

No. 2024-1  
May 15, 2024

RESOLUTION DIRECTING THE NEW YORK STATE HIGHER EDUCATION  
SERVICES CORPORATION TO PROCEED WITH THE FILING OF REGULATIONS  
AND PROPOSED RULEMAKING CONCERNING THE NEW YORK STATE  
DISTRICT ATTORNEY AND INDIGENT LEGAL SERVICES ATTORNEY LOAN  
FORGIVENESS PROGRAM

RESOLUTION

**WHEREAS**, the New York State District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program (“Program”) is codified in section 679-e of the New York State Education Law; and

**WHEREAS**, the Corporation had previously adopted and readopted a regulation on an emergency basis to implement this Program; and

**WHEREAS**, pursuant to Education Law section 679-e(4), the Corporation has determined that it is necessary to adopt a regulation on a permanent basis to effectively implement the Program; and

**WHEREAS**, the proposed regulation was presented to the Board of Trustees for its authorization to proceed with the promulgation of said regulation;

**NOW, THEREFORE BE IT RESOLVED**, that the President of the New York State Higher Education Services Corporation is authorized to take all necessary steps to achieve promulgation of a regulation in conformance with the statute; and

**BE IT SO RESOLVED** at a meeting of the Board of Trustees of the Higher Education Services Corporation on May 15, 2024.

CERTIFICATION

The undersigned, duly qualified and acting as Secretary to the New York State Higher Education Services Corporation, certifies that the foregoing is a true and accurate copy of the resolution adopted at a legally convened meeting of the Board of Trustees of the New York State Higher Education Services Corporation held on the 15<sup>th</sup> day of May, 2024.

Dated: May 15, 2024

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Neysa I. Alsina, Esq.  
Secretary to the Board

New section 2201.9 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.9 New York State District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program.

(a) Definitions. For purposes of this section and Education Law section 679-e the following definitions shall apply:

(1) “Award” shall mean a New York State District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program award pursuant to section 679-e of the Education Law.

(2) “Full-time service” shall mean continuous employment for at least thirty-five hours in a calendar week.

(3) “Eligible attorney” shall mean an attorney who: (i) meets the residency requirements pursuant to subdivision 5 of section 661 of the Education Law; (ii) is admitted to practice law in New York State; and (iii) is employed full-time as either a district attorney, as defined in section 679-e(2)(ii) of the Education Law, or an indigent legal services attorney, as defined in section 679-e(2)(iii) of the Education Law within the eligible period, as defined in section 679-e(2)(b) of the Education Law, for which such person is seeking a student loan expense grant.

(4) “Program” shall mean the New York State District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program pursuant to section 679-e of the Education Law.

(5) “Temporary leave” shall mean an unpaid leave from employment of two consecutive months or more, during which an applicant performs no duties as an eligible attorney.

(b) Eligibility. An applicant must:

(1) satisfy the requirements provided in section 679-e of the Education Law; and

(2) not be in default on a student loan made under any statutory New York State or Federal education loan program or on the repayment of any award made pursuant to article 14 of the Education Law; and

(3) be in compliance with the terms of any service condition imposed by an award made pursuant to article 14 of the Education Law.

(c) Administration.

(1) An applicant for an Award shall:

(i) apply for Program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) postmark or electronically transmit an application for Program eligibility to the corporation on or before the date prescribed by the corporation.

(2) A recipient of an Award shall:

(i) apply for payment annually on forms and in a manner prescribed by the corporation upon the conclusion of each year of qualified service within the eligible period, beginning no earlier than the conclusion of the fourth year of qualified service and ending no later than the due date immediately following the conclusion of the ninth year of qualified service;

(ii) postmark or electronically transmit an application for payment to the corporation on or before the date prescribed by the corporation;

(iii) provide an attestation as to qualified service on forms and in a manner prescribed by the corporation;

(iv) confirm employment as an eligible attorney on an annual basis by submitting a certification from their employer attesting to the recipient's employment setting, job title, job duties, employment period, full time employment status, periods of temporary leave, and any other information necessary for the corporation to determine eligibility. Said submissions shall be on forms or in a manner prescribed by the corporation;

(v) not receive more than the amount prescribed by section 679-e of the Education Law for each year of qualified service, provided Award funding is available, not to exceed the total amount of such recipient's student loan expenses; and

(vi) not receive Award funding for more than the number of years of qualified service prescribed by section 679-e of the Education Law during the eligible period.

(3) Student loan expenses shall:

(i) include New York State student loans, Federal government student loans, and private student loans for the purpose of financing undergraduate and/or law school studies made by commercial entities subject to governmental examination; and

(ii) exclude Federal parent PLUS loans, loans cancelled under any program, private loans given by family or personal acquaintances, student loan debt paid by credit card, loans paid in full, or in part, on or before the first successful application for Program eligibility under this Program, loans for which documentation is not available, loans without a promissory note and any other loan debt that cannot be verified by the corporation.

(4) The maximum lifetime Award for student loan expenses will be limited by the number of remaining years of qualified service available to an eligible attorney within their eligible period.

(5) The corporation may impose an administrative offset whereby a payment under this Program is withheld, in whole or in part, to satisfy a debt owed to the corporation by the recipient.

(d) Award selection. In any year for which there are more eligible attorneys than funds available, the corporation shall use the following method of Award distribution:

(1) Eligible attorneys who received an Award payment for a prior year of qualified service shall receive first priority. If funding is insufficient to make Awards to this group, recipients will be chosen by lottery.

(2) Distribution of any remaining funds shall be made by lottery.

(e) Payment Eligibility. An Award recipient shall be disqualified from receiving an Award payment if, at the time the payment is requested or rendered, the recipient is no longer an eligible attorney, no longer meets the eligibility requirements specified in subdivision (b) of this section, or no longer meets any other provision in this section rendering them ineligible for payment.

(f) Abandonment and Revocation. Upon prior notice to a recipient, an Award may be revoked by the corporation if the corporation determines that the recipient has abandoned their Award. Abandonment of an Award can be evidenced by:

- (1) a failure to apply for payment or reimbursement;
- (2) a lack of any contact or communication with the corporation;
- (3) a failure to respond to a request for information;
- (4) separation from employment as a district attorney or an indigent legal services attorney; or
- (5) any other information known to the corporation reasonably evidencing an indication of abandonment of the Program by a recipient.