

Joint Legislative Oversight
& Sunset Committee

JLOSC Meeting: February 8, 2022

Starting at 1:00 p.m.



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Division of Research, analysts for JLOSC

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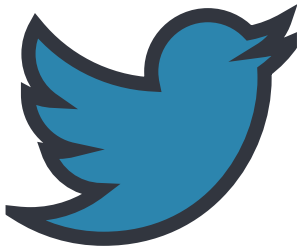
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Sen. Sarah McBride
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STATE OF DELAWARE

Rep. Sherry Dorsey Walker, Chair
Rep. Krista Griffith
Rep. Kendra Johnson
Rep. Jeff N. Spiegelman
Rep. Lyndon D. Yearick

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE

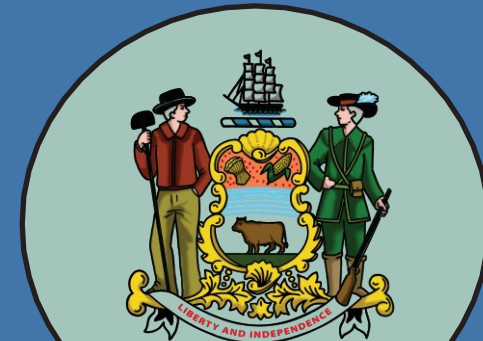
Joint Legislative Oversight and Sunset Committee
Virtual Meeting
Public Access via General Assembly [Live Stream](#)

Tuesday, February 8, 2022
12:00 p.m.

Amended Agenda

Added item noted by asterisk.

1. Welcome
2. Approve Minutes
3. Holdover Meeting: Delaware Interscholastic Athletic Association
4. Discussion of Progress Report: Delaware Nursing Home Residents Quality Assurance Commission
5. Discussion and Selection of 2023 entities for JLOSC Review
6. Updates from JLOSC staff*
7. Adjournment



**Joint Legislative Oversight
& Sunset Committee**

DIAA
DNHRQAC
2023 Review Discussion
Updates from JLOSC Staff
151st General Assembly, 2nd
Session

STATE OF DELAWARE

JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE

Meeting Minutes – February 1, 2022

1 Chair Dorsey Walker called the meeting to order at 12:01 p.m. Committee members present included Vice-
2 Chair Gay, Senators Hansen, McBride, Richardson, and Pettyjohn; Representatives Griffith, Johnson,
3 Spiegelman, and Yearick. Staff present included Mark Brainard, Jr. and Amanda McAtee, Joint Legislative
4 Oversight and Sunset Committee (“JLOSC”) Analysts, Holly Vaughn Wagner, Legislative Attorney for
5 JLOSC and Deputy Director of the Division of Research, and Natalie White, Administrative Specialist. A
6 quorum was met.

7 Chair Dorsey Walker welcomed everyone to the meeting and called for Committee and staff introductions.

8 Chair Dorsey Walker moved to item 2 of the agenda, the approval of the January 24, 2022 orientation
9 minutes. Vice-Chair Gay motioned to approve the January 24, 2022 orientation minutes as written, and
10 Representative Yearick seconded the motion. The motion carried 9-0, with Senators Gay, Hansen, McBride,
11 and Pettyjohn, and Representatives Dorsey Walker, Griffith, Johnson, Spiegelman, and Yearick voting in
12 favor, none opposed. Senator Richardson was not present to vote.

13 Chair Dorsey Walker moved to item 3 of the agenda, the focused review for the Interagency Council on
14 Adult Literacy. Mark Brainard provided an overview of JLOSC’s focused review process. Amanda McAtee
15 and Mark Brainard presented staff findings from the focused review.

16 After the presentation, Chair Dorsey Walker welcomed Committee discussion. Chair Dorsey Walker, Vice-
17 Chair Gay, and Representatives Griffith and Yearick asked questions and made comments relating to the
18 focused review of the Interagency Council on Adult Literacy. Amanda McAtee and Mark Brainard
19 responded with answers and clarification.

20 Chair Dorsey Walker moved to item 4 of the agenda, the focused review for the Motion Picture and
21 Television Development Commission. Mark Brainard and Amanda McAtee presented staff findings from
22 the focused review.

