TO: The Honorable the Members of the Board of Regents
FROM: Elizabeth R. Berlin
SUBJECT: Preliminary Overview of the 2018 Legislative Session
DATE: July 5, 2018

The state Legislature adjourned sine die Wednesday, June 20, 2018. Please see below for a summary of major legislative activity related to the Department.

Regents Legislative Priorities

Institutional Accreditation: The Enacted Budget established a Special Revenue account with $570,000 in spending authority level to support Institutional Accreditation work at the Department through staffing and related expenses as requested by the Regents.

Museum Education Act (A.3892-A Titone/S.1676-A Little): Over 1,500 museums, historical societies, zoos, botanical gardens, aquariums, and cultural arts institutions now provide instruction to over six million children. These cultural institutions receive no direct state support to initiate, expand, and enhance educational services through access to museum collections, scholarship and virtual learning. Cultural institutions, in collaboration with teachers and schools, can design new and innovative museum programs to address such pressing issues as science, anthropology, history, and arts literacy. Students living in low-income communities in urban, suburban, or rural settings benefit from having access to the type of learning provided by cultural institutions. Fair and equal access to these types of institutions will provide enhanced learning opportunities for these students. The Museum Education Act would establish competitive grants to support cultural institutions that seek to establish or improve museum education programs designed to improve and support student learning opportunities, including supporting the development of local curricular aids. No funding has been appropriated or identified at this time. This bill passed both the Senate and Assembly.

Professional Discipline Summary Suspension and Mandatory Reporting (A.11057-A Glick/S.8909-A LaValle): The Department currently faces statutory limitations and lacks the tools needed to modernize our authority over the 54 licensed professions that
we oversee and to ensure that the Department can take quick action against licensed professionals who pose a public health and safety risk to New Yorkers. The changes that we are seeking are similar to the powers already provided to the Department of Health’s Office of Professional Medical Conduct, which has the authority to issue summary suspensions when it comes to physicians, physician assistants, and specialist assistants. This priority legislation would enhance the discipline authority over the licensed professions we oversee by:

- Authorizing the Commissioner or the Deputy Commissioner of the Office of Professions, after an investigation and a recommendation by the professional conduct officer, to order a temporary suspension of practice privileges of a licensee or registered entity in cases where there is an imminent danger to the health and/or safety of the public. The current process to suspend a professional license is lengthy and cumbersome and could put the public at risk. The proposed change in law would enhance public safety while at the same time ensuring the due process rights of the licensee or entity.
- Requiring all licensed professionals to report to the Department any moral character issue(s) upon application for licensure. Currently athletic training, dietetics/nutrition, certified dental assisting and medical physics are the only professions that do not have a moral character requirement upon initial application. A moral character provision should be added to the statutes for these professions to make the requirement uniform across all licensees so that the Department can review this information when making licensure determinations.
- Requiring, at a minimum, that all licensed professionals report to the Department any record of a conviction of a crime in a timely manner. Current law does not require a criminal history background check prior to initial licensure and only requires that licensed professionals report the conviction of a crime upon re-registration every three years (physician, physician assistants and specialist assistants re-register every two years).

Since 2016, the Department has been working diligently with both houses to obtain agreement on this legislation. The bill passed the Senate in both 2016 and 2017. Unfortunately, while this bill passed the Assembly for the first time, the bill was not reported out of the Senate Rules Committee.

Office of Professional Discipline (OPD) Access to Medical Records (S.2467 Lavalle): This Departmental bill would address a long-standing issue which would provide the Office of Professional Discipline with the ability to obtain records from a professional licensee or entity without having to obtain patient or client consent for the release of such records, consistent with the authority of the state Board for Professional Medical Conduct. This bill did not move in the Senate this year.

Tuition Rate Setting Methodology for Special Act School Districts and 853 Schools (A.6514-A Nolan/S.5246-A Marcellino and A.10762 Nolan): This Departmental bill would provide consistent and predictable funding increases as well as a reserve
fund option to the school-age providers serving some of our most high needs special education students. This bill did not move in either house this year.

**Mandate Relief and State Aid Claims Flexibility** *(A.6513-A Nolan/S.5247-A Marcellino):* This Department bill would eliminate or reduce a significant number of statutory mandates and provide greater flexibility relating to transportation, educational management services, special education requirements, as well as school aid and building aid payment flexibility. Provisions within this legislation were also introduced in stand-alone bills: S.4832 Marcellino passed the Senate; A.3231 Thiele/S.3970 Seward passed the Senate and was reported to the Ways and Means committee in the Assembly; and S.8476 Marcellino was moved to the floor in the Senate.

**Education Equity for DREAMers Act** *(A.9605-A De La Rosa/S.471-C Peralta):* For the sixth year in a row, the Assembly passed a New York State DREAM Act bill that is very similar to the Regents priority proposal. This bill was not taken up by the Senate. A similar provision was also contained in the 2018-19 Executive budget proposal, but it was not included in the final enacted budget agreement.

"**Equal Employment Opportunities for All Act**" *(A.7065 Cahill):* This Departmental bill would codify current practice and repeal provisions in New York State law prohibiting individuals from receiving licenses in certain licensed professions unless the individual is a U.S. citizen or permanent lawful resident, which were struck down by the U.S. Second Circuit Court of Appeals as unconstitutional in *Dandamudi v Tisch*, 686 F.3d 55 (2012) and have been found to violate the Equal Protection Clause of the U.S. Constitution. This bill did not move in the Assembly this year.

