmar/8-12	
Dover	Kevin Turner	241-2400	241-2449	222-2884	kevin.turner@capital.k12.de.us	Capital/9-12	
Early College	Timothy Yancy	678-3247	678-3247	668-7482	timothy.yancy@echs.k12.de.us	Charter/9-12	
Indian River	Todd Fuhrmann	732-1500	732-1500 Ext 2129	302-344-6222	todd.fuhrmann@irsd.k12.de.us	Indian River/9-12	
Lake Forest	Fred Johnson	284-9291	284-9291 Ext 531	302-399-5390	fred.johnson@lf.k12.de.us	Lake Forest/9-12	8/5/2019
Laurel	Jerry Mears	875-6120	875-6159	302-249-0128	gerald.mears@laurel.k12.de.us	Laurel/9-12	
Milford	Ryan Winkleblech	302-422-1610	302-422-1610, x1603	228-1669	RWinkleb@msd.k12.de.us	Milford/9-12	
Polytech	Kevin Smith	697-3255	697-4538	302-470-5078	kevin.smith@polytech.k12.de.us	Polytech/9-12	
Seaford	Jerry Kobasa	629-4587	629-4587 Ext 1560	302-270-2654	gerald.kobasa@seaford.k12.de.us	Seaford/9-12	
Smyrna	Bill Schultz	653-8581	653-2750	302-236-5161	william.schultz@smyrna.k12.de.us	Smyrna/9-12	
Sussex Academy	Steve Bastianelli	856-3636	856-3636 ext 1106	229-5336	steve.bastianelli@saas.k12.de.us	Charter/8-12	
Sussex Central	Shawn Tidwell	934-3166	934-3160	302-236-6993	shawn.tidwell@irsd.k12.de.us	Indian River/9-12	
Sussex Tech	Nick Pegelow	856-0961	853-1523	302-236-9341	nick.pegelow@sussexvt.k12.de.us	Sussex Tech/9-12	
Woodbridge	Ian Daws	232-3322	232-3322	607-768-1388	ian.daws@wsd.k12.de.us	Woodbridge/9-12	
Aquinas Academy	Jack Moore	838-9601	838-9601		jack.moore@aquinasacademy.net		
Caravel	Craig Bailey	834-8938	834-8938 Ext 115	215-858-8721	cbailey@caravel.org	Private/8-12	7/15/2019
Centreville Layton	Richard Taubar	571-0230	571-0230	610-883-2358	rtaubar@centrevillelayton.org	Private/8-12	
Delaware Valley Classical School	David Corbett	455-8740	455-8740	205-965-1636	dcorbett@dvclassical.org	Private/8-12	7/8/2019
Delmarva Christian	Jim Berger	856-4040	856-4040	302-430-4560	jberger@delmarvachristian.com	Private/8-12	
Ferris	Emmanuel Carlis	993-3853	993-3863	610-636-2184	emmanuel.carlis@delaware.gov	State/9-12	8/12/2019
Friere	Khyie Nelson	407-4800	407-4800 Ext. 206		Khyie.Nelson@freirewilmington.org	Charter/8-10	7/9/2019
Mt. Sophia	Jeff Hunter	547-2285	547-5912	302-545-1536	jth87@juno.com	Private/8-12	
Odyssey Charter	Matt Laudeman	994-6490	994-6490, x-512	438-9614	Matthew.Laudeman@odyssey.k12.de.us	Charter/ 6-9	
Padua	Lindsay Brown	421-3739	421-3739 ext 123	302-757-6763	lbrown@paduaacademy.org	Private/9-12	
Salesianum	Scott Mosier	654-2495	654-7736	856-296-5248	smosier@salesianum.org	Private/9-12	7/8/2019
St. Elizabeth	Marvin Dooley	656-3369	656-3369 Ext 3024	302-528-6366	mdooley@sehs.org	Private/8-12	
St. Mark's	Matt Smith	738-3300	757-8716	302-438-7036	msmith@stmarks.net	Private/9-12	
St. Thomas More	Tyler Simpkins	697-8100	697-8100 Ext 115		tsimpkins@saintmore.org	Private/9-12	9/5/2019
Sterk School	Nicole Laszczynski	454-2301	454-2301	609-468-0489	nicole.laszczyński@christina.k12.de.us	Christina/K-12	
Ursuline	Susan Heiss	658-7158	658-7158 Ext 232	302-293-4513	sheiss@ursuline.org	Private/8-12	

Non-Conference

Henlopen Athletic Conference

School	AD Name	School	AD Office	Cell	Email	District/Grades	Updated
Al Middle	Timothy Martin	651-2691	651-2691	302-229-3241	timothy.martin@redclay.k12.de.us	Red Clay/6-8	
Aspira	Michael Torres	292-1463		302-257-8124	michael.torres@laaa.k12.de.us	Charter/K-8	8/12/2019
Bayard Middle	Ivan Holland	429-4118			hollandi@christina.k12.de.us	Christina/6-8	9/27/2019
Brandywine Springs	Brian Starrett	636-5681	636-5681 x225	540-1563	Brian.Starrett@redclay.k12.de.us	Red Clay/K-8	
Caravel	Craig Bailey	834-8938	834-8938 Ext 115	215-858-8721	cbailey@caravel.org	Private/K-8	8/19/2019
Centreville Layton	Jon Santora	571-0230	571-0230	302-354-8576	isantora@centrevillelayton.org	Private/K-8	
Charter of New Castle	Ron Wade	324-8901	324-8901 ext 349		Ron.Wade@va.k12.de.us	Charter/K-8	
Conrad	Pat Williamson	992-5545	992-5545	302-540-3323	patrick.williamson@redclay.k12.de.us	Red Clay/6-8	
Delaware Valley Classical School	David Corbett	455-8740	455-8740	205-965-1636	dcorbett@dvclassical.org	Private/8-12	7/8/2019
Eastside Charter	Roy Jones	302-376-5834	302-762-5834	336-675-1224	roy.jones@escs.k12.de.us	Charter/K-8	
First State Montessori	Courtney Fox	302-376-1500			courtney.fox@fsma.k12.de.us	Charter/K-8	
Gateway Lab	Larry Sontowski	633-4091	633-4091		larry.sontowski@qls.k12.de.us	Charter/K-8	
Gauger Cobbs	Monica Tucker	454-2357	454-2357 ext 221	302-650-3605	MONICA.TUCKER@christina.k12.de.us	Colonial/6-8	
George Read	Devin Sawdey	323-2760	323-2765	302-738-3285	dsawdey@colonial.k12.de.us	Colonial/6-8	
Great Oaks Charter	Richard Kearney	302-332-6110	302-332-6110	302-483-7141	rkearney@greatoakscharter.org	Charter/K-8	
Gunning Bedford	Michael Brelick	832-6280	832-6280	302-545-4328	michael.brelick@colonial.k12.de.us	Colonial/6-8	
HB duPont	Steve Fairfield	239-3420	239-3420	302-489-9737	stephen.fairfield@redclay.k12.de.us	Red Clay/6-8	
Independence	Heather Horsey	239-0330	239-0330	302-584-6356	hhorsey@tisdde.org	Private/K-8	
Independence	Jason Motta	239-0330	239-0330	302-250-1079	imotta@tisdde.org	Private/K-8	
Kirk	Kevis Moody	454-2164	454-2164	302-293-7828	kevis.moody@christina.k12.de.us	Christina/6-8	
Kuumba	Deon Booker	660-4750	660-4750 Ext 132	302-268-0995	deon.booker@kuumba.k12.de.us	Charter K-8	
McCullough	Eric Armstrong	429-4000	429-4000 ext 1642	302-757-4051	earmstrong@colonial.k12.de.us	Colonial/6-8	
MOT Charter	Bill Crook	302-373-8116	302-373-8116	302-373-8116	bill.crook@mot.k12.de.us	Charter/K-8	
Newark Chart. MS	Tim Reighart	369-2001	369-2001x-507	302-354-4315	timothy.reighart@ncs.k12.de.us	Charter/K-8	
Pilot School	Mike Danko	478-1740	478-1740	610-314-6093	mdanko@pilotschool.org	Private/K-8	
Prestige	William Khan	762-3240	762-3240 ext 151	302-333-4135	wilkhan619@aol.com	Charter/5-8	
PS DuPont	Casey Lazaric	762-7146	762-7142		casey.feeley@bsd.k12.de.us	Brandywine/6-8	8/30/2019
Red Lion Middle	Kenneth Anderson	834-2526	834-2526 Ext 818	302-345-6182	kanderson@reachschools.online	Private/K-8	8/19/2019
Sanford	Joan Samonisky	235-6523	302-235-6523	302-218-8159	samoniskyjoan@sanfordschool.org	Private/K-8	
Shue	Kristopher James	454-2171			kristopher.james@christina.k12.de.us	Christina/6-8	8/24/2019
Skyline	Pete Metrinko	454-3410	454-3410 Ext 126		peter.metrinko@redclay.k12.de.us	Red Clay/6-8	
Springer	Greg Xenakes	479-1621	479-1621		gregory.xenakes@bsd.k12.de.us	Brandywine/6-8	
Stanton	Scott Behnke	992-5540	992-5540 ext 144	302-750-4225	scot.behnke@redclay.k12.de.us	Red Clay/6-8	
St. Anne's	Pam Kern	378-3179	378-3179 ext 330	302-584-2986	pkern@saintannesschool.org	Private/K-8	
Talley	Tania Milionis	475-3976	475-3976	302-475-1635	tania.milionis@bsd.k12.de.us	Brandywine/6-8	
Tatnall	Patrick Jones	998-2292	892-4311	302-363-0865	patrickjones@tatnall.org	Private/K-8	
Thomas Edison	Chris Belcher	778-1101	778-1101	302-465-5613	chris.belcher@tccs.k12.de.us	Charter/K-8	
Tower Hill	Seth Kushkin	575-0550	575-0550 Ext 212	720-245-5528	skushkin@towerhill.org	Private/K-8	
Wilm Christian	Pam Love	239-2121	239-2121 Ext 3320	302-521-6410	plove@wilmingtonchristian.org	Private/K-8	
Wilm Friends	Jeff Ransom	576-2900	576-2936	302-502-5949	jransom@wilmingtonfriends.org	Private/K-8	

School	AD Name	School	AD Office	Cell	Email	District/Grades	Updated
Beacon MS	Bob Ciento	645-6288	645-7099 Ext 262	302-228-4470	robert.ciento@cape.k12.de.us	Cape Henlopen/6-8	
Campus Comm	David Czepukaitis	736-0403	736-0403 Ext 127		David.Czepukaitis@ccs.k12.de.us	Charter/K-8	
Dover AFB	Charles Konadu-Adjei	674-3284	674-3284	917-865-8524	charles.konadu-adjai@cr.k12.de.us	Caesar Rodney/6-8	
Central MS (Dover)	Stephen Poole	672-1772	222-3146	302-241-6207	Stephen.Poole@capital.k12.de.us	Capital/6-8	
Fifer MS	Allison Gerni	698-8400	698-8400 Ext 334		allison.gerni@cr.k12.de.us	Caesar Rodney/6-8	
Georgetown	Eric McGuire	856-1900	856-1900		eric.mcguire@irsd.k12.de.us	Indian River/6-8	9/26/2019
Holy Cross	Wallace Seams	674-5784	674-5784	302-672-9243	wseams@holycrossdover.org	Private/K-8	
Laurel Central	Jerry Mears	875-6110	875-6159	302-249-6047	gerald.mears@laurel.k12.de.us	Laurel/5-8	
Mariner MS	Bob Ciento	684-8516	645-7099 Ext 262	302-228-4470	robert.ciento@cape.k12.de.us	Cape Henlopen/6-8	
Milford Central	Ryan Winkleblech	422-1620	302-422-1610	228-1669	rwinkleb@msd.k12.de.us	Milford/6-8	
Millisboro	Bart Goldberg	934-3200	302-934-3200 ext 311037		bart.goldberg@irsd.k12.de.us	Indian River/6-8	
Postlettwait	Adam Brown	698-8410	698-8410 Ext 148	302-270-6233	adam.brown@cr.k12.de.us	Caesar Rodney/6-8	
Providence Crk	Joe Lightcap	653-5314	653-6276 Ext 2128	302-650-9433	Joseph.Lightcap@PCA.k12.de.us	Charter/K-8	
Seaford MS	Jerry Kobasa	629-4587	629-4587 Ext 303	302-270-2654	gerald.kobasa@seaford.k12.de.us	Seaford/5-8	
Selbyville MS	Jesse Bare	436-1020	436-1020 ext 501	302-745-8247	jesse.bare@irsd.k12.de.us	Indian River/6-8	
Smyrna MS	Megan Vascellaro	653-8584	653-8584		megan.vascellaro@smyrna.k12.de.us	Smyrna/7-8	
Sussex Academy	Steve Bastianelli	856-3636	856-3636 ext 1106	229-5336	steve.bastianelli@saas.k12.de.us	Charter/8-12	
W.T. Chipman	Deweese (Pete) Davis	398-8197	398-8197 ext 230	302-505-2194	deweese.davis@lf.k12.de.us	Lake Forest/6-8	
Woodbridge MS	Sean McGuigan	337-8289	337-8289		sean.mcguigan@wsd.k12.de.us	Woodbridge/6-8	

Kent & Sussex County Middle Schools

Executive Director	Mike Wagner			242-4940	loyolawags@gmail.com	DAAD	
President	Mike Hart			743-5236	mhart@salesianum.org	DAAD	8/24/2019



**Memorandum of Understanding
Between
Delaware Interscholastic Athletic Association
And**

[REDACTED]

I. TITLE OF THE AGREEMENT

This agreement shall be known as the Memorandum of Understanding (the "MOU") between the Delaware Interscholastic Athletic Association ("DIAA") and [REDACTED] Middle/High School (the "Member School").

II. PARTIES INVOLVED

The parties to this MOU are DIAA, a unit of the Delaware Department of Education (the "Department"), and Member School. DIAA derives its authority from Title 14 (Education), Chapter 3.

III. PURPOSE

The purpose of this MOU is to set forth the responsibilities of DIAA and Member School with respect to Member School's payment of fees and compliance with DIAA rules and regulations.

IV. TERMS OF AGREEMENT

Now therefore, this 1st day of July, 2019, the parties hereby agree to the following terms and conditions:

- A. Term.** This MOU shall take effect on the date written above and shall continue through and including June 30, 2020.
- B. Annual Membership Fee.** Member School shall submit payment of the annual membership fee in the amount of \$ [REDACTED] *to DIAA on or before October 1, 2019. *Plus Sports Participation Fees from IV. C2. (DIAA will send the intergovernmental voucher or invoice to Member School after the MOU is signed.)

The membership dues schedule is set forth in 14 Del. Admin. C. § 1006-2.3, which provides that:

Middle and high schools located in the same administrative unit and combined enrollment of grades 6th through 12th is 499 or less the school shall pay the high school fee and exempt from the middle school fee.

- \$500.00 middle schools
- \$750.00 for high schools with enrollments of 499 or less
- \$1,000 for high schools with enrollments of 999 or less
- \$1,250 for high schools with enrollments of 1,499 or less
- \$1,500 for high schools with enrollments of 1,999 or less
- \$1,750 for high schools with enrollments of 2,000 or more

1. **Form.** The payment shall be submitted to DIAA via an intergovernmental voucher account code 950103 for public schools or check made payable to DIAA for private schools.
2. **Amount.** The amount of payment is based on Member School's September 30, 2018 enrollment count as verified by the Department of Education.
3. **Late fee and penalties.** If Member School has not paid the annual membership fee in full by January 1, 2020, Member School shall be assessed a 10% late fee. Member School may be subject to penalties as determined by the DIAA Board of Directors.

C. **Sports Participation Fees.** If Member School sponsors one or more of the sports in subsection 2 below, Member School shall submit payment of the sports participation fee associated with the sport or sports to DIAA. Sports participation fees cover costs associated with conducting a sport during the regular season. DIAA shall not require Member School to pay any additional fees for sponsoring a sport.

1. **Form.** The payment shall be submitted to DIAA via an intergovernmental voucher or check made payable to DIAA.
2. **Amount.** Member School shall pay the sports participation fee *for each of the following sports that Member School sponsors during the 2019-2020:*

Sport	Sports Participation Fee
Cross Country	Boys' Team – \$50 Girls' Team – \$50
Golf	\$50
Individual Wrestling	\$100
Indoor Track	Boys' Team – \$50 Girls' Team – \$50
Outdoor Track	Boys' Team – \$50 Girls' Team – \$50
Swimming	Boys' Team – \$50 Girls' Team – \$50
Tennis	Boys' Team – \$50 Girls' Team – \$50

Total Fees owed -
Plus Fee from IV.B

3. **Due Date.** Prepayment is mandatory. Member School shall submit payment of sports participation fees to DIAA on or before October 1, 2019.
4. **Late fee.** If Member School has not paid the sports participation fees in full by January 1, 2020, Member School shall be assessed a 10% late fee.

D. 2019-20 Sport Sponsorship

Member School agrees to sponsor the following sports for the 2019-20 academic year.

Check sports you sponsored 2018-19 and sports you will sponsor 2019-20.

2018-19	2019-20	Sport	2018-19	2019-20	Sport
		Football			Baseball
		Field Hockey			Softball
		Cross Country – Boys			Lacrosse – Boys
		Cross Country – Girls			Lacrosse – Girls
		Soccer – Boys			Tennis – Boys
		Soccer – Girls			Tennis – Girls
		Volleyball			Outdoor Track – Boys
		Basketball – Boys			Outdoor Track – Girls
		Basketball – Girls			Golf
		Indoor Track - Boys			Unified Football
		Indoor Track – Girls			Unified Basketball
		Swimming & Diving - Boys			Unified Outdoor Track
		Swimming & Diving - Girls			
		Wrestling			

- E. Membership Benefits.** Upon payment of the annual membership fee and any sports participation fees, Member School shall receive:
1. The ability to play other DIAA member schools;
 2. The opportunity to compete for DIAA sport championships;
 3. National Federation of State High School Associations ("NFHS") publications and Rules Books for all sports for Member School's Head Coaches and Athletic Director;
 4. Professional Development courses for Member School's Athletic Director at no cost with annual DAAD membership.
 5. Rules Clinics for Member School's coaches;
 6. The opportunity to nominate students for DIAA Scholar Athlete Scholarships;
 7. The opportunity to nominate students for the NFHS and DIAA Student Leadership Conferences; and
 8. The ability to participate in DIAA Sports and Rules Committees.
- F. Compliance with DIAA Rules and Regulations.** Member School shall comply with DIAA's rules and regulations.
- G. State Championship Tournament Host.** If Member School hosts a state championship tournament event, Member School shall abide by the provisions set forth in an addendum to this MOU that shall be signed by DIAA and Member School prior to the start of the event. Any such addendum shall be incorporated into this MOU.
- H. CONTACT INFORMATION.** Unless otherwise provided in writing, all notices, consent, or approval shall be provided in writing to the following designated individuals:

DIAA

Gary Cimaglia
Executive Director
Delaware Interscholastic Athletic Association
35 Commerce Way, Suite 1
Dover, DE 19904-5747

Member School

Principal / Head of School Name [REDACTED]
Email [REDACTED]
School Name [REDACTED]
School Address [REDACTED]
School City, State, Zip [REDACTED]
School Telephone [REDACTED]

- I. **APPROVAL.** The undersigned authorized individuals of the DIAA and the Member School commit their respective organizations to the terms of this MOU.

The undersigned hereby agree to the terms of this Memorandum of Understanding.

For Delaware Interscholastic Athletic Association

For School Name

**Bradley Layfield, Ed. D.,
DIAA Chairperson**

Principal / Head of School

Date

Date

FOR DOE OFFICE USE ONLY:

_____ Michael Rodriguez, Associate Secretary of Student Support _____ Date

_____ Kimberly Klein, Director of Finance _____ Date

_____ Chuck Longfellow, Associate Secretary of Operations Support _____ Date

Annual Report to the 150th General Assembly and Governor of Delaware
Delaware Interscholastic Athletic Association
January 1, 2018 to December 31, 2018

Purpose: The Delaware Interscholastic Athletic Association (DIAA) was created under House Bill No. 475 of the 141st General Assembly. The DIAA mission is to preserve and promote the educational significance of interscholastic athletics; ensure that interscholastic sports remains compatible with the mission of the member schools; provide for fair competition between member schools; promote sportsmanship and ethical behavior; establish and enforce standards of conduct for athletes, coaches, administrators, officials and spectators; protect the physical well-being of athletes; and promote healthy adolescent lifestyles.

The General Assembly intends for the DIAA to work in consultation and cooperation with the Department of Education to implement this charge.

Rules and Regulations: The DIAA is responsible for developing rules and regulations relating to secondary and middle school interscholastic athletics for all Delaware public schools, and such Delaware private schools which elect to become members of DIAA.

The following changes were made to the DIAA Regulations during 2018;

Regulations 1008 & 1009-8.0 (effective March 11, 2018), clarified and reorganized the regulations regarding the use of game officials.

Regulation 1006-3.0 (effective July 11, 2018), made changes to the regulations regarding DIAA committees.

Regulations 1008-2.3.3 & 1009-2.3.4 (effective July 1, 2018), clarified language related to School Choice.

Regulation 1007 (effective August 11, 2018), added definitions and clarified language related to the Sportsmanship section and Contest Ejections.

Regulation 1008-2.4, 2.6, 2.7 (effective November 11, 2018), clarified the language for the Middle School regulation regarding Transfers, Passing Work and Years of Eligibility to be consistent with the High School Regulations.

Regulations 1008 & 1009-3.0 (effective November 11, 2018), placed the Concussion Protocol in regulation, clarified definition for Qualified Health Care Professional and Physician.

Regulations 1008 & 1009-7.0 (effective November 11, 2018), clarified language related to the Concussion protocol and added the regulation that all football coaches must annually be certified in the “Heads Up” football training.

Regulation 1008 & 1009.7.6 (effective June 2, 2019), the regulations for coaching out of season were changed.

DIAA rules and regulations are developed with full input from member schools and the DIAA Board of Directors and with the opportunity for review and comment by the public and are subject to the approval of the Delaware State Board of Education. As a result, the rules and regulations implemented by DIAA represent the collective wisdom of all involved.

The DIAA Handbook is available on the DOE web site at: <https://www.doe.k12.de.us/Page/1670>

In accordance with the requirements of 14 DE Code §303(b), DIAA regulations do not deny a student's right to participate on a non-school team similar to the school team on which he or she is a member with the authorized consent of the student's parent, custodian or guardian.

Duties, Powers and Authority: The DIAA has the authority to establish annual dues for its members, establish fees for officiating contests and competitions, establish standing committees, monitor its rules and regulations and investigate violations to its regulations.

As part of the benefits of membership, the DIAA purchases both catastrophic health insurance for its member schools and liability insurance for its tournaments and the Board of Directors. Purchasing insurance in this manner significantly reduces the cost of such insurance to member schools. Virtually all of member schools' dues paid to DIAA are applied to the cost of this insurance coverage.

Membership & Participation: Membership in DIAA continues to prove to be a worthwhile investment for Delaware schools. DIAA's education based interscholastic athletics mission is in harmony with the mission of our member schools. Since DIAA's creation in 2002 membership has increased. Membership in DIAA now stands at 118 member schools – 63 high schools and 55 middle schools. When DIAA was formed in July of 2002 it had 71 members consisting of 48 high schools and 23 middle schools.

Participation in interscholastic athletics represents an important part of the educational experience of Delaware middle and high school students. Educators consider interscholastic athletics to be an important extension of the classroom where many life skills are best learned. During the 2017-2018 school year, 30,034 students participated in interscholastic athletics at the high school level. This represents the single largest extracurricular activity at DIAA member schools. This includes 16,217 males and 13,817 females (including participation in competitive and sideline spirit/cheer). The rate of participation by females stands at 46%, which exceeds the national rate of 42.2%. Participation in interscholastic athletics is judged by many educators to be a prime motivator for many students to stay in school and achieve academic success.

Boys' and girls' basketball are the male and female sports with the largest participation rate by school with 59 different member schools fielding a boys and/or girls team. Football remains the male sport with the greatest number of male participants at 2,777. Girls' soccer continues as the girls' sport with the greatest number of participants at 1,701. The full listing of participants by sport and gender and the number of schools sponsoring at least one team in that sport is shown below.

DIAA Participation Summary					
Males 2017-2018			Females 2017-2018		
Sport	Athletes	Schools	Sport	Athletes	Schools
Cross Country	1012	52	Cross Country	881	52
Football	2777	45	Field Hockey	1525	51
Soccer	2104	55	Volleyball	1623	56
Cheer	26	8	Cheer	1009	39
Basketball	1653	59	Basketball	1147	59
Wrestling	1040	46	Wrestling	12	8
Indoor Track	892	32	Indoor Track	868	40
Swimming/Diving	716	40	Swimming/Diving	812	41
Baseball	1525	55	Softball	1082	48
Crew	86	3	Crew	121	5
Golf	407	49	Golf	126	32
Lacrosse	1767	48	Lacrosse	1140	35
Outdoor Track	1603	47	Outdoor Track	1279	48
Tennis	455	33	Tennis	566	36
Volleyball	154	8	Soccer	1701	54
	16,217			13,817	

National Federation of State High School Association (NFHS) Membership: DIAA is a proud member of the NFHS, since January 1945. The NFHS serves its' member associations, related professional organizations, and students by providing leadership for the administration of education-based interscholastic activities that support academic achievement, good citizenship and equitable opportunities. NFHS is the nationally recognized expert in the area of writing the playing rules for most interscholastic sports and they are recognized as the leader in research and policy advocacy in the area of sport safety for interscholastic athletes.

Meetings of the Association: The DIAA Board of Directors meetings are scheduled for the second Thursday of each month. The one exception is the Annual Meeting of the entire DIAA, which is held on the third Thursday of the month of January. Minutes of all Board meetings are posted on the State of Delaware web page and the DIAA web page. They are on file in the DIAA office. All meetings and agendas are posted on the State of Delaware web page in accordance with Delaware law.

Composition of the DIAA Board/Staff: The DIAA Board consists of 19 voting members and one non-voting member as follows:

- 1) Two school district superintendents / assistant superintendents who shall be residents of different counties.
- 2) Three representatives of school district boards of education who shall be residents of different counties.
- 3) Three public school principals/assistant principals, one of which shall be from each county.
- 4) Two public school athletic directors/ coaches who shall be from different counties.
- 5) Two non- public representatives of which one shall be a secondary school administrator and one shall either be a secondary school athletic director or coach.
- 6) One Department of Education representative who shall be a nonvoting member.
- 7) Six public members of which two shall be from each county
- 8) One DE certified physician who shall serve at the pleasure of the Governor.

The Governor, with the advice and consent of the Senate, appoints all voting members.

The DIAA Board of Directors with appointments by the Governor and confirmation of the Senate served for the entire calendar year. Dr. Bradley Layfield was re-elected Chair and Mr. Gary Cimaglia was re-elected Vice-Chair in May 2018. One new board member was appointed in April 2018: Dr. Kathy Andrus, Public Member from Sussex County. Dr. Mervin Daugherty left the Board in October due to resigning as the Superintendent of the Red Clay School District, the position on the Board is now vacant.

The DIAA Staff from January 2018 until July 13, 2018 consisted of Mr. Thomas E. Neubauer, CMAA, Executive Director; Ms. Terre Taylor, Coordinator of Interscholastic Athletics; and Ms. Tina Bates, Administrative Secretary. Ms. Taylor resigned from the DIAA on July 13, 2018. She was replaced by Ms. Donna Polk on November 13, 2018. Mr. Michael Rodriguez, DOE Associate Secretary of Student Support, provides administrative oversight on behalf of the Department of Education. Laura Makransky, Esq. DE DAG, provides legal counsel to the Board.

The current DIAA Board of Directors:

DIAA Board of Directors, 2018-19 School Year

DIAA Staff

Thomas E. [Tommie] Neubauer, Executive Director / Donna Polk, Coordinator Interscholastic Athletics
Tina Bates, Secretary

OFFICERS

Chairperson – Dr. Bradley Layfield/ Vice Chairperson – Gary Cimaglia

PUBLIC SCHOOL MEMBERS

NEW CASTLE COUNTY

		<u>Term Expires</u>
Dr. Matthew Donovan	Principal, Middletown High School	2019
W.T. [Ted] Laws	School Board Member, Colonial School District	2018
<i>Vacant</i>	Superintendent,	2020
Jeremy Jeanne	Athletic Director, Glasgow High School	2019

KENT COUNTY

Dr. Evelyn Edney	Principal, Early College High School at DSU	2020
Dr. Kevin Fitzgerald	Superintendent, Caesar Rodney School District	2018
Vetra Evans-Gunter	School Board Member, Smyrna School District	2019

SUSSEX COUNTY

Michael Breeding	School Board Member, Woodbridge School District	2018
Dr. Bradley Layfield	Principal, Sussex Central High School	2019
Bob Cilento	Athletic Director, Cape Henlopen High School	2019

NON-PUBLIC SCHOOL MEMBERS

Stanley Waterman	Dean, Sanford School	2019
Mike Hart	Athletic Director, Salesianum School	2020

PUBLIC MEMBERS

New Castle County

Douglas Thompson (2019)
Robert Watson, Jr. (2019)

Kent County

Bruce Harris (2020)
Gary Cimaglia (2020)

Sussex County

Dr. Kathy Andrus (2021)
Leroy Mann (2018)

MEDICAL MEMBER

Dr. Bradley Bley (Indefinite)

DEPARTMENT OF EDUCATION

Mr. Michael Rodriguez	Associate Secretary (Non-Voting Member)	(Indefinite)
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DIAA Office Location: The DIAA office is located at the John W. Collette Education Resource Center in Enterprise Business Park. 35 Commerce Way, Suite 1 Dover, DE 19904. The DIAA Main office phone number is (302) 857-3365.

Standing Committees: The DIAA has a total of 22 standing committees. Approximately 250 volunteers, without whom DIAA could not accomplish its mission, staff these committees. There are standing committees for Rules and Regulations, Sportsmanship, Officials, Unified Sports and Sports Medicine as well as 17 sport specific committees. These standing committees operate under the Freedom of Information Act. The committees and their chairs are as follows:

- Sports Medicine Advisory Committee- Dr. Michael Axe
- Rules and Regulations Committee- Gary Cimaglia
- Sportsmanship Committee- Heath Chasanov
- Officials Committee- Bill Schultz
- Unified Sports – Kylie frazer
- Cross Country Committee- George Pepper
- Field Hockey Committee- Sharyn Wingate
- Football Committee- James Comegys
- Boys’ Soccer Committee- Bob Bussiere
- Girls’ Volleyball Committee- Nancy Griskowitz
- Boys’ Basketball Committee- Brian Fahey
- Girls’ Basketball Committee- Ruth Lajoie
- Swimming and Diving Committee- Mike Hart
- Indoor Track Committee- Jim Fischer
- Wrestling Committee- Buddy Lloyd
- Baseball Committee- Mike Hart
- Softball Committee- Pam Love
- Tennis Committee- Sebrina Perialas
- Outdoor Track Committee- Jim Fischer
- Boys’ Lacrosse Committee- Dave Oswinkle
- Girls’ Lacrosse Committee- Debbie Windett
- Girls’ Soccer Committee- Paul Booton

The major function of the sport committees includes the management of DIAA state tournaments resulting in 32 State Championship titles awarded in 12 boys’, 11 girls’ and 2 Unified sports. Other functions include advising the DIAA Board of Directors on issues affecting each sport and related sports projects.

Rules Interpreters: DIAA appoints rules interpreters to assist member schools, coaches and officials in the proper interpretation and application of playing rules. The 2017 DIAA rules interpreters were:

- Baseball- Dave Farone
- Basketball- Layne Drexel
- Cheer/Spirit- Whitney Reed-Pierson
- Field Hockey- Vicki Rhodes
- Football- Andy Bero
- Golf- Bill Barrow
- Lacrosse, Boys’ - JP Bennett
- Lacrosse, Girls’ – Jill Fitzcharles

- Soccer- John Brady
- Softball- Diane Carden
- Swimming/Diving- Fred Killian
- Tennis- Deb Corrado
- Track and Field/Cross Country- Ralph Heiss
- Volleyball- Kelly Callahan
- Wrestling- Joe Lobo

Secondary Interscholastic Athletic Fund: The primary source of revenue used to support DIAA is derived through ticket sales at our state championship events (~85%). A special fund has been created at the Department of Education to receive and track revenue of the organization. All membership dues, sponsorship funds and revenues from DIAA championships are deposited into this account. The account is administered under the State of Delaware Accounting System (DFMS) in cooperation with the DOE Financial Office.

Waiver Requests: During calendar year 2018, the DIAA Board of Directors heard twenty-three requests for waivers of their regulations. The Board approved nineteen of these requests, denying four. Recent DIAA Regulation changes have aided in reducing the number of waivers the Board hears.

Significant Initiatives and Events in 2018

100th Anniversary – DIAA is commemorating the one-hundredth year of the beginning of organized interscholastic athletic in Delaware. A special 100th year logo has been designed and the DIAA Board is exploring the creation of a Delaware High School Hall of Fame.

Unified Sports- DIAA continued its relationship with Special Olympics Delaware (SODE) for the fifth year. Smyrna High School won their first Unified Flag Football State Championship by defeating defending champion Newark Charter. Delaware is the first state in the nation to feature Unified Flag Football. Caesar Rodney High School won Unified Track State Championship. Twelve schools began the first Unified Basketball Program during the 2018-2019 winter season.

Student Leadership Conferences

The NFHS sponsored a **National Student Leadership Summit** in Indianapolis, IN from July 23rd to the 25th. The NFHS and DIAA paid all expenses for six students and two adult leaders. The student ambassadors were Amelia Christensen (Concord High), Caden Dickerson (Seaford High), Jack Faust (Sussex Academy), Jane Lyons (Ursuline Academy), Dylan Nitsche (Tower Hill) and Grace Sekcinski (Milford High School).

The adult leaders were Jeff Ransome (Wilmington Friends School) and Theresa Repole (Newark Charter School).

The goal of the Summit was to employ a “train the trainers” approach to instructing the DIAA representatives on topics such as leadership, team unity, sportsmanship, character and responsible use of social media. The DIAA team was then to share what they learned at the DIAA State Student Leadership Conference.

The **DIAA Student Leadership Conference [SLC]** is an initiative that began in 2004 and continued in 2018. The SLC brings together top student-athletes from around the state to learn the same leadership and character skills that are taught at the NFHS Conference. These student leaders are then charged

with teaching these skills to student-athletes at their schools and in their Conferences. For the fifteenth straight year the SLC was held at the University of Delaware's Virden Center in Lewes, Delaware. Twenty-five of Delaware's top student-athletes and five adult mentors gathered from August 3rd through the 5th to listen to speakers, participate in community service programs, conduct workshops on current issues, discuss leadership and sportsmanship, and have a little fun as well. Linda Ogden, College counseling Administrator of Tower Hill, Jeff Ransome, Athletic Director at Friends School and Theresa Reploe, Athletic Trainer at Newark Charter School served as the Conference Directors. The Staff completely reworked this year's Agenda to focus on more student-led activities. Other adult staff members included Ed Smith, Glasgow High School, and Tommie Neubauer. The service project was a day of activity together at Camp Barnes. SODE athletes and the DIAA student leaders participated together in games, social activities, arts and crafts, athletic competitions, dinner and ended the day with a rousing sing along by the campfire. This was the sixth year in a row that SODE and DIAA collaborated on the joint service project. The thirty students and adults represented twenty-four different high schools and all Conferences and counties in Delaware.

DIAA and SODE also collaborated on a one-day statewide **Student Leadership Conference**. On October 30th, SODE sponsored a Statewide SLC for DIAA member high schools. The event was held at the Del Tech Terry Campus. Over 180 student athletes and staff attended the daylong program of national speakers, group activities and workshops. The key topics were; sportsmanship, leadership and responsible use of social media. The students and adults in attendance represented 35 DIAA high schools all Conferences and counties in Delaware. The day was partially funded by a grant from the Allstate Foundation.

Legislative Action – SR79, a concurrent resolution passed in June directed the DOE/DIAA to promulgate regulations related to the current DIAA Coaching out of Season regulations. SB241 established the DIAA to have the authority to set officiating fees.

NFHS Network- DIAA continues to be a part of the NFHS Network. The Network is a partnership between the NFHS, NFHS state associations and PlayOn Sports. The Network web streams state championship games on the internet for a fee. Locally, 302 Sports has been contracted as the production company for all DIAA Tournament events.

Scholarship- The winners of the 2018 DIAA/Harry Roberts Senior Scholar-Athlete awards are listed below. The Award is named in recognition and memory of Dr. Harry Roberts, former Superintendent of the Caesar Rodney School District who served DIAA on several committees, most notably as Chair of the DIAA Sportsmanship Committee for many years. The awards are presented annually by the DIAA based on a student's academic, athletic and leadership achievements.

Females

First	(\$2,000):	Isabelle Pilson, Tower Hill
Second	(\$1500):	Nyra Giles, Laurel
Third	(\$1000 each):	Stephanie Horne, Caesar Rodney Christina Bourantas, Wilmington Christian

Males

First	(\$2,000 each):	Thomas Pomatto, Caesar Rodney
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Second	(\$1500):	Michael Chen, Newark Charter
Third	(\$1000 each):	Nikhil Mehta, Appoquinimink
		Miles Petersen, Sanford School
		Paul Thompson, Mt. Pleasant

State Championships- During calendar year 2018 the following schools won DIAA state championships in the sports as listed:

Winter

Indoor Track and Field	Boys	Salesianum
	Girls	Padua
Dual Team Wrestling	Division I	Caesar Rodney
	Division II	Milford
Swimming and Diving	Boys	Salesianum
	Girls	Newark Charter
Basketball	Boys	Saint Elizabeth
	Girls	Conrad

Spring

Baseball		Cape Henlopen
Softball		Smyrna
Lacrosse	Boys	Salesianum
	Girls	Cape Henlopen
Girls' Soccer	Division I	Padua
	Division II	DMA
Tennis	Boys	Caesar Rodney
	Girls	Caesar Rodney
Track	Division I Boys	Dover
	Division I Girls	Padua
	Division II Boys	AI duPont
	Division II Girls	Tatnall
	Unified	Caesar Rodney
Golf		Tower Hill

Fall

Cross Country:	Division I Boys	Salesianum
	Division I Girls	Padua
	Division II Boys	Tatnall
	Division II Girls	Ursuline
Boys' Soccer	Division I	Salesianum
	Division II	Caravel
Field Hockey	Division I	Cape Henlopen
	Division II	Delmar
Volleyball		Charter School of Wilmington
Football	Division I	Sussex Central
	Division II	Woodbridge
	Unified	Smyrna

Individual champions were crowned in indoor track, individual wrestling, swimming and diving, tennis, outdoor track and field, golf and cross-country.

A complete listing of team champions can be found at <http://www.doe.k12.de.us/Page/1604>.

Sportsmanship- DIAA offers an annual statewide competition in sportsmanship. The member schools compete against a set of ten standards, not against other schools. Member schools submit an extensive portfolio that is judged by the Sportsmanship Committee to determine if each school has successfully met the standards. This is the first year that the Award was renamed to honor former DSSAA Executive Director Dale Famer. The seventeen winning schools are listed below. Thirty-four different member schools have now won this Award at least once in the twenty-two year history of the Award.

School	Times Won	School	Times Won
William Penn	21	Woodbridge	7
Sussex Tech	12	Charter	5
Concord	12	Tatnall	4
Caravel	10	Newark Charter	3
McKean	9	Brandywine	2
Conrad	9	Mt. Pleasant	2
Caesar Rodney	8	Middletown	2
Lake Forest	8	Springer Middle	2
Sanford	7		

Partnerships and Outreach:

DIAA continued to offer the option of online purchases of tickets to select semi-final and all finals events during the 2018 State tournaments. DIAA contracted with State Champs to provide this service.

In 2018, the DIAA partnered with Delaware based Marketing Special Promotions (MSP) to provide championship apparel for students and spectators of DIAA State Championship events. As part of the MSP agreement, tee shirts for the Student Leadership Conference are donated by MSP.

In 2018, the DIAA collaborated with the Delaware Chapter of the American Lung Association in a \$10,000 grant to promote a message of anti- tobacco use and healthy adolescent lifestyles. The message was delivered via public service announcements, program ads and scoreboard messages at all DIAA State Championship tournaments.

In 2018, DIAA had sponsorship agreements with NIKE, Wilson, Spalding/Dudley and Longstreth to provide game balls at no expense to DIAA for DIAA state championship events.

In 2018, DIAA had a sponsorship agreement with Delaware based Crown Trophy to provide partial sponsorship of state tournament medals and trophies.

In 2018, ATI Physical Therapy sponsored the purchase of heavy plastic Sideline Passes for identification at State Tournament Events.

In 2018, DIAA partnered with the Mid-Atlantic Milk Marketing Agency via their “REFUEL, got Chocolate Milk?” campaign.

In 2018, DIAA worked in cooperation with the University of Delaware to host DIAA state championship tournament games. The University hosted Division I and II football, Unified Flag football, girls’ volleyball, field hockey semi-finals and finals, boys’ and girls’ basketball quarterfinal, semi-finals and championship rounds, swimming & diving and all rounds of tennis except the finals.

Odessa National Country Club hosted the golf tournament, Brandywine Creek State Park hosted the cross-country championship meet, the Lower Sussex County Little League complex hosted the softball championship game, Frawley Stadium hosted the final three rounds of the baseball tournament. All other events were held at member school facilities.

Fiscal Concerns- In 2018, the DIAA Board continued the majority of the cost savings measures they initiated in 2009 on behalf of DIAA member schools. In February 2009, the DIAA Board appointed a Fiscal Concerns ad hoc committee in response to the fiscal crisis in Delaware. In April 2009, the DIAA Board approved eight of nine points in the plan presented by the ad hoc committee. For 2018 DIAA continued the following points that were adopted: a 10% reduction in maximum game schedules, a limit on the number of pre-season scrimmages, a moratorium on mandatory uniform changes by the NFHS playing rules, a directive to play more tournament events at the higher seeded member school and to enhance revenue generated through corporate partnerships. The DIAA Staff and Board are aware of rising security and venue rental costs for state tournament events that have compelled DIAA to ask for an increased spending limit beginning in FY20.

Budget- The DIAA Board of Directors established a FY19 budget of \$850,000. DIAA does not receive appropriations from the General Fund so they are authorized to have carry over revenues. Because the organization does not receive start up funds it must rely on carry over funds for operational expenses in the next fiscal year. DIAA ended FY18 with a loss of \$12,307.28 this was a result of lower attendance than in past years. The Spring season attendance was much lower than average due to very poor weather conditions. The Board has established a goal of 50% of the annual budget to be kept in reserve for carry over funds. The FY18 carry over balance was 114% of the FY 19 projected budget.

Representation on National Committees- DIAA and our member schools continue to support and provide expertise to NFHS national committees. The following Delawareans served on NFHS Committees in 2018:

- Jack Holloway (Tower Hill), NFHS Wrestling Rules
- James Connor (St. Georges), National Coaches Advisory
- Layne Drexel (IAABO #11) NFHS Basketball Rules
- Robert Gilmore (Polytech), Boys Lacrosse Rules
- Tommie Neubauer (DIAA Executive Director),
 - NFHS Boys’ Lacrosse Rules, Chair
 - NFHS Football Rules
 - NFHS National Council
 - NFHS National Records

Dr. Kevin Fitzgerald, Caesar Rodney School District Superintendent, is on the NFHS Board of Directors as an At-Large member representing Sections 2 and 6. Dr. Fitzgerald becomes the third Delawarean to serve on the NFHS Board of Directors (Dale C. Farmer, 1984-87 and Kevin Charles, 2009-2013).

With the exception of the National Council and the Football Rules Committee, all associated expenses for participation on these Committees are paid by the NFHS.

If there are any questions regarding this report or any other interest in the business of DIAA, please contact me during business hours at 302-934-3166.

Respectfully Submitted,

Bradley Layfield, Ed.D //

Bradley Layfield, Ed.D
Chair, DIAA Board of Directors
Delaware Interscholastic Athletic Association

Standing Committees: The DIAA has a total of 22 standing committees. Approximately 250 volunteers, without whom DIAA could not accomplish its mission, staff these committees. There are standing committees for Rules and Regulations, Sportsmanship, Officials, Unified Sports and Sports Medicine as well as 17 sport specific committees. These standing committees operate under the Freedom of Information Act. The committees and their chairs are as follows:

- Sports Medicine Advisory Committee- Dr. Michael Axe
- Rules and Regulations Committee- Gary Cimaglia
- Sportsmanship Committee- Heath Chasanov
- Officials Committee- Bill Schultz
- Unified Sports – Kylie frazer
- Cross Country Committee- George Pepper
- Field Hockey Committee- Sharyn Wingate
- Football Committee- James Comegys
- Boys' Soccer Committee- Bob Bussiere
- Girls' Volleyball Committee- Nancy Griskowitz
- Boys' Basketball Committee- Brian Fahey
- Girls' Basketball Committee- Ruth Lajoie
- Swimming and Diving Committee- Mike Hart
- Indoor Track Committee- Jim Fischer
- Wrestling Committee- Buddy Lloyd
- Baseball Committee- Mike Hart
- Softball Committee- Pam Love
- Tennis Committee- Sebrina Perialas
- Outdoor Track Committee- Jim Fischer
- Boys' Lacrosse Committee- Dave Oswinkle
- Girls' Lacrosse Committee- Debbie Windett
- Girls' Soccer Committee- Paul Booton

The major function of the sport committees includes the management of DIAA state tournaments resulting in 32 State Championship titles awarded in 12 boys', 11 girls' and 2 Unified sports. Other functions include advising the DIAA Board of Directors on issues affecting each sport and related sports projects.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Officials Committee**

The Officials Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- reviewing documentation submitted by an officials' association that desires to officiate middle and high school contests;
- holding a meeting with the officers of an officials' association to discuss the association's recognition request;
- consulting with parties that have an interest in an officials' association's recognition request;
- reporting findings and recommendations on an officials' association's recognition request to the Board;
- working with the applicable sports committee to evaluate an officials' association during its probationary period;
- working with the applicable sports committee to make a recommendation to the Board at the end of an officials' association's probationary period;
- making recommendations to the Rules and Regulations Committee for developing and amending, as necessary, regulations on standards of conduct for officials;
- conducting an annual review of each recognized officials' association to ensure that the association is meeting the goals of education-based athletics; and
- serving as a liaison for issues within the Board's scope of authority that arise between member schools and recognized officials' associations and directing any recommendations for resolving such issues to the appropriate entity, *i.e.*, the Board, DIAA's Executive Director, or the appropriate DIAA standing committee.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board

members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Realignment Committee**

The Realignment Committee ("Committee") is a committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C. § 304*. Created at 14 *Del. C. ch. 3*, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- reviewing the current classification system used by each sport; and
- making recommendations to the Board for developing classification options.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Rules and Regulations Committee**

The Rules and Regulations Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with making recommendations to the Board for developing and amending, as necessary, regulations in the following subject areas:

- secondary and middle school interscholastic athletics for schools in Delaware, including:
 - regulation of athletic programs of all public schools and nonpublic schools that elect to become member or associate member schools,
 - eligibility of students to participate in interscholastic athletics,
 - non-school competitions,
 - coaches and sports officials of interscholastic sports in Delaware, and
 - sanctioning of school team competitions;
- sports over which DIAA has jurisdiction;
- standards of conduct for athletes, coaches, administrators, officials, and spectators; and
- issues involving student athletes' health and safety in interscholastic athletics, including:
 - recognition and management of student athletes exhibiting signs or symptoms consistent with a concussion, and
 - awareness, recognition, and management of sudden cardiac arrest in student athletes.

