

# Staff Findings and Recommendations Report Delaware Cemetery Board

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*153<sup>rd</sup> General Assembly, 1<sup>st</sup> session*

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*Respectfully submitted to the  
Joint Legislative Oversight and Sunset Committee  
March 2025*

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Special thanks: We appreciate the aid provided by Delaware Cemetery Board staff in conducting this review.

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# ABOUT THIS REPORT

This is a staff findings and recommendations report (“staff report”) drafted by Division of Legislative Services staff on the sunset and oversight review (“review”) of the Delaware Cemetery Board.

The Joint Legislative Oversight and Sunset Committee (“JLOSC” or “Committee”) is a bipartisan 10-member legislative body which performs periodic legislative review of state entities. The purpose of the oversight and sunset review is to assess genuine public need and entity performance. JLOSC performs its duties with support provided by the dedicated and nonpartisan staff of Division of Legislative Services. The Division of Legislative Services is a nonpartisan and confidential reference bureau for the General Assembly and supplies many services, including staff support for JLOSC.

JLOSC staff completes a performance evaluation of the entity under review and provides a staff report to JLOSC which includes research, analysis, key findings, and recommendations. During the review process, the following is not assumed:

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

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

JLOSC selected the Delaware Cemetery Board for review on March 2, 2023. During the review process the Delaware Cemetery Board supplied information by completing a self-report which included a performance review questionnaire.<sup>1</sup>

JLOSC staff compiled the following findings and recommendations after completing a performance evaluation. Staff used national evaluation standards while conducting the performance evaluation. These standards require planning and performing the evaluation to obtain sufficient evidence to provide a reasonable basis for the findings and conclusions based on the review criteria. Staff believe the evidence obtained provides a reasonable basis for their findings and conclusions. Additionally, the Objectives, Scope, and Methodology section discusses the fieldwork procedures used while conducting the research and developing the findings and recommendations presented in this report.

The staff report includes recommendations for JLOSC review and discussion. JLOSC does not follow staff’s recommendations by obligation. They convene publicly to review and discuss the staff report and finalize recommendations only after discussing and adopting with an affirmative vote from 7 members.

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

- Continuation of the entity as is.
- Termination of the entity.
- Termination of any program within the entity.

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

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

The information contained in this report, along with the previously published self-report which includes background information from the entity under review, helps JLOSC in conducting a review of the entity.<sup>2</sup> The "JLOSC Staff Observations and Analysis" section of this report has information to support the staff's findings and recommendations.

### **Next Steps**

JLOSC will hold a public hearing for each entity under full review to present to the Committee and accept public comment on the scope of the review.<sup>3</sup>

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

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

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

# OBJECTIVE, SCOPE, AND METHODOLOGY

## Objective

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

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

## Scope

This review covers a 3-year performance period except where noted.

## Review Criteria #1<sup>4</sup>

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

## Methodology for Review Criteria #1

The Delaware Cemetery Board is not a licensing entity, but it does receive and review applications for the Distressed Cemetery Fund.

## Review Criteria #2

The extent to which the entity has served the public interest.

## Methodology for Review Criteria #2

As described in the fieldwork section of this report, this review explored the main duties and responsibilities listed in statute, [Chapter 79A, Title 29](#), except where noted. This report includes findings and recommendations pertaining to the main statutory duties.

## Review Criteria #3

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

## Methodology for Review Criteria #3

The Board submitted its self-report in May 2023 and stated the Committee had submitted recommendations to improve the Committee's operations in fiscal year 2020.

## Review Criteria #4

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

## Methodology for Review Criteria #4

This is the first JLOSC review of the Delaware Cemetery Board; statutory criteria number 4 is not applicable to this review.

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<sup>4</sup> Review Criteria in this staff report is an aggregation of the criteria established in [§ 12011\(b\), Title 29](#).

## Fieldwork completed

During this review, JLOSC staff completed review of the following:

- All information that Board staff supplied.
  - Self-report.
  - Meeting and executive session minutes for fiscal years 2020 – 2023.<sup>4</sup>
  - Board budget reports for fiscal years 2019 – 2023.<sup>5</sup>
  - Board membership 2010 – 2023.
  - Delaware Health Statistics Center, Office of Vital Statistics Organizational Chart.
  - 5 volumes of Board newsletters dated: December 2018 (volume 4), December 2019 (volume 5), June 2021 (volume 6), December 2021 (volume 7), December 2022 (volume 8).
  - Division of Public Health Customer Service Log for fiscal years 2017 – 2024.
  - Delaware Distressed Cemetery Fund Guidelines for website as approved by the Board on May 5, 2021.
  - Spreadsheet of cemeteries registered with DPH as of August 2023.
  - Spreadsheet of all Distressed Cemetery Fund applications received, granted, or denied by the Board fiscal years 2010-2023.<sup>6</sup>
  - Staff requested and reviewed a sample of 20 full application files which included DPH review checklists.
- All available public documents such as newsletters, recommendations, and applications, Board's website, grant recipient updates, and available news articles.
- Current Board statute Chapter 79A, Title 29.<sup>7</sup>
- Related statutes Chapter 31, Title 16 (Registration of Births, Deaths, Marriages, Divorces, Annulments and Adoptions) and Chapter 10, Title 9 For-profit Cemeteries).
- Related legislation.
- Board's overall performance as it relates to current statute.
- Board meeting minutes available on the public meeting calendar January 2020 – December 2024.<sup>8</sup>
- Delaware Distressed Cemetery Fund Guidelines updated July 2023.
- Delaware Cemetery Board Newsletter dated April 2024 (volume 9).
- Board member composition and bylaws.
- Board member training opportunities.
- Attended various Board meetings.

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<sup>4</sup> Files provided May 2023. Meeting minutes not provided for August 17, 2022. Executive session minutes not provided for August 17, 2022, and November 30, 2022.

<sup>5</sup> Prepared and maintained by DPH.

<sup>6</sup> Includes applications reviewed at Board meetings held April 22, 2010 – May 17, 2023 for fiscal years 2010 – 2023, totaling 60 awards and 10 denials. Also includes dates of closeout reports with a statement that the requirement started with fiscal year 2015 awards. Despite statement, awards for fiscal years 2013 and 2014 include closeout report information. Closeout report information is missing for all but 1 award granted in fiscal years 2010 – 2012.

<sup>7</sup> The Board has not promulgated regulations.

<sup>8</sup> Meeting minutes not available for August 17, 2022, and October 18, 2023.



# REVIEW BACKGROUND

In 2008, Senate Bill No. 256 of the 144<sup>th</sup> General Assembly introduced processes for cemetery registration, addressing public cemetery complaints, and aiding distressed cemeteries through the creation of the Distressed Cemetery Fund (“the Fund”).<sup>9</sup> SB 256 also created the Delaware Cemetery Board (“Board”) to implement these processes and administer the Fund. The processes, including the Fund and Board, sought to address public complaints, maintenance issues, and financial challenges facing Delaware cemeteries, with a particular emphasis on historic sites such as the Riverview Cemetery in Wilmington.

The Board consists of 5 members who are appointed by the Secretary of the Delaware Department of Health and Social Services (“DHSS”) and serve without compensation.<sup>10</sup> Board’s key responsibility is administering the Fund, which includes reviewing and approving financial assistance applications, determining eligibility, and reviewing project closeout statements. The Board operates under DHSS, with administrative support from the Division of Public Health (“DPH”).<sup>11</sup> DPH staff maintain the registry of Delaware cemeteries, receive and refer public cemetery complaints to the appropriate entities, and provide administrative support for the Board.

Starting in 2009, Delaware cemeteries began registering with DPH and they must re-register every 5 years or if ownership changes. There is a registration fee established by DHSS to cover administrative costs.<sup>12</sup> A \$2 fee attached to all death certificate copies is the primary funding source of the Fund. DPH operates the process of issuing copies of death certificates and collecting associated fees. By statute, under Chapter 79A, Title 29, the State Auditor’s Office must annually audit the Fund.<sup>13</sup>

This is JLOSC’s first review of the Board. This review began in March of 2023. The entity completed and returned a self-report in May 2023. JLOSC staff conducted research and drafted this findings and recommendations report. Completion of this report were delayed until the findings of an audit, discussed in footnote 14 and later in this report, were published.

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<sup>9</sup> Senate Bill No. 256, as amended by Senate Amendment No. 1, 144<sup>th</sup> General Assembly, enacted July 2008. Senate Amendment 1 removed a Fund objective to record locations of interred human remains by requiring burial or transit permits to identify the final burial location to include lot, space, and grave number.

<sup>10</sup> Board membership is 3 owners or operators of cemeteries and 2 public members. The Board did not have a vacancy as of the submission of the self-report.

<sup>11</sup> DPH staff specifically assigned to the Board fall under Epidemiology, Health Data, and Informatics which include the Delaware Health Statistics Center and the Office of Vital Statistics.

<sup>12</sup> Registration fee is currently \$10.

<sup>13</sup> Audit report for 2020-2023 fiscal years released January 23, 2025, and available online: <https://auditor.delaware.gov/reports>.



# REVIEW CRITERIA OBSERVATIONS

## Criteria #1 Observations:

Criteria #1 evaluates the extent to which an entity fulfills its licensing responsibilities by enabling qualified applicants to obtain licensure. While the Board is not a licensing entity, it carries out a similar function by receiving and reviewing applications for the Fund. JLOSC staff reviewed Board application activity from fiscal years 2020 through 2023.<sup>14</sup> During this time the Board reviewed 27 applications, approved 23, and denied 4. Reasons for denial included 1 application for reimbursement on a previously completed project, and 3 applications did not qualify as distressed based on the provided financial information.

