




TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: Proposed Amendment to Sections 200.2 through 200.5 of the Regulations of the Commissioner of Education Relating to Chapters 276 and 279 of the Laws of 2012
DATE: October 2, 2012
AUTHORIZATION(S):

SUMMARY

Issue for Discussion

Should the Board of Regents amend sections 200.2 through 200.5 of the Regulations of the Commissioner of Education to conform State regulations to New York State (NYS) Education Law, as amended by Chapters 276 and 279 of the Laws of 2012?

Reason(s) for Consideration

Required by Statute (L. 2012, Ch. 276 and Ch. 279).

Proposed Handling

The proposed amendment is before the P-12 Education Committee for discussion at the October 2012 meeting.

Procedural History

On August 1, 2012, the Governor signed Chapters 276 and Chapter 279 of the Laws of 2012 relating to, respectively, the additional parent member of a committee on special education (CSE) and authorizing electronic access to students' individualized education programs (IEP).

A Notice of Proposed Rule Making was published in the State Register on September 26, 2012. Public comment on the proposed amendment will be accepted for

45 days from the date of the publication in the State Register, and three public hearings are scheduled for Albany, New York City and Leroy, New York. A copy of the proposed amendment is attached. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Background Information

The purpose of the proposed amendment is to conform the Regulations of the Commissioner of Education to Chapters 276 and 279 of the Laws of 2012, which became effective August 1, 2012.

Chapter 276 amends Education Law section 4402 to provide that the additional parent member of a CSE need not be in attendance at any CSE meeting unless specifically requested by the parent, the student or the district in writing at least 72 hours prior to the meeting. The law further requires that parents receive proper written notice of their right to have an additional parent member attend any CSE meeting along with a statement, prepared by the State Education Department, explaining the purpose of having the additional parent attend the meeting. No changes were made regarding additional parent membership on a Committee for Preschool Special Education.

Chapter 279 amends Education Law section 4402 to allow school districts the option of giving teachers, related service providers and other service providers access to a student's IEP electronically. If the school district's policy provides that a student's IEP is to be accessed electronically, the policy must also ensure that the individuals responsible for the implementation of the IEP are notified and trained on how to access such IEP electronically.

Recommendation

It is recommended that the P-12 Education Committee reach consensus on the intent of the proposed rule prior to taking action at the December 2012 Regents meeting.

Timetable for Implementation

Following the receipt of public comment, it is anticipated that the proposed amendment will be submitted for action at the December 2012 meeting with a proposed effective date of January 2, 2013.

Attachment

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 4402, 4403 and 4410 and Chapters 276 and 279 of the Laws of 2012.

1. Subparagraph (i) of paragraph (11) of subdivision (b) of section 200.2 of the Regulations of the Commissioner of Education is amended, effective January 2, 2013, as follows:

(i) each regular education teacher, special education teacher, related service provider and/or other service provider, as defined in clause (a) of this subparagraph, who is responsible for the implementation of a student's individualized education program (IEP) is provided a paper or electronic copy of such student's IEP, including amendments to the IEP, made pursuant to section 200.4(g) of this Part, prior to the implementation of such program or shall be able to access such student's IEP electronically. If the policy provides that students' IEPs are to be accessed electronically, then such policy shall also ensure that the individuals responsible for the implementation of a student's IEP shall be notified and trained on how to access such IEPs electronically:

(a) . . .

2. Subparagraph (viii) of paragraph (1) of subdivision (a) of section 200.3 of the Regulations of the Commissioner of Education is amended, effective January 2, 2013, as follows:

(viii) an additional parent member of a student with a disability residing in the school district or a neighboring school district, provided that the additional parent member may be the parent of a student who has been declassified within a period not to exceed five years or the parent of a student who has graduated within a period not to exceed five years[. Such parent is not a required member if the parents of the student

request that the additional parent member not participate in the meeting], if specifically requested in writing by the parent of the student, the student or by a member of the committee at least 72 hours prior to the meeting;

3. Subparagraph (i) of paragraph (3) of subdivision (e) of section 200.4 of the Regulations of the Commissioner of Education is amended, effective January 2, 2013, as follows:

(i) ensuring that each regular education teacher, special education teacher, related service provider, and/or other service provider, as defined in section 200.2(b)(11)(i)(a) of this Part, who is responsible for the implementation of a student's IEP, is provided a paper or electronic copy of the IEP prior to the implementation of such IEP or shall be able to access such student's IEP electronically. If the board of education or board of trustees adopts a policy that the student's IEP is to be accessed electronically, then such policy shall also ensure that the individuals responsible for the implementation of a student's IEP shall be notified and trained on how to access such IEPs electronically;

4. Subparagraphs (iv) and (v) of paragraph (2) of subdivision (c) of section 200.5 of the Regulations of the Commissioner of Education are amended, effective January 2, 2013, as follows:

(iv) for meetings of the committee on special education, inform the parent(s) of his or her right to request, in writing at least 72 hours before the meeting, the presence of the school physician member and an additional parent member of the committee on special education at any meeting of such committee pursuant to section 4402(1)(b) of the Education Law and include a statement, prepared by the State Education Department, explaining the role of having the additional parent member attend the meeting;

(v) for meetings of the committee on preschool special education, inform the parent(s) of his or her right to decline, in writing, the participation of the additional parent member at any meeting of such committee pursuant to section [4402(1)(b)] 4410(3)(a)(1)(v) of the Education Law;