

Delaware Professional Standards Board
Procedures Manual

August 1, 2006

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I. Legal Basis and Related Issues

A. Statutory Basis

The Professional Standards Board exists pursuant to 14 *Del. C.* § 1205, which states:

(a) Recognizing that well-prepared, effective educators are critical to our students' success and that those entrusted with the achievement of our students should have a voice in the development of policies that affect their profession, there is hereby established the Professional Standards Board. The intent of the General Assembly is that the Standards Board and the Department [of Education] work in close coordination and collaboration to fully and effectively implement the purposes of this chapter. To this end, the Standards Board shall file reports on the first day of January, April, July, and October of each calendar year with the General Assembly, the Governor, the State Board [of Education] and the Department [of Education].

(b) The Standards Board shall develop rules and regulations relating to educators' professional development, licensure requirements, certification requirements and paraprofessional qualifications and training. The Department [of Education] shall implement the rules and regulations promulgated and adopted pursuant to this chapter relating to licensure and certification of educators and certification of evaluators, and as otherwise directed by rules and regulations developed under this chapter.

B. Rules & Regulations

In accordance with 14 *Del. C.* § 1203, rules and regulations developed by the Professional Standards Board are forwarded to the State Board of Education for approval.

Unless otherwise provided for in this chapter, rules and regulations necessary to implement this chapter must be proposed by the Standards Board subject to approval of the State Board [of Education]. The Standards Board shall develop rules and regulations in consultation and cooperation with the Department [of Education]. Once developed, the rules and regulations must be sent to the Executive Secretary of the State Board and must be included on the State Board's agenda no later than the second regular meeting of the State Board following the Executive Secretary's receipt of the rules and regulations. The rules and regulations must be addressed by the State Board when placed on its agenda. If approved by the State Board, rules and regulations have the force and effect of law.

The Standards Board is subject to the rule-making provisions of the Administrative Procedures Act (Chapter 101, Title 29 of the *Delaware Code*).

C. Department Requests for Advice or Recommendations

Upon the request of the Secretary of Education for advice or recommendations on matters within the purview of the Professional Standards Board, the Standards Board shall respond to the request within a time frame that is mutually agreed upon between the Secretary and the Board Chair (14 *Del. C.* § 1206(i)).

D. Board Structure

1. Membership

In accordance with 14 *Del. C.* § 1206(a), the Professional Standards Board shall consist of 16 voting members as follows:

(1) Eight public school teachers, no less than 2 from each county, with 1 being a special education teacher, 1 being a teacher specialist and at least 1 teacher each from the high school, middle school and elementary school levels. The 8 teachers must be selected from a list supplied by the Delaware State Education Association in accordance with [Section 1206(c)]. Each teacher appointed to the Standards Board must have demonstrated excellence in his or her field by achieving honors or special recognition in his or her field, including, but not limited to state, district or building level Teacher of the Year, National Board for Professional Teaching Standards certification, or the Presidential Award for Excellence.

(2) Four public school administrators, with at least 1 being from each county, selected from a list supplied by the Delaware Association of School Administrators in accordance with [Section 1206(c)].

(3) One member of a local school board selected from a list supplied by the Delaware State School Board Association in accordance with [Section 1206(c)].

(4) Two parents with children in public schools, from separate counties, selected from a list supplied by the Delaware Congress of Parents and Teachers in accordance with [Section 1206(c)].

(5) One representative of higher education selected from a list supplied by the Council of Presidents in accordance with [Section 1206(c)].

2. Appointment & Terms

In accordance with 14 *Del. C.* § 1206(b) and (c):

(b) The Governor, by and with the consent of a majority of the members elected to the Senate, shall appoint each voting member of the Standards Board for a term of 3 years. . . . A member of the Standards Board serves until his or her successor is appointed. A member appointed to fill a vacancy serves for the remainder of the term of the member whom he or she replaced. A Standards Board member is eligible for reappointment. If a disciplinary proceeding is initiated against a board member, the member may not participate in Standards Board business until the charge is adjudicated or the matter is otherwise concluded.

(c) With respect to appointments pursuant to [Section 1206(a)], the designated organization shall provide the Governor with a list of potential appointees. The Governor may require that a specific number of potential appointees, up to 20, be included on any

list submitted. The Governor may reject all potential appointees on the list and request up to 4 additional lists at his or her discretion.

3. Vacancies

The office of a member shall be deemed vacant under the following conditions:

- Any change in employment, residence, or other condition of appointment which violates the intent of 14 *Del. C.* § 1206(a) concerning membership and appointments as determined by the member's appointing authority, or relocation out of the State of Delaware.

- Excessive absence (three consecutive meetings without cause) from scheduled meetings of the Professional Standards Board.

