



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: Angelica Infante-Green *A. Infante*

SUBJECT: Proposed amendment of §100.5(g)(1)(i) of the Commissioner's Regulations relating to the transition to the Regents Examination in English Language Arts (Common Core)

DATE: January 4, 2016

AUTHORIZATION(S): *Richard A. Tranter* *Margellen Elin*

SUMMARY

Item for Decision (Consent Agenda)

Should the Board of Regents adopt, as a permanent rule, the amendment of §100.5(g)(1)(i) of the Commissioner's Regulations to provide additional flexibility in the transition to the Common Core-aligned Regents Examination in English Language Arts by allowing, for a limited time and at the discretion of the local school district, students who began grade 9 prior to 2013, and who receive ELA (Common Core) instruction, to take the Regents Comprehensive Examination in English Language Arts aligned to the 2005 Learning Standards in addition to the Regents Examination in English Language Arts (Common Core) and meet the requirement for graduation by passing either examination? This flexibility would be extended to include the final two additional test administration periods for the Regents Comprehensive Examination in English Language Arts, which will be in January and June 2016.

Reason(s) for Consideration

Implementation of Policy

Proposed Handling

This item will come before the Full Board for action at the January 2016 Regents meeting. In addition, a second emergency adoption is necessary to ensure the emergency rule adopted at the October 2015 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 adopted as an emergency action at the October 2015 Regents meeting, effective October 27, 2015. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on November 10, 2015.

A copy of the proposed amendment is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

At their July 2013 meeting, the Board of Regents adopted by emergency action, effective July 30, 2013, a new Commissioner's Regulation §100.5(g) to require students who began grade 9 in 2013 to meet diploma requirements by passing the Regents Examination in English Language Arts that is aligned to the New York State P-12 Common Core Learning Standards. Section 100.5(g) was permanently adopted at the October 2013 Regents meeting. Included in that regulation is a provision in §100.5(g)(1)(i)(b)(2) that allows, at local discretion, students who began grade 9 prior to 2013 who were enrolled in Common Core English courses to take the Regents Comprehensive Examination in English (2005 Learning Standards) in addition to the Regents Examination in ELA (Common Core) and meet the English requirement for graduation by passing either examination. This flexibility was initially limited to the June 2014 and August 2014 test administrations, but was subsequently extended to the January 2014 and January, June and August 2015 test administrations.

The proposed amendment would extend that flexibility to the final two administrations of the Regents Comprehensive Examination in English (2005 Learning Standards) in January and June 2016. This flexibility would continue to apply only to students who began grade 9 prior to 2013 and have already had access to the Regents Comprehensive Examination in English (2005 Learning Standards).

Recommendation

Staff recommends that the Regents take the following action:

VOTED: That subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Commissioner's Regulations be amended as submitted, effective January 27, 2016; and it is further

VOTED: That subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Commissioner's Regulations be amended as submitted, effective January

25, 2016, as an emergency measure upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to ensure that the emergency rule adopted at the October 2015 Regents meeting remains continuously in effect until the effective date of its adoption as a permanent rule.

Timetable for Implementation

The proposed amendment was adopted as an emergency action at the October 2015 Regents meeting, effective October 27, 2015. The October emergency rule will expire on January 24, 2016. If adopted at the January 2016 Regents meeting, the second emergency action will take effect on January 25, 2016 and the permanent rule will take effect on January 27, 2016.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

Subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Regulations of the Commissioner is amended, effective January 27, 2016, as follows:

(i) English.

(a) Students who first enter grade 9 in September 2013 and thereafter shall meet the English requirement for graduation in clause (a)(5)(i)(a) of this section by passing the Regents examination in English language arts (common core) or an approved alternative pursuant to section 100.2(f) of this Part.

(b) Students who first enter grade 9 prior to September 2013 shall meet the English requirement for graduation in clause (a)(5)(i)(a) of this section by:

(1) successfully completing a course in English language arts (common core) and passing the Regents examination in English language arts (common core) or an approved alternative pursuant to section 100.2(f) of this Part; or

(2) successfully completing a course in English aligned to the 2005 Learning Standards and passing the Regents comprehensive examination in English or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the January 2014, June 2014, August 2014, January 2015, June 2015, [and] August 2015, January 2016 and June 2016 administrations only, students enrolled in English language arts (common core) courses may, at the discretion of the applicable school district, take the Regents comprehensive examination in English in addition to the Regents examination in English language arts (common core), and may meet such English requirement by passing either examination.

(c) . . .

8 NYCRR §§100.5(g)(1)(i)

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment is necessary to implement Regents policy to provide, at the local school district's discretion, additional opportunities for students enrolled in Common Core English Language Arts courses, who began grade 9 prior to 2013, to take the Regents Comprehensive Examination in English in addition to the Regents Examination in English Language Arts (Common Core) at the January 2016 and June 2016 examination administrations, and meet the English requirement for graduation by passing either examination.

The proposed amendment was adopted as an emergency action at the October 26-27, 2015 Regents meeting, effective October 27, 2015. The proposed amendment has now been adopted as a permanent rule at the January 11-12, 2016 Regents meeting. Pursuant to SAPA §203(1), the earliest effective date of the permanent rule is January 27, 2016, the date a Notice of Adoption will be published in the State Register. However, the October emergency rule will expire on January 24, 2016, 90 days after its filing with the Department of State on October 27, 2015.

Emergency action is therefore necessary for the preservation of the general welfare to ensure that the proposed amendment adopted by emergency action at the October 2015 Regents meeting and adopted as a permanent rule at the January 2016 Regents meeting, remains continuously in effect until the effective date of its permanent adoption.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

Subparagraph (i) of paragraph (1) of subdivision (g) of section 100.5 of the Regulations of the Commissioner is amended, effective January 25, 2016, as follows:

(i) English.

(a) Students who first enter grade 9 in September 2013 and thereafter shall meet the English requirement for graduation in clause (a)(5)(i)(a) of this section by passing the Regents examination in English language arts (common core) or an approved alternative pursuant to section 100.2(f) of this Part.

(b) Students who first enter grade 9 prior to September 2013 shall meet the English requirement for graduation in clause (a)(5)(i)(a) of this section by:

(1) successfully completing a course in English language arts (common core) and passing the Regents examination in English language arts (common core) or an approved alternative pursuant to section 100.2(f) of this Part; or

(2) successfully completing a course in English aligned to the 2005 Learning Standards and passing the Regents comprehensive examination in English or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the January 2014, June 2014, August 2014, January 2015, June 2015, [and] August 2015, January 2016 and June 2016 administrations only, students enrolled in English language arts (common core) courses may, at the discretion of the applicable school district, take the Regents comprehensive examination in English in addition to the Regents examination in English language arts (common core), and may meet such English requirement by passing either examination.

(c) . . .