Fiscal Year	Total Number of Applications Received	Total Number of Applications Denied	Total Number of Applications Approved	Total Amount of Approved Applications	Amount Approved for Fiscal Year
2023	7	1	6	\$68,896.68	\$100,000
2022	8	1	7	\$72,270	\$100,000
2021	5	2	3	\$37,870	\$100,000
2020	7	0	7	\$90,770.55	\$100,000
Totals	27	4	23	\$269,807.23	\$400,000

Chart created by JLOSC staff using DPH provided information.

The Board reviews applications in executive sessions, but has no standardized and uniform review process, and different questions are asked during each review.

## Board Application Guidelines and Requirements

The Board's statute provides limited details on the definitions and criteria for approving applications, leaving the Board to establish definitions and criteria through regulations. However, the Board has not yet developed regulations and instead relies on a set of guidelines available on the DPH website.<sup>15</sup> The guidelines, last revised on July 1, 2023 (effective since May 5, 2011), serve as the primary resource for applicants.

The guidelines introduce requirements not specified in the Code, including the need for a public sign, submission of a closeout report within 6 months of receipt of the funds, and a 50% match requirement for funding requests. This match may be fulfilled using volunteer hours instead of cash.<sup>16</sup> Despite this, the guidelines do not prioritize certain cemetery types, such as historical or inactive non-profits, nor do they include a rubric or scoring system for evaluating applications.

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<sup>14</sup> Outlined in the Objective, Scope, and Methodology section of this report.

<sup>15</sup> Current Board guidelines (revised July 2023) available in Appendix B.

<sup>16</sup> Application and guidelines have not been updated to provide an example of current formula using the maximum amount of \$17,500. Application available in Appendix D.

Cemeteries with available funds in operating or investment accounts are expected to contribute real dollars toward project costs. However, this requirement lacks clarity on the amount required or the criteria used for assessment. Some applications revealed substantial funds in cemeteries' long-term accounts, yet applicants primarily relied on volunteer hours to meet the match requirement. It is not clear if the volunteer hours are intended to assist the cemeteries that cannot match the amount distributed from the Fund, or that all cemeteries, regardless of financial status, can use volunteer hours to meet the match requirement.

The guidelines permit the Board to grant waivers for unusual circumstances but do not provide details on how waivers are requested or the criteria the Board uses to determine waiver approvals.<sup>17</sup> Additionally, both the guidelines and the application reference criminal and civil prosecution, which is not required by or referenced in the Board's statute.<sup>18</sup> The application also states that applicants cannot refuse business to companies based on protected statuses, though this is not addressed in the guidelines and is not referenced in the Board's statute.<sup>19</sup>

The guidelines outline application procedures, but do not specify disqualifications based on ownership status, profit status, operational status (active or inactive), or the presence of endowment or perpetual care funds, despite requiring applicants to provide this information.

A supplemental form available on the DPH website asks for additional corporate, cemetery, and fiscal information. However, this form is not referenced in the guidelines, leaving its necessity and the criteria for evaluating the information unclear.

While the Board's statute provides a broad definition for "distressed cemetery,"<sup>20</sup> and assigns the Board the responsibility to further define it through regulations,<sup>21</sup> no such regulations have been issued. The guidelines also do not provide a clear definition of a "distressed cemetery." Furthermore, it is unclear how financial information, such as the presence of endowment or perpetual care funds, is weighed for active versus inactive or non-profit versus for-profit cemeteries. Additionally, there is no requirement for active cemeteries to establish and maintain endowment or perpetual care funds to support their maintenance and prevent them from becoming distressed.

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<sup>17</sup> Current Board guidelines (revised July 2023) available in Appendix B.

<sup>18</sup> Application available in Appendix D.

<sup>19</sup> Application states: "Applicant acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Applicant recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, the Division of Public Health may refer the conduct to the appropriate authority and may also disqualify Applicant from future distressed cemetery funds."

<sup>20</sup> "(6) 'Distressed cemetery' means any land or structure used or intended to be used for the interment or entombment of human remains including facilities used for the final disposition of cremated remains or remains following "natural organic reduction," as defined under § 3101 of Title 16, whereby the owner lacks sufficient financial resources for the maintenance or preservation of the cemetery as determined by the Board. An abandoned cemetery may qualify as a distressed cemetery if registered with the State by a responsible party or volunteer." § 7902A, Title 29 of the Delaware Code.

<sup>21</sup> See § 7904A(5), Title 29 of the Delaware Code.

## **Criteria #2 Observations:**

Criteria #2 assesses how effectively an entity has served the public interest. This review explored the main duties and responsibilities listed in the Board's statute, Chapter 79A, Title 29, and made the following observations regarding the duties and responsibilities of DHSS; referral of complaints; Board composition, duties, and meetings; registration of cemeteries in Delaware; administration of the Fund; and the annual audit requirement of the Fund.

### **Duties and Responsibilities of DHSS**

Chapter 79A, Title 29 requires DHSS to keep a register of Delaware cemeteries, records relating to meetings of the Board, and provide administrative support to the Fund. DHSS determines the registration fee, which is currently \$10.

DHSS organizes administrative support for the Board under DPH and maintains a website for the Board, which includes 5 documents related to the Board and Fund: Board guidelines, cemetery registration form, Fund application, an expense form for volunteer hours or cemetery-related expenses, and a supplemental form for corporations.<sup>22</sup> However, the website lacks information, including in its frequently asked questions, about the requirement to submit the supplemental form for corporations.

The website provides guidance on reporting cemetery consumer concerns but does not include specific information or instructions for submitting cemetery complaints. While the DPH website accurately states that the Board lacks enforcement authority and can only forward complaints to the appropriate entity, the Code mandates that the Board must receive and forward complaints. Therefore, the website should include instructions for submitting complaints or a contact form.

DPH handles all Fund applications on behalf of the Board, tracking all applications and awarded amounts in a detailed spreadsheet which also reconciles the Fund balance with First State Financials. Staff also conduct a preliminary review before Board meetings. This review process relies on an internal checklist with 10 general questions about the application. One question refers to whether the cemetery has previously received assistance from the Fund; however, the checklist does not inquire whether the cemetery submitted a Board-required closeout report within 6 months of receiving prior funds.

The checklist also includes 2 questions that only the Board can answer. The first asks if the cemetery meets the definition of a "distressed cemetery" as outlined in the Code. This determination is outside the scope of DPH staff since the Code provides a broad definition, and the Board has not clarified this term through regulations or guidelines. Ultimately, the decision on whether a cemetery qualifies as "distressed" remains the Board's responsibility.

The second question asks whether the application provides "proof of financial need." While DPH staff can verify the inclusion of financial documentation, they cannot determine

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<sup>22</sup> All documents available in Appendix B – F. The form for volunteer hours or cemetery-related expenses includes volunteer hourly rates for 3 years and a note to "please check with DPH Support for new hourly rate which usually changes end of March each year." The process for rate changes is unknown but Board guidelines state that the "Independent Sector's hourly rate [is used] to calculate the value of volunteer hours."

whether it meets the criteria for financial need. The Code does not define “financial need” or specify what financial documentation is required, and the Board has provided only general instructions without defining or establishing criteria for determining financial need. These ambiguities leave the final decision on financial need to the Board, without notice to the cemeteries as to what meets financial need threshold.

### **Referral of Complaints**

The Board’s self-report states that DPH staff receives complaints and inquiries primarily through telephone calls and emails, mostly from the public and typically revolving around overgrown grass or vegetation in a cemetery, neglected cemeteries, and theft of tombstones.<sup>23</sup> In recent years, the Board notes that there has been an uptick in requests for cemetery maintenance assistance due to limited financial resources or volunteers.

The Board does not have enforcement authority and does not conduct any formal investigations. If assistance is necessary, support staff reach out to Board members by email or phone. Support staff record each customer service inquiry received, including complaints and their resolutions, in a customer service log.

A JLOSC staff review of DPH customer service logs echo the information provided in the self-report.<sup>24</sup> JLOSC staff reviewed 663 inquiries which range from asking about how to register cemeteries with the State, how to apply for distressed cemetery assistance, maintenance responsibility, neglected cemeteries, and concerned citizens expressing safety concerns.<sup>25</sup> Also noted were questions from the public, volunteers, and cemeteries regarding burial records, with some concerns involving location of interred human remains.<sup>26</sup> The Board’s meeting minutes included additional discussion on volunteer hours with regard to hourly rate calculations and the availability of the form to log volunteer hours and cemetery related expenses.<sup>27</sup>

### **Board Composition, Duties, and Meetings**

Board membership consists of 5 members; 3 are cemetery owners or operators and 2 are public members. The DHSS Secretary appoints members to serve a term of 3-years, with no limit on additional terms. As part of this review, DPH provided a list of Board membership that included the appointment of the Board’s first members in 2010 to current members. Since 2010 there have been a total of 14 members appointed, with an average term length just above 1.5 terms. There are 5 members currently serving on the Board and 9 former members. Of the current members, 1 member is an original member from 2010 and is currently serving a 5<sup>th</sup> term on the Board.

The Board has 9 powers and duties outlined in Chapter 79A, Title 29:

1. Promulgate rules and regulations necessary to implement Chapter 79A, Title 29.
2. Designate the registration form all registrants will use.

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<sup>23</sup> County enforcement of maintenance regulations and penalties regarding for-profit cemeteries under Chapter 10, Title 9.

<sup>24</sup> Staff noted the number of inquiries per fiscal year decreased after fiscal year 2019.

<sup>25</sup> DPH provided customer service logs for fiscal years 2016 through 2024. Fiscal year 2022 only logged 2 inquiries and staff noted that documentation of inquiries stopped due to pandemic and staff shortage.

<sup>26</sup> Law, regulation, or guidelines not found relating to cemetery requirement of maintaining burial records, especially a cemetery that is in active status. Recent meeting minutes included Board and public comment discussion regarding burial records techniques and revising Board registration forms to include veteran grave information.