In addition, the Committee shall review suggested changes to existing regulations submitted by member schools, DIAA's Executive Director, the Secretary of Education, and other DIAA committees and make recommendations to the DIAA Board regarding the suggested changes.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Sports Medicine Advisory Committee**

The Sports Medicine Advisory Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- making recommendations to the Board for developing and amending, as necessary, regulations in the following subject areas:
 - recognition and management of student athletes exhibiting signs or symptoms consistent with a concussion;
 - awareness, recognition, and management of sudden cardiac arrest in student athletes; and
 - protections for the physical well-being of athletes.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Sportsmanship Committee**

The Sportsmanship Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- investigating and adjudicating reports of sportsmanship violations referred to the Committee by the Executive Director, including:
 - requesting reports,
 - conducting interviews,
 - reviewing such available evidence as the Committee deems necessary to reach a conclusion, and
 - imposing penalties as deemed necessary based on the particular circumstances, including reprimand, conditional or restrictive probation, and suspension;
- reviewing incidents of sportsmanship violations referred to the Committee by the Executive Director that are reported each sports season;
- meeting with players or coaches who are ejected for a second time during the same season, the principal or principal's designee, and the coach (in the case of a player);
- deciding appeals of a contest suspension resulting from a game ejection referred to the Committee by the Executive Director;
- issuing written decisions on matters referred to the Committee by the Executive Director;
- annually determining the DIAA State Champions in Sportsmanship awards; and
- making recommendations to the Rules and Regulations Committee for developing and amending, as necessary, regulations on sportsmanship and ethical behavior.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically

representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Unified Sports Committee**

The Unified Sports Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- promoting Unified Sports® to engage all eligible member schools;
- increasing opportunities for Unified Sports® participants; and
- working with the applicable sports committees to promote Unified Sports® and increase opportunities for Unified Sports® participants.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Baseball Committee**

The Baseball Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Boys' Basketball Committee**

The Boys' Basketball Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Boys' Lacrosse Committee**

The Boys' Lacrosse Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Boys' Soccer Committee**

The Boys' Soccer Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Cross Country Committee**

The Cross Country Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Field Hockey Committee**

The Field Hockey Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Football Committee**

The Football Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Girls' Basketball Committee**

The Girls' Basketball Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Girls' Lacrosse Committee**

The Girls' Lacrosse Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

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The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Girls' Soccer Committee**

The Girls' Soccer Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
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The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Golf Committee**

The Golf Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C. § 304(2)*. Created at 14 *Del. C. ch. 3*, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

The Committee is charged with:

- working with the DIAA office staff to perform tasks related to running the state tournament, including:
 - establishing written procedures for determining tournament berths and selecting tournament sites,
 - determining state tournament berths, and
 - inspecting member schools' venues and determining viability for competition;
- working with the Officials' Committee to evaluate an officials' association during its probationary period; and
- working with the Officials' Committee to make a recommendation to the Board at the end of an officials' association's probationary period.

The Board's Chairperson shall appoint an individual to serve as the Committee's Chairperson who shall serve for an indefinite period of time. However, the Board's Chairperson, with the advice and consent of DIAA's Executive Director, may remove the Committee's Chairperson.

The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Softball Committee**

The Softball Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

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Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Swimming & Diving Committee**

The Swimming & Diving Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

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Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Tennis Committee**

The Tennis Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

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The Committee's Chairperson, with the advice and consent of DIAA's Executive Director, shall appoint individuals to serve on the Committee. Committee members shall be geographically representative and may include administrators, athletic directors, coaches, local school board members, officials, and members of the public. Individuals appointed to serve on the Committee shall serve for an indefinite period of time. However, the Committee's Chairperson, with the advice and consent of DIAA's Executive Director, may remove individuals from the Committee.

The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Track & Field Committee**

The Track & Field Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

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Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Volleyball Committee**

The Volleyball Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

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The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.

**Board of Directors of the
Delaware Interscholastic Athletic Association's
Wrestling Committee**

The Wrestling Committee ("Committee") is a standing committee established by the Board of Directors ("Board") of the Delaware Interscholastic Athletic Association ("DIAA") pursuant to 14 *Del. C.* § 304(2). Created at 14 *Del. C.* ch. 3, DIAA preserves and promotes the educational significance of interscholastic athletics; ensures that interscholastic sports remains compatible with the educational mission of the member schools; provides for fair competition between member schools; promotes sportsmanship and ethical behavior; establishes and enforces standards of conduct for athletes, coaches, administrators, officials, and spectators; protects the physical well-being of athletes; and promotes healthy adolescent lifestyles.

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The Committee shall conduct itself in accordance with the Freedom of Information Act, the Administrative Procedures Act, and the Department of Education's rules and regulations.

Approved by the Board of Directors on 09/14/2017.



BENEFITS OF MEMBERSHIP

For 100% States:

1. **EXAMS.** Unlimited number of FREE electronic NFHS sport rules (Part I and II) and mechanics exams for officials on either the NFHS or ArbiterSports (AS) testing platform. Features include:
 - On either platform: Ability to customize testing features such as: number of questions, randomized question order, testing date range, adding state-specific questions, number of "takes" permitted, how/when test-taker sees results.
 - ArbiterSports platform only: Ability to randomized answer order, add video questions and administratively monitor the exam by user/group/question while exam is active.
 - Technical support to officials on either testing platform.
 - States that have developed their own testing platform or want to print and distribute the tests on their own, will be provided an electronic version of the NFHS exam.

NOTE: Non-100% states are charged \$.45 for each individual test-taker on the NFHS platform or \$200 for each electronic version of an NFHS exam. Total annual state value = approximately \$2000 to \$6000.

2. **SPORT RULES POWER POINTS.** Electronic versions accessible for FREE in a secured area of the NFHS Web site.

NOTE: Non-100% states are charged \$49.95 per sport CD ordered. Total annual state value = approximately \$1000 to \$3000.

3. **ONLINE RULE INTERPRETER'S MEETINGS.** FREE access for up to five (5) connections to each sport's online rule interpreter's meetings.

NOTE: Non-100% states are charged \$50 for each online connection. Total annual state value = approximately \$1500 to \$4000.

4. **STATE CENTRAL HUB.** Ability to develop a state's own centralized officiating educational content Web Site on the ArbiterSports platform. This feature includes the ability to publish a state's own video content, conduct testing, etc.

5. **EXCLUSIVE ONLINE EDUCATIONAL CONTENT**

Through the NFHS Learning Center at www.nfhslearn.com

- "Interscholastic Officiating" and sport-specific courses
- Video and animation of NFHS Rules and Mechanics

Through the NFHS Central Hub at www.nfhs.arbitersports.com

- Searchable NFHS Rules and Case Books Database
- Other NFHS Publications, PDFs or 3D Manuals

(continued)

NFHS Rules App are available on iTunes and Google Play. E-books are available on iTunes and Amazon. Visit www.nfhs.org/erules

NFHS RULES APP: Features searchable, highlight notes, bookmarks, quizzes, easy navigation.

For Officials in 100% States:

1. **ONLINE EDUCATIONAL CONTENT.**

Access to NFHS centralized officiating educational content exclusively for high school officials.

- NFHS Central Hub
- Searchable NFHS Rules/Case Database
- Other NFHS Publications – PDF's or 3-D Manuals.
- Video & Animation of NFHS Rules and Mechanics.
- Feature Officiating Articles (OQ online or integrated articles on Central Hub)
- General NFHS Rules and Mechanics Educational Content

NFHS Learning Center:

- Sport-specific courses
- Video and Animation of NFHS Rules and Mechanics

2. ***INSURANCE COVERAGE.** Insurance coverage includes:

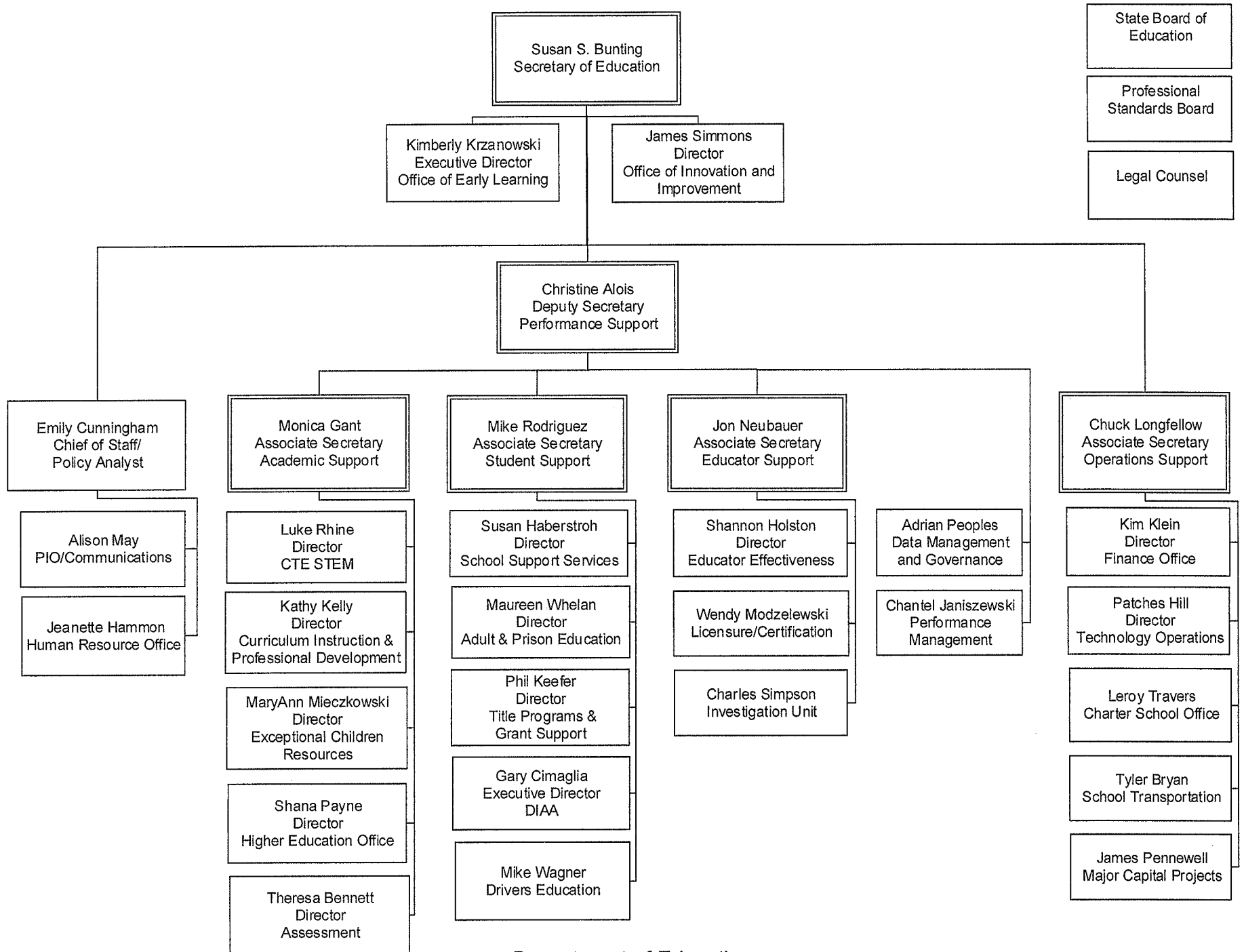
- Coverage for all levels of officiating (youth, recreational, adult and collegiate) in sports recognized by the state high school association
- Excess General Liability
 - \$2,000,000 per occurrence limit
 - \$5,000,000 aggregate limit
- Excess Accident Medical
 - \$50,000 accident medical/dental limit per injury
 - \$250 deductible per injury
 - \$2,000 limit for physical therapy and chiropractic treatment
 - \$2,500 accidental death & dismemberment benefit

3. **AWARDS PROGRAM.** First-class national awards and recognition program acknowledging officials at the state, sectional and national levels.

4. **NFHS COMMITTEES.** Representation on NFHS sport rules committees and standing committees. Nominations are submitted to the NFHS by the official's state high school association.

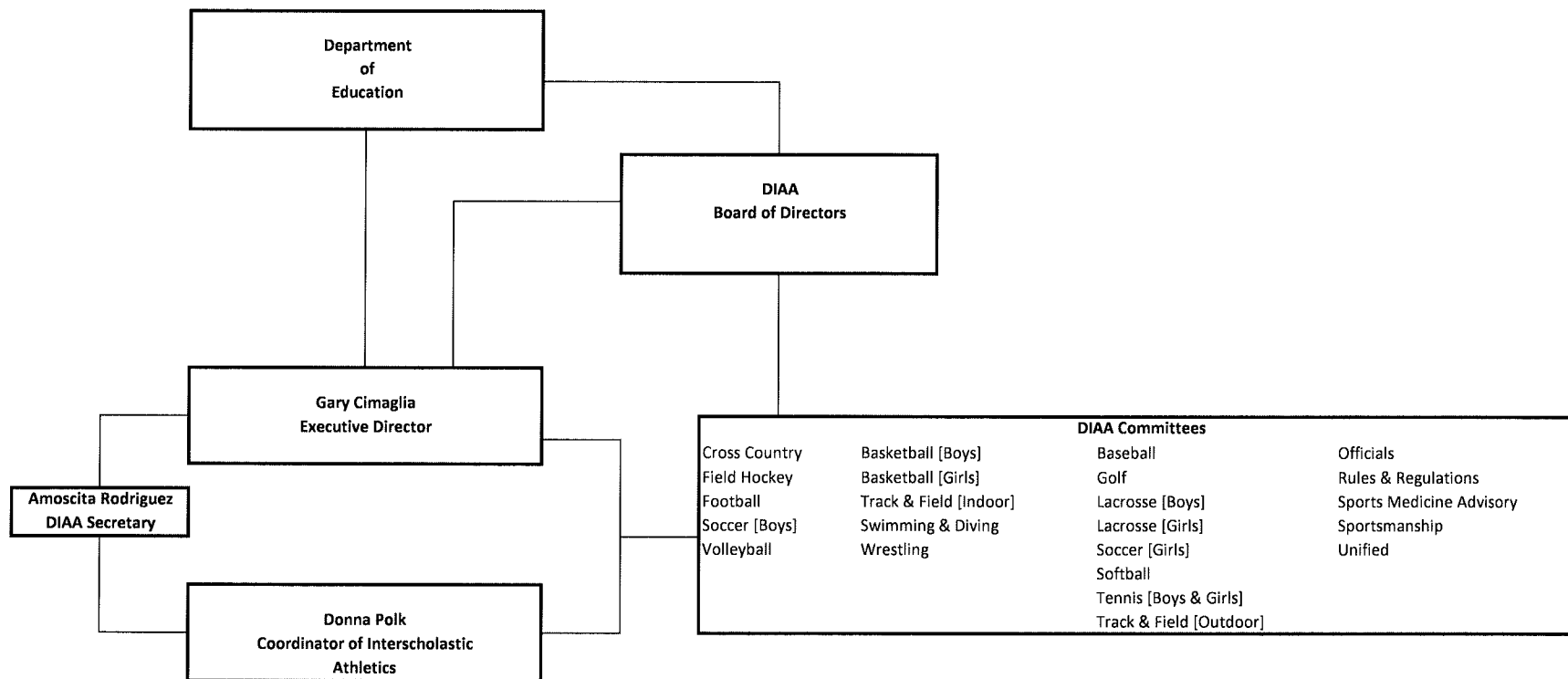
Fees:

100% State NFHS-OA Membership with *Insurance Coverage	*\$17.00 / per official
100% State NFHS-OA Membership without Insurance Coverage	\$10.00 / per official



Department of Education
Office of the Secretary
October 2019

DIAA Organizational Chart
As of 10-16-2019





DIAA Waiver Request Guidelines

The Delaware Interscholastic Athletic Association has developed a set of regulations for the purpose of preserving the educational values of interscholastic athletics, promoting fair and equitable competition, and protecting the physical well-being of the participants. Special circumstances will, at times, indicate that an exception to the established rules and regulations is appropriate. To accommodate such situations, the DIAA has adopted a waiver procedure. **In addition to the guidelines below, please refer to DIAA Regulation 1006 Section 9.0 Waiver of DIAA Rules and Regulations while preparing your waiver request.**

General Guidelines:

- Waiver requests should be filed promptly when it becomes apparent to the student, parent(s), principal, headmaster, or other affected party that a waiver will be required. It is recommended that the school and the student and parent(s) work together to complete the Waiver Request Form.
- The Waiver Request Form must be signed by the principal or headmaster of the school requesting the waiver and must include a letter from the principal or headmaster indicating whether the school supports the waiver request.
- The waiver request shall contain all facts pertaining to the case. It is incumbent on the student and parent(s), with the assistance of the school, to provide sufficient documentation so that the DIAA Board can render an informed decision. Opinions and recommendations must be properly documented. Supporting materials could include medical reports, court orders, standardized test results, etc. depending on the nature of the request. **It is not the duty of the Executive Director or the DIAA Board to produce or collect information.** School personnel may call the DIAA office for assistance in completing the Waiver Request Form or for information about required supporting documentation.

Requirements for Eligibility Rule Waiver Requests

For waiver requests for eligibility rules (1008-2.0 & 1009-2.0), a complete waiver request includes the waiver form and the following required documentation:

- ☐ Official transcripts (6th Grade – current school year) and semester grades for the current school year;
- ☐ Attendance records (past 2 years);
- ☐ Letter from Principal or Head of School of the requesting school either supporting or not supporting the waiver request;
- ☐ Any documentation specifically required by the rule;
- ☐ Medical records (if applicable);
- ☐ Legal documentation (if applicable);
- ☐ IEP (if applicable); and
- ☐ Any documentation to substantiate a hardship exists.

For waiver requests involving 1008.2.4 or 1009.2.4, documentation of official withdrawal from the sending school and official registration or acceptance to the receiving school.

Requirements for Non-Eligibility Waiver Requests

For waiver requests of non-eligibility rules, the request must be in the form of a written letter or memorandum and signed by the principal or headmaster of the school. The letter or memorandum must contain sufficient data to make it possible for the DIAA Board to reach a decision without further investigation, including:

- the rule at issue;
- why the school is requesting a waiver of the rule; and
- the positions of other member schools that would be affected if the Board granted the request.

- The Waiver Request Form must be received by the Executive Director **at least 21 calendar days** before the next regularly scheduled meeting of the DIAA Board and include all required documentation in order to be placed on the agenda for that meeting.

2019 – 2020 DIAA Board Meeting Dates and Waiver Deadlines

Meeting Date	Deadline to Submit Waiver Request
July 11, 2019	June 20, 2019
August 8, 2019	July 18, 2019
September 12, 2019	August 22, 2019
October 10, 2019	September 19, 2019
November 14, 2019	October 24, 2019
December 12, 2019	November 21, 2019
January 16, 2020	NO WAIVER HEARINGS
February 13, 2020	January 23, 2020
March 12, 2020	February 20, 2020
April 9, 2020	March 19, 2020
May 14, 2020	April 23, 2020
June 11, 2020	May 21, 2020

- Once all information is received and reviewed in the DIAA Office, a hearing in front of the DIAA Board may be scheduled. The school and student will receive a scheduling letter that includes written notification of the date and time of the hearing. **The student and parent(s) must attend the meeting. A representative of the school is not required to attend.**
- Waiver hearings shall be conducted in an informal manner that affords all parties the opportunity to present all information and all relevant arguments. **The burden of proof rests on the applicant** (the student, his/her parents or guardians, principal, headmaster, or other affected party) to show extenuating circumstances warranting a waiver.
- The DIAA Board shall consider the entire record of the case in reaching its final decision. Typically, a decision will be made on a waiver request at the hearing and shall be effective immediately.

Last edited 8/13/19

Delaware Interscholastic Athletic Association Waiver Request Form

All information should be typed or printed. This form is available on the DIAA website as a fillable PDF.

1. Please provide the following information concerning the student who is requesting the waiver:

Student's Name: _____ Date of Birth: _____
 Current School: _____ Date of Enrollment: _____
 Previous School: _____ Date of Withdrawal: _____
 Parent(s)/Legal Guardian's Name: _____
 Address: _____
 Telephone: _____ Email: _____
 (Best number to reach you during business hours.)

2. Please indicate what regulation on which you are requesting the DIAA Board to take action.

☐ Section 2.1 Eligibility, Age ☐ Section 2.5 Eligibility, Amateur Status
☐ Section 2.2 Eligibility, Residence ☐ Section 2.6 Eligibility, Passing Work
☐ Section 2.3 Eligibility, Enrollment & Attendance ☐ Section 2.7 Eligibility, Years of Participation
☐ Section 2.4 Eligibility, Transfers ☐ Other (please specify section)

3. Please indicate the sports for which you are requesting the waiver.

4. Provide a complete list of interscholastic sports the student has played (school teams). Include the appropriate levels of competition (middle school (6-8), freshman, junior varsity, and/or varsity):

Grade	School Year	School Attended	Fall Sport	Winter Sport	Spring Sport

5. Provide a complete list of any non-school athletics (club teams, etc.) on which the student has played.

Grade	School Year	Sport	Team Name	Coach

6. To aid the Board in making an informed decision, this request shall include:

- Official transcripts from 6th grade through most recent school year
- Most recent report card or grade report (if not included on transcripts)
- Attendance Records for the last two years
- Medical records (if applicable)
- IEP's (if applicable)
- Custody documents (if applicable)

Additional documentation is required if the waiver request is related to a transfer due to financial hardship. See DIAA Reg. 1008 or 1009 2.4.3.

7. Please indicate the school or school district representative who will be attending the DIAA Board of Directors meeting for the waiver request hearing.

Name _____ Title _____

Please initial below if no one from the school or school district is attending.

_____ No one will be attending the waiver request hearing from the school or school district.

School Representative's Signature: _____ Date: _____
(To acknowledge submission of the waiver request and confirm attendance/nonattendance)

8. Parent Signature

I acknowledge that that information set forth in this Waiver Request Form is accurate, complete and truthful.

Parent's Signature: _____ Date: _____

Please complete numbers 9-11 below if the waiver is for Regulation 1008 or 1009 Section 2.4 Eligibility, Transfers

9. Please indicate your reasons for your transfer. Check all that apply. Please attach additional information as necessary.

- | | |
|--------------------------------------|---|
| <input type="checkbox"/> Academic | <input type="checkbox"/> Financial |
| <input type="checkbox"/> Social | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Other _____ | |

10. Certification of Principal or his/her designee of school to which student transferred (current school)

Upon my interviewing the personnel at my school and, if possible, the student and/or student's parents, I hereby certify that, to the best of my knowledge and information, the student's transfer was for the reasons indicated above and was not motivated in some way by an athletic purpose.

Principal's Name: _____ Date: _____

Principal's Signature: _____

11. Certification of Principal or his/her designee of school from which student transferred (previous school)

Upon my interviewing the personnel at my school and, if possible, the student and/or student's parents, I hereby certify that, to the best of my knowledge and information, the student's transfer was for the reasons indicated above and was not motivated in some way by an athletic purpose.

Principal's Name: _____ Date: _____

Principal's Signature: _____

In lieu of signature, a letter/email may be sent to Donna Polk, DIAA Coordinator of Athletics, stating the student's transfer was for the reasons indicated above and was not motivated in some way by an athletic purpose.

Submit the Waiver Request Form and all supporting documentation to:

Donna Polk, Coordinator of Athletics
Delaware Interscholastic Athletic Association (DIAA)
35 Commerce Way, Suite 1, Dover, DE 19904
diaa@doe.k12.de.us

SPONSOR: Rep. Ulbrich & Sen. DeLuca

Reps. Hudson, Valihura, DiLiberto, Keeley;
Sens. Bunting, Sokola, Still, Simpson

HOUSE OF REPRESENTATIVES
141st GENERAL ASSEMBLY

HOUSE BILL NO. 475
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION AND
INTERSCHOLASTIC ATHLETICS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend the third sentence of §122(b)(14), Title 14 of the Delaware Code by deleting the words "may delegate to a non-profit organization" and substituting in lieu thereof the following "shall delegate to the Delaware Interscholastic Athletic Association".

Section 2. Amend §122 (b)(14) of Title 14 of the Delaware Code by inserting the words "between all public schools and such non-public schools as shall become member schools in the Delaware Interscholastic Association" between the words "athletics" and the period "." at the end of the first sentence thereof.

Section 3. Amend Title 14 of the Delaware Code by creating a new Chapter III as follows:

"CHAPTER III. DELAWARE INTERSCHOLASTIC ATHLETIC ASSOCIATION.

§301. Purpose.

There is hereby established the Delaware Interscholastic Athletic Association. The Association is intended to preserve and promote the educational significance of interscholastic athletics; ensure that interscholastic sports remains compatible with the educational mission of the member schools; provide for fair competition between member schools; promote sportsmanship and ethical behavior; establish and enforce standards of conduct for athletes, coaches, administrator, officials and spectators; protect the physical well-being of athletes; and promote healthy adolescent lifestyles. To these ends, the General Assembly intends for the Association to work in consultation and cooperation with the Department of Education toward full implementation of this chapter.

§302. Definitions.

The following definitions apply to this chapter:

1. "Association" means the Delaware Interscholastic Athletic Association.
2. "Board" means the Board of Directors of the Delaware Interscholastic Athletic Association.
3. "Department" means the Delaware Department of Education.
4. "Member school" means a full or associate member school of the Association.
5. "Secretary" means the Secretary of the Delaware Department of Education.
6. "State Board" means the State Board of Education.

§303. Rules and regulations.

- a. The Association shall be a unit of the Department of Education. To these ends, the General Assembly intends for the Association to work in consultation and cooperation with the Department of Education in the development of rules and regulations relating to member school interscholastic athletics. The Association and the Department of Education are authorized to develop all necessary policies and procedures to implement the provisions of this Act.
- b. The Association in consultation and cooperation with the Department shall develop rules and regulations relating to secondary and middle school interscholastic athletics for schools in the State of Delaware. Such regulations shall include the regulation of athletic programs of all public schools in the State of Delaware and such non-public schools as may elect to become member or associate member schools as provided in regulations adopted pursuant to this chapter, eligibility of students to participate in interscholastic athletes, non-school competitions, coaches and sports officials of interscholastic sports in the State of Delaware, sanctioning of school team competitions, and other matters affecting interscholastic athletics in the State of Delaware. However, the Association shall not approve any rule or regulation that denies a student the right to simultaneously try out for, practice with, or participate in games on a team similar to the school team on which he or she is a member, except that such dual membership and participation on a similar team shall be authorized only upon written consent by the parent, custodian or guardian of the student. Such written consent shall clearly state the authority to participate on a particularly specified team of a designated organization or institution.
- c. The Association shall adopt rules and regulations as to which sports over which they have jurisdiction.

§304. Other duties, powers and authority.

The Board shall have such duties, powers and authority as may be necessary for the enforcement of this chapter and for the enforcement of the Department's rules and regulations made pursuant hereto, which shall include, but are not limited to, the following:

1. To establish annual membership fees;
2. To establish standing committees;
3. To determine the existence of violations of the rights and regulations by full and associate member schools and penalize violations by official reprimand, placement on probation, fine, suspension or other action as deemed appropriate;
4. To investigate, conduct hearings and take action on alleged violations committed by schools, athletes, coaches, administrators, officials or spectators of the Department's rules and regulations made pursuant hereto;
5. To interpret the Department's rules and regulations made pursuant hereto, conduct hearings and take action on requests for a waiver of the rules and regulations.

§305. Composition of the Delaware Interscholastic Athletic Association.

- a. The Board shall consist of 17 voting members and one nonvoting member as follows:
 1. Two school district superintendents/assistant superintendents who shall be residents of different counties.
 2. Two representatives of school district boards of education who shall be residents of different counties.
 3. Three public school principals/assistant principals, 1 of which shall be from each county.

4. Two public school athletic directors/coaches who shall be residents of different counties.
 5. Two non-public school representatives of which 1 shall be a secondary school administrator and 1 shall either be a secondary school athletic director or coach.
 6. One Department of Education representative, which may be the Secretary of Education or his/her designee, who shall be the nonvoting member.
 7. Six public members of which 2 shall be from each county. The public members shall be residents of Delaware for a minimum of 3 years, shall be knowledgeable about athletics, but shall not be employees of any member school or have a material financial interest in providing goods or services to the Association or any member school.
- a. Voting board members shall be appointed by the Governor, with the advice and consent of the Senate. The Governor shall take into consideration geographic representation, knowledge of athletics in general and an interest in high school athletics in deciding whether or not to appoint a nominee.
 - b. All members of the Board, with the exception of the Secretary of Education or his/her designee, who shall be a permanent member, shall be appointed for a three-year term. The terms of the members of the Board shall be staggered so that the terms of no more than 6 members shall expire in any given year. Board members shall be paid \$100.00 per meeting.
 - c. Every person who is a member of the Board of Directors of the Delaware Secondary School Athletic Association shall continue to serve on the new Delaware Interscholastic Athletic Association's Board until the scheduled expiration of that person's term unless replaced by the Governor before the scheduled expiration of his or her term. Any vacancy occurring in the membership of the former Board shall be filled in accordance with the provisions of this chapter.
 - d. Notwithstanding any other provision of this section, the Governor shall appoint to the initial Board 2 public members, one whose principal place of residence is in New Castle County and one whose principal place of residence is in Kent County, whose term shall expire 1 year after the members' initial appointment; 2 public members, one whose principal place of residence is in New Castle County and one whose principal place of residence is in Sussex County, whose term shall expire 2 years after the members' initial appointment; and 2 public members, one whose principal place of residence is in Kent County and one whose principal place of residence is in Sussex County, whose term shall expire 3 years after the members' initial appointment. At each annual appointment made after the initial classification and appointment of these 6 public members, the appointment shall be for a full term of 3 years to succeed the member whose term has expired.
 - e. A member of the Board shall serve until his or her successor is appointed. A member appointed to fill a vacancy shall serve for the remainder of the term of the member whom he or she replaces.
 - f. A person who has never served on the Board may be appointed to the Board 2 consecutive times, but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for 6 years within any 9-year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.
 - g. Any act or vote by a person appointed in violation of subsection (g) of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (g) of this section, unless such amendment or revision amends this section to permit such an appointment.

- h. No school district or non-public school shall have more than one member on the Board.
- i. A member who fails to attend 3 consecutive meetings, unless excused for good cause by a majority of the members of the Board, or fails to attend at least half of all regular business meetings of the Board during any calendar year or who ceases to be a resident of the county in which such member resided when appointed to the board shall automatically upon such occurrence be deemed to have resigned from office and a replacement shall be appointed.

§306. Quorum and voting.

A majority of the members of the Board shall constitute a quorum. No motion, resolution or other act of the Association may be adopted without agreement of the majority of the whole Board.

§307. Chairperson; Administration.

- a. The Board shall elect annually from its members a Chairperson, Vice Chairperson and such other officers as it may deem necessary. In the event of a vacancy in 1 of the officers, a replacement shall be elected at the next Board meeting or a meeting called for that purpose.
- b. The Association shall hire an Executive Director to work in collaboration with the Department of Education. The Executive Director shall be an employee of the Department and receive compensation commensurate with the Department salary scale at the Education Associate level.
- c. There shall be a Secretary who is employed by the Department of Education, and who shall serve as staff for the Association and the Department of Education. The Secretary shall receive compensation commensurate with the Department salary scales and shall be evaluated according to Department policies and procedures. The Secretary of Education shall employ other such employees as provided in the budget.
- d. The Executive Director shall become a bona fide resident of the State within 6 months following his or her date of hire.

§308. Meetings of the Association.

- a. The Association shall hold regularly scheduled meetings at least once a month and at such other times as the chairperson deems necessary or at the request of a majority of the Board members.
- b. The Board shall meet at such place within the state as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of such meeting.
- c. Notice of all meetings of the Board shall be given in the manner prescribed by law.
- d. Board meetings and hearings shall be open to the public in accordance with the provisions of Chapter 100, Title 29 of this Code.
- e. Minutes of all meetings shall be recorded and copies shall be maintained by the Association at the offices of the Department of Education. At any hearing in which evidence is presented, a record from which a verbatim transcript can be prepared shall be made and the expense of preparing any transcript shall be incurred by the person requesting the transcript.
- f. Board decisions in cases involving requests for waivers will be released in writing within 20 days from the date of hearing.

§309. Secretary; Powers and Duties.

The Association shall be a unit of the Department of Education. The Secretary of Education shall promulgate any rules and regulations necessary to the establishing of the Association as such a unit.

§310. Payment of expenses; deposits of receipt.

A special fund is hereby created and shall be known as the "Secondary Interscholastic Athletic Fund". The expenses of the Association shall be paid from this Special Fund. Any appropriations made to the Department by the General Assembly for the Association shall be allocated to this Fund. The Association shall be authorized to receive state appropriations, federal monies, membership dues, tournament revenues, fees, fines, officials dues, merchandising and licensing revenue, and interest. The Association is authorized to establish special fund accounts for the purposes of tracking revenue and these accounts shall be interest bearing and not subject to reversion. The Association is exempt from the state bid laws and Division of Accounting regulations. The Department of Education shall authorize and approve all Association expenditures.

§311. Annual Report.

The Association in consultation and cooperation with the Department of Education shall make an annual report to the Governor and the General Assembly on or before January 31 in each year.

§312. Appeals of Decisions by the Association.

The Association shall decide on all controversies involving the rules and regulations, including any waiver thereof, adopted pursuant to this chapter. Any party to such a controversy may appeal to the State Board by setting forth such grievance in a petition which shall be served upon the Executive Director of the Association by certified or registered mail within 30 days after receiving notice of the decision. The State Board shall provide by rules and regulations for adequate procedures for the hearing of any such appeal and shall decide the controversy. All such appeals shall be on the record and the State Board shall overturn the Association's decision only if it decides that the Association's decision was not supported by substantial evidence, or was arbitrary or capricious. The decision of the State Board shall be final and not subject of further appeal."

Section 4. No later than 30 days following the effective date of this Act, The Delaware Secondary School Athletic Association shall transfer to the special fund created by this Act all funds obtained by the Association in the exercise of the authority formally granted to it to implement the rules and regulations of the Department relating to interscholastic athletics.

Section 5. Any rules and regulations of the Department relating to interscholastic athletics which were adopted prior to the effective date of this Act shall remain in full force and effect until otherwise modified in accordance with Delaware law; provided, however, that if any rule or regulation heretofore adopted shall conflict with any of the provisions of this Act, the language contained in this Act shall prevail over that contained in such rule or regulation.

Section 6. This Act shall take effect upon enactment.



SPONSOR: Rep. Valihura & Sen. Sokola;
Reps. Hudson, Maier, Longhurst, Schooley; Sens.
Bunting, McDowell, Bonini, Connor

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1

FOR

HOUSE BILL NO. 416

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE
INTERSCHOLASTIC ATHLETIC ASSOCIATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 305(a), Chapter 3, Title 14 of the Delaware Code by deleting the phrase "17 voting members"
2 and replacing thereto with the phrase "19 voting members".

3 Section 2. Amend § 305(a)(2), Chapter 3, Title 14 of the Delaware Code by deleting the word "Two" and
4 replacing thereto with the word "Three".

5 Section 3. Further Amend § 305(a), Chapter 3, Title 14 of the Delaware Code by inserting a new subsection "(7)"
6 to read as follows:

7 "(7) One (1) physician licensed by the Delaware Board of Medical Practices knowledgeable about sports
8 medicine."

9 Section 4. Further Amend § 305(a), Chapter 3, Title 14 of the Delaware Code by renumbering existing subsection
10 "(7)" as subsection "(8)".

11 Section 5. Amend § 305(c), Chapter 3, Title 14 of the Delaware Code by inserting after the words "permanent
12 member" in the first sentence thereof the following: ", and the licensed physician, who shall serve at the pleasure of the
13 Governor".

14 Section 6. Further Amend § 305(c), Chapter 3, Title 14 of the Delaware Code by inserting prior to the period "."
15 at the end of the first sentence thereof the following:

16 ", provided, however, that the Governor may appoint members to terms less than three (3) years if necessary to
17 ensure that the Board members' terms remain appropriately staggered".

18 Section 7. Further Amend § 305(c), Chapter 3, Title 14 of the Delaware Code by inserting at the beginning of the
19 second sentence thereof the following: "The Governor shall strive to assure that," and by changing the 9th word in the

20 sentence, “shall” to “are” and striking the 10th word in the sentence “be”; deleting the number “6” in the second sentence
21 and replacing it with the number “7”.

22 Section 8. Amend § 305(d) and (e), Chapter 3, Title 14 of the Delaware Code by striking each subsection in its
23 entirety and renumbering the remaining subsections accordingly.

24 Section 9. Amend new § 305(f), Chapter 3, Title 14 of the Delaware Code by deleting all references to the phrase
25 “subsection (g)” and substituting in lieu thereof the phrase “subsection (e)”.

26 Section 10. Amend § 306, Chapter 3, Title 14 of the Delaware Code by deleting that section in its entirety and
27 substituting in lieu thereof a new “§ 306” to read as follows:

28 “§ 306. Quorum and Voting.

29 A majority of the voting members of the Board shall constitute a quorum. A quorum must be present to pass any
30 motion or resolution. No motion, resolution or other act of the Association to adopt or amend the Association’s budget or
31 rules and regulations may be adopted without agreement of the majority of the voting members of the Board. All other
32 motions, resolutions or acts of the Association shall require a simple majority of the voting members present in order to
33 pass.”.

SYNOPSIS

This Bill will enable the Governor to assure terms of the DIAA Board of Directors are staggered by appointing members to terms of less than three years as needed. The Bill also adds a licensed medical physician to the Board as a voting member to serve at the pleasure of the Governor. The Bill adds a third school board member to the DIAA Board in order to maintain an odd number of voting members. The Bill removes two sections of the law no longer necessary. The Bill revises voting procedures to allow a simple majority of voting members to approve specific motions



SPONSOR: Sen. Hall-Long & Sen. Booth, Reps. Walker, & Lee
Sens. Henry, Blevins, Sokola, Ennis, Sorenson, Simpson, Katz,
Bushweller, Reps. Ramone, Bennett, Jaques, B. Short, Mitchell,
Briggs King, Hudson, Viola, Manolakos, Osienski, Heffernan

DELAWARE STATE SENATE

146th GENERAL ASSEMBLY

SENATE BILL NO. 111
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE
INTERSCHOLASTIC ATHLETICS ASSOCIATION.

WHEREAS, a concussion is a type of brain injury which changes the way the brain normally functions; and

WHEREAS, recognizing and responding to concussions when they first occur helps to aid recovery and to
prevent prolonged concussion symptoms, chronic brain damage or even death; and

WHEREAS, a recent study estimated that more than 40 percent of high school athletes return to participate
in school athletics before they have fully recovered from these serious head injuries; and

WHEREAS, an estimated 400,000 high school athletes sustained concussions while participating in five
major male and four major female sports during the 2005-2008 school years; and

WHEREAS, the number of youth athletes taken to emergency rooms with sports-related concussions has
doubled during the 10 year period from 1997 to 2007; and

WHEREAS, among youth aged 14 to 19, emergency room visits for concussions sustained during team
sports more than tripled over the same period; and

WHEREAS, eight states have adopted similar concussion-awareness and prevention laws; and

WHEREAS, the National Football League and the National Athletic Trainers' Association have announced a
joint effort to promote legislation to raise awareness and protect youth athletes from the risk of concussions; and

WHEREAS, the Center for Disease Control and Prevention (CDC) estimates 1.6 to 3.8 million sports and
recreation related concussions occur in the United States each year; and

WHEREAS, an athlete should return to sports activities under the supervision of an appropriate health care professional; and

WHEREAS, the State Council for Persons with Disabilities (SCPD) Brain Injury Committee's mission is to promote a consumer-oriented, effective injury and prevention service delivery system; and

WHEREAS, the Department of Education and the SCPD regularly work in consultation regarding regulations and policies that impact students; and

WHEREAS, the Department of Education has worked in consultation with the SCPD Brain Injury Committee in reviewing the Delaware Interscholastic Athletic Association's (DIAA) current concussion policy; and

WHEREAS, the Department is encouraged to continue to work in consultation with recognized experts including the SCPD Brain Injury Committee and the Brain Injury Association of Delaware in developing, reviewing, and updating their concussion policies;

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. AMEND §303, Chapter 3, Title 14 of the Delaware Code by inserting a new subsection (d) as follows:

“(d) The Association shall adopt rules and regulations applicable to member schools regarding the appropriate recognition and management of student athletes exhibiting signs or symptoms consistent with a concussion. The rules and regulations shall include, but not be limited to, the following requirements which shall be effective no later than the 2012-2013 school year:

(1) Each student athlete and the athlete’s parent or guardian shall annually sign and return a concussion information sheet designed by the Association prior to the athlete initiating practice or competition.

(2) Each coach shall complete concussion training consistent with a timetable and curriculum established by the Association.

(3) A student athlete shall be promptly removed from play if the athlete is suspected of sustaining a concussion or exhibits signs or symptoms of concussion until completion of assessment by a qualified healthcare professional or medical clearance.

(4) Written clearance for return to play after a concussion shall be from a qualified physician (Doctor of Medicine or Doctor of Osteopathic Medicine) only.”



SPONSOR: Sen. Hall-Long & Sen. Cloutier & Sen. Townsend & Rep. Ramone
Sens. Ennis, Hocker, Lopez, Peterson, Sokola, Venables, Bonini; Reps. Briggs King, Dukes, Heffernan, Hudson, Jaques, J. Johnson, Keeley, Potter, D. Short, Wilson

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO. 205

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO STUDENT ATHLETES.

1 WHEREAS, almost 400,000 people in the US suffer from Sudden Cardiac Arrest (“SCA”) each year yet less than
2 10% survive; and

3 WHEREAS, nationwide, SCA is the number one cause of death of student athletes while participating in athletic
4 practices and contests; and

5 WHEREAS, educating parents, students, coaches and officials about the symptoms and risk factors of sudden
6 cardiac arrest is an important factor in helping prevent and respond to a SCA event; and

7 WHEREAS, the Delaware Interscholastic Athletic Association (“DIAA”) governs interscholastic athletics and is
8 able to work in concert with experts and other agencies in the developing guidelines and sharing vital potentially lifesaving
9 information and educational materials on SCA with student athletes, their parents and coaches.

10 NOW, THEREFORE:

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

12 Section 1. Amend §303, Title 14 of the Delaware Code by making deletions as shown by strike through and
13 insertions as shown by underline as follows:

14 § 303 Rules and regulations.

15 (e) The Association shall, adopt rules and regulations applicable to member schools regarding student athletes
16 and awareness, recognition, and management of sudden cardiac arrest which shall be effective no later than the 2015-2016
17 school year. The Association, either through rules and regulations or policy adopted pursuant thereto, at a minimum, shall:

18 (1) Develop and make publicly available a sudden cardiac arrest information sheet that includes
19 information regarding the nature and warning signs of sudden cardiac arrest;

20 (2) Prior to participating in practice or competition, require each student athlete and the athlete's parent or
21 guardian, sign and return a sudden cardiac arrest information sheet designed by the Association;

- 22 (3) Require each student athlete to complete a heart history questionnaire as part of the pre-participation
23 physical examination;
24 (4) Hold a current cardiopulmonary resuscitation (“CPR”) certification for all school appointed head
25 coaches, which includes training on the use of an automated external defibrillator; and
26 (5) Present to coaches and officials Sudden Cardiac Arrest awareness information.

SYNOPSIS

This bill outlines procedures for dealing with Sudden Cardiac Arrest in student athletes. This legislation will be known as the Grace Firestone Act.

Author: Senator Hall-Long



SPONSOR: Rep. Jaques & Sen. Simpson & Sen. Sokola
Reps. Miro, Mitchell, Smyk; Sens. Hocker, Lopez, Walsh

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 98
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE DELAWARE
INTERSCHOLASTIC ATHLETIC ASSOCIATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Section 312 , Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 312. Appeals of decisions by the Association.

The Association shall decide on all controversies involving the rules and regulations, including any waiver thereof, adopted pursuant to this chapter, and any waiver of the ineligibility in Section 410(a) of Title 14 of the Delaware Code. Any party to such a controversy may appeal to the state Board by setting forth such grievance in a petition which shall be served upon the Executive Director of the Association by certified or registered mail within 30 days after receiving notice of the decision. The state Board shall provide by rules and regulations for adequate procedures for the hearing of any such appeal and shall decide the controversy. All such appeals shall be on the record, and the state Board shall overturn the Association's decision only if it decides that the Association's decision was not supported by substantial evidence or was arbitrary or capricious. The decision of the state Board shall be final and not subject to further appeal.

Section 2. Amend Section 410, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 410. Interscholastic sports.

(a) A student enrolled in grades 10 through 12, inclusive, in a receiving ~~district~~ local education agency shall not be eligible to participate in interscholastic athletic contests or competitions during the 1st year of enrollment in any receiving ~~district~~ local education agency if the student was enrolled in a different receiving ~~district~~ local education agency during the preceding school year unless the interscholastic sport in which the student wishes to participate is not offered in the receiving ~~district~~ local education agency in which the student was enrolled in the previous school year.

(b) The Board of Directors of the Delaware Interscholastic Athletic Association may waive the ineligibility in Section 410(a) of this Title if the Board of Directors determine, in accordance with its rules and regulations, that the standards for granting a waiver have been met.

(c) A waiver of Section 410(a) of this Title is not required for a student who transfers to and enrolls in grades 10 through 12 in a receiving local education agency that is a charter school:

(1) in the charter school's first year of operation; or

(2) in the charter school's first year of serving grades 10, 11, or 12.



SPONSOR: Sen. Poore & Rep. Jaques & Rep. Ramone
Sens. Ennis, Hansen, Sokola, Walsh; Reps. Mitchell,
Yearick

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

SENATE CONCURRENT RESOLUTION NO. 79

DIRECTING THE DEPARTMENT OF EDUCATION, WITH THE ASSISTANCE OF THE DELAWARE INTERSCHOLASTIC ATHLETIC ASSOCIATION, TO PROMULGATE REGULATIONS THAT PERMIT COACHES TO COACH ATHLETES OUT OF SEASON, WITH RESTRICTIONS THAT MINIMIZE THE RISK OF UNETHICAL ACTIVITY.

1 WHEREAS, the nature of youth athletics have changed so that youth often participate in the same sport
2 throughout the year; and

3 WHEREAS, student athletes should have the opportunity to work with coaches the student athletes believe will
4 develop their skills and support their athletic goals; and

5 WHEREAS, the State Public Integrity Commission has issued Advisory Opinions stating that a public school
6 coach violates the State Employees', Officers' and Officials' Code of Conduct if the coach provides out of season
7 instruction for pay for returning members of the varsity or sub-varsity teams of the school where the coach works as a
8 coach; and

9 WHEREAS, the goal of this Senate Concurrent Resolution is to support the ability for student athletes to work
10 with a coach they believe will develop their skills and support their athletic goals, while still protecting the integrity of
11 education-based athletics; and

12 WHEREAS, because of the changed nature of youth athletics, states such as Maryland and West Virginia now
13 allow public school coaches to provide instruction, with or without pay, to students they coach under limited circumstances
14 that include organized camps, clinics, leagues, lessons, and clubs supervised by a member of an overreaching national
15 program or organization that is not affiliated with a resident school, such as the Amateur Athletic Union ("AAU"), Olympic
16 Development Program ("ODP"), United State of America Volleyball ("USAV"), and United States of America Track and
17 Field ("USATF"); and

18 WHEREAS, Delaware athletes are at a disadvantage when competing against youth from other states because the
19 Delaware coaches cannot coach their students out of season.

20 NOW, THEREFORE:

21 BE IT RESOLVED by the Senate of the 149th General Assembly of the State of Delaware, the House of
22 Representative concurring therein, that the Department of Education, with the assistance of the Delaware Interscholastic

Athletic Association, is directed to promulgate regulations that permit coaches to coach student athletes out of season, with restrictions that minimize the risk of unethical activity.

BE IT FURTHER RESOLVED that the Department of Education and the Delaware Interscholastic Athletic Association should consider model guidelines from other states, including rules regarding the number of athletes who can be coached, no contact periods, the amount of contact time, and enforcing compliance by organizations.

BE IT FURTHER RESOLVED that the Department of Education and the Delaware Interscholastic Athletic Association should specifically address all of the following in drafting the regulations under this Resolution:

(1) No contact periods.

(2) Programs and activities in which high school coaches may work with returning student athletes.

(3) Programs and activities in which high school coaches may not work with returning student athletes.

(4) Out of Season coaching, including all of the following:

a. Terms under which a coach may provide instruction to non-school teams which are affiliated and in good-standing with an overseeing national organization such as AAU, ODP, USAV, or USATF, but which do not have a direct affiliation with a coach's school.

b. Compensation for coaching non-school teams.

c. The percentage of returning student athletes allowed for the starting lineup of non-school teams, for each sport.

d. Terms under which a coach may provide instruction to returning student athletes at clinics, lessons, and camps not affiliated with the member school.

e. Compensation for instruction at clinics, lessons, and camps not affiliated with the member school.

(5) When a high school coach is permitted or prohibited from working with returning student athletes at out of season programs and activities, addressing all of the following:

a. When a coach may provide instruction at clinics, lessons, and camps that include returning student athletes but are not affiliated with the member school.

b. Coach compensation for instructing at clinics, lessons, and camps that include returning student athletes but are not affiliated with the member school.

c. Conditions under which a coach may work with a returning student athlete, at an athlete's request, including the maximum number of returning players and the maximum amount of time.