**Prior Year Adjustments Flexibility and Stretchout of Payment** *(S.4832 Marcellino):* Within the course of school aid payments to school districts, there are times when the state owes money to districts, and situations where districts are overpaid and those sums must be recovered by the state. This Departmental bill, which passed the Senate again, would extend the timeline wherein school districts who have received excess payments of state aid may be able to repay such funds. Additionally, this bill would provide that in the instances where State aid payments are due to school districts for prior years, they can be paid from either, funds available in the general support for public school appropriation as a result of the deduction of excess payments of aid, or within the appropriation.

**Regional Secondary Schools Advisory Council** *(A.7934-A Nolan):* This Departmental bill would establish a temporary advisory council comprised of educational experts in the field, including members of the Legislature, the Governor’s office, educational experts and stakeholders to examine previously proposed regional secondary school legislation and identify barriers and areas of concern as well as recommendations for new legislative proposals based upon a review of regionalization models in other states and best practices. The advisory council would then identify potential models that would work in New York and make recommendations to the Board.
of Regents, the Department, the Legislature and the Governor’s office by October 1, 2019 in order to pursue enactment of the proposed legislation during the 2020 session. This bill was passed in the Assembly.

**Increasing Access to College and Reducing the Cost to Students through Smart Scholars Early College High Schools and P-TECH (A.11047-A Nolan/S.9060 Marcellino):** This bill would provide for the codification of ECHS and P-TECH programs in statute. This bill passed the Senate but did not make it out of the Ways and Means committee in the Assembly.

**Enhancing Supports and Services for Postsecondary Success of Students with Disabilities:** This bill would create a grant program to support the reasonable accommodation needs and services for individuals with disabilities enrolled at degree granting institutions of higher education. This was a new joint Committee of Higher Education and ACCES Board Priority this year. A draft proposal, reviewed and agreed to by all NYS higher education sectors, was sent to the Legislature for their review and consideration for introduction.

**Enhancing Educational Supports for Students with Disabilities Pursuing Post-Secondary Study (A.9812 Nolan):** This bill would expand Reader’s Aid program eligibility to students with print disabilities. This bill was reported to the Assembly Ways and Means committee.

**Tenure and Seniority Protections for Bilingual and ESOL Teachers/Teaching Assistants (A.6512 Nolan/S.6486 Marcellino):** This Departmental bill would require school districts, in the event of an abolition of a position, to excess the teacher/teaching assistant with the least seniority in the tenure area of the position abolished, except where the retention of a less senior teacher/teaching assistant fluent in a specific language is necessary for the school to provide required bilingual/ESOL instruction. This bill did not move in either house.

**Significant Bills that Passed Both Houses**

**Board Governance/Operations**

**Comment Periods for Proposed Rules (A.9643 Wallace/S.6916 Jacobs):** This bill would increase the minimum public comment period for revised rules from 30 to 45 days.

**Civil Practice Law and Rules (A.1599 Magnarelli/S.7086 Kavanagh):** This bill would amend the Civil Practice Law to authorize the filing of proceedings against the Regents and the Commissioner, among others, to be filed in the judicial district in which the petitioner resides or has its principal place of business, in addition to the supreme court in Albany.
**Freedom of Information Law (A.2131 Peoples-Stokes/S.7431 Murphy):** This bill would require state agencies that maintains a website to provide an online Freedom of Information Law (FOIL) request form.

**State Contracts (A.8156 Peoples-Stokes/S.6452 DeFrancisco):** This bill would require state agencies to utilize a statewide vendor responsibility system; redefine “information technology;” authorize alternative procurement methods for non-construction related commodities, services, and information technology; authorize competitive negotiation under certain circumstances for contracts awarded based on best value; and authorize the use of piggybacking of contracts.

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**Students with Disabilities**

Both houses of the Legislature passed the following bills related to student with disabilities:

- **IDEA (A.10472 Lifton/S.8331):** This bill would extend provisions necessary to conform state statute to and comply with the federal Individuals with Disabilities Education Act (IDEA) for an additional three years until June 30, 2021.
- **Hospitalized Students (A.10471 Nolan/S.8325 Marcellino):** This bill would extend provisions that authorize contracts for the provision of special education and related services to students residing in hospitals operated by the Office of Mental Health with in accordance with their individualized education programs.
- **Autism Cost Study (A.261 Abinanti/S.3895 Parker):** This bill would require the Commissioners of the Office for People with Developmental Disabilities, Education, Health, the Office for Children and Family Services, and Mental Health to study the costs to the state for the early diagnosis of autism spectrum disorder and the long-term treatment of individuals with autism spectrum disorder.
- **School Age Special Education Providers (A.5618-A Abinanti/S.4530-A Murphy):** This bill would require the Commissioners of Education and Social Services to develop separate reimbursement methodologies for the tuition and maintenance components of approved private schools (853s) and special act school districts.
- **Alternative High School Equivalency Preparation Programs (A.7728-A Nolan/S.6220-A Marcellino):** This bill would require the Commissioner to promulgate regulations to authorize 853 schools to offer or participate in alternative high school equivalency preparation programs.
- **Preschool and Early Intervention Evaluations (A.9918 Glick/S.7641 LaValle):** This bill would extend provisions authorizing approved multidisciplinary evaluation programs to employ a certified school psychologist to conduct a multidisciplinary evaluation of a preschool child or an infant or toddler having or suspected of having a disability.
Participation in Graduation Ceremonies *(Chapter 32 of the Laws of 2018)*: This law represents chapter amendments to a law passed last year that directed the board of education or the board of trustees of school districts to establish policies and procedures to allow any student with a disability to participate in the graduation ceremony and all related activities if such student has been issued a skills and achievement commencement credential or career development and occupational studies commencement credential but has not otherwise qualified for a regents or local diploma. The amendments would allow any student receiving such credentials to participate in graduation ceremonies, regardless of whether they have a disability.

