



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: Richard J. Trautwein
SUBJECT: June 2016 Regulatory Agenda
DATE: June 6, 2016
AUTHORIZATION(S):

Richard J. Trautwein *Margellen Elin*

SUMMARY

Issue for Decision

Should the Board of Regents approve the June 2016 Regulatory Agenda?

Reason for Consideration

Required by State statute.

Proposed Handling

The June 2016 Regulatory Agenda will be presented to the Full Board for approval at the June Regents meeting.

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 the first January issue and last June issue of the State Register. The June 2016 regulatory agenda is a list and brief description of the subject matter of each rule the Department is considering proposing during the remainder of 2016, but has not yet submitted a Notice of Proposed Rule Making. SAPA §202-d(2) provides that nothing in the statute precludes the

Department from adopting a different rule from the one appearing in the regulatory agenda. If we do intend to adopt additional rules, 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. SAPA §202-d(2) also provides that nothing in the statute requires an agency to adopt a rule appearing in the regulatory agenda.

The June 2016 Regulatory Agenda is a planning document required under SAPA §202-d and provides notice to the public on regulations that the agency knows it may propose in the next 6 months. It is non-binding and does not commit the agency to adopting the listed regulations, nor does it preclude the agency from adopting regulations that are not on the list. Accordingly, Board of Regents approval of the Regulatory Agenda does not constitute approval of the listed regulations.

Recommendation

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

VOTED: That the June 2016 Regulatory Agenda for the State Education Department be approved, as submitted.

Timetable for Implementation

The June 2016 Regulatory Agenda will be published in the State Register on June 29, 2016.

STATE EDUCATION DEPARTMENT
JUNE 2016 REGULATORY AGENDA

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the remainder of calendar year 2016. 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 June 2016 Regulatory Agenda.

OFFICE OF P-12 EDUCATION

Amendment of sections 30-2.3, 30-3.3, 30-3.4, 30-3.5, 30-3.11, and 30-3.13 of the Rules of the Board of Regents, relating to annual professional performance reviews of classroom teachers and building principals, to provide greater flexibility to districts and BOCES in implementing the provisions of Education Law §3012-c and §3012-d. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 52 and 80 of the Commissioner's Regulations to require all prospective teachers to complete coursework on English Language Learner instructional needs, co-teaching strategies, and integrating language and content instruction for English Language Learners. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 80 of the Commissioner's Regulations to create a certification extension for bilingual teaching assistants. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 80-1.9 of the Commissioner's Regulations relating to the filing of district personnel data. A regulatory change may be required to align the requirement for collecting personnel data which has changed from staff filing a paper form to an electronic filing by school districts, BOCES and charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(a) of the Commissioner's Regulations relating to the definition of a unit of study. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(b) of the Commissioner's Regulations relating to the definition of a unit of credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(gg) of the Commissioner's Regulations relating to the violent and dangerous incident report system. A regulatory change may be required to implement policy and to amend the reportable categories in the violent and dangerous incident report system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations to conform to Education Law sections 207, 305, and 211-f as added by Chapter 56 of the Laws of 2015 and to align the already existing rules with the new section 100.19 relating to

