

DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Sections 122(e) and 3460 (14 **Del.C.** §§122(e) & 3460)
14 **DE Admin. Code** 245

FINAL

REGULATORY IMPLEMENTING ORDER

245 Michael C. Ferguson Achievement Awards Scholarship

I. SUMMARY OF THE EVIDENCE AND INFORMATION SUBMITTED

Pursuant to 14 **Del.C.** §122(e) and Chapter 34 §3460, the Secretary of Education intends to amend 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards Scholarship. This regulation is being amended to clarify the conditions under which these awards will be given and to align with changes made to the state's accountability system pursuant to the Elementary and Secondary Education Act of 1965 as reauthorized as the Every Student Succeeds Act (ESSA).

Notice of the proposed regulation was published in the *News Journal* and *Delaware State News* on April 1, 2019, in the form hereto attached as *Exhibit "A"*. No comments were received for this regulation.

II. FINDINGS OF FACTS

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards Scholarship in order to clarify the conditions under which these awards will be given and to align with changes made to the state's accountability system pursuant to the Elementary and Secondary Education Act of 1965 as reauthorized as the Every Student Succeeds Act (ESSA).

III. DECISION TO AMEND THE REGULATION

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards Scholarship. Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards Scholarship attached hereto as *Exhibit "B"* is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards Scholarship hereby amended 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** 245 Michael C. Ferguson Achievement Awards Scholarship amended hereby shall be in the form attached hereto as *Exhibit "B"*, and said regulation shall be cited as 14 **DE Admin. Code** 245 Michael C. Ferguson Achievement Awards Scholarship 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 May 15, 2019. 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 May 2019.

Department of Education

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

Approved this 15th day of May 2019

245 Michael C. Ferguson Achievement Awards Scholarship

1.0 Purpose

The Michael C. Ferguson Achievement Awards Scholarship Program, included in the Educational Accountability Act of 1998, recognizes students who demonstrate superior performance on the state assessments pursuant to 14 Del.C. §153 (c).

2.0 Definitions

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

"Award" means a scholarship under the Michael C. Ferguson Achievement Awards program, to be used at a post-secondary institution of higher education as specified in 14 Del.C. §153(c).

"Delaware Higher Education Office" or **"DHEO"** is the Department of Education's office which administers specific programs related to higher education, including, but not limited to, scholarship and loan programs.

"Department" means Delaware Department of Education.

"Direct Educational Expenses" means tuition, room and board, mandatory fees, books and supplies.

"Institution of Higher Education" means a college, university or other post-secondary institution authorized to offer programs and degrees or to confer degrees. For the purpose of this regulation, "post-secondary institutions" and "Institutions of Higher Education" shall have the same meaning.

4.03.0 Basis for Granting Scholarships Awards

~~4.13.1~~ Subject to available funding, the Michael C. Ferguson Achievement Awards shall be made based on the student's score on the ~~results of the annual spring summative administration of the state assessment summative assessments in English language arts and mathematics.~~ The student's score that is used for ~~federal Adequate Yearly Progress (AYP) to determine proficiency in the state accountability system~~ shall be used to determine this award. The ~~Scholarships awards~~ may be awarded to a maximum of 300 eighth grade students in the content areas of reading and mathematics and to a maximum of 300 ~~tenth eleventh~~ grade students in the content areas of reading and mathematics. ~~The high school award year is subject to change based on the year the state high school summative assessment is offered to students.~~

~~4.23.2~~ The awards shall be provided to the highest scoring eighth and ~~tenth eleventh~~ grade students in the state in reading and mathematics as well as the highest scoring eighth and ~~tenth eleventh~~ grades students in the state in reading and mathematics who participate in the free and reduced lunch program pursuant to the provisions below:

~~4.2.13.2.1~~ The highest scoring eighth and ~~tenth eleventh~~ grade students in the state in reading and in mathematics shall receive the ~~scholarships awards~~.

~~4.2.1.13.2.1.1~~ The eighth grade awards may be given to a maximum of 150 students in the combined areas of reading and mathematics. The number of awards shall be as close to fifty percent (50%) in each area as possible. The unassigned awards shall be awarded in the priority order of highest reading score then highest mathematics score.

~~4.2.1.23.2.1.2~~ The ~~tenth eleventh~~ grade awards may be given to a maximum of 150 students in the combined areas of reading and mathematics. The number of awards shall be as close to fifty percent (50%) in each area as possible. The unassigned awards shall be allocated in the priority order of highest reading score then highest mathematics score.

~~4.2.23.2.2~~ The highest scoring eighth and ~~tenth eleventh~~ grade students in the state in reading and in mathematics, who participate in the free and reduced lunch program and who are not already identified as one of the students in ~~section 4.2 subsection 3.2~~ shall receive the ~~scholarships awards~~.