Substance Abuse Materials *(A.7470 Davila/S.8318 Comrie)*: This bill would require OASAS, in consultation with SED, to provide educational materials regarding substance abuse to school districts and boards of cooperative educational services. It would also require school districts to designate employees to provide information and referrals to students, parents and staff members.

Study on Trauma and Child Development and Learning *(A.10063-B Joyner/S.8000-B Bailey)*: This bill would direct the Commissioner to conduct a study on the effects of trauma on child development and learning and report the findings of such study and any recommendations to the governor and legislature.

Notification and Reporting of School Employee Conduct
Both houses of the Legislature passed the following legislation enhancing notification and reporting requirements regarding school employee conduct:

- **Child Abuse in School Settings** *(A.8485-B Nolan/S.7372-B)*: This bill would require that the reporting of child abuse in an educational setting by school employees in nonpublic schools occurs in the same manner as in public schools.
- **Alleged Sex Offences** *(A.8382-B Galef/S.6597-B Serino)*: This bill would require district attorney to immediately notify the superintendent or school administrator when it is alleged that a sex offense was committed by a person known to be an employee of a school (including non-public, charter, and special education schools) or Boards of Cooperative Education Services (BOCES).

Boards of Cooperative Education Services
Both houses of the Legislature passed the following legislation related to BOCES:

- **Property Tax Cap** *(A.9825 Galef/S.7730 Murphy)*: This bill would exempt the school district’s share of BOCES capital project expenditures from the tax cap.
- **District Superintendent Salary Cap** *(A.2112-A Nolan/S.3203-A DeFrancisco)*: This bill would increase the limit on the total salary amount paid to district superintendents for the 2018-2019 school year and thereafter to the lesser of 6% over the salary cap of the preceding school year, or 98% of the commissioner’s salary earned in the 2018-2019 school year.
Career and Technical Education (A.381 Nolan/S.8749 Sepulveda): This bill would direct the Commissioner to collect information regarding 9th grade student enrollment in Career and Technical Education (CTE) programs in districts receiving special services aid.

Transportation
Both houses of the Legislature passed the following transportation related legislation:

- **Drug Testing of School Bus Drivers** (A.208-E Lupardo/S.2587-E): This bill would require all school bus drivers to be subject to random drug and alcohol tests and increase the prohibited time for consumption of drugs, controlled substances and alcohol prior to operating a school bus from six to eight hours.

- **School Crossing Guards** (A.2954-B McDonald/S.367-B Little): This bill would authorize a school district to contribute to all or a portion of a municipal school crossing guard’s salary.

Charter School Basic Supplemental Tuition (A.7966-C Peoples-Stokes/S.6551-C Jacobs): This bill would provide state payment of charter school supplemental basic tuition to school districts outside of New York City in the current year as opposed to the following year.

Non-Publics Mandated Services Aid (A.9903 Cusick/S.8175 Marcellino): This bill would codify definitions of “Hours in Work Day” and “Days in Year” for the purposes of calculating Mandated Services Aid for non-public schools.

Sepsis Awareness and Prevention (Chapter 10 of the Laws of 2018): This law represents a chapter amendment to a law passed last year which required the establishment of regulations for a sepsis awareness and prevention program for school districts, boards of cooperative educational services and nonpublic schools and requires the detection of the signs and symptoms of sepsis as part of course work or training in infection control practices for licensed professionals. The amendment clarifies that coursework in infection control for professionals include information on standards to prevent the transmission of infections that could lead to sepsis and not sepsis itself, as sepsis is not transmissible.

Local Bills
Both houses of the Legislature passed the following bills impacting a specific school district (local bills):

- **Hendrick Hudson** (A.10753 Galef/S.7054 Murphy): This bill would validate final cost reports for two capital improvement projects within the Hendrick Hudson Central School District that were filed after the deadline. The bill would also provide for payment of state aid for such projects.

- **Chester** (A.11175 Skoufis/S.9010 Larkin): This bill would validate final cost reports for two capital projects within the Chester Union Free School District that
were filed after the deadline. The bill would also provide for payment of state aid for such projects.

- **Corning** (A.10771 Palmesano/S.8802 O'Mara): This bill would validate four 2017-2018 transportation contracts that were not filed in a timely manner with the Department. The bill would also provide for payment of transportation aid for such contracts.

- **Fulton** (A.10752 Barclay/S.8730 Ritchie): This bill would validate a 2016-2017 transportation contract that was not filed in a timely manner with the Department. The bill would also provide for payment of transportation aid for such contract.

- **Newburgh** (A.8062-A Skartados/S.6404-A Larkin): This bill would validate final cost reports for eleven capital projects within the Newburgh Enlarged City School District that were filed after the deadline. The bill would also provide for payment of state aid for such projects.

