



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

**TO:** Audits/Budget and Finance Committee  
Subcommittee on State Aid

**FROM:** John B. King, Jr.  
Valerie Grey *Valerie Grey*

**SUBJECT:** Mandate Relief Regulations:  
Repeal of Section 155.6, Relating to School Facility Report Cards;  
Amendment of Section 156.3 of the Regulations of the Commissioner, Relating to School Bus Driver Safety Training and Reporting of School Vehicle Idling on School Grounds

**DATE:** June 16, 2011

**AUTHORIZATION(S):**

*Richard J. Santorum*

**SUMMARY**

Issues for Decision

Should the Board of Regents adopt as emergency actions the proposed repeal of section 155.6 of the Commissioner's Regulations, relating to school facility report cards; and the amendment of section 156.3(b) and (h) of the Commissioner's Regulations, relating to school bus driver safety training and monitoring/reporting on the idling of school vehicles on school grounds?

Reason(s) for Consideration

Provide mandate relief to allow school districts to operate more efficiently and cost-effectively.

Proposed Handling

The proposed amendments are being presented to the Audits/Budget and Finance Committee and the Subcommittee on State Aid for recommendation and to the full Board for adoption as emergency actions at the June 2011 Regents meeting.

## Procedural History

The Regents approved their State Aid proposal for school year 2011-12 in December 2010. The proposal supports the continued review and examination of cost containment and mandate relief options. In February, March, April and May 2011, the Regents reviewed and discussed a set of draft mandate relief options intended to increase flexibility and reduce requirements for school districts in ways that do not adversely impact the health and safety of students or the essential elements of the educational reform efforts underway. This item presents regulatory amendments for those mandate relief actions that can be accomplished through regulatory change alone in the areas of school facilities and transportation, specifically where the cost of implementation exceeds the benefits.

## Background Information

The Regents carefully crafted this year's State Aid proposal to retain those critical funding directions necessary to continue the State's progress toward educational adequacy, despite the State's worsening revenue picture. In order to preserve funding for critical priorities, the Regents recommended cost-containment strategies including mandate relief, regional transportation, and expanded use of BOCES shared services.

In the area of school facilities, there is one regulation that I recommend the Regents repeal:

*School Facilities Report Card.* Commissioner's Regulation 155.6 resulted from the 1998 RESCUE legislation and requires school districts to summarize all facilities activities, projects, investigations, tests, etc. performed throughout the year. While the intent of the report card was to provide easier access by the public to data collected by districts, it represents an additional administrative burden and resulted in districts presenting duplicative data in multiple formats. The report card format developed by SED merely refers readers to other available documentation. As the RESCUE legislation does not specifically identify the report card format, this mandate can be eliminated through a regulatory change.

In the area of pupil transportation, there is one regulation that should be amended.

*School Bus Driver Safety Training and Reporting School Vehicle Idling on School Grounds.* Commissioner's Regulation 156.3 prescribes when school bus driver safety training must be conducted and mandates biannual reporting of compliance with school vehicle anti-idling requirements. In order to provide greater flexibility, subparagraph (iii) of section 156.3 (b)(5) is proposed for amendment in response to requests from school districts, School Bus Driver Instructors and Master Instructors that the training schedule for school bus drivers be flexible enough to allow combining it with other district staff development offerings. In an effort to streamline reporting requirements,

paragraph (5) of section 156.3 (h) is proposed for amendment in response to comment to provide more flexibility to school districts to monitor compliance with the rule's provisions. The proposed amendment ensures student safety in that it will still require each school district to periodically monitor compliance with school bus idling restrictions.

The proposed amendments are being presented for adoption as emergency actions. Statements of the Facts and Circumstances Which Necessitate Emergency Action for each amendment are attached. Notices of Emergency Adoption and Proposed Rule Making will be published in the State Register on July 6, 2011. Supporting materials are available upon request from the Secretary to the Board of Regents.

### Recommendation

I recommend that the Regents take the following action:

VOTED: That section 155.6 of the Regulations of the Commissioner of Education be repealed, effective June 21, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to provide immediate mandate relief to school districts and thus allow them to preserve critical programs, by repealing unnecessary requirements relating to school facility report cards, so that school districts may immediately make applicable changes in their 2011-12 budgets and timely prepare and issue their tax levies in July 2011; and it is further.

VOTED: That subparagraph (iii) of paragraph (5) of subdivision (b) and paragraph (5) of subdivision (h) of section 156.3 of the Regulations of the Commissioner of Education be amended as submitted, effective June 21, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to provide immediate mandate relief to school districts and thus allow them to preserve critical programs, by permitting increased flexibility in the scheduling of school bus driver safety refresher training and by eliminating unnecessary monitoring and reporting requirements, so that school districts may immediately make applicable changes to their 2011-2012 budgets and timely prepare and issue their tax levies in July 2011.

