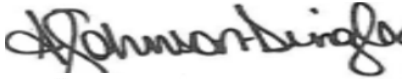






TO: The Honorable Members of the Board of Regents

FROM: Angelique Johnson-Dingle 
Jason Harmon 

SUBJECT: Proposed Amendments of Section 100.5 of the Regulations of the Commissioner of Education Relating to the Diploma, Credential, and Endorsement Requirements Associated with Passing the Regents Examination in United States History and Government (Framework) for the June 2022, August 2022, and January 2023 Administration Periods

DATE: June 30, 2022

AUTHORIZATION(S): 

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendments of section 100.5 of the Regulations of the Commissioner of Education relating to the diploma, credential, and endorsement requirements associated with passing the Regents Examination in United States History and Government (Framework) for the June 2022, August 2022, and January 2023 administration periods?

Reason for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is presented to the Full Board for adoption as an emergency rule at its July 2022 meeting. A copy of the proposed rule is included as (Attachment A) and a statement of facts and circumstances justifying emergency action is included as (Attachment B).

Procedural History

The proposed amendment was presented to the P-12 Education Committee for discussion and recommendation to the Full Board as an emergency rule at the June 2022 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on June 29, 2022, for a 60-day public comment period.

Because the June emergency action will expire on September 11, 2022, a second emergency action is necessary to ensure the emergency rule remains continuously in effect until it can be permanently adopted at the October 2022 Regents meeting. A Notice of Emergency Adoption will be published in the State Register on September 28, 2022. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

Beginning in September 2019, New York State high schools began aligning instruction in United States History and Government courses to the New York State K-12 Social Studies Framework. The first administration of the new Regents Examination in United States History and Government (Framework) was originally scheduled to be administered in June 2020. Due to the impact of the ongoing COVID-19 pandemic, the first administration of the new Regents Examination in United States History and Government (Framework) had to be postponed initially until June 2021 and then to June 2022. More recently, the test was canceled in June 2022 and postponed until June 2023 in the wake of the tragic shooting in Buffalo. This postponement to June 2023 is necessary because the first Regents Examination in United States History and Government (Framework) must be administered during a June administration period with a full census of student participation to provide the opportunity for score collection and performance standard setting.

Since all United States History and Government coursework is now aligned to the Framework, there will be no appropriate Regents Examination in United States History and Government available in June 2022, August 2022, and January 2023 for students completing their courses in United States History and Government. As a result, the Department proposes to amend section 100.5(a)(5)(vi)(a)(4) of the Commissioner's regulations to provide an exemption to the diploma, credential, and endorsement requirements related to the passing of the June 2022, August 2022, and January 2023 Regents Examinations in United States History and Government so that students are still able to meet their diploma requirements since this Regents Examination will not be available for those administration periods.

Related Regents Items

June 2022: [Proposed Amendments of Section 100.5 of the Regulations of the Commissioner of Education Relating to the Diploma, Credential, and Endorsement Requirements Associated with Passing the Regents Examination in United States History and Government \(Framework\) for the June 2022, August 2022, and January 2023 Administration Periods](https://www.regents.nysed.gov/common/regents/files/622p12a3.pdf) (<https://www.regents.nysed.gov/common/regents/files/622p12a3.pdf>)

Recommendation

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

VOTED: That section 100.5(a)(5)(vi)(a)(4) of the Regulations of the Commissioner of Education be amended, as submitted, effective September 12, 2022, as an emergency action upon a finding of the Board of Regents that such action is necessary for the preservation of the general welfare to immediately provide regulatory flexibility so that students can meet the diploma requirements related to the passing of the Regents Examination in United States History and Government (Framework) administered in June 2022, August 2022, and January 2023, and to ensure the emergency action taken at the June 2022 Regents meeting remains continuously in effect.

Timetable for Implementation

If adopted as an emergency rule at the July 2022 Regents meeting, the emergency rule will become effective September 12, 2022. It is anticipated that the proposed amendment will be presented for permanent adoption at the October 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the October 2022 meeting, the proposed amendment will become effective as a permanent rule on October 19, 2022.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 208, 209, 305, 3204, and 3205 of the Education Law.

1. Subclause (4) of clause (a) subparagraph (vi) of paragraph (5) of subdivision (a) of section 100.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(4) For purposes of meeting the diploma requirements of this subdivision, students deemed to have demonstrated attainment of the applicable New York learning standards in English, mathematics, science, [United States history and government,] and global history and geography shall be exempt from the applicable Regents examination requirements for the January 2022 Regents examination administration and United States history and government for the January 2022, June 2022, August 2022, and January 2023 Regents examination administrations if such students:

(i) were enrolled in a course of study that would ordinarily culminate in the taking of a [January 2022] Regents examination administered in one of the periods listed in subclause 4 of this clause and earn credit for such course of study by the end of the first semester of the 2021-22 school year, or in the case of United States history and government, earn credit in the course of study by the end of the first semester of the 2022-23 school year;

(ii) were enrolled in a course of study in grade 7 or grade 8 that would ordinarily culminate in the taking of a [January 2022] Regents examination administered in one of

the periods listed in subclause 4 of this clause, and have met the learning standards in such course of study;

(iii) successfully completed a make-up program for the purpose of earning course credit between September 1, 2021, and the end of the first semester of the 2021-22 school year, or in the case of United States history and government, earn credit in the course of study by the end of the first semester of the 2022-23 school year;

(iv) was preparing to take a required Regents examination in order to graduate at the end of the first semester of the 2021-22 school year, or in the case of the Regents examination in United States history and government, were preparing to graduate at the end of the first semester of the 2022-23 school year;

(v) transferred to a New York State high school from either a high school located outside of New York State or from another New York State high school in which Regents examinations were not administered, and earned credit in a course for which they intended to take a corresponding Regents examination in January 2022, or in the case of United States history and government, one of the periods listed in subclause (4) of this clause.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

On May 24, 2022, the Department canceled the June 2022 Regents Examination in United States History and Government (Framework) in the wake of the tragic shooting in Buffalo. In response, the Department has adopted regulatory amendments exempting students from the diploma, credential, and endorsement requirements related to the passing of this examination.

To ensure that the cancellation of this examination does not adversely impact students, the Department now proposes additional regulatory amendments to section 100.5(a) of the Commissioner's regulations to provide an exemption to the diploma, credential, and endorsement requirements related to the passing of Regents Examination in United States History and Government (Framework). This amendment will ensure that students may still meet such requirements.

The proposed amendment was presented to the P-12 Education Committee for recommendation to the Full Board for adoption as an emergency rule at the June 2022 meeting of the Board of Regents, effective June 14, 2022. Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (non-emergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the October 2022 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earlier effective date of the proposed rule, if adopted at the October 2022 meeting, would be

October 19, 2022, the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on September 11, 2022. Therefore, a second emergency action is necessary at the July 2022 meeting for the preservation of the general welfare and public health in order to immediately provide regulatory flexibility so that students can meet the diploma requirements related to the passing of the Regents Examination in United States History and Government (Framework) administered in June 2022, August 2022, and January 2023, and to ensure the emergency action taken at the June 2022 meeting remains continuously in effect.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the October 2022 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rulemaking.