



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable the Members of the Board of Regents

FROM: Angélica Infante-Green *a. Infante - Green*

SUBJECT: Proposed Amendment to Section 100.5(b) of the Commissioner's Regulations Relating to the Laboratory Experiences Required in Order to Take a Science Regents Examination for Students in State Agency Educational Programs and Correctional Facilities

DATE: May 31, 2018

AUTHORIZATION(S):

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend §100.5(b)(7)(iv)(d) of the Commissioner's Regulations to provide that, for students who attend an educational program administered pursuant to Education Law §112 and Part 116 or Part 118 of the Commissioner's Regulations, the 1,200 minutes of laboratory experience required to qualify to take a Regents examination in science may be met through a combination of hands-on and simulated laboratory experience?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is presented to the Full Board for adoption as an emergency rule at the June 2018 Board of Regents meeting, effective June 12, 2018. A copy of the proposed amendment is included as Attachment A. A Notice of Proposed Rulemaking and Emergency Adoption was published in the State Register on March 28, 2018. A second Notice of Emergency Adoption will be published on June 27, 2018. A statement of facts and circumstances justifying the emergency action is included as Attachment B. Supporting materials are available upon request from the Secretary to the Board of Regents.

Procedural History

A Notice of Emergency Adoption and Proposed Rulemaking was published in the State Register on March 28, 2018. It is anticipated that the proposed amendment will be presented for permanent adoption at the July 16-17, 2018 Regents meeting. However, the emergency rule published on March 28, 2018 will expire on June 11, 2018. A second emergency action is, therefore, necessary at the June 2018 Regents meeting to ensure that the rule remains continuously in effect until it can be presented for adoption and take effect as a permanent rule.

Background Information

Pursuant to §100.5(b)(7)(iv)(d) of the Commissioner's regulations, in order to qualify to take a Regents examination in any of the sciences, a student must complete 1,200 minutes of actual hands-on (not simulated) laboratory experience.

Because of the unique safety and security issues that may arise when providing hands-on science laboratory experiences as part of the educational programs administered pursuant to Education Law §112 and Part 116 or Part 118 of the Commissioner's Regulations, the proposed regulation would enable students attending such programs to complete the 1,200 minute laboratory experience requirement through a combination of hands-on and simulated experiences. The proposed amendment would, therefore, expand opportunities for students to participate in science Regents examinations by allowing them to participate in the required laboratory experiences while they are attending such programs.

Related Regents Items

[March 2018](#)

<http://www.regents.nysed.gov/common/regents/files/318p12a1.pdf>

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That clause (d) of subparagraph (iv) of paragraph (7) of subdivision (b) of §100.5 of the Regulations of the Commissioner of Education be amended, as submitted, effective June 12, 2018, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to ensure that certain students who are attending educational programs administered pursuant to Education Law §112 and Part 116 or Part 118 of the Commissioner's regulations are aware that the 1,200 minutes of laboratory experience required to qualify to take a Regents examination in science may be met through a combination of hands-on and simulated laboratory experience. It is also necessary to ensure that such programs are on notice that they must provide appropriate laboratory experiences in accordance with this regulation, and that school districts are on notice that such students will be eligible for admission to a science Regents examination.

Timetable for Implementation

If adopted at the June Regents meeting, the proposed amendment will become effective as an emergency measure on June 12, 2018. It is anticipated that the proposed amendment will be presented to the Board of Regents at the July 2018 meeting for adoption as a permanent rule. If adopted at the July 2018 Regents meeting, the proposed amendment will be effective as a permanent rule on August 1, 2018.

Attachment A

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

1. Clause (d) of subparagraph (iv) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended as follows:

(d) Science, three units of credit and one of the Regents examinations in science or an approved alternative pursuant to section 100.2(f) of this Part. In order to qualify to take a Regents examination in any of the sciences a student must compete 1,200 minutes of actual hands-on (not simulated) laboratory experience with satisfactory documented laboratory reports, provided that, for students who attend educational programs administered pursuant to Education Law section 112 and Part 116 or Part 118 of this Title, the 1,200 minutes of laboratory experience may be met through a combination of hands-on and simulated laboratory experience. The 1,200 minutes of laboratory experience must be in addition to the required classroom instruction associated with earning a unit of credit.

Attachment B

8 NYCRR §100.5(b)(7)(iv)(d)

**STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION**

The proposed amendment is necessary to implement Regents policy to expand opportunities for students attending educational programs administered pursuant to Education Law §112 and Part 116 or Part 118 of the Commissioner's regulations to participate in science Regents examinations by permitting such students to complete the 1,200 minute laboratory experience requirement through a combination of hands-on and simulated experiences.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the July 16-17, 2018 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the July meeting, would be August 1, 2018, the date a Notice of Adoption would be published in the State Register. However, the proposed rule would expand opportunities for students to participate in science Regents examinations by allowing them to participate in the required laboratory experiences while they are attending such programs. Therefore, emergency action is necessary at the June 2018 Regents meeting for the preservation of the general welfare in order to ensure that the rule remains in effect until it can be presented for adoption as a permanent rule at the

July 16-17, 2018 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period prescribed in SAPA for State agency rule makings.