BE IT FURTHER RESOLVED that the Department of Education shall publish the proposed regulations developed under this Resolution no later than October 1, 2018.

SYNOPSIS

This Senate Concurrent Resolution directs the Department of Education, with the assistance of the Delaware Interscholastic Athletic Association, to promulgate regulations that permit coaches to coach student athletes out of season, with restrictions that minimize the risk of unethical activity.

Author: Senator Poore

Executive Sessions for DIAA Board of Director's Meeting

For all of the Executive Sessions below, unless otherwise noted, The Board intends to move into executive session to discuss the contents of a pupil file, the disclosure of which would constitute an invasion of personal privacy.

<u>Date</u>	<u>Executive Session</u>	<u>Reason</u>
July 11, 2019	Request to waive 1009.2.4. by Red Lion, 2019-7-1 C. Request to waive 1009.2.4. by MOT Charter, 2019-7-2 Executive Director Hiring Update RLCA Investigation	The Board intends to enter into executive session to discuss a personnel matter
June 13, 2019	Request to waive 1009.2.4. by Padua – 2019-6-1 Request to waive 1009.2.4. by Middletown HS – 2019-6-2 Request to waive 1009.2.7. by Sussex Central HS – 2019-6-3 RLCA Investigation	The Board intends to move into executive session for the purpose of discussing documents excluded from the definition of public record under 29 Del. C. § 10002(j).
May 9, 2019	Request to waive 1009.2.4. by Saint Elizabeth – 2019-5-1 Request to waive 1009.2.1. by Milford HS – 2019-5-3	
April 11, 2019	Request to waive 1009.2.4. by Caravel – 2019-4-1 Request to waive 1009.2.7.5.3. by Red Lion – 2019-4-2 Request to waive 1009.2.4. by Glasgow – 2019-4-3 Request to waive NFHS Softball Rule by William Penn High School – 2019-4-5	
January 17, 2019	Request to Waive 1009.2.7 by Milford HS – 2019-1	
December 13, 2018	Request to waive 1009.2.4. by Wilmington Christian – 2018-12-1	
November 8, 2018	Request to waive 1009.2.4. by Cape Henlopen HS 2018-11-1 Request to waive 1009.2.4. by Al duPont HS 2018-11-2	
October 11, 2018	Request to waive 1008.2.7.2.3. by Caravel Academy, 2018-9-5. Request to waive 1009.2.4. by Appoquinimink HS, 2018-10-1 Request to waive 1008.2.7. by Georgetown MS, 2018-10-2 Request to waive 1009.7.5. by Padua Academy, 2018-10-3	
September 13, 2018	Request to waive 1009.2.4. by St Elizabeths HS 2018- 9 -1 Request to waive 1009.2.4. by Newark HS 2018- 9 – 2 Request to waive 1009.2.7 by Newark HS 2018 – 9 – 3	
July 12, 2018	Request to waive 1009.2.4. by Caravel - 2018-7-1	
June 14, 2018	Request by Red Clay and Colonial School Districts to waive 1008.4.3.1.	
April 12, 2018	Request to waive 1009.2.1. by Indian River	
March 8, 2018	Request to waive 1009.2.4 by Sussex Tech – 2018-3-1 Request to waive 1009.2.7.5.3. by Laurel HS. – 2018-3-2 Request to waive 1009.2.7.5.3. by Wilmington Friends – 2018-3-3 Request to waive 1009.2.4 by Sussex Central HS.– 2018-3-4	
January 18, 2018	Request to waive 1009.2.4 by Smyrna HS – 2017-12-2	
December 14, 2017	Request to waive 1009.2.7 by McKean HS – 2017-12-1 Request to waive 1009.2.4 by Smyrna HS – 2017 – 12 -2 Request to waive 1009.2.7.3.3. by Caravel Academy – 2017-12-3 Request to waive 1009.2.7 by Charter 2017- 12 – 4 Request to waive 1009.2.4 by Seaford 2017- 12 -5	
November 9, 2017	Request to waive 1009.2.4 by Cape Henlopen HS – 2017-11-1	
October 12, 2017	Request to waive 1009.2.4 by Mt. Pleasant 2017-10-1 Request to waive 1009.2.7 by Glasgow 2017-10-2 Request to waive 1009.2.4 by Caravel Academy – 2017-9-1 Request to waive 1008.2.7 by Woodbridge Middle School 2017-10-3	
September 14, 2017	Request to waive 1009.2.4 by Caravel Academy – 2017-9-1 Request to waive 1009.2.4 by Concord HS – 2017-9-2	
August 10, 2017	Request to waive 1009.2.4 by Milford HS – 2017 8-1 Request to waive 1009.2.7 by Al DuPont HS – 2017 8-2 Request to waive 1009.2.7. by Newark HS– 2017 8-3 2. Request to waive 1009.2.4. by Cape Henlopen HS– 2017 8-4	
July 13, 2017	Request to Waive 1009.2.7 by Glasgow High School 2017-7-1 Report by Investigator of AI/DMA Basketball Game	The Board intends to move into executive session for the purpose of discussing documents excluded from the definition of “public record” in 29 Del. C. Section 10002.

Executive Sessions for DIAA Board of Director's Meeting

For all of the Executive Sessions below, unless otherwise noted, The Board intends to move into executive session to discuss the contents of a pupil file, the disclosure of which would constitute an invasion of personal privacy.

<u>Date</u>	<u>Executive Session</u>	<u>Reason</u>
June 8, 2017	Request to Waive 1009.2.4 by Wilmington Christian School 2017-6-1	
April 13, 2017	Request to Waive 1009.2.4 by Delmar HS DIAA 2017-4-2 Request to Waive 1009.2.4 by McKean HS DIAA 2017-4-3 Request to Waive 1009.2.4 by Middletown HS DIAA 2017-2-7 2. Request to Waive 1009.2.4 by Dover HS DIAA 2017-4-1 3. Request to Waive 1009.2.4 by Wilmington Friends DIAA 2017-4-4	
December 8, 2016	Request to Waive 1008.2.1 -- by Smyrna Middle School 2016-12-1 Request to Waive 1009.2.7.3 by Tower Hill 2016-12-2 Request to Waive 1009.2.7.3 by Tower Hill 2016-12-3 Request to Waive 1009.2.4 by Mt. Pleasant HS 2016-12-4 Request to Waive 1009.2.3.4 by Mt. Pleasant HS 2016-12-5 2. Request to Waive 1009.2.4 by Sussex Central HS 2016-12-6 3. Request to Waive 1009.2.4 by St. Mark's HS 2016-12-7 4. Request to Waive 1009.2.4 by Dickinson HS 2016-12-8 5. Request to Waive 1009.2.4 by Padua Academy 2016-12-9 6. Request to Waive 1009.2.7 by Appoquinimink HS 2016-12-10	
November 10, 2016	Request to Waive 1009.2.4 by Smyrna HS for DIAA 2016-11-1 Request to Waive 1009.2.4 by Al duPont HS for DIAA 2016-11-2 Request to Waive 1009.2.4 by Al duPont HS for DIAA 2016-11-3 Request to Waive 1009.2.4 by Delmarva Christian School for DIAA 2016-11-4 Request to Waive 1009.2.4 by William Penn HS for DIAA 2016-11-5 Request to Waive 1009.2.4 by First State Military for DIAA 2016-11-7 Request to Waive 1009.2.4 by Glasgow High School for DIAA 2016-11-6 Request to Waive 1009.2.7 by St. Thomas More Academy for DIAA 2016-11-9	
October 13, 2016	Request to Waive 1009.2.7 by Cape Henlopen HS for DIAA 2016-10-1 Request to Waive 1009.2.4 by William Penn HS for DIAA 2016-10-2 Request to Waive 1009.2.4 by Smyrna HS for DIAA 2016-10-3 Request to Waive 1009.2.4 by Polytech HS for DIAA 2016-10-4 Request to Waive 1009.2.4 by The Tatnall School for DIAA 2016-10-5 Request to Waive 1009.2.4 by Smyrna HS for DIAA 2016-10-6 Request to Waive 1009.2.4.7 by First State Military Academy for DIAA 2016-10-7 Request to Waive 1009.2.4.7 by Appoquinimink HS for DIAA 2016-10-8 Request to Waive 1009.2.1.1 by Mt. Pleasant HS for DIAA 2016-10-9 Request to Waive 1009.2.4 by Red Lion Christian Academy for DIAA 2016-10-10 Request to Waive 1009.2.4 by First State Military Academy for DIAA 2016-10-11 Request to Waive 1009.2.4 by First State Military Academy for DIAA 2016-10-12 Request to Waive 1009.2.4 by First State Military Academy for DIAA 2016-10-13 Request to Waive 1009.2.4 by Archmere Academy for DIAA 2016-10-14	

Delaware Interscholastic Athletic Association
DIAA FINANCIAL REPORT
July 2018 through June 2019

		Jul '19 - June '20	Budget	Budget +/-	Encumbered Funds
Jr	018 Balance				962,951.38
	Primary Income/Expense				
	Income				
	Fall Sports				
95608	Fall Cross Country	0.00	4,000.00	-4,000.00	
95610	Fall Field Hockey	0.00	29,000.00	-29,000.00	
95611	Fall Football	0.00	170,000.00	-170,000.00	
95615	Fall Soccer	0.00	35,000.00	-35,000.00	
95638	Fall Volleyball	0.00	53,000.00	-53,000.00	
	Total Fall Sports	0.00	291,000.00	-291,000.00	
	Winter Sports				
95605	Winter Boys' Basketball	0.00	138,000.00	-138,000.00	
95606	Winter Girls Basketball	0.00	66,000.00	-66,000.00	
95624	Winter Individual Wrestling	0.00	29,000.00	-29,000.00	
95619	Winter Swimming	0.00	29,000.00	-29,000.00	
95646	Winter Team Wrestling	0.00	14,000.00	-14,000.00	
95635	Winter Track	0.00	10,000.00	-10,000.00	
	Total Winter Sports	0.00	286,000.00	-286,000.00	
	Spring Sports				
95634	Spring B Lacrosse	0.00	25,000.00	-25,000.00	
95604	Spring Baseball	0.00	32,000.00	-32,000.00	
95637	Spring G Lacrosse	0.00	12,000.00	-12,000.00	
95616	Spring G SOC	0.00	23,000.00	-23,000.00	
95612	Spring Golf	0.00	2,500.00	-2,500.00	
95617	Spring Softball	0.00	16,500.00	-16,500.00	
95620	Spring Tennis	0.00	3,000.00	-3,000.00	
95632	Spring Track	0.00	16,000.00	-16,000.00	
	Total Spring Sports	0.00	130,000.00	-130,000.00	
99767	Interest Income	4,583.29	10,000.00	-5,416.71	
99533	Corporate Contracts/NFHS Network	0.00	115,000.00	-115,000.00	
95466	Member Dues	0.00	88,000.00	-88,000.00	
95116	Miscellaneous	0.00	0.00	0.00	
95237	DIAA Student Leadership	0.00	0.00	0.00	
95628	Officials Dues	7,932.00	30,000.00	-22,068.00	
	Total Income	12,515.29	950,000.00	-937,484.71	
	Expense				
	Fall Sports Expense				
95608	Fall Cross Country Exp	0.00	3,000.00	-3,000.00	0.00
95610	Fall Field Hockey Exp	0.00	15,000.00	-15,000.00	0.00
95611	Fall Football Exp	115.09	65,000.00	-64,884.91	0.00
95615	Fall Soccer Exp	100.00	14,000.00	-13,900.00	0.00
95638	Fall Volleyball Exp	92.48	29,000.00	-28,907.52	0.00
	Total Fall Sports Expense	307.57	126,000.00	-125,692.43	0.00
	Winter Sport Expense				
95605	Winter B Basketball Exp	2,063.07	70,000.00	-67,936.93	659.59
95606	Winter G Basketball Exp	0.00	45,000.00	-45,000.00	779.89
95624	Winter Individual Wrestling Exp	992.30	18,000.00	-17,007.70	0.00
95619	Winter Swimming Exp	671.25	22,000.00	-21,328.75	0.00
95646	Winter Team Wrestling Exp	0.00	10,000.00	-10,000.00	0.00
95635	Winter Track Exp	0.00	9,000.00	-9,000.00	0.00
	Total Winter Sport Expense	3,726.62	174,000.00	-170,273.38	1,439.48
	Spring Sports Expense				
95634	Spring B Lacrosse Exp	4,056.60	20,000.00	-15,943.40	0.00
95604	Spring Baseball Exp	3,408.00	18,000.00	-14,592.00	0.00
95637	Spring G Lacrosse Exp	3,825.42	8,000.00	-4,174.58	0.00
95616	Spring G SOC Exp	0.00	12,000.00	-12,000.00	0.00
95612	Spring Golf Exp	0.00	2,000.00	-2,000.00	0.00
95617	Spring Softball Exp	0.00	10,000.00	-10,000.00	0.00

Delaware Interscholastic Athletic Association
DIAA FINANCIAL REPORT
July 2018 through June 2019

	Jul '19 - June '20	Budget	Budget +/-	Encumbered Funds
95620 Spring Tennis Exp	125.00	2,000.00	-1,875.00	0.00
95632 Spring Track Exp	0.00	15,000.00	-15,000.00	0.00
Total Spring Sports Expense	11,415.02	87,000.00	-75,584.98	0.00
99742 AD Workshops	0.00	0.00	0.00	0.00
95115 Board of Directors Ex	6,596.10	25,000.00	-18,403.90	0.00
95480 Clinics	0.00	10,000.00	-10,000.00	0.00
95117 Coach Ed/Return	0.00	20,000.00	-20,000.00	0.00
99533 Contractual	0.00	7,500.00	-7,500.00	0.00
95A79 DIAA Scholarships	4,500.00	12,000.00	-7,500.00	0.00
95237 DIAA Student Leadership	400.00	18,000.00	-17,600.00	12,595.00
Dues				
95466 NFHS	3,095.00	2,500.00	595.00	0.00
95466 NFOA		10,000.00	-10,000.00	0.00
Total Dues	3,095.00	12,500.00	-9,405.00	0.00
99524 Insurance	0.00	78,000.00	-78,000.00	73,178.00
95116 Miscellaneous Ex	108.91	0.00	108.91	0.00
95628 Officials' Misc.	3,990.00	2,000.00	1,990.00	0.00
95456 Publications	2,380.00	5,000.00	-2,620.00	0.00
95512 Salary and Benefits	107,718.79	290,000.00	-182,281.21	0.00
99541 Awards	0.00	18,000.00	-18,000.00	0.00
99519 Security	0.00	40,000.00	-40,000.00	0.00
		0.00		
95482 Travel	3,184.72	20,000.00	-16,815.28	0.00
95118 Weight Management Exp	0.00	5,000.00	-5,000.00	0.00
Total Expense	147,422.73	950,000.00	-802,577.27	87,212.48
Net Ordinary Income	-134,907.44	0.00	-134,907.44	
Net Income	-134,907.44	0.00	-134,907.44	
Ending Balance				828,043.94

Delaware Interscholastic Athletic Association
DIAA FINANCIAL REPORT
July 2017 through June 2018

	Jul '17 - June '18	Budget	Budget +/-	Encumbered Funds
July 1, 2017 Balance				981,847.32
Ordinary Income/Expense				
Income				
Fall Sports				
95608 Fall Cross Country	3,850.00	4,000.00	-350.00	
95610 Fall Field Hockey	23,304.00	25,000.00	-1,696.00	
95611 Fall Football	140,955.00	150,000.00	-9,045.00	
95615 Fall Soccer	30,832.00	35,000.00	-4,168.00	
95638 Fall Volleyball	48,623.00	45,000.00	3,623.00	
Total Fall Sports	247,364.00	259,000.00	-11,636.00	
Winter Sports				
95605 Winter Boys' Basketball	111,989.90	135,000.00	-23,030.10	
95606 Winter Girls Basketball	56,022.58	58,000.00	-1,977.42	
95624 Winter Individual Wrestling	21,315.00	22,000.00	-685.00	
95619 Winter Swimming	24,899.00	22,000.00	2,899.00	
95646 Winter Team Wrestling	6,053.00	6,000.00	2,053.00	
95635 Winter Track	8,806.00	8,000.00	-1,194.00	
Total Winter Sports	228,865.48	251,000.00	-22,134.52	
Spring Sports				
95634 Spring B Lacrosse	24,782.00	28,000.00	-3,218.00	
95604 Spring Baseball	31,856.00	28,000.00	3,856.00	
95637 Spring G Lacrosse	10,980.00	12,000.00	-1,020.00	
95616 Spring G SOC	23,647.00	21,000.00	2,647.00	
95612 Spring Golf	2,500.00	2,000.00	500.00	
95617 Spring Softball	14,632.00	17,000.00	-2,368.00	
95620 Spring Tennis	2,900.00	3,000.00	-100.00	
95632 Spring Track	12,270.00	16,000.00	-3,730.00	
Total Spring Sports	123,567.00	127,000.00	-3,433.00	
99767 Interest Income	4,709.40	5,000.00	-290.60	
99533 Corporate Contracts	133,333.33	110,000.00	23,333.33	
95466 Member Dues	57,700.00	70,000.00	-12,300.00	
95116 Miscellaneous	0.00	0.00	0.00	
95628 Officials Dues	31,428.00	28,000.00	3,428.00	
Total Income	826,967.21	850,000.00	-23,032.79	
Expense				
Fall Sports Expense				
95608 Fall Cross Country Exp	5,020.38	5,000.00	20.38	0.00
95610 Fall Field Hockey Exp	17,993.26	15,000.00	2,993.26	0.00
95611 Fall Football Exp	64,562.71	55,000.00	9,562.71	0.00
95615 Fall Soccer Exp	13,503.29	14,000.00	-496.71	0.00
95638 Fall Volleyball Exp	28,783.50	25,000.00	3,783.50	0.00
Total Fall Sports Expense	129,863.14	114,000.00	15,863.14	0.00
Winter Sport Expense				
95605 Winter B Basketball Exp	74,173.16	65,000.00	9,173.16	0.00
95606 Winter G Basketball Exp	57,412.36	55,000.00	2,412.36	0.00
95624 Winter Individual Wrestling Exp	22,441.72	15,000.00	7,441.72	0.00
95619 Winter Swimming Exp	21,716.56	22,000.00	-283.44	0.00
95646 Winter Team Wrestling Exp	7,442.09	4,000.00	3,442.09	0.00
95635 Winter Track Exp	9,124.86	8,000.00	1,124.86	0.00
Total Winter Sport Expense	192,310.75	169,000.00	23,310.75	0.00
Spring Sports Expense				
95634 Spring B Lacrosse Exp	19,927.13	11,000.00	8,927.13	0.00
95604 Spring Baseball Exp	17,846.94	12,000.00	5,846.94	0.00
95637 Spring G Lacrosse Exp	7,852.63	7,000.00	852.63	0.00
95616 Spring G SOC Exp	12,010.55	13,000.00	-989.45	0.00
95612 Spring Golf Exp	1,993.06	1,500.00	493.06	0.00
95617 Spring Softball Exp	12,715.41	11,000.00	1,715.41	0.00
95620 Spring Tennis Exp	2,560.25	3,000.00	-439.75	0.00
95632 Spring Track Exp	14,750.32	11,000.00	3,750.32	0.00
Total Spring Sports Expense	89,856.29	69,500.00	20,356.29	0.00
99742 AD Workshops	0.00	18,500.00	-18,500.00	0.00
95115 Board of Directors Ex	11,247.75	10,000.00	1,247.75	0.00
95480 Clinics	14,880.00	0.00	14,880.00	0.00

Delaware Interscholastic Athletic Association
DIAA FINANCIAL REPORT
July 2017 through June 2018

	Jul '17 - June '18	Budget	Budget +/-	Encumbered Funds
95117 Coach Ed/Return	0.00	0.00	0.00	0.00
99533 Contractual	3,500.00	0.00	3,500.00	0.00
95A79 DIAA Scholarships	4,500.00	11,000.00	-6,500.00	0.00
95237 DIAA Student Leadership Dues	18,985.00	16,000.00	2,985.00	0.00
95466 NFHS	-14,850.00	2,500.00	-17,350.00	0.00
95466 NFOA		10,000.00	-10,000.00	0.00
Total Dues	-14,850.00	12,500.00	-27,350.00	0.00
99524 Insurance	76,918.10	76,500.00	418.10	0.00
95116 Miscellaneous Ex	2,165.34	0.00	2,165.34	0.00
95628 Officials' Misc.	17,276.25	0.00	17,276.25	0.00
95456 Publications	1,944.60	20,000.00	-18,055.40	0.00
95512 Salary and Benefits	297,133.18	300,000.00	-2,866.82	0.00
95541 Awards	17,764.93	18,000.00	-235.07	0.00
Travel/Misc. Expenses				
95482 Travel	10,736.81	15,000.00	-4,263.19	0.00
95118 Weight Management Exp	0.00	0.00	0.00	0.00
Total Expense	874,032.14	850,000.00	24,032.14	0.00
Net Ordinary Income	-47,064.93	0.00	-47,064.93	
Net Income	-47,064.93	0.00	-47,064.93	
Ending Balance				934,782.39

DIAA FINANCIAL REPORT

July 2016 through June 2017

July 1, 2016 Balance

961,184.83

Ordinary Income/Expense

Income

Fall Sports

	Jul '16 - June '17	Budget	Budget +/-	Encumbered Funds
95608 Fall Cross Country	3,800.00	4,500.00	-700.00	
95610 Fall Field Hockey	25,523.32	25,000.00	523.32	
95611 Fall Football	179,981.89	139,000.00	40,981.89	
95615 Fall Soccer	32,568.77	40,000.00	-7,431.23	
95638 Fall Volleyball	49,473.18	44,000.00	5,473.18	
Total Fall Sports	291,347.16	252,500.00	38,847.16	

Winter Sports

95605 Winter Boys' Basketball	136,300.75	132,500.00	3,800.75	
95606 Winter Girls Basketball	57,290.04	58,000.00	-709.96	
95624 Winter Individual Wrestling	21,930.00	17,000.00	4,930.00	
95619 Winter Swimming	24,606.00	24,500.00	106.00	
95646 Winter Team Wrestling	6,110.00	8,000.00	-1,890.00	
95635 Winter Track	8,024.24	8,000.00	24.24	
Total Winter Sports	254,261.03	248,000.00	6,261.03	

Spring Sports

95634 Spring B Lacrosse	27,737.00	28,000.00	-263.00	
95604 Spring Baseball	40,269.50	28,000.00	12,269.50	
95637 Spring G Lacrosse	12,288.00	10,000.00	2,288.00	
95616 Spring G SOC	28,093.50	21,000.00	7,093.50	
95612 Spring Golf	1,850.00	2,000.00	-150.00	
95617 Spring Softball	21,245.00	17,000.00	4,245.00	
95620 Spring Tennis	5,600.00	3,000.00	2,600.00	
95632 Spring Track	16,810.00	17,000.00	-190.00	
Total Spring Sports	153,893.00	126,000.00	27,893.00	

99767 Interest Income	9,756.39	5,000.00	4,756.39	
99533 Corporate Contracts	104,327.81	100,000.00	4,327.81	
95466 Member Dues	62,500.00	76,000.00	-13,500.00	
95116 Miscellaneous	0.00	1,000.00	-1,000.00	
95628 Officials Dues	28,029.00	30,000.00	-1,971.00	
Total Income	904,114.39	838,500.00	65,614.39	

Expense

Fall Sports Expense

95608 Fall Cross Country Exp	5,168.30	4,500.00	668.30	0.00
95610 Fall Field Hockey Exp	15,212.46	15,000.00	212.46	0.00
95611 Fall Football Exp	60,853.09	48,000.00	12,853.09	0.00
95615 Fall Soccer Exp	12,363.21	14,000.00	-1,636.79	0.00
95638 Fall Volleyball Exp	25,883.75	20,000.00	5,883.75	0.00
Total Fall Sports Expense	119,480.81	101,500.00	17,980.81	0.00

Winter Sport Expense

95605 Winter B Basketball Exp	66,200.58	56,000.00	10,200.58	643.17
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DIAA FINANCIAL REPORT

July 2016 through June 2017

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	Jul '16 - June '17	Budget	Budget +/-	Encumbered Funds
95606 Winter G Basketball Exp	56,352.89	47,000.00	9,352.89	0.00
95624 Winter Individual Wrestling Exp	26,076.20	17,000.00	9,076.20	0.00
95619 Winter Swimming Exp	20,140.40	18,000.00	2,140.40	0.00
95646 Winter Team Wrestling Exp	3,961.00	7,000.00	-3,039.00	0.00
95635 Winter Track Exp	9,689.82	9,500.00	189.82	0.00
Total Winter Sport Expense	182,420.89	154,500.00	27,920.89	643.17
Spring Sports Expense				
95634 Spring B Lacrosse Exp	11,581.80	11,000.00	581.80	0.00
95604 Spring Baseball Exp	15,000.58	11,500.00	3,500.58	0.00
95637 Spring G Lacrosse Exp	9,864.43	7,000.00	2,864.43	0.00
95616 Spring G SOC Exp	12,790.62	13,000.00	-209.38	0.00
95612 Spring Golf Exp	745.00	1,500.00	-755.00	0.00
95617 Spring Softball Exp	6,275.76	10,500.00	-4,224.24	0.00
95620 Spring Tennis Exp	3,487.50	4,000.00	-512.50	0.00
95632 Spring Track Exp	20,045.17	15,000.00	5,045.17	0.00
Total Spring Sports Expense	79,790.86	73,500.00	6,290.86	0.00
99742 AD Workshops	0.00	16,400.00	-16,400.00	0.00
95115 Board of Directors Ex	9,252.42	9,000.00	252.42	0.00
95480 Clinics	12,420.00	0.00	12,420.00	0.00
95117 Coach Ed/Return	0.00	0.00	0.00	0.00
99533 Contractual	0.00	20,000.00	-20,000.00	0.00
95A79 DIAA Scholarships	0.00	11,000.00	-11,000.00	0.00
95237 DIAA Student Leadership	5,578.64	16,000.00	-10,421.36	0.00
Dues				
95466 NFHS	-13,207.00	2,500.00	-15,707.00	0.00
95466 NFOA		14,500.00	-14,500.00	0.00
Total Dues	-13,207.00	17,000.00	-30,207.00	0.00
99524 Insurance	76,524.95	76,500.00	24.95	0.00
95116 Miscellaneous Ex	1,230.60	3,000.00	-1,769.40	0.00
95628 Officials' Misc.	14,094.25	4,000.00	10,094.25	0.00
95456 Publications	16,497.62	22,000.00	-5,502.38	0.00
95512 Salary and Benefits	335,370.99	290,000.00	45,370.99	0.00
99541 Awards	35,219.89	18,000.00	17,219.89	0.00
Travel/Misc. Expenses				
95482 Travel	8,776.98	9,000.00	-223.02	0.00
95118 Weight Management Exp	0.00	0.00	0.00	0.00
Total Expense	883,451.90	841,400.00	42,051.90	643.17
Net Ordinary Income	20,662.49	-2,900.00	23,562.49	
Net Income	20,662.49	-2,900.00	23,562.49	
Ending Balance				981,847.32

Delaware Interscholastic Athletic Association

Pre-Participation Physical Evaluation

The DIAA pre-participation physical evaluation and consents form consist of seven pages. Pages one, two and four require your signature while pages five, six and seven are references for you to keep. Page three requires the exam date and physician's signature. Pages three and four require the clearance to participate date and physician's signature. **The student must be cleared to participate on or after April 1 based on a physical examination conducted within 12 months of the signature. The clearance is valid through June 30 of the following school year.**

Name of Athlete: _____ School: _____

Grade: _____ Age: _____ Gender: _____ Date of Birth: _____ Phone: _____

Parent/Guardian Name: (Please Print): _____

PARENT/GUARDIAN/STUDENT CONSENTS

_____ has my permission to participate in all interscholastic sports **NOT** checked below?
(Name of Athlete)

NOTE- If you check any sport below the athlete will NOT be permitted to participate in that sport.

<input type="checkbox"/> Baseball	<input type="checkbox"/> Basketball	<input type="checkbox"/> Cheerleading	<input type="checkbox"/> Cross Country	<input type="checkbox"/> Crew
<input type="checkbox"/> Field Hockey	<input type="checkbox"/> Football	<input type="checkbox"/> Golf	<input type="checkbox"/> Ice Hockey	<input type="checkbox"/> Lacrosse (B)
<input type="checkbox"/> Lacrosse (G)	<input type="checkbox"/> Soccer	<input type="checkbox"/> Softball	<input type="checkbox"/> Squash	<input type="checkbox"/> Swimming
<input type="checkbox"/> Tennis	<input type="checkbox"/> Track	<input type="checkbox"/> Volleyball	<input type="checkbox"/> Wrestling	

1. My permission extends to all interscholastic activities whether conducted on or off school premises. I have read and discussed the **Parent/Player Concussion Information Form; Symptoms and Risk Factor for Sudden Cardiac Arrest form;** and the list of items that protect against the loss of athletic eligibility, with said participant and I will retain those pages for my reference. I have also discussed with him/her and we understand that physical injury, including paralysis, coma or death can occur as a result of participation in interscholastic athletics. I waive any claim for injury or damage incurred by said participant while participating in the activities NOT checked above.

Parent Signature: _____ **Date:** _____

Student Signature: _____ **Date:** _____

2. To enable DIAA and its full and associate member schools to determine whether herein named student is eligible to participate in interscholastic athletics, I hereby consent to the release of any and all portions of school record files, beginning with the sixth grade, of the herein named student, including but not limited to, birth and age records, name and residence of student's parent(s), guardian(s) or Relative Care Giver, residence of student, health records, academic work completed, grades received and attendance records.

Parent Signature: _____ **Date:** _____

3. I further consent to DIAA's and its full and associate member schools use of the herein named student's name, likeness, and athletically related information in reports of interscholastic practices, scrimmages or contests, promotional literature of the association, and other materials and releases related to interscholastic athletics.

Parent Signature: _____ **Date:** _____

4. By this signature, I hereby consent to allow the physician(s) and other health care provider(s) selected by myself or the schools to perform a pre-participation examination on my child and to provide treatment for any injury received while participating in or training for athletics for his/her school. I further consent to allow said physician(s) or health care provider(s) to share appropriate information concerning my child that is relevant to participation, with coaches, medical staff, Delaware Interscholastic Athletic Association, and other school personnel as deemed necessary. Such information may be used for injury surveillance purposes.

Parent Signature: _____ **Date:** _____

5. **By this signature, I agree to notify the physician and school of any health changes during the school year that could impact participation in interscholastic athletics.**

Parent Signature: _____ **Date:** _____

HISTORY FORM

(Note: This form is to be filled out by the patient and parent prior to seeing the physician.)

Date of Exam _____

Name _____ Date of birth _____

Sex _____ Age _____ Grade _____ School _____ Sport(s) _____

Medicines and Allergies: Please list all of the prescription and over-the-counter medicines and supplements (herbal and nutritional) that you are currently taking

Do you have any allergies? ☐ Yes ☐ No If yes, please identify specific allergy below.
☐ Medicines ☐ Pollens ☐ Food

☐ Stinging Insects

Explain "Yes" answers below. Circle questions you don't know the answers to.

GENERAL QUESTIONS	Yes	No
1. Has a doctor ever denied or restricted your participation in sports for any reason?		
2. Do you have any ongoing medical conditions? If so, please identify below: <input type="checkbox"/> Asthma <input type="checkbox"/> Anemia <input type="checkbox"/> Diabetes <input type="checkbox"/> Infections Other: _____		
3. Have you ever spent the night in the hospital?		
4. Have you ever had surgery?		
HEART HEALTH QUESTIONS ABOUT YOU	Yes	No
5. Have you ever passed out or nearly passed out DURING or AFTER exercise?		
6. Have you ever had discomfort, pain, tightness, or pressure in your chest during exercise?		
7. Does your heart ever race or skip beats (irregular beats) during exercise?		
8. Has a doctor ever told you that you have any heart problems? If so, check all that apply: <input type="checkbox"/> High blood pressure <input type="checkbox"/> A heart murmur <input type="checkbox"/> High cholesterol <input type="checkbox"/> A heart infection <input type="checkbox"/> Kawasaki disease Other: _____		
9. Has a doctor ever ordered a test for your heart? (For example, ECG/EKG, echocardiogram)		
10. Do you get lightheaded or feel more short of breath than expected during exercise?		
11. Have you ever had an unexplained seizure?		
12. Do you get more tired or short of breath more quickly than your friends during exercise?		
HEART HEALTH QUESTIONS ABOUT YOUR FAMILY	Yes	No
13. Has any family member or relative died of heart problems or had an unexpected or unexplained sudden death before age 50 (including drowning, unexplained car accident, or sudden infant death syndrome)?		
14. Does anyone in your family have hypertrophic cardiomyopathy, Marfan syndrome, arrhythmogenic right ventricular cardiomyopathy, long QT syndrome, short QT syndrome, Brugada syndrome, or catecholaminergic polymorphic ventricular tachycardia?		
15. Does anyone in your family have a heart problem, pacemaker, or implanted defibrillator?		
16. Has anyone in your family had unexplained fainting, unexplained seizures, or near drowning?		
BONE AND JOINT QUESTIONS	Yes	No
17. Have you ever had an injury to a bone, muscle, ligament, or tendon that caused you to miss a practice or a game?		
18. Have you ever had any broken or fractured bones or dislocated joints?		
19. Have you ever had an injury that required x-rays, MRI, CT scan, injections, therapy, a brace, a cast, or crutches?		
20. Have you ever had a stress fracture?		
21. Have you ever been told that you have or have you had an x-ray for neck instability or atlantoaxial instability? (Down syndrome or dwarfism)		
22. Do you regularly use a brace, orthotics, or other assistive device?		
23. Do you have a bone, muscle, or joint injury that bothers you?		
24. Do any of your joints become painful, swollen, feel warm, or look red?		
25. Do you have any history of juvenile arthritis or connective tissue disease?		

MEDICAL QUESTIONS	Yes	No
26. Do you cough, wheeze, or have difficulty breathing during or after exercise?		
27. Have you ever used an inhaler or taken asthma medicine?		
28. Is there anyone in your family who has asthma?		
29. Were you born without or are you missing a kidney, an eye, a testicle (males), your spleen, or any other organ?		
30. Do you have groin pain or a painful bulge or hernia in the groin area?		
31. Have you had infectious mononucleosis (mono) within the last month?		
32. Do you have any rashes, pressure sores, or other skin problems?		
33. Have you had a herpes or MRSA skin infection?		
34. Have you ever had a head injury or concussion?		
35. Have you ever had a hit or blow to the head that caused confusion, prolonged headache, or memory problems?		
36. Do you have a history of seizure disorder?		
37. Do you have headaches with exercise?		
38. Have you ever had numbness, tingling, or weakness in your arms or legs after being hit or falling?		
39. Have you ever been unable to move your arms or legs after being hit or falling?		
40. Have you ever become ill while exercising in the heat?		
41. Do you get frequent muscle cramps when exercising?		
42. Do you or someone in your family have sickle cell trait or disease?		
43. Have you had any problems with your eyes or vision?		
44. Have you had any eye injuries?		
45. Do you wear glasses or contact lenses?		
46. Do you wear protective eyewear, such as goggles or a face shield?		
47. Do you worry about your weight?		
48. Are you trying to or has anyone recommended that you gain or lose weight?		
49. Are you on a special diet or do you avoid certain types of foods?		
50. Have you ever had an eating disorder?		
51. Do you have any concerns that you would like to discuss with a doctor?		
FEMALES ONLY		
52. Have you ever had a menstrual period?		
53. How old were you when you had your first menstrual period?		
54. How many periods have you had in the last 12 months?		

Explain "yes" answers here

I hereby state that, to the best of my knowledge, my answers to the above questions are complete and correct.

Signature of athlete _____ Signature of parent/guardian _____ Date _____

PHYSICAL EXAMINATION FORM

Name _____ Date of birth _____

PHYSICIAN REMINDERS

- Consider additional questions on more sensitive issues
 - Do you feel stressed out or under a lot of pressure?
 - Do you ever feel sad, hopeless, depressed, or anxious?
 - Do you feel safe at your home or residence?
 - Have you ever tried cigarettes, chewing tobacco, snuff, or dip?
 - During the past 30 days, did you use chewing tobacco, snuff, or dip?
 - Do you drink alcohol or use any other drugs?
 - Have you ever taken anabolic steroids or used any other performance supplement?
 - Have you ever taken any supplements to help you gain or lose weight or improve your performance?
 - Do you wear a seat belt, use a helmet, and use condoms?
- Consider reviewing questions on cardiovascular symptoms (questions 5–14).

EXAMINATION			
Height	Weight	<input type="checkbox"/> Male <input type="checkbox"/> Female	
BP / (/)	Pulse	Vision R 20/	L 20/ Corrected <input type="checkbox"/> Y <input type="checkbox"/> N
MEDICAL	NORMAL	ABNORMAL FINDINGS	
Appearance <ul style="list-style-type: none"> Marfan stigmata (kyphoscoliosis, high-arched palate, pectus excavatum, arachnodactyly, arm span > height, hyperlaxity, myopia, MVP, aortic insufficiency) 			
Eyes/ears/nose/throat <ul style="list-style-type: none"> Pupils equal Hearing 			
Lymph nodes			
Heart ^a <ul style="list-style-type: none"> Murmurs (auscultation standing, supine, +/- Valsalva) Location of point of maximal impulse (PMI) 			
Pulses <ul style="list-style-type: none"> Simultaneous femoral and radial pulses 			
Lungs			
Abdomen			
Genitourinary (males only) ^b			
Skin <ul style="list-style-type: none"> HSV, lesions suggestive of MRSA, tinea corporis 			
Neurologic ^c			
MUSCULOSKELETAL			
Neck			
Back			
Shoulder/arm			
Elbow/forearm			
Wrist/hand/fingers			
Hip/thigh			
Knee			
Leg/ankle			
Foot/toes			
Functional <ul style="list-style-type: none"> Duck-walk, single leg hop 			

^aConsider ECG, echocardiogram, and referral to cardiology for abnormal cardiac history or exam.

^bConsider GU exam if in private setting. Having third party present is recommended.

^cConsider cognitive evaluation or baseline neuropsychiatric testing if a history of significant concussion.

- ☐ Cleared for all sports without restriction
- ☐ Cleared for all sports without restriction with recommendations for further evaluation or treatment for _____

- ☐ Not cleared
- ☐ Pending further evaluation
- ☐ For any sports
- ☐ For certain sports _____
- Reason _____

Recommendations _____

I have examined the above-named student and completed the preparticipation physical evaluation. The athlete does not present apparent clinical contraindications to practice and participate in the sport(s) as outlined above. A copy of the physical exam is on record in my office and can be made available to the school at the request of the parents. If conditions arise after the athlete has been cleared for participation, the physician may rescind the clearance until the problem is resolved and the potential consequences are completely explained to the athlete (and parents/guardians).

Health Care Provider: Print/type Name _____ Signature _____, MD, DO, PA, or NP

Address _____ Phone _____

Date of Exam: _____ Date Cleared to Participate: _____

SCHOOL ATHLETE MEDICAL CARD

(Parent/Guardian: Please complete Sections 1, 2 & 3. Please print.)

Section 1: Contact /Personal Information

Name: _____ Sport(s): _____
Age: _____ Grade: _____ Birthdate: _____
Guardian Name: _____
Address: _____
Phone: (H) _____ (W): _____ (C): _____ (P) _____
Other Authorized Person To Contact In Case Of Emergency: _____
Name: _____ Phone(s): _____
Name: _____ Phone(s): _____
Preference Of Physician (And Permission To Contact If Needed): _____
Name: _____ Phone: _____
Hospital Preference: _____ Insurance: _____
Policy #: _____ Group: _____ Phone: _____

Section 2: Medical Information

Medical Illnesses: _____
Last Tetanus (Mo/Yr): _____ Allergies: _____
Medications: _____
(Any medications that may be taken during competition require a physician's note.)
Previous Head/Neck/Back Injury: _____
Heat Disorder, Or Sickle Cell Trait: _____
Previous Significant Injuries: _____
Any Other Important Medical Information: _____

Section 3: Consent for Athletic Conditioning, Training and Health Care Procedures

I hereby give consent for my child to participate in the school's athletic conditioning and training program, and to receive any necessary healthcare treatment including first aid, diagnostic procedures, and medical treatment, that may be provided by the treating physicians, nurses, athletic trainers, or other healthcare providers employed directly or through a contract by the school, or the opposing team's school. The healthcare providers have my permission to release my child's medical information to other healthcare practitioners and school officials. In the event I cannot be reached in an emergency I give permission for my child to be transported to receive necessary treatment. I understand that Delaware Interscholastic Athletic Association or its associates may request information regarding the athlete's health status, and I hereby give my permission for the release of this information as long as the information does not personally identify my child.

Parent/Guardian Signature: _____ Date: _____
Athlete's Signature: _____ Date: _____

Section 4: Clearance for Participation

_____ Cleared without restrictions _____ Cleared with the following restrictions: _____
Health Care Provider's Signature: _____ MD/DO, PA, NP Date: _____

For office use only: This card is valid from April 1, 20 _____ through June 30, 20 _____

Note: If any changes occur, a new card should be completed by the parent/guardian. The original card should be kept on file in the school athletic director's or athletic trainer's office. A copy should be kept in the sports' athletic kits. This card contains personal medical information and should be treated as confidential by the school, its employees, agents, and contractors.

Name of School: _____ Name of ATC: _____



Delaware Interscholastic Athletic Association Parent/ Player Concussion Information Form

A concussion is a brain injury and all brain injuries are serious. They are caused by a bump, blow, or jolt to the head, or by a blow to another part of the body with the force transmitted to the head. They can range from mild to severe and can disrupt the way the brain normally works. Even though most concussions are mild, **all concussions are potentially serious and may result in complications including prolonged brain damage and death if not recognized and managed properly.** In other words, even a “ding” or a bump on the head can be serious. You can’t see a concussion and most sports concussions occur without loss of consciousness. Signs and symptoms of concussion may show up right after the injury or can take hours or days to fully appear. If your child reports any symptoms of concussion, or if you notice the symptoms or signs of concussion yourself, seek medical attention right away.

Symptoms may include one or more of the following:

Headaches	Pressure in head	Nausea or vomiting
Neck pain	Balance problems	Dizziness
Disturbed vision	Light/noise sensitivity	Sluggish
Feeling foggy	Drowsiness	Changes in sleep
Amnesia	“Don’t feel right”	Low energy
Sadness	Nervousness	Irritability
Confusion	Repeating questions	Concentration problems

Signs observed by teammates, parents and coaches may include:

Appears dazed	Vacant facial expression
Confused about assignment	Forgets plays
Unsure of game/score etc	Clumsy
Responds slowly	Personality changes
Seizures	Behavior changes
Loss of consciousness	Uncoordinated
Can’t recall events before or after hit	

What can happen if my child keeps on playing with a concussion or returns too soon?

Athletes with the signs and symptoms of concussion should be removed from play immediately. Continuing to play with the signs and symptoms of a concussion leaves the young athlete especially vulnerable to greater injury. There is an increased risk of significant damage from a concussion for a period of time after that concussion occurs, particularly if the athlete suffers another concussion before completely recovering from the first one (second impact syndrome). This can lead to prolonged recovery, or even to severe brain swelling with devastating and even fatal consequences. It is well known that adolescent or teenage athletes will often under report symptoms of injuries, and concussions are no different. As a result, education of administrators, coaches, parents and students is the key for the student-athlete’s safety.

If you think your child has suffered a concussion:

Any athlete even suspected of suffering a concussion should be removed from the game or practice immediately. No athlete may return to activity after an apparent head injury or concussion, regardless of how mild it seems or how quickly symptoms clear, without medical clearance. Close observation of the athlete should continue for several hours. You should also inform your child’s coach if you think that your child may have a concussion. Remember it is better to miss one game than miss the whole season. And when in doubt, the athlete sits out.

For current and up-to-date information from the CDC on concussions you can go to:

<https://www.cdc.gov/headsup/youthsports/index.html>

For a current update of DIAA policies and procedures on concussions you can go to:

<http://www.doe.k12.de.us/Page/3298>

For a free online video on concussions you can go to:

<https://nfhslearn.com/courses/61064/concussion-in-sports>

All parents and players must sign the signature portion of the DIAA PPE indicating they have read and understand the above.

What is Sudden Cardiac Arrest?

- An electrical malfunction (short-circuit) causes the bottom chamber of the heart (ventricles) to beat dangerously fast (ventricular tachycardia or fibrillation) and disrupts the pumping ability of the heart.
- Occurs suddenly and often without warning
- The heart cannot pump blood to the brain, lungs and other organs of the body.
- The person loses consciousness (passes out) and has no pulse.
- Death occurs within minutes if not treated.

What causes Sudden Cardiac Arrest?

- Conditions present at birth (inherited and non-inherited heart abnormalities)
- A blow to the chest (Commotio Cordis)
- An infection/inflammation of the heart, usually caused by a virus. (Myocarditis)
- Recreational/Performance-Enhancing drug use.
- Other cardiac & medical conditions/Unknown causes. (Obesity/Idiopathic)

What are the symptoms/warning signs of Sudden Cardiac Arrest?

- Fainting/blackouts (especially during exercise)
- Dizziness
- Unusual fatigue/weakness
- Chest pain
- Shortness of breath
- Nausea/vomiting
- Palpitations (heart is beating unusually fast or skipping beats)
- Family history of sudden cardiac arrest at age < 50

ANY of these symptoms/warning signs may necessitate further evaluation from your physician before returning to practice or a game.

What are ways to screen for Sudden Cardiac Arrest?

- The American Heart Association recommends a pre-participation history and physical including 12 important cardiac elements.
- **The DIAA Pre-Participation Physical Evaluation – Medical History form includes ALL 12 of these important cardiac elements and is mandatory annually. Please answer the heart history questions on the student health history section of the DIAA PPE carefully.**
- Additional screening using an electrocardiogram and/or an echocardiogram is readily available to all athletes, but is not mandatory.

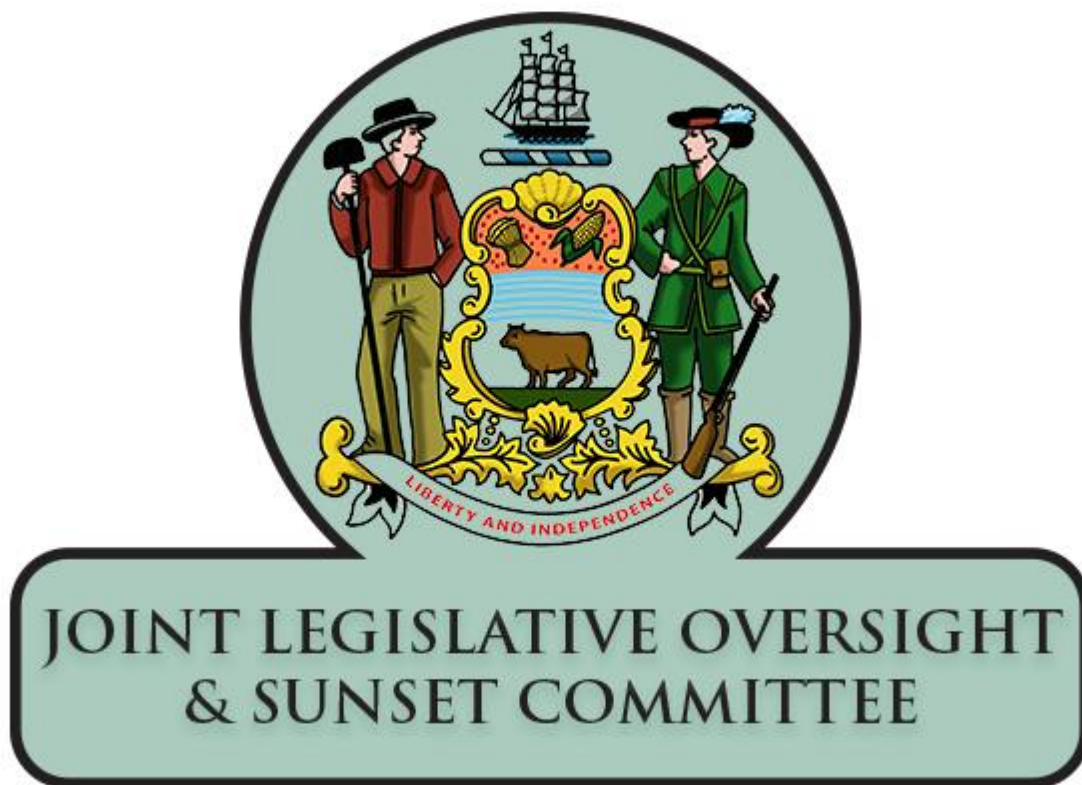
Where can one find additional information?

