

**DEPARTMENT OF EDUCATION
PROFESSIONAL STANDARDS BOARD**

Statutory Authority: 14 Delaware Code, Sections 1203, 1205(b), 1305(o), and 1305(l) (14 Del.C. §§1203, 1205(b), 1305(o), & 1305(l))
14 DE Admin. Code 1501

FINAL

ORDER

1501 Salary Supplements for Educators

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 Del.C. §§1203, 1205(b), 1305(l), and 1305(o), the Professional Standards Board ("Board"), acting in consultation and cooperation with the Delaware Department of Education ("Department"), developed amendments to 14 DE Admin. Code 1501 Salary Supplements for Educators. The regulation concerns knowledge and skills salary supplements pursuant to 14 Del.C. §1305(k), national certification salary supplements pursuant to 14 Del.C. §1305(l), and additional responsibility assignment salary supplements pursuant to 14 Del.C. §1305(n). In accordance with 14 Del.C. §1305(o), the Board is required to annually review the supplements and promulgate recommendations as necessary. The proposed amendments to this regulation are to add two certifications to subsection 4.1 as a result of HB 348 of the 151st General Assembly. HB 348 amended 14 Del.C. §1305(l) to allow salary supplements for nationally certified occupational therapists and nationally certified physical therapists and was signed into law on October 26, 2022.

The proposed regulation was published in the *Register of Regulations* on January 1, 2023. The Board received written submittals from Rep. Sherea'a Moore, Stephanie Ingram, Kelly Connell, Danielle Freeman, Jason Lorentz, Jessica Lorentz, Jill Olshenske, Kristina Staab, Deanna Stevens, and Andrea Turner. Rep. Moore commented that the legislative intent of HB 348 was to increase compensation for school-based occupational therapists and to recognize and reward the professional development that occupational therapists complete in order to maintain national certification. Rep. Moore further commented that the American Occupational Therapy Association ("AOTA") certification is not recognized by professionals working in the field as the relevant and applicable certifying entity and that the National Board for Certification in Occupational Therapy (NBCOT) is held by occupational therapists working in schools across Delaware. Rep. Moore asked that the Board change the proposed regulation to ensure that occupational therapists who have earned their certification through either AOTA or NBCOT are eligible for the salary supplement. Ms. Ingram, who is the President of the Delaware State Education Association ("DSEA"), commented that DSEA opposes the proposed regulation and that the applicable national organization is NBCOT, not AOTA. Ms. Connell, Ms. Freeman, Mr. Lorentz, Ms. Lorentz, Ms. Olshenske, Ms. Staab, and Ms. Stevens each commented that the proposed regulation should be changed to include NBCOT certification. Ms. Turner commented that she is in support of the proposed regulation.

On February 2, 2023, the Board considered the written submittals. The Board voted to add the occupational therapist certification from NBCOT to subsection 4.1.8 as a result of the written submittals. In accordance with 29 Del.C. §10118(c), the Board's Chairperson determined the additional change is substantive. Therefore, the Board is repropose the regulation. The proposed amendments in the regulation include the amendments that were published on January 1, 2023 and the additional change to subsection 4.1.8.

Notice of the proposed regulation was published in the *Register of Regulations* on March 1, 2023. The Professional Standards Board received 51 written submittals concerning the proposed regulation.

Stephanie Ingram commented that the Delaware State Education Association supports the proposed changes to the regulation and appreciates the Professional Standards Board's efforts and consideration in amending subsection 4.1.8 to include both the AOTA and NBCOT certifications. Kristi Hamilton also supported the proposed regulation.

Christine Holdren, Jennifer Horton, Erica O'Donnell, Emily Spangler, and Warna Warren commented that they support proposed subsections 4.1.7 and 4.1.8. Additionally, Alicia Postlewait commented that she supports including occupational and physical therapists in the proposed regulation.

Robin Adkins, Dawn Alexander, Autumn Apsley, Rebecca Coit, Darla Conaway, John Conaway, Ashley Connell, Cassidy Coppola, Michele Croft, Katrina Daniels, Tara Edwards, Caitlin Evans, Elizabeth Fedak, Lisa Halsey, Kevin Halsey, Sandi Holly, Deborah Hopkins, Amanda Kane, Alexandra Kiser, Tara Kulak, Michele Jones, Jessica Lorentz, Ashley Manion, Elizabeth Merrick, Annette Mestern, Mary Ockels, Jill Olshenske, Connie Shetler, Lea Skipper, Jennifer Villec, Carrie Waldis, Azadeh Warren, Kendall Webb, John Wenige, Jordan Wenige, Sandra Wenige, and Jennifer Yoder commented that they support proposed subsection 4.1.8.

