



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

**TO:** P-12 Education Committee

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

**SUBJECT:** Proposed Addition of Section 100.17 of the Regulations of the Commissioner of Education Relating to Distinguished Educators

**DATE:** February 22, 2011

**STRATEGIC GOAL:** Goals 1 and 2

**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issue for Decision**

Should the Board of Regents add a new section 100.17 of the Commissioner's Regulations to implement the Distinguished Educator Program to assist low-performing districts and schools?

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

Necessary to implement State statutes.

#### **Proposed Handling**

The proposed amendment is being presented to the P-12 Education Committee for approval and to the Full Board for adoption at the March Board of Regents meeting.

#### **Procedural History**

The proposed amendment was discussed by the P-12 Education Committee at the November 2010 Regents meeting.

## Background Information

Education Law §211-c directs the Regents to establish a Distinguished Educator Program providing for the appointment of individuals as distinguished educators to assist low performing districts in improving their academic performance. In addition, Education Law §211-b provides for the inclusion of distinguished educators in joint intervention teams that are appointed by the Commissioner to assist school districts in developing, reviewing and recommending plans for reorganizing or reconfiguring of schools in restructuring status or schools under registration review (SURR) status that have failed to demonstrate progress as specified in their corrective action plan or comprehensive education plan.

The proposed rule is necessary to implement Education Law §§211-c and 211-b by establishing criteria regarding the selection, roles, responsibilities, protocols and procedures, and expenses for distinguished educators. The proposed rule will enable the Commissioner to appoint distinguished educators to districts and schools that are experiencing extremely serious academic challenges and ensure the appointment of qualified individuals, who have experience in achieving consistent growth in academic performance or educational expertise, including superior performance in the classroom, to serve as distinguished educators to assist low performing schools.

In drafting the proposed rule, Department staff reviewed relevant research prepared by the New York Comprehensive Center, held conference calls with other state education agencies that have similar programs, consulted with experts, and held focus meetings with key stakeholder groups on the conceptual framework for a Distinguished Educator program.

Since its discussion at the November 2010 Regents meeting, the proposed rule has been revised for purposes of streamlining procedures, ensuring consistency, providing clarification, and correcting grammatical errors, including revisions:

- to reflect the proper certification titles in current use under Part 80 of the Commissioner's Regulations;
- to expand the pool of potential candidates eligible for appointment as distinguished educators to include qualified individuals who hold substantially equivalent certification outside the State of New York;
- to delete, as unnecessary and redundant, provisions requiring separate agreements between the Commissioner and distinguished educators, and between distinguished educators and school districts, and to require, in place of such agreements, that a distinguished educator, within 45 days of appointment, develop an action plan outlining his or her goals and objectives, and submit such plan to the Commissioner for approval, with a copy of the approved plan to be provided to the school district;

- to replace the phrase "have been directly involved in teaching or administration" in a school district, charter school, BOCES or a nonprofit educational organization within the past three years, with the phrase "have experience as a teacher or administrator";
- to replace the term "ensure" with "facilitate" so as to now read "facilitate increased student performance across the district", in order to more appropriately describe this responsibility of the distinguished educator.
- to add "contracts" to the list of things that may affect a distinguished educator's right to return to his or her previous employment.
- to provide that distinguished educators shall serve "within the sole discretion of the Commissioner", instead of "at the pleasure of the Commissioner";
- to clarify, consistent with Education Law section 211-c, that a distinguished educator is appointed to a school district and may be assigned to a school within such district.

A Notice of Proposed Rule Making was published in the State Register on October 27, 2010. A Notice of Revised Rule Making was published in the State Register on January 19, 2011. Supporting materials are available upon request from the Secretary to the Board of Regents.

#### Recommendation

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

VOTED: That section 100.17 of the Regulations of the Commissioner of Education be added and that paragraph (1) of subdivision (c) of section 100.16 be amended, as submitted, effective March 30, 2011.