- Death or resignation of a Board member. A vacancy for the unexpired term of a member who dies or resigns shall be filled in the same manner as the original appointment.

All vacancies shall be reported to the Governor. Appointments to fill an unexpired term shall be made in the same manner as appointments are made for full terms. An appointed member may continue to serve until his or successor is appointed.

3. Compensation

Compensation of Professional Standard Board members is addressed in 14 *Del. C.* §1206(h), which states:

(h) A member of the Standards Board is entitled to receive \$50 per meeting not to exceed \$600 annually, and to be reimbursed for reasonable and necessary expenses incurred in connection with the performance of official duties. The Standards Board may hold 1 meeting per month during normal school hours, but any additional meetings in the same month shall not be held during normal school hours.

The provisions of subchapter III of Chapter 58, Title 29 shall not apply to members of the Standards Board who are employed by a public school district. Any Standards Board member employed by a public school district will be released from that member's normal duty for the purpose of attending any regular monthly meeting of the Board which is scheduled during normal school hours as provided in this section, and such member shall receive that member's normal salary from the member's employer pursuant to the provisions of Chapter 13 of this title and any applicable collective bargaining agreement. Subject to the availability of appropriated funds, the Standards Board shall reimburse the member's employing school district for such costs as the school district may incur in order to obtain the services of a substitute teacher to take the place of any teacher member of the Standards Board who is granted release time pursuant to this section. A member of the Standards Board who is granted release time pursuant to this section shall have that member's compensation, as provided in the first paragraph in this section, proportionally reduced so that such member is not compensated twice for the time spent in meeting.

E. Conduct of Members

Chapter 58, Title 29 of the *Delaware Code* (“State Employees’, Officers’ and Officials’ Code of Conduct”) provides the laws regulating the conduct of officers and employees of the State of Delaware. The purpose of the *Code of Conduct* is to ensure that the honorary state officials holds the respect and confidence of the people. Members of the Professional Standards Board are subject to certain of the provisions of that statute in that they are included in the definition of “state agency” (29 *Del. C.* § 5804(10)) and the definition of “honorary state official” (29 *Del. C.* § 5804(13)). For that reason, members of the Board are encouraged to become familiar with the provisions of that chapter. The following issues are of particular concern.

1. Conflicts of Interest

Section 5805 details the State’s conflict of interest provision, which applies to members of the Professional Standards Board. As applied to the Standards Board this means that a member may not participate on behalf of the State in the review or disposition of any matter pending before the Board in which he or she has a personal or private interest (29 *Del. C.* § 5805(a)). There are also restrictions on representing another’s interest (§5805(b)); against contracting with the State for goods or services (§ 5805(c); or for representing or assisting private enterprise within two years after appointed service (§ 5805(d)).

In addition to prohibiting actual conflicts of interest, the *Code of Conduct* also requires honorary state officials to “endeavor to pursue a course of conduct which will not raise suspicion among the public that such ... official is engaging in acts which are in violation of the public trust and which will not reflect unfavorably upon the State and its government.” (§ 5806). This provision amounts to an “appearance of impropriety” standard. The *Code of Conduct* is further detailed at 29 *Del. C.* § 5806.

2. Financial Disclosure

Subchapter II, Chapter 58, 29 *Delaware Code* contains the requirements for financial disclosure of public officers. Because Professional Standards Board members are not included in the definition of “public officer” contained in § 5812, it would appear that members are not required to file the annual disclosure reports mandated by this statute. However, nothing would prohibit a member who chose to do so from voluntarily completing the report.

II. Organization

A. Officers

1. Chair

The Governor shall designate one voting educator member to serve, at the pleasure of the Governor, as chair of the Professional Standards Board (14 *Del. C.* § 1206(b)). The Chair is responsible for the integrity of the Board process. Integrity includes the efficient, orderly deliberation of Board issues and conduct of Board affairs.

The Chair has the authority, subject to any applicable Board policy, to (1) call special meetings of the Standards Board; (2) represent, in person or through a designee, Board positions and symbolize the Board image in public and at ceremonial events; and (3) decide mechanics of Board procedures. Subject to Board approval, the Chair (a) determines Board agendas and committee charges, and (b) makes Board appointments to committees. The Chair shall be an ex officio, non-voting member of all committees, and shall have all privileges of membership but shall not be counted in the committee quorum.

The Chair shall have the same right to make or second motions and to vote on pending questions as any other member of the Professional Standards Board.