23 After the presentation, Chair Dorsey Walker, Vice-Chair Gay, Representatives Griffith, Spiegelman, and
24 Yearick, and Senators McBride and Richardson asked questions and made comments. Amanda McAtee
25 and Mark Brainard provided answers and clarification.

26 Chair Dorsey Walker moved to item 5 of the agenda, the review, discussion, and selection of entities for
27 JLOSC review in 2023. Amanda McAtee and Mark Brainard presented a staff prepared list of boards and
28 commissions for JLOSC to consider for 2023 review selection.

29 After Amanda McAtee and Mark Brainard reviewed the possible entities for the 2023 JLOSC review, the
30 committee moved to discussing the selections. Chair Dorsey Walker, Vice-Chair Gay, Representatives
31 Spiegelman and Yearick, and Senators Hansen and Pettyjohn asked questions and made comments. Mark
32 Brainard and Amanda McAtee gave answers and clarification.

33 After further discussion, the Committee members decided upon the following “short list” of entities for
34 further consideration: the State Fire Prevention Commission; Provider Advisory Board; Nutrient
35 Management Commission; Homeland Security Advisory Council; Delaware Police Accreditation Council;
36 and Delaware Byway Advisory Board.

37 The meeting concluded at 1:08 p.m.

38 Respectfully prepared by:

39 Elliot Gray, Legislative Fellow, Joint Legislative Oversight and Sunset Committee.

40 *Access to the complete video recording of this proceeding is available [here](#).*



DIAA

Holdover Update

- Out of Season coaching: ongoing involvement of PIC; Rules and Regulations Committee will consider latest draft this month.
- Strategic Plan: Changes to selected vendor require DIAA to select new vendor this month.
- Standing Committees: updated committee application, Rules and Regulations Committee will consider regulatory changes this month.
- Website: Information added, athletic director portal roll out this month.
- Expired Terms on Board: 6 vacancies should be addressed as soon as possible.

Discussion of Progress Report: Delaware Nursing Home Residents Quality Assurance Commission

- Created in 1999 by SB 23, 140th General Assembly to replace Long Term Care Council
 - Function as subcommittee of the Advisory Council on Public Health.
- Purpose: Monitor Delaware's quality assurance system for nursing home residents so that responses to complaints of abuse, neglect, mistreatment, financial exploitation and other complaints are responded to in a timely and effective manner to ensure the health and safety of nursing home residents.
- The Commission's duties include 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.

Discussion of Progress Report: Delaware Nursing Home Residents Quality Assurance Commission

Adopted Recommendation 3, Option 1: Administrative and Budgetary Responsibility

JLOSC shall sponsor legislation specifying that administrative and budgetary responsibilities related to DNHRQAC are the responsibility of the Department of Safety and Homeland Security.

Progress Reporting not needed for this Recommendation.

Additional Comments from Entity:

Location - DNHRQAC has had multiple discussions regarding this recommendation with commission members, Administrative Office of the Courts, JLOSC staff and Dept of Safety & Homeland Security (DSHS). The discussions continue.

DNHRQAC does not believe a move would be beneficial for those served, DNHRQAC staff or resources and therefore does not support a move elsewhere in State of Delaware Government at this time. It doesn't appear JLOSC spoke with any recipients of long term care services such as residents, families or the industry to gauge the impact of this recommendation.

DNHRQAC believes this particular recommendation needs further review, deliberate planning and research before any considered move within State government for DNHRQAC determined.

- JLOSC staff research/discussions:
 - Administrative Office of the Courts.
 - GEAR Report 2020.
 - Advisory or Regulatory/Enforcement.
 - Division of Health Care Quality.
 - Office of Health Facilities Licensing and Certification.
 - Long-Term Care Ombudsman Program under DSAAPD.
 - Research of similar entities in other states.
 - 1 – Judiciary.
 - 42 – Health/Social Services Department.
 - 2 – Independent/Unaffiliated with a state agency.
 - 5 – State Department or Professional Regulations.

Discussion of Progress Report: Delaware Nursing Home Residents Quality Assurance Commission

Staff Support - In addition, DNHRQAC requested funding for support (staff) which was unfortunately not addressed in any JLOSC reports. The Commission clearly expressed that additional staffing resources are needed to safeguard long term care residents and monitor State agencies that provide services and supports. This is something we had hoped JLOSC would have identified under the review process and has been immensely highlighted during COVID-19 pandemic.

