

**DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY**

Statutory Authority: 14 Delaware Code, Section 1108A (14 **Del.C.** §1108A)

FINAL

REGULATORY IMPLEMENTING ORDER

1204 High Needs Educator Student Loan Payment Program

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

The Secretary of the Delaware Department of Education ("Department") intends to create 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program pursuant to 14 **Del.C.** §1108A. This regulation is being created to provide eligibility criteria for the High Needs Educator Student Loan Payment Program.

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on October 1, 2018, in the form hereto attached as Exhibit "A". In addition, the proposed regulation was published in the *Register of Regulations* on October 1, 2018 in the form attached hereto as Exhibit "B."

Written submittals were received from Governor's Advisory Council for Exceptional Citizens and State Council for Persons with Disabilities regarding: (1) whether teachers in the Department of Correction education program are included under this regulation. The Department believes that this regulation is intended for teachers of students in the K-12 system and not adult learners; therefore, the current language in the regulation addresses juvenile facilities under the Department of Services for Children Youth and Their Families and no change is needed to the regulation; (2) including language related to the statutory requirement that an educator shall instruct in a High Needs Area for at least one school year. The Department has made the nonsubstantive change in the regulation attached hereto as Exhibit "C" so the language is consistent with the statute; (3) language being edited to not broaden eligibility as defined by the statute and as referenced in subsection 5.2.1. The Department notes the eligibility requirement of an applicant maintaining employment in the same school as employed by the previous year applies to everyone equally based on either certification and school; (4) clarification to the definition of "High Needs Area." The Department made nonsubstantive changes to clarify the definition of "High Needs Area" in the regulation attached hereto as Exhibit "C"; and (5) clarification on the amounts to be disbursed and how award amounts are decided. The Department notes that the amount of awards is determined based on the number of applicants and desire to award the maximum number of teachers. Each applicant receives the same amount. The Department believes this is expressed clearly in the proposed language that was published.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to create 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program, pursuant to 14 **Del.C.** §1108A, in order to provide eligibility criteria for the High Needs Educator Student Loan Payment Program.

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to adopt 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Payment Program, pursuant to 14 **Del.C.** §1108A, in order to provide eligibility criteria for the High Needs Educator Student Loan Payment Program. Therefore, pursuant to 14 **Del.C.** §122 and 14 **Del.C.** §1108A, 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Program attached hereto as Exhibit "C" is hereby adopted. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Program hereby adopted 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** 1204 High Needs Educator Student Loan Program created hereby shall be in the form attached hereto as Exhibit "C", and said regulation shall be cited as 14 **DE Admin. Code** 1204 High Needs Educator Student Loan Program 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 and 14 **Del.C.** §1108A on

November 15, 2018. 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 15th day of November, 2018.

Department of Education

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

Approved this 15th day of November, 2018

1204 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.

2.0 Definitions

"Award" means the Department's decision to make a Loan Payment on an applicant's behalf.

"Department" means the Delaware Department of Education.

"Educator" means a person licensed and certified by the State 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.

"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 has identified as being difficult to staff or of critical need; or
- (2) Any school either:
 - (a) In the top quartile in three or more of the following:
 - (1) Percentage of Low-Income Students;
 - (2) Percentage of English Learners;
 - (3) Percentage of Students with Disabilities; or
 - (4) Percentage of Minority Students; or
 - (b) Having 90% of its students classified as Low-Income, English Learners, or Minority; [or]

[(3)(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;
 - 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;
 - 3.1.5 The applicant shall instruct or provide educational support in an identified High Needs Area [for one school year]; and
 - 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 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.

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 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 shall give priority to applicants who meet the following criteria:
 - 5.3.1 Applicants employed in both a certification field and a School~~], or a facility operated by the Department of Services for Children, Youth and Their Families,~~ 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. 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 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 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 Award per year, and may receive no more than five 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) (Final)