



**TO:** The Honorable Members of the Board of Regents

**FROM:** Angelique Johnson-Dingle *Angelique Johnson-Dingle*

**SUBJECT:** Proposed Amendment of Section 151-1.3 of the Regulations of the Commissioner of Education Relating to the Universal Prekindergarten Program (UPK) Staffing Qualifications

**DATE:** October 5, 2023

**AUTHORIZATION(S):** *Donna Bell*

### **SUMMARY**

#### **Issue for Decision (Consent)**

Should the Board of Regents adopt the proposed amendment of section 151-1.3 of the Regulations of the Commissioner of Education relating to Universal Prekindergarten Program (UPK) staffing qualifications?

#### **Reason for Consideration**

Required by State Statute.

#### **Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the October 2023 Regents meeting. A copy of the proposed rule is included (Attachment A).

#### **Procedural History**

The proposed amendment was presented to the P-12 Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at the June 2023 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on June 28, 2023, for a 60-day public comment period.

Because the June 2023 emergency action was set to expire on September 10, 2023, a second emergency action was necessary at the July 2023 meeting to ensure that the emergency rule remained continuously in effect until it could be permanently adopted and

take effect as a permanent rule. A Notice of Emergency Adoption was published in the State Register on September 27, 2023.

Following publication in the State Register, the Department received no comments on the proposed amendment. Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are needed. A Notice of Adoption will be published in the State Register on November 1, 2023. Supporting materials are available upon request to the Secretary of the Board of Regents.

### **Background Information**

The 2023-24 Enacted State Budget (L.2023, C. 56, Part A or “Chapter 56”) amended section 3602-e(12)(d) of the Education Law in relation to staffing qualifications for the Universal Prekindergarten Program (UPK), effective April 1, 2023.

Prior to this, Education Law §3602-e(12)(d), as amended by the 2022-23 Enacted State Budget, allowed school districts to apply by August of the current school year for a waiver allowing personnel employed by an eligible agency collaborating with that school district to provide prekindergarten services and to meet staff qualifications prescribed by the licensing or registering agency. The Board of Regents adopted regulations at its January 2023 meeting to implement those amendments.

The recent amendment made to Education Law §3602-e by Chapter 56 allows school districts to apply by September first of the current school year, rather than by August first, as most school districts do not have a full picture of their enrollment for the current school year until that time. Therefore, the Department proposes to amend section 151-1.3(e)(1)(iv) of the Commissioner’s regulations to conform with this amendment.

### **Related Regents Items**

January 2023: [Proposed Amendment of Section 151-1.3 of the Regulations of the Commissioner of Education Relating to Universal Prekindergarten Program \(UPK\) Staffing Qualifications](#)

(<https://www.regents.nysed.gov/sites/regents/files/123brca9.pdf>)

June 2023: [Proposed Amendment of Section 151-1.3 of the Regulations of the Commissioner of Education Relating to the Universal Prekindergarten Program \(UPK\) Staffing Qualifications](#)

(<https://www.regents.nysed.gov/sites/regents/files/623p12a1revised.pdf>)

July 2023: [Proposed Amendment of Section 151-1.3 of the Regulations of the Commissioner of Education Relating to the Universal Prekindergarten Program \(UPK\) Staffing Qualifications](#)

(<https://www.regents.nysed.gov/sites/regents/files/723brca10.pdf>)

## **Recommendation**

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

VOTED: That section 151-1.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective November 1, 2023.

## **Timetable for Implementation**

If adopted at the October 2023 meeting, the proposed amendment will become effective as a permanent rule on November 1, 2023.

**Attachment A**

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, and 3602 of the Education Law and Part A of Chapter 56 of the Laws of 2022.

Subparagraph (iv) of Paragraph (1) of Subdivision (e) of section 151-1.3 of the Regulations of the Commissioner of Education is amended to read as follows:

(iv) a school district may annually apply to the Commissioner by [August] September first of the current school year, on a form and format prescribed by the Commissioner, for a waiver that would allow personnel employed by an eligible agency that is collaborating with such school district to provide prekindergarten services, and licensed by an agency other than the department, to meet the staff qualifications prescribed by the licensing or registering agency.