### Timetable for Implementation

If adopted by the Board of Regents at its June meeting, the emergency rules will become effective June 21, 2011. It is anticipated that the rules will be presented for adoption as permanent rules at the September Regents meeting, after publication in the State Register and expiration of the 45-day public comment period for State agency rulemakings.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 409-d and 409-e of the Education Law

Section 155.6 of the Regulations of the Commissioner of Education is repealed,  
effective June 21, 2011.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 3624 and 3637

1. Subparagraph (iii) of paragraph (5) of subdivision (b) of section 156.3 of the Regulations of the Commissioner of Education is amended, effective June 21, 2011, as follows:

(iii) All school bus drivers shall receive a minimum of two hours of refresher instruction in school bus safety at least two times a year, at sessions conducted between July 1st and [the first day of school] October 31 and between December 1st and [March] May 1st of each school year. Refresher courses for drivers of vehicles transporting pupils with disabilities exclusively shall also include instruction relating to the special needs of a pupil with a disability.

2. Paragraph (5) of subdivision (h) of section 156.3 is amended, effective June 21, 2011, as follows:

(5) Monitoring and reports. Each school district shall periodically [but at least semi-annually] monitor compliance with the provisions of this subdivision by school bus drivers and drivers of vehicles owned, leased or contracted for by such school district. [Each school district shall prepare a written report of such review, which shall describe the actions taken to review compliance and the degree of adherence found with the provisions of this subdivision. Copies of the report shall be retained in the school district's files for a period of six years and made available upon request. The commissioner may also require specific school districts to provide additional information as necessary to address health concerns related to their compliance with the provisions of this subdivision.]

PROPOSED REPEAL OF SECTION 155.6 OF THE REGULATIONS OF THE  
COMMISSIONER OF EDUCATION PURSUANT TO EDUCATION LAW SECTIONS  
207, 305, 409-d and 409-e, RELATING TO SCHOOL FACILITIES REPORT CARD  
STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

The proposed amendment will reduce costs and provide mandate relief to school districts, by repealing section 155.6 of the Commissioner's Regulations to eliminate a requirement that school districts and boards of cooperative educational services (BOCES) prepare a school facility report card for each occupied school building.

Because the Board of Regents meets at fixed intervals, the earliest the proposed amendments could be adopted, pursuant to the requirements of the State Administrative Procedure Act, is the September 12-13, 2011 Regents meeting, and the earliest an adoption at such meeting could be made effective would be October 5, 2011.

The national recession and the expiration of the federal stimulus funds has forced many districts to dip into their fund balance and reduce staffing and other resources for students. It is critical that districts receive relief from mandates that have not been demonstrated to justify their cost in order that districts can maintain critical services to students. The proposed amendment is being adopted as an emergency measure upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to provide immediate mandate relief to school districts and allow them to preserve critical programs, by repealing unnecessary requirements relating to school facility report cards, so that school districts may

immediately make applicable changes in their 2011-12 budgets and timely prepare and issue their tax levies in July 2011.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at their September 12-13, 2011 meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act.

PROPOSED AMENDMENT OF SECTION 156.3 OF THE REGULATIONS OF THE  
COMMISSIONER OF EDUCATION PURSUANT TO EDUCATION LAW SECTIONS  
207, 3624 AND 3637, RELATING TO SCHOOL BUS DRIVER SAFETY INSTRUCTION  
AND SCHOOL BUS AND OTHER VEHICLE IDLING ON SCHOOL GROUNDS.  
STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

The proposed amendment will reduce costs and provide mandate relief to school districts.

The proposed amendment of section 156.3(b)(5)(iii) will provide mandate relief to school districts and afford greater flexibility to school bus drivers to complete required semi-annual school bus driver safety training, by allowing the training to be scheduled coincidental with other professional development days scheduled during the year.

In addition, the proposed amendment to section 156.3(h)(5) will provide mandate relief to school districts by repealing requirements that each school district monitor compliance with school bus idling restrictions at least twice a year, and prepare, retain and submit written reports of such reviews. The proposed amendment ensures student safety in that it will still require each school district to periodically monitor compliance with school bus idling restrictions.

Because the Board of Regents meets at fixed intervals, the earliest the proposed amendments could be adopted, pursuant to the requirements of the State Administrative Procedure Act, is the September 12-13, 2011 Regents meeting, and the earliest an adoption at such meeting could be made effective would be October 5, 2011.

The national recession and the expiration of the federal stimulus funds has forced many districts to dip into their fund balance and reduce staffing and other resources for students. It is critical that districts receive relief from mandates that have not been demonstrated to justify their cost in order that districts can maintain critical services to students. The proposed amendment is being adopted as an emergency measure upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to provide immediate mandate relief to school districts and allow them to preserve critical programs, by permitting increased flexibility in the scheduling of school bus driver safety training and eliminating unnecessary monitoring and reporting requirements, so that school districts may immediately make changes in their 2011-2012 budgets and timely prepare and issue their tax levies in July 2011.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at their September 12-13, 2011 meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act.