





**TO:** The Honorable Members of the Board of Regents

**FROM:** Mark Schaming 

**SUBJECT:** Proposed Amendment of Sections 90.3, 90.14, 90.18 and Repeal of Section 90.19 of the Regulations of the Commissioner of Education Relating to State Aid for Public Library Systems, School Library Systems and Reference and Research Library Resource Councils

**DATE:** September 1, 2022

**AUTHORIZATION(S):** 

### SUMMARY

#### **Issue for Decision (Consent)**

Should the Board of Regents amend sections 90.3, 90.14, 90.18 and repeal section 90.19 of the Regulations of the Commissioner of Education relating to State aid for public library systems, school library systems and reference and research library resource councils.

#### **Reason(s) for Consideration**

Review of policy.

#### **Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the September 2022 Regents meeting. A copy of the proposed amendment is included (Attachment A).

#### **Procedural History**

The proposed amendment was presented to the Cultural Education Committee for discussion at the April 2022 Regents Meeting. A Notice of Proposed Rule Making was published in the State Register on April 27, 2022, for a 60-day public comment period. Following publication in the State Register, the Department received no

comments on the proposed amendment. Therefore, an Assessment of Public comment is not required and no changes to the proposed amendment are needed. A Notice of Adoption will be published in the State Register on September 28, 2022. Supporting materials are available upon request to the Secretary of the Board of Regents.

### **Background Information**

Chapter 563 of the Laws of 2021 (Chapter 563), effective November 3, 2021, amended Education Law §273 to simplify and modernize State aid formulas for various library aid programs, including coordinated outreach services. Section 90.3(l) of the Commissioner's regulations establishes eligibility criteria for State aid to public library systems for coordinated outreach services. The Department proposes to amend section 90.3(l) to update language to align with Chapter 563 and to repeal subdivisions (m) and (n) which establish criteria for family literacy and adult literacy library aid programs. Chapter 563 merged separate funding for adult and family literacy programs into coordinated outreach and those subdivisions are no longer necessary.

Additionally, Chapter 563 simplified State aid formulas for reference and research library resource councils, removing the Regional Bibliographic Data Bases and Interlibrary Resources Sharing Program (RBDB). Therefore, the proposed amendment repeals Commissioner's regulation §90.19, which prescribes RBDB program requirements.

Chapter 563 also consolidated central library development aid and central book aid to create a central library services aid program. The Department intends to bring forward proposed regulatory amendments to section 90.4 of the Commissioner's regulations, which establishes standards for central libraries, in the coming months, after getting input from key stakeholders. Additionally, Chapter 563 amends Education Law §273-a relating to State aid for library construction. Therefore, the Department also intends in the coming months to propose amendments to section 90.12 of the Commissioner's regulations to implement such amendments.

Chapter 322 of the Laws of 2021 (Chapter 322) amended various laws, including Education Laws §273 and §285 replacing the use of the term "inmate" with "incarcerated individual." Therefore, the proposed amendment of Commissioner's regulations §90.14, which relates to State aid to public library systems for cooperation with correctional facilities, updates language in such section to bring it in alignment with Chapter 322.

Finally, the Department proposes additional amendments of section 90.18(g) of the Commissioner's regulations. This provision relates to school library system annual reports, and the proposed amendments would realign reporting requirements to reflect current practices.

## **Related Regents Items**

April 2022: [Proposed Amendment of Sections 90.3, 90.14, 90.18 and Repeal of Section 90.19 of the Regulations of the Commissioner of Education Relating to State Aid for Public Library Systems, School Library Systems and Reference and Research Library Resource Councils](https://www.regents.nysed.gov/common/regents/files/422ced1.pdf)

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## **Recommendation**

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

VOTED: That sections 90.3, 90.14, and 90.18 of the Regulations of the Commissioner of Education be amended and section 90.19 of the Regulations of the Commissioner of Education be repealed, as submitted, effective September 28, 2022.

## **Timetable for Implementation**

If adopted at the September 2022 meeting, the proposed rule will become effective as a permanent rule on September 28, 2022.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 215, 253, 254, 255, 272, 273, 273-a, 282, 283, 284, and 285 of the Education Law and Chapters 322 and 563 of the Laws of 2021.

1. Subdivision (l) of section 90.3 of the Regulations of the Commissioner of Education is amended to read as follows:

(l) Coordinated outreach services.

(1) Definitions. As used in this subdivision:

(i) Solely for the purposes of Education Law, section 273(1)(h), coordinated outreach services shall mean a planned and integrated program of library services designed to identify, contact and serve persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, [developmentally or learning disabled] have developmental or learning disabilities, aged or residents of institutions, or who are at-risk youth from birth to age twenty-one.

(ii) Institutions shall mean correctional facilities, hospitals, youth facilities, nursing homes, developmental centers, psychiatric centers and extended care centers.

