



TO: Higher Education Committee

FROM: John L. D'Agati *John L. D'Agati*

SUBJECT: Proposed Addition of a New Subpart 152-3 to the Regulations of the Commissioner of Education to Implement the Foster Youth College Success Initiative as Added by Part X of Chapter 56 of the Laws of 2015

DATE: June 8, 2015

AUTHORIZATION(S):

Richard P. Iacono

Elizabeth R. Berlin

SUMMARY

Issue for Decision

Should the Board of Regents add a new Subpart 152-3 to the Regulations of the Commissioner of Education to implement the Foster Youth College Success Initiative, as added by Part X of Chapter 56 of the Laws of 2015?

Reason(s) for Consideration

Required by State statute.

Proposed Handling

The proposed amendment will be presented to the Higher Education Committee for adoption as an emergency measure at the June 2015 meeting of the Board of Regents. A copy of the proposed amendment is attached as Attachment A and a Statement of Facts and Circumstances Justifying the Emergency is attached as Attachment B.

Procedural History

A Notice of Proposed Rule Making and Emergency Action will be published in the State Register on July 15, 2015. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 56 of the Laws of 2015 added a new section 6456 to the Education Law requiring the Commissioner to allocate funds, subject to an appropriation, for the purpose of providing support services to assist youth in foster care to apply for, enroll in, and succeed in college. The new law defines foster youth to include students who have qualified as an orphan, foster child or ward of the court for the purposes of federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended.

1. Funding

The 2015 – 2016 State budget appropriated \$1.5 million for the Foster Youth College Success Initiative. The law provides for awards to public institutions, including institutions of the State University of New York (SUNY), and The City University of New York (CUNY), and requires the Commissioner to enter into contracts with degree-granting institutions currently funded by the Arthur O. Eve Higher Education Opportunity Program (HEOP) for the purpose of providing additional services and expenses to expand opportunities for foster youth. The new law allocates funding to these three sectors as follows: 52% to SUNY institutions; 30% to CUNY institutions; and 18% percent to currently funded HEOP institutions. It further requires that funds be in equal amounts per individual foster youth to each institution that applies for funding allocated to by sector that is approved by the Commissioner. It also prohibits funds from being used to support the regular academic programs of any institution participating in this program and/or which are incompatible with the Regents plan for the expansion and development of higher education in New York State.

2. Services for Foster Youth

Pursuant to the new law, funding shall be used for the following purposes:

- a. providing additional services and covering expenses to expand opportunities through existing postsecondary opportunity programs at the SUNY, CUNY, and other degree-granting higher education institutions for foster youth, and
- b. providing necessary supplemental financial aid for foster youth, which may include: the cost of tuition and fees, books, supplies, transportation, and other expenses approved by the Commissioner for such foster youth to attend college, and
- c. summer college preparation programs to help foster youth transition to college, prepare them to navigate on-campus systems, and provide

preparation in reading, writing, and mathematics for foster youth who need it,
or

providing advisement, tutoring and other academic assistance for foster youth. The proposed regulation would allow expenditure of grant funds for costs needed to carry out those purposes, including but not limited to the costs of outreach to high schools and community based organizations that serve foster youth about this initiative.

3. Implementation

The new law requires eligible institutions to file an application with the Commissioner by October 1st of each year. The application must demonstrate a need for such funding; including how the funds would be used and how many foster youth will be funded.

Recommendation

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

VOTED: That a new Subpart 152-3 of the Regulations of the Commissioner of Education be amended, as submitted, effective July 1, 2015, 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 awards made pursuant to this program are available to foster youth for the 2015-2016 academic year and to implement Education Law §6456, as added by Chapter 56 of the Laws of 2015, which becomes effective on July 1, 2015.

Timetable for Implementation

If the Board of Regents adopt the proposed amendment as an emergency measure at its June 2015 meeting, the emergency rule will become effective June 16, 2015. Following the 45-day public comment period required under the State Administrative Procedure Act, it is anticipated that the proposed amendment will be adopted by the Board of Regents as a permanent rule at their September 2015 meeting. If adopted at the September 2015 meeting, the proposed amendment will become effective as a permanent rule on October 7, 2015.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 210, 215, 305, 6451, 6456, as added by Chapter 56 of Laws of 2015.

1. Subpart 145-3 of the Regulations of the Commissioner of Education is added, effective July 1, 2015, to read as follows:

Subpart 152-3

§145-3 FOSTER YOUTH COLLEGE SUCCESS INITIATIVE.

§152-3.1 Purpose.

The purpose of the Foster Youth College Success Initiative is to provide funding, subject to an appropriation for such purpose, to support services to assist youth in foster care to apply for, enroll in, and succeed in college.

