

SPONSOR: Rep. Bolden & Sen. Walsh
Reps. Bennett, Brady, Dukes, Spiegelman; Sens. Delcollo, Hansen, Pettyjohn, Sokola

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 455
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE STATE BOARD OF EDUCATION.

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

Section 1. Amend § 104, Title 14 of the Delaware Code by making deletions as shown by strike through and deletions as shown by underline as follows and redesignating accordingly:

§ 104. State Board of Education; composition; term; powers and duties; qualifications; vacancies; staggered appointments; office location; compensation; removal.

(a) The State Board of ~~Education shall be composed of 7~~ Education, referred throughout this subchapter as "State Board", consists of 9 members who ~~shall be~~ are citizens of ~~the~~ this State and ~~shall be appointed by the Governor and confirmed by the Senate. The Governor shall name the President of the Board who shall serve at the Governor's pleasure. Each of the remaining members of the Board shall be appointed to serve for 6 years and~~ appointed as follows:

(1) The Governor shall appoint, with Senate confirmation, 7 voting members.

a. Six of the 7 voting members are appointed for terms of up to 6 years, to ensure that no more than 2 members' terms expire in the same year. Each of the 6 voting members serves until that member's successor qualifies.

b. One of the 7 voting members is appointed as the President of the State Board and serves at the Governor's pleasure.

(2) The Governor shall appoint annually 1 non-voting member who is a former Delaware State Teacher of the Year and employed as a Delaware public school educator. The Teacher of the Year Advisory Board shall provide annually to the Governor a list of recommendations that includes at least 1 individual from each county in this State. This appointment does not require Senate confirmation.

(3) The Governor shall appoint annually 1 non-voting member who, at the time of appointment, is or will be in the next school year an 11th or 12th grade student at a public school in this State, with priority given to the selection of an individual who has demonstrated commitment to ensuring quality education for Delaware students. This appointment does not require Senate confirmation.

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(b) The State Board of Education ~~shall have~~ has powers, ~~duties~~ duties, and responsibilities as specified in this ~~title. Included among the powers, duties and responsibilities are those specified in this subsection. The State Board of Education shall do~~ title, including all of the following:

(1) Provide the Secretary of Education with advice ~~and guidance with respect to~~ regarding the development of policy in those areas of education policy where rule- and regulation-making authority is entrusted jointly to the Secretary and the State Board. The State Board shall also provide ~~guidance~~ advice on new initiatives which the Secretary may from time to time ~~be proposed by the Secretary~~ propose. The Secretary shall consult with the State Board regularly on such issues to ensure that policy development benefits from the breadth of viewpoint and the stability which a citizens' board can offer and to ensure that rules and regulations presented to the State Board for its approval are developed with input from the State Board. ~~Consistent with its role in shaping critical educational policies, the~~ The State Board ~~of Education~~ may ~~also~~ recommend that the Secretary undertake certain initiatives which the State Board believes would improve public education in ~~Delaware;~~ Delaware.

(2) Provide the Secretary of Education with advice ~~and guidance~~ on the Department's annual operating budget and capital budget ~~requests;~~ requests.

(3) Provide the Secretary of Education with ~~guidance~~ advice in the preparation of the annual report specified in § 124 of this title, including recommendations for additional legislation and ~~for~~ changes to existing ~~legislation;~~ legislation.

(4) Provide the Secretary of Education with ~~guidance~~ advice concerning the implementation of the student achievement and statewide assessment program specified in § 122(b)(4) of this ~~title;~~ title.

(5) Decide, without expense to the parties concerned, certain types of controversies and disputes involving the administration of the public school system. The specific types of controversies and disputes appropriate for State Board resolution and the procedures for conducting hearings ~~shall~~ must be established by rules and regulations ~~pursuant to § 121(12)~~ under § 121(a)(12) of this ~~title;~~ title.

(6) Fix and establish the boundaries of school districts which may be doubtful or in dispute, or change district boundaries as provided in §§ 1025, 1026, and 1027 of this ~~title;~~ title.

(7) Decide on all controversies involving rules and regulations of local boards of education ~~pursuant to~~ under § 1058 of this ~~title;~~ title.

(8) Subpoena witnesses and documents, administer and examine persons under oath, and appoint hearing officers as the State Board finds appropriate to conduct investigations and hearings ~~pursuant to~~ under paragraphs (b)(5), (6), and (7) of this ~~section;~~ section.