In addition, Danielle Freeman thanked the Professional Standards Board for changing subsection 4.1.8 and commented that the proposed change would help occupational therapists with not only the AOTA certification but also the NBCOT certification. Also, Deanna Stevens commented that she is an occupational therapist working with special needs

children in a school district, she fully supports the salary supplement for educators, including occupational therapists, and occupational therapists are an integral part of the student's IEP in supporting their academic progress through the development of their fine motor and sensory processing skills. Ms. Stevens further commented that occupational therapists' salaries in the school system tend to be significantly lower than salaries of occupational therapists in the private sector and that although she has 28 years of experience, because she only has a bachelor's degree, she is stuck at a lower salary grade than a therapist or teacher with a higher degree and less experience.

Dawn Nielsen commented that she is a State-employed occupational therapist who supports the proposed amendment for an occupational therapist to receive a salary supplement so long as they achieve and maintain NBCOT certification. She further commented that "occupational therapy practitioner" should replace "occupational therapist" to be inclusive for all nationally certified practitioners. Meagen Barton commented that she is an occupational therapist who is employed by a school district. She also commented that "occupational therapy practitioner" should be considered because it is a term that encompasses both occupational therapists and occupational therapy assistants and both practitioners can maintain national certification. Briana Shuman commented that occupational therapy assistants should be included in the proposed regulation because occupational therapy assistants are nationally board certified and the legislative intent of HB 348 was to increase compensation for school-based occupational therapy practitioners and to recognize and reward the professional development that occupational therapy practitioners do.

II. FINDINGS OF FACTS

On April 18, 2023, the Professional Standards Board considered the written submittals. The Professional Standards Board found that the statute, 14 **Del.C.** §1305(l)(6), provides a stipend for an "occupational therapist," not an "occupational therapist assistant." The Professional Standards Board further found that there are different levels between occupational therapists and occupational therapist assistants. The Professional Standards Board found that a legislative change would be necessary in order for the Board to change the regulation so that an occupational therapist assistant could receive a stipend for holding national certification. The Professional Standards Board did not make any changes as a result of the written submittals and voted to propose 14 **DE Admin. Code** 1501 Salary Supplements for Educators, in the form attached hereto as Exhibit A, for adoption by the Department subject to the State Board of Education's approval.

The Department finds that the proposed amendments to the regulation are necessary to implement 14 **Del.C.** Ch. 12 and are designed to improve the quality of the Delaware educator workforce and to improve student performance. Accordingly, the Department finds that it is appropriate to amend 14 **DE Admin. Code** 1501 Salary Supplements for Educators.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Department concludes that it is appropriate to amend 14 **DE Admin. Code** 1501 Salary Supplements for Educators subject to the State Board of Education's approval. On April 20, 2023, the State Board of Education approved amending 14 **DE Admin. Code** 1501 Salary Supplements for Educators. Therefore, pursuant to 14 **Del.C.** §§1203, 1205(b), 1305(l), and 1305(o), 14 **DE Admin. Code** 1501 Salary Supplements for Educators, attached hereto as Exhibit A, is hereby amended.

IV. TEXT AND CITATION

The text of 14 **DE Admin. Code** 1501 Salary Supplements for Educators amended hereby shall be in the form attached hereto as Exhibit A and said regulation shall be cited as 14 **DE Admin. Code** 1501 Salary Supplements for Educators 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 20th day of April, 2023.

Department of Education

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

Approved this 20th day of April, 2023.

State Board of Education

/s/ Shawn Brittingham, President

/s/ Vincent Lofink, Vice President

/s/ Candice Fifer

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

/s/ Rev. Provey Powell, Jr.

Wali W. Rushdan, II (Absent)

/s/ Deborah Stevens

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

1501 Salary Supplements for Educators

1.0 Content

- 1.1 The following requirements shall be met in order to receive the salary supplements established by 14 **Del.C.** §1305. This regulation shall apply to the awarding of salary supplements as a percentage of the State portion of an Educator's annual salary paid in accordance with the provisions of 14 **Del.C.** §1305 for gaining knowledge and skills that lead to more effective instruction, for achieving national certification from the National Board for Professional Teaching Standards or from an equivalent program, and for accepting Additional Responsibility Assignments that impact student achievement.
- 1.2 Supplements are available subject to an annual appropriation from the General Assembly.

