




TO: The Honorable Members of the Board of Regents
FROM: Daniel Morton-Bentley 
SUBJECT: 2024 Regulatory Agenda
DATE: November 30, 2023
AUTHORIZATION(S): 
SUMMARY

Issue for Decision (Consent)

Should the Board of Regents approve the 2024 Regulatory Agenda?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

The 2024 Regulatory Agenda will be presented to the Full Board for approval at the December 2023 Regents meeting. The 2024 Regulatory Agenda (Attachment A) is attached.

Procedural History

Not applicable.

Background Information

Section 202-d of the State Administrative Procedure Act (SAPA) requires that the State Education Department publish, each year, a regulatory agenda in any January issue of the State Register. The 2024 Regulatory Agenda is a list and brief description of the subject matter of each rule the Department is considering proposing during 2024, but for which it has not yet submitted a Notice of Proposed Rule Making. The 2024 Regulatory Agenda is a planning document required under SAPA §202-d which is non-binding and does not commit the agency to adopt the listed regulations, nor does it preclude the agency from adopting regulations that are not on the list (SAPA §202-d [2]).

If the Department seeks to adopt additional rules that were not included in the 2024 Regulatory Agenda, the Department must indicate in the Notice of Proposed Rule Making that the rule was not under consideration when the regulatory agenda was submitted for publication. Accordingly, Board of Regents approval of the Regulatory Agenda does not constitute approval of the listed regulations.

Related Regents Items

Not applicable.

Recommendation

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

VOTED: That the 2024 Regulatory Agenda for the State Education Department be approved, as submitted.

Timetable for Implementation

The 2024 Regulatory Agenda will be published in the State Register on January 3, 2024.

STATE EDUCATION DEPARTMENT
2024 REGULATORY AGENDA

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2024. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the 2024 Regulatory Agenda.

OFFICE OF P-12 EDUCATION

Amendment of section 119.1 of the Regulations of the Commissioner of Education to expand the prohibition of corporal punishment to all nonpublic schools, consistent with Chapter 551 Laws of 2023. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(y)(3) of the Regulations of the Commissioner of Education to require that school districts, when notifying parents that students are not residents of the district, must, wherever practicable, specify which district they may be entitled to enroll in. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(bb)(3) of the Regulations of the Commissioner of Education relating to special education data reporting requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 (b) of the Regulations of the Commissioner of Education to allow districts to develop and implement Arts and Health coursework and curriculum without the approval of the State Education Department. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendments of section 100.2(l) of the Regulations of the Commissioner of Education relating to school conduct and discipline to address the topics of progressive discipline, restorative practices, and equity in school discipline. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a), (b) and (c) of the Regulations of the Commissioner of Education relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.10 (h) of the Regulations of the Commissioner of Education to expand and/or modify the list of annual assessments to be utilized by home instructed students. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.19 of the Regulations of the Commissioner of Education relating to: (1) the new identification of schools as struggling schools or placing of schools under independent receivership; (2) receivership and persistently struggling schools/struggling schools; (3) the school intervention plan and independent receivers; and (4) the identification/designation of persistently struggling schools and/struggling school and independent receivership. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.21 of the Regulations of the Commissioner of Education relating to: (1) the review of school and district performance, and the

accountability status of public schools and districts; (2) definitions regarding school and district accountability designations; and (3) exit criteria. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of section 100.24 of the Regulations of the Commissioner of Education to establish a Performance-Based Learning and Assessment Networks (PLAN) Pilot. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 116.3 of the Regulations of the Commissioner of Education relating to length of school day. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.4 of the Regulations of the Commissioner of Education relating to the location and timelines for charter school hearings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.5 of the Regulations of the Commissioner of Education relating to charter school preferences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 121 of the Regulations of the Commissioner of Education to reference the latest NIST Cybersecurity framework, which is expected to be revised in early 2024 and ensure our regulatory framework comports with the terms of the National Data Protection Agreement New York is adopting through membership in Access for Learning's Student Data Privacy Consortium. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Regulations of the Commissioner of Education relating to the requirements for the voluntary registration of nonpublic nursery schools

and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of a new Part 131 to the Regulations of the Commissioner of Education relating to the requirements for a basic educational data system code for nonpublic school sites. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 135 of the Regulations of the Commissioner of Education to clarify the due process procedures relative to coaching licenses. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Subpart 151-1 of the Regulations of the Commissioner of Education to consolidate and update the provisions governing the Universal Prekindergarten Program, consistent with statutory amendments and program implementation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 154-2.3(m) of the Regulations of the Commissioner of Education relating to the establishment of an alternate criteria for English language learners (ELL) who are also eligible to participate in the New York State Alternate Assessment to exit ELL status.