(9) Review decisions of the Secretary of Education, upon application for review, where specific provisions of this title provide for such review. The State Board may reverse the decision of the Secretary only if it decides, after

consulting with legal counsel to the Department, that the Secretary's decision ~~was~~ is contrary to a specific state or federal law or regulation, ~~was~~ not supported by substantial evidence, or ~~was~~ arbitrary and capricious. In such cases, the State Board shall set forth in writing the legal basis for its ~~conclusion;~~ conclusion.

(10) Approve ~~such~~ Department rules and regulations ~~as~~ that require State Board approval, ~~pursuant to~~ under specific provisions of this title, before ~~such~~ the rules and regulations are ~~implemented;~~ implemented.

(11) Approve rules and regulations governing institutions of postsecondary education that offer courses, programs of courses, or degrees within the State or by correspondence to residents of ~~the~~ this State ~~pursuant to~~ under ~~§ 121(16) and/or~~ § 121(a)(16) or § 122(b)(8) of this ~~title;~~ title.

(12) Any provision of Chapter 5 of this title to the contrary notwithstanding, decide appeals of decisions by the board of directors of a charter school to suspend or expel a student for disciplinary reasons. In deciding such cases, the State Board shall employ the ~~same~~ standard of review ~~as is set forth in~~ under § 1058 of this ~~title; and~~ title.

(13) Digitally record all of the State Board's regular monthly public board meetings ~~of the State Board of Education~~ and make the recordings available to the public on the Department of Education's website within 7 business days of each meeting. These recordings are not official board minutes, but are a means to enhance communication to the public and state legislators. The requirements of this section do not apply to meetings where recording equipment is not available, ~~to~~ executive sessions, or ~~to~~ other State Board meetings ~~of the Board~~, such as workshops, retreats, and committee meetings. ~~A~~ The Department of Education must provide a written transcript of ~~the~~ a regular monthly public ~~board meetings~~ State Board meeting that ~~are~~ is digitally recorded ~~pursuant to~~ under this paragraph, or other reasonable accommodation, ~~will be provided by the Department of Education~~ within 7 business days upon request of ~~a person~~ an individual with a hearing impairment.

(14) ~~Pursuant to~~ Under Chapter 33 of this title, serve as the State Board for Vocational-Technical Education (Career and Technical Education) and ~~is~~ as the "eligible agency" and sole agency responsible for the supervision of administration of career and technical education for purposes of the federal Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) [20 U.S.C. § 2301 et seq.], and any subsequent reauthorization thereof, and be subject to its requirements and any implementing regulations. As used in this title, "career and technical education" ~~shall have~~ has the same meaning as "vocational-technical education."

(c)(1) The Department, through the Secretary, shall provide reasonable staff support to assist the State Board in performing its duties ~~pursuant to~~ under this ~~title and shall, upon request through the Secretary, provide the State Board with reports~~ title. The Department shall provide to the State Board all of the following:

a Reports and data necessary to enable the State Board to perform its duties ~~pursuant to~~ under this title.

b. One staff member, an Executive Director. A majority of the State Board members shall select the Executive Director. Once appointed, the Executive Director is an employee of the Department, subject to all of the

Department's employment policies and procedures, and serves at the pleasure of the State Board. The Executive Director's duties are as follows:

1. Coordinate and implement all requirements for State Board meetings, including posting meeting notices and minutes.

2. Provide necessary reports and data in conjunction with paragraph (c)(1)a. of this section regarding the State Board's responsibilities.

3. Support State Board members in necessary training and preparation to fulfill their roles and responsibilities.

4. Serve as the State Board's point of contact regarding matters specific to the State Board.

5. Produce and post minutes for each State Board meeting, including uploading digital recordings under paragraph (b)(13) of this section.

(2) The Secretary of Education, in addition to the Secretary's other duties of office, ~~shall serve~~ serves as Executive Secretary of the State Board.

(d) The members of the State Board appointed under paragraphs (a)(1) and (a)(2) of this section ~~shall be appointed solely because of their~~ must be of good character and fitness and, in addition to the requirements of subsection (a) of this section, are subject to the following qualifications:

(1) ~~at~~ At least 2 members ~~of the Board shall~~ must have ~~had~~ prior experience on a local board of ~~education;~~ education.

(2) ~~no~~ No more than 4 members ~~of the Board shall~~ may belong to the same political ~~party;~~ party.