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

Amendment of section 100.2(m) of the Commissioner's Regulations relating to the school report card. A regulatory change may be required to allow for the various data of the school report card to be identified individually. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(i) of the Commissioner's Regulations to allow the reporting of Complaints About the Use of Corporal Punishment by BOCES, District or Charter School Personnel to be done once a year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(x) of the Commissioner's Regulations to conform to the Every Student Succeeds Act. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.3 of the Commissioner's Regulations relating to the PreK-4 Program requirements to reflect the adoption of the Common Core Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4 of the Commissioner's Regulations relating to program requirements in grades 5-6 to reflect the adoption of the Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations relating to general school requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(j) of the Commissioner's Regulations relating to guidance counselors. A regulatory change may be required to update language and specific requirements to develop a comprehensive, developmentally appropriate school counseling program for each student attending a New York State public or charter school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations, relating to graduation requirements. A regulatory change may be required to allow for additional options for English language learners. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations relating to diploma requirements for students pursuing a career/technical education program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.7 of the Commissioner's Regulations relating to the State High School Equivalency Program to increase the age of eligibility and minimum number of hours required by the program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of §100.5(g)(1)(i) of the Commissioner's Regulations relating to the transition to the Regents Examination in English Language Arts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(b) of the Commissioner's Regulations relating to program requirements in grades five and six. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(c) of the Commissioner's Regulations relating to unit of study requirements in grades seven and eight. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(d) of the Commissioner's Regulations relating to grade eight acceleration for diploma credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(h) of the Commissioner's Regulations relating to models for Middle Level Education. 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 Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Repeal of sections 100.14 and 100.15 of the Commissioner's Regulations relating to Excelsior Scholars Program and Grants for Summer Institutes for Mathematics and Science Teachers. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Extension of the amendment to sections 100.4(e)(2) and 100.18(b)(14) of the Commissioner's Regulations to provide flexibility to school districts and charter schools regarding the administration of Regents Examinations in Mathematics (Common Core) to grades 7 and 8 students. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.18 of the Commissioner's Regulations to align with any amendments made to the State's approved ESEA Flexibility Renewal Request, including but not limited to the identification of Local Assistance Plan Schools, Focus Schools, Priority Schools, and Focus Districts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 114.1(b) of the Commissioner's Regulations relating to nutrition standards. A regulatory change may be required to conform with federal statute and/or regulation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 117 of the Commissioner's Regulations relating to diagnostic screening for students who are new entrants or who have low test scores in reading or mathematics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 118 of the Commissioner's Regulations relating to implementation of waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of

ESEA flexibility pertaining to school and district accountability. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's Regulations to add a section relating to procedures regarding complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.1 of Commissioner's Regulations, relating to Charter School Tuition Reimbursement, to conform to section 4 of Part BB of Chapter 56 of the Laws of 2014. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.3 of the Commissioner's Regulations relating to charter school report cards to correct a citation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 120 of the Commissioner's Regulations relating to implementation of waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of ESEA flexibility pertaining to Supplemental Educational Services and Public School Choice. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations 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.

Amendment of Subpart 151-1 of the Commissioner's Regulations relating to universal prekindergarten. A regulatory change may be required to implement policy relating to the suspension and expulsion of children in universal prekindergarten classes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 151-1.3 of the Commissioner's Regulations relating to the Universal Pre-Kindergarten program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the instructional reporting and improvement system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the Early Warning System and the use of standardized student-level attendance rules. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 136.3(b) of the Commissioner's Regulations to conform to Education Law section 901, as amended by the Laws of 2006, Ch. 58, pt. A-1, §57, which removed the exemption of the city school districts of Rochester and Buffalo from the requirement to provide school health services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 144.11 of the Commissioner's Regulations to eliminate the requirement that school districts have an Early Grade Class Size Reduction Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.17 of the Commissioner's Regulations relating to emergency response plans. A regulatory change may be required to retitle building-level school safety plans to building level school emergency response plans to conform with federal FEMA emergency preparedness guidelines and to change the due date of submissions due to the Department. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Development of a new Part of the Commissioner's Regulations to create identification, placement and program requirements for students who are English language learners in preschool. 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 200.6 of the Commissioner's Regulations relating to Committee on Special Education recommendations for home and hospital instruction. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.7 of the Commissioner's Regulations relating to conditions of approval and the program standards for private schools approved to serve students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.20(a) of the Commissioner's Regulations relating to public school districts as preschool evaluators as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.16(c)(vi) of the Rules of the Board of Regents to update delegation of authority with respect to charter schools and relocation of a charter school to a different borough within a school district in a city having a population of one million or more. 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 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.

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

Amendment of section 3.17(a)(4) of the Rules of the Board of Regents to update the revocation proceeding to require that the imposition of a remedial action plan be agreed upon by the charter school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(c) 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. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Angelica Infante-Green

Deputy Commissioner P-12 Instructional Support

New York State Education Department

Room 875, Education Building Annex

89 Washington Avenue

Albany, New York 12234

(518) 474-5915

nysedp12@nysed.gov

OFFICE OF HIGHER EDUCATION

Addition of a new subdivision 55 to section 305 of the Education Law to require that all colleges for teachers or teachers colleges in the state provide a course of instruction in mental health first aid to each student before graduation with a degree in

teaching or education. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Amendment to Section 80-3.5 of the Commissioner's Regulations to establish new pathway options for the Transitional A certificate in Career and Technical Education subjects for candidates who have professional experience. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Addition of a new Part of the Commissioner's Regulations pertaining to the requirements for student and teacher data privacy and security pursuant to Education Law section 2-d, as added by Subpart L of Part AA of Chapter 56 of the Laws of 2014. A rural area flexibility analysis and/or a regulatory flexibility analysis may be required.