Amendment of section 155.12 of the Regulations of the Commissioner of Education relating to lease approval and building aid for leased school buildings and facilities by school districts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.17 of the Regulations of the Commissioner of Education relating to annual training requirements for staff. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Repeal of section 155.22 of the Regulations of the Commissioner of Education relating to Qualified Zone Academy Bonds and Qualified School Construction Bonds. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.23 of the Regulations of the Commissioner of Education relating to multi-year cost allowance. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 156 of the Regulations of the Commissioner of Education relating to aid on bus purchases and timeliness of contracts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 156.7 of the Regulations of the Commissioner of Education to provide additional clarity for the calculation of the non-allowable pupil decimal that adjusts state transportation aid to exclude costs for students transported below aidable limits under current law. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Addition of section 175.14 of the Regulations of the Commissioner of Education Relating to the reimbursement for prekindergarten pupils under the McKinney-Vento Homeless Assistance Act. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 175.6 of the Regulations of the Commissioner of Education relating to the period of establishing enrollment. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2 of the Regulations of the Commissioner of Education relating to least restrictive environment placements of students with

disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(h) of the Regulations of the Commissioner of Education relating to special education mediation, including provisions relating to the immediate amendment of the IEP upon written agreement, and as may be necessary to conform to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(l) of the Regulations of the Commissioner of Education relating to appeals of State complaint findings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7 and 200.16 of the Regulations of the Commissioner of Education relating to preschool program approval for school districts, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment of section 200.7(b)(3) of the Regulations of the Commissioner of Education relating to the policy on school conduct and discipline required to be developed by private schools, State-operated schools and State supported schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.9 of the Regulations of the Commissioner of Education relating to tuition rates for approved special class integrated setting programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16(i) of the Regulations of the Commissioner of Education relating to preschool continuum of services and preschool inclusion in early

childhood programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.21(b) of the Regulations of the Commissioner of Education relating to procedures for the suspension or revocation of impartial hearing officer certification. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding to revoke the certificate of incorporation after the assets of the education corporations have been discharged, and to allow the Board of Regents to appoint a representative to hear oral arguments on behalf of the Board of Regents and to make a determination in regard to such oral argument. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

OFFICE OF HIGHER EDUCATION

Amendment of section 3.56 of the Rules of the Board of Regents concerning consent of the Board of Regents to operation in New York by institutions of higher education operating outside of New York to revise the definition of program, to clarify the terms concerning approval of additional programs, and to clarify the terms concerning the submission of new applications. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 3.59 of the Rules of the Board of Regents concerning mergers and affiliations of independent (non-profit) institutions of higher education. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 50.1 of the Regulations of the Commissioner of Education to include a definition of a remedial course and a compensatory course as needed

under sections 6451 and 6452 of the Education Law. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of Parts 50 and 52 of the Regulations of the Commissioner of Education concerning registration of undergraduate and graduate postsecondary curricula. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of Parts 50 and 54 of the Regulations of the Commissioner of Education to amend the definitions and procedures related to off-campus instruction and locations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 52.2(f) of the Regulations of the Commissioner of Education specifying the academic content of a transcript prepared by an institution of higher education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 80 of the Regulations of the Commissioner of Education to expand the definition of an acceptable certification examination for educator certification. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 52.21 and 80-5.6 of the Regulations of the Commissioner of Education to revise the Teaching Assistant certificate requirements and create the registration requirements for teaching assistant programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 52.21 and 80-3.7 of the Regulations of the Commissioner of Education to revise the content core and clinical experience requirements for

additional teaching certificates. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 52.21 of the Regulations of the Commissioner of Education to revise the literacy coursework requirement for certain registered teacher preparation programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 145-2.1(a)(iv) of the Regulations of the Commissioner of Education to provide the option of a waiver for Full-Time Attendance under circumstances when the current definition is restrictive to the student's academic plan, prohibits NYS Aid from being disbursed, and there is no concern that the student will be able to complete program of study requirements on-time. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

OFFICE OF THE PROFESSIONS

Amendment of Part 64 of the Regulations of the Commissioner of Education relating to implementing statutory provisions that permit a registered professional nurse to execute a standing order for newborn care in a hospital established under Public Health Law §2803-v, as provided in that section.

Amendment of sections 52.43 and 77.1 of the Regulations of the Commissioner of Education relating to the education requirements for licensure as a physical therapist to conform the education requirements for licensure as a physical therapist to national standards.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the professions of "clinical laboratory technologist", "cytotechnologist", "certified clinical laboratory technician", "certified histological technician" and "histotechnologist".

Amendment of Part 63 of the Commissioner's Regulations relating to pharmacists dispensing hormonal contraception to patients pursuant to non-patient specific prescriptions or orders. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to the new requirements that individuals responsible for supervising the transfilling of medical oxygen in registered wholesalers are required to meet. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of section 61.2 of the Regulations of the Commissioner of Education relating to the licensing examination for dentists to replace Parts I and II of the National Board Examination in dentistry with the Integrated National Board Dental Examination (INDBE).

OFFICE OF CULTURAL EDUCATION

Amendment of Part 90 of the Regulations of the Commissioner of Education, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 188 of the Regulations of the Commissioner of Education relating to state government archives and records management to update the annual fees for storage of records in a records center facility. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Amendment to Part 126 of the Regulations of the Commissioner of Education related to the alternative educational and curriculum standards for non-occupational courses. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency Contact:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

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