- Contact your primary care physician
- American Heart Association (www.heart.org)
- August Heart (www.augustheart.org)
- Championship Hearts Foundation (www.championshipheartsfoundation.org)
- Cypress ECG Project (www.cypressecgproject.org)
- Parent Heart Watch (www.parentheartwatch.com)

2020 Final Report

Delaware Nursing Home Resident Quality Assurance Commission ("DNHRQAC")

150th General Assembly, 2nd session



*Respectfully submitted to the
Joint Legislative Oversight and Sunset Committee
June 2020*

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Representative Sherry Dorsey Walker

Senator Stephanie L. Hansen

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FACT SHEET

March 13, 2020 JLOSC Review of DNHRQAC



Joint Legislative Oversight
& Sunset Committee

Delaware Nursing Home Resident Quality Assurance Commission ("DNHRQAC") Overview

- Monitor Delaware's quality assurance system for nursing home residents so that responses to complaint of abuse, neglect, mistreatment, financial exploitation, and other matters are responded to in a timely and effective manner.
- Hosts open meetings and reviews of applicable agencies and entities to address:
 - Quality of care issues.
 - Identify gaps in service.
 - Act as a public forum to share information.
- Staffed by an Executive Director and is a non-judicial agency funded by the judiciary.

DNHRQAC Membership

- 13 members as of September 2019.
 - Representation: legislators, resident (or family member), employees of a long-term care facility, health care professional, advocate for people with disabilities, and other organizational stakeholders.
 - All 3 counties represented in membership.
- Commission members receive the following:
 - Onboarding material when appointed.
 - Annual update of all financial and administrative information.
- Commission members conduct visits of long-term care and assisted living facilities, to promote an atmosphere of information sharing and assist the Commission in fulfilling its responsibility of monitoring the effectiveness of the State's quality assurance system.

Challenges

- Population growth statewide.
- Public and private sector turnover.
- Funding and staffing levels.

Opportunities for Improvement

- Elder Caucus.
- Membership challenges and new bylaws.
- New outreach opportunities.

QUALITY ASSURANCE SYSTEM

STAFFING RATIOS 1
Eagle's Law
mandated staffing
ratios

DHCQ 2
Division of Health
Care Quality,
responsible for
enforcement of state
and federal laws and
regulations



4 **ADULT ABUSE
REGISTRY**

3 **CRIMINAL
BACKGROUND
CHECK CENTER**

ANALYST'S NOTE

On March 12, 2020, Governor John Carney issued a state of emergency due to the public health threat of COVID-19. Governor Carney released numerous modifications to further protect the public throughout March, April, May, and June 2020. In March 2020, the General Assembly announced the postponement of its legislative session and closed Legislative Hall to the public amid the spread of COVID-19.

With the spread and growing concern regarding COVID-19, the remainder of the Committee's meetings were postponed, which ultimately shortened the 2020 review cycle. Prior to the state of emergency, the Committee held meetings for entities held over from 2019 and two of four public presentation hearings for the entities under 2020 review.

Due to the shortened review cycle and modified legislative session, [the Committee chairs issued a statement on May 22, 2020](#), explaining that the 2020 review process will continue in 2021 and that all entities under review in 2020 are considered held over.

What follows is the Committee's 2020 final report on its review of the Delaware Nursing Home Residents Quality Assurance Commission. This report is being published in draft form in June 2020; the Committee will consider whether to approve a final version when it meets again in 2021.

INTRODUCTION

About JLOSC and the Review Process

Delaware's Legislative Oversight and Sunset Law, enacted in 1979 in Chapter 102 of Title 29, provides for the periodic legislative review of state agencies, boards, and commissions ("entity" or, collectively, "entities"). The purpose of review is to determine if there is a public need for an entity and, if so, to determine if it is effectively performing to meet that need. Generally, an entity is not reviewed more than once every six years.

The Joint Legislative Oversight and Sunset Committee ("JLOSC" or "Committee") is responsible for guiding the review process. The Committee is a bipartisan committee comprised of ten legislators. The Senate President Pro Tempore appoints five senators and the Speaker of the House appoints five representatives to serve on the Committee.

In general, the conduction of reviews spans a ten to twelve-month time period commencing in July. The Committee's Analysts compile a comprehensive review of each entity, based on the responses each entity provides on a questionnaire designed to meet statutory criteria, and then prepares a preliminary report for the use of Committee members during public hearings held each year. Public hearings serve as a critical component of the review process because they provide the best opportunity for JLOSC to determine if there is a genuine public need for the entity, and if the entity is beneficial to the public's health, safety, and welfare.

At the conclusion of a review, JLOSC may recommend the continuance, consolidation, reorganization, transfer, or termination (sunset) of an entity. Although the Committee has "sunset" a small number of entities since its first reviews in 1980, the more common approach has been for the Committee to work with an entity under review to formalize specific statutory and non-statutory recommendations with an end goal of improving the entity's overall performance and accountability.

About the JLOSC Performance Review Questionnaire

The information provided in this report is taken from the JLOSC Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire. Any changes made to the substance of what the agency reported are indicated by footnote. The section titled, "Additional Comment from the Committee Analyst" address any points of consideration which arose in analyzing the questionnaire and compiling this report.

In the final report the analyst applied substantive changes where required, resulted from findings made through the review processes. The appendices of the draft report included the statutes governing and applying to the agency under review. They were included as a reference for JLOSC members and are not included in the final report.

EXECUTIVE SUMMARY

History and Mission: In July 1999, Senate Bill 23 was enacted to create the Delaware Nursing Home Residents Quality Assurance Commission (“DNHRQAC” or “Commission”). The Commission was created to monitor Delaware’s quality assurance system for nursing home residents so that responses to complaints of abuse, neglect, mistreatment, financial exploitation, and other matters are responded to in a timely and effective manner. The following was established and became part of the quality assurance system outlined in the Commission’s mission:

- Staffing ratios.
- Creation of the Division of Health Care Quality (“DHCQ”) within the Department of Health and Social Services (“DHSS”), responsible for enforcement of State and federal laws and regulations.
- Criminal Background Check Center.
- Adult Abuse Registry.

Since its inception, the Commission has hosted open public meetings to address quality of care issues, identified gaps in service, acted as a forum for the public and other stakeholders to share information regarding nursing home and assisted living services, and issued an annual report of its findings. Additionally, the Commission receives updates from the appropriate state agencies and, if necessary, make the necessary recommendations to the Governor and General Assembly.

Membership and Staff: As of September 2019, there are 13 members of the Commission, consisting of legislators, resident of a nursing home or family member, employees of a long-term care facility, advocate for people with disabilities, and other organizational stakeholders.

The Commission is 1 of 5 non-judicial agencies funded by the Judiciary’s budget. Each are managed by their own executive director. The Administrative Office of the Courts is responsible for the 5 non-judicial agencies’ financial and human resource matters, but the agencies function independently.

Challenges:

- Population Growth
- Public and Private Sector Turnover
- Funding and Staff

Opportunities for Improvement:

- Elder Caucus
- Membership challenges and new bylaws
- Outreach

JLOSC PERFORMANCE REVIEW QUESTIONNAIRE

AGENCY HISTORY

In September 1997, the State Legislative and Citizens Investigative Panel on Nursing Home Reform (“Panel”) was established to ensure that residents of Delaware nursing homes were safe and secure, receiving quality care, and were free from abuse, neglect, and financial exploitation. The Panel’s membership consisted of legislators, advocates, care recipients, health care representatives, and legal experts. In February 1998, the Panel released its final report outlining numerous recommendations to ensure that residents of Delaware nursing homes are safe and secure, receiving quality care, and free from abuse, neglect, and financial exploitation.¹ The Panel found a lack of effective coordination and communication of various agencies responsible for nursing home regulation and oversight. As a result, the Panel developed findings for the following areas of policy review:

- Creation of a Division of Long-Term Care.
- Office of the Long-Term Care Ombudsman.
- Appeals Process and Advisory Boards.
- Nursing Home Employee Training and Development.
- Code of Ethics and Public Disclosure.
- Office of the Attorney General.
- Nursing Home Economic Issues and Interests.
- Quality of Care.

The Panel recommended the restructuring of Delaware’s quality assurance system for nursing home residents, and the 4 legislative members of the Panel sponsored legislation to create the Delaware Nursing Home Residents Quality Assurance Commission (“DNHRQAC” or “Commission”).² The Commission was created to monitor Delaware’s quality assurance system for nursing home residents so that responses to complaints of abuse, neglect, mistreatment, financial exploitation, and other matters are responded to in a timely and effective manner. As a result of the Panel’s report, the following was established and became part of the quality assurance system for nursing home residents:

- Staffing ratios.³
- Creation of the Division of Health Care Quality (“DHCQ”) within the Department of Health and Social Services (“DHSS”), responsible for enforcement of State and federal laws and regulations.
- Criminal Background Check Center.
- Adult Abuse Registry.

Since its inception, the Commission has hosted open public meetings to address quality of care issues, identified gaps in service, acted as a forum for the public and other

¹ See Appendix A for the Panel’s final report.

² See Appendix B for Senate Bill 23 of the 140th General Assembly.

³ See Appendix C for Eagle’s Law, which establishes the staffing ratio.

stakeholders to share information regarding nursing home and assisted living services, and issued an annual report of its findings.

PURPOSE & MISSION

The Commission's mission is to monitor Delaware's quality assurance system for nursing home residents in both privately-operated and state-operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation, and other matters are responded to in a timely manner, to ensure the health and safety of nursing home residents.⁴

As part of this effort, the Commission receives updates from the appropriate state agencies and DHCQ's reports of quality of care issues, including staffing patterns, on a quarterly basis.⁵ The Commission is also charged with examining current policies and procedures to evaluate the effectiveness of the quality assurance system for nursing home residents, including the roles of all appropriate stakeholders.

GOALS & OBJECTIVES

The Commission states that its goals and objectives are as follows:

- Address quality of life issues for nursing home residents including end-of-life and hospice care services.
- Identify gaps in the care and services available statewide.
- Monitor enforcement of Eagles Law to ensure required staffing ratios.
- Review performance and coordination of appropriate State agencies.
- Continue to develop public outreach efforts to consumers, ensuring the Commission is called upon to meet its mission.
- Monitor data and analyze trends in the quality of care and life of individuals receiving long-term care in Delaware.
- Address employee recruitment and retention issues within the long-term care market.
- Foster and promote abuse and fraud investigation training for law enforcement and other appropriate agencies.
- Protect the privacy of nursing home residents.
- Review best practices nationwide and provide the necessary recommendations to the Governor and General Assembly.

⁴ See Appendix D for the Commission's governing statute, 29 Del. C. § 7907.

⁵ See Appendix E for the Commission's FY 2018 – 2019 Annual Report

PUBLIC INFORMATION

Under its governing statute, the Commission is required to review and evaluate the effectiveness of the quality assurance system for nursing home residents. To do so, the Commission requests information and accepts testimony from representatives of appropriate state agencies and other providers, including:

- Division of Health Care Quality.
- Ombudsman Office.
- Division of Medicaid and Medical Assistance.
- Department of Justice.
- Division of Aging and Adults with Physical Disabilities.
- Guardianship Monitoring Program.
- Law enforcement agencies.
- Health care professionals.
- Nursing home providers.

The Commission maintains a website featuring its mission, meeting notices, meeting minutes, annual reports, contact information, and outside information regarding long-term care in Delaware.⁶

The Commission produces a brochure for stakeholders providing an overview of its purpose, a “Commonly Asked Questions” section, contact information for the Commission’s executive director, and the Commission’s website.⁷

The Commission conducts visits of long-term care⁸ and assisted living facilities⁹, to promote an atmosphere of information sharing and assist the Commission in fulfilling its responsibility of monitoring the effectiveness of the State’s quality assurance system. Generally, 1 or 2 commissioners will conduct a visit informing the facility and DHCQ staff beforehand so duplicate visits from the Commission can be avoided. The Commission uses the information gathered to make recommendations to the Governor, Department of Health and Human Services (“DHSS”) Secretary, and General Assembly regarding any improvements to the overall quality of care and quality of life of nursing home residents. The Commission produces a brochure for facilities and residents outlining what can be expected from these visits.¹⁰

⁶ <https://courts.delaware.gov/dnhrgac/>.

⁷ See Appendix F for the Commission’s Introduction brochure.

⁸ See Appendix G for the list of licensed nursing homes statewide.

⁹ See Appendix H for the list of licensed assisted living facilities statewide.

¹⁰ See Appendix I for the Commission’s Facility Visits brochure.

COMPOSITION & STAFFING

As of September 2019, there are 13 members of the Commission, consisting of the following.¹¹

- One member appointed by the Speaker of the House.
- One member appointed by the President Pro Tempore of the Senate.
- Four members serving by virtue of position, or a designee appointed by the member, as follows:
 - The Attorney General.
 - The Executive Director of the Community Legal Aid Society, Inc.
 - The Executive Director of the Delaware Health Care Facilities Association.
 - The Executive Director of the Delaware Healthcare Association.
- Seven members appointed by the Governor as follows:
 - One member who is a resident or a family member of a resident of a nursing home.
 - Three members, 1 from each county, who work in a nursing home setting.
 - A health-care professional.
 - Two individuals who are each an advocate for people with disabilities or the elderly, or both.

Each county must be represented from among the Commission's members. Members appointed by the Speaker and the President Pro Tempore serve at the pleasure of their appointing authorities.

Each member serves a term of 3 years; the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.

Commission members elect a chair from among its membership.

Commission members are volunteers and serve without compensation but may be reimbursed for reasonable and necessary expenses incident to their duties.

New commission members receive onboarding information including meeting calendar, by-laws, meeting minutes, annual reports, regulations, membership roster, and a list of applicable facilities statewide. The executive director and chair meet with new members to provide an overview and answer any questions. The executive director provides members with an annual update of all financial and administrative information.

Members recuse themselves from commission matters in which they have a conflict or potential conflict of interest.¹² Members sign a DHSS Confidentiality Agreement to protect the privacy of nursing home residents.¹³ An individual member may not represent the Commission to the general public without a majority vote by the Commission.

¹¹ See Appendix J for current member roster.

¹² See Appendix K for conflict of interest policy and agreement.

¹³ See Appendix L for confidentiality agreement.

Staffing

The executive director is the Commission's only staff, and acts as the liaison between the Commission and State and federal agencies, community organizations, and other applicable stakeholders. The executive director is responsible for the following:

- Analyzing problems in current policy to provide Commission members with information needed to make recommendations.
- Responding to requests for information and questions from residents of long-term facilities, family members, state agencies, and the general public regarding services.
- Monitoring and evaluating programs affecting the quality of care for residents in all 83 licensed long-term care and assisted living facilities.
- Developing and managing the Commission's annual budget.
- Managing the Commission's daily operations.
- Serving on committees, task forces, and other working groups on behalf of the Commission.
- Attending required hearings, workshops, and other events on behalf of the Commission.
- Visiting licensed facilities across the State in compliance with the Commission's governing statute.
- Drafting Commission meeting minutes and reports.

The Commission is 1 of 5 non-judicial agencies funded by the Judiciary's budget. Each are managed by their own executive director. The Administrative Office of the Courts is responsible for the 5 non-judicial agencies' financial and human resource matters, but the agencies function independently. The other agencies are:

- Office of the Public Guardian.
- Child Placement Review Board.
- Office of the Child Advocate.
- Child Death, Near Death and Stillbirth Commission.

COMPLAINT AND DISCIPLINARY PROCESS

As of March 2020, no complaint has been filed against the Commission. But, if a complaint were to be filed, the Commission's executive director would refer the complaint to the Commission's chair and executive committee and notify the Deputy Attorney General and Administrative Office of the Courts.

ENACTED LEGISLATION IMPACTING COMMISSION

Senate Bill 23 of the 140th General Assembly, 2000¹⁴

Established the Commission, its membership, and its purpose.

HB 62 of the 150th General Assembly, 2019¹⁵

Streamlined the Commission's governing statute to decrease the number of vacancies, establish quorum, remove political party requirements, and make technical corrections.

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW

This is JLOSC's first review of the Commission.

ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

The Commission does not promulgate regulations under the Administrative Procedures Act.

FREEDOM OF INFORMATION ACT COMPLIANCE

All Commission meeting notices, agendas, and minutes are posted on the State Public Meeting Calendar and the Commission website, and the executive director sends all notices to an email list of stakeholders and interested parties.

Meeting minutes are regularly transcribed and posted to the Commission's website following the Commission's approval.

FISCAL INFORMATION

Revenue

Fiscal Year	Source of Funds	Amount
FY19 (budgeted)	General Funds	TOTAL \$85, 500
FY18 (actual)	General Funds	TOTAL \$85,700
FY17 (actual)	General Funds	TOTAL \$84,000

¹⁴ See Appendix B for Senate Bill 23 of the 140th General Assembly.

¹⁵ See Appendix M for House Bill 62 of the 150th General Assembly.

Expenditures

Fiscal Year	Source	Amount
FY19 (actual)	General Fund	TOTAL \$89,105.23
FY18 (actual)	General Fund	TOTAL \$87,502.55
FY17 (actual)	General Fund	TOTAL \$87,123.18

FY19 Expenses

Line Item	Source	Amount
Travel	General Fund	\$2,700.00
Contractual	General Fund	\$1,466.76
Supplies	General Fund	\$300.00
Personnel and OEC	General Fund	\$84,638.47
		TOTAL \$89,105.23

ACCOMPLISHMENTS

Identify Systemic Change

Through its review process and quarterly updates, the Commission works with various state agencies, facilities, and other stakeholders to identify the changes needed to the quality assurance system.

Culture Change and Person-Centered Care

The Commission provides the necessary forum to educate its stakeholders on the optimal care for the elderly population based on national best practices. Person-centered care and the change such care brings to the long-term care culture incorporates the individual's emotional needs, care preferences, and lifestyle along with the physical and medical model of care.

World Elder Abuse Awareness Day

The Commission assists and participates in the annual World Elder Abuse Awareness Day event on June 15. Events are held in each county to highlight the resources available to victims and their families.

Residents Rights and Residents Rights Rally

The Commission assists and participates in the annual Residents Rights Rally in October to honor those living in long-term care facilities and celebrate the diversity and value of all residents.

Community Awareness and Education

The Commission uses its public forum to advocate for residents and educate all Delawareans on the mechanisms available to long-term care residents and their families.

CHALLENGES

Population Growth

As the elderly population in Delaware continues to grow, the availability of necessary resources will continue to be an issue.¹⁶ The Commission's work in ensuring a functioning quality assurance system will remain vital to the safety and security of long-term care residents.

Public and Private Sector Turnover

Turnover in the public and private sectors will continue to place a burden on the State's quality assurance system as any learning curves resulting in a decrease in services will be to the detriment of residents.

Funding and Staff

The Commission's responsibilities and involvement often encompass events and meetings in all 3 counties. With a staff of 1, the Commission is limited in its public presence and must triage which items are priorities.

OPPORTUNITIES FOR IMPROVEMENT

Elder Caucus

Several legislatures nationwide have established an Elder Caucus. Delaware has a Kids Caucus and Small Business Caucus, and an Elder Caucus would be a legislative platform focused on public policy effecting the aging population. With the elderly population growing substantially in Delaware, an Elder Caucus in the General Assembly could benefit the quality of care statewide.

Membership challenges

Prior to the enactment of House Bill 62 in June 2019, the Commission had issues surrounding its membership including turnover, political party requirements, and lack of quorum provisions. With the updating of the statute, the Commission can function in a more efficient manner.

Outreach

The Commission looks for new ways to reach its audience. With more opportunities to engage online and partner with other entities, the Commission continues to expand its reach as the long-term care population grows statewide.

¹⁶ See Appendix N for population projections from the 2018 Long-Term Care Ombudsman Annual Report.

ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

Meeting Locations

From 2017-2019, 11 of the Commission's 17 public meetings were held at the DDDS Fox Run Office in Bear. The remaining 6 were held at multiple locations in Dover.¹⁷

Updated Bylaws

In response to House Bill 62, the Commission is currently working to update its bylaws. The Deputy Attorney General assigned to the Commission is assisting the Executive Director and members in this process. Appendix O includes the most recent draft from November 2019.

Public Comment

With the postponement of the March 17, 2020 presentation meeting, DNHRQAC submitted written public comment, which can be found in Appendix P.

¹⁷ <https://publicmeetings.delaware.gov/Search?AgencyID=101>.

Section 111-A[#]

THE STATE LEGISLATIVE & CITIZENS INVESTIGATIVE PANEL

ON NURSING HOME REFORM

REPORT TO THE PEOPLE OF

THE STATE OF DELAWARE

FEBRUARY 9, 1998

**STATE LEGISLATIVE & CITIZENS INVESTIGATIVE PANEL
ON NURSING HOME REFORM**

1997-1998 ROSTER

1. Sen. Robert I. Marshall: Panel Chairman; Chair, Senate Labor & Industrial Relations Committee; Chair, Senate Revenue & Taxation Committee
2. Sen. Patricia M. Blevins: Chair, Senate Health & Social Services Committee
3. Rep. Pamela S. Maier: Chair, House Health & Human Development Committee
4. Rep. Vincent A. Lofink: Vice-Chair, House Land Use & Infrastructure Committee; Member, Joint Bond Bill Committee
5. Rep. Arthur Scott: Member, House Housing & Community Affairs Committee
6. Thomas Herlihy, III, Esq.: Wilmington attorney, emphasis on elder law; former chair, Delaware State Bar Association Committee on Law & the Elderly
7. Selma Hayman, Esq.: Certified Elder Law Attorney in Wilmington; vice-chair, D. S. B. A. Committee on Law & the Elderly; member, National Academy of Elder Law Attorneys; member, Board of Directors of Alzheimer's Association
8. Carolee Burton Kunz, Esq.: Supervising Attorney, The Elder Law Program of Community Legal Aid Society, Inc.
9. Pat Engelhardt: M. S., R. N.; patient advocate; Co-chair, Delaware Nurses Association-Legislative Division; Secretary, State Legislative Committee of AARP
10. Katherine Anderson: patient advocate with TRIAD of Dover area; member of AARP Continuing Care Task Force
11. Rose Bussard: R. N., C.; Skilled Unit Manager, Integrated Health Service of Smyrna; Vice-Chair of AARP State Legislative Committee
12. John Russo (Alternate): Chair of AARP State Legislative Committee
13. Elizabeth C. Miles: Certified Nursing Assistant
14. Phyllis Peavy: Patient advocate

Panel Staff: Stephen P. Tanzer, Administrative Assistant, Delaware State Senate Majority Caucus

Mission Statement

From its inception, the Legislative & Citizens Investigative Panel on Nursing Home Reform has adhered steadfastly to the following mission:

“The purpose of the Legislative & Citizens Investigative Panel on Nursing Home Reform is to ensure that residents of Delaware nursing homes are safe and secure, are receiving quality care, and are free from abuse, neglect and financial exploitation.”

The Panel’s activities have been undertaken with the intent of accomplishing this mission.

ACKNOWLEDGEMENTS

The State Legislative & Citizens Investigative Panel on Nursing Home Reform wishes to gratefully acknowledge the following:

Each and every person who contacted the Panel, testified at one of the Panel's hearings or in Executive Session, or provided written testimony to the Panel. Without their commitment and dedication to nursing home reform, the Panel's work would not have been possible.

Governor Thomas R. Carper and his staff for their assistance.

Dr. Gregg Sylvester, Secretary of the Department of Health & Social Services, and his staff for their assistance.

Attorney General M. Jane Brady and her staff for their assistance.

Richard R. Weir, Jr., Esq., for providing legal counsel to the Panel.

Senator Dorinda Connor and Senator Margaret Rose Henry for their invaluable participation and insight.

The following participants in the Panel's Roundtable Workshop of January 7, 1998: Carol Berster, Ingleside Homes; Lisa Blunt-Bradley, DHSS, Office of the Secretary; Steve Boedigheimer, Division of Public Health; Stephanie Brandt, Delaware Technical & Community College; Eleanor Cain, Director, Division of Aging and Services to Persons with Physical Disabilities; Thomas E. Carluccio, Deputy Attorney General, Medicaid Fraud Control Unit; David L. Carman, Department of Justice, Medicaid Fraud Control Unit; Senator Dori Connor; Senator Nancy Cook; John Frazer, III, Office of the Controller General; Senator Margaret Rose Henry; Bob Lawson, Delaware Health Care Facilities Association; Joseph M. Letnaunchyn, Delaware Healthcare Association; Chris Long, DHSS; Mary McDonough, DHSS, Office of the Secretary; Jean Raymond, University of Delaware, Instructor, Department of Nursing; Ellen Reap, DHSS, Director-Office of Health Facilities Licensing & Certification; Michael J. Rich, State Solicitor; William Roller, Alzheimer's Association of Delaware, Chair-Public Policy Committee; Liz Ryan, Office of the Governor; Phil Soule, Sr., DHSS, Medicaid Office; Dr. Gregg C. Sylvester, Secretary, DHSS; Bruce Thevenot, Genesis Health Ventures, Inc.; Tom Wagner, State Auditor; Irene Waldron; Cheryl T. Weidemeyer, Alzheimer's Association of Delaware; Janet West, New Castle County Vocational-Technical School District; Ann Woolfolk, Deputy Attorney General.

Cheryl T. Weidemeyer of the Alzheimer's Association of Delaware and Lisa Oleson for their work in helping the Panel to frame its recommendations.

Maribel Ruiz of the Office of Wilmington City Clerk for her assistance in securing the use of the Council Chamber of the City/County Building.

The following people who assisted the Panel in its development of recommendations pertaining to staff development and training:

Sue Ackley, Nurse Practitioner, Health Center, Newark Senior Center; Gloria Green, R. N., CNA Instructor, Delaware Technical & Community College; Donna Racine, Peninsula United Methodist Homes, Long-Term Care Council-Delaware Nurses Association; Jean Raymond, R. N., Instructor-University of Delaware; Cheryl T. Weidemeyer, R. N., Evergreen Adult Day Care; Janet West, R. N., Director-L.P.N. Program, Delcastle High School/Delaware Skills Center; Cathy Williamson, R. N., CNA Instructor-Howard Vocational-Technical High School.

History and Activities of the Legislative and Citizens Investigative Panel on Nursing Home Reform

On Monday, September 29, 1997, Senator Robert I. Marshall convened a press conference and announced the formation of the State Legislative and Citizens Investigative Panel on Nursing Home Reform. The press conference took place at the Claymore Senior Center at 504 S. Clayton Street in Wilmington.

The creation of the Panel marked the beginning of the first comprehensive investigation into Delaware nursing home practices since the 1960's.

At the press conference, Senator Marshall stated that the creation of the Panel was "in response to an overwhelming number of citizen complaints we in the General Assembly have received from constituents with real concerns about the safety and well-being of their loved ones" in Delaware nursing homes.

Senator Marshall pledged that the Panel's investigation would examine every relevant issue, including licensing, state laws and regulations, funding, training, staffing, quality of care, and personal safety.

At the press conference, Senator Marshall announced that the Panel would hold three public hearings throughout the state to receive testimony from concerned citizens. Due to overwhelming public interest, an additional public hearing was subsequently added. The hearings took place at the following times and locations:

Wednesday, October 15, 1997, 7 p.m., Sussex County Council Chambers, Georgetown.

Wednesday, October 22, 1997, 7 p.m., Kent County Levy Court Chamber, Dover.

Monday, October 27, 1997, 7 p.m., Delaware Technical & Community College, Stanton Campus, Newark.

Thursday, October 30, 1997, 6 p.m., City/County Building, Wilmington.

In response to the announcement of the public hearings, over 300 people contacted the Investigative Panel. 62 witnesses testified at the public hearings. An additional 35 people submitted written testimony. Six people testified before the Panel in executive sessions.

Following the public hearings, the Panel conducted public reviews of the state agencies charged with nursing home oversight and regulation. Agencies were invited to make presentations to the Panel concerning their responsibilities for nursing home oversight and regulation. Agencies were also requested to provide recommendations for improving their ability to protect residents of nursing home beds from abuse, neglect and financial exploitation. Question-and-answer sessions followed the presentations.

All agency reviews took place at the City/County Council Chambers in Wilmington on the following dates and times:

Wednesday, November 19, 1997: 2 p.m.: Office of Health Facilities
Licensing & Certification

4 p.m.: Division of Public Health

Monday, November 24, 1997: 3 p.m.: Office of the Attorney General

Wednesday, December 3, 1997: 3 p.m.: Division of Aging

5 p.m.: Office of the Long-Term
Care Ombudsman

7 p.m.: Division of Social Services-
Medicaid Office.

The Panel then concluded the Public Hearing phase of its work by conducting a hearing on the nursing home industry on Wednesday, December 10, 1997 at the City/County Building in Wilmington. Representatives of the nursing home industry addressed the panel concerning nursing home care in Delaware and presented recommendations as to how the current regulatory system should be changed to ensure that residents of Delaware nursing homes are provided quality care and service.

Five witnesses testified at this hearing, including representatives of all 51 nursing homes in the state.

The Panel then convened a Roundtable Workshop on Wednesday, January 7, 1998 at the Buena Vista Conference Center.

Over 40 persons, including policymakers from the Governor's Office, the Department of Justice, the Department of Health & Social Services, the State Auditor's Office, representatives from the nursing home industry, and the Investigative Panel, participated in the daylong discussions.

The format of the roundtable consisted of the Panel identifying specific areas and issues for discussion followed by open dialogue on the identified issues. As a result of these discussions and the remainder of the Panel's work, the Panel developed findings and recommendations for each of the following areas of policy review:

- Creation of a Division of Long-Term Care

- Office of the Long-Term Care Ombudsman

- Appeals Process and Advisory Boards

- Nursing Home Employee Training & Development

- Code of Ethics and Public Disclosure

- Office of the Attorney General

- Nursing Home Economic Issues & Interests

- Quality of Care.

The remainder of this report will center on the Panel's findings and recommendations for each of these topics.

Creation of a Division of Long-Term Care

Findings:

During its public hearings and subsequent deliberations, the Panel discovered that the single greatest impediment to effective nursing home regulation and oversight in Delaware is the failure of the various agencies charged with responsibilities for such regulation and oversight to effectively coordinate and communicate with each other.

In large part, the Office of the Long-Term Care Ombudsman, the Office of Health Facilities Licensing and Certification, the Medicaid Office of the Division of Social Services, and the Medicaid Fraud Unit in the Office of the Attorney General each operate in their own cocoons and fail to work in concert with each other.

The Panel finds that, unless and until this ineffective and counterproductive system is replaced with a system of effective coordination and communication among and between the various regulatory agencies, nursing home regulation in Delaware is doomed to be fragmented and ineffective.

Recommendations:

Accordingly, the Panel makes the following recommendation its highest priority:

1. The Panel recommends that a Division of Long-Term Care be established under the auspices of the Department of Health & Social Services, and that those personnel charged with nursing home regulation from the following agencies be housed in a common location:

The Office of the Long-Term Care Ombudsman

The Office of Health Facilities Licensing & Certification

The Medicaid Fraud Unit of the Office of the Attorney General

Members of the Civil Division of the Office of Attorney General

The Medicaid Office of the Division of Social Services.

2. The Panel also recommends that computer services and programs for the Division of Long-Term Care be coordinated so that the different agencies comprising the Division can create a centralized data base for efficient coordination.

The Panel wishes to emphasize that employees from the Office of Attorney General will continue to fall under the purview of the Attorney General, and will not be

employees of the Division. Their physical location in the Division's offices will facilitate more timely interventions into criminal and civil matters, will permit more effective training of investigators for all affected agencies, and will help to ensure more effective prosecutions of serious nursing home violations.

3. The Panel recommends that, upon creation of this Division, common space be sought in the City/County Building in the City of Wilmington. Satellite offices in Kent and Sussex Counties will continue to house employees with downstate responsibilities.

The Panel has already requested that the New Castle County Executive Office reserve or encumber space to accommodate the needs of the Division of Long-Term Care in the City/County Building. Space has become available in this building due to the move of many County offices to other locations.

Office of the Long -Term -Care Ombudsman

Findings:

1. The Panel finds that the Office of Long-Term Care Ombudsman and the Division of Aging have failed in their responsibilities to make sure that the Office complies with its federal and state statutory responsibilities. Despite the efforts of some dedicated employees, the Office is, by its own admission, substantially out of compliance with the federal Older Americans Act. The Panel finds that this lack of compliance extends to the Office's state mandates as well.
2. The Panel finds that lack of adequate staffing, lack of administrative leadership, and the lack of an automated information system are key factors in the current shortcomings of the Office.
3. The Panel finds that the lack of early intervention into the complaints process by the Department of Justice makes it difficult for the Office to achieve satisfactory resolutions of complaints concerning abuse or neglect.
4. The Panel finds that there is a lack of sufficient follow-up and there is usually no written follow-up on complaints to residents and families of residents.
5. The Panel finds that there is insufficient outreach on the part of the Office to encourage residents and their families to file complaints or concerns with the Office.
6. The Panel finds that the hiring requirements for ombudspersons are not sufficient to ensure that investigations are handled professionally.
7. The Panel finds that there is a serious lack of coordination between the Office and all other state agencies charged with nursing home regulation, including the Office of Health Facilities Licensing & Certification, the Division of Social Services Medicaid Office, and the Department of Justice. The Panel finds that this systemic lack of coordination and communication is one of the key failings of the current system of nursing home regulation in the State of Delaware.
8. The Panel finds that the Office lacks a standard form for nursing homes to use when reporting incidents. This leads to nursing homes submitting copious quantities of paperwork with little relevance to the actual incident.

Recommendations:

1. The Panel recommends that the Office be reorganized in a way to bring said Office into compliance with all applicable state and Federal statutes. At the minimum, the

Panel recommends that a statewide manager be authorized by the Joint Finance Committee and hired for the Office. The manager's initial responsibilities will include restoring order and structure to the Office and implementing systems and reforms that will bring the Office back into compliance with state and federal law. The Panel further recommends that the Office report to the General Assembly by May 1, 1998 as to the steps it has taken to bring it back into compliance with all Federal and state statutes.

2. The Panel recommends that the Office of Long-Term Care Ombudsman develop an automated information system that will provide for a case management tracking system; that will permit the Office to identify complaints by type and by facility; that will provide ombudspersons with lap-top computers enabling them to write reports directly from the facility rather than requiring them to return to their office to file their reports; and that will facilitate the quarterly public filing of reports detailing, at the minimum, types of complaints and verified complaints by type and facility. The Panel also recommends that this system be compatible with systems currently in use or being developed for use by the other agencies with nursing home regulatory responsibilities in order to create a centralized data base.

3. The Panel recommends that the Joint Finance Committee approve the funding request of the Department of Health & Social Services for seven additional positions for the Office of the Long-Term Care Ombudsman. The new positions would provide for one Statewide Manager, one Downstate Supervisor, one Administrative Assistant to organize the clerical functions of the Office and to administer the Adult Abuse Registry, and four ombudspersons. The Panel also recommends that the Joint Finance Committee approve the Department's request for \$30,000 in contract fees to provide for a Fair Hearing Officer to hear appeals of those placed on the Adult Abuse Registry.

4. The Panel recommends that the job description for ombudspersons be rewritten to require either an investigative background and/or a medical or health-related background relevant to the work of the office.

5. The Panel recommends that the Office, in conjunction with the aforementioned case-tracking system, provide a written response to nursing home residents and families who file complaints and that that response provide a documentation of how the case was handled, as well as the outcome.

6. The Panel recommends that, in anticipation of the adoption of civil fines for violations that do not reach the level of criminality, the Office implement a system of referring prospective criminal cases to the Department of Justice while referring prospective civil actions to the Office of Health Facilities Licensing & Certification.

7. The Panel recommends that state-owned locked boxes be installed in accessible locations in all Delaware nursing homes to facilitate the submission of complaints, concerns and suggestions to the Office. The Panel also recommends that the phone

number and contact information for the Office be prominently displayed in every nursing home room in the state.

8. The Panel recommends that legislation be enacted which would make intentional false reporting of activity by a nursing home employee a sanctionable offense.

9. The Panel recommends that the Office develop a standard incident reporting form for nursing homes designed to get all vital and pertinent information on an incident while eliminating the submission of peripheral paperwork.

10. The Panel recommends that the Department of Health & Social Services examine the feasibility of assigning ombudspersons based on specialized expertise of the ombudsperson rather than making an ombudsperson responsible for a specific group of nursing homes, as is the current practice.

Appeals Process and Advisory Boards

Findings:

1. The Panel finds that the current appeals process of the nursing home industry needs to be revised to ensure that the public has confidence in the process.

Any new process must fairly consider the interests and concerns of the residents, the residents' families, the providers, and the regulators.

The current system also has conflicts of interest. For example, the Division of Public Health has the dual responsibility of operating state-run nursing homes while regulating the exact same facilities. This existing system can clearly undermine public confidence in the independence of the regulators.

2. The Panel finds that a high-level and active advisory group would serve the public's interest by bringing ideas and suggestions to the Division of Long-Term Care.

Recommendations:

1. The Panel recommends that the Department of Health & Social Services develop and formalize a mechanism for handling appeals. The new appeals authority would have the following responsibilities:

a. To hear and adjudicate issues raised for review by persons aggrieved of an administrative action, including, but not limited to: (1) administrative findings of civil violations of, and enforcement of, regulations; (2) civil violations of, and enforcement of, resident rights; (3) civil lack of, or abuse of, care; and (4) the imposition, or lack of imposition, of penalties, such as civil fines, and the suspension or cancellation of licenses.

b. To review the refusal or granting of licenses.

c. To compel the attendance of witnesses and the production of documents by subpoena or other authority.

The following persons in the long-term care industry and its regulation would have standing to bring matters before this authority:

- * persons in the industry such as owners, operators, or employees
- * residents of such facilities
- * families of the residents
- * the regulators and enforcers
- * the ombudsman
- * advocates for such persons.

2. The Panel recommends that the Governor's Advisory Council on Long-Term Care Facilities and the Advisory Council on Aging and Adults With Physical Disabilities be terminated, and that a new Advisory Council on Long-Term Care be created under the new Division of Long-Term Care. The Panel further recommends that appointees to this high-level Council be citizens with a demonstrated interest and expertise in long-term care issues.

Nursing Home Employment Training and Development

Findings:

1. The Panel finds that Certified Nursing Assistants (CNAs) are the primary caregivers in most nursing homes, and that the nursing home industry has generally failed to adequately attract, retain, train, educate and remunerate CNAs. The Panel also finds that staffing ratios of CNAs to patients are generally inadequate to provide sufficient care to nursing home residents.
2. The Panel finds that the current standard of 75 hours of training for CNA Certification in Delaware is insufficient to ensure that CNAs are adequately prepared for the responsibilities of the job.
3. The panel finds that malnutrition is the single greatest cause of neglect complaints against nursing homes and that more training in nutrition would reduce this problem significantly.

Recommendations:

1. The Panel recommends that the minimum standard for certification of Certified Nursing Assistants be increased from the current 75 hours to a minimum standard of 120 hours.
2. The Panel recommends that a career ladder be developed for Certified Nursing Assistants consisting of at least the following three levels:
 - a. Intern
 - b. Team Member-based upon length of time employed- would result in increased pay
 - c. Team Leader/Preceptor-requires additional education-would result in increased pay.
3. The Panel recommends that the Board of Nursing be assigned the responsibility for certification of CNAs as well as certification of advanced education leading to promotion on the career ladder. The Panel recommends that the Board of Nursing be provided with one additional position to handle this responsibility. This could be a new position or could be a position transferred from the Office of Health Facilities Licensing & Certification, which currently handles CNA Certification.

4. The Panel recommends that, as part of their basic 120 hours of training, all CNAs receive in-depth training on the techniques of feeding, feeding problems, hydration, malnutrition and its effects on healing, the importance of a calm and pleasant eating environment, the basics of nutrition, and cleanliness.

5. The Panel recommends, based upon the increased training that CNAs will receive, the current difficulties that nursing homes experience in retaining qualified CNAs, and the shamefully-low wages that many nursing homes pay for CNAs, that nursing homes accept their responsibility to pay CNAs a living wage commensurate with their responsibilities. An enlightened approach to remunerating CNAs would surely lead to greater retention and more effective recruitment of CNAs. The quality of resident health care will surely improve with the implementation of this recommendation.

6. The Panel recommends that the Department of Health & Social Services, through regulation, require that CNAs undergo two weeks of orientation when first hired at any nursing home.

7. The Panel recommends that a working group on curriculum be convened to develop the CNA curriculum and standards. This group is also charged with developing a Model for a Nursing Home Training Center for CNAs. This group will include members of the Panel, a nursing home director, a head nurse, a CNA, educators, and a representative of the Office of Health Facilities Licensing & Certification. This working group shall provide a preliminary report to the Panel by June 1, 1998.

Code of Ethics and Public Disclosure

Findings:

1. The Panel finds that it is essential that no state employee directly or indirectly charged with nursing home oversight engage in behavior that could be construed as being a conflict-of-interest with regard to their responsibility to regulate the nursing home industry.
2. The Panel finds that consumers of nursing home services have the right to know of financial interests that nursing homes have with other service providers, such as pharmacy services and physical therapy organizations.

Recommendations:

1. The Panel recommends that the Department of Health & Social Services (DHSS) and the Department of Justice conduct workshops for their employees who have nursing home oversight responsibilities in order to apprise them of their obligations under the state ethics guidelines.
2. The Panel recommends that DHSS and the Department of Justice develop a new public disclosure form which would document potential incidents of non-financial conflicts-of-interest. This form should be mandated through an Executive Order of the Governor.
3. The Panel recommends that legislation be drafted to clarify that nursing home facilities have an obligation to disclose to residents their relationships with providers of other nursing home services such as pharmacy, rehabilitation services, medical suppliers and any other services. This statutory change should be incorporated into Title 16, Delaware Code, S. 1121 (9).

Office of the Attorney General/Statutory Issues

Findings:

1. The Panel finds that the current threshold of requiring intentionality as a prerequisite of prosecution under Delaware's Physical Abuse statute in Title 16, Sections 1131 & 1136, makes abuse prosecutions extremely difficult due to the standard of proof.
2. The Panel finds that the Office of Attorney General often does not intervene in a timely manner when abuse or neglect are suspected by the Office of Long-Term Care Ombudsman.
3. The Panel finds that a lack of mandatory criminal background checks and pre-employment drug screenings make it difficult for authorities to prevent dangerous individuals from finding employment with nursing homes in proximity to vulnerable patients.

Recommendations:

1. The Panel recommends that the Patient/Resident Abuse Statutes be amended to eliminate an intentional act as a requirement for prosecution. The standard should reflect acts done knowingly or recklessly as defined by statute.
2. The Panel recommends that the Joint Finance Committee provide funding for two additional elder abuse investigators, one additional prosecutor, and a secretary in the Medicaid Fraud Unit to enable the Department of Justice to intervene in a timely manner on suspected cases of abuse, neglect, or financial exploitation. The Panel recommends the Attorney General formally dedicate these positions to work on the aforementioned cases, and these positions be in addition to those already working on cases involving abuse, neglect, or financial exploitation. The State of Delaware would be responsible for 25% of the costs for these positions with the remaining 75% funded through the Federal government's Medicaid Fraud program. Under current law, this ratio remains constant and is not subject to a progressively greater percentage of funding being required of the State in subsequent years.
3. The Panel recommends that the Joint Finance Committee provide funding for two additional attorneys and a paralegal for the Civil Division of the Department of Justice to provide adequate staffing to support the administration of civil penalties on nursing homes.

4. The Panel recommends that legislation be enacted to include "Failure to Provide Adequate Staffing" under Section 1136 of Title 16, which lists violations, and to include "financial exploitation" to the list of prosecutable offenses under Sections 1131 and 1136.

5. The Panel recommends that legislation be enacted raising the misdemeanor violation of "failing to report a suspected violation" on the part of a nursing home administrator or board member violation to felony status.

6. The Panel recommends that legislation be enacted increasing the fine for operating a nursing home without a license to \$10,000.

7. The Panel recommends that legislation be enacted requiring mandatory criminal background checks for any person offered employment by a nursing home. Nursing homes may hire these employees on a conditional basis pending the outcome of the background check. In addition, the Panel recommends that said legislation also require mandatory pre-employment drug screening as a condition for employment.

Nursing Home Economic Issues & Interests

Findings:

1. The Panel finds that certain consumer protections are lacking under existing law for both residents and family members. The Panel also finds that residents and family members have been required by some nursing homes to sign contracts that are unenforceable under Federal law.

2. The Panel finds that nursing homes must currently bear the burden of certain costs due to the lack of a timely adjustment of Medicaid reimbursement rates.

3. The Panel finds that potential and current residents of nursing homes who are eligible for Medicaid benefits have difficulty obtaining Medicaid beds because nursing homes are permitted to limit the number of Medicaid beds that are certified. The Panel further finds that the shortage of Medicaid beds restricts the ability of residents to select nursing homes based on the quality of care they provide, adds to state and Federal government expense because patients languish for an unduly long time in hospital beds. This practice is also detrimental to the health of residents who must be transferred to a new bed or to an alternate facility while undergoing medical treatment.

4. The Panel finds that the Delaware income cap for long-term care no longer serves a meaningful purpose because nursing home residents whose income exceeds the cap can readily qualify for Medicaid benefits by executing a Miller trust. The need for a Miller trust creates an unnecessary burden for residents' family, especially if they must seek guardianship in order to set up the trust.

Recommendations:

1. The Panel recommends that the General Assembly raise the income cap to 300% of SSI, thus reducing the number of Delaware residents requiring Miller trusts. The Panel also recommends that the income cap be eliminated if the Federal government grants the necessary waiver.

2. The Panel recommends that the Joint Finance Committee allocate funds to provide for a quarterly adjustment of Medicaid reimbursement rates to enable nursing homes to be fairly remunerated for services provided to Medicaid patients.

3. The Panel recommends that a model standardized admission contract be developed by the Department of Health & Social Services to be used in all Delaware nursing homes.

4. The Panel recommends that the Joint Finance Committee fund a budget line to provide for nursing home care for legal immigrants ineligible for Medicaid.

5. The Panel recommends that legislation be enacted prohibiting the practice of requiring third parties to personally guarantee payment of nursing home bills.

6. The Panel recommends that nursing homes be assessed the charges for additional inspections by regulators caused by said homes' repeated violations.

7. The Panel recommends that nursing homes be required to provide itemized monthly billing statements of all charges to nursing home residents and/or their families.

8. The Panel recommends that, if a nursing home facility has any Medicaid-certified beds, all beds in said facility available to the general nursing home population must be Medicaid-certified.

Quality of Care

Findings:

1. The Panel finds that some nursing homes are not consistently providing the minimum 2.5 hours of direct patient care as provided in nursing home regulation. The Panel finds that, even if nursing homes were providing this minimal standard, the level of care would still not adequately address the needs of many nursing home residents.
2. The Panel finds that some nursing home facilities are now advertising special care units for patients with dementia and offer specialized services to patients who have experienced strokes and patients with special needs even though there are no specific rules and regulations governing these services.
3. The Panel finds that the Office of Health Facilities Licensing and Certification places far too great an emphasis on issues of "paperwork compliance" in its inspections and does not sufficiently focus its inspections on the health care being provided to the residents in the beds. The Panel also finds that this Office does not sufficiently emphasize "accident and mishandling" prevention and technical assistance to the facilities in addition to its current prioritization of enforcement and sanctions. According to records made available to the Panel, there were 1100 documented cases of injury caused by accident or mishandling in Delaware nursing homes in 1996. The Panel finds this number to be deplorable.
4. The Panel finds that the quality of medical and dental care in nursing homes is inconsistent and inadequate.
5. The Panel finds that nursing homes currently find that it costs less to be out of compliance than to be in compliance with statutes and regulations due to the absence of available financial sanctions. Under the current system, the lack of effective sanctions creates more of an incentive for nursing homes to be out of compliance with statutes and regulations governing nursing homes.
6. The Panel finds that Delawareans are not receiving adequate information to make informed choices when selecting long-term nursing care.