Amendment of section 3.56 of Regents Rules to clarify requirements for out-of-state institutions of higher education that are seeking Regents permission to operate in New York. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 50.1 of the Commissioner's Regulations 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 section 52.2(f) of the Commissioner's Regulations 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 Commissioner's Regulations relating to the certification requirements for school counselors. A rural area flexibility analysis may be required.

Amendment of section 80-3.4 of the Commissioner's Regulations relating to education requirements for the professional certificate. A rural area flexibility analysis may be required.

Amendment of Part 80-4.3 and 80-5.18 relating to the requirements for a Supplementary Bilingual Education extension and the Supplementary English to Speakers of Other Languages certificate. A rural area flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's Regulations to streamline moral character hearings. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Amendment of Part 86 of the Commissioner's Regulations relating to the requirements for the Albert Shanker Grant. A rural area flexibility analysis may be required.

Amendment of Part 135 of the Commissioner's Regulations 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 Commissioner's Regulations section 145-2.1(a)(iii) to provide a definition of a remedial course(s). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.2 to provide a definition of the term "the recognized equivalent of such certificate" as found in Education Law section 661(4)(f) for the purposes of determining eligibility for the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(3) to clarify and establish jurisdiction over a student at the time of the completion of secondary education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(2) to clarify the federally approved ability to benefit test administration for the purposes of the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 152-1.2 to insert language concerning remedial, developmental, and compensatory courses. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations Part 50 and Part 54 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 Commissioner's Regulations to establish a new part to implement section 6449 of the Education Law as related to aggregate data reporting to the department as required by Chapter 76 of the Laws of 2015, the Sexual Assault, Dating

Violence, Domestic Violence and Stalking Prevention and Response Policies and Procedures. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

John D'Agati

Deputy Commissioner for the Office of Higher Education

New York State Education Department

Office of Higher Education

Room 977, Education Building Annex

89 Washington Avenue

Albany, New York 12234

(518) 486-3633

Shannon.Roberson@nysed.gov

OFFICE OF THE PROFESSIONS

Amendment of Part 17 of the Regents Rules relating to consent orders in disciplinary proceedings conducted pursuant to Title VIII of the Education Law. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the public accountancy and certified public accountancy

professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the pharmacy profession. A regulatory flexibility analysis for small businesses and a rural flexibility analysis may be required.

Amendment of Part 61 of the Commissioner's Regulations relating to licensure by endorsement provisions for dentists. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 69 of the Commissioner's Regulations relating to licensure by endorsement provisions for architects. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the definitions of public accountancy and the certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment to Subpart 79-7 of the Commissioner's Regulations relating to the education requirements for certified athletic trainers. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 79 of the Commissioner's Regulations to create a new Subpart 79-17 to add a new profession entitled "Perfusionists"; to describe the scope of practice of a Perfusionist and to make Perfusion a title protected profession. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Agency Representative:

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

Douglas E. Lentivech

Deputy Commissioner for the Professions

New York State Education Department

Office of the Professions

89 Washington Avenue

West Wing, Second Floor - Education Building

Albany, NY 12234

(518) 486-1765

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OFFICE OF CULTURAL EDUCATION

Amendment of Part 90 of the Commissioner's Regulations, 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.

Agency Representative:

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

Bernard A. Margolis

State Librarian and Assistant Commissioner for Libraries

New York State Education Department

New York State Library

Room 10C34

Albany, NY 12230

(518) 474-5930

Bernard.Margolis@nysed.gov

Amendment of sections 189.1 and 189.3 of the Commissioner's Regulations relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the agency fee list to match the current organizational structure of executive branch agencies. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

