




TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: Proposed Amendment to Sections 155.2, 155.12, and 200.2 of the Regulations of the Commissioner of Education Relating to Special Education Space Plans
DATE: June 10, 2013

AUTHORIZATION(S):



SUMMARY

Issue for Discussion

Should the Board of Regents amend sections 155.2, 155.12, and 200.2 of the Commissioner's Regulations, relating to special education space plans, to conform to Chapter 57 of the Laws of 2013?

Reason(s) for Consideration

Required by Statute (L. 2013, Ch. 57, sections 2-a and 2-b).

Proposed Handling

The proposed amendment is before the P-12 Education Committee for discussion at the June 2013 meeting.

Procedural History

Chapter 57 of the Laws of 2013 amended Education Law sections 1950 and 2215 to repeal the special education space plan requirements and add a requirement that the district superintendents of boards of cooperative educational services (BOCES) must determine the adequacy and appropriateness of facilities space housing special education programs in the geographic area of their BOCES.

Background Information

In April 2009, the Board of Regents discussed specific State law/regulation requirements in special education that, if repealed or amended, may result in administrative relief and/or cost savings to school districts. The proposals included only those areas that, given other safeguards in place, were not expected to significantly impact the quality of special education supports and services available to students with disabilities. Some of the proposed areas would have provided administrative relief to school districts; others may have had a more direct cost-saving effect. As a result of this discussion, and in consideration of public comment, the Regents provided support for legislative proposals on a limited number of these proposals including that the Department seek legislation to repeal space planning requirements while retaining the requirement to ensure stability of space for students with disabilities. These changes were enacted in Chapter 57 of the Laws of 2013.

The purpose of the proposed amendment is to conform the Regulations of the Commissioner of Education to sections 1950 and 2215 as amended by Chapter 57 of the Laws of 2013. A Notice of Proposed Rule Making will be published in the State Register on July 10, 2013. Public comment on the proposed amendment will be accepted for 45 days from the date of publication in the State Register. A copy of the proposed amendment is attached. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the P-12 Education Committee discuss the proposed amendment in June and take action at the September 2013 Regents meeting.

Timetable for Implementation

Following the receipt of public comment, it is anticipated that the proposed amendment will be submitted for action at the September 2013 meeting with a proposed effective date of October 2, 2013.

Attachment

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 308, 309, 1950, 2215, 4402, and 4403.

1. Paragraph (2) of subdivision (b) of 155.2 of the Regulations of the Commissioner of Education is amended, effective October 2, 2013 as follows:

(2) Plans and specifications for portions of facilities which require approval by other departments of the State shall be approved by the appropriate agencies having jurisdiction as a condition of commissioner's approval of plans and specifications of a facility. All plans and specifications for the creation of new instructional space must be accompanied by commissioner approval, on a form prescribed by the commissioner, that ensures that such plans and specifications are consistent with the [region's special education space requirements plan developed pursuant to section 200.2(g) of this Title] needs of participating students with disabilities for placement in the least restrictive environment and for the stability and continuity of their program placements.

2. Paragraph (6) of subdivision (b) of section 155.12 of the Regulations of the Commissioner of Education is amended, effective October 2, 2013 as follows:

(6) for a district seeking aid for lease expense pursuant to subdivision 6 of section 3602 of the Education Law, a certification by the superintendent of schools that:

(i) the leased school or facility meets requirements for access by individuals with disabilities to both facilities and programs by complying with section 200.2 of this Title [and is consistent with the special education space requirements plan developed pursuant to section 200.2(g) of this Title]; and

(ii) . . .

3. Paragraph (2) of subdivision (c) of section 200.2 of the Regulations of the Commissioner of Education is amended, effective October 2, 2013 as follows:

(2) Each such plan shall include, but need not be limited to, the following:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) . . .

(vii) . . .

(viii) the date on which such plan was adopted by the board of education[; and].

[(ix) a description of how the district plan is consistent with the special education space requirements plan developed pursuant to subdivision (g) of this section.]

4. Paragraph (3) of subdivision (c) of section 200.2 of the Regulations of the Commissioner of Education is amended, effective October 2, 2013, as follows:

(3) Any change to the allocation of space for special education programs [which is not consistent with the regional special education space requirements plan developed pursuant to subdivision (g) of this section] shall be made [pursuant to the provisions of paragraph (g)(5) of this section] in consideration of the needs of participating students with disabilities for placement in the least restrictive environment and for the stability and continuity of their program placements.

5. Subdivision (g) of section 200.2 of the Regulations of the Commissioner of Education is repealed, effective October 2, 2013.

6. A new subdivision (g) of section 200.2 of the Regulations of the Commissioner of Education is added, effective October 2, 2013 as follows:

g. Facilities for special education programs. The district superintendent of schools shall determine the adequacy and appropriateness of the facilities space available to house special education programs in the geographic area served by the board of cooperative educational services, consistent with the least restrictive environment requirement and to ensure the stability and continuity of program placements for students with disabilities, including procedures that ensure that special education programs and services located in appropriate facilities will not be relocated without adequate consideration of the needs of participating students with disabilities.