~~4.2.2.13.2.2.1~~ The eighth grade awards may be given to a maximum of 150 students in the combined areas of reading and mathematics. The number of awards shall be as close to fifty percent (50%) in each area as possible. The unassigned awards shall be allocated in the priority order of highest reading score then highest mathematics score.

~~4.2.2.23.2.2.2~~ The ~~tenth eleventh~~ grade awards may be given to a maximum of 150 students in the combined areas of reading, writing and mathematics. The number of awards shall be as close to fifty percent (50%) in each area as possible. The unassigned awards shall be allocated in the priority order of highest reading score then highest mathematics score.

~~4.33.3~~ A Foreign Exchange student who is on a temporary visa is not eligible to receive the Michael C Ferguson Achievement Award Scholarship.

5 DE Reg. 1906 (04/01/02)

7 DE Reg. 998 (02/01/04)

12 DE Reg. 780 (12/01/08)
15 DE Reg. 639 (11/01/11)

2.04.0 Eligibility for More Than One Scholarship Award

Students may ~~who receive a scholarship an award~~ in more than one content area and may also receive scholarships for their 8th and their 10th grade scores eighth grade will also be eligible for the award in eleventh grade.

5 DE Reg. 1906 (04/01/02)
12 DE Reg. 780 (12/01/08)

3.05.0 Use of Scholarship Award Funds

The Michael C. Ferguson ~~Scholarship Achievement~~ Award can only be used at a regionally or nationally accredited ~~post-secondary institution~~ Institution of Higher Education or at a Delaware or other ~~state-approved~~ state-approved private business and trade school in the United States of America and its territories. The award cannot exceed ~~direct educational costs~~ Direct Educational Expenses.

5 DE Reg. 1906 (04/01/02)
12 DE Reg. 780 (12/01/08)
15 DE Reg. 639 (11/01/11)

4.06.0 Higher Education (Commission) Office Account and Notification Procedures

4.16.1 All ~~scholarship~~ awards shall be deposited in an account at the Delaware Higher Education Office in an interest bearing account. Interest earned or forfeited scholarships shall be utilized by the Department of Education and ~~Delaware Higher Education Office~~ DHEO to offset administrative expenses associated with the program.

4.26.2 Funds deposited for ~~scholarships~~ awards through the Michael C. Ferguson Achievement Awards shall cease to be available to the recipient if the recipient does not attend a ~~post-secondary institution~~ an Institution of Higher Education within five calendar years after graduating from high school. Provided further that a recipient may have one additional year of availability of the funds for each year the recipient serves as an active duty member of the military.

4.36.3 It is the responsibility of the ~~parent or guardian~~ to notify the ~~Delaware Higher Education Office~~ of any change of address during the scholarship eligibility period. Students may receive their scholarship awards even if they are living in another state at the time they attend a ~~post-secondary institution~~ DHEO to publish, on its website, instructions for receiving the award funds and notify high schools of the award winners. Students who move out of state during the Award eligibility period are responsible for monitoring instructions posted online by the DHEO.

4.46.4 ~~The~~ When funding permits the awards to be given, the Department of Education shall annually announce the winners of Michael C. Ferguson ~~Scholarships~~ Awards.

4.56.5 ~~The Delaware Higher Education Office shall send a "Request for Information" form to Michael C. Ferguson Scholarship recipients annually to update their account information~~ Students have up to five years after high school graduation to request the award fund, unless they meet the active duty exemption listed in subsection 6.2 above.

4.5.16.5.1 ~~The Delaware Higher Education Office~~ Awarded students will contact the DHEO when they are ready to request the award funds be sent to their Institution of Higher Education. The DHEO shall send enrollment verification forms to institutions request enrollment verification from the Institution of Higher Education identified by recipients. When completed verification forms are received by the ~~Delaware Higher Education Office~~ DHEO, disbursement of ~~scholarship~~ award funds will be made to the ~~institution~~ Institution of Higher Education.

4.5.26.5.2 ~~If a student does not plan to attend a post-secondary institution immediately after high school graduation, it is the parent or guardian's responsibility to provide timely notification to the Delaware Higher Education Office prior to enrollment in order to receive payment of the scholarship~~ Awarded funds will be distributed directly to the Institution of Higher Education and can be used for any Direct Educational Expenses.

4.5.3 Recipients may defer all or a portion of payment of Michael C. Ferguson Scholarships beyond their first post-secondary year, but must assume the responsibility to notify the Delaware Higher Education Office of their plans to claim the Scholarship, and may not extend payment beyond the five year limit.

4 DE Reg. 224 (07/01/00)
5 DE Reg. 1906 (04/01/02)
7 DE Reg. 998 (02/01/04)
12 DE Reg. 780 (12/01/08)

15 DE Reg. 639 (11/01/11)
22 DE Reg. 1006 (06/01/19) (Final)