






TO: P-12 Education Committee

FROM: Sean Giambattista 

SUBJECT: Proposed Amendment to Section 175.5 of the Regulations of the Commissioner of Education Relating to Extending the Instructional Hour COVID-19 Waiver to the 2021-2022 School Year

DATE: May 27, 2021

AUTHORIZATION(S):  

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendment to section 175.5 of the Regulations of the Commissioner of Education relating to extending the instructional hour COVID-19 waiver to the 2021-2022 school year?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment will be presented to the P-12 Education Committee for discussion at the June 2021 Regents meeting. A copy of the proposed amendment is attached.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on June 23, 2021. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

At its February meeting, the Board of Regents voted to permanently adopt amendments to section 175.5 of the Commissioner's regulations to provide that, for the 2019-2020 and 2020-2021 school years, school districts may be eligible for a waiver of

the annual instructional hour requirement if they are unable to meet such requirement due to an Executive Order(s) of the Governor pursuant to the State of emergency declared for the COVID-19 crisis, or pursuant to Education Law §3604(8), or due to reopening procedures implemented as a result of the COVID-19 crisis, so long as the district meets certain prescribed requirements.

Due to the ongoing pandemic and shifting guidelines from public health officials, the Department now proposes to amend section 175.5(n) of the Commissioner's regulations to extend the availability of these waivers through the 2021-2022 school year. Additionally, the Department proposes to make a technical correction to such section to replace the reference to Education Law §3604(8) with a reference to Education Law §3604(7).

Related Regents Items

February 2021: [Proposed Amendments to Sections 52.3, 52.21, 57-4.5, 70.4, 74.6, 75.2, 75.5, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 801.13, 80-1.5, 80-3.15, 80-4.3, 83.5, 87.2, 87.5, 100.2, 100.4, 100.5, 100.6, 100.10, 100.21, 119.1, 119.5, 125.1, 151-1.4, 1542.3, 175.5, 200.4, 200.5, 200.7, 200.20 and 275.8 and Addition of Section 279.15 to the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](https://www.regents.nysed.gov/common/regents/files/221brca6.pdf)

(<https://www.regents.nysed.gov/common/regents/files/221brca6.pdf>)

March 2021: [Proposed Amendment of Sections 100.4, 100.10 and 175.5 of the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](https://www.regents.nysed.gov/common/regents/files/321p12a7revised_0.pdf)

(https://www.regents.nysed.gov/common/regents/files/321p12a7revised_0.pdf)

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 September 2021 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. If adopted at the September 2021 meeting, the proposed amendment will become effective on September 29, 2021.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 1704, 3602 and 3604 of the Education Law.

1. Subdivision (n) of section 175.5 of the Regulations of the Commissioner of Education are amended to read as follows:

(n) COVID-19 Executive Order(s) and Waivers [for the 2019-20 and 2020-21 school years].

(1) Any day that a school is closed in the 2019-20 school year and the 180-day requirement set forth in subdivision (c) of this section is waived pursuant to an Executive Order(s) of the Governor pursuant to the State of emergency for the COVID-19 crisis or pursuant to Education Law § 3604[(8)](7), as amended by Chapter 107 of the Laws of 2020, will satisfy the requirements for a waiver of the usually required reduction in monies payable to school districts under Education Law § 3604 in accordance with the terms of such Executive Order(s).

(2) For the 2019-20 [and], 2020-21, and 2021-22 school years, notwithstanding any other provision of this section to the contrary, any school district may be eligible for a waiver from the annual instructional hour requirement set forth in subdivision (c) of this section if the district is unable to meet such requirement as a result of an Executive Order(s) of the Governor pursuant to the State of emergency declared for the COVID-19 crisis, or pursuant to Education Law § 3604(7), as amended by Chapter 107 of the Laws of 2020, or reopening procedures implemented as a result of the COVID-19 crisis, provided that such district meets the requirements outlined in subparagraphs (i) and (iii) of paragraph (1) of subdivision (m) of this section.