<sup>27</sup> January 2022 and August 2023 minutes, form uploaded to DPH website after August 2023 meeting.

3. Administer the Fund.
4. Designate the application form used for assistance from the Fund.
5. Designate a cemetery as “distressed” based on standards set in Chapter 79A, Title 29 and any rules and regulations promulgated by the Board.
6. Authorize payment to a distressed cemetery from the Fund. The Board can make conditional decisions, but the conditions must be related to the specific project in question.
7. Require a thorough accounting of each recipient’s use of money from the Fund.
8. Receive and forward to appropriate agencies of the State, or other organizations, complaints from any person relating to a Delaware cemetery.
9. Address specific cemetery issues as requested by the Governor or the General Assembly.

The review period looked at meetings held from March 18, 2020, through October 9, 2024. The Board met at least twice per year, scheduled 24 meetings, held 18 meetings, and cancelled 6 meetings.<sup>28</sup> Since this Board meets less than 4 times per year it is required to post draft minutes on Delaware’s Public Meeting Calendar, which was not consistently done for all meetings. Meeting minutes are available for all meetings except August 17, 2022, and October 18, 2023. In addition to meeting minutes, the Board releases a newsletter annually with basic information on Fund awards.<sup>29</sup> The Board maintains guidelines, discussed in this staff report, and bylaws.<sup>30</sup> Board bylaws include items governing Board composition, meeting procedures, and meetings.

### **Registration of Cemeteries in Delaware**

In its self-report, the Board confirms its goal to register all cemeteries in Delaware and that statute requires that cemetery companies and owners register with the Board every 5 years, or upon a change in ownership.<sup>31</sup>

To register, the registration form has to be printed from the DPH website and mailed to the Board office with a check or money order for the \$10 registration fee.<sup>32</sup> The registration fee is waived in the Board’s guidelines for cemeteries located on government land, inactive cemeteries with fewer than 10 graves, and abandoned cemeteries. However, the Board’s guidelines do not explain the process for fee waivers, and the registration form does not include information about these exemptions or ask if the cemetery qualifies for a fee waiver. Instead, the form asks whether the cemetery is active or inactive, nonprofit or for-profit, and whether it has capacity for more burials. Once completed the registration form has to be mailed to the Board’s office with a money order or check.

The Board’s guidelines require cemeteries to register to seek financial assistance from the Fund. Many cemeteries remain unregistered since registration is voluntary, incentive based, and not all cemeteries qualify for assistance.

The Board has faced additional registration challenges including the difficulty of locating owners for some cemeteries. While the Delaware Public Archives maintains a database

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<sup>28</sup> 29 Del. C. § 7903A.

<sup>29</sup> A newsletter was not released in 2023.

<sup>30</sup> Board guidelines and bylaws available on DPH website:  
<https://www.dhss.delaware.gov/dhss/dph/hp/DECB.html>.

<sup>31</sup> 29 Del. C. § 7906A.

<sup>32</sup> Cemetery registration form available in Appendix C.

of cemeteries, it does not actively register them. The Board's guidelines include a Fund application requirement to submit a small-scale map of the cemetery, showing nearby roads, which can be hand-drawn. The Board indicates that the maps are filed with the Delaware Public Archives. A copy of all registered cemeteries is not available to the public on the DPH website, and it is unknown if Delaware Public Archives is provided registry information.

As of August 2023, the Board registered 260 cemeteries in Delaware. DPH staff maintain registration data using an Excel spreadsheet; however, there is information requested on the registration form that is not logged in the spreadsheet.<sup>33</sup> The spreadsheet includes the following data:

- Organization/cemetery name.
- Registration number.
- Registration period and amount paid.
- Expiration date of the registration.
- Registration status (past due or ok).
- Cemetery's physical location.
- County.
- Mailing address.
- The group/individual who registered the cemetery's:
  - Name.
  - Contact phone number.
  - Email address.
- Name of owner.
- Miscellaneous comments about the registered cemetery.

### **Administration of the Distressed Cemetery Fund**

A distressed cemetery is defined as

...any land or structure used or intended to be used for the interment or entombment of human remains including facilities used for the final disposition of cremated remains or remains following "natural organic reduction," as defined under § 3101 of Title 16, whereby the owner lacks sufficient financial resources for the maintenance or preservation of the cemetery as determined by the Board. An abandoned cemetery may qualify as a distressed cemetery if registered with the State by a responsible party or volunteer.<sup>34</sup>

An abandoned cemetery is defined as "a cemetery where there is no owner of record in the respective county's recorder of deeds records."<sup>35</sup>

The Distressed Cemetery Fund is funded by receiving \$2 from every death certificate sold by DPH's Office of Vital Statistics. All funds in excess of \$100,000 received during a fiscal year are automatically reverted to the General Fund. Since 2009, the Board has awarded \$540,344.17 to 35 cemeteries. Multiple cemeteries have received more than one award

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<sup>33</sup> Cemetery registration form available in Appendix C.

<sup>34</sup> 29 Del. C. § 7902A(6).

<sup>35</sup> 29 Del. C. § 7902A(1).

over the years since the Fund was established. Funds have been distributed to address safety issues such as:

- Collapsed graves.
- Vandalized tombstones.
- Tombstone and mausoleum repairs, some due to vehicle accidents.
- Railings.
- Grounds maintenance.

Applicants are limited to applying for a maximum of \$17,500 of assistance and cannot apply more than once in a 12-month period. This is a recent update the Board made in its guidelines at its March 30, 2023, meeting.<sup>36</sup> Citing inflation, the Board discussed and decreased the 18-month limit for applications to once every 12-month period and increased the limit of applications from \$15,000 to \$17,500 for each application. The Board stated it had been 6 years since the amount had been raised from \$10,000 to \$15,000. The Board's updated guidelines dated July 2023 reflect this change.<sup>37</sup>

Another update reflected in the Board's guidelines refers to memorial gardens; however, it is unclear how the Board decided to add this additional guideline. DPH customer service logs show calls in July 2023 regarding remembrance garden questions. The Board met on August 30, 2023, and stated they received remembrance garden questions. Without a recorded vote, the minutes state the following requirements for scattering or remembrance gardens:

1. Churches or organizations that have an established cemetery and it is registered with the Board do not have to separately register a scattering or remembrance garden.
2. Churches or organizations that only have a scattering or remembrance garden with distinct burial areas and records for the deceased must register it with the Board.<sup>38</sup>
3. Churches or organizations that only have a scattering or remembrance garden with no distinct burial areas for the deceased are not required to register it with the Board.

Since these same requirements are in the Board's July 2023 guidelines, it is presumed the requirements were added after the August 30, 2023, meeting.

### **Annual Audit Requirement of the Distressed Cemetery Fund**

On January 23, 2025, the Office of Auditor of Accounts ("AOA") released an examination of the Fund.<sup>39</sup> The Board's statute requires an annual audit of the Fund by AOA.<sup>40</sup> This was the first audit completed of the Fund since it was established. AOA examined the fund from fiscal years 2020 through 2023. AOA found that the Board had 262 registered

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<sup>36</sup> Previous Board guidelines (undated) available in Appendix A.

<sup>37</sup> Current Board guidelines (revised July 2023) available in Appendix B.

<sup>38</sup> Records for the deceased are not required to be kept by the Board.

<sup>39</sup> JLOSC decided to holdover the Board, originally slated for a 2024 presentation date, to 2025 due in part to waiting for the AOA's report to be published. Report available on [AOA website](#).

<sup>40</sup> 29 Del. C. § 7907A.



cemeteries through June 30, 2023, and 26 cemeteries received assistance from the Fund totaling \$179,037. A total of \$510,064 was collected for the Fund from cemetery registration and death certificate fees.

AOA found 2 instances of significant deficiencies in internal controls.<sup>41</sup> First, AOA found a lack of transactional review and approval that resulted in incomplete supporting documentation for death certificate fee allocations to the Distressed Cemetery Fund in several sampled deposits. AOA suggested that the Board establish a review and approval process for each type of transaction. Cash/check, credit card, and ACH payment should be entered separately and have their own approval processes. AOA additionally suggested that the Board should establish a record keeping process in order to easily and accurately document funds received.

Second, 3 death certificate fee allocations involved sales below the standard charge. DPH either included correction certificates in the sales count or failed to collect the full \$25 fee. Complete supporting documentation was not provided for these transactions. AOA recommended that the Board establish more effective controls for credit card transaction in order to more accurately record funds they receive. AOA additionally suggested that the Board better maintain its supporting documentation in order to accurately reflect the funds that were entered, reviewed, and approved.

The Bureau of Health and Vital Statistics (“OVS”) responded to AOA’s first finding. OVS agreed that internal controls are important and has procedures in place. However, OVS has found that staffing issues have hindered its ability to effectively monitor supporting documentation for fee allocation to the Distressed Cemetery Fund. 2 positions, the Vital Statistics Administrator and an Administrative Specialist II, were key positions in verifying that Daily Fees Reports (“DFRs”) and credit card transactions were documented properly. Additionally, the Office of Financial Services (“OFS”) had requested that OVS only send the DFRs without supporting documentation due to OFS’s lack of storage space. OVS stated its willingness to work with AOA to ensure that OVS’s controls comply with OVS’s procedures.

OFS answered to AOA’s second finding. OFS stated that they had recently hired a new Fiscal Manager who provided AOA with documentary support for the 3 deposits mentioned in AOA’s finding. OFS would also provide to AOA the procedures for the deposit function.

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<sup>41</sup> “A significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness yet important enough to merit attention by those charged with governance.” Quoting from the [Auditor’s Report on the Distressed Cemetery Fund](#).