Tom Ruller

Assistant Commissioner for the State Archives

9C49 Cultural Education Center

Albany, New York 12230

(518) 474-5561

Tom.Ruller@nysed.gov

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Amendment of Parts 246, 247 and 248 of the Commissioner's Regulations, regarding conforming and technical amendments pertaining to the vocational rehabilitation and independent living programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 246 of the Commissioner's Regulations, relating to sheltered workshop programs and community rehabilitation providers, may be necessary to conform to federal regulations and to reflect new standards for services established in contracts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Parts 246 and 247 of the Commissioner's Regulations relating to the State vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to changes resulting from the passage of the Workforce Innovation and Opportunity Act (WIOA) on July 22, 2014, which amended the Rehabilitation Act. The draft federal regulations were released on April 16, 2015. The final federal WIOA regulations are expected to be released in June 2016. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of a new section 247.19 of the Commissioner's Regulations as follows:
Readers Aid for blind or deaf students. Contingent upon the adoption of proposed amendments to §4210 of the New York State Education Law, this section authorizes personnel responsible for the provision of reasonable accommodations at institutions of higher education or proprietary schools to apply for Readers Aid funding. Applications will include documentation that attests to student eligibility and meets additional

requirements as established by ACCES-VR. Readers Aid funding will be awarded based on available funding and at ACCES VR's discretion, not to exceed \$4,000 per student per academic year. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the modification or continuation of any of the above rules by contacting:

Lisa Van Ryn

Manager, VR Resource Development

Office of Adult Career and Continuing Education Services

Room 580 EBA

89 Washington Avenue

Albany, New York 12234

(518) 473-1626

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Amendment of section 126.1 of the Commissioner's Regulations to delete sections 126.1(a), (c), (k), (p), (q), (t), and (aa) which are either simple restatements or are redundant, as they are already defined in statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.1(o) of the Commissioner's Regulations to delete the term, "received," as used in the phrase "revenue received," in reference to the reporting of gross tuition. This change is needed to ensure that the term used accurately aligns with Generally Accepted Accounting Principles (GAAP), as required by statute. A

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

Amendment of section 126.3(b) of the Commissioner's Regulations to ensure that advertising, in languages other than English, is translated into English for a review of the content, with an affirmation that the translation is an accurate translation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.4(e)(2)(i) of the Commissioner's Regulations to clarify the conditions related to a student's satisfactory academic progress and continued program participation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.4(g) of the Commissioner's Regulations to align with section 5002(1)(c) of the Education Law, as related to non-occupational coursework. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.4(i) of the Commissioner's Regulations to refer directly to section 5002(1)(c) of the Education Law as the source of its authority. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.6(a) of the Commissioner's Regulations to align with statutory language and to reflect the new web-based method for receiving submissions, by changing the word "mailed" to "provided" and deleting the reference to the word

“postmarked.” A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.8(b)(3) of the Commissioner’s Regulations to be deleted, as it is redundant with section 5001(4)(e) of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.10(a) of the Commissioner’s Regulations to be revised to delete reference to statutory fee and method for notifying applicant, due to redundancy with section 5001(4)(a) of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.10(b) and (c) of the Commissioner’s Regulations to be deleted as proposed deletions mirror nearly identical provisions in sections 5001(4)(c) and (d) and section 5001(7) of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner’s Regulations to add a new section 126.10(k), as per section 5001(4)(f)(3) of the Education Law, to specify that any alternate licensing procedures applicable to non-profit schools exempt from taxation under section 501(c)(3) of the federal internal revenue code and whose programs, including registration fees, the sale of books, supplies, services, kits, uniforms or equipment are funded entirely through donations, exclusive of public sources, from individuals or philanthropic organizations, or endowments, and interest accrued thereon, shall be subject to all of the requirements of article 101 of Education Law and this Part, except that:

126.10(k)(1) - such schools shall be exempt from the requirements of Education Law, as follows:

126.10(k)(1)(i), § 5002(3) - which relates to tuition liability;

126.10(k)(1)(ii), § 5001(4)(e)(i) - which relates to the inclusion in financial statements of refunds due or owed to past or presently enrolled students;

126.10(k)(1)(iii), § 5002(2)(b)(5) - which relates to the inclusion in any school record of the amount of any refund paid to any student;

126.10(k)(1)(iv), § 5005(a)(4) - which relates to the disclosure to prospective and enrolled students of any refund policy and § 5005(e), and § 5005(f) which relates to a tuition reimbursement fund claim form;

126.10(k)(2) - such schools shall be exempt from the requirements of the following provisions of this Part:

126.10(k)(2)(i), § 126.4(c)(6) - which relates to data required to be submitted about tuition and other charges and method of payment;

126.10(k)(2)(ii), § 126.7(b)(6)–(9) - which relates to the inclusion in enrollment agreements of any tuition charges or fees or method of payment;