(2) Eligibility criteria. In order to be eligible for State aid for coordinated outreach services pursuant to the provisions of paragraph h of subdivision 1 of section 273 of the Education Law, a public library system shall:

(i) be operating under a plan of service which has been approved pursuant to section 272 of the Education Law;

(ii) include in its plan of service, subject to approval by the commissioner, a description of how coordinated outreach services to persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, [developmentally or learning disabled] have developmental or learning disabilities, aged or residents of institutions, or who are at-risk youth from birth to age twenty-one will be developed and implemented throughout the public library system service area. Such description shall include, but not be limited to:

(a) identification of special populations to be served, including persons who are educationally disadvantaged, members of minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, [developmentally or learning disabled] have developmental or learning disabilities, aged or residents of institutions, or who are at-risk youth from birth to age twenty-one;

(b) identification of special needs of such populations;

(c) a description of proposed additional or adapted services to meet the identified special needs;

(d) a description of methods for coordination of expenditures and services in programs supported by coordinated outreach services funds provided under Education Law, §273(1)(h), State funds provided for services to local correctional institutions, other public library system funding and as appropriate, local funds;

(e) a description of cooperative efforts with representatives from Federal, State and local institutions; or

(f) a description of system efforts to assist libraries to comply with State and Federal laws regarding coordinated outreach target populations;

(iii) certify that there will be employed by the library system at least one full-time professional librarian who holds or is eligible to receive a New York State public librarian's professional certificate with expertise in outreach services who shall administer the coordinated outreach program and assist persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, [developmentally or learning disabled] have developmental or learning disabilities, aged or residents of institutions, or who are at-risk youth from birth to age twenty-one in deriving maximum benefit from library resources;

(iv) appoint an advisory council of not less than 5 nor more than 11 members, which shall be composed of one director of a member library; representatives of agencies who serve the target population groups detailed below; and persons who are educationally disadvantaged, members of ethnic or minority groups in need of special library services, unemployed and in need of job placement assistance, living in areas underserved by a library, blind, physically disabled, [developmentally or learning disabled] have developmental or learning disabilities, aged or residents of institutions, or who are at-risk youth from birth to age twenty-one. Council members shall serve three-year terms. The council shall meet at least twice each year, shall advise the public library system and assist in the evaluation of activities in the coordinated outreach program; and

(v) submit to the commissioner, in a format and according to a timetable prescribed by the commissioner, a budget application and narrative describing its coordinated outreach services program.

2. Subdivisions (m) and (n) of section 90.3 of the Regulations of the Commissioner of Education are REPEALED.

3. Section 90.14 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Definitions.

As used in this section and in Education Law, section 285:

(1) State correctional facility means an institution under the control of the Department of Correctional Services.

(2) Eligible State correctional facility library means a collection of informational materials located in space in the facility which is primarily devoted to library service for the general [inmate] incarcerated individual population, under the supervision of a librarian holding either a professional certificate or a conditional certificate as provided for in section 90.7 of this Part.

(3) [Inmate] incarcerated individual population means the number of [inmates] incarcerated individuals of each participating State correctional facility named in a public library system's plan of service, as of July 1st of the year preceding the calendar year in which State aid to public library systems is to be paid, as certified by the Commissioner of Correctional Services.

(b) Participation. Each eligible State correctional facility library may elect to participate in the development of the cooperative plan of service with the public library system and other such facility libraries in the system area.

(c) Plan of service. A public library system operating under a plan of service which has been approved pursuant to section 272 of the Education Law, which has one or more eligible correctional facility libraries within its area of service and which is applying for State aid for cooperation with such library or libraries, shall file an amendment of its plan of service with the commissioner, setting forth a plan to make the library resources of such system available to meet the library needs of [inmates] incarcerated individuals within the facility or facilities located in the system's service area. Such amendment shall include, but not be limited to:

(1) the identification of the eligible State correctional facility libraries in the system area, and the reasons given by any such facility which elects not to participate.

(2) the identification of any State correctional facility or facilities within the system area lacking an eligible correctional facility library. A variance may be granted by the commissioner from the eligibility standards set forth in paragraph (a)(2) of this section, upon submission of a description of the services to be provided to ineligible facilities and of the benefits that the [inmate] incarcerated individual population would derive;

(3) the identification of system personnel involved in negotiating the plan of service with participating correctional facility libraries and of the personnel responsible for implementation of such plan, including any consultant services to be provided;

(4) a description of how the public library system resources will be made available for the educational, cultural and recreational needs of the [inmates] incarcerated individuals, as determined from a user needs assessment;

(5) an agreement on procedures to recover or replace missing or damaged materials loaned to a participating facility library; and



(6) the evaluation procedures to be used to determine the effectiveness of the public library system in providing services to the correctional facilities libraries in its area.

(d) Maximum apportionment.

Each public library system shall be eligible to receive an apportionment equal to the quotient, computed to two decimals without rounding, of the appropriation provided by law for the purposes of section 285 of the Education Law, divided by the State total [inmate] incarcerated individual population, but not more than \$9.25, multiplied by the public library system [inmate] incarcerated individual population.

(e) Reports.

Each public library system receiving State aid for cooperation with State correctional facilities, under an approved plan for the sharing of library resources, shall file with the commissioner such fiscal and evaluation reports as he may prescribe, in a form and by a date determined by him.

4. Subdivision (g) of section 90.18 of the Regulations of the Commissioner of Education is amended to read as follows:

(g) Reports. By [September 30th] November 1st of each year, each school library system shall transmit to the department an annual report for the year ending on June 30th of the previous school year, in such form as shall be prescribed by the commissioner, and such other progress reports as may be required by the commissioner. Such annual report shall include an evaluation by participants and shall be approved by the department.

5. Section 90.19 of the Regulations of the Commissioner of Education is REPEALED.