### **Criteria #3 Observations:**

Criteria #3 evaluates whether an entity has proposed statutory changes that directly benefit the public or primarily serve the entity or other entities with only indirect public benefit. The Commission's self-report, submitted in May 2023, indicates that the Committee made recommendations in fiscal year 2020 to enhance its operations. The Board had suggested a statute change in response to a state entity requesting assistance from the Fund for a cemetery located on State property.<sup>42</sup> DHSS determined that State agencies should request funds in their respective budgets to maintain cemeteries in their care. This legislative change was not further pursued.

While DHSS's discretion is noted, codifying the determination that State agencies should not be included in eligibility for the Fund and should instead maintain cemeteries under their own budgetary appropriations would avoid confusion regarding the Fund and which cemeteries are not qualified.

### **Other Grant Programs, States with State Cemetery Fund**

In absence of DPH or Board provided recommended changes, JLOSC staff reviewed the availability of other grant programs and state cemetery funds. There are national grant programs for historic preservation through nonprofit groups such as the Daughters of the American Revolution. Federal grants are also available for cemeteries specific to active-duty military or veterans.

Cemetery grant funding programs differ across states; for example, Florida and Virginia provide grants specifically for historical African American cemeteries, while at least 5 states, including Arkansas, Connecticut, Indiana, New York, and Ohio, offer broader statewide cemetery funds. Summaries of these 5 state programs highlight the unique approaches to addressing cemetery maintenance and preservation needs.

- Arkansas<sup>43</sup>: The State Board of Embalmers, Funeral Directors, Cemeteries, and Burial Services oversees the Insolvent Cemetery Grant Fund to assist financially distressed or insolvent perpetual care cemeteries. There is an annual grant cap of \$35,000 for an organization applying for grant funds. The Board reviews grant applications and establishes rules for the process. The Board works with the State Insurance Department to perform audits of cemeteries and crematoriums and assists with annual reporting for perpetual care cemeteries. The Insurance Commissioner distributes grants for perpetual care cemetery improvements using appropriated funds from the General Assembly and places excess funds from the Insolvent Cemetery Loan Fund to the Insolvent Cemetery Grant Fund.
- Connecticut<sup>44</sup>: Connecticut's Neglected Cemetery Account, funded by death certificate fees, provides annual grants through the Office of Policy and Management to municipalities for maintaining neglected burial grounds with more than 6 interments that show signs of overgrowth or disrepair. Eligible expenditures include clearing vegetation, mowing lawns, repairing fences or walls, and restoring memorial stones, while grant eligibility requires municipalities to fully utilize previous funds before applying for new grants.

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<sup>42</sup> 29 Del. C. § 7902A(6).

<sup>43</sup> A.C.A. Tit. 20, Subtit. 2., Ch. 17, Subch. 13 Note.

<sup>44</sup> Conn. Gen. Stat. § 19a-300.

- Indiana<sup>45</sup>: The State Board of Funeral and Cemetery Service manages a consumer protection fund to support cemetery maintenance when owners are unable to fund it. Cemetery owners contribute 1% of burial plot sales, and the Board reviews the fund annually. Contributions may be suspended if the fund exceeds \$500,000 after a review. Funds are allocated through an application-based process, reviewed as needed, to address requests for emergency cemetery maintenance.
- New York<sup>46</sup>: The Division of Cemeteries manages funds for vandalism repair and abandoned cemetery maintenance, available only to not-for-profit cemetery corporations. Vandalism funds exclude maintenance that can be addressed through regular upkeep. Separate funds exist for abandoned cemeteries, with eligibility requiring municipalities to prove the cemetery is abandoned and was previously organized under the not-for-profit corporation law or membership corporation law.
- Ohio<sup>47</sup>: The Ohio Division of Real Estate and Professional Licensing, along with the Ohio Cemetery Dispute Resolution Commission, offers annual grant funding totaling \$104,000 in fiscal year 2025 to support exceptional cemetery maintenance or staff training for cemetery operations. Exceptional maintenance refers to non-routine, non-repetitive tasks, excluding day-to-day upkeep. Eligible applicants must be not-for-profit cemetery operators properly registered and in compliance with applicable endowment or preneed trust requirements. Applicants may request up to \$2,500 every other year, while operators managing 5 or more cemeteries can apply annually for the same amount. All grant funds must be accounted for in a final report following generally accepted accounting principles, submitted within 30 days after the grant cycle ends.

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<sup>45</sup> Burns Ind. Code Ann. § 25-15-9-10.

<sup>46</sup> NY CLS N-PCL § 1504.

<sup>47</sup> ORC Ann. 4767.05.

# JLOSC STAFF OBSERVATIONS AND ANALYSIS

Staff reviewed current statutory, structure, and processes that the Board uses, and noted the following:

1. The statute is vague in its definition of “distressed cemetery” when it comes to financial resources, stating simply, “the owner lacks sufficient financial resources for the maintenance or preservation of the cemetery as determined by the Board.”
  - a. The statutory powers and duties assigned to the Board include promulgating rules and regulations to implement the registration of cemeteries and administration of the Fund and direct the Board to create regulations to further designation of a cemetery as “distressed.”
  - b. The Board has voted on guidelines but has not promulgated regulations to further define its processes and procedures of administering the Fund.
  - c. The Board has guidelines which outline its process, but guidelines are not legally binding. The statute gives the Board broad authority as to how to disperse the funds without any checks to those decisions. The Board is able to change its guidelines whenever it sees fit without input from the public. There is no appeals process. Staff believes that the application process should be outlined in either regulations or statute to better inform the public as to the obligations needed to be met to be determined to be a distressed cemetery.
2. The Board does not collect information that indicates whether or how a cemetery requesting funds is keeping its records, including financial and burial.
  - a. There have been questions to the Board in call logs and meeting minutes regarding families who cannot find relatives’ burial sites, from cemeteries regarding proper record management, and relating to ground penetrating radar to find grave sites, but the Board does not require burial records to be kept and does not issue official guidance on burial record management.
  - b. The Fund application has no questions asking how or why an active cemetery fell into a “distressed” status. No questions ask how the active cemetery owner plans to keep the cemetery out of distressed status after receiving the funds, such as establishing or using endowment or perpetual care funds.
  - c. Nothing requires that active cemeteries have or maintain endowment or perpetual care funds or maintain electronic or paper burial files.
  - d. If an applicant has endowment or perpetual care funds there are no requirements for how these funds must be used to qualify as a “distressed cemetery.”
  - e. There is a guideline requirement to submit a map of the cemetery but none that the cemetery maintain records and files on where remains are located, such as burial records.<sup>48</sup>

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<sup>48</sup> Active cemeteries that properly record and maintain burial records could decrease financial liability and avoid the trend of national lawsuits regarding incorrect or absent burial record procedures that result in failure to locate interred human remains.

3. The Board requires a “close-out report” within 6 months from an entity that has received funds. The report must include documentation showing how the funds were used that were allocated from the Fund.
  - a. Statute requires the Board to create a process to acquire accounting of recipient Fund usage but does not include how when reporting must be submitted after allocation of funds. The statute directs the Board to promulgate regulations to implement its their powers and duties. To date, the Board has not promulgated any regulations.
4. The Board discusses and decides applications for funding in executive session. Public funds are being allocated to various entities without input from the public. This creates a transparency issue in that the public is not afforded an opportunity to express concern or approval at how public money is being allocated.
5. There is no formal appeals process. The Board stated in its self-report that, in regard to appeals: “The Board will discuss their decision with the Fund applicant and will follow up by sending a written denial letter to the applicant. The Board Chair or support staff is available to discuss further, if necessary, after the meeting.” An applicant is not afforded a right to appeal the decision. Rather, the Board extends only a conversation to a denied applicant.
6. The Board submits no annual report or annual statement of its business. The Board produces a newsletter that updates the public about distressed cemetery funding. Having an annual statement of the Board’s business would better inform the public as to how the funds have been dispersed. Additionally, an annual report could keep the General Assembly informed on how much money the Board is annually distributing and how many applications are received, approved, and denied.
7. Some states and other nonprofits with distressed or historical cemetery grants use an annual process of review and allocation. This process allows for a clearly stated amount of funds available for the annual grant, clear application requirements, and a scale used to judge applications and reward funds.
  - a. Many states require active cemeteries to maintain endowment or perpetual care funds.
  - b. Delaware has other grant systems in place that use an annual application and decision process that could serve as a model, such as the Delaware State Arts Council.<sup>49</sup>
8. The annual audit requirement outlined in the Code should be adjusted to allow flexibility based on audit risk. The Fund, currently receives an annual allocation of \$100,000 and has averaged nearly 6 awards per fiscal year over the past 4 fiscal years. Recent AOA audit findings demonstrate DPH staff’s willingness to address and correct the 2 identified deficiencies. To reflect this, the annual audit requirement should be modified to occur at least once every 5 years.

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<sup>49</sup> Reviewed by JLOSC in 2023.

# JLOSC STAFF FINDINGS AND RECOMMENDATIONS

## **Finding #1**

The Delaware Cemetery Board was established to promulgate rules and regulations to administer the Distressed Cemetery Fund. The Distressed Cemetery Fund is available to assist owners or volunteers of cemeteries that meet the definition of a distressed cemetery and do not have the necessary funds to improve conditions.

## **Recommendation #1 – Continue.**

Continue the Delaware Cemetery Fund, subject to further recommendations that JLOSC adopts.

## **Finding #2**

The Delaware Cemetery Board's statute is short and gives broad authority to the Board to determine how funds should be dispersed from the Distressed Cemetery Fund. In 17 years since the enactment of the statute, the Board has not promulgated regulations. The Board relies instead on adopted guidelines posted on the DPH website to carry out the Board's duties. The guidelines are often vague and make determinations that should be codified to inform the public as to how the Board operates and the Board's process of distributing funds.

