





**TO:** The Honorable Members of the Board of Regents  
**FROM:** Daniel Morton-Bentley   
**SUBJECT:** 2026 Regulatory Agenda  
**DATE:** December 4, 2025  
**AUTHORIZATION(S):** 

**SUMMARY**

**Issue for Decision (Consent)**

Should the Board of Regents approve the 2026 Regulatory Agenda?

**Reason(s) for Consideration**

Required by State statute.

**Proposed Handling**

The 2026 Regulatory Agenda will be presented to the Full Board for approval at the December 2025 Regents meeting. The 2026 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 2026 Regulatory Agenda is a list and brief description of the subject matter of each rule the Department is considering proposing during 2026, but for which it has not yet submitted a Notice of Proposed Rule Making. The 2026 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 2026 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 2026 Regulatory Agenda for the State Education Department be approved, as submitted.

**Timetable for Implementation**

The 2026 Regulatory Agenda will be published in the State Register on January 7, 2026.

STATE EDUCATION DEPARTMENT  
2026 REGULATORY AGENDA

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2026. 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 2026 Regulatory Agenda.

OFFICE OF P-12 EDUCATION

Amendment of Parts 100 and 200 of the Regulations of the Commissioner of Education regarding program and diploma requirements as part of the NY Inspires Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 145-4 of the Regulations of the Commissioner of Education regarding modernizations to the New York State Indian Aid tuition program. 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, including State Performance Plan data. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(gg) of the Regulations of the Commissioner of Education to align the definition of material incident of harassment, bullying and/or discrimination with the definition of harassment and bullying in Education Law §11 (7). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment 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 of the Regulations of the Commissioner of Education to remove separate State assessment system requirements required for students to be eligible for a high school diploma. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(d)(12) of the Regulations of the Commissioner of Education to require the superintendent to retain the Superintendent Determination form in the student's permanent record and eliminate the annual requirement for superintendents to submit such form to the Department.

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 supports provided to struggling schools. A regulatory 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 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 related to coaching licenses, remove physiological maturity from the advanced athletic process, and update both the advanced athletic

process and mixed competition. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Part 136.4 of the Regulations of the Commissioner of Education to update language to include AED maintenance requirements to comply with Desha's Law and to include requirements for nonpublic schools to comply with Education Law §917-a. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendments to 136.6 and 136.7 to update language to reflect amendments to Education Laws §§ 902-b, 916-a, 921 and 921-a related to epinephrine administration. 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 sections 154-2 and 154-3 of the Regulations of the Commissioner of Education relating to (1) definitions of English Language Learner subgroups, (2) definitions for qualified personnel, (3) clarification of which LEAs are required to submit a comprehensive annual plan (CEEP), (4) support for Students with Interrupted/Inconsistent Formal Education, (5) professional development requirements, (6) bilingual education program waivers, (7) requirements for handling of student identification and placement records, (8) requirements of the annual plan, (9) annual estimate of enrollment of English Language Learners by school and grade, (10) the Language Proficiency Team process, and (11) 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 155.17 of the Regulations of the Commissioner of Education relating to annual training requirements for staff and to include the requirements of Desha's Law related to school safety plans. 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 Parts 100 and 200 of the Regulations of the Commissioner of Education regarding the alternate performance level for the State learning standards and the State assessment for students with severe disabilities. 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 sections 200.4, 200.5, and 200.16 of the Regulations of the Commissioner of Education relating to alternative means of conducting initial and re-evaluations, such as virtual assessment. 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(j) of the Regulations of the Commissioner of Education relating to impartial due process hearings. 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 200.9 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.

#### 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 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.

#### OFFICE OF THE PROFESSIONS

Amendment of Subpart 79-1 of the Regulations of the Commissioner of Education relating to the experience requirements for licensure as a landscape architect to clarify that experience duration must be at least one month, full-time employment shall be at least 35 hours per week, experience may be earned non-currently with full-time attendance in college, clarifications to the section names of the examination, inclusion of English as a Second Language (ESL) accommodations for testing, and addition of an endorsement pathway for licensure for U.S. and Canadian landscape architects. A rural area flexibility analysis may be required.

Amendment of section 75.2 of the Regulations of the Commissioner of Education relating to the experience requirements for licensure as a speech-language pathologist to clarify that a week of acceptable experience is defined as not less than 35 clock hours and add that credit toward the experience requirement may be given for part-time employment accumulated at the rate of not less than 12 clock hours per week for continuous periods of not less than six months. A rural area flexibility analysis may be required.

Amendment of section 66.2 of the Regulations of the Commissioner of Education relating to the licensure examination for optometrists to update this regulation to conform with changes to this licensure examination. 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). A rural area flexibility analysis may be required.

Amendment of section 31.5 of the Rules of the Board of Regents to update the addresses for licensees' submission of hearing requests to the Professional Conduct Officer and filing a written answer to a cease and desist order with the Office of Prosecutions. A rural area flexibility analysis may be required.

Amendment to section 61.10 of the Regulations of the Commissioner of Education relating to the dental anesthesia certification requirements for licensed dentists to update and conform it to the current practice of dental anesthesia administration and improve the protection of the public. 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.

#### OFFICE OF MANAGEMENT SERVICES

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.

Agency Contact:

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

Julia Patane Esq., Associate Counsel

State Education Department, Office of Counsel

State Education Building Room 148

89 Washington Ave., Albany, NY 12234

(518) 474-6400

[REGCOMMENTS@nysed.gov](mailto:REGCOMMENTS@nysed.gov)