



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: Ken Wagner *KW*

SUBJECT: Proposed amendment of §100.5(g)(1)(ii) of the Regulations of the Commissioner, relating to the transition to Common Core-aligned Regents Examinations in Mathematics (Geometry)

DATE: July 2, 2014

AUTHORIZATION(S): *Richard A. Tranter* *John B. P. G.*

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt as a second emergency rule the amendment of §100.5(g)(1)(ii) of the Commissioner's Regulations to make technical corrections and clarify the text of the regulation?

Reason(s) for Consideration

Implementation of Policy

Proposed Handling

The proposed amendment will be presented to the Full Board at the July 2014 Regents meeting for adoption as a second emergency action. 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 May 2014 Regents meeting, effective May 20, 2014. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on June 4, 2014. The May emergency rule will expire on August 17, 2014. A second emergency action is necessary at the July Regents meeting in order to ensure that the emergency rule remains continuously in effect until it can be adopted as a permanent rule at the September 2014 Regents meeting. 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 April 2014 meeting, the Board of Regents amended section 100.5(g) of the Commissioner's Regulations, effective May 14, 2014, to allow for a limited time and at the discretion of the applicable school district, students receiving Geometry (Common Core) instruction to take the Regents Examination in Geometry aligned to the 2005 Learning Standards in addition to the Regents Examination in Geometry (Common Core), and meet the mathematics requirement for graduation by passing either examination.

The proposed amendment is needed to make technical changes to correct the numbering of the paragraph, subparagraph and clauses of the amendment adopted at the April 2014 meeting. The April amendment inadvertently omitted the extensive renumbering of section 100.5(g) that occurred when separate amendments were made to sections 100.5 and 100.18 in February 2014. Among the changes was to renumber section 100.5(g)(2)(i) and (ii) to 100.5(g)(1)(ii)(a) and (b), relating to the mathematics requirements for a diploma.

In addition, the proposed amendment eliminates redundant language and otherwise clarifies that the April amendment is applicable to students who first begin instruction in a commencement level mathematics course aligned to the Common Core Learning Standards in September 2013 and thereafter. The April amendment inadvertently placed the Geometry examination provision in section 100.5(g)(ii)(b) instead of in 100.5(g)(ii)(a).

Recommendation

Staff recommends that the Regents take the following action

VOTED: That subparagraph (ii) of paragraph (1) of subdivision (g) of section 100.5 of Commissioner's Regulations be amended as submitted, effective August 18, 2014, as an emergency action upon a finding by the Board of Regents that such action

is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the May 2014 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 rule at the May 19, 2014 Regents meeting, effective May 20, 2014, and will expire on August 17, 2014. If adopted at the July Regents meeting, the second emergency action will take effect on August 18, 2014. It is anticipated that the proposed amendment will be presented for adoption as a permanent rule at the September Regents meeting, after expiration of the 45-day public comment period for proposed rule makings.

Attachment

8 NYCRR §100.5(g)(1)(ii)

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

At their April 2014 meeting, the Board of Regents amended section 100.5(g) of the Commissioner's Regulations, effective May 14, 2014, to allow for a limited time and at the discretion of the applicable school district, students receiving Geometry (Common Core) instruction to take the Regents Examination in Geometry aligned to the 2005 Learning Standards in addition to the Regents Examination in Geometry (Common Core), and meet the mathematics requirement for graduation by passing either examination.

The proposed amendment is needed to make technical changes to correct the numbering of the paragraph, subparagraph and clauses of the amendment adopted at the April 2014 meeting. The April regulation inadvertently omitted the extensive renumbering of section 100.5(g) that occurred when separate amendments were made to sections 100.5 and 100.18 in February 2014. Among the changes was to renumber section 100.5(g)(2)(i) and (ii) to 100.5(g)(1)(ii)(a) and (b), relating to the mathematics requirements for a diploma.

In addition, the proposed amendment eliminates redundant language and otherwise clarifies that the April amendment is applicable to students who first begin instruction in a commencement level mathematics course aligned to the Common Core Learning Standards in September 2013 and thereafter. The April amendment inadvertently placed the Geometry examination provision in section 100.5(g)(ii)(b) instead of in 100.5(g)(ii)(a).

The proposed amendment was adopted as an emergency action at the May 19, 2014 Regents meeting, effective May 20, 2014. Because the Board of Regents meets at monthly intervals, and does not meet during the month of August, the earliest the proposed amendment could be adopted by regular action after publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on June 4, 2014 and expiration of the 45-day public comment period prescribed in State Administrative Procedure Act (SAPA) section 202 would be the September 15-16, 2014 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the June meeting, would be October 1, 2014, the date a Notice of Adoption would be published in the State Register. However, the May emergency rule will expire on August 17, 2014, 90 days after its filing with the Department of State on May 20, 2014.

Emergency action is necessary for the preservation of the general welfare to prevent any potential confusion and misinterpretation regarding the provisions of the regulation, and to otherwise ensure that the proposed rule adopted by emergency action at the May Regents meeting remains continuously in effect until the effective date of its permanent adoption.

It is anticipated that the proposed amendment will be presented for adoption as a permanent rule at the September 15-16, 2014 Regents meeting, which is the first scheduled Regents meeting after publication of the proposed rule in the State Register and expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

Subparagraph (ii) of paragraph (1) of subdivision (g) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective August 18, 2014, as follows:

(ii) Mathematics.

(a) Students who first begin instruction in a commencement level mathematics course aligned to the Common Core Learning Standards in September 2013 and thereafter shall meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing a commencement level Regents Examination in mathematics that measures the Common Core Learning Standards, or an approved alternative pursuant to section 100.2(f) of this Part; provided that:

(1) for the June 2014, August 2014 and January 2015 administrations only, students receiving Algebra I (Common Core) instruction may, at the discretion of the applicable school district, take the Regents Examination in Integrated Algebra in addition to the Regents Examination in Algebra I (Common Core), and may meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing either examination; and

(2) for the June 2015, August 2015 and January 2016 administrations only, students receiving Geometry (Common Core) instruction may, at the discretion of the applicable school district, take the Regents Examination in Geometry aligned to the 2005 Learning Standards in addition to the Regents Examination in Geometry

(Common Core), and may meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing either examination.

(b) Students who first began or will complete an Integrated Algebra, Geometry, or Algebra 2/Trigonometry course prior to September 2013 shall meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing the corresponding commencement level Regents Examinations in mathematics or an approved alternative pursuant to section 100.2(f) of this Part [; provided that:

(1) for the June 2014, August 2014 and January 2015 administrations only, students receiving Algebra I (Common Core) instruction may, at the discretion of the applicable school district, take the Regents Examination in Integrated Algebra in addition to the Regents Examination in Algebra I (Common Core), and may meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing either examination; and

(2) for the June 2015, August 2015 and January 2016 administrations only, students receiving Geometry (Common Core) instruction may, at the discretion of the applicable school district, take the Regents Examination in Geometry aligned to the 2005 Learning Standards in addition to the Regents Examination in Geometry (Common Core), and may meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing either examination].

(c) . . .