Recommendations:

1. The Panel recommends that the Secretary of the Department of Health & Social Services and the Chairman of this Panel name a working group of Panel members, state regulators and other interested parties to develop a revised standard of direct care. This panel should consider all viable alternatives including increasing the current minimal standards and devising a standard based upon the specific needs of nursing home residents. Any standard ultimately developed, however, must be an enforceable standard and not

simply a goal. The Panel recommends that this working group report back to the Panel by April 15, 1998.

2. The Panel recommends that legislation be enacted creating an escalating series of fines to nursing homes for civil violations of their mandated responsibilities. This list of fines would ultimately result in stronger sanctions, such as license suspension or revocation upon reaching a critical threshold. The goal of this system is to make non-compliance more expensive than compliance.

3. The Panel recommends that the Secretary of the Department of Health & Social Services develop rules and regulations to govern the operations of Alzheimer's units and other special care nursing home units. The Panel further recommends that input from organizations representing these special needs patients be systemically included in the development of the rules and regulations.

4. The Panel recommends that the Secretary of the Department of Health & Social Services develop rules and regulations to govern the care of pediatric residents in Delaware nursing homes.

5. The Panel recommends that the Department of Health & Social Services develop and implement an aggressive prevention program to reduce accidents and mishandlings of nursing home residents.

6. The Panel recommends that the Department of Health & Social Services provide technical assistance to nursing homes to facilitate nursing home compliance with applicable laws and regulations.

7. The Panel recommends that the Office of Health Facilities Licensing & Certification make its annual and surprise inspections more "patient-focused". As part of this recommendation, the Panel calls for the Office to increase the number of patient medical records it reviews and calls for the Office to increase the number of patient and family interviews it conducts.

8. The Panel calls for the Office to conduct scheduled public meetings at the nursing homes for residents and their families after the release of their report and after the nursing home has crafted its response and/or plan of correction.

9. The Panel recommends that DHSS adopt a regulation requiring all nursing home employees to wear photo identification and name badges.

10. The Panel recommends that legislation be drafted requiring each nursing home to have an advanced practice nurse on staff in the event that a full-time physician is not on staff. A physician identified as a facility medical director does not constitute a full-time physician.

11. The Panel recommends that, due to the lack of dental services available in most nursing homes, the existing statute be changed to allow dental hygienists to provide dental services to nursing home residents under the supervision of the nursing home's medical director.

12. The Panel recommends that the Board of Dental Examiners review the current state of dental services in nursing homes and develop recommendations concerning improving the availability and quality of dental services to nursing home residents.

13. The Panel recommends that an annual consumer guide to Delaware nursing home care be developed by the Department of Health & Social Services. The Panel further recommends this guide include, at a minimum, the following for each and every nursing home: a report on the number and the nature of the deficiencies uncovered during annual and surprise inspections during the past year; and the number and nature of verified incidents as determined by the Office of Long-Term Care Ombudsman for the past three calendar years.

14. The Panel recommends that a regulation be developed requiring Nursing Home Activities Directors to be certified or eligible to be certified by the National Certification Council of Activities Professionals (NCCAP) when hired. Activities play a key role in the quality of life that residents enjoy, yet Delaware requires no demonstrated level of experience or competence for nursing home activities directors.

15. The Panel recommends that the Office of Health Facilities Licensing & Certification complete a review and revision of nursing home regulations in as timely a manner as possible. As part of its work, the Office is requested to consider all recommendations in this report that pertain to the regulations including, but not limited to, the Panel's request that unnecessary and redundant paperwork requirements be eliminated wherever possible. The Panel also requests that the revised regulations be written with clarity and precision so that nursing home administrators can have a reasonable understanding as to what is expected of them.

16. The Panel recommends that additional protections be included in the Patient's Bill of Rights (Title 16, Del. Code, S. 1121), and that a Quality of Care section be added to the rules and regulations governing nursing homes that mirrors Federal Quality of Care rules and regulations (Section 57.8). Specific recommended changes to the Patient's Bill of Rights are provided in Appendix A to this report.

17. The Panel recommends that the Joint Finance Committee fund two full-time Registered Nurse positions for the Office of Health Facilities Licensing & Certification. The two positions would be used to carry out surprise nursing home inspections.

APPENDIX A

16 Del.C. § 1121. Patient's Rights

(Added provisions are in bold and deletions are in brackets and italics.)

[(1) Every patient and resident shall be treated with consideration, respect, and full recognition of the patient's or resident's dignity and individuality.]

[(2) Every patient and resident shall receive care, treatment and services which are adequate, appropriate, and in compliance with relevant federal and state laws and regulations.]

(1) Every patient and resident shall have the right to receive considerate, respectful, and appropriate care, treatment and services, in compliance with relevant federal and state law and regulations, recognizing each person's basic personal and property rights which include dignity and individuality.

~~[(3)]~~ (2) Each patient or resident and the family of such patient or resident shall, prior to or at the time of admission and during stay, receive a written statement of the services provided by the facility including those required to be offered on an "as-needed" basis, and a statement of related charges for services not covered under Medicare or Medicaid, or not covered by the facility's basic per them rate. Upon receiving such statement, the patient and the patient's representative shall sign a written receipt which must be retained by the facility in its files.

~~[(4)]~~ (3) Each patient shall receive from the attending physician or the resident physician of the facility complete and current information concerning the patient's diagnosis, treatment and prognosis in terms and language the patient can reasonably be expected to understand, unless medically inadvisable. The patient or resident shall participate in the planning of the patient's or resident's medical treatment, including attendance at care plan meetings, may refuse medication or treatment, be informed of the medical consequences of all medication and treatment alternatives and shall give prior informed consent to participation in any experimental research after a complete disclosure of the goals, possible effects on the patient and whether or not the patient can expect any benefits or alleviation of the patient's condition. In any instance of any type of experiment or administration of experimental medicine, there shall be written evidence of compliance with this subdivision, including the signature of the patient and a member of the patient's family or the patient's representative. A copy of the signed acknowledgments shall be forwarded to the family or representative, and a copy shall be retained by the facility.

~~[(5)]~~ (4) At the bedside of each patient and resident the facility shall place and maintain in good order the name, address and telephone number of the physician

) responsible for the patient's care.

[(6)] (5) Each patient and resident shall receive respect and privacy in the patient's or resident's own medical care program. Case discussion, consultation, examination and treatment shall be confidential, and shall be conducted discreetly. Persons not directly involved in the patient's care shall not be permitted to be present during such discussions, consultations, examinations or treatment. Personal and medical records shall be treated confidentially, and shall not be made public without the consent of the patient or resident, except such records as are needed for a patient's transfer to another health care institution or as required by law or third-party payment contract. No personal or medical records shall be released to any person inside or outside the facility who has no demonstrable need for such records.

[(7)] (6) *[Each patient and resident has the right to be free from mental and physical abuse and has the right to be free from chemical and physical restraints (except as authorized by a physician according to clear and indicated medical requirements).]* Every patient and resident shall be free from chemical and physical restraints, except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the patient from injury to himself/herself or others. When authorized by someone other than a physician, such restraint shall be promptly reported to the patient's or resident's physician. Who may either terminate the restraint or authorize the restraint in writing for a specified and limited period of time.

[(8)] (7) Every patient and resident shall receive from the administrator or staff of the facility a courteous, timely, and reasonable response to requests, and the facility shall make prompt efforts to resolve grievances. Responses to requests and grievances shall be made in writing upon written request by the patient or resident.

[(9)] (8) Every patient and resident shall be provided with information as to any relationship the facility has with other health care and related institutions *[insofar as the patient's care is concerned]* and/or service providers, including, but not limited to, pharmacy and rehabilitation services, to the extent the patient is offered care and/or services from these related entities. Such information shall be provided in writing upon admission, and thereafter when additional services are offered.

(9) Every patient and resident may contract with the providers of his/her choice, including a pharmacy, unless precluded by applicable law, as long as the providers agree to and follow the reasonable rules and regulations of the facility.

(10) Every patient and resident shall receive reasonable continuity of care *[which*

shall include, but not be limited to, what appointment times and physicians are available].

(11) Every patient and resident may associate and communicate privately and without restriction with persons and groups of the patient's or resident's own choice [on the patient's or resident's own or their initiative] at any reasonable hour; may send and shall receive mail promptly and unopened; shall have access at any reasonable hour to a telephone where the patient may speak privately; and shall have access to writing instruments, stationery and postage.

(12) Each patient and resident has the right to manage [the patient's or resident's own] his/her financial affairs. If, by written request signed by the patient or resident and a member of [the patient's] his/her family or representative, the facility manages the patient's or resident's financial affairs, it shall have available for inspection a monthly accounting, and shall furnish the patient or resident and [the patient's] his/her family or representative with a quarterly statement of the patient's or resident's account. The patient and resident shall have unrestricted access to such account at reasonable hours.

(13) If married, every patient and resident shall enjoy privacy in visits by [the patient's or resident's] his/her spouse, and, if both are in-patients of the facility, they shall be afforded the opportunity where feasible to share a room, unless medically contraindicated.

(14) Every patient and resident has the right of privacy in [the patient's or resident's] his/her room, and personnel of the facility shall respect this right by knocking on the door before entering the patient's or resident's room.

(15) Every patient and resident has the right, personally or through other persons or in combination with others, to exercise his/her rights; to present grievances; to recommend changes in facility policies or services on behalf of [the patient's or resident's own self] himself/herself or others; to present complaints or petitions to the facility's staff or administrator, to the Division of Services for Aging and Adults With Physical Disabilities or to other persons or groups without fear of reprisal, restraint, interference, coercion or discrimination.

(16) A patient or resident shall not be required to perform services for the facility.

(17) Each patient and resident shall have the right to retain and use [that patient's or resident's] his/her personal clothing and possessions where reasonable, and shall have the right to security in the storage and use of such clothing and possessions.

(18) No patient or resident shall be transferred or discharged out of a facility except for medical reasons; the patient's or resident's own welfare or the welfare

of the other patients; or for nonpayment of justified charges. If good cause for transferral is reasonably believed to exist, the patient or resident shall be given at least 30 days' advance notice of the proposed action, together with the reasons for the decision, and the patient or resident shall have the opportunity for an impartial hearing to challenge such action if [the patient] he/she so desires. In emergency situations such notice need not be given.

(19) Every patient and resident shall have the right to inspect all records pertaining to him/her, upon oral or written request within 24 hours of notice to the facility. Every patient and resident shall have the right to purchase photocopies of such records or any portion of them, at a cost not to exceed the community standard, upon written request and two working days advance notice to the facility.

(20) Every patient and resident shall be fully informed, in language he/she can understand, of his/her rights and all rules and regulations governing patient or resident conduct and his/her responsibilities during the stay at the facility.

(21) Every patient and resident shall have the right to choose a personal attending physician.

(22) Every patient and resident shall have the right to examine the results of the most recent survey of the facility conducted by federal and/or state surveyors and any plan of correction in effect with respect to the facility. Survey results shall be posted by the facility in a place readily accessible to patients and residents.

(23) Every patient and resident shall have the right to receive information from agencies acting as client advocates and be afforded the opportunity to contact those agencies.

(24) Every patient and resident shall be free from verbal, physical or mental abuse, cruel and unusual punishment, involuntary seclusion, withholding of monetary allowance, withholding of food, and deprivation of sleep.

(25) Every patient and resident shall be free to make choices regarding activities, schedules, health care, and other aspects of his/her life that are significant to the patient or resident, as long as such choices are consistent with the patient's or resident's interests, assessments, and plan of care and do not compromise the health or safety of the individual or other patients or residents within the facility.

(26) Every patient and resident has the right to participate in an ongoing program of activities designed to meet, in accordance with his/her assessments

and plan of care, the patient's or resident's interests and physical, mental and psychosocial well-being.

(27) Every patient and resident shall have the right to participate in social, religious and community activities that do not interfere with the rights of other patients or residents.

(28) Every patient and resident shall receive notice before the resident's room or roommate is changed, except in emergencies. The facility shall endeavor to honor the room or roommate requests of the resident whenever possible.

(29) Every patient and resident shall be encouraged to exercise his/her rights as a citizen of the State of Delaware and the United States of America.

(30) Every patient and resident shall have the right to request information regarding minimum acceptable staffing levels as it relates to his/her care.

(31) Every patient and resident shall have the right to request the names and positions of staff members providing care to the patient or resident.

(32) Every patient and resident shall have the right to request an organizational chart outlining the facility's chain of command for purposes of making requests and asserting grievances.

(33) Where a patient or resident is adjudicated incompetent, is determined to be incompetent by his/her attending physician, or is unable to communicate, his/her rights shall devolve to his/her next of kin, guardian, or representative.

CHAPTER 199
FORMERLY
SENATE BILL NO. 23
AS AMENDED BY HOUSE AMENDMENT NO. 1 AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE TO ESTABLISH THE DELAWARE
NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE :

Section 1. Amend § 7907 of Title 29 of the Delaware Code by deleting this section in its entirety and inserting in lieu thereof the following:

“§7907. Delaware Nursing Home Residents Quality Assurance Commission.

(a) There is established a Delaware Nursing Home Resident’s Quality Assurance Commission. The Commission shall be composed of ten members, as follows:

(1) One member appointed by the Speaker of the House;

(2) One member appointed by the President Pro-Tem of the Senate;

(3) Eight members appointed by the Governor. One of the members appointed by the Governor shall be a representative of the developmental disabilities community protection and advocacy system established by Title 20 of the United States Code. The remaining members shall include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. One of the Governor’s initial appointees shall have been a member of the Council on Long Term Care Facilities.

(b) At least five but no more than six members of the Commission shall be affiliated with one of the major political parties and at least four, but no more than five, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other major political party. Membership on the Commission shall be geographically distributed so that there shall be members of the Commission from each of the three counties and the City of Wilmington.

(c) The members appointed by the Speaker and the President Pro-Tem shall serve at the pleasure of their appointing authorities. Initial appointments of the members appointed by the Governor shall be as follows: 2 members for a one year term; 3 members for a two year term; and 3 members for a three year term. Each succeeding term shall be for three years. The Chairperson of the Commission shall be designated by the Governor.

(d) The Division of Long-Term Care Resident Protection shall furnish staff for the Commission and the Attorney General’s office shall provide legal advice.

(e) The purpose of this Commission is to monitor Delaware’s quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect, mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.

(f) The Commission shall meet at a minimum, on a quarterly basis.

(g) The duties of the Commission shall include:

(1) Examination of policies and procedures and evaluation of the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the Attorney General's Office and law enforcement agencies as well as health care professionals and nursing home providers.

(2) The monitoring of data and analysis of trends in the quality of care and quality of life of individuals receiving long term care in Delaware;

(3) The review and making of recommendations to the Governor, Secretary, and the General Assembly concerning the quality assurance system as well as improvements to the overall quality of life and quality of care of nursing home residents.

(4) The protection of the privacy of nursing home residents including following the guidelines for confidentiality of records to be established by the Division of Long-Term Care Resident Protection.

(h) The Commission shall prepare and publish an annual report to the Governor, the Secretary and the General Assembly. This annual report shall include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents."

Approved July 20,1999

TITLE 16

Health and Safety

Regulatory Provisions Concerning Public Health

CHAPTER 11. Long-Term Care Facilities and Services.

Subchapter VII. Minimum Staffing Levels for Residential Health Facilities

§ 1161 Definitions.

(a) “Advanced practice nurse” shall mean an individual whose education and certification meet the criteria outlined in Chapter 19 of Title 24, and who is certified in at least 1 of the following specialty areas:

- (1) Adult nurse practitioner;
- (2) Gerontological clinical nurse specialist;
- (3) Gerontological nurse practitioner;
- (4) Psychiatric/mental health clinical nurse specialist; or
- (5) Family nurse practitioner.

(b) “Department” shall mean the Department of Health and Social Services.

(c) “Direct care” shall mean an activity performed by a nursing services direct caregiver that is specific to a resident. Direct care activities are as follows:

- (1) “Hands-on” treatment or care, including, but not limited to, assistance with activities of daily living (e.g., bathing, dressing, eating, range of motion, toileting, transferring and ambulation); medical treatments; and medication administration;
- (2) Physical and psychosocial assessments;
- (3) Documentation, if conducted for treatment or care purposes;
- (4) Care planning; and
- (5) Communication with a family member or a health-care professional or entity, regarding a specific resident.

(d) “Division” shall mean the Division of Health Care Quality.

(e) “Nursing services direct caregivers” shall mean certified nursing assistants, licensed practical nurses, registered nurses, advanced practice nurses and nursing supervisors when and only when providing direct care of residential health facility residents. The director of nursing (“DON”), assistant director of nursing (“ADON”), and/or registered nurse assessment coordinator (“RNAC”) may be designated as a nursing services direct caregiver and counted in the direct care hours and minimum staffing ratios when exigent circumstances require that they discontinue their administrative and managerial duties in order to provide

direct care. Within 24 hours of the exigent circumstance(s) that require that the DON, ADON and/or RNAC provide direct care, the facility shall notify the Division in writing of this emergency situation and provide documentation of the amount of direct care time that was provided by the DON, ADON and/or RNAC.

(f) “Nursing supervisor” shall mean an advanced practice nurse or registered nurse who is assigned to supervise and evaluate nursing services direct caregivers no less than 25 percent of the nursing supervisor’s time per shift. Up to 75 percent of the nursing supervisor’s time per shift may be spent providing direct care. Registered nurses (RN) holding the following positions may provide the supervision required of a nursing supervisor, and the supervision may be counted towards the minimum 25 percent supervision required per shift:

- (1) Director of nursing (“DON”).
- (2) Assistant director of nursing (“ADON”).
- (3) Registered nurse assessment coordinator (“RNAC”).
- (4) Director of in-service education (RN).
- (5) Quality improvement coordinator nurse (if an RN).
- (6) Nursing home administrator (if an RN).

An individual serving as a nursing supervisor must be an employee of the facility, thus excluding temporary employment agency personnel from serving in this capacity unless exigent circumstances exist. The term “exigent circumstances” means a short-term emergency or other unavoidable situation, and all reasonable alternatives to the use of a temporary employee as a nursing supervisor have been exhausted. Within 24 hours of the exigent circumstances that require the use of temporary employment agency staffing to fill a nursing supervisor position in a residential health facility, the facility shall notify the Division in writing of the exigent circumstances and the expected duration. For any shift that exceeds the minimum RN/LPN shift ratio mandated by § 1162 of this title, the amount of RN time that exceeds the minimum ratio may be counted towards the minimum 25 percent supervision required for that shift; provided, however, that said RN time was dedicated to supervisory functions. For those facilities that are not required by state or federal regulations to have a registered nurse on duty on each shift, a licensed practical nurse with 3 years long-term care experience may serve as a nursing supervisor, provided that no registered nurse is on duty. There shall be a nursing supervisor on duty and on-site at all times. By June 1, 2002, the Nursing Home Residents Quality Assurance Commission shall issue to the Governor and to the General Assembly a report evaluating the requirement that nursing supervisors spend a minimum of 25 percent of their time on supervisory functions. The purpose of the report is to determine if the required minimum amount of supervision time is appropriate and necessary, and whether it should be adjusted.

(g) “Residential health facility” shall mean any facility that provides long-term health-related care and nursing services to individuals who do not require the degree of care and treatment that a hospital is designed to provide. These are those facilities, licensed pursuant to this chapter, that:

- (1) Provide skilled nursing services to persons who require medical or nursing care; or
- (2) Provide nursing services above the level of room and board to those who, because of a mental or physical condition, routinely require these services.

Also included are units, licensed pursuant to this chapter, of facilities that provide active treatment and health and rehabilitation services to persons with mental retardation or related conditions, in which care is delivered to residents in accordance with medical plans of care. This definition does not include group homes for the mentally ill, mentally retarded or persons with AIDS, rest family care homes, neighborhood homes, rest/residential health facilities, assisted living facilities and intermediate care facilities that, as of March 1, 1999, were solely private pay, provided they remain exclusively intermediate care facilities.

§ 1162 Nursing staffing.

(a) Every residential health facility must at all times provide a staffing level adequate to meet the care needs of each resident, including those residents who have special needs due to dementia or a medical condition, illness or injury. Every residential health facility shall post, for each shift, the names and titles of the nursing services direct caregivers assigned to each floor, unit or wing and the nursing supervisor on duty. This information shall be conspicuously displayed in common areas of the facility, in no fewer number than the number of nursing stations. Every residential health facility employee shall wear a nametag prominently displaying his or her full name and title. Personnel hired through temporary agencies shall be required to wear photo identification listing their names and titles.

(b) By March 1, 2001, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.0 hours of direct care per resident per day, provided that funds have been appropriated for 3.0 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff, rounded to the nearest whole person, must be distributed in order to meet the following minimum shift ratios:

	RN/LPN	CNA (or RN/LPN or NAIT serving as a CNA)
Day	1:20	1:9
Evening	1:25	1:10
Night	1:40	1:22

(c) On or before December 1, 2001, a comprehensive report assessing and reviewing the quality of nursing facility care in Delaware shall be completed by the Delaware Nursing Home Residents Quality Assurance Commission and submitted to the Governor and the General Assembly. The purpose of the report is to determine the efficacy of the minimum staffing levels required under this chapter, including, but not limited to, the availability of qualified personnel in the job market to meet the requirement, the cost and availability of nursing home care, and patient outcomes based on scheduled facility surveys, surprise inspections and other reviews conducted by the Division. Based on this information, the Commission will determine if increasing the minimum nurse staffing levels to 3.28 hours of direct care with the corresponding increased required shift ratios is appropriate and necessary. By January 1, 2002, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.28 hours of direct care per resident per day, subject to Commission recommendation and provided that funds have been appropriated for 3.28 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff must be distributed in order to meet the following minimum shift ratios:

	RN/LPN	CNA (or RN/LPN or NAIT serving as a CNA)
Day	1:15	1:8
Evening	1:23	1:10
Night	1:40	1:20

To the extent a nursing facility meets the minimum nurse staff levels of 3.28 hours of direct care and compliance with the above referenced shift ratios provided in this subsection requires more than 3.28 hours of direct care, the Division may permit a nursing facility to alter the shift ratios above; provided, however, the alternative shift ratios as determined by the Division shall not, on any shift or at any time, fall below the following alternative minimum shift ratios:

	RN/LPN	CNA (or other direct care-givers)	Page 53
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	RN/LPN	CNA (or other direct care-givers)
Day	1:20	1:9
Evening	1:25	1:10
Night	1:40	1:22

If a nursing facility cannot meet the above referenced shift ratios due to building configuration or any other special circumstances, they may apply for a special waiver through the Division, subject to final approval by the Delaware Nursing Home Residents Quality Assurance Commission. All nursing facilities shall conspicuously display the minimum shift ratios governing the nursing facility, along with posting requirements pursuant to subsection (a) of this section. Notwithstanding subsection (g) of this section, the time period for review and compliance with any alternative minimum shift ratios or ratios pursuant to a special waiver under this subsection shall be 1 day.

(d) Within 6 months of an appropriation by the General Assembly funding the staffing requirements of subsection (e) of this section, a comprehensive report assessing and reviewing the quality of nursing facility care in Delaware shall be completed by the Delaware Nursing Home Residents Quality Assurance Commission and submitted to the Governor and the General Assembly. The purpose of the report is to determine the efficacy of the minimum staffing levels required under this chapter, including, but not limited to, the availability of qualified personnel in job market to meet the requirement, the cost and availability of nursing home care, and patient outcomes based on scheduled facility surveys, surprise inspections and other reviews conducted by the Division. Based on this information, the Commission will determine if increasing the minimum nurse staffing levels to 3.67 hours of direct care with the corresponding increased required shift ratios is appropriate and necessary.

(e) By May 1, 2003, the minimum staffing level for nursing services direct caregivers shall not be less than the staffing level required to provide 3.67 hours of direct care per resident per day, subject to Commission recommendation and provided that funds have been appropriated for 3.67 hours of direct care per resident for Medicaid eligible reimbursement. Nursing staff, rounded to the nearest whole person, must be distributed in order to meet the following minimum shift ratios:

	RN/LPN	CNA (or RN/LPN or NAIT serving as a CNA)
Day	1:15	1:7
Evening	1:20	1:10
Night	1:30	1:15

(f) An individual in a facility-sponsored training program who has completed all but the final 37.5 hours of requisite classroom and clinical training to become a CNA may be counted in the direct care hours and minimum staffing shift ratios under the CNA staffing requirements given in subsections (b), (c) and (e) of this section. The individual shall be referred to as a nursing assistant in training (NAIT). The Division shall conduct a study of the certified nursing assistant training programs in Delaware, both those sponsored by facilities and those sponsored by educational institutions. It shall report its findings to the Nursing Home Quality Residents Assurance Commission (Commission). The factors to be studied include, but are not limited to, the percentage of each training program's graduates who passed the certified nursing assistant certification test and the number of attempts it took each graduate to become certified, along with the total number of hours, divided by classroom and clinical time, spent in the overall certified nursing assistant training program. The study shall encompass a period of 6 months commencing with the promulgation of the certified nursing assistant regulations. The report shall be issued no later than 2 months after the

completion of the study period. Based on the results of its study, the Division shall recommend to the Commission whether a nursing assistant, while in training and prior to certification, should be counted as a CNA in the minimum staffing ratios, and, if so, at what point in the training program.

(g) The time period for review and determining compliance with the staffing ratios required under this chapter shall be 1 week. To the extent a residential health facility subject to the required ratios of this chapter desires an alternative shift schedule, they shall notify the Division of such alternative shift schedule prior to implementation; the proposed shift schedule and corresponding staff ratios must meet the minimum hour requirements and must not exceed the patient to staff ratios provided under this chapter for the night shift. Any alternative shift schedule must be clearly posted along with the postings required pursuant to subsection (a) of this section.

(h) Notwithstanding the minimum staffing requirements established in this subchapter, to the extent additional staffing is necessary to meet the needs of residents, nursing facilities must provide sufficient nursing staffing. If the Division finds unsatisfactory outcomes in a facility, the Department may impose protocols for staffing adequacy, including but not limited to staffing levels above the minimum required under this subchapter. Outcomes examined shall include those outcomes as enumerated by the United States Health Care Financing Administration Quality Indicators. Evidence of a failure to meet the nursing staffing needs of residents shall be grounds for enforcement action under this chapter.

(i) All residential health facilities shall have, in addition to the requirements in subsections (b) through (h) of this section, a full-time director of nursing who is an advanced practice nurse or a registered nurse with 1 year's work experience as a registered nurse. After July 1, 2001, any newly hired director of nursing shall be an advanced practice nurse or a registered nurse with a B.S. degree in nursing and 2 years' experience in long-term care or a registered nurse with 3 years of long-term care experience. After July 1, 2001, all newly hired directors of nursing must complete, within 3 months of hire (or as soon as a course is available), a long-term care director of nursing workshop in accordance with regulations promulgated by the Department in consultation with the Commission.

(j) All residential health facilities licensed for 100 beds or more shall have, at a minimum, the following supervisory and administrative nursing staff, in addition to the personnel listed in subsections (b) through (i) of this section: a full-time assistant director of nursing who is an advanced practice nurse or a registered nurse and a full-time equivalent director of in-service education who is an advanced practice nurse or a registered nurse.

(k) All residential health facilities licensed for fewer than 100 beds shall employ, at a minimum, in addition to the personnel listed in subsections (b) through (i) of this section, a part-time assistant director of nursing who is an advanced practice nurse or a registered nurse and a part-time director of in-service education who is an advanced practice nurse or a registered nurse, in accordance with the following formula:

Number of beds / 100 x 40 = _____ hours per week minimum required for an assistant director of nursing and a director of in-service education.

A subacute transitional care unit of an acute care hospital with 30 beds or fewer is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

(l) For residential health facilities with 15 beds or fewer, the director of nursing, assistant director of nursing, and/or nursing supervisor, while on duty, may also serve as nursing services direct caregivers as described in subsections (b) through (e) of this section.

(m) The educational requirements described above shall be met provided that if an insufficient pool of applicants exists, other qualifications may be deemed acceptable in accordance with regulations promulgated by the Department.

(a) All residential health facilities licensed for 30 beds or more shall have a full-time activities director. Any activities director hired after July 1, 2001, shall be a certified therapeutic recreation specialist, a certified occupational therapy assistant, a certified music therapist, a certified art therapist, a certified drama therapist, a certified dance/movement therapist, a certified activities director, or a registered occupational therapist.

(b) All residential health facilities licensed for fewer than 30 beds shall have, at a minimum, a part-time activities director as described in subsection (a) of this section, in accordance with the following formula:

Number of beds ÷ 30 x 40 = _____ hours per week minimum required for an activities director.

A subacute transitional care unit of an acute care hospital with 30 beds or fewer is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function.

72 Del. Laws, c. 490, § 2; 73 Del. Laws, c. 162, §§ 14, 15.;

§ 1164 Nutrition and dietetics staffing.

Every residential health facility must at all times provide nutrition and dietetics staffing adequate to meet the care needs of each resident. The staffing level must, at a minimum, include a full-time food service manager. Any food service manager hired after July 1, 2001, must be a registered dietitian or a certified dietitian/nutritionist, a registered dietetic technician, a certified dietary manager, or must have a Bachelor of Science or associate degree in food service management or related field. The educational requirements shall be met provided that if an insufficient pool of applicants exists, other qualifications may be deemed acceptable in accordance with regulations promulgated by the Department. A sub-acute transitional care unit of an acute care hospital with 30 beds or fewer is exempt from the provisions of this subsection provided that other licensed personnel perform the duties of this function. Any full-time food service manager with a minimum of 3 years' experience as a full-time food service manager as of July 1, 2001, shall be exempt from the requirements of this subsection.

72 Del. Laws, c. 490, § 2; 73 Del. Laws, c. 162, § 16.;

§ 1165 Social services staffing.

All residential health facilities shall employ a full-time social worker, except that facilities licensed for fewer than 100 beds may designate other personnel to assume the duties associated with that position in accordance with the rules and regulation promulgated and adopted pursuant to this subchapter.

72 Del. Laws, c. 490, § 2.;

§ 1166 Medicaid reimbursement.

(a) The Medicaid reimbursement program shall be adjusted to reflect costs associated with the increased staffing levels described herein. Reimbursement rates for nursing wages will be adjusted to the seventy-fifth percentile under the current wage determination methodology for primary care under the state Medicaid program.

(b) The Department shall ensure that 100% of Medicaid funds paid for primary care are expended by the residential health facility for primary care purposes. If, during any annual cost reporting period, a facility expends less than 100% of the primary care reimbursement it receives from Medicaid for primary care, the sum under-spent must be repaid to the Medicaid program. The repayment will be made through a cost settlement process when the provider files its annual cost report. The Department will revise its regulations and Medicaid cost report forms to require a cost settlement for the primary care reimbursement classification.

(c) Medicaid reimbursement of providers shall be consistent with the provisions of this chapter regardless of the payment methodology employed by Medicaid or its contractors, including managed care.

72 Del. Laws, c. 490, § 2.;

§ 1167 Outcomes monitoring.

In addition to compliance monitoring, the Division shall use data collected by residential health facilities to monitor quality of care and patient outcomes pursuant to § 1162(h) of this title. The Division shall analyze this data in order to help target licensing surveys and inspections. The Department shall promulgate and adopt regulations that define the outcomes monitoring process.

72 Del. Laws, c. 490, § 2; 73 Del. Laws, c. 162, § 17.;

§ 1168 Waiver.

A residential health facility may seek from the Delaware Nursing Home Residents Quality Assurance Commission a time-limited waiver of the minimum staffing requirements required under § 1162(c) and (e) of this title. Such waiver will only be granted upon a showing of exigent circumstances, including but not limited to documented evidence of the facility's best efforts to meet the minimum staffing requirements under § 1162(c) and (e) of this title. Any such waiver will be time-limited and will include a plan and a timeline for compliance with this chapter. The Commission may seek input from the Department of Labor in terms of issues of labor availability in connection with any waiver request under this section.

72 Del. Laws, c. 490, § 2.;

§ 1169 Regulations.

The Department shall promulgate and adopt rules and regulations to fully and effectively implement the provisions of this subchapter. The regulations will become effective 60 days after adopted by the Department.

72 Del. Laws, c. 490, § 2.;

TITLE 29

State Government

Departments of Government

CHAPTER 79. Department of Health and Social Services

Subchapter I. Establishment and Organization of Department

§ 7907 Delaware Nursing Home Residents Quality Assurance Commission.

(a) There is established a Delaware Nursing Home Resident's Quality Assurance Commission. The Commission consists of the following members:

- (1) One member appointed by the Speaker of the House.
- (2) One member appointed by the President Pro Tempore of the Senate.
- (3) Four members serving by virtue of position, or a designee appointed by the member, as follows:
 - a. The Attorney General.
 - b. The Executive Director of the Community Legal Aid Society, Inc.
 - c. The Executive Director of the Delaware Health Care Facilities Association.
 - d. The Executive Director of the Delaware Healthcare Association.
- (4) Seven members appointed by the Governor as follows:
 - a. One member who is a resident or a family member of a resident of a nursing home.
 - b. Three members, 1 from each county, who work in a nursing home setting.
 - c. A health-care professional.
 - d. Two individuals who are each an advocate for people with disabilities or the elderly, or both.

(b) Membership on the Commission must be geographically distributed so that there are members of the Commission from each of the 3 counties.

(c) (1) The members appointed by the Speaker and the President Pro Tempore serve at the pleasure of their appointing authorities.

(2) The term of a Commission member is 3 years, however, the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.

(d) (1) The members of the Commission shall elect a Chair.

(2) A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.

(3) The Commission may adopt rules and bylaws necessary for its operation.

(e) The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission.

(f) The Department of Justice shall provide legal advice to the Commission.

(g) The purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state-operated facilities so that complaints of abuse, neglect, mistreatment, financial exploitation, and other complaints are responded to in a timely manner to ensure the health and safety of nursing home residents.

(h) The Commission shall meet at a minimum, on a quarterly basis.

(i) The Commission's duties include all of the following:

(1) Examining policies and procedures and evaluating the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the Department of Justice and law-enforcement agencies, and health-care professionals and nursing home providers.

(2) Monitoring data and analyzing trends in the quality of care and quality of life of individuals receiving long term care in Delaware.

(3) Reviewing and making recommendations to the Governor, Secretary, and the General Assembly concerning the quality assurance system and improvements to the overall quality of life and quality of care of nursing home residents.

(4) Protecting the privacy of nursing home residents, including complying with the guidelines for confidentiality of records established by the Division of Health Care Quality.

(j) The Commission shall prepare and publish an annual report to the Governor, Secretary, and the General Assembly. This annual report must include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents.

(k) Members of the Commission serve without compensation. However, members may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Commission.

29 Del. C. 1953, § 7907; [57 Del. Laws, c. 301, § 1](#); [57 Del. Laws, c. 591, § 62](#); [60 Del. Laws, c. 207, § 1](#); [66 Del. Laws, c. 315, § 1](#); [70 Del. Laws, c. 186, § 1](#); [72 Del. Laws, c. 199, § 1](#); [74 Del. Laws, c. 132, §§ 1, 2](#); [75 Del. Laws, c. 89, § 195](#); [77 Del. Laws, c. 201, § 17](#); [81 Del. Laws, c. 209, § 12](#); [82 Del. Laws, c. 29, § 1](#);

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

ANNUAL REPORT FY 2018 - 2019

(July 1, 2017 - June 30, 2019)

Additional copies of the report are available from the Commission at: 2540 Wrangle Hill Rd Suite 223 Bear, DE 19701 or by visiting: <http://courts.delaware.gov/AOC/?dnhrqac.htm>. The Commission's phone number is (302) 836-2133.

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Members of the Commission as of June 30, 2019

Elisabeth A. Furber - Chair

Lieutenant Governor Bethany Hall-Long

The Honorable Kimberly Williams

Karen E. Gallagher

Amy Milligan, MS

Yrene E. Waldron, LNHA

Dr. Michela Coffaro, Psy.D

DELAWARE NURSING HOME RESIDENTS

QUALITY ASSURANCE COMMISSION

ANNUAL REPORT FY 2018 - 2019

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I. BACKGROUND INFORMATION

The Commission

The Delaware Nursing Home Residents Quality Assurance Commission (the Commission) was established in 1999 - 29 Del. C. § 7907. The Commission's principal charge is to monitor Delaware's quality assurance system for nursing home residents in both privately run and state operated facilities with the goal that agencies responsible for the oversight of facilities are coordinating efforts to achieve optimum quality outcomes.

As part of its monitoring effort, the Commission reviews state agencies responsible for investigating complaints of abuse, neglect, mistreatment and financial exploitation, as well as other agencies that have input on the quality of care in Delaware's nursing homes. The Commission reviews reports of serious citations of quality of care issues and staffing patterns prepared and presented on quarterly basis by the Division of Health Care Quality as directed by the Joint Sunset Committee in 2006.

The Commission is also charged by the General Assembly and the Governor with examining policies and procedures to evaluate the effectiveness of the quality assurance system for nursing home residents, including the respective roles of Delaware Health and Social Services, the Attorney General's Office and law enforcement agencies

as well as health care professionals and nursing home providers.

Finally, the Commission is required to prepare and submit an annual report to the Governor, the Secretary of the Delaware Department of Health and Social Services (DHSS), and members of the General Assembly. This is the Commission's FY 2018 - 2019 annual report.

Appointment of Commission Members

DNHRQAC members proposed legislation to modify membership requirements. This legislation was signed by the Governor June 5, 2019.

- The Commission is composed of 13 members, seven of whom are appointed by the Governor.
- Four members serve by virtue of position or designee appointed by the member, as follows:

Attorney General;

Executive Director of the Community Legal Aid Society, Inc;

Executive Director of the Delaware Health Care Association;

Executive Director of the Delaware Health Care Facilities Association

- The remaining Governor appointed members include representatives of the following: consumers of nursing home services or family members, nursing home providers, health care professionals, and advocates for the elderly and disabled. The term of a Commission member is 3 years, however, the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.

- Of the remaining members, one member is appointed by the Speaker of the House, and one member is appointed by the President Pro-Tempore of the Senate. These two members serve at the pleasure of their appointing authorities.

Frequency of Meetings

While the Commission is required by statute to meet at least quarterly, however the Commission meets on a bi-monthly basis.

II. AGENCY REVIEWS

Introduction

Pursuant to 29 Del.C. § 7907(g) (1), the Commission is required to review and evaluate the effectiveness of the quality assurance system for nursing home residents. To do so, the Commission requests information and takes testimony (a snapshot in time) from representatives of state agencies and other providers. These include the Division of Health Care Quality (formerly known as the Division of Long Term Care Residents Protection), the Ombudsman's Office, Division of Medicaid and Medical Assistance, the Department of Justice, Division of Aging and Adults with Physical Disabilities, Guardianship Monitoring Program, law enforcement agencies, other state agencies, health care professionals and nursing home providers.

To that end, the Commission invited representatives from state agencies and other presenters to appear and testify before the

Commission. The following is a summary of FY 2018/2019 agency reviews:

FY 2018 Agency Reviews:

1st/2nd Qtr 2017 QART Report

Tom Murray, DHCQ Deputy Director, presented the Quality Assurance Reports for 1st & 2nd Qtr 2017. 1st Qtr of 2017, the QART reviewed two surveys involving “G” level deficiencies. After review, QART Team decided the two “G” level deficiencies were appropriately cited.

2nd Qtr of 2017, the QART reviewed five surveys involving “G” level deficiencies. After review, the QART Team decided the five “G” level deficiencies were appropriately cited.

1st/2nd Qtr 2017 Staffing Report

Tom Murray, DHCQ Deputy Director presented findings regarding facility staffing data during 1st and 2nd Qtr 2017. All facilities were in compliance with nurse to resident, aide to resident and hour ratios per Eagles Law (3.28). The hours per resident totaled 3.71 during this snapshot in time.

PROMISE Program

Theresa Madl-Young, Division of Substance Abuse and Mental Health (DSAMH) Administrator, provided an update regarding services and supports for persons with mental health, substance use, or co-occurring disorders in Delaware.

PROMISE program (Promoting Optimal Mental Health for Individuals through Supports and Empowerment) targets individuals with behavioral health needs and functional limitations to offer an array of home and community-based services (HCBS) that are person-centered, recovery-oriented, and aimed at supporting beneficiaries in the community. PROMISE strives to improve clinical and recovery outcomes and reduce

unnecessary institutional care through better care coordination, and reduce growth in overall program costs.

PROMISE offers a variety of community based services:

- Care Management
- Individual Employment Supports
- Short-Term Small Group Supported Employment
- Financial Coaching
- Benefits Counselling
- Peer support
- Non-Medical Transportation
- Community-Based Residential Supports Excluding Assisted Living
- Nursing
- Community Psychiatric Support and Treatment
- Psychosocial Rehabilitation
- Respite
- Independent Activities of Daily Living/Chore
- Personal Care
- Community Transition Services

PROMISE Program Eligibility Process:

1. Contact DSAMH, Eligibility and Enrollment Unit (EEU): 1901 DuPont Highway, Herman Holloway Campus, New Castle, Delaware 19720. (302)255-9458.

EEU functions as the gatekeeper for DSAMH's mental health and substance abuse services.

2. EEU staff will evaluate a candidate for PROMISE via screening process and Delaware-Specific American Society for Addiction Medicine Assessment (ASAM) tool which is used to evaluate mental health and Substance Use Disorder conditions.
3. EEU connects qualified individuals with a DSAMH Care Manager and Provider to:
 - Develop a Self-Directed Recovery Plan
 - Assist in assigning medically necessary services
 - Maintain individuals health and well-being
 - Establish client's natural supports (family, friends, personal relationships and community resources).

The PROMISE Program offers provider training. For more information, contact DSAMH's Provider Relations Unit: (302) 255-9789.

In addition to the PROMISE Program, DSAMH focuses on five target areas:

1. Crisis Services

The Division provides twenty four hours a day (x7) on call crisis support. Crisis services are available (24/7) at the following locations:

Northern Delaware:

Crisis Intervention Mobile Services: DSAMH

Herman Holloway Health Campus in New Castle

Recovery Response Center: Recovery Innovations in Newark

Southern Delaware:

Crisis Intervention Mobile Services: DSAMH in Ellendale

Facility Recovery Response Center: Recovery Innovations in Ellendale

2. Intensive Support Services

- A. Assertive Community Treatment (ACT) - Group of staff members with a range of clinical and rehabilitative skills and expertise that develop a treatment plan specific to a client.
- B. Intensive Care Management (ICM) - Ten (10) staff members including primary care manager, psychiatric prescriber, and at least one clinical or rehabilitation staff person who shares case coordination and service provision tasks for each individual. ICM team serves up to 200 individuals and has a maximum staff to client ration of 1:20. ICM team serves individuals referred from office-based out-patient care that require a higher level of support.
- C. Community Reintegration and Support Program (CRISP) - Creative, flexible individualized approaches to Clients that who are clinically challenging and at times difficult to serve in the current service structure.

3. Housing

Service providers or case manager can assist qualified individuals with obtaining housing through the State Rental Assistance Program (SRAP) and other transitional housing programs.

ACT and ICM providers' staff composition has a housing specialist on each team.

Currently, over 750 families and individuals' are housed through the SRAP program.

4. Supported Employment

Supported Employment includes person-centered, comprehensive employment planning and support services that provide assistance for waiver program beneficiaries to obtain, maintain, or advance in competitive employment or self-employment.

This employment planning includes engaging a beneficiary in identifying a career direction and developing a plan for achieving competitive, integrated employment at or above the State's minimum wage.

The outcome of this activity is identification of the beneficiary's career objective and development of a career plan used to guide beneficiary to gain competitive employment.

5. Rehabilitation Services

PROMISE Program case manager works with provider, natural supports and others to create a -Person -Directed Recovery Plan.

Music and Memory Program (M & M)

Renee Purzycki, DHCQ Chief Administrator, provided an update regarding the Music & Memory Program. As of July 2017, 20 skilled facilities (10 residents each) participated in this personal centered music effort to stimulate dementia residents, reduce anxiety, the need for medication, etc. The Division works with facilities to determine music preferences specific to each resident. Music is downloaded onto an iPod Shuffle/Nano for residents. Facility staff records results using tracking sheets. The Division was able to provide commission members with several M & M success stories.

In order to participate, facility personnel must become certified in M&M.

DHCQ held M & M Workshops (NCC and Sussex) and In-Service Meetings for nursing home staff to learn about the program and incorporate into their resident's everyday lives. Continuing Educational Credits (CEUs) were available for staff to watch "Alive Inside Documentary" and complete M & M training.

In the future, the Division plans to work with hospice providers; create avenue to supply additional equipment to nursing homes and expand program to the remainder of licensed nursing homes in Delaware.

The Division partnered with University of Delaware (UD) Film Club to produce M & M documentary. In addition, DHCQ worked with 50+ volunteers, Delaware high schools, higher education institutions and others to provide awareness and expand M & M opportunities in Delaware.

Statewide Antipsychotic Coalition

Elsie Josiah, MSN, Project Coordinator for Quality Insights, provided an update regarding the Statewide Antipsychotic Coalition efforts in Delaware. There are two types of antipsychotic medications: typical and atypical. Their main differences are in the side effects that they may cause and may include: anxiety, restlessness, increased weight, elevated blood pressure, decreased blood pressure, uncontrollable movement, etc.

The National Partnership to Improve Dementia Care in Nursing Homes: Antipsychotic Medication Use Data Report (March 2017) shows Delaware @ 12.9% of antipsychotic medication use for long-stay residents during fourth quarter 2016. The national average for antipsychotic medication use for long-stay residents is during same time frame is 16%.

Misuse of Antipsychotics in Long-term Care Facilities:

- Residents placed on antipsychotic medications without a proper mental health diagnosis

- Antipsychotic medications are dangerous for the elderly and linked to numerous deaths
- Costly for Medicare Program
- Considered a chemical restraint by Centers for Medicare and Medical Services (CMS)
- Antipsychotic medications continue to be prescribed for residents with dementia and other cognitive disorders
- The Food and Drug Administration (FDA) issued “Black Box” warnings for antipsychotic medication in residents with dementia
- Adverse antipsychotic reactions for the elderly: loss of independence, over sedation, confusion, falls and death

Alternatives to Antipsychotic Medications:

- Individualized or personal centered care plans
- Identify the cause of behavioral symptoms
- Consistent staff assignment
- Manage acute and chronic pain
- Increase activity and engage dementia residents

Pain Communication by Dementia Residents:

- Increased breathing - hyperventilating, labored
- Nonverbal - crying, wailing & moaning
- Facial Expressions - gritting teeth, eyes squeezed shut, etc
- Body Language – pushing away, holding her/himself, kicking & hitting others

Quality Insights offers the following services to reduce antipsychotic medication usage in Delaware:

- Assist facility leadership team(s) with identifying and obtaining residents needs
- Evaluate and reduce antipsychotic medication
- Educate families and physicians
- Educate providers regarding alternatives to antipsychotic medication
- Educate providers to think outside box
- Online & virtual educational opportunities
- Facility visits as needed

QART Report

Tom Murray, DHCQ Deputy Director, presented the 3rd Qtr 2017 QART Report. The survey team recommended four “G” level deficiencies during 3rd quarter 2017. The QART Team reviewed four “G” level deficiencies and upheld the survey teams recommendations. Mr. Murray shared that the Division currently has 17 surveyors.

Staffing Report

Tom Murray, DHCQ Deputy Director, presented 3rd Qtr 2017 Staffing Report. The cumulative hours per resident totaled 3.69 hours during this snapshot in time. Per Eagles Law, 3.28 are the minimum number of hours required, however facilities must also staff to meet the needs of the residents, too.

CNA Schools

Erlease Freeman, RN, Division of Health Care Quality provided a brief overview of her responsibilities regarding Certified Nursing Assistant (CNA) Schools in Delaware.

Ms. Freeman shared that as of July 2017 there were 25 “approved” CNA Schools in Delaware: <https://www.prometric.com/en-us/clients/nurseaide/pages/de.aspx>

Classroom training requirements are regulated at Federal & State level. Students are required to participate in 75 hours of classroom instruction & 75 hours of clinical. Once completed, students are tested on their proficiency - written and clinical exam. Further, CNAs are required to complete 24 hours of continuing education every two years. The Division tracks CNA Registry.

After reviewing the CNA Pass Rate Report (written & clinical test scores), commission members expressed concern about acceptable pass rates. It was mentioned that facilities and others expect CNA’s to be able to perform their duties once they start employment, so residents do not receive substandard care.

