

**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

**PROPOSED**

**PUBLIC NOTICE**

**Educational Impact Analysis Pursuant to 14 Del.C. §122(d)**

**1501 Salary Supplements for Educators**

**A. TYPE OF REGULATORY ACTION REQUESTED**

Amendment to Existing Regulation

**B. SYNOPSIS OF SUBJECT MATTER OF REGULATION**

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 reproposing the regulation. The proposed amendments in this regulation include the amendments that were published on January 1, 2023 and the additional change to subsection 4.1.8.

Persons wishing to present their views regarding this matter may do so in writing by submitting them to the Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or through the Department's online submission form at <https://education.delaware.gov/community/delaware-education-laws-and-regulations/provide-public-comment/> by the close of business (4:30 p.m. EST) on or before April 3, 2023. Any person who wishes to receive a copy of the proposed regulation may obtain a copy from the Department at the Office of the Secretary on the second floor of the Townsend Building, 401 Federal Street, Dover, Delaware.

**C. IMPACT CRITERIA**

1. Will the amended regulation help improve student achievement as measured against state achievement standards? In accordance with 14 Del.C. §1305(o), the national certifications in Section 4.0 and the additional responsibility assignment in Section 5.0 are intended to lead to improvements in teacher effectiveness and student achievement. The Board is proposing to add three certifications to Section 4.0. The Board is not proposing any amendments to additional responsibility assignment salary supplements in Section 5.0.

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation addresses salary supplements for educators and is not designed to help ensure students receive an equitable education.

3. Will the amended regulation help to ensure all students' health and safety are adequately protected? The amended regulation addresses salary supplements for educators and is not designed to help ensure students' health and safety are protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation addresses salary supplements for educators and is not designed to address students' legal rights.

5. Will the amended regulation preserve the necessary authority and flexibility of decision-makers at the local board and school level? The amended regulation does not change authority and flexibility of decision makers at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation does not place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels. The Board is not proposing any changes to Section 6.0, which provides that an educator is responsible for providing information to the employing school or district to verify the educator has fulfilled the requirements for an additional responsibility assignment salary supplement for mentors.

7. Will decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? By statute (14 **Del.C.** §1305(b)), the Department implements the rules and regulations developed under 14 **Del.C.** Ch. 12.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts, and social studies? The amended regulation is consistent with and not an impediment to the implementation of other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the amended regulation? There is not a less burdensome method for addressing the purpose of this amended regulation.

10. What is the cost to the state and to the local school boards of compliance with the adopted regulation? The Department provides for funding salary supplements in its annual budget. The proposed amendments are consistent with the FY23 Appropriations Act (Senate Bill No. 250) that went into effect on June 28, 2022 and HB 348 that went into effect on October 26, 2022.

## **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 therefore 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. 748 (03/01/23) (Prop.)**