



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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October 26, 2018

Ms. Emily Cunningham
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 22 DE Reg. 256 [DDOE Repayment of Teacher student loan debt, 22 Del. Register of Regulations 256 (October 1, 2018)]

Dear Ms. Cunningham:

The State Council for Persons with Disabilities (SCPD) has reviewed Delaware Department of Education (DDOE) proposed regulation for the House Substitute for House Bill 346, with amendment, which created the High Needs Educator Student Loan Payment Program. This program will pay some of the student loan debt of educators that work and remain in high-needs schools or facilities and/or are certified and teach in areas in which there are teacher shortages. This bill is codified in 14 Del. C. § 1101A et seq. The proposed regulation is the implementing regulation. This regulation closely tracks the statute, and sets forth a financial incentive that may help recruit and retain educators in high needs areas. The proposed regulation was published as 22 DE Reg. 256 in the October 1, 2018 issue of the Register of Regulations.

The Legislature requires that an individual meet the following requirements to qualify for loan assistance under this program:

- (1) be an Educator;
- (2) have secured a Qualified Educational Loan prior to submitting an application;
- (3) have obtained a license and certificate through the Delaware Department of Education;
- (4) 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 evaluative cycle; and

- (5) instruct or provide educational support in an identified High Needs Area for at least one school year.

The DDOE was given the authority to “narrow or refine [the] eligibility requirements” or the definition of High Needs Areas.” DDOE proposes to include two additional eligibility requirements. First, an individual may not be in default on any federal or state education loans. It also requires educators seeking eligibility based on teaching in a high needs area school to have taught in that particular school for at least one year. There is an exception that allows the teacher to remain eligible in the event they are terminated from that school for a reason beyond their control (i.e. workforce reduction). Neither of these additional eligibility requirements seems problematic.

The SCPD addresses a few minor drafting errors. First, Section 1204.3.1.5 states that “the applicant shall instruct or provide educational support in an identified High Needs Area.” However, it leaves out the statutory requirement that the educator shall instruct in a High Needs Area for at least one school year. A High Needs Area is defined as a critical need/shortage certification area, or a school with certain characteristics, or a facility operated by Department of Services for Children, Youth, and Their Families (“DFS”). While DDOE may limit eligibility, it may not broaden it. Though Section 1204.5.2.1 inserts a one-year requirement for educators seeking eligibility based on school, no such time limit is placed on educators satisfying the High Needs Area criteria based on certification type or by teaching in a DFS facility. Failing to include the one year requirement for these educators may impermissibly broaden eligibility.

The SCPD mentions that this supports and protects special education teachers, particularly TVIs (teachers of visually impaired students).

Next, the definition of High Needs Area should have an ‘or’ at the end of subsection (2) (b). There likely should be an ‘or’ at the end of 1204.5.3.1; the statute utilizes an ‘or,’ and it is not clear that the Department wishes to depart from that.

Finally, the SCPD is endorsing this proposed regulation with minor amendments, and is asking for clarification if qualified applicants receive equal awards or will qualified applicants receive different amounts between \$1,000-\$2,000? If awards will differ, what are the criteria that will be used to determine why one applicant will receive more or less than a different applicant?

Thank you for your consideration and please contact the SCPD if you have any questions regarding our observations and recommendations.

Sincerely,



Nicholas J. Fina, Ed.D.
Chairperson - State Council for Persons with Disabilities

cc: The Honorable Susan Bunting
Mary Ann Mieczkowski
Chris Kenton, Executive Director - Professional Standards Board
Laura Makransky, Esq. - Department of Justice
Terry Hickey, Esq. – Department of Justice
Valerie Dunkle, Esq. – Department of Justice
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Governor’s Advisory Council for Exceptional Citizens
Developmental Disability Council

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