- **North Syracuse** (A.10705 Stirpe/S.8763 DeFrancisco): This bill would validate final cost reports for six capital projects within the North Syracuse Central School District that were filed after the deadline. The bill would also provide for payment of state aid for such projects.

- **Panama** (A.9730 Goodell/S.7383 Young): This bill would validate final cost reports for a 2005 capital project within the Panama Central School District that were filed after the deadline. The bill would also provide for payment of state aid for such projects.

- **Phoenix** (A.10030-B Barclay/ S.7166-C Ritchie): This bill would authorize the village board of the village of Phoenix to contract to transfer land to the Phoenix Central School District for the purposes of extending the nearby school campus, sports and recreational facilities.

- **Port Washington** (A.10824 D'urso/S.8764 Phillips): This bill would validate four 2016-2017 transportation contracts that were not filed in a timely manner with the Department. The bill would also provide for payment of transportation aid for such contracts.

- **Roscoe** (A.10454 Gunther/S.8178 Bonacic): This bill would validate final cost reports for two capital projects within the Roscoe Central School District that were filed in 2015 after the deadline. The bill would also provide for payment of state aid for such projects.

**Full Day Kindergarten Conversion Aid** (A.1625-B Zebrowski/S.700-B Carlucci): This bill would provide Full Day Kindergarten Conversion Aid to incentivize the remaining school districts (North Rockland, Brighton, Pittsford, Washingtonville and Shenendehowa) with half-day kindergarten by increasing the number of years a district can receive the aid from one to five year; 80% of the aid in year two, 60% of the aid in year three, 40% of the aid in year four and 20% of the aid in year five. This bill passed both houses this year and was vetoed by the Governor in light of the three-way agreed upon proposal for a three-year conversion aid contained within the recently enacted budget. It should be noted the issue of authorizing transition aid for the full-day kindergarten seats that had been previously funded by the district, which was a major concern of North Rockland (almost half of their seats), is not addressed in this bill, but in
A.10683 Zebrowski/S.8762 Larkin, which was not reported out of the Education Committee in either house.

Higher Education

**Tuition Assistance Program** (A.8110 Simon/S.1243 LaValle): This bill would extend eligibility to receive Tuition Assistance Program (TAP) funds for two additional semesters, or the equivalent, when a student must transfer to another institution to complete their program as a result of permanent school closure.

**Teacher Tenure** (A.8108-A Abbate/S.6090-A Marcellino): This bill would allow previously tenured supervising school district staff to experience a shortened probationary period of three years if appointed by the Board of Education to another position or district.

Professions

Nursing

Both houses of the Legislature passed the following bills related to nursing:

- **Baccalaureate Degree Requirement for Nurses** (A.8952 Morelle/S.7320 Flanagan): This bill would make modifications to the law passed last year requiring registered professional nurses to attain a baccalaureate degree in nursing within ten years of their initial licensure by:
  - Requiring the nursing program evaluation commission make recommendations on the impact of requirements for achievement of a baccalaureate degree in any lesser period of time than required by law as a condition to maintaining employment;
  - Authorizing the Department to issue a temporary educational exemption to a licensee who is unable to complete the baccalaureate degree due to a lack of access to educational programs;
  - Clarifying that requirement to attain a baccalaureate degree in nursing within ten years of initial licensure does not apply to students entering a generic baccalaureate program preparing registered professional nurses prior to the effective date of the requirement; and
  - Pushing out the effective date of the requirement to attain a baccalaureate degree in nursing within ten years of initial licensure from 18 months to 30.

- **Hospital Standing Orders** (A.9950-A Gottfried/S.8774-A Hannon): This bill would provide a process under which hospitals may issue standing orders that authorize attending nurses to provide services and care to healthy newborns both upon and in the absence of direction from the attending practitioner. The bill would further authorize an attending nurse to depart from the standing order prior to receiving direction from the attending practitioner, if in their professional judgement, the health of the newborn requires it.
• **Health Care Proxy** *(A.10345-A Gottfried/S.7713-B Hannon)*: This bill would add nurse practitioners to the list of health care providers who are identified as being involved in making determinations of capacity for purposes of executing or implementing a healthcare proxy.

**Pharmacy**
Both houses of the Legislature passed the following pharmacy related legislation:

• **Pharmacy Interns** *(A.2857-D McDonald/S.1043-D Funke)*: This bill would authorize appropriately trained and certified pharmacy interns to administer immunizations under the supervision of a licensed pharmacist.

• **Safe Disposal for Unused Controlled Substances** *(A.9576-B Gunther/S.9100 Hannon)*: This bill would require pharmaceutical manufacturers to operate a safe disposal site for unused controlled substances instead of on a voluntary basis. The bill would also require chain pharmacies (defined as consisting of a group of ten or more) to provide for the safe collection of controlled substances.

**Out of State Healthcare Practitioners**
Both houses of the Legislature passed the following bills authorizing healthcare professionals licensed in other jurisdictions to practice in NYS for certain events:

• **New York Road Runners** *(A.10065 Glick/S.7625 Serino)*: This law authorizes certain health care professionals licensed to practice in other jurisdictions to practice in this state in connection with an event sanctioned by New York Road Runners.