5 DE Reg. 2297 (06/01/02)

8 DE Reg. 73 (07/01/04)

23 DE Reg. 571 (01/01/20)

2.0 Definitions

The following words and terms, when used in this regulation, shall have the following meaning:

"Additional Responsibility Assignments" means additional assignments for Educators that are academic in nature and that impact student achievement. For purposes of this regulation and pursuant to 14 **Del.C.** §1305(n), extracurricular or noninstructional supervisory activities are specifically excluded from additional responsibility assignments.

"Administrator Mentor" means a certified administrator who holds a Continuing License, is currently employed as an administrator, performs the duties and responsibilities in the State's administrator mentor program, and is rated as satisfactory on the State's current evaluation system or the equivalent thereof on a state-approved alternative educator evaluation system. A certified administrator is an Educator who holds at least one of the following Standard Certificates: School Principal and Assistant School Principal Standard Certificate (14 **DE Admin. Code** 1591), Certified Central Office Personnel Standard Certificate (14 **DE Admin. Code** 1592), Superintendent and Assistant Superintendent Standard Certificate (14 **DE Admin. Code** 1593), and Special Education Director Standard Certificate (14 **DE Admin. Code** 1594).

"Base Salary" means the salary earned by an Educator as determined by the Educator's level of education and years of service on the Delaware educators' salary schedule pursuant to 14 **Del.C.** §1305.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State under 14 **Del.C.** Ch. 12 to engage in the practice of instruction, administration, or other related professional support services in Delaware public schools, including charter schools, pursuant to the rules and regulations developed by the Professional Standards Board, in consultation and cooperation with the Department, and approved by the State Board of Education. The term 'educator' does not include substitute teachers.

"Knowledge and Skills" means understandings and abilities that, when acquired by Educators, lead to more effective instruction.

"National Certification" means an Educator has achieved and maintains a current national certification as provided in 14 **Del.C.** §1305(l).

"Salary Supplement", when referring to knowledge, skills, national certification, and additional responsibility based supplements, means additional State salary as described in 14 **Del.C.** §1305.

"Teacher or Specialist Lead Mentor" means a teacher or specialist who holds a Continuing or Advanced License, has participated in the training approved by the Department for Teacher or Specialist Lead Mentors, is employed by an employing authority as a Teacher or Specialist Lead Mentor, and performs the duties and responsibilities assigned to that position. Educators serving as Teacher or Specialist Lead Mentors must have all satisfactory evaluations on the State's current evaluation system, or the equivalent thereof on a state-approved alternative educator evaluation system, during the school year in which they are mentors and may not be on an improvement plan, or the equivalent therefore in a state-approved alternative educator evaluation system. Teacher or Specialist Lead Mentors oversee the comprehensive induction program at the building level, train Teacher or Specialist Mentors, and provide support to teachers or specialists in years three and four of the program. Teacher or Specialist Lead Mentors may mentor an Educator in years one and two of the program.

"Teacher or Specialist Mentor" means an Educator who holds a Continuing or Advanced License and has participated in the training for mentors of teachers and specialists specified by the Department and the

employing authority. Educators serving as Teacher or Specialist Mentors must have satisfactory evaluations on the State's current evaluation system, or the equivalent thereof on a state-approved alternative educator evaluation system, during the school year in which they are mentors and may not be on an improvement plan, or the equivalent thereof in a state-approved alternative educator evaluation system. Teacher or Specialist Mentors provide one to one support for Educators in years one and two of the program.

8 DE Reg. 73 (07/01/04)

23 DE Reg. 571 (01/01/20)

24 DE Reg. 867 (03/01/21)

3.0 Knowledge and Skills Salary Supplements

Currently, there are not any approved Knowledge and Skills Salary Supplements.

8 DE Reg. 73 (07/01/04)

23 DE Reg. 571 (01/01/20)

4.0 National Certification

4.1 An Educator may receive a Salary Supplement for achieving and currently maintaining the following certifications as provided in 14 **Del.C.** §1305(l):

4.1.1 National Board Certification from the National Board for Professional Teaching Standards;

4.1.2 Certificate of Clinical Competence in Audiology (CCC-A) or Certificate of Clinical Competence Speech-Language Pathology (CCC-SLP) from the American Speech-Language-Hearing Association;

4.1.3 National Certified School Counselor from the National Board for Certified Counselors;

4.1.4 Music Therapist – Board Certified (MT-BC) from the Certification Board for Music Therapists;

4.1.5 Nationally Certified School Psychologist (NCSP) from the National Association of School Psychologists; ~~or~~

4.1.6 Nationally Certified School Nurse (NCSN) from the National Board for Certification of School ~~Nurses.~~
Nurses;

4.1.7 Nationally Certified Physical Therapy Specialist in any specialty area from the American Board of Physical Therapy Specialists.

