



TO: The Honorable Members of the Board of Regents

FROM: Sarah S. Benson *Sarah S. Benson*

SUBJECT: Proposed Technical Amendment of Section 68.3 of the Regulations of the Commissioner of Education Relating to the Requirements for Admission to the Examination for Licensure as an Engineer

DATE: July 6, 2023

AUTHORIZATION(S): *Don McG* *Bellotti*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed technical amendment of section 68.3 of the Regulations of the Commissioner of Education relating to the requirements for admission to the examination for licensure as an engineer?

Reason for Consideration

Required by State statute (Chapter 465 of the Laws of 2021).

Proposed Handling

The proposed technical amendment is submitted to the Full Board for adoption as a permanent rule at the July 2023 meeting of the Board of Regents. A copy of the proposed rule is included (Attachment A).

Procedural History

The proposed amendment was presented to the Professional Practice Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at the April 2023 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on May 3, 2023, for a 60-day public comment period. Because the April emergency action was set to expire on July 16, 2023, a second emergency action was necessary at the June meeting, effective July 17, 2023, to ensure the emergency rule remains continuously in effect until it could be

permanently adopted at the July Regents meeting. A Notice of Emergency Adoption will be published in the State Register on August 2, 2023.

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. A Notice of Adoption will also be published in the State Register on August 2, 2023. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 465 of the Laws of 2021 (Chapter 465), effective April 6, 2022, amended provisions of the Education Law regarding the profession of engineering. Generally, it updates engineering licensure requirements to reflect modern practice requirements and promote uniformity for the profession.

Chapter 465 phases out the existing “all-experience” pathway, which permitted candidates with 12 years of working experience to obtain licensure without any formal education. To ensure a smooth transition for pipeline candidates, Chapter 465 permits persons currently seeking licensure under this pathway to submit a licensure application with the appropriate fee to the Department by April 6, 2024 (two years after the effective date of the law) to preserve their potential ability to qualify for licensure based on such experience. Although regulatory amendments were adopted by the Board of Regents to reflect these statutory changes at the July 2022 Regents meeting, the regulations are silent relative to the ability of those still meeting the “all experience” pathway to sit for the fundamentals of engineering examination.

Therefore, the Department now proposes to amend section 68.3 of the Commissioner’s regulations to reflect the intent of Chapter 465 by allowing “all experience” pathway applicants to sit for the fundamentals of engineering examination provided that they meet the pathway’s requirements prescribed in section 68.1(c) of the Commissioner’s regulations.

Related Regents Items

June 2023: [Proposed Technical Amendment of Section 68.3 of the Regulations of the Commissioner of Education Relating to the Requirements for Admission to the Examination for Licensure as an Engineer](https://www.regents.nysed.gov/sites/regents/files/623brca15.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/623brca15.pdf>)

April 2023: [Proposed Technical Amendment of Section 68.3 of the Regulations of the Commissioner of Education Relating to the Requirements for Admission to the Examination for Licensure as an Engineer](https://www.regents.nysed.gov/sites/regents/files/423brca9.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/423brca9.pdf>)

July 2022: [Proposed Repeal of Section 68.1 and Addition of a New Section 68.1 and Amendment of Section 68.3 of the Regulations of the Commissioner of Education Relating to the Licensure Requirements for Professional Engineers](https://www.regents.nysed.gov/common/regents/files/722brca22.pdf)

(<https://www.regents.nysed.gov/common/regents/files/722brca22.pdf>)

Recommendation

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

VOTED: That section 68.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective August 2, 2023.

Timetable for Implementation

If adopted at the July 2023 Regents meeting, the proposed rule will become effective as a permanent rule on August 2, 2023.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, and 7206 of the Education Law and Chapter 465 of the Laws of 2021.

Subdivision (b) of section 68.3 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Admission to examinations.

(1) To meet the requirements for admission to the fundamentals of engineering examination, an applicant shall either:

(i)...

(ii)...

(iii) have met the education requirement of 68.1(b)(4) or (5); or

(iv) as prescribed in section 68.1(c) of this Part, have earned at least six education/experience credits and submitted an application for licensure with the required fee to the department prior to April 6, 2024,

(2)...