



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

TO: The Honorable the Members of the Board of Regents
FROM: Erin M. O'Grady-Parent
SUBJECT: June 2010 Regulatory Agenda
DATE: June 14, 2010
STRATEGIC GOAL: Goal 2
AUTHORIZATION(S):

Summary

Issue for Decision (Consent Agenda)

Should the Board of Regents approve the June 2010 Regulatory Agenda?

Reason for Consideration

Required by State statute.

Proposed Handling

Discussion and approval.

Procedural History

N/A

Background Information

Section 202-d of the State Administrative Procedure Act (SAPA) requires that the State Education Department publish, each year, a regulatory agenda in the first January issue, and in the last June issue, of the State Register. The June 2010 regulatory agenda is a list and brief description of the subject matter of each rule the Department is considering proposing during the remainder of 2010, but has not yet submitted a Notice

of Proposed Rule Making. SAPA §202-d(2) provides that nothing in the statute precludes the Department from adopting a different rule from the one appearing in the regulatory agenda. If we do intend to adopt additional rules, the Department must indicate in the Notice of Proposed Rule Making that the rule was not under consideration when the regulatory agenda was submitted for publication. SAPA §202-d(2) also provides that nothing in the statute requires an agency to adopt a rule appearing in the regulatory agenda.

Recommendation

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

VOTED: That the June 2010 Regulatory Agenda for the State Education Department be approved, as submitted.

Timetable for Implementation

The June 2010 Regulatory Agenda will be published in the State Register on June 30, 2010.

STATE EDUCATION DEPARTMENT
JUNE 2010 REGULATORY AGENDA

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the remainder of calendar year 2010. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the June 2010 Regulatory Agenda.

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

Amendment of the Commissioner's Regulations, relating to Academic Intervention Services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to Distinguished Educators. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to pupils with limited English proficiency. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the creation of a Virtual High School Initiative. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 91.2 of the Commissioner's Regulations to revise and update provisions on the employment of a school library media specialist. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 100 of the Commissioner's Regulations relating to implementation of a growth model. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 100 of the Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2.(p) of the Commissioner's Regulations to establish a graduation rate and targets to conform with regulations promulgated by the United States Department of Education in October 2008. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(x), relating to the education of homeless children. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 (gg) of the Commissioner's Regulations to revise and update provisions on Violent and Disruptive Incident Reporting (VADIR). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 100.7 of the Commissioner's Regulations to clarify eligibility to take the GED. Currently Job Corp residents and home schooled students are not

referenced to their eligibility. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.16 of the Rules of the Board of Regents, relating to delegation of authority to the Commissioner of Education to determine certain charter school charter revisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations to conform to and implement Chapter 101 of the Laws of 2010, relating to charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's regulations to add a section pertaining to residency determinations of students attending charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's Regulations to add a section pertaining to procedures relating to complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 119.1(e) of the Commissioner's Regulations relating to financing of charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to nonpublic nursery schools and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 135.4 of the Commissioner's Regulations relating to duration of competition in interschool athletics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 140 of the Commissioner's Regulations, relating to County Vocational Education and Extension Boards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Subpart 151-1 of the Commissioner's Regulations to allow teachers employed by eligible agencies in collaboration with a school district to provide prekindergarten services to be employed without a bachelor's degree in early childhood education or a related field, or a teaching license or certificate valid for services in the childhood grades pursuant to 8 NYCRR Part 80, so long as the teacher has a written plan to obtain certification valid for service in the early childhood grades within 5 years of commencement of employment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to Part 154 of the Commissioner's Regulations to require that the Comprehensive Plan be reviewed/updated every two years and submitted to the bilingual office when requested as part of a compliance review process of the Department. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.22 of the Commissioner's Regulations, relating to procedures for the allocation of the State limitation amount to issuers of Qualified School Construction Bonds pursuant to 26 USC section 54F. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.22 of the Commissioner's Regulations, relating to updating citations relating to Qualified Zone Academy Bonds. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Commissioner's Regulations to conform to Chapter 181 of the Laws of 2007 ("P.J.'s Law"), by promulgating regulations requiring school bus drivers and attendants on a bus transporting children with disabilities to complete training, at least once a year, on the special needs of children with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Commissioner's Regulations, regarding transportation, to revise and update the regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 164.2 (2)(g) of the Commissioner's Regulations to align the regulation with the requirements of the National Reporting System (NRS). The NRS requires that final student information be submitted by October 31st following the July 31st closing of the school year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to absentee ballots for boards of cooperative educational services (BOCES). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to school district and BOCES name changes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations, relating to school district financial management. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations regarding BOCES installment purchase contracts and leases. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations, relating to certified athletic trainers. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations relating to persistently dangerous schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above proposed amendments by contacting:

John B. King, Jr.