Ms. Freeman mentioned that testing proctors (nurses) choose three out of 26 clinical skills for students to perform. All candidates taking the test are scored on Handwashing and Indirect Care skills. Each skill in the test has checkpoints. The checkpoints are used to rate the student's performance and are often rated subjectively. A meeting was scheduled with the proctor's to address this concern by the Division, too.

Members asked why the number of clinical skills students need to perform so low. The response was that each employer may have a population different than another and therefore require other skills so they expect during new employee orientation CNA's will be refreshed about clinical skills needed at a particular facility.

Prometrics compiles Delaware CNA test scores are able to viewed on the Divisions webpage:

<http://dhss.delaware.gov/dhss/dltcrp/cnareg.html>.

Delaware Health Information Network (DHIN)

Randy Farmer, COO, and Jamie Rocke, Director of Business Relationship Management provided commission members with updates regarding DHIN.

DHIN became a self-sustaining non-profit organization in 2012.

Delaware Health Information Network's objective is to advance the creation of a statewide health information network that addresses the state's needs for timely, reliable and relevant health care information.

In 2007, DHIN "went live" – meaning it became the first operational statewide health information exchange in the nation. During the past ten years, DHIN has developed a consistent track record for the safe and secure delivery of clinical results (lab and pathology), reports (both radiology and transcribed), and face sheets (hospital admission, discharge, and transfer data, including demographic and billing information).

Members of DHIN have access to:

- A searchable patient clinical history (including medications), available to authorized DHIN users on a “need-to-know” basis
- A web-based portal for those without an electronic health record (EHR), including auto-print functionality for paper charting
- A direct interface into the EHR with patient record-matching, for those providers with DHIN-certified EHRs

In addition DHIN and Vynca, provider of sustainable advance care planning solutions, have established a partnership to facilitate the capture, storage and sharing of end-of-life medical orders across the care continuum.

Vynca offers a comprehensive software solution to capture, store, and access medical orders for Scope of Treatment forms, (e.g. POLST, MOLST) which are vital in ensuring that patients’ end-of-life wishes are met. The organizations collaborated to create an electronic registry that provides a single source of advance care planning documentation instantly accessible online to authorized healthcare providers in any care setting.

End-of-life medical orders allow people with serious, life-limiting illnesses to document their care preferences. However, the lack of infrastructure to support and sustain an electronic registry can make it difficult for providers to find and access patients’ documents, especially during emergencies.

- Vynca’s platform ensures that documentation reflects patient preferences, enabling best practices for advance care planning.
- Completed documents will be easily accessible by multiple providers across a variety of care settings.
- Platform will offer seamless provider workflow through electronic health record (EHR) integration; eliminating redundant data entry, improving accuracy, and saving time.

New Century Hospice

Debbie Dickerson, RN, Director of Operations and BJ DiDonato, Hospice Care Consultant, provided commission members with an overview of New Century Hospice.

New Century Hospice is an affiliate of Curo Health Services and offers compassionate hospice care in 21 states. The organization began offering hospice service in Delaware – June 2017.

At Curo, they are committed to clinical excellence and integrity, insuring patients with the highest quality of care and comfort. Their philosophy includes an individualized course of treatment based on the patient's wishes, the family's needs and the complex array of medical, emotional and social issues which accompany a terminal diagnosis.

Service offerings include access to a network of community resources specifically arranged to provide comfort, reduce anxiety and allow quality time to be spent with the loved one.

Currently, New Century Hospice provides service in all three Delaware counties and contracted with a majority of the long-term care facilities.

Hospice is a Medicare benefit which covers hospice care, medication, supplies and equipment related to diagnosis.

Eligibility is determined by life expectancy and individual's choice to focus on a palliative care approach; comfort or relief from pain and symptoms.

Alzheimer's Association (Delaware Valley Chapter)

Katie Macklin, Executive Director of the Delaware Valley Chapter provided commission members with an update regarding activities in Delaware. The association hosted an annual conference on November 15, 2017 in Dover, DE. The 2017 conference theme: Equipping Communities to Care.

Alzheimer's Association has a toll-free 24/7 helpline (800.272.3900) to provide information, emotional support, education and resources to family members and professionals.

Ms. Macklin shared that the Delaware Valley Chapter offers fee-for-service train-the-trainer model workshops for professionals.

In addition, Ms. Macklin added that the DE Valley Chapter offers free consumer educational programs addressing all issues related to Alzheimer's and dementia.

Finally, Alzheimer's Association initiates advocacy for legislative reform at state and federal levels to improve the quality of care and services for individuals with Alzheimer's and their families.

Adult Protective Services (APS)

Linda Lawrence and Carrie Magathan, APS Supervisors, provided an overview regarding APS in Delaware.

Adult Protective Service Program responds to cases of suspected abuse, neglect, or exploitation of impaired adults. Specifically, the program serves persons who are aged 18 or over, who have a physical or mental impairment, and who are not living in a long term care facility (for example, a nursing home). The APS program is staffed by trained social workers who provide assistance to protect health, safety and welfare of the elderly (62+) or 18 years of age and have a physical or mental disability. APS's intent is to authorize the least possible restrictions of personal and civil rights. Every action taken by APS must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.

APS legislation was created in 1962 – Delaware Code Title 31, Chpt 39. DHSS recently moved APS to the Division of Services for Aging Adults with Physical Disabilities (DSAAPD). Prior seven years, APS was located within DHSS Secretary's Office.

Investigations mandated by law:

- Physical and Sexual Abuse - inflict pain or injury
- Neglect by Caregiver - physical or medical needs not met
- Psychological Abuse - ridicule or demean
- Financial or Sexual Exploitation – illegal/improper use or abuse of resources or rights of infirmed adult

Referral Process:

- Referrals are confidential. Duty to report: Del Code Title 39 Chpt 3910
- Delaware Aging and Disability Resource Center (ADRC): 800.223.9074
- Calls are fielded after hours, weekends and holidays by Calls Plus
- Family, friends or professionals identified in referral may be contacted
- APS cannot force services upon competent adult who refuses services
- Special circumstances permit involuntary services - court order is required

Timelines:

- Home visits are unannounced
- Emergency reports – same day (physical & sexual abuse, severe neglect)
- Other referrals – five working days
- APS utilizes Harmony System (data in real time)

Principals:

- Client participation
- Remain at home or in community with family and caregiver support
- Least restrictive or intrusive action
- Legal action as last resort

APS has seen a rise in mental health referrals. APS hired a victim service advocate who has also seen an influx of financial exploitation cases.

As of 2017, there is one independent provider in Delaware that helps with emergency shelter arrangements.

Long Term Care Ombudsman Program (LTCOP)

Meda Hackett, LTC Ombudsman, provided program overview to commission members.

LTCOP has four LTC Ombudsman, two Community Ombudsman and a Volunteer Coordinator. There are 24 active Volunteer Ombudsman.

Funding: Title VII (Older Americans Act), Title III and State dollars.

Long Term Care Ombudsmen are advocates for residents of nursing homes, assisted living facilities and board & care homes. Currently, there are 50 state licensed nursing homes and 32 state licensed assisted living facilities in Delaware.

In addition, Home & Community-Based Services Ombudsmen (HCBSO) advocate for consumers receiving or in need of home and community based care and want to remain living at home. HCBSO have the authority to investigate and resolve complaints made by or on behalf of LTC consumers.

Ombudsman works to resolve problems of individual residents and bring about changes at the state, local and national levels that will improve residents' care and quality of life. The average turn-around time for resolving a complaint is two weeks.

LTCOP Goals:

Advocate, promote and monitor adequacy of care and quality of life.

Advocate, promote and monitor residents' rights.

Promote continual improvement of resident's quality of life.

Educate community members, residents, family members and facility staff on subjects pertaining to the LTC system.

LTCOP responsibilities: advocacy; investigation; mediation; outreach & education; witness Advance Healthcare Directives (AHCD) for residents in LTC facility settings; provide information & answers regarding residents rights & LTC system and advocate legislative changes.

2016 Stats

1. Type of complaints: 23.3% admission, discharge, transfer or eviction; 22.3% care; 17.3% system; 13.9% choice, rights and privacy; 7.4% financial/property and 15.8% other.
2. Complaint sources - 28.8% facility, 25.7% resident, 19.3% representative/social service agency, 15.9% relative/friend and 10.3% other.

LTCOP policies and procedures have not been updated since 2003. LTCOP has contracted with Consumer Voice to revise the policies and procedure manual and create a formal training for new ombudsman.

LTCOP began using Harmony OmbudsManager (April 2017), a web-based software that tracks complaint investigations from intake through closure.

Ms. Furber asked why the annual Residents Rights Rally was cancelled - October 2017. Ms. Hackett said she will check with Teresa Ritter, State Ombudsman, as to the reason and have her follow-up with the commission.

4th Qtr 2017 QART Report

Rob Smith, presented the 4th Qtr 2017 QART Report. The survey team recommended one “G” level deficiency during 4th quarter 2017. The QART Team reviewed the “G” level deficiency and downgraded the citation because the team decided there was insufficient evidence to support a “G” level citation.

4th Qtr 2017 Staffing Report

Rob Smith presented the 4th Qtr 2017 Staffing Report. The cumulative hours per resident totaled 3.69 hours during this snapshot in time. Per Eagles Law, 3.28 are the minimum number of hours required, however facilities must also staff to meet the needs of the residents, too.

CY 17 Civil Monetary Penalty (CMP) Report

Rob Smith presented the CY 17 CMP Report. Federal penalties were imposed to nine facilities and totaled \$395,191. Penalty reason's

included: injuries during a fall without adequate supervision (x3), failure to provide appropriate care and treatment (x2), avoidable pressure ulcers (x2), and significant medication error (x2).

AmeriHealth Caritas

Tiffany Earle, LCSW, Director LTSS and Kathy Gordon, RN, Director of LTSS (Clinical Services) provided an overview of Amerihealth's long term services and supports in Delaware. Effective January 1, 2018, Amerihealth became a managed care organization in Delaware - serving approximately 13k clients, 3k are Medicaid nursing home residents.

Amerihealth uses a personal centered philosophy care plan. Individual goals are set and there is a comprehensive needs assessment developed for every client.

Team approach consisting of: family member/support person, case manager, community health navigator, transition coordinator, and personal care connectors. Depending on the client's needs, a behavioral health liaison, medical director, member advocate, housing coordinator or community agencies may join the team. Currently, Amerihealth has 36 case managers.

Amerihealth utilizes Inter RAI assessments, which is used by health organizations to assess people at the point of care, generating real-time electronic reports that flag risks and inform care planning.

Staff attend an initial "new hire" boot camp, shadow/mentor program, and receive monthly training updates. In addition, employees receive a two day training regarding personal centered care.

Effective April 1, 2018, Amerihealth added routine eye exams once a year as a member benefit. Members are also eligible for one pair of prescription eyeglasses or contacts, once a year.

Effective May 1, 2018, adult dental coverage for routine exams and cleanings is available once a year; This includes one set of bite-wings x-rays annually. One set of full mouth x-rays are covered every three years.

Division of Medicaid and Medical Assistance (DMMA) Long-Term Care Eligibility & Services

Staci Marvel, Chief Administrator of DMMA provided commission members with an update regarding DMMA Long Term Care Applicant Services. The Division's goal is to provide a decision within 40 – 45 days.

The application process:

1. Individuals contact the DMMA Eligibility Unit and schedule an interview
2. A packet of information is mailed to the individual
3. Interview - (completed) packet is reviewed
4. The Division sends individual a decision
5. If approved, case is opened – for community or skilled facility services

The Division has seen an increase in the overall number of Calendar Year (CY) 2018 LTC application referrals. In CY 2017, the Division received 2,173 nursing home referrals & 3,593 community referrals. There appears to be a wait time between phone call and interview - within the eligibility unit.

Brookside Clinical Labs

Annette Iacono, Brookside Clinical Labs Vice President, provided an overview of Brookside Clinical Laboratory, Inc. Brookside is a (40 + years) full service medical testing facility dedicated to providing exceptional laboratory support. This organization currently has 200+ employees. They offer a broad range of tests utilizing advanced instrumentation and technically proven methodologies. Brookside's goal is to provide clients with accurate and diagnostically meaningful results.

Brookside is located in Aston, PA and provides lab services for 100 long term care facilities (DE, NJ and PA combined). In Delaware, they provide lab services (blood & culture) for 30 nursing homes. Most results are provided before 3:30 pm (fax or web portal).

Rose Zuppo, Microbiologist, mentioned that the top three long term care culture requests:

1. Urinary Tract Infection (lab recommends physicians use caution with antibiotics)
2. C – Diff (lab receives approximately 2 - 4 positive cases per day)
3. Respiratory Infection (have been increasing)

Brookside also serves individuals needing lab services in the community (bed bound).

Brookside Clinical Laboratory, Inc: www.brooksidelab.com or 610.872.6466.

1st Qtr 2018 QART Report

Tom Murray, DHCQ Deputy Director, presented the 1st Qtr 2018 QART Report. The survey team recommended five “G” level deficiency during 1st quarter 2018. The QART Team reviewed the five “G” level deficiency and downgraded one citation because the team decided there was insufficient evidence to support a “G” level citation.

CY 17 Adult Abuse Registry

Tom Murray, DHCQ Deputy Director provided commission members with CY 2017 Adult Abuse Registry referral information. In CY 17, there were 195 individuals referred to the Attorney General’s Office and 5 referred to Licensing/Professional Regulations due to incidents of abuse, neglect, mistreatment or financial exploitation.

Individuals have 30 days to file an appeal with a fair hearing officer. A third of folks file an appeal. 75 percent of appeals are upheld. There is a second appeal process available, too.

CY 2017 Background Check Center

Tom Murray, DHCQ Deputy Director, provided DNHRQAC members with an update regarding the Background Check Center (BCC).

The Background Check Center was established through legislation passed in April of 2012. As a result, use of the BCC is required of all employers who provide long-term care services in licensed facilities and

agencies throughout Delaware. There is \$25 user fee which is used to provide upkeep and system maintenance.

The BCC acts as the hub for nine different data sources of background information. Employers are able to access all of the information from one source, the BCC, which screens applicants for any type of position in the long term care settings. The nine data sources include:

1. Adult Abuse Registry
2. Certified Nursing Assistant Registry
3. Sex Offender Registry
4. Office of the Inspector General Registry
5. Child Protection Registry
6. Division of Professional Regulation Registry
7. State and Federal Criminal background Checks
8. Drug Screening
9. Service Letters from prior employers

Before the BCC, employers accessed the elements individually. This required a great deal of time, numerous paper reports, handling, and risk of exposing sensitive and personal information pertaining to applicants. BCC greatly improves the process of screening job applicants and saves money/time for employers. The BCC also streamlines the review process and reduces the amount of tracking of paper documents.

The BCC has a feature known as the “Quick Background Check.” At the beginning of the screening process, and before any cost is incurred, the employer can access public registries 1 through 4 to determine if any disqualifiers are on record which may influence the decision to hire.

A unique aspect of the BCC is the “Rap-back” process. The Rap-back will alert investigative staff of convictions and potential disqualifiers of employees in the BCC system.

There were approximately 5,500 applications submitted in CY 2017: Nurses Aides, Personal Care Workers, LPNs, RNs, etc.

Delaware Safety Council

John Farin, Esquire, Delaware Safety Council Executive Director, provided an update to commission members. Delaware Safety Council is

a non-profit organization comprised of five full-time employees which serves 1,000 – 1,500 clients per month.

Delaware Safety Council's mission is to promote the protection of life and health in the workplace, in the home, on the highway, and in the community by actively providing education/training resources and service.

The organization has 25 instructors to teach a variety of safety courses:

- A. Driver Safety (basic & advanced)
- B. Community Safety (boating, pet, & babysitting)
- C. Industrial Safety(flagging, forklift, CPR, First Aid and AED)

FY 2019 Agency Reviews

Court of Chancery/Guardianships

Honorable Morgan Zurn, Master for Delaware Court of Chancery, provided commission members with an overview of the guardianship process. Currently, there are two Masters that preside over Delaware guardianship cases.

In the Court of Chancery, a Guardian is a person appointed by the Court to make medical and/or financial decisions for a disabled person. There are three types of guardianships: guardianship of an adult person, guardianship of an adult person's property and guardianship of the property of a minor child who is under eighteen.

Delaware law empowers the Court to appoint a guardian for a person with a mental or physical disability who also is in danger and needs assistance in the form of a guardianship. Taking the step to become a guardian for an adult should be a last resort and should only be considered when other alternatives have failed or are no longer appropriate. Alternatives to guardianship include acting as a surrogate decision maker or having the individual execute an Advance Health-Care Directive and/or Durable Personal Power of Attorney appointing an agent. Many individuals with mental or physical disabilities have the

ability to understand the nature of these documents and what the documents will allow others to do for them. These alternatives also allow the person with a disability to retain his or her individual rights, have a voice in choosing who may make decisions on his or her behalf, and avoid the cost and difficulty of petitioning the Court to appoint a guardian.

Currently, there are 1,946 open guardianship cases in Delaware's Court of Chancery. Of that number, approximately 15 - 20 guardians are removed from their duties per year due to: stealing, inattentiveness, etc.

Number of filings:

2016 - 210

2017 - 236

Number of dispositions:

2016 - 628

2017 - 740

Process:

Individuals seeking guardianship complete a petition packet which includes: Petition, Physician's Affidavit, Preliminary Order, Consent Form and Final Order. Petition asks whether individual has a Power of Attorney. Filing fees apply (\$200).

Notice will be sent to next of kin.

The Court will appoint an attorney ad litem (\$750 baseline fee) to represent the alleged disabled person. He or she will contact petitioner to arrange a convenient time to meet with the disabled person. The attorney ad litem will file a report of their findings with the Court. If family does not have money to pay attorney ad litem fee and falls under Federal poverty level, Courts has funds to cover the fee. The attorney ad litem is the voice of the person with a disability; they represent the disabled individual's best interest.

If guardianship is not contested by next of kin, petitioner appears at a hearing and the Judge will most likely sign the Order. Clerks at the Registry in Chancery will provide final paperwork, handbook and further instructions. Uncontested guardianship process is roughly 4 - 6 weeks.

If guardianship is contested, next of kin files an answer or cross petition (20 days) and the case will be assigned to a Master or Chancellor for a full evidentiary hearing (usually within 30 days). After evidentiary hearing, Master or Chancellor will render a final order. This process can take longer to resolve.

An “interim” or “emergency” guardianship may be requested when a person with a disability needs immediate assistance for urgent medical care, to prevent imminent serious physical harm, or substantial economic loss or expense. An interim guardian may serve for a period of up to 30 days. To request appointment as an interim guardian, petitioner must state in the petition the facts which demonstrate the person with a disability is in danger of incurring immediate serious physical harm or substantial economic loss.

After final order, guardian is responsible for the length of that person’s life: medical decisions; where they are going to live; end of life decisions; Medicaid qualification process and finances.

Other than social security, annual financial accounting is submitted to the Court of Chancery. Court staff members review every receipt to look for any misappropriations. Guardians sign a bond usually for one year’s worth of income and any assets that can be turned into a judgement (enforceable by Superior Court).

In addition, a three page medical form is to be completed yearly for guardianship of person.

Court of Chancery amended rules to refine and streamline guardianship procedures for protecting the rights, estates, and well-being of persons with disabilities. Many of the amendments reflect practices already in place.

The following amendments became effective July 1, 2018:

- Petition for appointment of guardian for adult with an alleged disability

- Appointment of attorney ad litem upon petition for appointment of guardian; service and notice of hearing
- Hearing upon petition for appointment of guardian
- Petition to exercise powers not granted by Subchapter II of Chapter 39 of Title 12 of the Delaware Code or by the Court
- Petition for instructions regarding life-sustaining procedures
- Guardian of property of a minor
- Termination of guardianship
- Guardianship Monitoring Program of the Office of the Public Guardian

Office of the Public Guardian is utilized when there is nobody able to serve as guardian and no funds either. Vice Chancellor Zurn shared that OPG is underfunded and over performing but provides amazing service. If an individual has financial resources, fee-for-service guardianship providers (currently three in Delaware – Supportive Care, Life Solutions and Senior Partner) will pay bills and make medical decisions for a reasonable fee.

Vice Chancellor Zurn mentioned that there is a working group looking into whether guardianship cases should be located within Family Court instead of Court of Chancery. This stems from a study/poll of attorneys and judges about two years ago through the Jurisdiction Improvement Committee.

Division of Aging

Dava Newnam, Director of the Division of Aging and Adults with Physical Disabilities (DSAAPD), provided an overview of services to commission members:

- Largest division within Delaware Health and Social Services (offices in all three counties)
- Target population: older adults (age 60+), adults with physical disabilities (age 18+) and caregivers.
- Promote dignity, respect, and inclusion for older adults and people with disabilities.
- Preserve health, dignity and promote self-sufficiency for older people and individuals with disabilities by providing access to and coordination of the right services at the right time and in the right place.

- Prepare for rapid growth /emerging needs of target population
- Build access to home and community-based services

DSAAPD Services and Programs:

Information and Support: services that provide awareness, assistance and access beginning with the Delaware Aging and Disability Resource Center (ADRC). These include Info & Assistance/Referral (call center, website, publications); Options or Person-centered Counseling (aka. Personal decision-making support); Care Transition support to facilitate discharge planning/nursing home transitions; Initial/Ongoing Assessments conducted by DSAAPD's Care Assessment Team (Community Nurse & Social Worker); Case Management

Home and Community-Based Services (Long Term Services & Supports): services that allow individuals to maintain their independence and age in place in their own home or community. Services include: home-delivered meals, home modifications, assistive technology, personal care, personal emergency response systems (PERS), self-management programs, employment services, etc.

Caregiving Support: information and resources that support caregivers who are caring for their family member(s). Other services include respite, adult day services, and support for those with dementia and Alzheimer's Disease.

Rights and Protection: programs and services that intervene in critical situations in which adults are in danger of abuse or financial exploitation, including Adult Protective Services/Report Hotline; legal services, etc.

Residential Care: manages Delaware Hospital for the Chronically III (Smyrna) and Governor Bacon Health Center (Del. City). DSAAPD also operates an Adult Day Program in Smyrna, DE.

Ms. Newnam advised members that as of May 2018, the Division of Aging has 2k+ individuals waiting to receive services. The wait lists exist for most services because the demand far exceeds the supply and is steadily increasing.

Ms. Newnam added “Delaware is in the middle of a dramatic population surge, with thousands of baby boomers joining the age 60+ cohort each year. The oldest baby boomers, born in 1946, turned 60 in 2006. Since then, Delaware has experienced an unprecedented spike in its older population. In 2000, there were 133,925 older Delawareans. By 2015, that number climbed to 211,125 and by 2030, it is estimated that the State will have over 300,000 residents aged 60 and over. It is impossible to overstate the impact that this population growth has had, and will continue to have on the demand for services in Delaware.”

ACTS Signature Hospice

Karen Netta, Administrator, provided an overview of services to commission members. Acts Retirement-Life Communities (Acts) has been providing senior retirement living since 1972. Acts Retirement-Life Communities is incorporated in Pennsylvania and is designated a 501(c) 3 charitable organization.

Facts:

- ACTS has 23 communities in 9 states
- Currently serving 9,700 residents, in all of the communities combined
- 7,000 employees

ACTS Signature Hospice was created to:

- Promote dignity and quality of life for patients with serious, often life-threatening illnesses and their families.
- Advocate and support informed decision-making
- Ensure patient & families wishes/goals are identified/respected
- Apply pain relief through symptom management and palliative care

Hospice services are a Medicare benefit. Services include: care, medication, equipment and supplies.

ACTS Signature Hospice began offering services in Delaware --- April 2018. ACTS Signature Hospice started offering hospice service in 2007.

In Delaware, services are being provided currently to three residents living at WillowBrooke Court @ Cokesbury Village and WillowBrooke Court @ Country House (both in NCC). The organization plans to offer hospice services in the future at WillowBrooke Court Skilled Center @ Manor House (Sussex).

Division of Substance Abuse & Mental Health (DSAMH)

Elizabeth Romero, DSAMH Director, provided an overview of DHSS's Substance Use Treatment and Recovery Transformation (START) Initiative to engage more Delawareans suffering from substance use disorder (SUD) in treatment and wraparound services. This initiative was roll out October 3, 2018 as a way to engage meet clients accompanying needs for housing, employment, education and other wraparound services.

The START Initiative will increase access to care and treatment for individuals living with substance use disorder by fostering system-wide improvement based on a framework that measures client outcomes. A week prior, DSAMH launched a new online treatment referral system called Delaware Treatment and Referral Network (DTRN) that allows Delaware health care providers seeking substance use disorder treatment or mental health services for their patients to make an online referral with one of 24 organizations included in the first phase.

Additional addiction and mental health treatment providers will be included in subsequent phases.

In its first year, START Initiative is expected to engage and treat more than 900 new clients using certified recovery peers connected to emergency departments, primary care, urgent care, EMS, police officers and families as the gateway. The peers will assist individuals suffering from substance use disorder as they navigate their way through both the treatment and social services systems, helping meet their needs for

housing, transportation, employment, social services, legal or financial counseling, and other behavioral health or medical care.

The START Initiative builds on the best evidence-based treatment and wraparound services needed for long-term recovery, but also offers technical supports to providers in the community to evaluate for quality and standards.

As part of the START Initiative, DSAMH awarded contracts to Brandywine Counseling & Community Services and Connections Community Support Programs as Level 4 providers, the highest level in Delaware for SUD treatment. That means the two organizations can provide clients with every level of treatments and services, including all three FDA-approved forms of medication-assisted treatment. Later this fall, DSAMH expects to add more treatment providers at each level of care. DSAMH also awarded a peer recovery specialist contract to Recovery Innovations International to help navigate individuals into treatment and to maintain their connection to that care.

The START Initiative received a boost of \$2 million in federal funding through the State Targeted Response to the Opioid Crisis grant, made possible through the signing of the 21st Century Cures Act. Through the federal grant from the U.S. Substance Abuse and Mental Health Services Administration, Delaware received \$2 million per year for two years. START also will receive funding from Medicaid reimbursements and state general funds.

The new system of care ensures 24/7 support through certified peer recovery specialists who will meet with individuals suffering from addiction wherever they connect with the system - a hospital emergency department, a doctor's office, EMS transport, a police encounter or through a family or self-referral. Once individuals are in treatment, peers will help clients to navigate and stay engaged in their own care. Peers also will engage family members as appropriate to discuss treatment questions, issues, needs, options and preferences. In addition, peers will connect pregnant women to existing programs that provide home visiting and prenatal care.

Elizabeth Romero stated that peers are critical to building trust in the treatment system among individuals suffering from addiction. "Relying on someone with a similar lived experience will help individuals suffering from substance use disorder to believe that treatment can work in their case and they can begin the road to recovery," she said. "We know that

addiction is a disease with a high rate of relapse, so peer support person can be the one that someone calls at 2 o'clock in the morning when they are afraid they might be tempted to use again."

Under the START Initiative, providers will be required to track and report aggregate outcomes, including intake assessments, clinical progress and receipt of supplementary services. The first step in understanding that level of accountability came with today's forum for treatment partners in which they learned about evidence-based practices and the need to improve the coordination of care.

That coordination will be enhanced by an Overdose System of Care, which will establish EMS and emergency department protocols to improve acute response, initiate medication-assisted treatment to manage withdrawal, and rapidly engage individuals with treatment. In September, Governor Carney signed legislation making Delaware the first state in the nation to have an Overdose System of Care.

In 2017, emergency medical service responders administered 2,711 doses of naloxone - a prescription medication that can reverse the effects of an opioid overdose - to 1,905 patients in Delaware. Both totals were up more than 16 percent from the 2016 totals. Additionally, law enforcement officers administered naloxone to 149 people in 2017.

Deaths from overdoses also increased in 2017, with 345 people dying in Delaware, according to the Division of Forensic Science (DFS). That total was up 12 percent from 2016. Through Oct. 1 of this year, 218 people have died from suspected overdoses in Delaware, including a record monthly total of 39 lives lost in August, according to DFS.

Currently DSAMH and Division of Services for Adults with Physical Disabilities (DSAAPD) has a team of psychologists and psychiatrists that rotate throughout Delaware Hospital for the Chronically Ill (DHCI), Governor Bacon Health Center (GBHC) and Delaware Psychiatric Center (DPC) to provide mental health services.

Ms. Furber shared that it would be useful to offer training for CNA's regarding de-escalation techniques, etc. Currently CNA's receive six hours of dementia training but it's not specific to diagnoses such as bipolar, etc. Ms. Furber added that training for all nursing home staff would be beneficial.

DHCI implemented (May 2018) a behavioral health program to assist staff, including CNA's. This project is being spearheaded by Dr. Melissa

Winters where staff receives extensive & on-going training in subjects such as: dementia, schizophrenia, bipolar, etc. The focus is to offer non-pharmacological intervention techniques to staff for residents that might be experiencing behavioral health issues.

Ms. Bailey asked if this behavioral health program could be rolled out to privately owned long term care and assisted living facilities in Delaware, too. Ms. Newnam shared that DSAAPD would be willing to offer training to the private facilities, if desired.

Dr. Lorraine Phillips suggested the group consider exploring Civil Monetary Penalty Funds (CMP) as a way to possibly pilot such a training program and will connect with Ms. Bailey to discuss in greater detail.

Dr. Winters offered to attend a future DNHRQAC meeting and provide an overview of the behavioral health program being piloted at DHCI.

St Francis Life Center

Amy Milligan, St Francis Life Center Executive Director, provided an update regarding St Francis Life Center. Saint Francis LIFE provides a Program of All-inclusive Care for the Elderly (PACE).

Through a team of compassionate healthcare experts, LIFE provides participants with complete medical, health and social services at the LIFE Center, as well as in the home, as needed.

LIFE's comprehensive care includes medical and nursing care, physical therapy, occupational therapy, nutrition services, and social work support. LIFE also offers a Day Program that allows participants to socialize and join in activities.

LIFE served individuals who are the age of 55 or older; live in the designated service area (New Castle County); are certified by the state of Delaware at a nursing home level of care (at least one ADL); and are able to live safely at home with LIFE's support and services. Clients are reassessed every six months.

The average client is 75 years old, the oldest client is 102 years old. As of May 2018, there were 248 participants – goal is 265.

The goal is to keep participants safe and healthy using a social service rather than medical model. Currently, 6 ½% of PACE participants (15) are residing in long term care facilities.

LIFE accepts a combination of Medicare and Medicaid, Medicaid only or private payment. There are no out-of-pocket charges if participants qualify for both Medicare and Medicaid or Medicaid only. Participants who do not qualify for Medicaid pay a flat monthly fee.

The goal at Saint Francis LIFE is to make sure the cost will never be a barrier to receiving the care that is needed and the cost will not vary based on the participant's changing needs.

St Francis Life Center plans to expand PACE services and will begin construction off Route 896 (New Castle County) next year.

MFP/Nursing Home Transitions

Colleen Yezek, DMMA Program Administrator, provided an update regarding Money Follows the Person Program (MFP). Money Follows the Person Demonstration, "Finding A Way Home" Program, is a special project funded by the Federal Government and the Delaware Department of Health and Social Services (DHSS) Division of Medicaid and Medical Assistance (DMMA).

MFP Program is available to assist eligible individuals that choose to participate in moving from an eligible Long Term Care (LTC) facility, (nursing home, Intermediate Care Facility for Developmental Disabilities ICF/DD or state hospital) to an eligible residence in the community with available community services and supports.

In 2007, Delaware was awarded a demonstration grant. Since then, 271 individuals have been transitioned to the community and 21 individuals remain in the program. The last MFP transition occurred 12/31/17. The demonstration grant will end 2020 and be replaced with the Assisted Ability Plan which was rolled into waivers and managed care organization's services.

2nd Qtr 2018, 78 individuals were identified as having interest in moving to the community. As a result, 18 individuals were able to transition.

MFP provides assistance to eligible individuals that choose to transition from a LTC facility to the community, by providing:

1. Information to help make informed choices regarding transition and participation in the MFP Program.
2. Access to transition services and post-discharge follow-up by an MFP Transition Coordinator. This is to ensure their move is satisfactory and community-based needs are being met.
3. Assist with locating a place to live, arrange for medical, rehabilitative, home health or other services in the community.
4. Assist the person to develop their own plan of care
5. Fund for supplemental MFP Transition Services

MFP will pay for transition services to the community for the first 365 days of program: initial setup expenses, assistive technology, home delivered meals, personal assistance services, etc.

After 365 days of MFP Transition services, Medicaid and other home and community based services (HCBS) will be available to continue to help support eligible individuals to remain in the community: case management, personal care services, orthotics and prostheses, adult day services, assisted living, cognitive services, specialized medical equipment, etc.

Individuals accessing Developmental Disabilities (DD) waiver, services will continue: case management, habilitation services, prevocational services, supported employment, day habilitation and respite services and residential services.

3rd Qtr 2018 QART Report

Rob Smith, DHCQ, presented the 3rd Qtr 2018 QART Report. The survey team recommended 11 “G” level or higher deficiencies during 3rd quarter 2018. The QART Team reviewed the “G” level deficiencies and downgraded one of the citations because the team determined that the deficiency cited was instead a communication issue and did not cause the fall & subsequent injury.

Ms. Furber asked whether “charting systems” currently used in Delaware long-term care and assisted living facilities offer an opportunity to include information to capture and communicate: when a resident is having an off day, documentation needed to validate complaint survey, etc.

Rob Smith shared that each facility is able to choose what type of reporting system they want to use (point care click, etc) and therefore there is not a standardized “charting” format.

3rd Qtr 2018 Staffing Report

Rob Smith presented the 3rd Qtr 2018 Staffing Report. The cumulative hours per resident totaled 3.70 hours during this snapshot in time. Per Eagles Law, 3.28 are the minimum number of hours required, however facilities must also staff to meet the needs of the residents, too.

Patient Centered Care

Hooshang Shanehsaz, State Pharmacy Director, provided commission members with an update regarding pharmacy services.

During the last 5 years, as part of an increased-efficiency initiative, Pharmacy services began intense examination of all resident medications through: 1) reviewing the reason for the medication, 2) identifying diagnosis; 3) conceptualizing the disease state; and 4) developing a gradual dose reduction plan, when possible. As a result, a multidisciplinary team approach was used to monitor residents, make sustainable changes, provide tools for staff and improve the quality of life.

The team began reviewing medication classifications, creating Antibiotic Stewardship, Pain Stewardship and Inventory Control overview. A formulary review was conducted to determine potential generic equivalents that may be used in place of more expensive brand medications to treat certain medical conditions, and provide cost savings. If a resident did not benefit from the generic form, the team returned to using the original prescribed medication. The goal was to

promote an appropriate, cost effective use of medications and supports relating to patient care.

The team reviewed medication in all classes, including: antipsychotic, anti-anxiety, insulin, and antibiotics. Residents' medical conditions such as high blood pressure, diabetes, and GERD were reviewed. These initiatives have resulted in significant reduction of use and cost in many categories such as pain management, antipsychotics, and antibiotics; in some cases up to 80% reduction.

Pharmacy has encountered some challenges during this process: regulations have changed at State and Federal levels; cost of medications continues to increase; those being served have multiple chronic and complex medical conditions, and pharmacy's budget has decreased. The mission of pharmacy continues to be to maximize services and residents' quality of life. To help create sustainable solutions and tools for direct care staff dealing with residents, Neurobehavioral Health (Dr. Winters) and Pharmacy cooperated to establish committees to train staff, help create care plans, review and suggest medication changes, as well as track treatment modifications.

Neuro-Behavioral Health Training

Dr. Winters and several Delaware Hospital for the Chronically Ill staff members provided testimony regarding a novel program to address neurobehavioral conditions. The program was designed to provide nonpharmacological tools to address challenging behavior. Currently, there are 113 residents at DHCI, and up to 70% of those residents have a comorbid psychiatric condition.

May 2018, Dr. Winters began training five CNAs in a twelve-week neurobehavioral health program. Topics included: major psychiatric diagnoses and treatment approaches; culture change; psychological first aid; assisting those with memory/cognitive impairment such as TBI and dementia; grief/end-of-life issues; behavior modification techniques; use of narrative medicine and parallel charting; pharmacological interventions, etc. The Neurobehavioral health team consists of CNA's, nurse supervisor, psychologist, pharmacist, and activity therapy director and staff who meet often to discuss progress/setbacks and future plans of action. The team also comprises the Psychotropic Medication

Advisory Committee, which performs pre and post-assessments and tracks use of psychotropic medication in the facility.

Lisa Furber and Margaret Bailey will schedule a session with Dr. Winters to observe the neurobehavioral health program in action. Members discussed the possibility of rolling this program out to the private sector. Dr. Lorraine Phillips and Dava Newnam offered to assist.

DHCI Neurobehavioral staff present at the meeting: Dr. Winters, Hooshang Shanehsaz, Jessica Guido Brown (Nurse Supervisor); and CNAs: Rhonda Evans-Jackson, Trisha Lavage, and Angela Foraker. Each provided their insight about the neurobehavioral health program.

Point of Hope – Tiffany Stewart, Program Director

Tiffany Stewart, Program Director, provided an overview of services offered at Point of Hope.

This family owned business offers specialized facility based programs for persons with severe and profound intellectual disabilities, autism, ABI/TBI, neurological impairments and those with special medical needs. The services include a residential day program and supported employment. The staffing ratio is 5:1.

Point of Hope began offering services in their New Castle County location – 2006. As of November 2018, there were 25 – 30 clients in the brain injury program. Each individual's program is designed to meet their needs, interests and abilities. The brain injury program is more recreational based and goal is to assist clients in maintaining a level of independence.

In 2012, Point of Hope opened their clubhouse in Smyrna, which offers services to medically fragile individuals needing nursing supports. Currently, 10 clients are served at this location. Point of Hope incorporates academics, communication, cooking, maintenance, social skills and activities of daily living into the clients individualized goals.

Medicaid Fraud Control Unit (MFCU)

Christina Kontis, Deputy Director for the Medicaid Fraud Control Unit, provided an overview to commission members. As of November 2018, there were 17 staff members within the unit who investigate and prosecute illegal acts relating to Medicaid funds. The unit also sues civilly.

MFCU was created in 1980 and is housed within the Delaware Department of Justice.

MFCU has a professional staff of prosecutors, investigators and auditors who review allegations involving:

- Medicaid Fraud: Civil or Criminal Fraud against the state by healthcare providers who treat Medicaid recipients.
- Patient Abuse, Neglect or Mistreatment: Criminal abuse, neglect or mistreatment of patients in health-care facilities, including nursing homes and mental health residential facilities.
- Financial Exploitation: Theft or misuse of funds belonging to residents of Delaware Health care facilities.
- Medication diversion

This unit often receives referrals from other state agencies such as the Division of Health Care Quality, Professional Regulations, etc. Deputy Director Kontis stressed the importance of sending in a referral sooner than later to preserve evidence.

A question was raised regarding alleged staff to resident abuse. Ms. Kontis mentioned that a referral is automatically forwarded to MFCU so the unit can determine whether there is enough evidence to prosecute or decline due to insufficient evidence.

MFCU staff is able to provide education within long term care facilities.

Resident and Satisfaction Survey

Adrienne Indellini, Nursing Home Administrator for Center at Eden Hill provided commission members with information about Delaware's newest skilled facility located in Dover, Delaware. Center at Eden Hill is a privately owned, hotel like facility with private rooms. The management

company is called Veritas, located in Colorado Springs, Colorado. Veritas manages 13 facilities within the United States. Center at Eden Hill's census as of January 2019 was 57; licensed to serve 80 residents. The rehab timeline set for residents is 30 days. The hope is to provide the best stay, best outcome, dignity, and respect for residents.

The clinical liaison, Janie Ferrari, receives referrals from various sources and screens to make sure that short stay is appropriate. Should residents need long term care or other services beyond their stay at Eden Hill, the facility partners with other providers to ensure the individual's needs are met. Each resident also has a case manager that follows them throughout their stay at Eden Hill.

Ms. Indellini shared that resident and family satisfaction is very important. During the recruitment process, she looks for compassion and passion in prospective employees at Eden Hill. "Technical skills can be taught, but employees must feel passion and compassion in their heart" said Ms. Indellini. "The expectation is for staff to put themselves in the shoes of the family/resident."

An official survey is provided to residents at the conclusion of their stay at Eden Hill. The survey goes into more depth: dietary, maintenance, nursing, activities, etc. Results are reviewed by Nursing Home Administrator and also shared with other facilities managed by Veritas.

AARP of Delaware

Sheila Grant, Associate State Director of Advocacy provided commission members with company updates. There are five staff members that serve AARP of Delaware. Staff lobby on issues that impacts families such as: health care, employment, retirement security, fraud prevention and livable communities. Currently, there are 188k members in Delaware. Some efforts AARP has been working on:

- Advocacy
- Volunteerism opportunities
- Tax Aid Program
- Driver Safety Program
- Caregiving Campaign

FY14, there were 123K caregivers in Delaware. 76% wanted to age at home with services. More than 90% wanted paid help. The number of Delawareans older than 60 is expected to double by the year 2030.

As a result, the Delaware Family Caregiving Task Force was formed with the passage of House Concurrent Resolution 57 during FY 14 legislative session. The charge of the task force was to make findings and recommendations regarding the support needs of family caregivers who assist older people and people with disabilities. Caregiver Support Blueprint Report: https://s18672.pcdn.co/wp-content/uploads/2015/06/DE-CSBD-Report_Final5-26-15.pdf.

2016 Care Act was designed to make hospital discharge less stressful by giving patients the opportunity to identify a caregiver; and offering instruction / demonstration of the care needed once their loved one returns home.

2017 Round Table - AARP held a Leadership Roundtable to discuss solutions for family caregivers in Delaware. The event brought policy makers, industry leaders, and community representatives together to discuss strategies for supporting family caregivers in Delaware.

AARP (FY 17) partnered with the YMCA to launch & pilot a neighborhood health program to tackle diabetes and promote better health. The program available at all YMCAs in Delaware to help people diagnosed as pre-diabetic to learn how to change their lifestyle and avoid getting diabetes.

2018 Share the Care Act - This would allow family caregivers to get the help they need as they balance family, work and caregiving. For a variety of reasons (safety & liability concerns), the bill never made it out of committee. AARP is already building another strong grassroots effort for next year to re-introduce this legislation and ensure it passes.

Annual Capitol Caregivers Award - FY 18, several Delaware lawmakers AARP's award: Lt. Gov. Bethany Hall Long, Majority Leader Valerie Longhurst, Sen. John Walsh, and Rep. Paul Baumbach.

Livable Communities - AARP seeks to improve older adults' quality of life by promoting the development of safe, accessible and vibrant

environments often called livable communities. Livable communities' policies address issues such as land use, housing, transportation and broadband — all of which facilitate aging in place.

1st Qtr 2018 QART Report

Rob Smith, DHCQ Licensing Administrator, presented the 4th Qtr 2018 QART Report. The survey team recommended 15 “G” level deficiency during 4th^t quarter 2018. The QART Team reviewed the 15 “G” level deficiency and downgraded two citations because the team decided one deficiency was a communication issue that did not cause fall leading to injury and other because risk of harm was not foreseeable/staff followed protocol.

Mr. Smith mentioned that there were changes made in November 2017 regarding guidance and interpretation. New annual inspections focus on more observation, less looking at medical records and more resident centered. The former inspection process focused on nursing assessments.

Staffing Report

Rob Smith, Division of Health Quality provided commission members with 4th Quarter 2018 staffing information. The cumulative hours per resident totaled 3.72 hours during this snapshot in time. Per Eagles Law, 3.28 are the minimum number of hours required, however facilities must also staff to meet the needs of the residents, too. In addition, all skilled facilities exceeded nurse to residents and aides to residents per shift during certification review.

CY 18 Adult Abuse Registry

Karen Crowley, DHCQ Investigation Unit Chief, provided commission members with CY 2018 Adult Abuse Registry information. As of March 2019, there were 200 individuals on the Adult Abuse Registry due to substantiated (civil) incidents of abuse, neglect, mistreatment or financial exploitation.

Breakdown of individuals added to AAR:

CY 16 – 17

CY 17 – 21

CY 18 - 20

Individuals have 30 days to file an appeal with a fair hearing officer. Currently, there are 12 pending appeals. There is a second level appeal process, too.

CY 17 Background Check Center

Don Bluestein, DHCQ Investigative Supervisor, provided members with an update regarding the Background Check Center (BCC).

The Background Check Center was established through legislation passed in April of 2012. As a result, use of the BCC is required of all employers who provide long term care services in licensed facilities and agencies throughout Delaware. There is \$25 user fee which is used to provide upkeep and system maintenance.

The BCC acts as the hub for nine different data sources of background information. Employers are able to access all of the information from one source, the BCC, which screens applicants for any type of position in the long-term care settings. The nine data sources include:

1. Adult Abuse Registry
2. Certified Nursing Assistant Registry
3. Sex Offender Registry
4. Office of the Inspector General Registry
5. Child Protection Registry
6. Division of Professional Regulation Registry
7. State and Federal Criminal Background Checks
8. Drug Screening
9. Service Letters from prior employers

Before BCC, employers accessed each element individually. This required a great deal of time, numerous paper reports, handling, and risk of exposing sensitive and personal information pertaining to applicants. BCC greatly improves the process of screening job applicants and saves money/time for employers. The BCC also streamlines the review process and reduces the amount of tracking of paper documents.

The BCC has a feature known as the “Quick Background Check.” At the beginning of the screening process, and before any cost is incurred, the employer can access public registries 1 through 4 to determine if any disqualifiers are on record which may influence the decision to hire.

A unique aspect of the BCC is the “Rap-back” process. The Rap-back will alert investigative staff of convictions and potential disqualifiers of employees in the BCC system.

There were 8,264 applications submitted in CY 2017 and 9,629 submitted in CY 2018. The number of users that access the BCC:

CY 2017 - 203

CY 2018 - 261

CNA Schools

Erlease Freeman, RN provided commission members with an update regarding the Certified Nursing Assistant Schools. The CNA School oversight is located within DHSS, Division of Health Care Quality.

Anyone who wants to be trained to become a CNA in Delaware must enroll in a CNA training program that is approved by the Division of Health Care Quality.

In 2018, 32 (school) sites offered certification for nurse assistants in Delaware. Three new sites applied to become a CNA training program however only two sites were approved. The third site was not approved because it was not conducive as a learning environment (office suite did not have sink or running water).

CNA training programs that will be privately owned and operated must first apply for and obtain an initial certificate of approval as a private business & trade school from the State of Delaware Department of Education (DOE):

https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/158/1693_001.pdf.

CNA training programs in Delaware must also be approved by the Division of Health Care Quality before training begins.

Currently, the Delaware Department of Education does not share a copy of the application with the Division of Health Care Quality.

2018 CNA competency report will be uploaded to the Divisions webpage: https://www.prometric.com/en-us/clients/nurseaide/documents/delaware/DE_PassFailReport.pdf.

Representative Williams asked about the CNA competency low test scores, written and clinical, that appear on the report. Ms. Freeman shared that the Division will consider in the future to sanction schools that have test scores that fall below acceptable standards. Ms. Bailey added that facilities expect CNA's to be prepared/know their skills before they begin employment.

A facility must not employ individuals who have a negative finding entered into the State Nurse Aide Registry concerning abuse, neglect, or mistreatment of residents, or concerning misappropriation of their property.

Oral Health and Dental Services

Dr. Nicholas Conte, Director of the Bureau of Oral Health and Dental Services Division of Public Health (PH) within Delaware Health and Social Services Delaware, provided an overview/update of dental services and oral healthcare in Delaware.

In 2018, a third of Delaware dentists, hygienists and Christiana Care Health Services medical residents were educated in oral health and dental services through the Division of Public Health (DPH).

The goal of Delaware Bureau of Oral Health and Dental Service Division is to ensure that all members of the Delaware population, regardless of age, ability, or financial status, will achieve optimal oral health through an integrated system which includes prevention, education and appropriate treatment.

The Division has been using Silver Diamine Fluoride (SDF), which is a clinically applied treatment that controls active dental caries and aids in preventing further progression of the disease. SDF has a dual mechanism of action resulting from the combination of its ingredients. The silver component acts as an anti-microbial agent killing bacteria and

preventing the formation of new biofilm, while the fluoride acts to prevent further demineralization of tooth structure. Application of SDF is simple and non-invasive.

Dr Conte shared that public health's mobile van has been retired; that telehealth and other means have replaced the mobile dental unit (was expensive to operate and maintain).

