

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(b)(8), 181(15), 183, 3402(c), and 3437 (14  
**Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), & 3437)  
14 **DE Admin. Code** 1204

### FINAL

### ORDER

#### 1204 High Needs Educator Student Loan Payment Program

#### I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3437, the Delaware Department of Education ("Department"), through the Delaware Higher Education Office ("DHEO"), proposes to amend 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program. The High Needs Educator Student Loan Payment Program is a student financial assistance for higher education program that is administered by DHEO. The regulation provides the application process, eligibility criteria, and award process for the High Needs Educator Student Loan Payment Program. The proposed amendments include revising the defined terms in Section 2.0, revising the eligibility requirements for the program in Section 3.0, and making other clarifying changes throughout the regulation. The proposed amendments are consistent with House Bill 480 of the 151st General Assembly, which was signed into law on August 25, 2022. In addition, the Department proposes to renumber the regulation from 1204 to 1215.

Notice of the proposed regulation was published in the *Register of Regulations* on January 1, 2023. The Department received written submittals from Ann C. Fisher, Chairperson of the Governor's Advisory Council for Exceptional Citizens ("GACEC"), and Benjamin Shrader, Chairperson of the State Council for Persons with Disabilities ("SCPD"), concerning the proposed regulation. Ms. Fisher commented that GACEC supports the proposed regulation "as it provides clarity for individuals seeking financial assistance in education under this program." Mr. Shrader commented that SCPD supports the proposed regulation "as it adds clarity to those seeking financial assistance in education."

#### II. FINDINGS OF FACTS

The Department considered GACEC's and SCPD's written submittals and finds that further changes as a result of the written submittals are not necessary. However, the Department made two changes to Section 2.0 that were not the result of the written submittals, i.e., adding "Professional" before "Standards Board" in the definition of "Educator" and adding "be" to subsection (2)(a)(3) of the definition of "High Needs Area." The Department finds that the two changes are not substantive and, therefore, the Department is not required to repropose the regulation in accordance with 29 **Del.C.** §10118(c). The Department further finds that House Bill 480 of the 151st General Assembly amended Title 14, Chapter 34 of the Delaware Code, effective August 25, 2022, and that the proposed amendments to the regulation are necessary.

#### III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program subject to the State Board of Education's approval. On February 16, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program. Therefore, pursuant to 14 **Del.C.** §§ 122(b)(8), 181(15), 183, 3402(c), and 3437, 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program, attached hereto as Exhibit A, is hereby amended.

#### IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited 14 **DE Admin. Code** 1215 High Needs Educator Student Loan Payment Program in the *Administrative Code of Regulations* for the Department.

#### V. EFFECTIVE DATE OF ORDER

The effective date of this Order shall be ten days from the date this Order is published in the *Register of Regulations*.

**IT IS SO ORDERED** the 16th day of February, 2023.

**Department of Education**

Mark A. Holodick, Ed.D., Secretary of Education

Approved this 16th day of February, 2023.

**State Board of Education**

/s/ Shawn Brittingham, President

Vincent Lofink, Vice President (absent)

/s/ Candice Fifer

/s/ Audrey J. Noble, Ph.D.

/s/ Rev. Provey Powell, Jr.

/s/ Wali W. Rushdan, II

/s/ Deborah Stevens

**\*Please note: Electronic signatures ("/s/") were accepted pursuant to 6 Del.C. §12A-107(d).**

**1204 1215 High Needs Educator Student Loan Payment Program**

**1.0 Purpose**

The purpose of this regulation is to provide eligibility criteria and to delineate the application process for the High Needs Educator Student Loan Payment Program, pursuant to 14 Del.C. Ch. 11A, §§~~1101A through 1111A~~ §3437.

**2.0 Definitions**

**"Award"** means the ~~Department's Delaware Higher Education Office's~~ decision to make a Loan Payment on an applicant's behalf.

**"Delaware Higher Education Office" or "DHEO"** means the Delaware Department of Education's office which administers specific programs related to higher education, including student financial assistance programs.

**"Department"** means the Delaware Department of Education.

**"Educator"** means a person licensed and certified by the ~~State Department~~ to engage in the practice of instruction, administration or other related professional support services in Delaware public schools, including charter schools, pursuant to rules and regulations promulgated by the Standards Board and approved by the State Board of Education. For purposes of this regulation, Educator also includes teachers employed by the Delaware Division for the Visually Impaired who teach ~~visually impaired~~ students with visual impairment.