Senior Deputy Commissioner P-12

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OFFICE OF HIGHER EDUCATION

Amendment of Subpart 4-1 of the Rules of the Board of Regents to align the Rules for voluntary institutional accreditation by the Board of Regents with changes in the federal Higher Education Act and ensure compliance with U.S. Department of Education requirements for accrediting agencies. Changes will define and/or amplify terms and requirements related to distance education, teach-out plans, integrity of credit, and consumer information. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 30 of the Rules of the Board of Regents to designate a tenure area for each of the several teacher certificate titles that did not exist prior to February 2, 2004. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Part 30 of the Rules of the Board of Regents and Part 80 of the Regulations of the Commissioner of Education relating to certification requirements and tenure rights for individuals teaching the Native American language. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of Part 52 of the Regulations of the Commissioner of Education relating to the registration requirements for teacher education programs and to create standards for teachers. A rural flexibility analysis may be required.

Amendment of Parts 52 and 80 of the Regulations of the Commissioner of Education to restructure certification for teachers of special education. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education relating to the certification requirements for teachers, including the teacher certification examinations and the creation of alternative preparation pathways for certification as a teacher. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education: Relating to certification requirements for teachers, specifically in the area of teacher certification examinations, including the introduction of performance-based assessments. A regulatory flexibility analysis and a rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education relating to the certification requirements for school building leaders. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to establish requirements for a certificate in educational interpreting. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to expand the scope of practice for holders of the School District Leader certificate and to establish a transitional certificate for School District Business Leaders. A rural flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to add enhancements to the individual evaluation pathway for first teaching certificates. A rural flexibility analysis may be required.

Amendment of Part 80 and section 100.2(dd) of the Regulations of the Commissioner of Education relating to changes in district professional development plans to account for changes in regulations related to the professional certification of school leaders. A regulatory flexibility analysis and a rural flexibility analysis may be required.

Amendment of Part 83 of the Regulations of the Commissioner of Education to define a process relating to revocation of teachers' certificates for sex offenders pursuant to Chapter 296 of the Laws of 2008; to make improvements to the existing hearing process; and to expand the Commissioner's ability to review hearing decisions. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 100.2 of the Regulations of the Commissioner of Education relating to the annual performance review requirements for teachers. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 100.2 of the Regulations of the Commissioner of Education to identify elements of a performance evaluation system for school leaders. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of section 145-2.1 of the Regulations of the Commissioner of Education to clarify the definitions of terms such as the length of a semester, the delineation of full-time, and the need for courses to be in support of a registered academic program. These definitions are used in the determinations of eligibility and awarding of funds under the Tuition Assistance Program. A rural flexibility analysis may be required.

Amendment of section 145-2.2 of the Regulations of the Commissioner of Education to clarify the criteria used to ensure that students receiving financial aid support maintain satisfactory academic progress in a registered academic program. A rural area flexibility analysis may be required.

Amendment of section 145-2.4 of the Regulations of the Commissioner of Education to clarify the criteria and processes needed to determine a student's matriculation status and the need for the declaration of a major which is a registered academic program. A rural flexibility analysis may be required.

Agency Representative

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Joseph P. Frey

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OFFICE OF THE PROFESSIONS

Amendment of section 3.57(b) of the Regents Rules, conferring the Doctor of Medicine degree, to eliminate the requirement of three years of licensed practice. A rural area flexibility analysis may be required.

Amendment of Part 17 of the Regents Rules to conform to the three member panel law. A rural area flexibility analysis may be required.

Amendment of Part 17 of the Regents Rules relating to the summary suspension procedure. A rural area flexibility analysis may be required.

Amendment of Part 18 of the Regents Rules relating to the provision of services to nurses with substance abuse problems. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 24 of the Regents Rules relating to the approval by the committee on the professions of three-year limited licenses in Dentistry, Dental Hygiene, Veterinary Medicine, Veterinary Technology, and Pharmacy. A rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the packaging and dispensing of certain pharmaceuticals. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the use of identification badges for certain professionals. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to the reporting of convictions and disciplinary actions by licensed professionals. A rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the public accountancy and certified public accountancy

professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Parts 52 and 77 of the Commissioner's Regulations relating to the educational standards necessary for licensure in Physical Therapy. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 59 of the Commissioner's Regulations relating to the use of ID cards in lieu of registration certificates. A rural area flexibility analysis may be required.

Amendment of Part 59 of the Commissioner's Regulations relating to English language proficiency. A rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to continuing education for pharmacists. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to examination requirements for pharmacists. A rural area flexibility analysis may be required.