2. Vice Chair

The Vice Chair shall be elected by the members of the Professional Standards Board (14 *Del. C.* § 1206(b)). The Vice Chair shall preside at meetings in the absence of the Chair and shall assist the Chair in developing meeting agendas and performing other such duties and responsibilities as may be jointly agreed upon. In the event of the Chair's death, resignation, incapacity, or disqualification, the Vice Chair shall act in the place of the Chair in all respects until the vacancy shall be filled or the incapacity removed.

3. Executive Director

Pursuant to 14 *Del. C.* § 1206(e):

The majority of the voting members of the Standards Board shall appoint an executive director of the Standards Board. The executive director must have been a resident of Delaware for a minimum of 1 year immediately prior to his or her appointment and must have at least 10 years experience as a professional educator in a public school system, with at least 5 years as a classroom teacher. The executive director acts as secretary to the Standards Board and receives compensation commensurate with the Department salary schedule. The executive director shall serve at the pleasure of the majority of the voting members of the Standards Board. The executive director is excluded from "classified service" and "state service" as defined in Chapter 59 of Title 29. The Department shall provide the Standards Board with access to Department personnel who are reasonably necessary to carry out the duties of the Standards Board.

The Executive Director is responsible for keeping the minutes and other official records of the Professional Standards Board, either in person or by an assistant.

4. Legal Counsel

Legal counsel to the Professional Standards Board is provided by the State Department of Justice and the Attorney General's Office in accordance with 29 *Del. C.* § 2504. (In accordance with 29 *Del. C.* § 2507, no agency, board, or commission shall employ legal counsel except with approval of the Attorney General and Governor.)

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5. Staff Assistance

Section 1206(e), Title 14 of the *Delaware Code*, provides in part: “The Department shall provide the Standards Board with access to Department personnel who are reasonably necessary to carry out the duties of the Standards Board.”

B. Committees

1. Standing Committees

The Professional Standards Board shall have the following standing committees in the following subject areas:

(1) Licensure and Certification Criteria; and

(2) Professional Development and Associated Compensation.

A standing committee must consist of at least 1 member of the Standards Board and other persons as may be mutually agreeable to the Chair of the Standards Board and the Secretary of Education (14 *Del. C.* § 1206(d)). Nominations for Committee membership may be solicited from members of the Professional Standards Board, various education-related organizations, the Department of Education, school districts, and the public. The intent of the Standards Board is to have committees which are reflective of the diversity of the constituency groups reflected in Board membership.

2. Other Committees

Section 1206(f), Title 14 of the *Delaware* Code provides:

The Standards Board may create any committees that it deems necessary, provided that a committee created under this subsection does not overlap or otherwise make recommendations in the subject areas governed by the standing committees designated in subsection (d) of this section; and, further provided, that, prior to creating any such committee, the Standards Board shall first specify the tasks to be addressed by the committee and the time in which the committee is to complete those tasks. The chair of the Standards Board may appoint members of the Standards Board to such committees. The Standards Board may, by mutual agreement between its chair and the Secretary [of Education], appoint educators, parents, citizens and members of the business community to a committee created under this subsection.

Committees created pursuant to 14 *Del. C.* § 1206(f) shall be considered ad hoc committees and shall cease to exist upon completion of their stated purpose. Members of Standing Committees and other committees may be removed from the committees for failure to attend, without cause, three consecutive regularly scheduled meetings of the committee on which they hold membership.

C. New Standards Board Member Orientation

The Professional Standards Board is responsible for the orientation of new members to the Standards Board. The Chair, Vice Chair and Executive Director shall be responsible for planning the orientation of new members.

D. Board Member Development

The Professional Standards Board shall be responsible for its own development as a Board. This development shall take place through membership and participation in professional organizations such as NASDTEC, and other activities such as Board retreats, conferences, conventions, workshops, or committees.

E. Self Evaluation

The Professional Standards Board will monitor its own process and performance to ensure continuity of Board improvements, integrity of Board actions and progress toward Board goals. The Standards Board will be accountable to the public for competent, conscientious, and effective accomplishment of its obligations as a Board.

F. State Board Appropriations

Reimbursement to Professional Standards Board members for the normal mileage and incidental expenses are paid by the Department of Education from funds appropriated to the Standards Board and budgeted for that purpose. For other expenditures in excess of \$1000 Board approval is required

G. Evaluation of the Executive Director

The Executive Director shall be evaluated annually by June 30 by a committee comprised of the Chair, Vice Chair and one other member of the Professional Standards Board elected from the membership at large. The evaluation will be conducted in accordance with the procedures set forth in the Professional Standards Board Executive Director Evaluation Instrument.

III. Meetings

A. Regular Meetings

Regular meetings of the Professional Standards Board are held once a month in the Cabinet Room of the John G. Townsend Building, Dover, Delaware. The meetings are normally scheduled on the first Thursday of each month. Meetings may alternate between 1:00 p.m. and 5:15 p.m., but the Board will adopt a yearly schedule based on the current Board's preferences.

