



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:** Lawrence C. Gloeckler *Lawrence C. Gloeckler*  
**COMMITTEE:** Vocational and Educational Services for Individuals with Disabilities  
**TITLE OF ITEM:** Proposed amendment of Sections 247.1, 247.2, 247.3 and 247.4 of the Regulations of the Commissioner of Education  
**DATE OF SUBMISSION:** January 13, 2003  
**PROPOSED HANDLING:** Discussion  
**RATIONALE FOR ITEM:** Policy discussion prior to action  
**STRATEGIC GOAL:** Goals 4 and 5  
**AUTHORIZATION(S):** *[Signature]* *[Signature]*

**SUMMARY:**

Attached is a proposed amendment to sections 247.1, 247.2, 247.3 and 247.4 of the Regulations of the Commissioner of Education. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents. The amendment will be submitted for action in March 2003.

The purpose of the proposed amendment is to conform State regulations pertaining to the Department's operation of the vocational rehabilitation program to recent amendments to the Federal vocational rehabilitation regulations governing that program, and to make certain technical corrections. The Federal regulation concerning the time to arrange for an impartial hearing was recently changed to allow time for conducting mediation proceedings first. Notice of Proposed Rule Making concerning the proposed amendment was published in the State Register on December 31, 2002.

Attachment

PROPOSED AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF  
EDUCATION

Pursuant to sections 101, 207 and 1004 of the Education Law.

1. Subdivision (d) of section 247.1 of the Regulations of the Commissioner of Education is amended, effective April 17, 2003, to read as follows:

(d) Eligible individual means an individual [ with a disability who is ] whom the agency has found eligible for [ assistance ] services [ as defined in 29 U.S.C. section 722(a)(1) (United States Code, 1994 edition, 1998 Supplement IV, Volume Four; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 1999: available at the Office of Vocational and Educational Services for Individuals with Disabilities, Room 1606, One Commerce Plaza, Albany, NY 12234)] in accordance with the criteria contained in section 247.6 of this Part.

2. Subdivision (f) of section 247.2 of the Regulations of the Commissioner of Education is amended, effective April 17, 2003 to read as follows:

(f) Time limitations. (1) . . .

(2) Extension of time. It shall be within the discretion of the reviewer[ , ] or the hearing officer, [ or the deputy commissioner, ] for good cause shown, or with the consent of the parties, to extend any time limit prescribed by this Part [ , except the time limitation established for the deputy commissioner's notice of intent to review the decision of a hearing officer ]. All requests for extensions shall be made in writing by the individual, before the expiration of the period originally prescribed or as previously extended, except that a request for extension of the time limitation for requesting a review may be submitted after the expiration of the prescribed period.

3. Section 247.3 of the Regulations of the Commissioner of Education is amended, effective April 17, 2003 to read as follows:

§247.3 Administrative review and mediation.

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

(h) . . .

(i) . . .

(j) . . .

(k) . . .

(l) . . .

4. Subdivision (b) of section 247.4 of the Regulations of the Commissioner of Education is amended, effective April 17, 2003, to read as follows:

(b) Scheduling of an impartial hearing. Upon receipt of a request for review, a hearing officer shall be appointed by the deputy commissioner. The hearing officer shall set a date, time and site for the hearing convenient for all parties. The date set shall be within [ 45 ] 60 days of the receipt of the request for an impartial hearing.