




TO: P-12 Education Committee

FROM: Daniel Morton-Bentley 

SUBJECT: Proposed Amendment of Sections 121.1, 121.4, and 121.5 of the Regulations of the Commissioner of Education Relating to the National Institute of Standards and Technology (NIST) Cybersecurity Framework and Data Retention Policies

DATE: September 25, 2025

AUTHORIZATION(S):



SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendment of sections 121.1, 121.4, and 121.5 of the Regulations of the Commissioner of Education relating to the NIST cybersecurity framework and data retention policies?

Reason for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is presented to the P-12 Education Committee for discussion at the October 2025 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on October 22, 2025, for a 60-day public comment period. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

New York State Law requires the Commissioner, in consultation with the chief privacy officer, to promulgate regulations establishing standards for educational agency data security and privacy policies and to develop one or more model policies for use by educational agencies (Education Law §2-d [5]). Consistent with its obligations under Education Law §2-d, the Department previously adopted the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) version 1.1 as the standard for data security and privacy. The NIST CSF version 2.0 was subsequently released in February 2024.

Therefore, the Department proposes technical amendments to update those sections of the Commissioner's regulation referencing NIST CSF version 1.1 to version 2.0.

Additionally, consistent with Education Law §2-d, the Department proposes a technical amendment to remove a reference to an outdated data retention policy. The referenced policy is no longer valid because it was replaced by the comprehensive [Local Government Records Retention and Disposition Schedule \(LGS-1\)](#) on January 1, 2021, which now serves as the consolidated, applicable schedule for these entities.

Related Regents Items

[January 2020: Proposed Adoption of Part 121 to the Regulations of the Commissioner of Education Relating to Data Privacy and Security of Student Data and Certain Annual Professional Performance Review Data](#)
(<https://www.regents.nysed.gov/sites/regents/files/120p12hea1.pdf>)

Recommendation

Not applicable.

Timetable for Implementation

It is anticipated that the proposed amendment will be presented for permanent adoption at the February 2026 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 February 2026 meeting, the proposed amendment will become effective on February 25, 2026.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 2-d, 101, 207, and 305 of the Education Law

1. Subdivision (k) of section 121.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(k) *NIST Cybersecurity Framework* means the U.S. Department of Commerce National Institute of Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version [1.1] 2.0, which is available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234.

2. Subdivision (e) of section 121.4 of the Regulations of the Commissioner of Education is amended to read as follows:

(e) Educational agencies must maintain a record of all complaints of breaches or unauthorized releases of student data and their disposition in accordance with applicable data retention policies [including the Records Retention and Disposition Schedule ED-1 (1988; rev. 2004), as set forth in section 185.12, Appendix I of this Title].

3. Section 121.5 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 121.5 Data security and privacy standard.

(a) As required by Education Law §2-d (5), the Department adopts the National Institute of Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity Version [1.1] 2.0 (NIST Cybersecurity Framework or NIST CSF) as the standard for data security and privacy for educational agencies.

(b) Each educational agency shall adopt and publish a data security and privacy policy that implements the requirements of this Part and aligns with the NIST CSF 1.1 no later than October 1, 2020; provided, however, that such data security and privacy policy shall align with the NIST CSF 2.0 no later than September 1, 2026.

(c)...

(d)...

(e)...