4.1.8 Occupational Therapist Advanced Certification from the American Occupational Therapy Association or the Occupational Therapist Registered from the National Board for Certification in Occupational Therapy.

4.2 In order to be eligible for a National Certification Salary Supplement, the Educator shall maintain current certification through the applicable national organization.

4.3 An Educator who is employed as a superintendent, assistant superintendent, or director or in a non-instructional area of transportation, finance/business management, human resources/personnel management, purchasing, community/public relations, administrative services, pupil services, audiology, occupational therapist, physical therapist, psychologist, speech language pathologist, human relations, nurse, social work/services, information technology, or a specialized assignment comparable to these non-instructional areas shall not be eligible for a Salary Supplement for National Certification from the National Board for Professional Teaching Standards.

4.4 An Educator who achieves and maintains National Certification shall receive an annual Salary Supplement equal to 12 percent of the Educator's Base Salary for the certification in subsection 4.1.1 or 6 percent of the Educator's Base Salary for the certifications in subsections 4.1.2 through ~~4.1.6~~ 4.1.8.

5 DE Reg. 2297 (06/01/02)

8 DE Reg. 73 (07/01/04)

23 DE Reg. 571 (01/01/20)

5.0 Additional Responsibility Assignments

5.1 Additional Responsibility Assignments shall be:

5.1.1 Focused on school improvement issues that impact student achievement;

5.1.2 Supported by high quality, targeted professional development; and

5.1.3 Academic in nature.

5.2 In order to qualify for an Additional Responsibility Assignment Salary Supplement, an Educator shall have completed the State approved training program for the position or, in the absence of a training program, shall meet the criteria set forth for the position by the State, school district, charter school, or other employing authority and shall provide State, school district, charter school, or other employing authority approved levels

of service, participate in designated activities throughout the period of responsibility, and document the satisfactory fulfillment of the specified assignment.

5.3 Additional Responsibility Assignment Salary Supplements may be renewed.

5.4 The following assignments are currently an approved Additional Responsibility Assignment:

5.4.1 Administrator Mentor, Teacher or Specialist Lead Mentor, and Teacher or Specialist Mentor as provided in 14 **DE Admin. Code** 1503.

5 DE Reg. 2297 (06/01/02)

8 DE Reg. 73 (07/01/04)

10 DE Reg. 1589 (04/01/07)

23 DE Reg. 571 (01/01/20)

24 DE Reg. 867 (03/01/21)

6.0 Educators' Eligibility for Salary Supplements

Additional Responsibility Assignments: An Educator shall provide the school district, charter school, or other employing authority with such information as may be required to enable the school district, charter school, or other employing authority to verify that the Educator has fulfilled the requirements of subsection 5.2 of this regulation.

8 DE Reg. 73 (07/01/04)

10 DE Reg. 1589 (04/01/07)

23 DE Reg. 571 (01/01/20)

7.0 Payment of Salary Supplements

7.1 Salary Supplements for Additional Responsibility Assignments

7.1.1 Salary supplements earned by Educators who are paid in accordance with the provisions of 14 **Del.C.** §1305 as a result of fulfilling Additional Responsibility Assignments shall be effective following receipt by the Department of documentation from the school district, charter school, or other employing authority of satisfactory completion of the duties associated with the Additional Responsibility Assignment and shall be paid annually.

8 DE Reg. 73 (07/01/04)

23 DE Reg. 571 (01/01/20)

8.0 Limits on Salary Supplements

Salary supplements shall be paid to an Educator in accordance with the provisions of 14 **Del.C.** §1305.

5 DE Reg. 2297 (06/01/02)

8 DE Reg. 73 (07/01/04)

8 DE Reg. 1137 (02/01/05)

10 DE Reg. 1589 (04/01/07)

16 DE Reg. 623 (12/01/12)

23 DE Reg. 571 (01/01/20)

24 DE Reg. 867 (03/01/21)

26 DE Reg. 1063 (06/01/23) (Final)