126.10(k)(2)(iii), § 126.7(b)(15) - which relates to any refund a school will make under certain prescribed circumstances;

126.10(k)(2)(iv), § 126.7(d), except § 126.7(d)(3) thereof, - which relates to the inclusion in enrollment agreements of a reasonable adjustment of tuition and other fees, and any refund policies;

126.10(k)(2)(v), § 126.7(e) - which relates to the option to use the refund policy of a nationally recognized accrediting agency and the use of the refund policy required by federal law;

126.10(k)(2)(vi), § 126.7(g) - which relates to the inclusion in the enrollment agreements of any refunds due;

126.10(k)(2)(vii), § 126.9(a)(8) - which relates to inclusion in the school catalog of a schedule of fees or charges;

126.10(k)(2)(viii), § 126.9(a)(9) - which relates to the inclusion in the school catalog of school policies and regulations governing the refund of any unused portion of tuition, fees and other charges in certain circumstances;

126.10(k)(2)(ix), § 126.9(a)(13) - which relates to the inclusion in the school catalog of financial assistance information;

126.10(k)(2)(x), § 126.9(a)(18) - which relates to the inclusion in the school catalog of information about tuition refunds from the Tuition Reimbursement Account (TRA);

126.10(k)(2)(xi), § 126.9(a)(19) - which relates to the inclusion in the school catalog of a weekly tuition liability chart;

126.10(k)(2)(xii), § 126.11(a)(10) - which relates to the maintenance of records of tuition, fees, public loans and grants, and their disbursement, by a school for seven years.

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

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the modification or continuation of any of the above rules by contacting:

Ruth A. Singer

Supervisor, Bureau of Proprietary School Supervision

Office of Adult Career and Continuing Education Services

Room 560 EBA

89 Washington Avenue

Albany, New York 12234

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OFFICE OF STATE REVIEW

Amendment of section 279.1 of the Commissioner's Regulations, relating to the incorporation and clarification of definitions and other provisions, as relevant to state-level review of hearings for students with disabilities, that are currently referenced in Parts 275 and 276; deletion of references to parts 275 and 276; clarification of the jurisdiction of a state review officer and procedures regarding state review proceedings; clarification regarding the authority of a state review officer to review manifestation determinations; and definition of the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.2 of the Commissioner's Regulations, relating to timelines for serving and filing a notice of intention to seek review; clarification of the purpose of notice of intention to seek review; clarification of timeframe in which to serve

upon another party and file a notice of intention to seek review; addition of a notice of intention to cross-appeal requirement; and addition of a requirement to identify the issues sought to be reviewed by a state review officer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.3 of the Commissioner's Regulations, relating to extensions of time for service of an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.4 of the Commissioner's Regulations, relating to the initiation and scope of a review and the timeliness of an appeal, clarification of sufficiency of content and time in which to serve the request for review and supporting papers upon the opposing party; clarification of required elements of a cross-appeal; clarification of methods and completion of permissible service; and procedures for filing a request for review and supporting papers with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.5 of the Commissioner's Regulations, relating to the content and service of an answer and supporting papers upon the opposing party and filing with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.6 of the Commissioner's Regulations, relating to the content and service of additional pleadings upon the opposing party and filing with the Office of State Review; and State Review Officer authority to request additional briefing

from the parties. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.7 of the Commissioner's Regulations, relating to endorsement and verification of pleadings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.8 of the Commissioner's Regulations, relating to the form and content of pleadings and memoranda of law; and clarification of the requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.9 of the Commissioner's Regulations, relating to content and submission of record; certification of record; providing consequences to districts that fail to timely file the complete record; and specifying content of records on appeal from interim decisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.10 of the Commissioner's Regulations, relating to requests for extensions of time; and submission of additional evidence or remand of a matter to the impartial hearing officer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.11 of the Commissioner's Regulations, relating to calculating date by which service must be made. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.12 of the Commissioner's Regulations, clarifying provisions relating to the finality of state review officer decisions. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of section 279.13 of the Commissioner's Regulations, relating to service of petition for review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 279.14 of the Commissioner's Regulations, relating to pre-review conferences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

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

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OFFICE OF MANAGEMENT SERVICES

Amendment of Parts 187 and 188 to update regulations relating to the inspection and copying of State Education Department records and to State Government Archives and Records Management. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Agency Representative:

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

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June 6, 2016

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