~~no person shall be eligible to appointment~~ (3) An individual who has ~~not~~ been a resident of this State for ~~at least~~ less than 5 years immediately preceding appointment ~~a resident of this State;~~ is not eligible to be a member.

~~and no person shall~~ (4) An individual who is already subject to the State Board's authority may not be appointed to the State Board ~~who is in any way subject to its authority~~ as a voting member.

~~Any member of the Board shall be~~ (5) A member is eligible for reappointment unless otherwise disqualified by this title.

~~In constituting the Board,~~ (6) The members must meet the following geographic qualifications:

~~the~~ a. The President ~~shall~~ and 1 other member may be appointed from the State at ~~large,~~ large.

~~but the appointments of the remaining 6 members shall be made so that there shall be on the Board at least 1~~ b. One member is a resident of the City of ~~Wilmington,~~ Wilmington.

~~2~~ c. Two members are residents ~~from~~ of New Castle County outside the City of ~~Wilmington,~~ Wilmington.

~~1 from~~ d. One member is a resident of Kent ~~County,~~ County.

~~1 from~~ e. One member is a resident of Sussex ~~County, and 1 member at large.~~ County.

~~(e) Vacancies on the Board for any cause shall be filled by the Governor for the unexpired term and until a successor shall qualify.~~

~~(f) The Governor may appoint members for confirmation by the Senate for terms shorter than 6 years where that is necessary to ensure that Board members' terms expire on a rotating annual basis.~~

(g) The ~~Board shall meet in Dover in meeting space provided by the~~ Department shall provide or obtain office space in Dover for the State Board.

(h) ~~The~~ State Board members ~~of the Board~~ shall receive $100 for each day's attendance at ~~the~~ State Board ~~meetings of the Board~~ meetings, not to exceed 24 days' attendance in any 1 calendar ~~year;~~ year, and ~~they shall~~ be reimbursed for ~~their~~ actual travel and other necessary expenses incurred in attending meetings and transacting the business of the State Board.

(i) The number of members who must be present at a State Board meeting in order to have a quorum and conduct official business is the majority of appointed, voting members.

(j) The Governor may remove a State Board member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. A member is deemed in neglect of duty if the member is absent from 3 consecutive, regular Board meetings or attends less than 50% of State Board meetings in a calendar year. The Governor may consider the member to have resigned, and may accept the member's resignation.

(k) The State Board shall rotate locations of regular meetings among the 3 counties of this State, with each location to host, whenever possible, an agenda item that is relevant to the county in which it is being held, and rotating the locations among the 3 counties in such a way to facilitate parents', teachers', and other community members' attendance.

Section 2. Amend § 105, Title 14 of the Delaware Code by making deletions as shown by strike through and deletions as shown by underline as follows:

§ 105. State Board of Education procedures.

(a) The State Board shall hold an annual meeting in Dover each ~~year~~ July ~~in Dover, during the month of July. At this meeting the Board shall each year~~ and, at each annual meeting, elect 1 of its members to serve as Vice-President. Other meetings ~~shall~~ must be held at such times and places as the duties and business of the State Board require, consistent with the requirements of § 104(k) of this title. ~~No~~ A motion or resolution ~~shall~~ may not be ~~declared~~ adopted without the concurrence of a ~~majority~~ quorum of the ~~whole~~ State Board.

(b) Whenever this Code requires that the State Board approve a regulation or other action proposed by the Department, the State Board ~~shall~~ must decide whether to approve such regulation or action at a meeting held in conformity with Chapter 100 of Title 29. Provided that the Department has complied with Chapter 101 of Title 29 in proposing a regulation or other regulatory action to the extent such action is governed by ~~said~~ Chapter 101, the State Board ~~shall~~ is not

~~be~~ subject to ~~said~~ Chapter 101 in approving or refusing to approve ~~such Departmental proposal~~ the proposed regulation or other regulatory action.

(c)(1) The State Board shall permit public comment on each agenda item before voting on the agenda item and in proximity to the time at which the State Board discusses the agenda item.

(2) Notwithstanding paragraph (c)(1) of this section, the State Board is not required to permit public comment on an agenda item that, under Delaware law or Department or State Board rules, has a formal comment period or a process for making a record in an administrative matter that has closed before the State Board's discussion of the agenda item, including charter school applications or formal reviews, amendments to Department and Professional Standards Board regulations, and student appeals.