B. Special Meetings

Special meetings of the Professional Standards Board may be held to address emergency issues, conduct hearings, develop goals, evaluate Board operation, or for in depth study and review of an issue. Special meetings are held at a time and place agreed upon by the Board.

C. Executive Session

The Professional Standards Board may meet in executive session for the reasons specified in 29 *Del. C.* § 10004. The Standards Board shall vote in a public meeting to go into executive session stating the purpose for the executive session. Executive sessions may be held only for the discussion of public business, and all voting on public business must take place at the public meeting and the results of the vote made public.

D. Board Meeting Procedures

1. Public Notice of Meetings

As specified in 29 *Del. C.* § 10004(e)(1) the Professional Standards Board is required to give public notice of all meetings, including executive sessions closed to the public, at least 7 days prior to the meeting. The notice must include the agenda and the date, time, and place of the meeting. The notice is posted on the bulletin board outside the Cabinet Room of the Townsend Building, Dover.

In addition, notices of all regular meetings are mailed to the Secretary of Education, the Associate Secretary for Assessment and Accountability, the Policy Analyst for the State Board of Education, Executive Directors of DASA and DASB, District Personnel Directors, and other interested parties. Persons and organizations may request that they be placed on the mailing list by contacting Dr. Patricia W. Carlson, Executive Director, Professional Standards Board, at the Department of Education. Telephone 302/739-2771. Fax 302/739-4483. Email: pcarlson@doe.k12.de.us.

2. Agenda Preparation and Dissemination

Items included on the Standards Board's agenda for regular meetings are recommended by the Executive Director, the Standards Board's standing committees and the Cabinet of the Department of Education. The final agenda is subject to the approval of the Board Chair. Any member of the Board may request that an item be placed on the agenda.

Agendas with all background materials are distributed to Board members at least 5 days prior to the meeting. The Standards Board agenda is also posted on the Department of Education Web Site prior to the meeting at www.doe.state.de/ProfStandardsBoard/index.htm.

3. Rules of Order

The Professional Standards Board uses the rules of parliamentary procedure to conduct its meetings, but it is not strictly bound by Robert's Rules of Order. The general conduct of the meeting is determined by the Board Chair with input from other board members and advice from the Board's legal counsel.

4. Quorum

A majority of the members of the Professional Standards Board (9) constitutes a quorum (14 *Del. C.* § 1206(g)).

5. Voting Method

Votes by the Professional Standards Board are taken by voice. When the vote is not a unanimous one, a roll call vote is taken in alphabetical order with the Board Chair voting last. No motion or resolution of the Standards Board may be adopted without the concurrence of the majority of the members of the Standards Board plus at least 1 additional affirmative vote, or 10 affirmative votes.

6. Minutes

As prescribed in 29 *Del. C.* § 10004(f) the Professional Standards Board maintains minutes of all its meetings, including executive sessions. The minutes must include the names of the Standards Board members present and a record, by individual member, of all votes taken and action agreed upon. The minutes, along with the printed agenda and its backup materials, shall constitute the official record of the Standards Board. Official Professional Standards Board minutes are posted on the web site within five days of their approval at the subsequent monthly board meeting.

7. Public Participation at Board Meetings

There are two ways that individuals and groups may address the Professional Standards Board at its regular meetings:

(1). An individual or group may request time on the Board's agenda to make a formal presentation to the Board. Such request should be in writing, and be submitted to Dr. Patricia Carlson, Executive Director, Professional Standards Board, John G. Townsend Building, 401 Federal Street, Suite 2, P.O. Box 1402, Dover, DE 19903-1402, at least 20 days prior to the meeting. The decision to include the presentation will be made by the Board Chair.

(2). Time will be allocated at the beginning of the meeting for individuals or groups to address the Standards Board. Persons wishing to make comments should sign up on the appropriate form at least 15 minutes prior to the call of order. Each group should choose one representative to speak and comments should be limited to five minutes. Speakers will be recognized by the Board Chair in the order their names appear. If a large number of people sign up to speak, the Board Chair may at his/her discretion limit the number of persons allowed to speak.

8. Appeals

The Professional Standards Board has several responsibilities under the Code to hear appeals of the decisions of the Secretary of Education, or his or her designee. Those responsibilities are outlined in 14 *Del. C.* §§ 174(b)(2), 1217, 1218 and 1264. This list is not meant to be exhaustive, and the types of controversies and disputes appropriate for Board resolution and the procedures for conducting such hearings can be found in the *Delaware Professional Standards Board Hearing Procedures and Rules*.