Additional staffing support continues to be greatly needed. The commission currently has one staff member, an Executive Director, that has many competing demands on her time. Commission members are volunteers. As volunteers, many members are not able to commit beyond the scheduled open public meetings.

As a result, this leaves the Executive Director to complete the majority of work for the Commission. Unlike other agencies where multiple staff is responsible for carrying out tasks (even JLOSC has several staff members to carry out their duties).

DNHRQAC kindly requests JLOSC to respond to this request and provide funding for staff support.

- Commission staffing is not addressed in statute; therefore, out of JLOSC's authority.
- Epilogue language in the state budget addresses Commission staffing: authority of JFC.

Discussion of Progress Report: Delaware Nursing Home Residents Quality Assurance Commission

Adopted Recommendation 4: Name Change

DNHRQAC shall explore changing its name to one more easily recognizable to long-term care residents, the public, and other stakeholders. (example: DCARES: Delaware Commission for Aging Residents' Safety)

Update from Entity:

Commission members met during Working Session #1 (October 19, 2021) & Working Session #2 (December 19, 2021) to discuss JLOSC recommendations. In addition, discussion regarding JLOSC recommendations continued during regular business meetings (November 16, 2021 & January 18, 2022, etc).

DNHRQAC members voted & approved name change to reflect "Delaware Long Term Care Oversight Commission" during DNHRQAC Meeting of November 16, 2021. Some details are still being polished as to whether the use of an acronym or hyphen will be included in name change. DNHRQAC will continue to work with Judicial Information Center (JIC), Department of Technology, Administrative Office of the Courts (AOC) and others to implement this recommendation once legislation has been passed by Delaware General Assembly.

- Statute does not define the term oversight as it relates to the Commission's advisory duties.
- If the Commission will be tasked for ensuring a compliance standard, a mechanism may require changes to current statute.

Discussion of Progress Report: Delaware Nursing Home Residents Quality Assurance Commission

Tabled Recommendation 8: Elder Caucus

DNHRQAC shall provide information to the General Assembly relating to the creation of an Elder or Aging Caucus with a focus on the structure other legislatures and governing bodies have utilized.

Recommendation not adopted: Progress Reporting not needed.

Additional Comments from Entity:

DNHRQAC respectfully requests JLOSC reconsider the creation of an Elder Caucus. Although an Aging in Place Work Group was created after this recommendation was shared with JLOSC, we believe an Elder Caucus would embrace state-wide legislative initiatives in all environmental settings for Delaware's aging population. Delaware's population is aging rapidly and therefore we believe the State should be looking at ways to improve the delivery of care, services and assistance for those aging in Delaware.

- Unlike chamber standing Committees or Joint Committees, Caucuses are not codified and are created by individual legislators.
- An Elder Caucus could be considered by any member of the General Assembly.

Looking ahead: 2023 Review Selection



- Staff prepared list of boards and commissions for standard JLOSC review consideration.
 - Never reviewed.
 - Created in last 2 decades or prior to 1999.
 - Not targeted because they have known problems or issues.
- Note for the public: JLOSC's name includes the word "sunset" but also "oversight."
 - Oversight is an important function of state government to ensure an entity is operating as intended and making recommendations to correct any found issues.
 - JLOSC review process centers on the oversight function, conducting a performance evaluation, requesting documents.
 - Entity under review has the burden of showing that there is a genuine public need, and that the entity is meeting that need.
 - JLOSC does not sunset boards who have demonstrated they are meeting a genuine public need.

Updates from JLOSC Staff



- Interagency Council on Adult Literacy (“ICAL”).
 - Epilogue language still lists the Interagency Council on Adult Literacy as a pass-through program in the Department of Education, with an allocation of \$278,600.
 - Allocation of ICAL funding for fiscal year 2022 breaks down in equal amounts to Polytech Adult Education and Sussex Tech Adult Education.
 - Additional updates at future meeting.
- Staff Reports published this week:
 - Council on Libraries.
 - Advisory Council on Pedestrians.
 - Governor’s Commission on Community and Volunteer Service.
- Revised presentation meeting structure.
 - Reminder to public, comment limited to board/commission under review, JLOSC Rule #6.
 - Scope of each review included in Staff Report.