• **Iron Man** *(A.9570-A Stec/S.7439-A Little)*: This bill would authorize healthcare professionals licensed in other jurisdictions and appointed by the World Triathlon Corporation to practice in this state at the Iron Man triathlon in Lake Placid.

• **Sanctioned Sporting Events of Out of State Sports Teams** *(A.7237-B Cusick/S.4375-A Funke)*: This bill would authorize healthcare professionals licensed in other jurisdictions to provide medical services to athletes and team personnel of a United States sports team recognized by the United States Olympic committee or an out-of-state secondary school, institution of postsecondary education, or professional athletic organization sports team at discrete sanctioned team sporting events in the state, provided they have a written agreement with such team.

**Dentists**
Both houses of the Legislature passed the following bills related to dentists:

• **Dental Faculty Licenses** *(A.9915 Glick/S.7594 Golden)*: This bill would extend provisions authorizing the Department to issue a restricted dental faculty license to a full-time faculty member employed at an approved New York state school of dentistry for an additional two years.

• **NYS Dental Association** *(A.10722 Glick/S.7390-A LaValle)*: This bill would conform the membership requirements of the New York State Dental Association
and its local district and county dental societies to the requirements of the American Dental Association by making individuals with dental degrees that would qualify them for licensure, even though not licensed as dentists, eligible for membership.

Clinical Laboratories

Both houses of the Legislature passed the following bills related to clinical laboratories:

- **Clinical Laboratory Supervision** (A.10781 Gottfried/S.7521 Hannon): This bill would authorize clinical laboratory supervisors to be off premises if available by phone or synchronous two-way electronic visual communications, provided that the work of medical technologists be reviewed by the supervisor or director during their next duty period.

- **Provisional Permit in Clinical Laboratory Technology** (A.9966-A Magnarelli/S.8140-A DeFrancisco): This bill would create a provisional permit in clinical laboratory technology which would authorize individuals who meet certain criteria to work in a clinical lab under supervision for one year (with a possible one-year extension) while they meet the requirements for licensure. This provision permit would replace the current limited license in clinical laboratory technology, which expires on September 1, 2018.

Pathologists’ Assistants (A.10174 Bichotte/S.8088 LaValle): This bill would move up the requirement for licensure as a pathologists' assistant from November 28, 2018 to July 1, 2018, eliminating a three-month practice gap for newer graduates, who do not qualify for grandparenting as they do not have two years of experience; can meet the education and examination requirements; but will lose authorization to practice under a limited license in histotechnology, which expires on September 1, 2018.

Psychologists (A.9072-A Fahy/S.7398-AValesky): This bill would require psychologists to complete a minimum of 36 hours of continuing education every 3 years.

Certified Public Accountants (A.7895-A Stirpe/S.6026-A Helming): This bill would eliminate the exemption from the mandatory continuing education requirement for the triennial registration period during which certified public accountants and public accountants are first licensed.

Landscape Architecture (A.7819-A Buchwald/S.1330-A Valesky): This bill would add landscape architecture services to the current list of professional services procured through the Qualifications Based Selections procurement process used by state agencies.

Geology (A.10220-A Englebright/S.8066-A Marcellino): This bill would extend provisions allowing business corporations and limited liability companies providing geology services which now require licensure, to convert to professional service corporations, design professional service corporations and professional limited liability
companies by amending their certificates of incorporation or articles of organization until March 1, 2019.

Physical Therapy Assistants (A.10381-A Pichardo/S.8217 LaValle): This bill would extend provisions that authorize certified physical therapist assistants to provide services in home care settings.

Design-Build (A.10513-C Brindisi/S.9090 Griffo): This bill would increase the total amount of bonds the Upper Mohawk Valley memorial auditorium authority may issue, authorize the use of the alternative delivery method known as design-build contracts for certain public works undertaken pursuant to project-labor agreements, and change the board composition of the authority.

Cultural Education

Library Material Procurement (A.7265-A Abinanti/S.6424-A Ritchie): This bill would require the Commissioner of General Services to establish a comprehensive centralized system, designed and operated with the State Library, to coordinate the procurement of books and non-print library materials and related ancillary services. The State Library would be required to periodically assess the requirements of state agencies, public libraries and library systems and other authorized users for books and non-print library materials and related ancillary services and advise the Office of General Services of such requirements.

ACCES

Bureau of Proprietary School Supervision (A.10377 Glick/S.8215 LaValle): This bill would extend for three years provisions authorizing private career schools to operate under a candidacy status.

Significant Bills that Did Not Pass Both Houses

Board Governance/Operations

Webcasting of Regents Meetings (A.225 Gunther/S.1434 Ritchie): This bill would have required the live webcasting and archiving of video of full Board, Committee and Subcommittee meetings (at an estimated cost of $100,000). This bill did not move in either house this Legislative session.

Location of Regents Meetings (A.6437 Weprin/S.3739 Montgomery): This bill would have required that the Regents hold at least two meetings a year in New York City at a time when parents can attend and require advance notice of such meetings. The Senate passed this bill, but it did not move in the Assembly.
Identification of Costs Associated with Rule and Regulation Changes (S.2548 LaValle/A.8725 Thiele): This bill would have required the inclusion of a fiscal note with adoption of a resolution or change in the rules and regulations by SUNY, CUNY or the Board of Regents which have a fiscal impact. This bill passed the Senate and was held in the Assembly Higher Education committee.