**"English Learner"** means ~~a student with limited English proficiency and who meets the definition of English Learner as defined by the Department's rules and regulations.~~

**"High Needs Area"** means:

- (1) Any certification field ~~the Department~~ DHEO has identified as being difficult to staff or of critical need; or
- (2) Any school either:
  - (a) In the top quartile in ~~three~~ 3 or more of the following:
    - (1) Percentage of Low-Income Students or students within the statewide metric determined by the Department utilizing direct certification for Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP);
    - (2) Percentage of English Learners or students with limited English proficiency and who meet the definition of English Learner as defined by the Department's regulations;
    - (3) Percentage of Students with Disabilities or students who are determined to eligible for one or more of the educational classifications under the Department's regulations and who, by reason thereof, need special education and related services; or
    - (4) Percentage of Minority Students or students who are members of a racial or ethnic group other than the racial or ethnic group that represents the majority of the State's population; or
  - (b) Having 90% of its students classified as Low-Income, English Learners, or Minority; or
  - (c) Any facility operated by the Department of Services for Children, Youth and Their Families in which education programs are provided.

**"Loan Payment"** means a payment by the Department to a successful applicant's lending agency to retire a portion of the applicant's Qualified Educational Loan.

**"Low Income Students"** means ~~students within the statewide metric determined by the Department of Education utilizing direct certification for Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP).~~

**"Minority Students"** means ~~students who are members of a racial or ethnic group other than the racial or ethnic group that represents the majority of the State of Delaware's population.~~

**"Program"** means the High Needs Educator Student Loan Payment Program.

**"Qualified Educational Loan"** means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational expenses related to an Educator's undergraduate or graduate degree program.

**"School"** means a Delaware public school, including a vocational-technical school and a charter school, or a facility operated by the Department of Services for Children, Youth and Their Families.

**"Secretary"** means the Delaware Secretary of Education.

~~**"Students With Disabilities"** means students who because of mental, physical, emotional, developmental, speech or learning disability problems, as defined by the Department of Education, require special education and related services in order to develop their own capabilities.~~

### 3.0 Eligibility

- 3.1 In order to qualify to participate in the Program all of the following must apply:
  - 3.1.1 The applicant shall be an Educator;
  - 3.1.2 The applicant shall have secured a Qualified Educational Loan prior to submitting an application;
  - 3.1.3 The applicant shall have obtained a license and certificate ~~through Delaware~~ issued by the Department;
  - 3.1.4 ~~The applicant shall have received a rating of at least "effective" on the Delaware Performance Appraisal System II or an alternate state approved evaluation system in the most recent evaluation cycle; The applicant has not had an ineffective evaluation on the State's current evaluation system or the equivalent thereof on a State-approved alternative educator evaluation system;~~
  - 3.1.5 The applicant shall instruct or provide educational support in an identified High Needs Area or School for one school year; and year.
  - 3.1.6 ~~The applicant shall not be in default of any federal or state education loan.~~

### 4.0 Application

- 4.1 The application to participate in the Program shall require the applicant to certify that ~~he or she~~ the applicant meets all eligibility requirements.
- 4.2 The applicant must submit for review and approval a new, completed application each year, along with any additional information the Department ~~may request~~ requests.

### 5.0 Award Decision and Disbursement

- 5.1 The ability to make Awards each year is contingent upon the availability of funds.
- 5.2 If possible, ~~the Department~~ DHEO shall make an Award to every applicant who satisfies the requirements of this regulation, consistent with Section 6.0 Amount of Award of this regulation. Awards will be determined based on the pool of eligible applicants in the given year.
  - 5.2.1 Applicants seeking eligibility based on eligible school shall maintain continuous employment by the same School as in the previous school year in order to be eligible for the Award.
    - 5.2.1.1 Applicants shall still be eligible for an Award if they have separated from the School they were previously employed with if separation was involuntary, including reduction in force, or was otherwise beyond the applicant's control.
- 5.3 Where there are insufficient funds to make an Award to every applicant who satisfies Program requirements, ~~the Secretary~~ DHEO shall give priority to applicants who meet the following criteria:
  - 5.3.1 Applicants employed in both a certification field and a School that the Department has identified as a High Needs Area as defined in this regulation.
  - 5.3.2 Applicants having the greatest financial need.
- 5.4 The applicants having the greatest financial need shall be determined at the sole discretion of ~~the Secretary~~ DHEO. Such decision shall be based upon:
  - 5.4.1 The applicant's income;
  - 5.4.2 The applicant's spousal income;
  - 5.4.3 The number of applicant's dependents; and
  - 5.4.4 The total amount of the applicant's Qualified Educational Loans.
- 5.5 ~~The Secretary~~ DHEO shall have the sole discretion to prioritize applications and determine Awards consistent with the requirements of the Program as noted in this regulation.
- 5.6 ~~The Department~~ DHEO shall make a Loan Payment directly to the applicant's lending agency on behalf of the applicant.

5.7 An applicant may receive only ~~one~~ 1 Award per year, and may receive no more than ~~five~~ 5 Awards in their lifetime.

**6.0 Amount of Award**

An Award shall be a minimum of \$1,000 and shall not exceed \$2,000.

**22 DE Reg. 470 (12/01/18)**

**26 DE Reg. 852 (04/01/23) (Final)**