Dr. Conte further added that Public Health would like to revitalize an oral health training program for providers. Ms. Bailey mentioned that University of Delaware Center for Disabilities Studies offered oral health education to caregivers a few years ago and will forward information to Dr. Conte.

It was recommended that the Division of Public Health contact DHCQ to see if an oral health/dental program would be able to be funded using Civil Monetary Penalty funds.

Long Term Care Ombudsman Program (LTCOP)

Jill McCoy, State Ombudsman, provided an overview of the Long Term Care Ombudsman Program in Delaware. Chantel Collie, LTC Community Ombudsman (Kent/Sussex County) joined Ms. McCoy. LTCOP is primarily funded through Title 7 and Title 3 of the Older American's Act (OAA).

The LTCOP unit (8 staff) is comprised of: State Ombudsman, four LTC Ombudsman assigned to specific facilities or settings, two community ombudsman and a volunteer ombudsman coordinator.

The Long Term Care Ombudsmen are advocates for residents living in long-term care facilities as well as other settings (such as their own homes) and receive home and community-based services (HCBS).

LTCOP currently serves:

- 50 nursing homes
- 34 assisted living facilities
- 34 family care homes
- 3 rest (residential) homes

LTCOP investigates and resolves complaints on behalf of these individuals. Complaints can be made by residents, family members, or other concerned parties. The program also provides opportunities for Volunteer Ombudsmen to serve as friendly visitors/advocates in nursing homes.

The number one complaint received by LTCOP: resident's care is not satisfactory.

LTC Ombudsman also witness Advanced Care Directives.

In addition, LTCOP provides information and answers about resident rights within long-term care system. Ms. McCoy shared that she plans to bring back the Residents Rights Rally in October to honor resident's rights throughout Delaware.

QART Report

Tom Murray, DHCQ Acting Director, presented 1st Qtr 2019 QART Report via teleconference. During this snapshot in time, the survey team recommended five "G" level deficiencies. The QART Team reviewed the recommended "G" level deficiencies and determined that two of the citations should be downgraded because:

1. Unable to substantiate as a harm level deficiency.
2. No history of falls or care plan requirements for supervision while in wheel chair and lack of documentation to support this tag.

Staffing Report

Rob Smith, DHCQ Licensing Administrator, presented the 1st Qtr 2019 Staffing Report. The cumulative hours per resident totaled 3.72 hours.

Per Eagles Law, 3.28 are the minimum number of hours required, however facilities must also staff to meet the needs of the residents, too. In addition, all skilled facilities exceeded nurse to residents and aides to residents per shift during certification review.

Civil Monetary Penalty Report

Rob Smith, DHCQ Licensing Administrator, presented CY 18 CMP Report. Federal penalties were imposed nineteen times and totaled \$1,000,739. Penalty reason's included: Nutrition/Dehydration (x2), Resident Abuse (x2), incontinence/urinary catheter care (x3), respiratory/tracheotomy care, avoidable pressure ulcer (x5), injuries during a fall (x3), injuries during a fall without adequate supervision, failure to provide appropriate care and treatment, and cardiopulmonary resuscitation.

Under the Federal Nursing Home Reform Law, the Centers for Medicare & Medicaid Services (CMS) has authority and the "responsibility" to impose Civil Money Penalties (CMPs) and other enforcement actions at nursing homes that are found to violate federal standards of care (which are called Requirements of Participation). The State of Delaware, specifically DHCQ, also has the authority to impose CMPs.

Special Focus Facilities are those with "a history of serious quality issues" and are subject to two standard surveys each year and more rigorous enforcement actions.

Neighbor Care Home Care & Family Support

Debbie Akinola, RN, was recently approved by Delaware Court of Chancery to offer guardianship services. Prospective clients must be approved by the state presiding court who determines generalized or limited guardianship, power of attorney, or fiduciary services are most appropriate based on an individual basis.

Neighbor Care Home Care & Family Support services include: estate management, housing options, care options, bill paying and negotiation, financial management, Medicare & Medicaid enrollment, medical claims submission and representation at care conferences.

Ms. Akinola has been a professional caregiver for more than 20 years and has worked with individuals with various challenges and disabilities. Neighbor Care's philosophy is to focus on individual's particular strengths and abilities, unique opportunities and needs for self-determination and least restrictive level of support.

Services are offered state-wide for socially, economically and physically dependent individual's in Delaware. In order to achieve optimal outcomes, this organization addresses holistic needs with guardianship, fiduciary, health & well-being care management services.

Guiding principles:

- Best interest model of support
- Least restrictive form of support
- Total physical, social and environmental wellness support

Quality Insights (QI)

Elsie Josiah, RN Project Coordinator, provided commission members with an overview of nursing home projects currently in Delaware.

Quality Insights is a non-profit organization focused on using data and community solutions to improve healthcare quality in pursuit of better care, smarter spending and healthier people. They strive to be a change agent, trusted partner and integrator of organizations collaborating to improve care.

QI's is a CMS Quality Innovation Network-Quality Improvement Organization (QIN-QIO) for five states (DE, LA, NJ, PA and WV). QI's hopes to hear from CMS by June 30, 2019 regarding their next scope of work (SOW).

Current projects include:

- Patient Centered Care & Family Engagement: Quality Insights engages people and their families in self-care, community care and organizational care.
- QAPI: Works in tandem with nursing home facilities to ensure that they continuously identify and correct quality deficiencies as well as sustain performance improvement.
- Staff Stability/Huddles: Multiple educational webinar's offered to health care providers on various subject matters.

- Antipsychotics: Reduce the use of antipsychotic medication in long-term care facilities, which has an on-going National initiative for several years.
- Antibiotic Stewardship: Monitor, reduce and prevent misuse and/or overuse of antibiotics within a healthcare system using a multidisciplinary team and strategic approach.
- Community Focus: Initiatives such as improving the health of people with diabetes by providing and facilitating Diabetes Self-Management Education (DSME) training classes through partnerships with various stakeholders throughout our region.

DDDS

Katie Howe, Director of Quality Improvement, provided commission members with an overview of DDDS services.

The Division currently serves 5,893 clients residing in the following environments: DDDS clients reside in multiple settings: Stockley Center, nursing homes, neighborhood homes, foster care, supported care, out of state and individuals living at home with family members.

Beginning July 1, 2019, Life Span Waiver enrollees will lose State benefits and shift to a fee-for-service provider.

The Division has three types of case management:

- Community Navigators
- Supported Coordinators
- Employment Navigators

Residential Medical Rehabilitation is a new program designed for DDDS clients who qualify medically and have a diagnosis that requires nursing level services. Ms. Howe will forward information regarding specific criteria requirements.

DDDS is in the process of developing a provider report card. The report cards will be available on DDDS's webpage:

<https://www.dhss.delaware.gov/ddds/>.

The Office of Professional Development is responsible for administration of the statewide training program for staff employed by or contracted with DDDS. The Division is in the process of updating on-line training efforts.

Harmony is the Incident Resolution and Service Integrity Management System operated by the Division of Developmental Disabilities Services (DDDS) since July 2018.

Harmony:

- Allows reporting of incidents directly into the system through the DDDS website.
- Maintains a searchable database of all incidents.
- Records the results of all site surveys.
- Allows both DDDS and Provider staff to enter required documentation online and monitor the quality improvement process – from approval to verification.

III. JOINT SUNSET COMMITTEE

The Commission oversees the Joint Sunset Committee's 2006 recommendations made for the Division of Health Care Quality and reviewed as follows:

- The Division of Health Care Quality established a Quality Assurance Review Team (QAR Team) that reviews deficiency reports quarterly. The QAR Team provides a written quarterly report to the Commission regarding any upgrades to "G" level or above and downgrades to "G" level or below by the QAR Team, setting forth the number of such

downgrades and upgrades at each facility and the reason for each. Quarterly reports are submitted to the Commission on the 15th of every September, December, March and June.

- The Division of Health Care Quality submits a written quarterly report to the Delaware Nursing Home Residents Quality Assurance Commission identifying a nursing home's noncompliance with staffing ratios by shift under Eagle's Law (16 Del. C. §1162).

IV. LEGISLATION AND REGULATION REVIEW

The Commission received notice of regulations and legislation effecting long-term care residents in the State of Delaware during 149th - 150th General Assembly, including:

FY 2018 – 149TH GENERAL ASSEMBLY

SB 262 - AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO NURSING FOR SHARE THE CARE ACT IS IN THE SENATE SUNSET AS OF 6/19/18.

SB 143 W/SS 1- AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE ESTABLISHMENT OF THE BEHAVIORAL HEALTH CONSORTIUM WAS SUBSTITUTED 1/24/18.

HCR 89 - RECOGNIZING JUNE 15, 2018, AS "DELAWARE ELDER ABUSE AWARENESS DAY".

SCR 70 – CREATING A MEDICAID BUY-IN STUDY GROUP WAS SIGNED 6/28/18.

SCR 63 – DESIGNATING THE WEEK OF MAY 6-12 AS "NATIONAL NURSES WEEK" IN THE STATE OF DELAWARE.

FY 2019 – 150th General Assembly

SCR 29 - DESIGNATING THE WEEK OF MAY 6-12 AS "NATIONAL NURSES WEEK" IN THE STATE OF DELAWARE.

SCR 30 - ESTABLISHING THE NON-ACUTE PATIENT MEDICAL GUARDIANSHIP TASK FORCE TO STUDY AND MAKE FINDINGS AND RECOMMENDATIONS REGARDING THE NEEDS AND OPTIONS OF NON-ACUTE HOSPITAL PATIENTS IN NEED OF MEDICAL GUARDIANSHIP SERVICES.

SCR 32 - RECOGNIZING THE 100TH ANNIVERSARY OF EASTERSEALS, A LEADING ADVOCATE AND SERVICE PROVIDER FOR CHILDREN AND ADULTS WITH DISABILITIES, VETERANS, OLDER ADULTS, CAREGIVERS AND THEIR FAMILIES.

SCR 42 - PROCLAIMING THE MONTH OF MAY 2019 AS "MENTAL HEALTH AWARENESS MONTH" IN THE STATE OF DELAWARE.

SCR 62 - ESTABLISHING THE DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES TASK FORCE.

SCR 65 - PROVIDING FOR A STRATEGIC REVIEW OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES AND PRESENTATION OF RECOMMENDATIONS REGARDING A COMPREHENSIVE RESTRUCTURING THEREOF TO THE JOINT FINANCE COMMITTEE.

HB 243 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE CULTIVATION OF MEDICAL MARIJUANA BY REGISTERED QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS.

HB 256 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO BACKGROUND CHECKS FOR EMPLOYEES, CONTRACTORS, AND VOLUNTEERS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES.

HB 62 w/HA 1 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION WAS SIGNED 6/5/19.

HB 82 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO RELATING TO HEALTH AND SAFETY WAS STRICKEN 5/14/19.

HB 91 w/HA 1 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HOSPITALS.

HB 93 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES WAS SIGNED 6/5/19.

HB 103 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DIVISION OF SUBSTANCE ABUSE AND MENTAL HEALTH WAS SIGNED 6/19/19.

HB 104 W/HA 1 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE BEHAVIORAL AND MENTAL HEALTH COMMISSION WAS SIGNED 6/19/19.

HB 123 W/ HS 1 - AN ACT TO AMEND TITLE 12 OF THE DELAWARE CODE RELATING TO THE APPOINTMENT OF GUARDIANS AND THE OFFICE OF THE PUBLIC GUARDIAN WAS SUBSTITUTED 5/2/19.

HB 140 - AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO END OF LIFE OPTIONS WAS ASSIGNED TO HOUSE HEALTH & HUMAN DEVELOPMENT 5/2/19.

HB 141 W/ HA 1- AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE MEDICAL MARIJUANA ACT WAS SIGNED 6/13/19.

HB 164 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE DEVELOPMENTAL DISABILITIES COUNCIL WAS ASSIGNED TO HOUSE HEALTH & HUMAN DEVELOPMENT 5/30/19.

V. COMMISSION STAFFING

The Delaware Nursing Home Residents Quality Assurance Commission members hired a full-time Executive Director as of January 31, 2007. The Administrative Office of the Courts manages the salary and budget of this position. The Executive Director represents the Commission and works closely with State Agencies and other stakeholders to aid in the quality of care for residents in licensed Delaware State and Private Nursing Homes and Assisted Living Facilities.

VI. NURSING HOME AND ASSISTED LIVING FACILITY VISITS

Commission Staff and members of Delaware Nursing Home Residents Quality Assurance Commission visited 43 nursing homes and 38 assisted living facilities during July 1, 2017 and June 30, 2019. The purpose of the visits was to promote an atmosphere of information sharing so that the Commissioners would be able to fulfill their

responsibility to monitor the effectiveness of the quality assurance system in the State of Delaware. Staff and Commissioners interacted with facility administrators, staff, residents and families.

In addition, staff received phone calls and emails from family members and others in the community regarding:

1. How to locate long-term care and/or assisted living facility services;
2. Who to contact regarding Nursing Home Transition services;
3. Which State agency would investigate a nursing home or assisted living facility complaint;
4. How to locate Ombudsman or Guardianship assistance.

As a result of being contacted by residents, family members and the community, staff provides contact information and alerts appropriate agencies so they can follow-up with the individuals directly.

Staff works actively with stakeholders to develop educational programs to improve the quality of life/care for individual's living in a nursing home or assisted living setting. Some of the current projects include: nursing home regulations course through University of Delaware, basic

intravenous training with Bayhealth and lymphedema therapy with Specialty Rehabilitation.

Staff is involved with on-going training efforts in Delaware regarding elder abuse, neglect and financial exploitation of the elderly and vulnerable adult population.

VII. FACING FORWARD: COMMISSION GOALS

The Commission has set the following goals for its work in the coming months:

- Continue to review agency performance and coordination.
- Focus on assisted living by reviewing what other states are doing to ensure quality of care and provide recommendations to the Governor and Members of the General Assembly.
- Encourage collaborative initiatives that will reduce high turnover of nursing home staff and help recruit qualified nurses to long term care.
- Foster and promote abuse/fraud investigation training for law enforcement and other agencies statewide.
- Monitor enforcement of Eagle's Law so as to ensure minimum staffing level compliance.
- Enhance outreach to consumers of long-term care to increase Commission profile and ensure the Commission is called upon to review problems and deficiencies in long-term care.
- Address quality of life issues for nursing home residents including end-of-life and hospice care services.
- Identify "Gaps" in services available for aiding in the care for the elderly and disabled.

- Review educational programs such as Certified Nursing Assistants (CNA) and make educational recommendations to enhance the programs.
- Focus on employee recruitment and retention challenges to aid in the quality of care for residents.

#

How do I get information about a particular long term care or assisted living facility?

The federal government has a Web site called "Nursing Home Compare" that gives information about every nursing home in Delaware that is Medicare - or Medicaid-certified. The Web site has information about the nursing home, the staff, and the residents. The Web site also has summary results from the last annual inspection by the state survey agency, the Division of Long Term Care Residents Protection. The Web site is:
<http://www.medicare.gov/nhcompare/home.asp>.

Results from both annual and complaint inspections and the long term care facility's plans of correction are also available from the Division of Health Care Quality by calling the Licensing and Certification Section at (302) 577-6661.

Who do I call to report possible abuse or neglect of a resident?

To report possible abuse, neglect, mistreatment, or financial exploitation of a resident, or if you have other complaints or concerns about a long term care facility, call the Division of Health Care Quality at (877) 453-0012 (24-hour, toll-free number).

Current Members of the Delaware Nursing Home Residents Quality Assurance Commission

Lisa Furber, Chairman

Hooshang Shanehsaz, RPh

Karen E. Gallagher

Lorraine Phillips, Ph.D., RN

Amy Milligan

Lt Gov Bethany Hall-Long

Cheryl Heiks

Christina Kontis, Esquire

Representative Kim Williams

Michela A. Coffaro, Psy.D

Kyle Hodges

Catherine L. Hightower, RN

Norma Jones

Delaware Nursing Home Residents Quality Assurance Commission

Introduction

DNHRQAC Contact:

Margaret E. Bailey
2540 Wrangle Hill Rd
Suite 223

Bear, DE 19701

Phone: (302)836-2133

Fax: (302)836-2644

margaret.e.bailey@delaware.gov

<http://courts.delaware.gov/AOC/?dnhrqac.htm>

The Delaware Nursing Home Residents Quality Assurance Commission was established by legislation passed and signed by the Governor in 1999. The primary purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities, to ensure that complaints of abuse, neglect, mistreatment, and financial exploitation are responded to in an effective and timely manner. The Commission also reviews policy issues related to the quality of life and quality of care of residents of other long term care and assisted living facilities.

Commonly Asked Questions

Who are the Commissioners?

The Commissioners include two individuals appointed by members of the General Assembly. Seven members are appointed by the Governor and represent consumers of nursing home services or family, nursing home providers, health care professionals, and advocates for the elderly and disabled. In addition, four members serve by virtue of position or designee: Attorney General, Community Legal Aid Society, Delaware Health Care Facilities Association and Delaware Health Care Association.

What are the Commission's duties?

The primary duties include:

- (1) Examining policies and procedures and evaluation of the effectiveness of the quality assurance system for nursing

home residents, including the respective roles of the Department of Health and Social Services, the Attorney General's Office, law enforcement agencies, health care professionals, and nursing home providers.

- (2) Monitoring data and analyzing trends in the quality of care and quality of life of individuals receiving long term care in Delaware.
- (3) Reviewing and making recommendations to the Governor, the Secretary of the Department of Health and Social Services, and the General Assembly concerning the quality assurance system and improvements to the overall quality of life and quality of care of nursing home residents.
- (4) Protecting the privacy of nursing home residents, including following guidelines for the confidentiality of records.
- (5) Specific responsibilities as designated by the General Assembly, such as making recommendations as to the required minimum nursing staffing levels in nursing homes and reviewing requests by the facilities to waive the requirements on a time-limited basis.

Where and how often does the Commission meet?

The Commission is required to meet at least once every three months. The Commission usually meets every other month. For a schedule of the meetings and the locations, contact DNHRQAC listed on the front of this brochure.

Are Commission meetings open to the public?

Yes, the meetings are open to the public. There is also time set aside in each meeting for public comment.

Do Commission members visit long term care and assisted living facilities? What is the purpose?

Yes, Commissioners often visit facilities. They also attend meetings held at the facilities by DLTCRP that give the results of the annual licensing/certification surveys. If invited by a resident or family council, they will also attend the resident and family council meetings. Commissioners will only enter a resident's room if invited by the resident or his/her authorized representative. Commissioners visiting a facility will usually be identified by a photo ID badge.

The visits help the Commission carry out its duties and make its required recommendations to the Governor, DHSS Secretary, and General Assembly, about improvements to the overall quality of care and quality of life of residents.

Who can contact the Commission and how?

Anyone can contact the Commission, by letter, phone, or fax. The Commission's address, phone number, and fax number are on the front of this brochure.

The length of the visits can vary. For example, if the Commissioner goes to the survey report meeting or has been invited to attend a resident or family council meeting, they may spend a few hours at the facility.

Commissioners will only enter a resident's room if invited by the resident or his/her authorized representative.

At the end of the visit, the Commissioner may ask to meet with the administrator or other person in charge to share information gathered during the visit. This might include examples of good care or opportunities for improvement. If a Commissioner sees something that might be an issue affecting the health/safety of residents, this will also be reported to the administrator or other person in charge.

What happens to the information that a Commissioner gathers during a visit to a long term care or assisted living facility?

The results of a visit may be reported at a Commission meeting. No facilities, staff, families or residents are identified during the report.

If residents or family members wish to share information that they do not want reported to the administrator, they will be given the phone number of the Division of Health Care Quality (DHCQ) toll-free complaint line (1-877-453-0012), so that they may report their concern to the appropriate authority.

If a Commissioner or Executive Director has reasonable cause to believe that there is abuse, neglect, mistreatment, or financial exploitation of a resident, it will be reported to DHCQ.

Current Members of the Delaware Nursing Home Residents Quality Assurance Commission

Lisa Furber, Chairman

Lorraine Phillips, Ph.D, RN

Karen E. Gallagher

Hooshang Shanehsaz, RPh

Lt Gov Bethany Hall-Long

Representative Kim Williams

Cheryl Heiks

Amy Milligan

Michela Coffaro, Psy.D

Christina Kontis, Esquire

Kyle Hodges

Catherine L. Hightower, RN

Norma Jones

Delaware Nursing Home Residents Quality Assurance Commission Visiting Long Term Care & Assisted Living Facilities

Facility Visits

DNHRQAC Contact:

Margaret Bailey
2540 Wrangle Hill Rd
Suite 223
Bear, DE 19701
Phone: (302) 836-2133
Fax : (302)836-2644
Margaret.E.Bailey@delaware.gov

<http://courts.delaware.gov/AOC/?dnhrqac.htm>

The Delaware Nursing Home Residents
Quality Assurance Commission was

established by legislation passed and signed by the Governor in 1999. The primary purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities, to ensure that complaints of abuse, neglect, mistreatment, and financial exploitation are responded to in an effective and timely manner. The Commission also reviews policy issues related to the quality of life and quality of care of residents of other long term care and assisted living facilities.

The main duties of the Commission include:

- (1) Examining policies and procedures and evaluating the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department of Health and Social Services, the Attorney General's Office, law enforcement agencies, health care professionals, and nursing home providers.
- (2) Monitoring data and analyzing trends in the quality of care and quality of life of individuals receiving long term care in Delaware.
- (3) Reviewing and making recommendations to the Governor, the Secretary of the Department of Health and Social Services, and the General Assembly concerning the quality assurance system and improvements to the overall quality of life and quality of care of nursing home residents.
- (4) Protecting the privacy of nursing home residents, including following the guidelines for the confidentiality of records established by the Division of Long Term Care Residents Protection,

in Delaware Health and Social Services (DHSS).

- (5) Specific responsibilities as designated by the General Assembly, such as making recommendations as to the required minimum nursing staffing levels in nursing homes and reviewing requests by the facilities to waive the requirements on a time-limited basis.

Commonly Asked Questions:

Who are the Commissioners?

The Commissioners include two appointed by the Speaker of the House and two appointed by the President Pro-Tem of the Senate. Eight are appointed by the Governor and represent consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel, and advocates for the elderly, and the developmental disabilities community protection and advocacy system established by the US Code.

What is the purpose of the Commission's visits to long term care and assisted living facilities?

The purpose of the visits is to promote an atmosphere of information sharing so that Commissioners may fulfill their responsibility to monitor the effectiveness of the quality assurance system in the State of Delaware. Commissioners are interested in open communications with facility administrators, staff, residents and families and in promoting a cooperative atmosphere. Information will be gathered to help the Commission make its required

recommendations to the Governor, DHSS Secretary and General Assembly, concerning improvements to the overall quality of care and quality of life of nursing home residents.

What determines which facilities are visited and which Commissioner(s) will visit?

Before a visit, a Commissioner will check with the DHCQ staff to determine which facilities have been visited recently (the Division maintains a log of visits), so that duplicate visits of the same nature may be avoided. Commissioners may also attend meetings held at the facilities by DHCQ that give the results of the annual licensing/certification surveys. Commissioners may be invited to resident and/or family council meetings. Commissioners will avoid visiting facilities with which they have a conflict of interest.

What can be expected during a Commissioner's visit to a long term care or assisted living facility?

Generally, visits will be made by one or two Commissioners at a time. If Commissioners are visiting a facility after normal visiting hours, they will call prior to visiting, so facility staff will be available to open the door. Commissioners will usually be identified by a photo ID badge. Commissioners will sign the visitors' log and give the administrator or other person in charge a copy of this brochure and a Commission business card. Commissioners will gladly explain the purpose of the visit to anyone who asks.

Appendix ■

Licensed Nursing Homes

(listed in alphabetical order)

- Atlantic Shores Rehabilitation & Health Center
231 South Washington St.
Millsboro, DE 19966-1236
302-934-7300
State Licensed Beds: 181
Medicare & Medicaid Certified
- Brackenville Center
100 Saint Claire Dr.
Hockessin, DE 19707-8906
302-234-5420
State Licensed Beds: 104
Medicare & Medicaid Certified
- Brandywine Nursing and Rehabilitation Center
505 Greenbank Rd.
Wilmington, DE 19808-3164
302-998-0101
State Licensed Beds: 169
Medicare & Medicaid Certified
- Cadia Rehabilitation Broadmeadow
500 South Broad Street
Middletown, DE 19709-1443
302-449-3400
State Licensed Beds: 120
Medicare & Medicaid Certified
- Cadia Rehabilitation Capitol
1225 Walker Road
Dover, DE 19904-6541
302-734-1199
State Licensed Beds: 120
Medicare & Medicaid Certified
- Cadia Rehabilitation Pike Creek
3540 Three Little Bakers Blvd.
Wilmington, DE 19808-1754
302-455-0808
State Licensed Beds: 130
Medicare & Medicaid Certified
- Cadia Rehabilitation Renaissance
26002 John J. Williams Highway
Millsboro, DE 19966-4948
302-947-4200
State Licensed Beds: 130
Medicare & Medicaid Certified
- Cadia Rehabilitation Silverside
3322 Silverside Road
Wilmington, DE 19810-3307
302-478-8889
State Licensed Beds: 128
Medicare & Medicaid Certified
- Churchman Village
4949 Ogletown-Stanton Rd.
Newark, DE 19713-2908
302-998-6900
State Licensed Beds: 101
Medicare & Medicaid Certified
- Country Rest Home
12046 Sunset Lane
Greenwood, DE 19950-9408
302-349-4114
State Licensed Beds: 56
State-Licensed Only
- Courtland Manor Inc.
889 S. Little Creek Rd.
Dover, DE 19901-4721
302-674-0566
State Licensed Beds: 70
Medicare & Medicaid Certified
- Delaware Hospital for the Chronically III
100 Sunnyside Road
Smyrna, DE 19977-1752
302-223-1000
State Licensed Beds: 205
Medicare & Medicaid Certified
- Delaware Veterans Home
100 Delaware Veterans Blvd.
Milford, DE 19963-5395
302-424-6000
State Licensed Beds: 150
Medicare & Medicaid Certified
- Delmar Nursing and Rehabilitation Center
101 E. Delaware Ave.
Delmar, DE 19940-1110
302-846-3077
State Licensed Beds: 109
Medicare & Medicaid Certified

- Exceptional Care for Children
11 Independence Way
Newark, DE 19713-1159
302-894-1001
State Licensed Beds: 42
Medicaid Certified
- Five Star Foulk Manor North LLC,
Nursing Home
1212 Foulk Road
Wilmington, DE 19803-2741
302-478-4296
State Licensed Beds: 46
Medicaid Certified
- Forwood Manor Nursing Home
1912 Marsh Road
Wilmington, DE 19810-3954
302-529-1600
State Licensed Beds: 72
Medicare & Medicaid Certified
- Foulk Manor South Nursing Home
407 Foulk Road
Wilmington, DE 19803-3809
302-655-6249
State Licensed Beds: 46
State-Licensed Only
- Gilpin Hall Nursing Home
1101 Gilpin Ave.
Wilmington, DE 19806-3214
302-654-4486
State Licensed Beds: 96
Medicare & Medicaid Certified
- Governor Bacon Health Center
2546 Colter Road
P.O. Box 559
Delaware City, DE 19706-0559
302-836-2550
State Licensed Beds: 78
Medicaid Certified
- Harbor Health Care
301 Oceanview Blvd.
Lewes, DE 19958-1269
302-645-4664
State Licensed Beds: 179
Medicare & Medicaid Certified
- Harrison Senior Living of Georgetown
110 W. North Street
Georgetown, DE 19947-2137
302-856-4574
State Licensed Beds: 139
Medicare & Medicaid Certified
- Hillside Center
810 S. Broom St.
Wilmington, DE 19805-4245
302-652-1181
State Licensed Beds: 106
Medicare & Medicaid Certified
- Jeanne Jugan Residence Nursing Home
185 Salem Church Rd.
Newark, DE 19713-2942
302-368-5886
State Licensed Beds: 40
Medicaid Certified
- Kentmere Rehabilitation and Healthcare
Center
1900 Lovering Ave.
Wilmington, DE 19806-2123
302-652-3311
State Licensed Beds: 104
Medicare & Medicaid Certified
- Kutz Rehabilitation and Nursing
704 River Road
Wilmington, DE 19809-2746
302-764-7000
State Licensed Beds: 90
Medicare & Medicaid Certified
- Lofland Park Center
715 E. King Street
Seaford, DE 19973-3505
302-628-3000
State Licensed Beds: 110
Medicare & Medicaid Certified
- ManorCare Health Services - Pike
Creek
5651 Limestone Rd.
Wilmington, DE 19808-1217
302-239-8583
State Licensed Beds: 177
Medicare & Medicaid Certified

- ManorCare Health Services -
Wilmington
700 Foulk Road
Wilmington, DE 19803-3708
302-764-0181
State Licensed Beds: 138
Medicare & Medicaid Certified
- Milford Center
700 Marvel Road
Milford, DE 19963-1740
302-422-3303
State Licensed Beds: 136
Medicare & Medicaid Certified
- Millcroft Nursing Home
255 Possum Park Rd.
Newark, DE 19711-3877
302-366-0160
State Licensed Beds: 110
Medicare & Medicaid Certified
- New Castle Health and Rehabilitation
Center
32 Buena Vista Dr.
New Castle, DE 19720-4660
302-328-2580
State Licensed Beds: 120
Medicare & Medicaid Certified
- Newark Manor Nursing Home
254 W. Main St.
Newark, DE 19711-3235
302-731-5576
State Licensed Beds: 67
Medicaid Certified
- Parkview Nursing & Rehab Center
2801 W. 6th St.
Wilmington, DE 19805-1828
302-655-6135
State Licensed Beds: 150
Medicare & Medicaid Certified
- Pinnacle Rehabilitation & Health Center
3034 S. Dupont Boulevard
Smyrna, DE 19977-1898
302-653-5085
State Licensed Beds: 151
Medicare & Medicaid Certified
- Regal Heights Healthcare & Rehab
Center, LLC
6525 Lancaster Pike
Hockessin, DE 19707-9582
302-998-0181
State Licensed Beds: 172
Medicare & Medicaid Certified
- Regency Healthcare and Rehab Center
801 N. Broom Street
Wilmington, DE 19806-4624
302-654-8400
State Licensed Beds: 100
Medicare & Medicaid Certified
- Seaford Center Nursing Home
1100 Norman Eskridge Hwy
Seaford, DE 19973-1724
302-629-3575
State Licensed Beds: 124
Medicare & Medicaid Certified
- Shipley Manor Health Care Nursing
Home
2723 Shipley Road
Wilmington, DE 19810-3251
302-477-8800
State Licensed Beds: 82
Medicare & Medicaid Certified
- Silver Lake Center Nursing Home
1080 Silver Lake Blvd
Dover, DE 19904-2410
302-734-5990
State Licensed Beds: 120
Medicare & Medicaid Certified
- Stockley Center ICF/ID
26351 Patriots Way
Georgetown, DE 19947-2575
302-933-3000
State Licensed Beds: 54
Medicaid Certified
- Stonegates
4031 Kennett Pike
Greenville, DE 19807-2047
302-658-6200
State Licensed Beds: 49
Medicare Certified

- The Center at Eden Hill
300 Banning Street
Dover, DE 19904-3486
302-677-7100
State Licensed Beds: 80
- The Mary Campbell Center
4641 Weldin Rd.
Wilmington, DE 19803-4829
302-762-6025
State Licensed Beds: 70
Medicaid Certified
- The Moorings at Lewes Nursing Home
17028 Cadbury Circle
Lewes, DE 19958-7028
302-645-6400
State Licensed Beds: 40
Medicare & Medicaid Certified
- Westminster Village Health Center
Nursing Home
1175 McKee Road
Dover, DE 19904-2268
302-744-3600
State Licensed Beds: 73
Medicare & Medicaid Certified
- Weston Senior Living Center at
Highfield
4800 Lancaster Pike
Wilmington, DE 19807-2559
302-994-4434
State Licensed Beds: 19
Medicare & Medicaid Certified
- WillowBrooke Court at Cokesbury
Viillage
726 Loveville Road,
Hockessin, DE 19707-1536
302-235-6000
State Licensed Beds: 45
Medicare Certified
- WillowBrooke Court at Country House
4830 Kennett Pike
Wilmington, DE 19807-1899
302-654-5101
State Licensed Beds: 60
Medicare Certified
- WillowBrooke Court Skilled Center at
Manor House
1001 Middleford Road
Seaford, DE 19973-3638
302-629-4593
State Licensed Beds: 60
Medicare & Medicaid Certified

Appendix ■

Licensed Assisted Living Facilities

(listed in alphabetical order)

- Arden Courts of Wilmington
700 1/2 Foulk Rd.
Wilmington, DE 19803-3708
302-762-7800
State Licensed Beds: 56
- Brandywine SeniorLiving Fenwick Island
21111 Arrington Drive
Selbyville, DE 19975
302-436-0808
State Licensed Beds: 125
- Brandywine SeniorLiving SeasidePointe
36101 Seaside Blvd.
Rehoboth Beach, DE 19971-1189
302-226-8750
State Licensed Beds: 150
- Brookdale Dover
150 Saulsbury Road
Dover, DE 19904-2776
302-674-4407
State Licensed Beds: 96
- Brookdale Hockessin
6677 Lancaster Pike
Hockessin, DE 19707-9503
302-239-3200
State Licensed Beds: 66
- Dover Place
1203 Walker Road
Dover, DE 19904-6541
302-735-8800
State Licensed Beds: 80
- Five Star Foulk Manor North LLC
1212 Foulk Road
Wilmington, DE 19803-2741
302-478-4296
State Licensed Beds: 44
- Forwood Manor Assisted Living
1912 Marsh Road
Wilmington, DE 19810-3954
302-529-1601
State Licensed Beds: 40
- Foulk Manor South Assisted Living
407 Foulk Road
Wilmington, DE 19803-3809
302-655-6249
State Licensed Beds: 62
- Harbor Chase of Wilmington
2004 Shipley Road
Wilmington, DE 19803
302-273-8630
State Licensed Beds: 120
- Ingleside Assisted Living, LLC
1605 North Broom Street
Wilmington, DE 19806-3009
302-984-0950
State Licensed Beds: 60
- Ivy Gables LTD, LLC.
2210 Swiss Lane
Wilmington, DE 19810-4241
302-475-9400
State Licensed Beds: 24
- Lodge Lane Assisted Living
1221 Lodge Lane
Wilmington, DE 19809
302-757-8100
State Licensed Beds: 60
- Luther Towers I
1201 North Harrison Street
Wilmington, DE 19806-3534
302-654-4491
State Licensed Beds: 41
- Luther Towers II
1420 North Franklin Street
Wilmington, DE 19806-3187
302-654-4491
State Licensed Beds: 34
- Milford Place
500 S. DuPont Highway
Milford, DE 19963-1758
302-422-8700
State Licensed Beds: 80
- Millcroft Assisted Living
255 Possum Park Rd.
Newark, DE 19711-3877
302-366-0160
State Licensed Beds: 36

- OakBridge Terrace Assisted Living at Manor House
1001 Middleford Road
Seaford, DE 19973-3638
302-629-4593
State Licensed Beds: 75
- OakBridge Terrace at Cokesbury Village
726 Loveville Road
Hockessin, DE 19707-1519
302-234-4444
State Licensed Beds: 49
- OakBridge Terrace at Country House
4830 Kennett Pike
Wilmington, DE 19807-1899
302-654-5101
State Licensed Beds: 40
- Paramount Senior Living at Newark
200 E. Village Road
Newark, DE 19711-3845
302-366-8100
State Licensed Beds: 132
- Peach Tree Health Group, LLC
26900 Lewes-Georgetown Highway
Harbeson, DE 19951-2855
302-684-4002
State Licensed Beds: 20
- Rockland Place
1519 Rockland Road
Wilmington, DE 19803-3611
302-777-3099
State Licensed Beds: 104
- Serenity Gardens Assisted Living
207 Ruth Drive
Middletown, DE 19709-9470
302-464-1481
State Licensed Beds: 14
- Shipley Manor Assisted Living
2723 Shipley Road
Wilmington, DE 19810-3251
302-479-0111
State Licensed Beds: 17
- Somerford House
501 South Harmony Road
Newark, DE 19713-3338
302-266-9255
State Licensed Beds: 72
- Somerford Place
4175 Ogletown-Stanton Road
Newark, DE 19713-4168
302-283-0540
State Licensed Beds: 52
- State Street Assisted Living
21 North State Street
Dover, DE 19901
302-674-2144
State Licensed Beds: 98
- Sunrise Assisted Living of Wilmington
2215 Shipley Road
Wilmington, DE 19803-2305
302-475-9163
State Licensed Beds: 90
- The Lorelton
2200 West 4th St.
Wilmington, DE 19805-3362
302-573-3580
State Licensed Beds: 100
- The Moorings at Lewes Assisted Living
17028 Cadbury Circle
Lewes, DE 19958-7028
302-644-6374
State Licensed Beds: 45
- The Summit Assisted Living
5850 Limestone Road
Hockessin, DE 19707
302-235-8734
State Licensed Beds: 120
- Westminster Village Assisted Living
1167 McKee Road
Dover, DE 19904-2268
302-744-3558
State Licensed Beds: 99

Section IV
D

DNHRQAC Member Roster

(as of 09/26/19)

Elisabeth Furber (Chair)

Appointed by CLASI
Patient Advocate for CLASI, MSW
Member since: Sept 2008

Lorraine Phillips, Ph.D, RN

Appointed by Governor's Office
UD Nursing School Faculty
Member since: July 2019

Karen Gallagher

Appointed by Governor's Office
Advocate
Member since: June 2000

Cheryl Heiks

Appointed by DHCFA
Executive Director of DHCFA
Member since: July 2019

Lt Governor Bethany Hall – Long

Appointed by Senate Protempore
Doctorate & Professor of Nursing
Member since: September 2009

Christina Kontis, Esquire

Represents Attorney General's Office
Acting Director MFCU
Member since: July 2019

Representative Kim Williams

Appointed by Speaker of House
Legislator
Member since: July 2012

Dr, Michela Coffaro, Psy.D

Appointed by Governor's Office (Sussex)
Psychologist
Member since: July 2017

Kyle Hodges

Appointed by Governor's Office
Advocate
Member since: July 2019

Hooshang Shanehsaz, RPH

Appointed by Governor's Office (Kent)
State Pharmacy Director (Cardinal Health)
Member since: July 2019

Amy Milligan

Represents the Delaware Health Care Association
Executive Director @ St Francis Life Center, MSW
Member since: October 2013

Catherine L. Hightower

Appointed by Governor's Office (NCC)
State Operated Facility nurse
Member since: Sept 2019

Norma Jones

Appointed by Governor's Office
Nursing Home Resident
Member since: Sept 2019

DE Code Title 29 Chapter 58 §5805 Prohibitions relating to Conflicts of Interest

Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC) members monitor Delaware's quality assurance system for nursing home residents in privately operated and State-operated facilities so that complaints of abuse, neglect, mistreatment, financial exploitation, and other complaints are responded to in a timely manner to ensure the health and safety of nursing home residents.

Commission members address sensitive and confidential information regarding residents, facilities, stakeholders, agencies and providers in Delaware.

Commission members serve at the pleasure of their appointing authorities: Senate Pro Tempore, Speaker of House, Governor's Office and virtue of position.

Commission members shall recuse themselves from voting or otherwise making commission decisions regarding matters in which they have a conflict or potential conflict of interest as outlined below.

DE Code Title 29 §5805 Prohibitions relating to Conflicts of Interest that includes:

(a) Restrictions on exercise of official authority. —

(1) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which the state employee, state officer or honorary state official has a personal or private interest, provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter.

(2) A person has an interest which tends to impair the person's independence of judgment in the performance of the person's duties with respect to any matter when:

- a. Any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
- b. The person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

(3) In any case where a person has a statutory responsibility with respect to action or nonaction on any matter where the person has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided, that promptly after becoming aware of such conflict of interest, the person files a written statement with the Commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(b) Restrictions on representing another's interest before the State. —

(1) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

(2) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

(3) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to any matter in the exercise of such person's official duties.

(d) Post-employment restrictions. — No person who has served as a state employee, state officer or honorary state official shall represent or otherwise assist any private enterprise on any matter involving the State, for a period of 2 years after termination of employment or appointed status with the State, if the person gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of official duties as a state employee, officer or official. Nor shall any former state employee, state officer or honorary state official disclose confidential information gained by reason of public position nor shall the person otherwise use such information for personal gain or benefit.

(e) Unauthorized disclosure of confidential information. — No person shall disclose any information required to be maintained confidential under this Conflict of Interest including:

By signing this policy, I acknowledge that I have read the Conflict of Interest Policy outlined above.

Name

Date

*Delaware Nursing Home Residents
Quality Assurance Commission*

Confidentiality Agreement

As a member of the Delaware Nursing Home Residents Quality Assurance Commission, and consistent with Title 29 § 7909 of the Delaware Code, I agree to protect the privacy of residents of long-term care facilities, and I agree to follow guidelines for the confidentiality of records to be established by the Division of Health Care Quality. I also agree to keep confidential anything that the Commission discusses in Executive Session.

Name (print)

Signature

Date



SPONSOR: Rep. K. Williams & Sen. Walsh
Reps. Brady, Osienski; Sens. Delcollo, Ennis

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 62
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 7907, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 7907. Delaware Nursing Home Residents Quality Assurance Commission.

(a) There is established a Delaware Nursing Home Resident's Quality Assurance Commission. The Commission ~~shall be composed as follows:~~ consists of the following members:

(1) One member appointed by the Speaker of the House; House.

(2) One member appointed by the President ~~Pro Tem~~ Pro Tem of the Senate; Senate.

(3) ~~Eight members appointed by the Governor. One of the members appointed by the Governor shall be a representative of the "protection and advocacy agency" as defined in § 1102 of Title 16. The remaining members shall include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. One of the Governor's initial appointees shall have been a member of the Council on Long Term Care Facilities;~~

(4) ~~One member of the Long Term Care Association appointed by the Speaker of the House;~~

(5) ~~One member of the Hospital Association appointed by the President Pro Tempore of the Senate. Four members serving by virtue of position, or a designee appointed by the member, as follows:~~

a. The Attorney General.

b. The Executive Director of the Community Legal Aid Society, Inc.

c. The Executive Director of the Delaware Health Care Facilities Association.

d. The Executive Director of the Delaware Healthcare Association.

(4) Seven members appointed by the Governor as follows:

a. One member who is a resident or a family member of a resident of a nursing home.

b. Three members, 1 from each county, who work in a nursing home setting.

c. A health care professional.

e. Two individuals who are each an advocate for people with disabilities or the elderly, or both.

~~(b) At least 6 but no more than 7 members of the Commission shall be affiliated with 1 of the major political parties and at least 5, but no more than 6, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of 1 major political party over the other major political party. Membership on the Commission shall must be geographically distributed so that there shall be are members of the Commission from each of the 3 ~~counties and the City of Wilmington.~~ counties.~~

~~(c)(1) The members appointed by the Speaker and the President ~~Pro Tem~~ shall Pro Tem serve at the pleasure of their appointing authorities. Initial appointments of the members appointed by the Governor shall be as follows: 2 members for a 1-year term; 3 members for a 2-year term; and 3 members for a 3-year term. Each succeeding term shall be for 3 years. The Chairperson of the Commission shall be designated by the Governor.~~

(2) The term of a Commission member is 3 years, however, the Governor may appoint 1 or more member for a term of less than 3 years to ensure that terms are staggered.

~~(d) [Repealed.]~~ (1) The members of the Commission shall elect a Chair.

(2) A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.

(3) The Commission may adopt rules and bylaws necessary for its operation.

(e) The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission.

(f) The Department of Justice shall provide legal advice to the Commission.

~~(e)~~ (g) The purpose of this Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and ~~state-operated~~ State-operated facilities so that complaints of abuse, neglect, mistreatment, financial ~~exploitation~~ exploitation, and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.

~~(f)~~ (h) The Commission shall meet at a minimum, on a quarterly basis.

~~(g)~~ (i) The Commission's duties of the ~~Commission~~ shall ~~include~~: include all of the following:

(1) ~~Examination of~~ Examining policies and procedures and ~~evaluation of~~ evaluating the effectiveness of the quality assurance system for nursing home residents, including the respective roles of the Department, the

~~Attorney General's Office~~ Department of Justice and law-enforcement ~~agencies as well as agencies, and~~ health-care professionals and nursing home providers.

(2) ~~The monitoring of~~ Monitoring data and ~~analysis of analyzing~~ trends in the quality of care and quality of life of individuals receiving long term care in ~~Delaware; Delaware.~~

(3) ~~The review~~ Reviewing and making of recommendations to the Governor, ~~Secretary~~ Secretary, and the General Assembly concerning the quality assurance system ~~as well as and~~ improvements to the overall quality of life and quality of care of nursing home residents.

(4) ~~The protection of~~ Protecting the privacy of nursing home ~~residents~~ residents, including ~~following~~ complying with the guidelines for confidentiality of records ~~to be~~ established by the Division of Health Care Quality.

~~(h)~~ (j) The Commission shall prepare and publish an annual report to the Governor, ~~the Secretary~~ Secretary, and the General Assembly. This annual report ~~shall~~ must include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and quality of life of nursing home residents.

~~(i)~~ (k) Members of the Commission ~~shall~~ serve without ~~compensation; however, they~~ compensation. However, members may be reimbursed for reasonable and necessary expenses incident to their duties as members of the ~~Council~~ Commission.

Section 11 - #C

LONG TERM CARE OVERVIEW

The Delaware Population Consortium, which produces population projections for the state, projects an increase in the 65-and-older population consistent with the Census Bureau projections.

The need for long-term care services is likely to grow as well. As the demand for long-term care services continues to rise, the demand on institutions and community-based healthcare providers to offer more care will also increase. Although admissions have risen significantly in the past ten years, so have discharges. As a result, the nursing home population from year to year has been relatively stable.

Population Projections for Persons Aged 60 and Older State of Delaware

	2015	2020	2025	2030	2035	2040	2045	2050
Age Breakdowns								
Age 60-64	57,492	65,236	67,065	64,371	60,661	59,528	64,865	67,502
Age 65-69	50,681	55,887	62,885	64,961	62,361	58,850	57,923	63,215
Age 70-74	37,811	47,464	51,825	58,494	60,510	58,089	54,942	54,293
Age 75-79	26,917	33,664	41,931	45,918	51,841	53,681	51,598	48,987
Age 80-84	18,872	22,285	27,711	34,747	37,999	42,894	44,520	42,896
Age 85 +	19,378	23,467	27,578	33,873	42,493	49,426	56,270	60,755
Age Totals								
Total Age 60+	211,151	248,003	278,995	302,364	315,865	322,468	330,118	337,648
Total Age 65+	153,659	182,767	211,930	237,993	255,204	262,940	265,253	270,146
Total Age 75+	65,167	79,416	97,220	114,538	132,333	146,001	152,388	152,638
Total Age 85+	19,378	23,467	27,578	33,873	42,493	49,426	56,270	60,755
Percent Change								
Age 60+	0.0%	17.5%	32.1%	43.2%	49.6%	52.7%	56.3%	59.9%
Age 65+	0.0%	18.9%	37.9%	54.9%	66.1%	71.1%	72.6%	75.8%
Age 75+	0.0%	21.9%	49.2%	75.8%	103.1%	124.0%	133.8%	134.2%
Age 85+	0.0%	21.1%	42.3%	74.8%	119.3%	155.1%	190.4%	213.5%

Prepared by: Delaware Division of Services for Aging and Adults with Physical Disabilities

Source: Delaware Population Consortium Annual Population Projections, October 26, 2017, Version 2017.0

LTCOP (Long Term Care Ombudsman Report)
2018 Annual Report

**BY-LAWS FOR THE DELAWARE NURSING HOME
RESIDENTS QUALITY ASSURANCE COMMISSION
(DNHRQAC)**

Article I Authority and Purpose

The Delaware Nursing Home Residents Quality Assurance Commission is established by 29 Del. C. § 7907. All action taken by this Commission and all organizational structure shall conform to 29 Del. C. § 7907 and relevant provisions of 16 Del. C. §§ 1162 and 1167.

The purpose of the Commission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities with the goal that agencies responsible with the oversight of facilities are coordinating efforts to achieve optimum quality outcomes.

Article II Membership and Staffing

The Commission shall be composed of ~~12~~ 13 members. One member shall be appointed by the Speaker of the House, and one member shall be appointed by the President Pro Tempore of the Senate. These members shall serve at the pleasure of their appointing authorities.