Regents Election Process
The Senate passed several pieces of legislation that would have altered the election of Regents. These proposals did not advance in the Assembly. The proposals are summarized below:

- **Appointments by the Governor, Senate and Assembly** (S.4138 LaValle): This bill, which did not move in the Senate, would have capped the number of Regents at 17 and provide that, as Regent’s terms expire and come up for reappointment, they would be filled by either the Governor, Speaker of the Assembly, Temporary President of the Senate, and/or the Minority Leader of each house. The appointments would be as follows:
  - 2018 vacancies- one appointment by the Governor and one by the Temporary President of the Senate;
  - 2019 vacancies- one appointment by the Governor, one appointment by the Speaker of the Assembly, and one appointment by the minority leaders in each house;
  - 2020 vacancies- two appointments by the Governor, two by the Temporary President of the Senate, and two by the Speaker of the Assembly;
  - 2021 vacancies- two appointments by the Governor
  - 2022 vacancies- two appointments by the Governor and one by the Speaker of the Assembly, provided that the one appointment then rotate upon expiration to the Temporary President of the Senate, the Governor, back to the Speaker of the Assembly, and so on.

- **Commission to Nominate Regents** (S.2625-A LaValle): This bill would have created a commission on Regents nominations consisting of 10 members appointed by the Governor (4), the Temporary President of the Senate (2), the Speaker of the Assembly (2), and the minority leaders of the Senate and Assembly (1 each). Members of the commission would consider and evaluate candidates for the Board of Regents and recommend between 3 and 7 candidates for appointment to the Governor. Once the Governor makes an appointment, the Senate and Assembly would confirm the appointment through a joint resolution.

- **Timeline for election** (S.2547-A LaValle): This bill would have changed the date of the joint session (or concurrent resolution) for election of Regents from March to May. The intent of the bill is to avoid appointment of Regents at a time when the state budget is being negotiated.
Dignity for All Students Act
The following bills were introduced in the legislature relating to the Dignity for All Students Act (DASA):

- **Parental Notification** (A.8144-E Fahy/S.9074-A Tedisco): This bill would have required that upon a verified incident of harassment, bullying or discrimination, a licensed or certified school counselor, school social worker, school psychologist, school nurse, assistant principal or principal must discuss with each student involved in the incident whether they have any health, safety or privacy concerns. Any discussions must be documented.
  - If a student does not express a health, safety or privacy concern, then the principal, superintendent or DASA Coordinator must make a reasonable and good faith effort to contact a student’s parent or person in parental relation by telephone, mail, email or other means to discuss the incident and ways to effectively address the situation.
  - If a student does express a health, safety or privacy concern, a determination must be made as to whether contacting a student’s parent or person in parental relation would be in the best interest of the student.

The bill would also have provided individuals acting reasonably and in good faith to comply with these requirements with immunity from civil liability. This bill passed the Senate but did not move in the Assembly.

- **Including Non-Publics in DASA and Policies Regarding Parental Notification** (A.7738-A O’Donnell): This bill would have extended the requirements of DASA to non-public schools and would have required school districts to develop guidelines relating strategies for family and parental engagement in verified instances of harassment, bullying or discrimination. The Commissioner would have also been required to issue guidance with respect to making a determination whether or not, and how, to engage and communicate with families of students involved in such verified incidents. This bill was reported to the Assembly Codes Committee and was not introduced in the Senate.

**Interim Plus Rates** (A.10439-A Nolan/S.8294-A Marcellino): This bill would establish interim plus rates for special education schools subject to rate setting, that consists of their most recent certified rate issued for the 2013-14 school year or thereafter, plus growth. This bill did not move in either house.

**Student Immunization Requirements**
While provisions to make changes to student immunization requirements did not move in either house, it appeared there was increased advocacy efforts this year to relax the requirements in some way. The following bills were introduced in both the Senate and Assembly related to student immunization requirements:

- **Report on Immunization Exemptions** (A.3912 Thiele/S.2955 Croci): This bill would have required school districts to report to the department of education the
number of students who request to be exempted from receiving certain immunizations, the number of students whose request to be exempted from receiving certain immunizations is granted, and the number of students whose request to be exempted from receiving certain immunizations is denied. The Department would have been required to compile this information and report to the Governor and the Legislature annually. This bill did not move in either house.  

- **Religious Exemptions** *(A.8123-B Gottfried/S.6141-D Golden)*: This bill would have prohibited public schools from denying admission to unvaccinated students if their parents submit a form stating that such vaccinations are contrary to their genuine and sincere religious beliefs. Currently a religious exemption exists, however the principal or person in charge of the school can require supporting documentation and the request can be denied. Denials at the school level can be appealed to the Commissioner.

**Higher Education**

**APPR**
The following bills were introduced in the legislature relating to teacher and principal evaluation requirements:

**Assembly APPR bill** *(A.10475 Nolan/S.8301 Marcellino)*: this bill, that passed the Assembly would have:

- Made the use of State assessments optional, but not required and the use of what assessment a decision a subject of collective bargaining;
- Included a provision abrogating any existing collective bargaining agreements, and only requiring that school districts meet these requirements upon entry into a successor agreement- no state aid penalty would be applied in the interim;
- Eliminated the use of the State Growth Model;
- Eliminated the use of Statistical Growth Models with supplemental assessments; and
- Removed the requirement that a teacher be rated Ineffective overall if they used a supplemental assessment and were rated Ineffective on the student performance measures (this overrides the matrix, which would ordinarily allow for Developing to be assigned if observation rating was high enough).