## **Recommendation #2 – Statute Revisions.**

JLOSC should consider sponsoring a bill to make technical corrections to the governing statute of the Delaware Cemetery Board, Chapter 79A, Title 29. Using this review as a guide, the bill should also revise sections covering topics such as:

- Update definitions.
- Include application process and requirements.
- Include which cemeteries qualify based on profit or active status.
- Include whether historical preference is required or desired.
- Include whether endowment or perpetual care funds are required of active cemeteries, and whether these funds exclude an inactive or active cemetery from being defined as distressed.
- Include whether burial records need to be maintained for active cemeteries.

JLOSC and DPH staff will work together to develop statutory revisions. JLOSC staff will engage stakeholders as appropriate.

### **Finding #3**

The annual audit requirement should be adjusted to at least once per 5-year cycle to reflect audit risk, as the Fund currently has an annual allocation of \$100,000, averages 6 awards annually, and recent audit findings show DPH staff's commitment to addressing minor deficiencies.

### **Recommendation #3 – Modify Annual Audit Requirement.**

JLOSC should consider sponsoring a bill to modify the annual audit requirement to a frequency of at least once every 5 years.

JLOSC staff will work with DPH and Office of Auditor of Accounts staff to develop statutory revisions. JLOSC staff will engage stakeholders as necessary.

### **Finding #4**

The Delaware Cemetery Board consistently held public meetings and Board staff have maintained communication with JLOSC staff throughout the review. JLOSC staff do not believe that monitoring the Board beyond the JLOSC statute's required monitoring<sup>50</sup> is necessary. Additionally, staff do not recommend the Board submit progress reports to comply with any JLOSC adopted recommendations.

### **Recommendation #4 – Release from Review.**

Release the Delaware Cemetery Board from review upon enactment of legislation under Recommendations 2.

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<sup>50</sup> 29 Del. C. § 10219.





**DELAWARE HEALTH AND SOCIAL SERVICES**  
**Division of Public Health**  
**Delaware Health Statistics Center**

Guidelines for Distressed Cemetery Fund

Authorization: 29 Del. C., c. 79A - On July 1, 2009, legislation was established that had three objectives: (1) register all Delaware cemeteries; (2) refer complaints about cemeteries from the public to the appropriate agency; and (3) create a Distressed Cemetery Fund that would help improve distressed cemeteries.

- A. The Distressed Cemetery Fund (Fund) is a State of Delaware (State) fund established under the Delaware Department of Health and Social Services (DHSS), Division of Public Health (DPH), Delaware Health Statistics Center (DHSC), to assist owners or volunteers of cemeteries, which meet the definition of a distressed cemetery, who do not have the necessary funds to complete work that is needed to improve conditions.
- B. The Delaware Cemetery Board (DCB) was established to promulgate rules and regulations to administer the fund.
  1. The Board consists of five members appointed by the Secretary of DHSS: three members are owners/operators of cemeteries, and two members are from the public.
  2. The Board conducts four scheduled public meetings per calendar year. Meeting notices are posted on the DCB webpage at <http://dhss.delaware.gov/dhss/dph/hp/DECB.html> and on the State's Public Calendar at <https://publicmeetings.delaware.gov/>.
  3. A DHSC staff member will provide administrative support to the DCB. The staff member will maintain the registration and fiscal records for the fund, refer complaints to the appropriate agency, and administer the fund.
- C. Registration - Cemeteries must be registered with the DPH DHSC *before* they apply for financial assistance.
  1. The registration fee of \$10 is nonrefundable and is valid for five years. A new registration form and payment is required every five years or upon change in ownership of the cemetery. A reminder will be emailed/mailed before the expiration date. If a cemetery is sold, it is the responsibility of the previous owner to notify the DPH Support person so the records may be corrected. A Certificate of Registration will be mailed to the contact's mailing address listed on the registration form.
  2. Check or money order is accepted and is payable to the *State of Delaware*, along with a completed registration form, mailed to the address below.

Delaware Health Statistics Center  
Attn: DE Cemetery Board  
Jesse Cooper Building  
417 Federal Street  
Dover, DE 19901
  3. Waiver of Registration Fees: The registration fee is waived for cemeteries located on government land, inactive cemeteries with less than 10 graves, and abandoned

Effective 5/5/2011

Revised 7/01/2023



cemeteries. However, a registration form must be completed and filed with DPH.

4. Abandoned cemeteries – A volunteer of an abandoned cemetery may register a cemetery. An abandoned cemetery is a cemetery in which there is no owner on file in the Recorder of Deeds office in the county where the cemetery is located. It may qualify as a distressed cemetery. A responsible organization or volunteer may register the cemetery and apply for financial assistance. The registration fee will be waived.
5. Scattering or remembrance gardens
  - a. Churches or organizations that have an established cemetery and it is registered with the Board do not have to separately register a scattering or remembrance garden.
  - b. Churches or organizations that only have a scattering or remembrance garden with distinct burial areas and records for the deceased must register it with the Board.
  - c. Churches or organizations that only have a scattering or remembrance garden with no distinct burial areas for the deceased are not required to register it with the Board.

**D. Financial assistance application**

1. The application must be submitted to the DPH support staff member at the address above two weeks before a scheduled board meeting. The DPH support staff member will provide guidance in completing the application, if needed.
2. Eligibility for Distressed Cemetery Funds: A cemetery must meet the definition of a distressed cemetery. Per 29 Del. C. §7902A (6), “distressed cemetery” is defined as any land or structure used or intended to be used for the interment/entombment of human remains including facilities used for the final disposition of cremated remains whereby the owner lacks sufficient financial resources for the maintenance or preservation of said cemetery as determined by the Board.
3. The maximum requested amount is \$17,500 per cemetery. The Board will consider applications from all types of cemeteries and the requested amount should be the amount of the lowest bid (unless there is a legitimate reason). The financial assistance application may be submitted every 12 months unless there is a substantial occurrence such as a natural disaster, accident, or public safety issue. The DCB gives primary consideration to projects that address public safety and health concerns and that will assist in controlling future maintenance costs of the cemetery. Funds are for proposed projects and not a reimbursement for past projects or for annual lawn maintenance expenses.
4. The match requirement is 50 percent of the requested amount. If the organization does not have the funds to use for the match requirement, they may use the value of volunteer hours and/or cemetery expenses paid for the last three years. The Board uses the Independent Sector’s hourly rate to calculate the value of volunteer hours. If an organization has available funds (either in operating or investment account), then it is expected that real dollars will be used to pay for part of the project. Volunteer hours must be documented by total hours per project per year for the last three years and a template is available as a guide. Contact the DPH support staff member for the current value of volunteer hours calculated by Independent Sector each year. Examples of the match



calculation are as follows.

- a. No Cash Available - no formula used; just need to document 50% of requested amount by using value of vol. hrs. and/or cemetery expenses. Need receipts for cemetery expenses paid.  
Project Cost - \$10,000  
Applicant has No Cash Available  
Requested Amount – \$10,000  
Match is half of requested amount – \$5,000 (match met with documented volunteer hours and/or cemetery expenses valued at \$5,000)
- b. Some Cash Available (use formula)  
Project Cost - \$10,000  
Applicant has Available Cash – \$2,000  
Requested Amount – \$8,000  
Match is half of requested amount – \$4,000 (match met with \$2,000 cash and \$2,000 documented volunteer hours and/or cemetery expenses). Need receipts for cemetery expenses paid.
5. The owner's signature must be on the application. If the applicant is not the owner, the owner must email or mail an authorization letter with their approval directly to the DPH support staff member.
6. The applicant must explain why the cemetery is considered distressed.
7. The scope of work needed must be specific (e.g., number of tombstones that need repair, number of trees removed, type of equipment needed, type and size of fence, etc.).
8. Application packages must include the following items. If requested information is not submitted in a timely manner so the Board can review, the applicant must re-send a completed application. Applications will expire after 90 days.
  - a. Completed and signed application form. Letter from owner, if applicable.
  - b. Copy of Statement of Requested Work given to the vendors to provide the same information from which they can provide comparable quotes.
  - c. Three vendor quotes on vendor letterhead. It is the applicant's responsibility to ensure the vendor is qualified to do the requested work, is properly licensed, and is properly insured with workers compensation and liability insurance coverage in compliance with the State. The Board will determine if a waiver is needed for the requirement of three quotes.
  - d. Photos of the area needing repairs or item for which the funds are being requested.  
**Photos used for "before" work must be taken at the same angle for "after" work photos included in the closeout report.**
  - e. Photo of cemetery sign showing cemetery name and telephone number visible to the



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**Division of Public Health**  
**Delaware Health Statistics Center**

- public. If no sign, applicant must commit to having a sign made by the end of the work. If sign does not have a telephone number or email address for emergencies, then applicant must commit to having it added to the sign by the end of the work.
- f. Most recent statement of all cemetery assets (bank and/or investment accounts and income/expense report).
  - g. Small scale map of the cemetery showing bordering roads/streets, which will be filed at the Delaware Public Archives. May be hand drawn.
  - h. The applicant's signature on the application indicates agreement to erect a sign with the cemetery name and telephone number if none exists and submit a written closeout report six months after receipt of the funds.
9. Each application will be reviewed by the DPH Administrative Officer before it is sent to the Board for review. The DPH Administrative Officer will notify the applicant if application package is incomplete or does not meet requirements.
10. Accepted applications will be added to the next scheduled meeting agenda.
- a. The applicant will be notified of the date/time of the board meeting via e-mail or U.S. mail and must be available to answer questions in person during the executive session of the meeting.
  - b. After the executive session ends, the Board will vote on the application during the public meeting.
- E. The DPH support staff member will send a notification of the approval or disapproval to the applicant.
- a. If approved, instructions will be given to complete the online supplier registration with the State of Delaware so the funds can be processed through the State's accounting system. The website is at <https://accounting.delaware.gov/suppliers/>. Applicants must allow four to six weeks for receipt of payment after notification of the approval.
  - b. If disapproved, the notification will include the reason.
- F. Closeout report
- a. Six months after receipt of the funds (or before if projected completed), the applicant must submit a written report to the Board detailing how the funds were spent using the template provided with the award notification.
  - b. The report must include the details on how funds were spent (e.g., the number of memorials straightened and repaired, number of trees removed, type of equipment purchased, etc.), copies of paid invoices and canceled checks (front and back), along with photographs of the sign and photos of the work completed. **Note: Vendor(s) in the approved application can change only if written approval from the Board is granted. The request to change vendor(s) must be submitted to the DPH Administrative Officer for the Board's approval before the change is made and work begins.**



- G. The Delaware Cemetery Board shall have the right to request updates on the expenditures of the funds and to inspect the work in progress.
- H. In the event of an intentional misuse of funds, the applicant and/or the organization may face civil and criminal prosecution.
- I. The Board reserves the right to grant waivers for unusual circumstances. It is the Board's goal to help as many distressed cemeteries as possible.



