



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 *Richard J. Trautwein*

SUBJECT: Proposed Amendment to Section 3.8 of the Rules of the Board of Regents, relating to the duties of the Executive Deputy Commissioner

DATE: June 27, 2011

AUTHORIZATION(S):

Summary

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt the proposed amendment of section 3.8 of the Rules of the Board of Regents to designate the Executive Deputy Commissioner as the Deputy Commissioner of Education specified in Education Law section 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?

Reason(s) for Consideration

Implementation of Regents Policy.

Proposed Handling

The proposed amendment is being presented to the Full Board for adoption as an emergency action at the July 2011 Regents meeting.

Procedural History

In September 2010, Regents Rules section 3.8 was amended to designate the Senior Deputy Commissioner for P-12 Education as the Deputy Commissioner specified in Education Law section 101.

Background Information

The amendment will designate the Executive Deputy Commissioner as the Deputy Commissioner of Education specified in Education Law section 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 conferred or imposed on the Commissioner by statute and by rule of the Regents.

A Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on August 3, 2011.

Recommendation

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

VOTED: That subdivision (b) of section 3.8 of the Rules of the Board of Regents be amended, as submitted, effective July 19, 2011, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to ensure that the Rules of the Board of Regents are immediately brought into conformance with changes in the Department's internal organization, so as to ensure that the Executive Deputy Commissioner is able to immediately carry out her duties and responsibilities relating to the Executive Deputy Commissioner's designation as the deputy commissioner of education under Education Law section 101.

Timetable for Implementation

If adopted at the July Regents meeting, the emergency rule will take effect on July 19, 2011. It is anticipated that the rule will be presented for permanent adoption at the October Regents meeting, with an effective date of November 9, 2011.

PROPOSED AMENDMENT OF SECTION 3.8 OF THE RULES OF THE BOARD OF
REGENTS PURSUANT TO SECTION 101 OF THE EDUCATION LAW, RELATING TO
THE EXECUTIVE DEPUTY COMMISSIONER
STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

The proposed amendment is necessary to conform the Rules of the Board of Regents to changes made in the internal organization of the State Education Department. The proposed amendment designates the Executive Deputy Commissioner as the deputy commissioner of education as specified in Education Law section 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.

Because the Board of Regents meets at fixed intervals, the earliest the proposed amendments could be adopted by regular (non-emergency) action, pursuant to the requirements of the State Administrative Procedure Act - including publication in the State Register and expiration of a 45-day public comment period, is the October 17-18, 2011 Regents meeting, and the earliest an adoption at such meeting could be made effective would be November 9, 2011.

The recommended action is being proposed as an emergency measure because such action is necessary for the preservation of the general welfare in order to ensure that the Rules of the Board of Regents are immediately brought into conformance with changes in the Department's internal organization, so as to ensure that the Executive Deputy Commissioner is able to immediately carry out her duties and responsibilities

relating to the Executive Deputy Commissioner's designation as the deputy commissioner of education under Education Law section 101, including the ability to exercise and perform the functions, powers and duties of the Commissioner in his absence or disability, or if a vacancy exists in the office of the Commissioner.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at their October 17-18, 2011 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act.

AMENDMENT OF THE RULES OF THE BOARD OF REGENTS

Pursuant to section 101 of the Education Law.

Subdivision (b) of section 3.8 of the Rules of the Board of Regents is amended, effective July 19, 2011, as follows:

(b) The [senior deputy commissioner for p-12 education] executive deputy commissioner shall be the deputy commissioner of education as specified in section 101 of the Education Law. In the absence or disability of the commissioner or when a vacancy exists in the office of commissioner, the executive deputy commissioner [such senior 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.