#### Timetable for Implementation

If adopted by the Board of Regents at their March meeting, the proposed amendment will take effect on March 30, 2011.

Attachment

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 211-b and 211-c and Chapter 57 of the Laws of 2007

1. Section 100.17 of the Regulations of the Commissioner of Education is added, effective March 30, 2011, as follows:

100.17 Distinguished educator program.

(a) Eligibility. The following individuals shall be eligible for designation by the Board of Regents as distinguished educators pursuant to Education Law section 211-c:

(1) Building principals, superintendents of schools, and teachers, including retirees and current employees of school districts, under whose leadership schools have demonstrated consistent growth in academic performance, and who meet the applicable criteria in subdivision (b) of this section: and

(2) other individuals who have demonstrated educational expertise, including superior performance in the classroom, and who meet the applicable criteria in subdivision (b) of this section; provided, however, that individuals employed by for-profit entities shall not be eligible for such designation.

(b) Criteria for Selection of Distinguished Educator.

(1) Distinguished educator for a school district. A distinguished educator to be appointed to a school district shall:

(i) have a minimum of:

(a) ten years of successful experience in education including, but not limited to, at least five years of successful experience in turning around low performing districts and sustaining the improved academic achievement of all at risk groups, or dramatically

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or

(b) alternate qualifications deemed acceptable by the Commissioner including, but not limited to, a minimum of five years of statewide experience working with low performing school districts, or a minimum of five years comparable experience working with at risk populations in closing achievement gaps in a charter school, BOCES or in a nonprofit educational organization.

(ii) have either:

(a) New York State certification as a School District Administrator or School District Leader or a substantially equivalent certification, as determined by the Commissioner, issued by a jurisdiction outside the State, or

(b) a Ph.D., Ed.D. or other comparable advanced degree and a minimum of five years working directly in low performing districts or dramatically raising the achievement of high needs students in moderate to high performing districts;

(iii) have experience as a teacher or administrator in a school district, charter school, BOCES or a nonprofit educational organization within the past three years or, where applicable, within the immediately preceding three years from the date of the candidate's initial appointment as a distinguished educator.

(iv) have demonstrated an ability to successfully work with at risk populations in closing achievement gaps; and

(v) have experience in school turnaround and sustaining the academic success of at risk students.

(2) Distinguished Educator for a School. A distinguished educator to be assigned to a school within a school district shall:

(i) have a minimum of:

(a) ten years of successful experience in education including, but not limited to, at least five years of successful experience in increasing student academic performance in low performing schools or dramatically raising the achievement of high needs students in moderate to high performing districts, or

(b) alternate qualifications deemed acceptable by the Commissioner including, but not limited to, a minimum of five years of statewide experience working with low performing school districts, or a minimum of five years comparable experience working with at risk populations in closing achievement gaps in a charter school, BOCES or in a nonprofit educational organization.

(ii) have either:

(a) New York State certification as a School Administrator and Supervisor, or School Building Leader, or Teacher or a substantially equivalent certification, as determined by the Commissioner, issued by a jurisdiction outside the State, and have worked in/with low performing schools, or

(b) a Ph.D., Ed.D. or other advanced degree and a minimum of five years working directly in low performing districts or dramatically raising the achievement of high needs students in moderate to high performing districts;

(iii) have experience as a teacher or administrator in a school district, charter school, BOCES or a nonprofit educational organization within the past three years or,

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candidate's initial appointment as a distinguished educator.

(iv) have demonstrated an ability to successfully work with at risk populations in closing achievement gaps; and

(v) demonstrate knowledge of curriculum development and ensure alignment of curriculum with NYS Learning Standards (including the Common Core Standards), Performance Indicators and Assessments.

(c) Appointment.

(1) An application for designation of an eligible individual as a distinguished educator shall be submitted to the Commissioner, in a form and by a date prescribed by the Commissioner.

