



TO: P-12 Education Committee

FROM: Sharon Cates-Williams *Sharon Cates-Williams*

SUBJECT: Proposed Technical Amendment to Section 170.12 of the Regulations of the Commissioner of Education Relating to School Districts' Exemption from the Establishment of an Internal Audit Function

DATE: November 4, 2021

AUTHORIZATION(S): *Don M. P.* *Betty M.*

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendment to section 170.12 of the Regulations of the Commissioner of Education relating to school districts' exemption from the establishment of an internal audit function?

Reason(s) for Consideration

Required by State statute (Education Law §2116-b).

Proposed Handling

The proposed amendment will be presented to the P-12 Education Committee for discussion at its November 2021 meeting. A copy of the proposed rule is attached (Attachment A).

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on December 1, 2021. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 263 of the Laws of 2005 (Chapter 263) added section 2116-b to the Education Law, requiring that each school district establish an internal audit function. Subdivision two of such section provides an exemption for the internal audit function for school districts that meet certain criteria. Chapter 263 provides that school districts with fewer than 8 teachers, less than \$5 million in general fund expenses in the previous year, or fewer than 300 enrolled students in the previous year are exempt from the internal audit requirements. The 2013 Enacted State Budget (Chapter 57 of the Laws of 2013) amended Education Law §2116-b(2) by increasing the number of enrolled students to be eligible for an exemption to the internal audit function requirement from 300 to 1,500 students. Due to an oversight, section 170.12(b)(3) of the Commissioner's regulations was never updated to reflect this change.

Therefore, to align the Commissioner's regulations with the amendments made to Education Law §2116-b(2), the Department proposes to amend section 170.12(b)(3) of the Commissioner's regulations to provide that districts with actual enrollment of less than 1,500 students in the previous school year are exempt from the internal audit function requirement.

Related Regents Items

February 2006: [Proposed Amendment to Commissioner's Regulations Relating to School District and BOCES Financial Accountability](https://www.regents.nysed.gov/common/regents/files/documents/meetings/2006Meetings/February2006/0206emscvesida2.htm)
(<https://www.regents.nysed.gov/common/regents/files/documents/meetings/2006Meetings/February2006/0206emscvesida2.htm>)

Recommendation

Not applicable.

Timetable for Implementation

It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the March 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, and 2116-b of the Education Law.

1. Paragraph (3) of subdivision (b) of section 170.12 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(3) Exemption.

(i) The following school districts shall be exempt from the requirements of this subdivision:

(a) districts employing fewer than eight teachers;

(b) districts with actual general fund expenditures totaling less than \$5 million in the previous school year; or

(c) districts with actual enrollment of less than [300] 1,500 students in the previous school year.