**DELAWARE HEALTH AND SOCIAL SERVICES**  
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Authorization: 29 Del. C., c. 79A - On July 1, 2009, legislation was established that had three objectives: (1) register all Delaware cemeteries; (2) refer complaints about cemeteries from the public to the appropriate agency; and (3) create a Distressed Cemetery Fund that would help improve distressed cemeteries.

- A. The Distressed Cemetery Fund (Fund) is a State of Delaware (State) fund established under the Delaware Department of Health and Social Services (DHSS), Division of Public Health (DPH), Delaware Health Statistics Center (DHSC), to assist owners or volunteers of cemeteries, which meet the definition of a distressed cemetery, who do not have the necessary funds to complete work that is needed to improve conditions.
- B. The Delaware Cemetery Board (DCB) was established to promulgate rules and regulations to administer the fund.
  1. The Board consists of five members appointed by the Secretary of DHSS: three members are owners/operators of cemeteries and two members are from the public.
  2. The Board conducts four scheduled public meetings per calendar year. Meeting notices are posted on the DCB webpage at <http://dhss.delaware.gov/dhss/dph/hp/DECB.html> and on the State's Public Calendar at <https://publicmeetings.delaware.gov/>.
  3. A DHSC staff member will assist and serve as administrative support to the DCB. The staff member will maintain the registration and fiscal records for the fund, refer complaints to the appropriate agency, and administer the fund.
- C. Registration - Cemeteries must be registered with the DPH DHSC before they apply for financial assistance.
  1. An owner or volunteer of an abandoned cemetery may register a cemetery.

An abandoned cemetery is a cemetery in which there is no owner on file in the Recorder of Deeds office in the county where the cemetery is located. An abandoned cemetery qualifies as a distressed cemetery. A responsible organization or volunteer may register the cemetery and apply for financial assistance. The registration fee will be waived.
  2. The registration fee of \$10 is nonrefundable. Check or money order is accepted and is *payable to the State of Delaware*, along with a completed registration form, mailed to the address below:

Candace Casto  
Division of Public Health  
Delaware Health Statistics Center  
Jesse Cooper Building  
417 Federal Street  
Dover, DE 19901
  3. Waiver of Registration Fees: The registration fee is waived for cemeteries located on



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**Delaware Health Statistics Center**

government land, inactive cemeteries with less than 10 graves, and abandoned cemeteries. However, a registration form must be completed and on file with DPH.

4. A new registration form and payment is required every five years or upon change in ownership of the cemetery.
5. A Certificate of Registration will be sent to the mailing address listed on the registration form.

**D. Financial assistance application**

1. Eligibility for Distressed Cemetery Funds: A cemetery must meet the definition of a distressed cemetery. Per 29 Del. C. §7902A (6), “distressed cemetery” is defined as any land or structure used or intended to be used for the interment/entombment of human remains including facilities used for the final disposition of cremated remains whereby the owner lacks sufficient financial resources for the maintenance or preservation of said cemetery as determined by the Board. An abandoned cemetery may qualify as a distressed cemetery if registered with the State by a responsible party/volunteer.
3. The maximum requested amount is \$15,000 per cemetery. An organization may only request the cost of the work needed.
4. A financial assistance application may be submitted every 18 months unless there is a substantial occurrence such as a natural disaster, accident, or public safety issue.
5. The match requirement is 50 percent of the requested amount. If the organization does not have the funds to use for the match requirement, they may use volunteer hours or cemetery expenses paid for the last three years. The Board uses the Independent Sector’s hourly rate to calculate the value of volunteer hours. If an organization has available funds, either in operating, perpetual, or endowment funds, then it is expected that real dollars will be used to pay for part of the project. Volunteer hours must be documented by total hours per project per year for the last three years and a template is available as a guide. Contact the DCB administrative support staff member for the current value of volunteer hours calculated by Independent Sector each year. Examples of the match calculation are as follows.
  - a. No Cash Available - no formula used; just need to document 50% of requested amount by using value of vol. hrs. and/or cemetery expenses.  
Project Cost - \$10,000  
Applicant has No Cash Available  
Requested Amount – \$10,000  
Match is half of requested amount – \$5,000 (match met with documented volunteer hours and/or cemetery expenses valued at \$5,000)
  - b. Some Cash Available (use formula)  
Project Cost - \$10,000  
Applicant has Available Cash – \$2,000





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Requested Amount – \$8,000

Match is half of requested amount – \$4,000 (match met with \$2,000 cash and \$2,000 documented volunteer hours and/or cemetery expenses)

6. Funds are for proposed projects, not for past expenditures. The Board will consider applications from all types of cemeteries.
  7. The application must be submitted to the DCB administrative support staff member at the address above two weeks before a scheduled board meeting. The administrative support staff member will provide guidance in completing the application, if needed.
  8. The owner's signature must be on the application. If the applicant is not the owner, the owner must send a notarized authorization letter with their approval directly to the DCB administrative support staff member.
  9. The scope of work needed must be specific (e.g., number of tombstones that need repair, number of trees removed, type of equipment needed, type and size of fence, etc.).
  10. Application packages must include the following items. If requested information is not submitted in a timely manner so the Board can review, the applicant must re-send a completed application. Applications will expire after 90 days.
    - a. Completed and signed application form.
    - b. Copy of Statement of Requested Work given to the vendors.
    - c. Photographs of the area or item needing repairs for which the funds are being requested. Photo of cemetery sign showing cemetery name and telephone number visible to the public.
    - d. Three vendor quotes on vendor letterhead. Vendors must be given same information to provide comparable quotes. It is the applicant's responsibility to ensure the vendor is qualified to do the requested work, is properly licensed, and is properly insured with workers compensation and liability insurance coverage in compliance with the State. The Board will determine if a waiver is needed for the requirement of three quotes.
    - e. Most recent bank statement of all cemetery accounts (most recent income/expense).
    - f. Small scale map of the cemetery, which will be filed at the Delaware Public Archives.
  11. The applicant's signature on the application indicates agreement to erect a sign with the cemetery name and telephone number if none exists and submit a written closeout report six months after receipt of the funds.
  12. The DCB gives primary consideration to projects that address public safety and health concerns and that will assist in controlling future maintenance costs of the cemetery. The Fund is not used for annual lawn maintenance expenses.
- E. Each application will be reviewed by the Administrative Officer before it is sent to the Board for



review. The Administrative Officer will notify the applicant if application package is incomplete or does not meet requirements.

F. Accepted applications will be added to the next scheduled meeting agenda.

1. The applicant will be notified of the date/time of the board meeting via e-mail or U.S. mail and must be available to answer questions in person during the executive session of the meeting.
2. After the executive session ends, the Board will vote on the application during the public meeting.

G. The administrative support staff member will send a notification of the approval or disapproval to the applicant.

1. If approved, instructions will be given to complete the online supplier registration with the State of Delaware so the funds can be processed through the State's accounting system. The website is at <https://accounting.delaware.gov/suppliers/>.
2. If disapproved, the notification will include the reason.
3. Applicants must allow four to six weeks for receipt of payment after notification of the approval.

H. Closeout report

1. Six months after receipt of the funds (or before if projected completed), the applicant must submit a written report to the Board detailing how the funds were spent.
2. A template for the closeout report is provided with the award notification.
3. The report must include the details on how funds were spent (e.g., the number of memorials straightened and repaired, number of trees removed, type of equipment purchased, etc.), copies of paid invoices and canceled checks (front and back), along with photographs of the sign and photos of the work completed. **Note: Vendor(s) submitted in the approved application must not change unless written approval from the Board is granted. The request to change vendor(s) must be sent to the DPH Administrative Officer before the change is made and work begins.**

I. The Delaware Cemetery Board shall have the right to request updates on the expenditures of the funds and to inspect the work in progress.

J. In the event of an intentional misuse of funds, the applicant and/or the organization may face civil and criminal prosecution.

K. The Board reserves the right to grant waivers for unusual circumstances. It is the Board's goal to help as many distressed cemeteries as possible.