(2) From the applications submitted pursuant to paragraph (1) of this subdivision, the Board of Regents delegates to the Commissioner the authority pursuant to Education Law §211-c(1) to designate a pool of eligible individuals to serve as distinguished educators. Individuals in the pool shall serve a maximum of three years, provided that an individual's service in the pool may be renewed for an additional year upon submission of evidence of ongoing professional development.

(3) From the pool of distinguished educators designated pursuant to paragraph (2) of this subdivision, the Commissioner shall appoint distinguished educators who have expressed their willingness to assist low performing districts in improving their academic performance, pursuant to the following:

(i) The Commissioner may appoint a distinguished educator as a consultant to a school district or assign him or her to school(s) within such district:

(a) when such district or a school has failed to make adequate yearly progress for four or more years, pursuant to section 100.2(p)(5) and (6) of this Part;

(b) when such district has one or more schools designated as a school in restructuring pursuant to section 100.2(p)(6)(i)(a)(3) of this Part and/or identified as persistently lowest achieving and placed under registration review pursuant to section 100.2(p)(9) and (10) of this Part, and are at risk of closure for failure to make satisfactory progress under federal and State accountability standards; and/or

(c) as a member of a joint intervention team pursuant to Education Law section 211-b(2)(b) and section 100.2(p)(6)(iv)(c)(1) of this Part.

(ii) The distinguished educator shall be appointed for one year and, upon satisfactory evaluation pursuant to subdivision (g) of this section, may be reappointed for one additional year.

(iii) To the extent practicable, the Commissioner shall appoint distinguished educators to assist school districts with comparable demographics to the schools or school districts that are or were under such educator's leadership.

(iv) A distinguished educator shall not be appointed to a school district or a community school district or assigned to a school within a school district or a community school district in which he or she was previously employed as a teacher or administrator within the past five years.

(v) Reassignment. A distinguished educator may be reassigned by the Commissioner to other school districts and schools, based on the needs of districts and schools, as appropriate, as determined by the Commissioner including, but not limited to, compatibility of the needs of the district and the distinguished educator's expertise.



(d) Roles and responsibilities.

(1) Distinguished educators.

(i) General responsibilities. An appointed distinguished educator shall:

(a) assess the learning environment of schools in the district;

(b) review or provide assistance in the development and implementation of any district improvement plan and/or any corrective action, restructuring, or comprehensive plan of any school within the district to which the distinguished educator is assigned.

Such distinguished educator shall either endorse without change or make recommendations for modifications to any such plan to the board of education, trustees, or chancellor (in a school district in a city of one million or more inhabitants), and the Commissioner; and

(c) participate in summer training and ongoing professional development, as directed by the State Education Department.

(ii) Specific responsibilities for distinguished educator for school district. A distinguished educator appointed to a school district shall:

(a) conduct an intensive review of district and school systems, structures, operations and facilities and develop an action plan pursuant to subdivision (f) of this section;

(b) assess the district's capacity to promote and support teaching and learning within all schools in the district;

(c) work with district administration and the board of education to review data, analyze district and school structures, plan for improvement, assist in targeting district priorities;

(d) facilitate increased student performance across the district; and

(e) recommend administrative and operational improvements to strengthen systems.

(iii) Specific responsibilities for distinguished educator for a school. A

distinguished educator assigned to a school or school within a school district shall:

(a) assess the learning environment of the school(s) within the district;

(b) identify or confirm systemic or instructional barriers and critical gaps to improving student achievement;

(c) improve curricula, instructional and assessment strategies;

(iv) Appointed distinguished educators shall be deemed ex-officio, non-voting members of the board of education or trustees. In a school district in a city of one million or more inhabitants, any such distinguished educator shall be deemed an ex-officio, non-voting member of the community district education council or the city board, as applicable.

(2) School districts.

(i) The school district to which a distinguished educator is appointed shall cooperate fully with an appointed distinguished educator.