**Senate APPR/Charter School Cap/Substantial Equivalence bill** *(S.8992 Flanagan)*: this bill, that passed the Senate, would have:

**APPR**
- Established a new 3012-b of the Education Law to establish a new evaluation system which would allow school districts and BOCES to collectively bargain the entire evaluation system (tests, observations, etc.) with no requirements for any particular types of measures and repeal 3012-c and 3012-d of the Education law.
• Required school districts to comply with Section 305(49) of the Education law which requires that state-administered tests and local assessments does not exceed more than 1%, as well as 2% for test prep of the minimum required annual instruction hours for such grade.
• Allowed the Department to issue guidelines to help school districts and BOCES determine the content of such APPR reviews.
• Maintained the four rating categories (H, E, D, I).
• Required any evaluation provisions of a collective bargain agreement (CBA) in effect on the effective date relating to 3012-d to remain in effect until a new agreement is reached.
• All new CBA’s entered into after the effective date shall be consistent with the requirements of the new section unless it relates to the 2017-18 school year only.
• Appeared to completely eliminate the State Aid penalty if a district did not comply with these provisions.
• Changed the teacher tenure probation period back to 3 years vs. current law 4 years. Tenure would still be linked to teacher effectiveness.
• Include the permanent extender on eliminating student test scores from their permanent records.

Charter Schools
• Increased the statewide charter school cap from 460 to 560.
• Removed the cap of 50 charters in NYC and replaces it with language limiting the number of charter schools allowed in NYC to no more than 90% of the annual charters issued after the effective date.
• Eliminated the current law “zombie” charter school limitations of 22 charters. It also eliminates the July 1, 2015 date for charters to be surrendered, revoked or terminated by which would expand the number of zombie charters to all charters that have been or will be reissued.
• The effective date would provide that the increase to 560 occurs once the SUNY Charter School Institute, in consultation with the Department, certifies that the 460 cap has been reached.

Substantial Equivalence
• Changed the nonpublic schools captured by changing the time from 9am-(no earlier than) 4pm for grades one through eight as well as 9am-(no earlier than) 4:30pm for high schools.
  o Previous language said 9am-4pm for grades one through three, and (no earlier than) 5:30pm for grades 4-8 as well as 9am- (no earlier than) 6pm for high schools.
• Removed for instruction in English and Math “that will prepare pupils” to “to prepare pupils” as well as similar language for History and Science.
• Required the Commissioner to designate an entity or entities with expertise in the curriculum of these nonpublic schools to evaluate their compliance with certain academic requirements leaves out paragraph (i) which relates to English being language of instruction) which would be based solely on teaching the
enumerated criteria of this provision in paragraphs (ii) and (iii). The Commissioner would be required to defer to such entity’s expertise in making the evaluation.

- Upon a finding of non-compliance, the following steps may be taken:
  - The Commissioner may issue a report recommending corrective actions.
  - The nonpublic school may accept and implement the corrective actions or establish its own plan for resolving deficiencies.
  - Upon failure of the nonpublic school to remedy the non-compliance, the Commissioner may deem the school's curriculum to be deficient and place the school on probation for a period of one year. The nonpublic school would be required to retain and work with a curriculum specialist to further address and resolve the deficiencies and be subject to further/periodic monitoring by the Commissioner until the deficiencies are resolved.
  - If a nonpublic school is deemed not to be in compliance after the probationary period, the Commissioner is required to inform parents of students enrolled in the school that the instruction provided by the school was determined to not be in compliance.

Other
This bill would have included public schools, BOCES and public colleges and universities under the Division of Human Rights in order to bring them under discrimination prohibitions based on “age, race, creed, color, national origin, sexual orientation, military status, sex or marital status” at these educational institutions (currently nonpublic schools and independent colleges are captured by this provision).

Teacher Preparation and Certification
The following bills were introduced in the legislature relating to teacher preparation and certification requirements:

- **Eliminating the GPA Admission Requirements for Graduate-Level Teacher and Education Leader Programs (A.3917 Glick):** This bill would have eliminated the current law provision that graduate-level teacher and education leader programs require students to have a minimum 3.0 grade point average (GPA) in their undergraduate program as an admission requirement. This bill passed the Assembly but was not introduced in the Senate.

- **Required Exams for Teacher Certification (S.6791 Rules):** This bill, which did not move in the Senate, would have required individuals applying for certification after January 1, 2018, to pass the Academic Literacy Skills Test (ALST) and the teacher performance assessment.

- **Teaching Experience Requirements and Access to Professional Development (A.6141 Thiele/S.4065 Ott):** This bill would have counted teaching assistant experience toward teaching experience requirements for certification at a rate of not less than sixty percent. The bill would have also required school districts to provide all employee certificate holders with equal opportunity to receive professional development or continuing teacher leader education
provided by the district and to maintain records of such hours for all employee certificate holders. This bill moved to the floor in the Senate but did not get reported out of committee in the Assembly.

Program Approval
The Legislature introduced the following bills relating to the Regents program approval authority:

- **Exemptions for Not-for-Profit Institutions** (*S.5182-A Ranzenhofer*): This bill would exempt Middle State or Regents accredited not-for-profit colleges and universities that have maintained a physical presence in the state and been operated by the same corporate entity for the immediately preceding 10 years from the program approval process for new curriculum or program offerings that do not require a master plan or charter amendment, or that lead to professional licensure. This did not move in the Senate.