**DELAWARE HEALTH AND SOCIAL SERVICES**  
 Division of Public Health  
 Delaware Health Statistics Center

### Cemetery Registration

<b>I. Cemetery and Contact Information - A \$10 nonrefundable registration fee (check or money order) payable to the <i>State of Delaware</i> must be mailed with this registration form to DE Cemetery Board, Delaware Health Statistics Center, Jesse Cooper Bldg., 417 Federal St., Dover, DE 19901. Registration is due every five years or upon change in ownership of the cemetery (29 Del. C. §7906A).</b>			
Name of Cemetery: _____		DE-20 _____	
Owner/Volunteer's Name, if Abandoned: _____			
Mailing Address: _____			
City: _____	State: _____	Zip Code: _____	
Telephone: _____		Email: _____	
Operating Organization (if applicable): _____			
Mailing Address: _____			
City: _____	State: _____	Zip Code: _____	
Telephone: _____		Email: _____	
Physical Address/ County: _____		City: _____	
GPS Coordinates (Latitude/Longitude, if known): _____		Approximate Number of Burials/Acreage: _____	
Date Established: _____		<input type="checkbox"/> NonProfit <input type="checkbox"/> For Profit	
Service Area: <input type="checkbox"/> Statewide <input type="checkbox"/> New Castle <input type="checkbox"/> Kent <input type="checkbox"/> Sussex			
<input type="checkbox"/> Active Cemetery <input type="checkbox"/> Inactive Cemetery <input type="checkbox"/> At Capacity <input type="checkbox"/> Inventory Available			
Number of Prior Year Interments: _____			
<b>II. Person Completing this Registration Form</b>			
I hereby affirm, under penalty of perjury, that the cemetery is properly licensed with the State and county and all the information submitted on this registration form is true, correct, and complete. I am aware that knowingly and willfully making a material misstatement in connection with the registration is grounds for the denial, refusal to renew, suspension, or revocation of the registration. <b>I am aware that the registration with the Cemetery Board is to comply with 29 Del. C. §7906A and to be eligible to apply for Distressed Cemetery Funds and not a license to operate.</b>			
Printed Name: _____		Signature: _____	
Mailing Address: _____			
City: _____	State: _____	Zip Code: _____	
Telephone/Email: _____		Date: _____	



*DELAWARE HEALTH AND SOCIAL SERVICES*  
Division of Public Health  
Delaware Health Statistics Center

## Distressed Cemetery Fund Application for Financial Assistance

(Application should be reviewed with the backup documentation provided.)

<b>I. Cemetery Information</b>	
Cemetery Name: _____	
Registration Number: <u>DE-</u> _____	Registration Period: _____
Owner's Name: _____	Tax ID Number: _____
Funds Payable to: _____	
Mailing Address: _____	
City _____	State: _____ Zip Code: _____
Telephone: _____	Email: _____
Physical Location: _____	
City: _____	State: _____ Zip Code: _____
GPS Coordinates (Latitude/Longitude): _____	
<input type="checkbox"/> Active <input type="checkbox"/> Inactive	Date Established: <u>Select date</u> _____ Acreage: _____
<input type="checkbox"/> NonProfit <input type="checkbox"/> For Profit <input type="checkbox"/> At Capacity	<input type="checkbox"/> Available Inventory
Service Area: <input type="checkbox"/> Statewide <input type="checkbox"/> New Castle <input type="checkbox"/> Kent <input type="checkbox"/> Sussex	
Number of Burials Per Year: _____	
<b>II. Brief History of Cemetery and Past Major Maintenance Completed</b> (Include if Distressed Cemetery Funds were used)	

**III. Briefly explain why the cemetery is considered distressed and describe the work or equipment needed. Be specific as to how funds will be used (number of tombstone repairs/reset or trees removed; type of fence and length/height; type of equipment needed - lawnmower, shed; driveway milling and length, etc.). Include photos of area needing work or equipment, written Request for Work given to vendors, three written vendor quotes, and cemetery sign with cemetery name and contact telephone number.**

**IV. Project Budget, Requested Amount (max. \$15,000), and Match Requirement**

Project Cost:	Amount Requested:	Amount Matched:
Match may be met with cemetery organization's own funds and/or cemetery expenses paid and value of documented volunteer hours for the past three years.		

Cash:	Value of Volunteer Hours:
(Number of hours, per project and year multiplied by current hourly value (please use template for volunteer hours). Volunteer projects should have a sign-in sheet and hours totaled.	

**Cemetery Expenses:**

**Example 1: No Funds Available; need 50% of requested amount by documenting value of volunteer hours and/or cemetery expenses for past three years (need receipts for expenses paid).**

**Project Cost (usually lowest bid) - \$15,000**  
**Requested Amount - \$15,000**

**Match is half of requested amount - \$7,500 (match can be met with value of documented volunteer hours and/or cemetery expenses for the past three years totaling the value at a minimum of \$7,500).**

**Example 2: Some Funds Available; need 50% of requested amount by documenting value of volunteer hours and/or cemetery expenses for past three years (need receipts for expenses paid).**

**Project Cost (usually lowest bid) - \$14,000**  
**Cemetery's Cash Towards Project - \$2,000**  
**Requested Amount - \$12,000**

**Award = Requested Amount/1.5 = \$12,000/1.5 = \$8,000**

**Match = Award \* 0.5 = \$8,000 \* 0.5 = \$4,000 - \$2,000 cash towards project = \$2,000 match amt.**

<b>V. Cemetery's Annual Operating Budget (Must include recent bank statement for all cemetery accounts.)</b>
Annual Income from All Sources (list amount and source): _____
Annual Cemetery Expenses: _____
Operating Deficit (if applicable): _____
Do you have an endowment or perpetual care fund? <input type="checkbox"/> Yes, balance: _____ <input type="checkbox"/> No <i>(Please provide most recent statement for <u>all</u> investments, both long and short-term)</i>
<b>What percentage do you withdraw annually for cemetery maintenance/expenses from the endowment or perpetual care fund?</b>
<b>Value of all assets:</b> <i>(Please provide most recent statement for <u>all</u> assets)</i>
Other income: _____
<b>VI. Required Signature</b>
<input type="checkbox"/> I, hereby affirm, under penalty of law, that all the information submitted in this application is true, correct, and complete. I am aware that intentionally making a material misstatement in connection with an application for financial assistance is grounds for the denial of the application or the requirement of funds to be paid back, and possible criminal or civil action. I affirm that all vendors are properly licensed and insured with workers compensation and liability insurance required in Delaware.
<input type="checkbox"/> Applicant acknowledges that Delaware has an obligation to ensure that public funds are not used to subsidize private discrimination. Applicant recognizes that if they refuse to hire or do business with an individual or company due to reasons of race, color, gender, ethnicity, disability, national origin, age, or any other protected status, the Division of Public Health may refer the conduct to the appropriate authority and may also disqualify Applicant from future distressed cemetery funds.
<input type="checkbox"/> Upon receipt of the funds, I agree to erect a sign at the cemetery if none exists, which includes at a minimum, the name of the cemetery and the contact telephone number or email for the cemetery. I understand I must submit a written report to the Board within six months after receiving the funds detailing how the funds were spent, copies of paid invoices and canceled checks (front and back), the number of memorials straightened and repaired, etc. along with photographs of the sign and before/after photos of work completed.
<b>(If Volunteer Applicant, need owner's approval; if church-owned cemetery, provide Pastor and Trustee Chair's signature)</b>
Applicant's Printed Name: _____
Applicant's Signature: _____ Date: <u>Select date</u>
Owner's Printed Name: _____
Owner's Signature: _____ Date: <u>Select date</u>
Additional Printed Name: _____
Signature: _____ Date: <u>Select date</u>

## APPENDIX E Volunteer Hours or Cemetery Expense Form (undated)

Name of Cemetery:					
Volunteer Hours and/or Cemetery Expenses					
Date:					
Description of Cemetery Work	2021	2022	2023	Total	
Mowing (Example - 25 weeks * 2 hours/week)	0	0	0	0	
Trimming (Example - 25 weeks * 2 hours/week)	0	0	0	0	
Research cemetery	0	0	0	0	
Administrative (attend Cemetery Committee meeting, DE Cemetery Board meeting, cemetery fundraiser, preparation of financial application for Distressed Cemetery Funds)	0	0	0	0	
Other	0	0	0	0	
Total*	0	0	0	0	
Prepared by:					
*Total for Each Year Multiplied by Hourly Rate from Independent Sector (rates change every March)					
2021 - \$28.47					
2022 - \$29.56					
2023 to present - \$31.16 (*please check with DPH Support for new hourly rate which usually changes end of March each year)					
Prepared by:					
**Description of work must be supported on another page listing the people who attended a cemetery cleanup, mowed, trimmed, attended meeting, researched, etc.					
***For increments of hours, please use .25, .50, and .75 (e.g., one hour and fifteen minutes - 1.25; two hours and 30 minutes - 2.50; four hours and forty-five minutes - 4.75)					



# APPENDIX F Supplemental Form for Corporations (undated)



**DELAWARE HEALTH AND SOCIAL SERVICES**  
Division of Public Health

## Supplemental Form to Application for Financial Assistance from Distressed Cemetery Fund

<b>I. Corporation</b>	
Corporation's Governing Board :	
Chair: _____	Director: _____
Director: _____	Director: _____
Director: _____	Director: _____
Principal Shareholder: _____	Percent of stock: _____
Other shareholders, in any order of stock ownership percentage: _____	
The president of the corporation and address: _____	
The corporation holds _____ contiguous acres for use as a single cemetery, of which acres are developed or immediate use.	
<b>II. Cemetery Information</b>	
The cemetery has:    Single Plot <input type="checkbox"/> Double Depth Plot <input type="checkbox"/> Niche or Columbarium <input type="checkbox"/> Lawn Crypts <input type="checkbox"/> Community Mausoleum <input type="checkbox"/> Private Mausoleum <input type="checkbox"/> Scattering Garden <input type="checkbox"/> Memorial: Upright <input type="checkbox"/> Lawn Level <input type="checkbox"/> Both <input type="checkbox"/>	
Cemetery GPS Coordinates: _____	
Estimated number of interments made in prior year: _____	
The corporation has constructed or will soon construct an above ground mausoleum Yes <input type="checkbox"/> No <input type="checkbox"/> One or more family-size mausoleums    Yes <input type="checkbox"/> No <input type="checkbox"/>	
The corporation does (will) assess a one-time charge on each contract/application for the care of the markers, vases, etc.    Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>III. Fiscal</b>	
The corporation's fiscal year closing month: _____	
An endowment or perpetual care fund has been established at: _____	
Name and Address	
Principal amount funded:    \$ _____	Surety bond amount:    \$ _____
<b>IV. Person Completing this Registration Form</b>	
I hereby affirm, under penalty of perjury that all of the information submitted in this application is true, correct, and complete. I am aware that knowingly and willfully making a material misstatement in connection with an application for registration is grounds for the denial, refusal to renew, suspension, or revocation of a registration/license.	
Printed Name: _____	Signature: _____
Individual filing this application	
Title: _____	Date: _____

## **RESPONSE TO THE JLOSC FINDINGS AND RECOMMENDATIONS (DRAFT ONLY)**

**Finding #1:** The Delaware Cemetery Board (Board) was established to promulgate rules and regulations to administer the Distressed Cemetery Fund. The Distressed Cemetery Fund is available to assist owners or volunteers of cemeteries that meet the definition of a distressed cemetery and do not have the necessary funds to improve conditions.

