

**DEPARTMENT OF EDUCATION  
OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Sections 122, 8901E, and 8906E(a) (14 **Del.C.** §§122, 8901E & 8906E(a))

**FINAL**

**REGULATORY IMPLEMENTING ORDER**

**239 Behavioral Health Professional of the Year**

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

Pursuant to 14 **Del.C.** §8901E and §8906E(a), the Secretary of Education intends to create 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year. This new regulation responds to House Bill 35 of the 151st General Assembly, which requires the Department of Education to establish guidance concerning how Behavioral Health Professional of the Year Award funds may be used by the award recipient.

Notice of the proposed regulation was published in the *Delaware Register of Regulations* on August 1, 2021. In addition, notice was published in *The News Journal* and the *Delaware State News* on August 1, 2021, in the form hereto attached as Exhibit "A". No comments were received, however the Department did clarify the term "social worker," by adding the word "school" in front of it. This was done in Section 2.0 Definitions.

**II. FINDINGS OF FACTS**

The Secretary finds that it is appropriate to create 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year in response to House Bill 35 of the 151st General Assembly which requires the Department of Education to establish guidance concerning how Behavioral Health Professional of the Year Award funds may be used by the award recipient.

**III. DECISION TO AMEND THE REGULATION**

For the foregoing reasons, the Secretary concludes that it is appropriate to create 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year attached hereto as *Exhibit "B"* is hereby created. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year hereby created shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

**IV. TEXT AND CITATION**

The text of 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year created hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 239 Behavioral Health Professional of the Year in the *Administrative Code of Regulations* for the Department of Education.

**V. EFFECTIVE DATE OF ORDER**

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on September 14, 2021. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 14th day of September 2021.

**Department of Education**

Susan S. Bunting, Ed.D., Secretary of Education

Approved this 14th day of September 2021

**239 Behavioral Health Professional of the Year**

**1.0 Purpose**

The purpose of this regulation is to establish policies and procedures by which the Behavioral Health Professional of the Year award funds may be used by the designated recipient pursuant to 14 **Del.C.** §8901E.

**2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly indicates otherwise:

**"Behavioral Health Professional of the Year Award Fund"** means a \$5000 fund set aside within the budget of the Department of Education for the award recipient to make withdrawals from as necessary to fund educational purposes and objectives as described in 14 **Del.C.** Ch. 89E.

**"Behavioral Health Professional of the Year Award Recipient" or "Recipient"** means a school employee whose position is health care practitioner or social or human services provider who offers services for the purpose of improving an individual's mental health, such as school counselors, **[school]** social workers, licensed clinical social workers, school psychologists and school nurses as described in 14 **Del.C.** Ch. 89E. This designation is given at both the local school district and at the statewide level.

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

### **3.0 Funding**

- 3.1** The Behavioral Health Professional of the Year Award Fund, in the amount of \$5,000 shall be set aside within the budget of the Department to be used by the statewide Behavioral Health Professional of the Year Award Recipient for educational purposes or objectives benefiting pupils.
- 3.1.1** The Behavioral Health Professional of the Year Award Recipient shall not directly receive the funds or use them for personal benefit, however, the Recipient may be an indirect or incidental beneficiary as the Behavioral Health Professional of the benefited pupils.
- 3.1.2** In order to withdraw funds, the Recipient shall present to the superintendent of the local school district a plan for utilization of the award in order to avoid wasteful duplication of materials or violation of school district policy.
- 3.1.3** Possible use of funds includes, but is not limited to:
- 3.1.3.1** Purchase of non-consumable materials and supplies (library books, audio visual equipment, crossing signs, computer equipment and programs, musical instruments, specialized furniture);
- 3.1.3.2** Purchase of otherwise consumable materials that are used by students (paper, notebooks, binders, pens, pencils, paints, instruments, wood and metal);
- 3.1.3.3** Employment of performers or consultants (touring companies of a dramatic nature or musical group, visiting artist, poet, author or other subject matter expert);
- 3.1.3.4** Student-centered professional development for building level Behavioral Health Professionals; or
- 3.1.3.5** Reimbursements to the recipient, not to exceed \$500, for personal expenses.
- 3.1.4** Materials, equipment or other durable items purchased with such funds shall be the property of the local school district or charter school in which the recipient is employed at the time of expenditure.
- 3.1.5** Invoices, purchase orders or personal reimbursement forms related to withdrawals from the Behavioral Health Professional of the Year Award Fund shall be retained by the local school district or charter school and shall be available for inspection as public records and subject to regular audit by the State Auditor of Accounts.
- 3.1.6** In the event that all funds set aside for an award recipient have not been completely expended by that recipient at the time when a subsequent award is granted, the remainder of the former recipient's award shall not revert, but shall remain set aside in the name of the former recipient until such time as it is totally expended or the recipient becomes deceased or leaves the State of Delaware.
- 3.1.7** The Behavioral Health Professional of the Year Award Fund shall be distinct from, and in addition to, the range of awards at the school district or charter school level.
- 3.2** School districts shall fund the \$2,000 personal award, including other employment costs, to the person chosen district Behavioral Health Professional of the Year. The specific charter school which employs the chosen overall charter school Behavioral Health Professional of the Year shall fund the \$2,000 personal award, including other employment costs. Additionally, the Department of Education will set aside a \$3,000 personal award, including other employment costs, to the statewide Behavioral Health Professional of the Year.