



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

TO: Full Board

FROM: John B. King, Jr.

SUBJECT: Amendment of Section 156.3 of the Regulations of the Commissioner, Relating to School Bus Driver Safety Training and Reporting of School Vehicle Idling on School Grounds

DATE: September 2, 2011

AUTHORIZATION(S):

SUMMARY

Issues for Decision (Consent Agenda)

Should the Board of Regents adopt as permanent rules the proposed amendment of section 156.3(b) and (h) of the Commissioner's Regulations, relating to school bus driver safety training and monitoring/reporting on the idling of school vehicles on school grounds?

Reason(s) for Consideration

Provide mandate relief to allow school districts to operate more efficiently and cost-effectively.

Proposed Handling

The proposed amendment is being presented to the full Board for adoption as a permanent rule at the September Regents meeting. A second emergency action is needed to ensure that the emergency rule adopted at the June Regents meeting remains continuously in effect until the effective date of its adoption as a permanent rule. A Statement of the Facts and Circumstances Which Necessitate Emergency Action is attached.

Procedural History

The proposed amendment was discussed by the Audits/Budget and Finance Committee and adopted as an emergency rule by the full Board at the June Regents meeting. A Notice of Emergency Adoption and Proposed Rule Making was published

in the State Register on July 6, 2011. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

The Regents carefully crafted this year's State Aid proposal to retain those critical funding directions necessary to continue the State's progress toward educational adequacy, despite the State's worsening revenue picture. In order to preserve funding for critical priorities, the Regents recommended cost-containment strategies including mandate relief, regional transportation, and expanded use of BOCES shared services.

Commissioner's Regulation 156.3 prescribes when school bus driver safety training must be conducted and mandates biannual reporting of compliance with school vehicle anti-idling requirements. In order to provide greater flexibility, subparagraph (iii) of section 156.3 (b)(5) is proposed for amendment in response to requests from school districts, School Bus Driver Instructors and Master Instructors that the training schedule for school bus drivers be flexible enough to allow combining it with other district staff development offerings. In an effort to streamline reporting requirements, paragraph (5) of section 156.3 (h) is proposed for amendment in response to comment to provide more flexibility to school districts to monitor compliance with the rule's provisions. The proposed amendment ensures student safety in that it will still require each school district to periodically monitor compliance with school bus idling restrictions.

Recommendation

I recommend that the Regents take the following action:

VOTED: That subparagraph (iii) of paragraph (5) of subdivision (b) and paragraph (5) of subdivision (h) of section 156.3 of the Regulations of the Commissioner of Education be amended as submitted, effective October 5, 2011; and it is further

VOTED: That subparagraph (iii) of paragraph (5) of subdivision (b) and paragraph (5) of subdivision (h) of section 156.3 of the Regulations of the Commissioner of Education be amended as submitted, effective September 19, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the June 2011 Regents meeting remains continuously in effect until the effective date of its adoption as a permanent rule.

Timetable for Implementation

The first emergency rule became effective on June 21, 2011 and will expire on September 18, 2011. If adopted by the Board of Regents at its September meeting, the second emergency rule will become effective on September 19, 2011 and the permanent rule on October 5, 2011.

PROPOSED AMENDMENT OF SECTION 156.3 OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION PURSUANT TO EDUCATION LAW SECTIONS 207, 3624 AND 3637, RELATING TO SCHOOL BUS DRIVER SAFETY INSTRUCTION AND SCHOOL BUS AND OTHER VEHICLE IDLING ON SCHOOL GROUNDS.
STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

The proposed amendment will reduce costs and provide mandate relief to school districts.

The proposed amendment of section 156.3(b)(5)(iii) will provide mandate relief to school districts and afford greater flexibility to school bus drivers to complete required semi-annual school bus driver safety training, by allowing the training to be scheduled coincidental with other professional development days scheduled during the year.

In addition, the proposed amendment to section 156.3(h)(5) will provide mandate relief to school districts by repealing requirements that each school district monitor compliance with school bus idling restrictions at least twice a year, and prepare, retain and submit written reports of such reviews. The proposed amendment ensures student safety in that it will still require each school district to periodically monitor compliance with school bus idling restrictions.

The proposed amendment was adopted as an emergency action at the June 20-21, 2011 Regents meeting upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to provide immediate mandate relief to school districts and allow them to preserve critical programs, by permitting increased flexibility in the scheduling of school bus driver safety training and eliminating unnecessary monitoring and reporting requirements, so that school districts may

immediately make changes in their 2011-2012 budgets and timely prepare and issue their tax levies in July 2011. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on July 6, 2011.

The proposed amendment has now been adopted as a permanent rule at the September 19-20, 2011 Regents meeting. Pursuant to the State Administrative Procedure Act, the earliest the permanent rule may become effective is after its publication in the State Register on October 5, 2011. Since the June 2011 emergency adoption will expire on September 18, 2011, 90 days after its filing with the Department of State on June 21, 2011, there would be a lapse in the rule's effectiveness. Another emergency adoption is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the June 2011 Regents meeting remains continuously in effect until the effective date of its adoption as a permanent rule.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 3624 and 3637

1. Subparagraph (iii) of paragraph (5) of subdivision (b) of section 156.3 of the Regulations of the Commissioner of Education is amended, effective September 19, 2011, as follows:

(iii) All school bus drivers shall receive a minimum of two hours of refresher instruction in school bus safety at least two times a year, at sessions conducted between July 1st and [the first day of school] October 31 and between December 1st and [March] May 1st of each school year. Refresher courses for drivers of vehicles transporting pupils with disabilities exclusively shall also include instruction relating to the special needs of a pupil with a disability.

2. Paragraph (5) of subdivision (h) of section 156.3 is amended, effective September 19, 2011, as follows:

(5) Monitoring and reports. Each school district shall periodically [but at least semi-annually] monitor compliance with the provisions of this subdivision by school bus drivers and drivers of vehicles owned, leased or contracted for by such school district. [Each school district shall prepare a written report of such review, which shall describe the actions taken to review compliance and the degree of adherence found with the provisions of this subdivision. Copies of the report shall be retained in the school district's files for a period of six years and made available upon request. The commissioner may also require specific school districts to provide additional information as necessary to address health concerns related to their compliance with the provisions of this subdivision.]

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