(ii) Upon receipt of any recommendations from the distinguished educator for modification of a district improvement plan and/or any corrective action, restructuring, or comprehensive plan, the board of education, trustees, or chancellor shall either modify the plans accordingly or provide a written explanation to the Commissioner of its reasons for not adopting such recommendations. The Commissioner shall direct the district to modify the plans as recommended by the distinguished educator unless the

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merit.

(iii) If an appointed distinguished educator is employed by a school district or charter school, it shall be the duty of the board of education or trustees of such school district, the chancellor of a city school district in a city of one million or more inhabitants, or the board of trustees of such charter school to facilitate the efforts of any such appointed distinguished educators in their employ by granting reasonable leave requests and otherwise accommodating their efforts, to the extent such efforts do not substantially interfere with the educator's performance of his or her regular duties.

(iv) The reasonable and necessary expenses incurred by the appointed distinguished educators while performing their official duties shall be paid by the school district pursuant to section 100.16 of this Part.

(v) Right to return. Consistent with and to the extent permitted under any applicable provisions of law, existing collective bargaining agreements, and contracts:

(a) The employee shall be ensured that, at the end of his/her term of services as a distinguished educator, he/she will be returned to the previously held position or a position comparable to the one he/she had at the beginning of his/her leave, whether or not a reduction in work force is required to comply with this requirement.

(b) Upon return to service with his/her employer, the employee's term of service as a distinguished educator shall count as service time for purposes of scheduled, routine, or general compensation enhancements, retirement eligibility, retirement benefit calculation and seniority.

(vi) The school district shall ensure that a distinguished educator, upon appointment to such district or assignment to a school within such district, shall be subject to the fingerprint and criminal history record check requirements contained in law, including, but not limited to, Education Law sections 305(3), 1125(3), 1604(39) and (40), 1709(39) and (40), 1804(9) and (10), 1950(4)(II), 1950(4)(mm), 2503(18) and (19), 2554(25) and (26), 2590-h(20), 2854(3)(a-2) and (a-3) and 3035, and Part 87 of this Title.

(e) Removal of Distinguished Educator. A distinguished educator shall serve within the sole discretion of the Commissioner and may be removed at any time, within the discretion of the Commissioner, from a school district or school or the distinguished educators pool.

(f) Reporting requirements. Within forty-five (45) days of appointment to the school district, a distinguished educator shall develop an action plan outlining his/her goals and objectives for the district for the ensuing school year and shall also submit such action plan to the Commissioner or his or her designee for approval. Upon approval, the distinguished educator shall provide a copy of the action plan to the school district. The distinguished educator shall also submit quarterly reports to the Commissioner or his or her designee in a form prescribed by the Commissioner.

(g) Evaluation:

(i) Evaluation of the Distinguished educator. The Commissioner or his/her designee will conduct an annual evaluation of each individual assigned to serve as a distinguished educator in accordance with the goals and objectives specified in the action plan developed pursuant to subdivision (f) of this section.

(h) District/school follow-up upon completion of service by distinguished educator. Upon completion of service of the distinguished educator, the district and school shall prepare and submit to the Commissioner a written report describing how they shall continue, sustain and extend the continuous improvement structures and systems that have been implemented to reverse chronic failure and to support improved academic achievement and improved graduation outcomes.

2. Paragraph (1) of subdivision (c) of section 100.16 of the Regulations of the Commissioner of Education is amended, effective March 30, 2011 as follows:

(1) Consulting fees. Consulting fees shall be paid in accordance with an annual schedule of hourly consulting fees established by the commissioner and based upon the following factors:

(i) the regional costs of labor in related occupations;

(ii) the current market salaries paid to New York State teachers and educational administrators, based on available wage data from the New York State and/or Federal departments of labor; [and]

(iii) the expected duration of the intervention or school improvement consulting, as determined by the length of time that the school or school district has been in accountability status and the severity of the accountability status of such school or district; and

(iv) for distinguished educators assigned to school districts, the consulting fee determined pursuant to this paragraph shall be increased by an additional ten percent.