**Recommendation #1:** Continue the Delaware Cemetery Fund, subject to further recommendations that JLOSC adopts.

**Board's Response #1:** The DPH and the Board are grateful to the Joint Legislative Oversight and Sunset Committee (JLOSC) for recognizing the relevance of the Board to Delawareans and for the recommendation to continue the Delaware Distressed Cemetery Fund.

**Finding #2:** The Delaware Cemetery Board's statute is short and gives broad authority to the Board to determine how funds should be dispersed from the Distressed Cemetery Fund. In the 17 years since the enactment of the statute, the Board has not promulgated regulations. The Board relies instead on adopted guidelines posted on the DPH website to carry out the Board's duties. The guidelines are often vague and make determinations that should be codified to inform the public as to how the Board operates and the Board's process of distributing funds.

**Recommendation #2:** Statute Revisions. JLOSC should consider sponsoring a bill to make technical corrections to the governing statute of the Delaware Cemetery Board, 29 Del.C. Ch. 79A. Using this review as a guide, the bill should also revise sections covering topics such as:

- Update definitions.
- Include application process and requirements.
- Include which cemeteries qualify based on profit or active status.
- Include whether historical preference is required or desired.
- Include whether endowment or perpetual care funds are required of active cemeteries, and whether these funds exclude an inactive or active cemetery from being defined as distressed.
- Include whether burial records need to be maintained for active cemeteries.

JLOSC and DPH staff will work together to develop statutory revisions. JLOSC staff will engage stakeholders as appropriate.

**Board's Response #2:** DPH and the Board agree to work together to revise the statute and promulgate regulations on how the Board determines eligibility and awards funds to applicants to ensure a uniform review and approval process of applications for DCF. This

will include reviewing the guidelines, registration, application, supplemental application forms, and the application checklist. The regulations shall include the required documents to help determine if a cemetery is distressed, a list of acceptable restoration projects, the calculation of the award amount, and match requirements.

### **Additional Comments:**

#### **1. Board Operations & Oversight**

- No formal regulations exist for fund administration. Internal guidelines were created by the Board when it was first formed. The guidelines have been revised and voted on by the Board over the years as the need occurred. DPH agrees to work with the Board and Director's Office to create regulations. Please note that the Board has always determined whether the cemetery was distressed and approved the award. The DPH support person created a checklist to ensure the applicant submitted all the required information before sending it to the Board for review. The Board will revise the checklist to include all the necessary documentation and remove wording about whether the cemetery meets the definition of distressed and whether proof of financial need has been provided. The Board created the supplemental form to the application several years ago to inform the Board of how the cemetery corporation was organized. Guidelines and proposed regulations will include a better definition of a distressed cemetery.
- Lack of transparency in funding decisions (applications reviewed in executive session). Although DPH and the Board agree to improve the review and approval process, the applicants do not
- want to have their financial information open to the public. Thus, the Board decided it would be more appropriate to discuss the request with the applicants privately during the Executive Session and then go back to the public meeting to state the request and vote on it. The agenda posted on the Public Calendar has the name of the cemetery listed under the Executive Session - Financial Assistance Applications section. The Chair would always state the amount and what the request is for before the Board votes on it. Also, in Section III of the Application Form, the applicant explains how or why the cemetery became distressed and their plans to maintain it.
- No appeals process for denied applications. DPH and the Board agree to create a formal appeals process in the guidelines and regulations.
- Require cemeteries to maintain burial records. This was never part of the Board's responsibility, so the Board's legislation would need to be changed. DPH nor the Board has the staff to oversee cemeteries. There is an existing State law, 16 Del. C., §3151 and 16 DE Admin. Code 4204, Section 2.0, that requires a cemetery to maintain burial permits as authorization for burials.

- Endowment and perpetual care funds. The Board cannot require endowment and perpetual care funds without a change to the legislation. Per 12 Del. C., §3554, only for-profit cemeteries are required to maintain perpetual care funds. Most of the funds awarded were to nonprofits, so the Board can only suggest that they consider establishing such a fund if none exists.
- Meetings. The Board was not aware that the draft minutes must be posted on the Public Calendar until the Board received the notification from the DPH Director's Office on 4/11/2023. DPH added the draft minutes for the 10/18/2023 meeting to the Public Calendar and sent a request to the Government Information Center to add the 8/17/2022 draft minutes since 2022 meetings are not on the Public Calendar now.
- Annual Newsletters. The 2023 newsletter was dated April 2024, Volume 9. The annual newsletters report on the previous fiscal year's awards and news. It was late getting released due to staffing shortages.
- Annual Report. Submitting an annual report has not been required, so the Board has been reporting their activities in the annual newsletter posted on the Board's website and emailed to cemetery and legislative contacts on our contact list. The newsletter reports the cemetery names and the award amount and includes the cemetery photos before/after the restoration. The DPH and Board agree we should send the newsletter to a contact list for all legislators. Are annual reports required of public boards that do not meet monthly? If an annual report becomes mandatory, it will replace the newsletter.
- Website. A public list of registered cemeteries is available at the meeting anchor location and upon request. DPH considers posting the list on our website.
- Guidelines. The revision date on the Guidelines was changed from 7/1/2023 to 8/30/2023.
- Law. DE Regulations and Guidelines must include the statement that state agencies should not be considered distressed.
- Closeout reports. The requirement for a closeout report six months from receipt of funds is in the Guidelines, Section F. It will be included in the proposed regulations.

## **2. Financial & Administrative Concerns**

- The FY 2020-2023 audit found fund tracking and fee allocation deficiencies. The recently hired Administrative Specialist II in the DE Health Statistics Center completes the funding sheet, and the DPH Office of Fiscal Services completes the fee allocation. This is not the Board's responsibility.
- DHSS staffing shortages impact oversight capabilities. The vacancies are being filled and employees are being trained.

- The \$2 fee from death certificates funds the program, but some allocations were mis recorded. The new DPH Fiscal Manager provided this information since the staff was new when the audit was being conducted.

### 3. Cemetery Registration & Complaints

- Currently, there are 271 cemeteries registered; many cemeteries remain unregistered since the legislation does not require the Board nor DPH to actively seek registrations. To encourage registration, the original board's decision was to provide an incentive for cemeteries to register by stipulating that a cemetery must be registered to be eligible for a grant from the DCF. Several years ago, DPH released a press release about the registration requirement in the law, but only 271 are registered, and several have not renewed. The Board has no enforcement power other than DHSC sends out registration reminders and then moves them to a suspended list in case one of them applies for funds.
- The Board does not have regulatory authority for enforcement or remediation of complaints. Complaints are referred to, not investigated according to the law. Per the Board Chair and founding member, the law never intended to have Board members or DPH staff conduct investigations since there is already an agency for that. The Delaware Department of Justice has the Consumer Protection Unit, which performs consumer-type investigations. DPH also give the public the contact information for the Better Business Bureau, the International Cemetery, Cremation and Funeral Association (ICCF), and the Funeral Consumers Alliance of Maryland and Environs (FCAME) (Note FCAME covers Delaware) to help with consumer issues.
- Registration and payment methods. DPH has been meeting with the GoDE, DTI, DHSS, and DPH Office of Fiscal Services staff to establish an online registration and payment system. Testing of the system is planned for June 2025.
- The process for waivers is explained in the Guidelines, Section C., 3., but Board can add it to the registration form if needed and to the proposed regulations.

**Finding #3:** The annual audit requirement should be adjusted to at least once per 5-year cycle to reflect audit risk, as the Fund currently has an annual allocation of \$100,000, averages 6 awards annually, and recent audit findings show DPH staff's commitment to addressing minor deficiencies.

**Recommendation #3:** Modify Annual Audit Requirement. JLOSC should consider sponsoring a bill to modify the annual audit requirement to a frequency of at least once every 5 years. JLOSC staff will work with DPH and Office of Auditor of Accounts staff to develop statutory revisions. JLOSC staff will engage stakeholders as necessary.

**Response #3:** DPH and Board agrees.

**Finding #4:** The Delaware Cemetery Board consistently held public meetings and Board staff have maintained communication with JLOSC staff throughout the review. JLOSC staff do not believe that monitoring the Board beyond the JLOSC statute's required monitoring is necessary. Additionally, staff do not recommend the Board submit progress reports to comply with any JLOSC adopted recommendations.

**Recommendation #4:** Release from Review. Release the Delaware Cemetery Board from review upon enactment of legislation under Recommendations 2.

Response #4: [DPH and Board appreciated the release from review.](#)