~~Effective July 2003, legislation was passed by both chambers and signed into law by the Governor to amend Title 29, Delaware Code that added two members to the Delaware Nursing Home Residents Quality Assurance Commission. One member is to represent the Long Term Care Association and will be appointed by the Speaker of the House. One member is to represent the Hospital Association and will be appointed by the President Pro Tempore of the Senate. These two members serve at the pleasure of their appointing authorities.~~

Four members serving by virtue of position, or a designee appointed by the member, as follows:

- a. The Attorney General,
- b. The Executive Director of the Community Legal Aid Society, Inc.,
- c. The Executive Director of the Delaware Health Care Facilities Association,
- d. The Executive Director of the Delaware Healthcare Association,

~~The other eight Seven members shall be appointed by the Governor as follows: and shall include a representative of the developmental disabilities community protection and advocacy system established by the United States Code, and shall also include representatives of the following: consumers of nursing home services, nursing home providers, health care professionals, law enforcement personnel and advocates for the elderly. Initial appointments of these members shall be as follows: 2 members for a 1-year term; 3 members for a 2-year term; and 3 members for a 3-year term. Each succeeding term shall be for 3 years.~~

- a. One member who is a resident or family member of a resident of a nursing home,
- b. Three members, one from each county, who work in nursing home setting,

- c. Health care professional,
- d. Two advocates for elderly or disabled,

~~Upon expiration of a Commission member's term, he or she may continue to serve as an active, voting member until such time as a replacement is appointed.~~

~~The Chairperson of the Commission shall be designated by the Governor. Members of the Commission shall elect a Chair.~~

The term of a Commission member is three years, however, the Governor may appoint one or more member for a term of less than three years to ensure that terms are staggered.

~~At least 6 but no more than 7 members of the Commission shall be affiliated with 1 of the major political parties and at least 5, but no more than 6, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other. Membership shall be distributed so that there are Commission members from all three Delaware counties and the City of Wilmington.~~

A majority of the total membership of the Commission constitutes a quorum. A quorum is required for the Commission to take official action.

The Commission may adopt rules and bylaws necessary for its operation.

The Commission, as operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly, shall furnish staff for the Commission. The Department of Justice shall provide legal advise to the Commission.

~~At least 6 but no more than 7 members of the Commission shall be affiliated with 1 of the major political parties and at least 5, but no more than 6, of the members shall be affiliated with the other major political party; provided, however, there shall be no more than a bare majority representation of one major political party over the other. Membership shall be distributed so that there are Commission members from all three Delaware counties and the City of Wilmington.~~

~~Commission members shall serve without compensation, except that they may be reimbursed by the Commission, Administrative Offices of the Courts, for reasonable and necessary expenses incident to their duties as members of this Commission to the extent funds are available and in accordance with State law.~~

~~The staff, as funded through the Annual State budgetary process, shall be utilized by the Commission and the Attorney General's office shall provide legal advice.~~

Article III Duties

The purpose of the Commission is to monitor Delaware's quality assurance system for nursing home residents in privately operated and State-operated facilities so that complaints of abuse,

neglect, mistreatment, financial exploitation, and other complaints are responded to in a timely manner to ensure the health and safety of nursing home residents.

The duties of the Commission include:

- a. Examining, evaluating and making recommendations to improve the policies, procedures and coordination of agencies that have oversight of Long Term Care Services in Delaware and evaluating their effectiveness. The agencies include: Division of Long Term Residents Protection (DLTRP), Health Care Quality (DHCQ), The Ombudsman's Office (DSAAPD), Public Health, Division of Medicaid and Medical Assistance (DMMA) and the Attorney General's Office (AG) and other agencies deemed appropriate;
- b. Monitoring Reviewing data presented to the DNHRQAC by agencies responsible for the oversight of the delivery of LTC Services in Delaware;.
- c. Analyzing trends in order to Assessing the value and efficacy of current procedures intended to improve the quality of care and life of individuals receiving long-term care in Delaware;
- d. Making data-based recommendations to the Governor, Secretary and the General Assembly concerning the quality assurance system as well as improvements to the overall quality of life and quality of care of nursing home residents; after analyzing trends and outcomes;
- e. Protecting the privacy of nursing home residents including following the guidelines for confidentiality of records to be established by the ~~Division of Long Term Care Residents Protection~~; Delaware Health and Social Services;
- f. Preparing and publishing an annual report to ~~include aggregate data with comprehensive analysis and monitoring of trends in the quality of care and life of nursing home residents, and submitting such report to the Governor, the Secretary~~ and members of the General Assembly.

Article IV Meetings

The Commission shall determine its own meeting schedule but meetings shall occur at least quarterly. These meetings shall be open to the public, held in an accessible place, and with reasonable requested accommodations. The Commission shall endeavor to schedule the meetings at regular, predictable intervals. The staff shall distribute the meeting date, agenda and location to Commission members and the public at least 7 days before the meeting date.

~~The staff~~ Staff shall distribute draft minutes of meetings to Commission members no later than 14 days after the

meeting date, and the Commission shall approve or correct the minutes at the next Commission meeting. Approved minutes shall be available to the public.

Commission members may participate and vote during meetings via teleconferencing provided a quorum of members are physically present. ~~A simple majority of Commission members shall constitute a quorum. A majority of the members present and voting shall be required for action.~~

Commission members may designate proxies to attend meetings on their behalf. , but sSuch proxies shall not have voting rights and shall not be considered part of a quorum.

Any member of the public may submit written comments to the Commission at any time and requests for confidentiality will be honored. Members of the public may also request to be included on the Commission meeting agenda by contacting the DNHRQAC staff at least 14 days in advance of the relevant meeting date. In addition, each agenda shall include time for brief public comment.

The Commission may hold Executive Sessions, closed to the public, in accordance with the Freedom of Information Act, 29 *Del. C.* §10001 *et seq.*

Article V Confidentiality

Commission members shall sign a Confidentiality Agreement to protect the privacy of nursing home residents established by Delaware Health and Social Services ~~and shall follow the guidelines for confidentiality of records to be established by the staff.~~

Article VI Prohibited Activities

No individual Commission member will represent the Commission to the general public without a majority vote of a quorum at a Commission meeting prior to representation. Members shall recuse themselves from voting or otherwise making Commission decisions regarding matters in which they have a conflict or potential conflict of interest.

Article VII Parliamentary Authority

Unless otherwise provided in these by-laws, all Commission meetings and activities shall be governed by *Robert's Rules of Order*.

Article VIII Amendments

Proposed by-law amendments shall be circulated to all Commission members at least 14 days prior to the meeting at which they will be voted upon. Amendments may be adopted at any official Commission meeting and must be in compliance with any State legislation affecting this Commission.

Approved by the Commission at its ~~January 9, 2004~~ (insert here) mMeeting

*Amended July 2003
*Amended June 2007
*Amended September 2007
* Amended September 2019
Rev. September, 2007



STATE OF DELAWARE
OFFICE OF THE PUBLIC GUARDIAN

Kent County Courthouse
38 The Green
Dover, DE 19901

(302) 674-7460
Fax: (302) 674-7461

March 3, 2020

Joint Legislative Oversight and Sunset Committee
General Assembly
Legislative Hall

Dear Committee Members,

I am reaching out to you today on behalf of the Delaware Nursing Home Quality Assurance Commission (DNHRQAC), scheduled to appear before the Committee on March 17, 2020.

I have worked with Margaret Bailey for years and have seen her work tirelessly through the Commission to bring attention to issues needing solutions, in order to improve the lives of people in Long Term Care facilities. One example of this is her advocacy for Oral Health and Dental care services for Medicaid adults. Margaret has also worked with the Office of the Public Guardian to bring attention to guardianship issues and the lack of decision makers in the long term care State Facilities and arranged to tour these facilities with the Masters of the Court of Chancery in order to better connect the Court to those most likely to need a decision maker.

Margaret is always on top of the latest news and items of importance to people in care and the people who provide care, and she is constantly reaching out

to agencies to share this knowledge and help us stay updated. She shares her concerns for those in Long-Term care, and makes suggestions as to how to resolve those issues.

The need for this type of oversight and advocacy is growing each day as the population ages and there are an increasing number of elderly needing long-term care. The mission of the DNHRQAC, to monitor the care delivery and conditions of care for nursing home residents in both public and private facilities in Delaware, and to ensure the health and safety of the residents, becomes more important each day as care providers and resources stretch to meet the needs. Now is the time to support and strengthen the role of the DNHRQAC to ensure we keep advocacy and oversight of care strong for some of our most vulnerable citizens.

Respectfully,

A handwritten signature in cursive script, appearing to read "Alexandra S. McFassel".

Alexandra S. McFassel, Esq. NCG
Public Guardian

NHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in both privately operated and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents.

Key Objectives:

- Examine the policies and procedures and evaluate the effectiveness of the quality assurance system for nursing home residents.
- Monitor data and analyze trends in the quality of care and life of individuals receiving long-term care in Delaware.
- Review and make recommendations to the Governor, Secretary of the Department of Health and Social Services and General Assembly concerning the quality assurance system and improvements to the overall quality of life and care of nursing home residents.
- Protect the privacy of nursing home residents.

I am writing because I understand that the Nursing Home Residents Quality Assurance Commission will undergo a Sunset review in 2020.

With your permission I would appreciate being heard while I share my experiences. I am a consumer who used both nursing home and assisted living facilities. Beginning in 2003, I was a frequent guest at the NHRQAC meetings. I volunteered with Division of Health Care Quality, I participated in CMS initiative to reduce the use of psychiatric medications in nursing homes. I was part of the culture change coalition, and I was involved with legislation requiring that professional care providers be trained to understand dementia. I facilitated trainings in understanding dementia for DSAMH and I have had the honor to serve as the facilitator for several dementia caregivers support groups for 15 years. The conclusions I reach below are based on the collective experience of many.

I am writing because I believe that to serve the public interest the NHRQAC should be continued, expanded and empowered to actualize its key objectives listed above.

I humbly offer the following three reasons:

1. The current leadership of the Division of Health Care Quality
2. The relationship between the Division of Health Care Quality and the Centers for Medicare and Medicaid Services (CMS)
3. Nursing homes and Assisted living facilities are businesses.

1. When I began attending the NHRQAC meetings in 2003 I knew nothing about the nursing home culture or any of the commission members. Senators Marshall's aide had suggested I attend the meetings. I observed that although most of the commission members seemed to be advocates for residents, one person stood out because she objected to quality care measures offered if it looked like they might cost the nursing

home/ assisted living industry money. I grew to learn that this person was an “advocate” for those industries. Frequently she would try to redirect the groups attention from concerns about nursing homes to concerns about family care homes in the community. Currently this industry advocate is the new director of Division of Health Care Quality. After 20 years of putting the industry before the resident I am concerned about her ability to make the U turn needed to advocate for residents.

2. NHRQAC is charged with examining policies and procedures and evaluating the effectiveness of the quality assurance system for nursing home residents. The oversight of nursing homes and assisted living facilities is a very big job. I am sure that most people who choose this job do so with an open heart and a desire to help. Unfortunately the DHCQ staff cannot be present when abuse happens. Some caregivers have reported that their complaints of resident abuse or neglect are unsubstantiated because evidence is not available. It seems that things in the physical plant can be observed but lacking physical injury other forms of abuse and neglect seem difficult to substantiate.

For example the use of antipsychotic medication to control behavior in nursing homes and assisted living facilities is one form of abuse and neglect. CMS has established guidances for their use in nursing homes but no such oversight exists in assisted living facilities. Caregivers have shared that AL staff use threats of eviction if family members fail to comport with their requests to medicate a resident...”I will put him on your door step”. Assisted living facilities use these medications to modify behavior where staff training and activities might be more effective.

CMS relies on local surveyors and when surveyors are unable to accurately report to CMS this "both limits CMS’s ability to identify patterns of abuse and take appropriate oversight action and compromises consumers ability to make informed decisions about nursing facilities because the nursing home compare website lacks this data”.

It is my understanding that despite several vacancies on the commission, [the](#) Executive Director has been available when someone needs guidance navigating through LTC. The Commission has assisted residents, families, advocates, agencies and providers; it promotes community outreach; hosts open public meetings and interacts with many to promote optimal quality of care for nursing home residents.

3. Nursing Homes and AL are business.

AL facilities are springing up all over Delaware. In addition to their use of antipsychotic meds to control resident behavior care givers have shared other concerns. One caregiver has reported his experience of collusion among AL administrators to work around oversight. Apparently when prospective residents enquire about medicaid beds in the AL they are told there are such beds depending on availability and what is not said is there

generally no availability.

Often people experiencing dementia live in AL facilities because their medical problems do not require nursing care. People experiencing cognitive decline are found sprinkled throughout the AL population. With the exception of regulations governing memory units in AL; the regs seem to be directed mainly toward medical issues and the staff generally consists nurses and aides. Nurses complete bio, psycho, social assessments. There is no team. Activity therapists, social workers, etc are not required.

Activities are vital to people experiencing cognitive decline. Social workers serve families and are resident advocates. AL regs overlook these resident centered needs. There are no person centered care plans instead service plans and contracts govern the costs and what care each resident is purchasing. As a consumer I would respectfully submit that the AL regs and practices need to be reviewed and updated to reflect a non medical, person centered culture. I would further suggest that if this task were undertaken that it not be done exclusively by those currently working in the system but that they be assisted by the commission that is charged to:

“monitor Delaware's quality assurance system.” and “Examine the policies and procedures and evaluate the effectiveness of the quality assurance system for nursing home residents.”

Thank you for allowing me to comment. Eagles Law was revolutionary and a gift to residents. However today satisfying the number of nursing hours per shift in NH and AL is not enough. Other professionals are needed at the table. Staff needs to be able to move beyond the medical model to resident centered care. It seems that more oversight is needed not less. NHRQAC is a diverse coalition that is not encumbered by the medical model and welcomes public involvement. It's executive director has full and complete understanding of the NH and AL industry; how it works as well as the needs of the community being served. She understands that the medical model focuses on a person's limitations while culture change focuses on each person's strengths. With a full compliment of commission members perhaps the NHRQAC is positioned to move forward to actualize its mission and objectives?

Thank you for taking the time to read this letter.

Appreciatively,
Carol Lovett



1521 Concord Pike, Wilmington, DE 19803

(800)-214-6548

info@neighborcare-hcfs.com

March 5, 2020

To Whom it may concern,

This letter is to attest to my strongly held sense of gratitude and for the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC). The importance of this organizational body to the maintenance of healthcare integrity in the State of Delaware cannot be overstated. This particular body possesses the unique ability to view the entire system from every angle in order to distinguish and prioritize what is truly important to the maintenance of safe, effective, efficient, and prudent healthcare delivery to patients and residents while also determining what is feasible for healthcare systems and what improvements are necessary.

Another very important role of the DNHRQAC is also the ability to act as an intermediary between the various parts of the healthcare system in Delaware that may occasionally get stuck in their proverbial "silos", either unable to identify mutual benefits, or unable to effectively interact for the benefit of general public and those most vulnerable Delaware citizens. While individual facilities are able to analyze only their own data and outcomes, the DNHRQAC is uniquely poised to analyze the entire health system for the benefit of our Long-Term Care Residents. They also are able to compare those outcomes to established regulations, policies, and procedures in order to make recommendations for critical improvements.

Finally, the DNHRQAC provides great educational and networking opportunities to present solutions for newly identified or persistent issues or opportunities within the healthcare system. The value of their leadership in this area cannot be overemphasized. I fully support the Commission and certainly hope that the commission will continue to function in this capacity.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Akinola", written over a horizontal line.

Deborah Akinola, Director



**HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901**

COMMITTEES
Education, Vice-Chair
Labor, Vice-Chair
Capital Improvement
Capital Infrastructure
Housing & Community Affairs
Manufactured Housing
Revenue & Finance

TO: Members of the Joint Legislative Oversight and Sunset Committee
FROM: Kim Williams, State Representative, 19th District
SUBJECT: Delaware Nursing Home Residents Quality Assurance Commission
DATE: February 24th, 2020

In the late 1990's, a legislative and citizen panel joined to discuss nursing home reform and provide Delawarean's an opportunity to provide input. The panel marked the beginning of nursing home practice review since 1960's. Former Senator Robert Marshall was instrumental in this effort.

The panel reviewed state laws and regulations, staffing, training, funding, quality of care and personal safety. Upon completion, the panel provided recommendations. As a result, the Delaware Nursing Home Residents Quality Assurance Commission was created and several bills were passed by the 140th General Assembly.

DNHRQAC is located within the Judicial Branch and therefore able to provide unbiased or impartial recommendations regarding quality of care or quality of life for long-term care residents.

The Commission monitors State agencies that provide services and/or regulatory compliance such as Delaware's Health and Social Services and Delaware Department of Justice so that complaints of abuse, neglect, mistreatment, financial exploitation, and other complaints are responded to in a timely manner to ensure the health and safety of nursing home residents. DNHRQAC also interacts frequently with LTC service providers and licensed facilities.

Commission members evaluate trends through agency testimony, reports and facility visits. Members meet every other month in public forum to address gaps in service, trends, concerns, review processes and regulations, etc. This includes reviewing policies and procedures for State agencies, health care professionals, law enforcement and health care providers regarding LTC quality assurance system. The Commission provides recommendations as situations arise.

Staff works with post-secondary education schools, hospitals, providers and others to develop educational opportunities for the advancement of care. Recent examples: Basic IV Therapy Training with Bayhealth; and Nursing Home Administration Regulations Course with University of Delaware for health care and legal professionals.

Delawarean's living in licensed long-term care facilities have physical or cognitive impairments and need help from others: medication management, dressing, eating, bathing, etc. Individual's might need

help for a short period of time or the care maybe until end of life. Although the direction is to have more folks live in the community; at times, it is not safe anymore for them to live in the community or they may need more services than what is available in the community.

I imagine you receive calls from constituents looking for suitable long-term care services or feedback afterwards. I, too, receive calls regarding LTC services & supports and connect with the Commission's executive director to assist.

Oversight for this vulnerable population is critical. We need to make sure folks are protected and receive optimal care. We need to make sure agencies are adhering to reasonable timelines, have funding support and are accountable. Delawarean's need choice and receive personal centered care.

As Governor Carney mentioned at his 2020 State of the State Address, "Over the next five years, more than 40% of pension-eligible State employees will be able to retire." With this said, the population in Delaware is aging rapidly. The Commission is concerned about workforce and whether there will be enough professionals to adequately care for this population in the very near future. This is something I suggest this Committee explore further.

The Commission is staffed by one individual; Executive Director, Margaret Bailey. There are currently 13 volunteer commission members. Joint Sunset and Legislative Oversight Committee might want to consider funding opportunities that would provide executive director with staff support.

Ms. Bailey oversees the functional and administrative operations of the Commission; interacts closely with many State agencies, residents, facility staff and families; provides outreach; coordinates bi-monthly open public meetings; serves on other committees; and develops memberships with several entities: Governor's Office, Speaker of the House, President Pro Tempore, Delaware Health Care Association, Department of Justice, etc. In addition, Ms. Bailey attends a wide-variety of conferences, workshops, forums, etc. to promote community outreach.

If you recall. I sponsored legislation with Senator Jack Walsh last year, HB 62 w/HA 1 that modified membership requirements; specifically removed political party balance. Until HB 62 w/HA1 was signed by the Governor, there had been several Governor-appointed membership vacancies (7). As of September 2019, membership vacancies have been eliminated.

I fully support the Delaware Nursing Home Residents Quality Assurance Commission and believe this non-judicial agency of the Courts is essential to the protection and advocacy of Delaware's aging population.

Thank you,

A handwritten signature in black ink, appearing to read "Kim Williams", with a stylized flourish at the end.

Representative Kim Williams

February 13, 2020

Delaware General Assembly
411 Legislative Avenue
Dover, DE 19901

To: Joint Legislative and Sunset Oversight Committee

I am writing in support of the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

I was appointed July 31, 2019 by Governor Carney to serve on DNHRQAC. Please note, I have been involved with the Commission for a while and submitted a Board/Commission application December 2018. The Commission's Executive Director followed up with the Governor's Office several times regarding my application.

DNHRQAC monitors the quality assurance system in long-term care and assisted living facilities throughout Delaware. The Commission meets by-monthly to discuss a wide-variety of topics relating to the quality of care and life for individuals living in licensed facilities: workforce, annual and complaint investigations, services, etc. The Executive Director frequently visits facilities and promotes awareness. As an advocate, I believe we must continue to be watch guards for the nursing home industry and provide a voice for individuals who are most vulnerable.

My perspective is based on years of clinical and research experience in the nursing home setting. I have worked as a nurse and nurse practitioner in nursing homes and have conducted primary and secondary research with nursing home residents. My studies on depression identified atypical symptoms of depression staff may observe and extended the available psychometric data on a depression screening instrument included in Version 3 of the nursing home Minimum Data Set. In addition, my study of storytelling intervention, TimeSlips, is published in *Nursing Research: Effects of a Creative Expression Intervention on Emotions, Communication, and Quality of Life in Persons with Dementia*. It's important to treat individuals most appropriately through effective non-pharmacological interventions for neuropsychiatric symptoms.

In a recent Minimum Data Set analysis examining predictors of antipsychotic use in Missouri nursing home residents, my collaborators and I identified registered nurse staffing among the strongest predictors. Although Delaware's hours per resident day are higher overall than in Missouri nursing homes, I've observed through reports provided by the Division of Health Care

Quality, and my own independent analysis of data available on the Nursing Home Compare website, that harm, neglect and quality of care citations continue to occur in Delaware facilities. We must continue to find ways to work with the nursing home industry to educate and prepare staff for individuals being served. We also must make sure punitive damages are accessed appropriately; residents rights are upheld; and complaints are investigated timely.

I am in full support of the DNHRQAC and look forward to working with others to improve the quality of care and quality of life for long- term care residents.

Please let me know if I can be of further assistance,

Sincerely:



Lorraine J. Phillips, PhD, RN



STATE OF DELAWARE
OFFICE OF THE LIEUTENANT GOVERNOR
TATNALL BUILDING, THIRD FLOOR
150 MARTIN LUTHER KING, JR., BOULEVARD SOUTH
DOVER, DELAWARE 19901

BETHANY A. HALL-LONG
LIEUTENANT GOVERNOR

(302) 744-4333
LTGOV.DELAWARE.GOV

March 5th, 2020

Chairman Bentz, Co-Chair Lockman, and Members of the Joint Sunset Committee:

As the Lt. Governor, I am pleased to write this letter of support for the Delaware Nursing Home Residents Quality Assurance Commission. Since its creation in 2006, I have been very proud of the important work of the commission to monitor the quality and assurance system in long-term care and assisted living facilities throughout Delaware.

All of the residents living in long term care and assisted living facilities in our state have the right to be safe, receive quality care, and live free from abuse, neglect or exploitation. They also deserve the right to be treated with dignity and respect as residents often cannot speak for themselves. The work of this commission helps ensure we are doing that each and every day.

As Lieutenant Governor, my office interacts with the commission's Executive Director to assist Delawareans locating appropriate services or address issues within a licensed facility. The Commission works to address gaps in service, staff turnover, trends, educational opportunities and other critical functions.

I am in complete support of the Delaware Nursing Home Residents Quality Assurance Commission. I believe the work of this commission truly does protect and improve the life of our residents.

Sincerely,

Bethany Hall-Long, PhD, RNC, FAAN
Lieutenant Governor, State of Delaware
Professor of Nursing, Joint Faculty, Urban Affairs
University of Delaware

CC: Rep. David Bentz, Chair
Sen. S. Elizabeth Lockman, Co-Chair
Sen. Jack Walsh
Sen. Stephanie Hansen
Sen. Anthony Delcollo
Sen. Ernesto Lopez
Rep. Andria Bennett
Rep. Jeffrey Spiegelman
Rep. Sherry Dorsey Walker
Rep. Lyndon D. Yearick

Mary Ann Summers



March 1st, 2020

Members of Sunset Review, Joint Legislation, Oversight Committee

Good Day,

I was referred to Margaret Bailey by Kimberly Williams my District State Representative in December of 2016 after months of frustrating, failed attempts seeking high quality, skilled nursing care for my mother in law, a resident at Churchman's Village, Newark, DE.

As a consumer, family member, I was told I was doing everything right, multiple visits per week, initiating frequent onsite communication with administration and staff members, yet things continued to decline, in fact, they got dramatically worse.

It was at the time when my mother in law's wedding rings disappeared, medical care had become, inadequate at best and on the decline. Mistakes with medications were being made and communication from administrators and staff had stalled. It was at this time that I first contacted and met Margaret Bailey. After initially reaching out, her response was immediate and she was comforting, empathetic and assured me of her support. Margaret made herself available 24/7 as she, answered every question, every text, every voicemail, helping with research, giving us the assurance we needed that our expectations were realistic and not out of line. She directed me to the Ombudsman as another resource. Margaret set up meetings with Churchman's Village and our family, attended multiple Care Plan meetings helping to navigate an amicable Care Plan. Each time the facility dropped the ball, or there was a breakdown in communication, Margaret took the reign, and helped guide us back on plan. Her support never wavered.

Margaret stood by my side, supported our family, and helped us speak for my mother in law, until her life ended 16 months ago.

Last year, I attended the Delaware Nursing Home Residents Quality Assurance Commission in North Wilmington where many members were not in attendance. I was equally surprised when I learned that there were several vacancies. I remember thinking at the time that with all the families who have loved ones in Nursing homes, why wouldn't you reach out to some of these families to fill those vacancies. Who better than those mired deep in the situation, I for one would have relished the opportunity to participate and provide feedback.

I was happy to hear that legislation was recently passed removing the political party balance requirement. Political affiliation has no purpose in a skilled nursing facility who is expected to provide a wide range of health and personal care services to our aging population without consideration to political affiliation.

In conclusion, Delaware families want to know that there are resources they can turn to or draw from when considering the placement of a loved one or when faced with the devastating uncertainty of possible abuse, mistreatment or neglect of a loved one residing in a facility within the Nursing Home population. For me and for my family Margaret Bailey as a representative of DNHRQAC became that resource and provided me and my family the means and guidance through what seemed like endless conflicts as we had to make life altering decisions for my mother in law. Is it possible to put a value on what it means to a family to find someone they can trust, to step in and mediate on their behalf? It's at this time a caring family needs to know that there are concerned knowledgeable specialists, professionals like Margaret Bailey who will step in and assist in getting answers, intercede for better care and above all ensure the facility is performing with the utmost quality of care.

Respectfully,

Mary Ann Summers

On Behalf of the Pauline J. Summers Family

Delaware Nursing Home Residents Quality Assurance Commission – JLOSC March 17, 2020

Joint Legislative Oversight and Sunset Review Committee;

I would like to provide written testimony regarding the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

I am an advocate for Delawareans living with a disability and the elderly. I currently serve on the board of an Independent Living Center that promotes and empowers individuals with disabilities through multiple programs and supports. I previously served on The Delaware Commission for Women and presently serve on the Delaware Family Law Commission. I've spoken during Public Budget Hearings about services and supports. In 2016, I was advised my presentation was valuable in moving Acute Outpatient Care Licensing Agencies (such as home health care, hospice, etc.) from Public Health to what was then called the Division of Long Term Care Residents Protection (now called Division of Health Care Quality). I cannot stress enough how extremely important it is that Delaware provide adequate oversight for our aging population and those living with a disability, regardless of environment: be it home, hospital, nursing home, etc.

On a professional level, I've been in contact many times with DNHRQAC Executive Director, Margaret Bailey, to assist individuals and families. At times, I've reached out about an individual living in the community and needing more services or supports. Other times, I've been in touch about residents living in a licensed long-term care or assisted living facility. I can say that the issues were taken seriously and resolved in a timely manner.

On a personal level, I was my mom's caregiver for over 9 years; the last 4 years she was bedbound. During that time, services and supports were often needed, whether my mom was in the hospital, our home, respite or a nursing home. I knew that I could contact DNHRQAC and would receive help navigating within each environment. If you would like to know of my personal experiences with two nursing homes during my mother's last years, I am available to discuss them with you. In short, I had to remove my mom from two nursing homes under horrendous conditions. I also had horrendous experiences with home health care organizations.

I followed discussions in the late 90's about nursing home reform spearheaded by former Senator Robert Marshall. There was panel which held public meetings so people could discuss nursing home practices in Delaware. At the public meeting I attended at Legislative Hall, I was amazed to see so many people in attendance; the room could not hold them. I believe what the panel heard through their meetings was more than enough for them to realize there needed to be change and oversight. The panel made many recommendations about staff training, funding, quality of care and personal safety. My understanding is that the Delaware Nursing Home Residents Quality Assurance Commission and several pieces of legislation passed in the 140th General Assembly resulted because of what was learned from the public meetings.

I think it was most appropriate to situate the Commission within the Judicial Branch. As a result, DHSS and other agencies, organizations or providers are not able to persuade recommendations; it helps to keep them honest. However, I do believe the mission of the Commission would benefit if the JLOSC would consider adding support staff for the Executive Director.

I've had an opportunity to attend some of the DNHRQAC bi-monthly meetings where organizations and State agencies provide testimony. This meeting gives the public a chance to share their experience within long-term care as well as address gaps in service.

I've also received educational opportunities shared by the commission's staff. The information has been beneficial for clients I serve at a Middletown non-profit organization.

Oversight for the elderly and individuals living with a disability is important. We need to make certain people are safe and receive great care, regardless of where they live in Delaware. The agencies that provide services need to be accountable, have money they need to support said services, and address situations or concerns within a reasonable time frame.

The population in Delaware is aging fast! Will there be enough Delaware healthcare workers to care for the elderly and those living with a disability?

I believe JLOSC needs to look deeper into board/commission membership appointment process. My understanding is that this Commission and many other Commissions and Boards had, and continue to have, several membership vacancies for a very long time. Vacancies make it difficult for getting things done. Even though individuals are interested in serving, there is quite a delay and often membership positions were and are 'held over'.

I completely support the Delaware Nursing Home Residents Quality Assurance Commission and feel this Commission is essential for the protection and advocacy of Delaware's aging population. If we do not have this Commission, I feel the elderly and disabled, who must utilize services of nursing homes and services by agencies in the community, will be at a disadvantage and their health will be at stake.

Please contact me if I can be of further assistance or if you want to discuss my personal experience with both nursing homes and community agencies.

Regards,

A handwritten signature in cursive script that reads "Raetta McCall".

Raetta McCall
Middletown, DE
[REDACTED]

DNHRQAC Sunset Review

I spent every day except Fridays for six years at a small facility caring for my wife from about noon until I put her to bed at night. This facility happened to be a start-up owned by a nurse who was struggling to get the business operational. As I was there constantly and helping out, the owner actually approached me about becoming her partner and as such I was privy to numerous conversations and meetings with other facility directors from whom she was seeking advice and guidance. The advice the owner was getting was along the lines of how to misrepresent the facility without being obvious, how to work around regulations, and how to respond to “deficiencies” without actually doing anything. I learned quickly that whether it’s a nursing home or an assisted living facility that these are profit generating businesses. This is an industry that strongly cultivates and protects a **false** image of caring and concern while preying on an unprotected public to maximize profits. I decided not to become a partner.

I wrote a letter to the Division of Long Term Care Residents Protection (now Division of Health Care Quality) that caused a two week investigation of my wife’s facility and generated 16 pages of deficiencies (including documented mistreatment of residents). The only consequence to the facility was the requirement to submit a corrective action plan for each deficiency which has had no follow up more than two years later. This is one of the reasons facilities have no respect for the State’s regulations and oversight.

I attend dementia support group meetings regularly and hear the horror stories of others who have loved ones in facilities. The question of what’s a good nursing home or assisted living facility arises constantly and my response is always that if you use facilities in Delaware, be prepared to spend many hours there advocating for your loved one as the state doesn’t have the means to hold facilities accountable. This industry desperately needs stronger regulations and much greater oversight. If anything, The state should be looking at strengthening the divisions that are trying to hold these businesses accountable so that residents can utilize these facilities with the confidence that their loved one will get the compassionate care and services they are being promised and deserve.

Richard Kramer



Dear Members of the Joint Legislative Oversight & Sunset Committee:

This letter is written on behalf of over 187,000 AARP members here in Delaware in support of the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

AARP is a nonpartisan, social mission organization with an age 50+ membership. We fight for issues that matter most to families like healthcare, family caregiving, and independent living. AARP seeks new solutions so people can live and age as they choose—which includes access to quality nursing home care.

Delaware's support of DNHRQAC runs deep. Throughout the Commission's history, we have worked together on nursing home issues and fought for improvements in care. AARP's Brian Posey served as Commission Chair and was a long-standing member.

We believe the work of the DNHRQAC continues to be necessary, and that the Commission is performing its work with integrity. It provides an important layer of oversight and accountability for skilled nursing facilities, by monitoring quality data and reporting to the Governor, Secretary of the Department of Health and Social Services, and the General Assembly. This oversight, when coupled with the protections provided through the state LTC Ombudsman, patient protections in the Delaware Code, and other measures afforded under the Resident's Bill of Rights, ensures that patients and their families receive the highest quality care possible.

As the state's population ages, the work of the Commission will become even *more* important. AARP projects the 65+ population will increase 66% between 2010 and 2030, adding more than 50,000 people to that cohort. By 2060 that number will grow by another 40,000. Skilled nursing facilities will continue to be an important option, and DNHRQAC will help ensure that these facilities provide safe, high-quality care into the future.

Delaware has made strides to improve the care offered in nursing facilities. AARP tracks this improvement in its [Long Term Services and Supports Scorecard](#). From 2014 to 2017, Delaware made improvements in reducing the percentage of new nursing home stays lasting 100 days or more and in the percentage of high-risk nursing home residents with pressure sores. However, several measures showed a need for improvement. The 2017 Scorecard ranked Delaware 32nd in the percentage of nursing home residents with low care needs and 41st in the percentage of nursing home residents with moderate to severe dementia with one or more potentially burdensome transitions at end of life.

The DNHRQAC plays an important role in helping the state continue to push for meaningful reform and to ensure that all residents receive quality care. AARP supports the need for the Commission to continue its valuable work.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sheila Grant', is written over a light blue rectangular background.

Sheila Grant
Associate State Director of Advocacy
AARP Delaware



**STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES**

**Margaret M. O'Neill Bldg., Suite 1
Dover, Delaware 19901
302-739-3621**

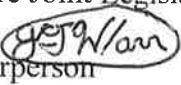
**The Honorable John Carney
Governor**

**John A. McNeal
Director**

MEMORANDUM

DATE: March 17, 2020

TO: Members of the Delaware Joint Legislative Oversight and Sunset Committee

FROM: Mr. J. Todd Webb, Chairperson 
State Council for Persons with Disabilities

RE: Delaware Nursing Home Residents Quality Assurance Commission

Rep. Bentz, Sen. Lockman and members of the Delaware Joint Legislative Oversight and Sunset Committee (JLOSC), my name is Todd Webb and I am the Chairperson for the State Council for Persons with Disabilities (SCPD). It's a pleasure to be here today to strongly support the work of the Delaware Nursing Home Residents Quality Assurance Commission (DNHRQAC).

The mission of the SCPD is to unite, in one Council, disability advocates and State agency policy makers to ensure that individuals with disabilities are empowered to become fully integrated within the community. Council's membership includes state agencies, persons with disabilities, family members, advocacy organizations and providers. In addition, SCPD is charged in 29 Del.C. Section 8210 with the responsibility of proposing and promoting laws, regulations, programs and policies to improve the well-being of persons with disabilities.

DNHRQAC's mission is to monitor Delaware's quality assurance system for nursing home residents in privately and state operated facilities so that complaints of abuse, neglect mistreatment, financial exploitation and other complaints are responded to in a timely manner so as to ensure the health and safety of nursing home residents. The Commission meets its stated mission, in part, by conducting the following activities:

- Collaborates with managed care organizations, hospice providers, hospitals, providers, colleges, AARP of Delaware, Alzheimer's Association, Delaware Valley Chapter and others to address and promote enhanced quality of life issues.
- Participates in caregiver conferences, educational workshops, budget hearings, facility visits, boards/commissions, and State agency meetings to promote the long-term care

(LTC) & assisted living (AL) quality assurance system.

- Reviews and analyzes reports and information to help ensure quality standards such as the Division of Health Care Quality's staffing ratio compliance (Eagles Law), Quality Assurance Review Team's (QART) inspection deficiencies reports; civil monetary penalties (Federal & State imposed); Adult Abuse Registry; certified nursing assistant schools written and clinical pass rates; and the Criminal Background Check Center.
- Identifies gaps in services for people with disabilities and the elderly.
- Provides on-going advocacy and awareness efforts regarding residents rights, Federal and State regulations, healthcare workforce, supported decision making, and advanced care directives. Staff assists residents, families, agencies and providers that are looking for services or facing challenges to ensure personal centered care: care plan meetings, and annual post survey meetings.
- Shares educational and funding opportunities to other State agencies and organizations.
- Prepares annual joint resolutions for World Elder Abuse Awareness Day (June 15th).

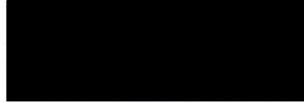
Recently, the Commission and/or staff developed a Nursing Home Administrator Regulations Course with the University of Delaware for 50 DHSS employees (March 2019) and legal service organizations (July 2019). Staff is a subcommittee member that developed a Basic IV Therapy Training from 2019 – present with Bayhealth for licensed RN's & LPN's working in nursing homes & community settings.

SCPD is fortunate to have a representative appointed to the NHRQAC which provides a forum to receive a wide scope of valuable information and assists Council in determining the needs of persons with disabilities residing in institutional settings. In addition, it provides needed information so Council can determine opportunities and system solutions regarding choice for those who may benefit from living in the community.

Incredibly, the Commission provides all of this valuable information and conducts all if its activities with only one staff person, SCPD truly appreciates and endorses the work of the Commission.

Thank you for the opportunity to provide comments and lend support for the NHRQAC.

John Thomas Murray



November 18, 2019

Dear Sir or Madame,

I write this to document my full support of the Delaware Nursing Home Residents Quality Assurance Commission and the Executive Director, Margaret Bailey. Ms. Bailey and the Commission have advocated for residents and quality care since its inception. For more than 12 (twelve) years the (then Division of Long-Term Care Residents Protection) has been required to attend meetings and participate in the Commission's mission. Additionally, they were tasked with submitting quarterly reports on the efforts of the Division. These include the Division's analysis of minimum staffing in all nursing homes (Eagle's Law) and reports on all harm level citations nursing homes issued by the Division.

In addition, the Commission participates in post survey visits where the results of the Divisions surveys (inspections) are presented and discussed with residents and advocates. The Commission submits comments on proposed regulations and lobbies, on behalf of residents, on proposed legislation.

It has come to my attention that Yrene Waldron, the current Director of the Division of Health Care Quality (formerly the Division of Long-Term Residents Protection) is advocating the disbanding of the Commission. This is unfathomable to me. The Director of the Division that is statutorily bound to protect residents is supporting the dissolution of a resident advocacy commission.

This should come as no real surprise. The current Director of the Division of HealthCare Quality, Ms. Waldron has spent the last 20+ years as the Executive Director of the Delaware Health Care Facilities Association (DHCFA). This is the trade/lobbying group of the nursing home industry that advocates on behalf of the industry. This history causes me to question whether Ms. Waldron's loyalty is to the residents of nursing homes she is charged with protecting, or with the industry whose causes she championed for over 20 years.

I write this as a recently retired, twenty-year employee of the Division of Health Care Quality. During this time, I worked tirelessly to protect our nursing home residents. Additionally, I served the last fourteen years as the Deputy Director of the Division. To see a resident advocacy commission being undermined by the current Division Director causes me grave concern for the welfare of our vulnerable population.

Thank you for your attention to this serious matter.

Sincerely,


John Thomas Murray

November 18, 2016

Ms. Margaret E. Bailey, Executive Director
Delaware Nursing Home Quality Assurance Commission
2540 Wrangle Hill Road, Suite 223
Bear, Delaware 19701

Dear Margaret:

I enjoyed our recent conversations on the work of the Nursing Home Quality Assurance Commission. Your work in your role as Executive Director for the Commission has always been exemplary. As you shared with me, Commission members learned in September, 2016, about a Department of Health and Social Services (DHSS) effort to fast track a bill in January, 2017, that would adversely impact "Eagles Law."

From 1997 to 2000, I led efforts in the General Assembly to bring about major reforms in long-term nursing home care here in Delaware, including the establishment of the Division of Long-term Care Residents Protection in 1998. We were able to enact "Eagle's Law" (which was named after my late father, who had been a nursing home resident), thereby creating necessary bedside care staffing ratios, establishing your commission, and bringing about many other reforms of Delaware law to insure the best care and protection for a very vulnerable group of citizens.

Due to your leadership and concern, DHSS was forced to produce a draft of their proposed legislation for consideration at your November 22, 2016, Commission meeting. The extensive changes in the proposed legislation, a copy of which I received on Monday, November 14, represent a major attack on the purpose and intent of "Eagles Law" and would amount to its effective repeal. My strongest recommendation is to reject the proposed draft legislation. This proposal would compromise and greatly diminish the extensive research and hard work done in the period 1997 to 2000 that led to significant reform of nursing home care in Delaware. That this effort would appear to have the active support of the Markell Administration is unfortunate, to say the least.

This present effort to remove the nursing home care protection brought about by Eagle's Law is only the latest in a series of efforts in this direction. It was preceded by a similar legislative maneuver late in the 2015 and 2016 legislative sessions that I was able to stop. Another maneuver by the administration in May, 2016, which managed to get through the Joint Finance Committee undetected,

involving personnel and state healthcare facilities surveys, may have triggered a step backwards in how we monitor the quality of healthcare services in Delaware.

I will express my concern and strong opposition to this proposal directly to Governor-Elect John Carney.

Your dedication to the residents of long-term care facilities in our state and your courage in bringing this to my attention speaks well of your character and professionalism. I commend you and the members of the Commission for your efforts to carry out the true spirit and intent of the Nursing Home Quality Assurance Commission.

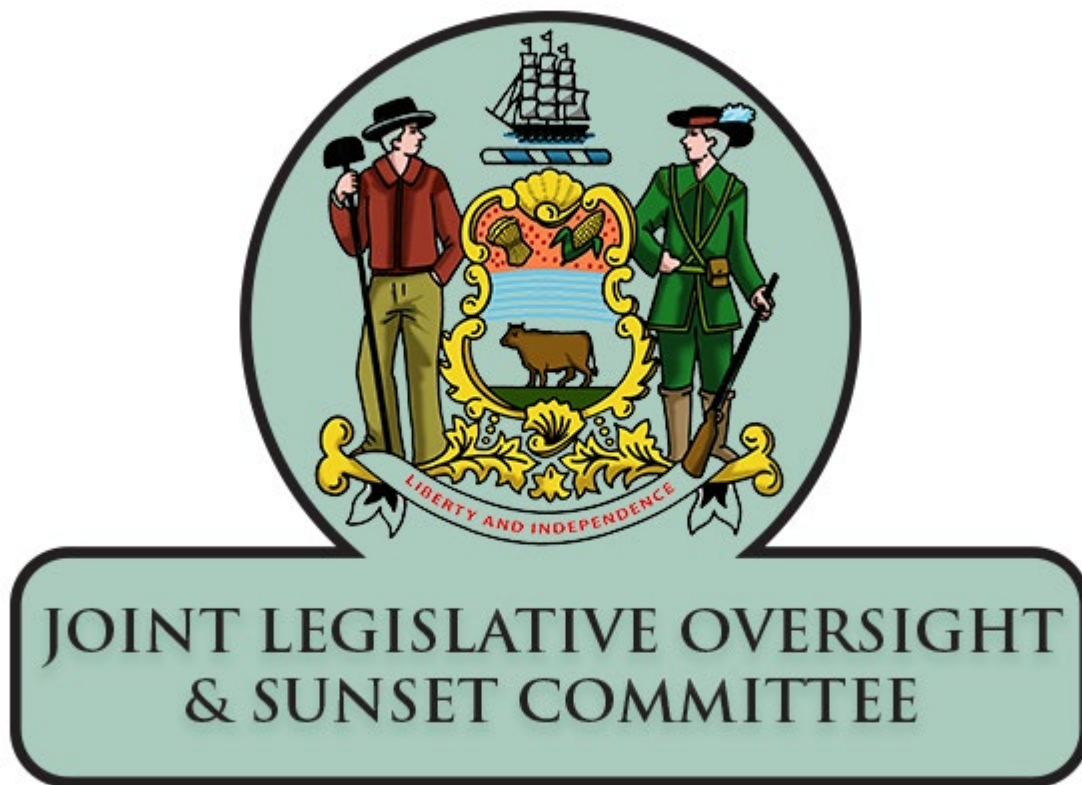
Please share this letter with Commission. As always, I extend my best and highest regards to the members of the Commission for their dedication and commitment to public service. With best wishes, I am,

Sincerely yours,

Robert I. Marshall
State Senator
3rd Senatorial District

2020 Final Report

150th General Assembly, 2nd session



LEGISLATION

COMMON INTEREST COMMUNITY ADVISORY COUNCIL
STATE EMPLOYEES' PENSION PLAN (DVI BUSINESS ENTERPRISE PROGRAM)



SPONSOR: Rep. Bentz & Sen. Lockman
Reps. Bennett, Dorsey Walker, Spiegelman, Yearick;
Sens. Delcollo, Hansen, Lopez, Walsh

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 298

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE COMMON INTEREST
COMMUNITY ADVISORY COUNCIL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend §2546, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2546. Common Interest Community Advisory Council.

4 (a) The Common Interest Community Advisory Council, referred to as “the Council” throughout this section,
5 consists of 18 members. A member who is on the Council by virtue of position may appoint a designee to serve in their
6 stead and at their pleasure. Membership is comprised as follows:

7 (9) The ~~President of the Delaware Bar Association~~ Governor shall appoint 2 members from the Real Property
8 Section of the Delaware State Bar Association whose practice involves the creation of, or the handling of disputes
9 arising from, common interest ~~communities~~ communities, from a list of at least 3 names representing all counties in
10 this State provided by the President of the Delaware Bar Association.

11 Section 2. This Act applies only to members who are appointed after [the effective date of this Act]. This Act
12 does not invalidate membership based on appointments made before [the effective date of this Act].

SYNOPSIS

This Act revises the appointment process for members of the Common Interest Community Advisory Council who are from the Real Property Section of the Delaware State Bar Association. Under this Act, these members are appointed by a government official to comply with the requirements of the Delaware Constitution. This Act applies only to members who are appointed after the effective date of this Act, and does not invalidate any appointments made before the effective date of this Act.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.



SPONSOR: Rep. Bentz & Sen. Lockman
Reps. Bennett, Dorsey Walker, Spiegelman, Yearick;
Sens. Delcollo, Hansen, Lopez, Walsh

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 301

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 5501, Title 29 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 5501. Definitions.

4 (m) ~~Any other provisions of this chapter notwithstanding, the blind and sighted employees of the concession~~
5 ~~stands which are operated by and under the control of the Bureau for the Visually Impaired, if otherwise qualified~~
6 ~~under this chapter and regardless of the source from which their respective salaries were heretofore paid, shall be~~
7 ~~considered in covered employment under this chapter, and the time from which their period of service shall be deemed~~
8 ~~to have commenced shall be the time when they began their respective service starting in 1948. [Repealed.]~~

9 Section 2. This Act takes effect on January 1, 2020.

SYNOPSIS

This Act repeals a provision in the State Employees' Pension Plan that included participants in the Division for the Visually Impaired's ("DVI") Business Enterprise Program ("BEP") in the State pension plan. BEP participants are meant to be independent blind entrepreneurs operating their own vending facilities in federal and state properties, as authorized by the Randolph-Sheppard Act (20 U.S.C. § 107 et seq.).

DVI recruits, trains, licenses, and places individuals who are blind as BEP vending facility operators on state or federal properties. Participation in BEP is under permit or contract. Participants are not State employees; including them in the State Pension Plan or payroll system does not comply with the Randolph-Sheppard Act.

This Act is a result of the Joint Legislative Oversight and Sunset Committee's 2019 review of and task force on the Division for the Visually Impaired. The Rehabilitation Services Administration, the federal agency that monitors BEP, recommended removing blind vendors from all state pension and payroll systems.

Once enacted, this Act takes effect as of January 1, 2020. DVI removed BEP vendors from the State's payroll system as of January 1, 2020. New applications for BEP are not pending as of the date this legislation is released.