- **Exemptions for Existing New State Colleges** (*A.6064-B Schimminger/S.4577-B Gallivan*): This bill would have authorized Middle State or Regents accredited colleges that have maintained a physical presence in the state for the immediately preceding 10 years to add programs and degrees without going through program/Regents approval processes. This bill did not move in either house.

Professions

**Pharmacy Technicians** (*A.4611-B Englebright/S.554-B Griffo*): This bill would have established two new professions (an estimated 20,000 individuals) to be regulated by the Department:

- “Registered pharmacy technicians” individuals who would be authorized to have access to prescription drugs and directly assist licensed pharmacists to dispense prescriptions/medication orders or have the authority to add to or modify prescription records; and
- “Certified pharmacy technicians” individuals who meet the requirements of a registered pharmacy technician and work in a pharmacy in a hospital, diagnostic and treatment center, or drug compounding facility, or assist in pharmacy compounding.

This bill passed the Senate but did not move in the Assembly.

**Genetic Counselors** (*A.2275-B Rosenthal/S.1323-B LaValle*): This bill would have established a licensure for genetic counselors to be regulated by the Department. This bill passed the Senate but did not move in the Assembly.

**School Psychology** (*A.1132-D Rosenthal/S.692-D Ortt*): This bill would have established a licensure for school psychologists to be regulated by the Department. This bill passed the Senate but did not move in the Assembly.
Optometry (A.6751-A Rosenthal/S.5235-A Funke): This bill would have authorized optometrists who receive certification, to prescribe a specific list of oral therapeutic pharmaceutical drugs for the treatment of glaucoma and ocular hypertension. This bill passed the Senate but did not move in the Assembly.

Non-Licensee Ownernships of CPA Firms (A.8973 Peoples-Stokes/S.3851 LaValle): This bill would have allowed non-CPAs to own up to 49 percent ownership of a CPA firm. This bill passed the Senate but did not move in the Assembly.

Conversion Therapy Prohibition for Mental Health Professionals Working with Patients Under 18 (A.3977 Glick/S.263 Hoylman): This bill would have prohibited a physician, psychologist, social worker or mental health practitioner from engaging in sexual orientation change/conversion therapy efforts with a patient under 18 years of age and would further constitute these efforts as unprofessional conduct subject to the disciplinary oversight of the Department or the Department of Health. This bill passed the Assembly but did not move in the Senate.

Organ Donation Registry and Licensure Forms (A.2526-B Simotas/S.474-C Peralta): This bill would have required space be provided for election for registration for the Donate Life Registry on certain state forms, including licensure applications and professional registration forms. This bill did not move in either house.

Cultural Education

Allowance for Coordinated Library Construction Projects (A.10835 Barrett): Under current law, libraries can only submit one application targeting a single library. This bill would have allowed library systems to submit applications for single libraries as well as coordinated projects that would impact multiple libraries, making it easier for these libraries to receive much-needed construction grants. This bill passed the Assembly.

Library Construction Grant Approved Project Cost Eligibility (A.10836-B Barrett/S.8289-B Ritchie): This bill would have made certain libraries, in economically disadvantaged communities, eligible for up to 90 percent of the approved construction project costs under the public library construction grant program. The bill would also extend provisions within the public library construction grant program that provide increased aid for economically disadvantaged communities of up to 75 percent of the approved construction costs until 2025. This bill passed the Assembly but did not move in the Senate.

October as New York State History Month (A.9560 Nolan/S.7385 Marcellino): This bill would have changed New York State History Month from the month of November to October. Many historical organizations, including most State historic sites, are closed in
November and therefore cannot take part in the celebrations providing people with the opportunity to learn about the State's rich history. This bill passed the Assembly and was reported to the Senate Rules committee.

**SUNY and CUNY Admission Applications and Library Card Applications** *(A.8116 Ortiz/S.5283-C Jacobs)*: This bill would have required that space be provided on SUNY and CUNY registrations forms and all public library applications for election for registration for the Donate Life Registry. This bill passed in the Senate and was held in the Assembly Higher Education committee.

**ACCES**

**Bureau of Proprietary School Supervision Account Transfers** *(A.7947 Harris/S.6510 LaValle)*: This bill would have provided that if the net balance of the reimbursement account exceeds $2.5 million, any amount over $2.5 million, would be transferred to the proprietary vocational school supervision account. This bill passed the Assembly; but did not move in the Senate.

**Bureau of Proprietary School Supervision School Audited Statement Requirements** *(A.8060-A Hyndman/S.6849 Dilan)*: This bill would have allowed licensed non-degree granting career institutions, overseen by our Bureau of Proprietary School Supervision (BPSS) staff, whose gross tuition is less than $100,000 in a school fiscal year and which receives less than $100,000 in state and federal student financial aid in a school fiscal year to file unaudited financial statements with the Department, provided that once every three years such school files an audited financial statement with the Department.

**NYSID** *(S.5096 Young)*: This bill would have amended the State’s preferred source procurement program, NYSID, which was established to provide enhanced employment opportunities to individuals with disabilities. The changes would have impacted oversight of the program and purchases of preferred status commodities and services by State agencies, public benefit corporations, and political subdivisions. This bill passed the Senate.