



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

TO: Full Board

FROM: John B. King, Jr.

SUBJECT: Repeal of Section 155.6 of the Regulations of the Commissioner, Relating to School Facility Report Cards

DATE: September 2, 2011

AUTHORIZATION(S):

SUMMARY

Issues for Decision (Consent Agenda)

Should the Board of Regents adopt as a permanent rule the proposed repeal of section 155.6 of the Commissioner's Regulations, relating to school facility report cards?

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 155.6, relating to school facility report cards, resulted from the 1998 RESCUE legislation and requires school districts to summarize all facilities activities, projects, investigations, tests, etc. performed throughout the year. While the intent of the report card was to provide easier access by the public to data collected by districts, it represents an additional administrative burden and resulted in districts presenting duplicative data in multiple formats. The report card format developed by SED merely refers readers to other available documentation. As the RESCUE legislation does not specifically identify the report card format, this mandate can be eliminated through a regulatory change.

Recommendation

I recommend that the Regents take the following action:

VOTED: That section 155.6 of the Regulations of the Commissioner of Education be repealed, effective October 5, 2011; and it is further

VOTED: That section 155.6 of the Regulations of the Commissioner of Education be repealed, 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 REPEAL OF SECTION 155.6 OF THE REGULATIONS OF THE
COMMISSIONER OF EDUCATION PURSUANT TO EDUCATION LAW SECTIONS
207, 305, 409-d and 409-e, RELATING TO SCHOOL FACILITIES REPORT CARD
STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

The proposed amendment will reduce costs and provide mandate relief to school districts and boards of cooperative educational services (BOCES), by repealing section 155.6 of the Commissioner's Regulations to eliminate a requirement that school districts and BOCES prepare a school facility report card for each occupied school building.

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 repealing unnecessary requirements relating to school facility report cards, so that school districts may immediately make applicable changes in their 2011-12 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 sections 207, 305, 409-d and 409-e of the Education Law

Section 155.6 of the Regulations of the Commissioner of Education is repealed,
effective September 19, 2011.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 409-d and 409-e of the Education Law

Section 155.6 of the Regulations of the Commissioner of Education is repealed,
effective October 5, 2011.