Amendment of Part 64 of the Commissioner's Regulations relating to the orders required for administering immunizations. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 69 of the Commissioner's Regulations relating to the retention of examination credit in architecture. A rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the mandatory quality review program for public accountancy firms. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 74 and Subparts 79-9 through 79-12 of the Commissioner's Regulations relating to experience requirements for licensure as a social worker or as a mental health practitioner. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 76 of the Commissioner's Regulations relating to the supervision of occupational therapy assistants. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Subpart 79-5 relating to licensure requirements in midwifery. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

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OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH
DISABILITIES

Amendment of section 100.5 of the Commissioner's Regulations relating to the use of Regents Competency Tests to earn a high school diploma for students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 100.9 and 200.5 of the Commissioner's Regulations relating to high school individualized education program (IEP) diplomas. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2(g) of the Commissioner's Regulations relating to special education space requirements plans, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.2(b) and 200.4(e) relating to school districts ensuring that a paper or electronic copy of an IEP is provided to each teacher or service provider responsible for the implementation of a student's IEP prior to implementation, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.4(i) of the Commissioner's Regulations relating to written notice upon graduation or aging out, as may be necessary to conform to

changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(b) of the Commissioner's Regulations relating to parental consent for initial provision of special education services in a 12-month special service and/or program, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.5(c) and (d) of the Commissioner's Regulations relating to meetings of the Committee on Special Education and Committee on Preschool Special Education to conform to federal regulations and written notice to parents regarding such meetings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 200.5(j) of the Commissioner's Regulations relating to the timeline for requesting an impartial hearing as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.6 of the Commissioner's Regulations relating to minimal level of service requirement for speech language services; establishing a waiver provision for the maximum number of students receiving integrated co-teaching services in a class; and a school district's responsibilities relating to placement of a student with a disability in an in-state or out-of-state private school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7 and 200.20(a) of the Commissioner's Regulations relating to the program standards for private schools approved to serve students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 200.7(d) of the Commissioner's Regulations relating to the approval of the Commissioner of Education in granting appointment of a student with a disability to a State-supported or State-operated school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.13 of the Commissioner's Regulations relating to repeal of the minimum level of service requirement for instructional services to meet the individual language needs of students with autism. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16 of the Commissioner's Regulations relating to the provision of services to preschool students with disabilities in an approved program as close as possible to the student's home, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Parts 100 and 200 of the Commissioner's Regulations to make certain technical amendments, including corrections to cross citations, as may be appropriate. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency representative:

Information may be obtained and written comments may be submitted concerning the above-proposed amendments by contacting:

Rebecca Cort

Deputy Commissioner

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OFFICE OF CULTURAL EDUCATION

Amendments to section 3.27 relating to Chartering and Registration of Museums and Historical Societies with Collections, and section 3.30 relating to Incorporation and Registration of Historical Societies Without Collections and Cultural Agencies, specifies criteria under which items in a collection may be deaccessioned; provides requirements for designation by a board of trustees of historic structures and buildings to be part of a museum's collection; specifies the circumstances under which an institution may use deaccession proceeds to preserve, protect or care for such designated structure; clarifies that deaccession proceeds may not be used for payment of outstanding debt or for capital expenses other than expenses incurred to preserve, protect or care for a designated structure; adds "planetarium" to the definition of "museum"; makes clear that the requirement for larger institutions to be open to the public 1,000 hours a year applies to a museum or exhibit facility; limits collecting to those institutions having collecting as a stated purpose in their charter; corrects a drafting error by replacing the

phrase “broad representation” with the phrase “board representation” in the requirements for geographically descriptive terms in a corporate name; eliminates reference to “associations of teachers, students [and] graduates of educational institutions” from the definition of “cultural agency”; and adds additional definitions. A rural area flexibility analysis may be required.

Agency representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Clifford A. Siegfried

Assistant Commissioner

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Amendment of Part 90 of the Commissioner’s Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

Bernard A. Margolis

State Librarian and Assistant Commissioner for Libraries

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New York State Library

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A proposed amendment to section 185.10 of the Commissioner's regulations relating to local government records management improvement fund grants, to establish criteria and procedures for the award of formula grants for records management improvement to county clerks and, in the city of New York, to the New York register or other officer or agency having custody of real property records and any officer or agency having custody of supreme court records. A regulatory flexibility analysis for local government may be required.

A proposed amendment to section 189.3 of the Commissioner's regulations relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

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OFFICE OF MANAGEMENT SERVICES

Amendment of section 3.2 of the Rules of the Board of Regents relating to the standing committees of the Board of Regents.

Amendment of Parts 275 and 276 of the Commissioner's Regulations to conform and implement Chapter 101 of the Laws of 2010, relating to expedited appeals to the Commissioner regarding charter schools and building usage plans. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendments by contacting:

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Acting Counsel and Deputy Commissioner for Legal Affairs

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Amendment of section 119.1 of the Commissioner's regulations relating to school district payments to charter schools and procedures for requests for a State aid deduction upon nonpayment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above-proposed amendment by contacting:

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