§145-3.2. Definition.

(a) For purposes of this section, foster youth shall mean students who have qualified as an orphan, foster child, or ward of the court for the purposes of federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended.

§145-3.3. Applications.

(a) Eligible applicants. Institutions of the State University of New York ("SUNY"), City University of New York ("CUNY"), and degree-granting institutions in New York that are currently funded by the Arthur O. Eve Higher Education Opportunity Program pursuant to section 6451 of the Education Law for the purposes of providing additional

services and expenses to expand opportunities for foster youth may apply for funding pursuant to this Section.

(b) Applications shall be submitted to the Commissioner, on forms prescribed by the Commissioner, for approval by October 1 of each year, and must set forth the need for such funds, including how the funds would be used and the exact number of foster youth that would be assisted with such funds.

(c) Applications from institutions of the State University of New York shall be coordinated through the SUNY System Administration and forwarded to the Department for review and approval by the Commissioner. Applications from institutions in the City University of New York system shall be coordinated through the CUNY Central Administration and forwarded to the Department for review and approval by the Commissioner. Other applications from eligible applicants as set forth in this section shall be submitted directly by the institution to the Department for review and approval by the Commissioner.

§145-3.4. Funding.

(a) Funds appropriated for the purposes of this initiative shall be awarded in equal amounts per foster youth to each institution whose application is approved by the Commissioner; pursuant to the sector distribution described in subdivision (b) of this section.

(b) Funds appropriated for the foster care youth initiative shall be allocated among the sectors as follows:

(1) 52% for institutions in the SUNY system;

(2) 30% for institutions in the CUNY system; and

(3) 18% for other degree-granting institutions in New York with current Arthur O. Eve higher education opportunity programs under this Part.

(c) Funds awarded under this Subpart shall be used for the following purposes to transition eligible students into postsecondary education:

(1) to provide additional services and fund expenses to expand opportunities for Foster Youth through existing postsecondary opportunity programs at the SUNY (Education Opportunity Program), CUNY (Search for Elevation, Education and Knowledge Program and College Discovery Program), and other not-for-profit degree granting higher education institutions which have higher education opportunity programs for foster youth;

(2) to provide necessary supplemental financial aid for foster youth, which may include the cost of tuition and fees, books, supplies, transportation, and other expenses determined by the Commissioner to be necessary for such foster youth to attend college;

(3) to conduct a summer college preparation program for foster youth who will be enrolled and attending as first time full time students at such institution awarded funding in an effort to prepare them to navigate on-campus systems, and provide preparation in reading, writing, and mathematics for foster youth who need it; or;

(4) for advisement, tutoring and other academic assistance for Foster Youth who are or will be enrolled and attending such institution awarded funding.

(d) Funds awarded pursuant to this Subpart shall be used for the allowable costs, as determined by the Commissioner, of activities and services needed to support the purposes prescribed in subdivision (c) of this section, which may include, but shall not be limited to, costs of outreach to high schools and community based organizations

that serve foster youth to advise potential students and provide information on this initiative.

(e) For the 2015 - 2016 academic year only, the amount of funds to be awarded to each institution under this initiative shall be based on the current number of eligible foster youth at such institution plus the number of eligible students recruited for, and enrolled in, an opportunity program at such institution.

(e) For the 2016 – 2017 academic year and thereafter, all funds under this initiative shall be based on the number of eligible foster youth recruited for and enrolled in the opportunity programs of such institutions for the current year of enrollment.

(f) No funds under this Subpart shall be used to support the regular academic programs of any institution participating in this program or, for programs which are incompatible with the Regents plan for the expansion and development of higher education in New York State.

§145-3.5. Reporting

Each institution that receives funds under this Subpart shall file an annual report by August 31 of the calendar year succeeding the year of its successful application for funding using a form prescribed by the Department, and/or within 30 days of any request by the Department, providing any information or documentation as the Commissioner may request relating to this initiative.

8 NYCRR §152-3

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

The proposed rule is necessary to implement Education Law section 6456, as added by Part X of Chapter 56 of the Laws of 2015, regarding the foster care youth initiative.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the September 16-17, 2015 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be October 7, 2015, the date a Notice of Adoption would be published in the State Register. However, Chapter 56 of the Laws of 2015 was signed by the Governor on April 13, 2015, and the provisions of Part X become effective July 1, 2015. Therefore, emergency action is necessary at the June 15-16, 2015 Regents meeting for the preservation of the general welfare in order to immediately establish standards for the foster care youth initiative and thus ensure the timely implementation of Education Law 6456, as added by Part X of Ch. 56 of the Laws of 2015.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the September 16-17, 2015 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.