



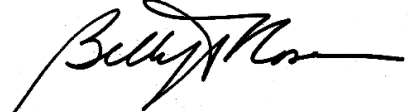


TO: The Honorable Members of the Board of Regents

FROM: Lester W. Young 

SUBJECT: Proposed Amendment of Section 3.8(b) of the Rules of the Board of Regents Relating to Designation of a Deputy Commissioner of Education

DATE: March 27, 2025

AUTHORIZATION(S):  

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of section 3.8(b) of the Rules of the Board of Regents relating to designation of a Deputy Commissioner as the Deputy Commissioner of Education as specified in Education Law §101, who, in the absence or disability of the Commissioner or when a vacancy exists in the office of Commissioner, shall exercise and perform the functions, power, and duties of the Commissioner?

Reason for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the April 2025 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the Full Board for discussion and recommendation to the Full Board for adoption as an emergency rule at its December 2024 meeting, effective December 10, 2024. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on December 24, 2024 for a 60-day public comment period. Because the December 2024 emergency action was set to expire on March 9, 2025, a second emergency action was necessary at the February 2025

Regents meeting, effective March 10, 2025, 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 March 26, 2025.

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. If adopted at the April 2025 meeting, a Notice of Adoption will be published in the State Register on April 23, 2025. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

Currently, section 3.8(b) of the Regents Rules designates the Executive Deputy Commissioner of the State Education Department as the Deputy Commissioner of Education as specified in Education Law §101 who, in the absence or disability of the Commissioner or when a vacancy exists in the office of Commissioner, shall exercise and perform the functions, powers and duties of the Commissioner.

To reflect the current internal organization of the Department, and to provide flexibility should the organization of the Department change in the future, the Department proposes to amend such provision to provide that, in the absence or disability of the executive deputy commissioner or when a vacancy exists in that title, the senior deputy commissioner for education policy shall serve as the Deputy Commissioner identified in Education Law §101. In the absence or disability of both of the above titles, or when vacancies exist in both titles, the seniormost deputy commissioner (*i.e.*, the deputy commissioner with the longest amount of continuous service in that title) would serve as the deputy commissioner of education described in Education Law §101.

Related Regents Items

[May 2021: Proposed Amendment to Section 3.8\(b\) of the Rules of the Board of Regents to Designate The Executive Deputy Commissioner as the Deputy Commissioner of Education as specified in Education Law §101, who, in the Absence or Disability of the Commissioner or when a vacancy exists in the Office of Commissioner, Shall Exercise and Perform the Functions, Power, and Duties of the Commissioner](https://www.regents.nysed.gov/sites/regents/files/521brca1.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/521brca1.pdf>)

[December 2024: Proposed Amendment of Section 3.8\(b\) of the Rules of the Board of Regents Relating to Designation of a Deputy Commissioner of Education](https://www.regents.nysed.gov/sites/regents/files/1224bra5.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/1224bra5.pdf>)

[February 2025: Proposed Amendment of Section 3.8\(b\) of the Rules of the Board of Regents Relating to Designation of a Deputy Commissioner of Education](https://www.regents.nysed.gov/sites/regents/files/225brca1.pdf)
<https://www.regents.nysed.gov/sites/regents/files/225brca1.pdf>

Recommendation

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

VOTED: That section 3.8(b) of the Rules of the Board of Regents be amended, as submitted, effective April 23, 2025.

Timetable for Implementation

If adopted at the April 2025 meeting, the proposed amendment will become effective as a permanent rule on April 23, 2025.

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to Education Law section 101.

Paragraph (b) of section 3.8 of the Rules of the Board of Regents is amended to read as follows:

(b) The executive deputy commissioner shall be the deputy commissioner of education as specified in [section 101 of the] Education Law §101. In the absence or disability of the commissioner or when a vacancy exists in the office of commissioner, the executive deputy commissioner shall exercise and perform the functions, powers and duties conferred or imposed on the commissioner by statute and by rule of the Regents. In the absence or disability of the executive deputy commissioner or when a vacancy exists in such office, the senior deputy commissioner for education policy shall be the deputy commissioner of education as specified in Education Law §101. In the absence or disability of both of the above titles, or when vacancies exist in both titles, the seniormost deputy commissioner (i.e., the deputy commissioner with the longest amount of continuous service in that title) shall serve as the deputy commissioner of education as specified in Education Law §101.