



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

**SUBJECT:** 2013 Regulatory Agenda

**DATE:** December 3, 2012

**AUTHORIZATION(S):**

**Summary**

**Issue for Decision (Consent Agenda)**

Should the Board of Regents approve the 2013 Regulatory Agenda?

**Reason for Consideration**

Required by State statute.

**Proposed Handling**

The 2013 Regulatory Agenda will be presented to the Full Board for approval at the December Regents meeting.

**Background Information**

Section 202-d of the State Administrative Procedure Act (SAPA) requires that the State Education Department publish, each year, a regulatory agenda in the first January issue, and in the last June issue, of the State Register. The 2013 regulatory agenda is a list and brief description of the subject matter of each rule the Department is considering proposing during 2013, but for which it has not yet submitted a Notice of Proposed Rule Making. SAPA §202-d(2) provides that nothing in the statute requires an agency to adopt a rule appearing in the regulatory agenda or precludes the Department from adopting a different rule from the one appearing in the regulatory

agenda. If we do seek to adopt additional rules that were not included in the 2013 regulatory agenda, the Department must indicate in the Notice of Proposed Rule Making that the rule was not under consideration when the regulatory agenda was submitted for publication. SAPA §202-d(2) also provides that nothing in the statute requires an agency to adopt a rule appearing in the regulatory agenda.

The 2013 Regulatory Agenda is a planning document required under SAPA §202-d and provides notice to the public on regulations that the agency knows it may propose in the next 6 months. It is non-binding and does not commit the agency to adopting the listed regulations, nor does it preclude the agency from adopting regulations that are not on the list. Accordingly, Board of Regents approval of the Regulatory Agenda does not constitute approval of the listed regulations.

#### Recommendation

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

VOTED: That the 2013 Regulatory Agenda for the State Education Department be approved, as submitted.

#### Timetable for Implementation

The 2013 Regulatory Agenda will be published in the State Register on January 2, 2013.

## STATE EDUCATION DEPARTMENT

### 2013 REGULATORY AGENDA

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for calendar year 2013. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the 2013 Regulatory Agenda.

#### OFFICE OF P-12 EDUCATION

Amendment of section 3.33 of the Rules of the Board of Regents Relating to the provision of special education services to students in Alternative High School Equivalency Preparation (AHSEP) Programs and High School Equivalency Preparation (HSEP) Programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(a) of the Commissioner's Regulations relating to the definition of a unit of study. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(b) of the Commissioner's Regulations relating to the definition of a unit of credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment 100.1(t) of the Commissioner's Regulations relating to the definition of the ELA and mathematics standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment 100.3 (a)(2) and (3) of the Commissioner's Regulations relating to the Pre k-4 Program requirements to reflect the adoption of the Common Core Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment 100.4(b)(ii) of the Commissioner's Regulations relating to program requirements in grades 5-6 to reflect the adoption of the Common Core Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations relating to general school requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(c) of the Commissioner's Regulations, relating to instruction in civility, citizenship, and character education under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(l) of the Commissioner's Regulations, relating to Code of Conduct under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(jj) of the Commissioner's Regulations, relating to school employee training under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(kk) of the Commissioner's Regulations, relating to reporting requirements under the Dignity for All Students Act, to implement Chapter 102 of the Laws of 2012. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to the requirements for the voluntary registration of nonpublic nursery schools and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 151-1.3(e)(1) of the Commissioner's Regulations relating to the Universal Pre-Kindergarten program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(b) of the Commissioner's Regulations relating to program requirements in grades five and six. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(c) of the Commissioner's Regulations relating to unit of study requirements in grades seven and eight. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(d) of the Commissioner's Regulations relating to grade eight acceleration for diploma credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(h) of the Commissioner's Regulations relating to models for Middle Level Education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a), (b) and (c) of the Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a)(5)(i) of the Commissioner's Regulations relating to the State Assessment System. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(d) of the Commissioner's Regulations relating to Career and Technical Education programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations relating to implementation of the Seal of Biliteracy. Chapter 271 of the Laws of 2012 (Section 815 of Education Law) established the state Seal of Biliteracy to recognize high school graduates who have attained a high 2 level of proficiency in listening, speaking, reading, and writing in one or more languages in addition to English. The NYS Seal of Biliteracy will be awarded by the Commissioner to students who meet criteria established by the Board of Regents and attend schools in districts that voluntarily agree to participate in the program. The Seal of Biliteracy will be affixed to the high school diploma and

transcript of graduating pupils attaining Seal criteria and must be made available to students at no cost. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.18 to revise the procedure for those districts seeking to open or modify a public school during a current school year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Repeal of sections 100.14 and 100.15 of the Commissioner's Regulations relating to Excelsior Scholars Program and Grants for Summer Institutes for Mathematics and Science Teachers. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 117 of Commissioner's Regulations pertaining to the screening of students to determine whether they are English language learners.

Amendment of section 117 of the Commissioner's Regulations relating to diagnostic screening for students who are new entrants or who have low test scores in reading or mathematics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 118 of the Commissioner's Regulations relating to revisions to the use of the State Assessments Program for school and district accountability purposes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations relating to the instructional reporting and improvement system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations relating to the Early Warning System and the use of standardized student-level attendance rules. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations to conform to and implement Chapter 101 of the Laws of 2010, relating to charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's Regulations to add a section relating to residency determinations of students attending charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's Regulations to add a section relating to procedures regarding complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.1(e) of the Commissioner's Regulations relating to financing of charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Parts 100 and 200 of the Commissioner's Regulations to make certain technical amendments, including corrections to cross citations, as may be appropriate and to conform to possible changes made to federal regulations this year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.



Amendment of section 136.3(b) to conform to Education Law section 901, as amended by Laws of 2006, Ch. 58, pt. A-1, §57, which removed exemption of the city school districts of Rochester and Buffalo from the requirement to provide school health services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 144.11 of the Commissioner's Regulations to eliminate requirement that school districts have an Early Grade Class Size Reduction Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 154 of Commissioner's Regulations regarding the identification of and provision of services to Limited English Proficient students. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations relating to high school diploma requirements for students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2(b) of the Commissioner's Regulations relating to written policies for the declassification of students with disabilities, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2(g) of the Commissioner's Regulations relating to special education space requirements plans, as may be necessary to conform to

changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.3(a) and (c) of the Commissioner's Regulations relating to the membership of the Committee on Special Education (CSE), Subcommittee on Special Education, and Committee on Preschool Special Education, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.4(i) and 200.5(a) of the Commissioner's Regulations relating to written notice upon graduation or aging out and the development of adult service recommendations for students with disabilities placed in residential schools, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(b) of the Commissioner's Regulations relating to parental consent for initial provision of special education services in a 12-month special service and/or program, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(b)(1)(iii) of the Commissioner's Regulations relating to parental consent to access a parent's public benefits or insurance, as may be necessary to conform to federal regulations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.5(c) of the Commissioner's Regulations relating to written notice to parents regarding CSE and Subcommittee meetings, as may be

necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to sections 200.5(h) and (j) of the Commissioner's Regulations relating to mediation and impartial due process hearings for students with disabilities parentally placed in private schools, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.6 of the Commissioner's Regulations relating to a school district's responsibilities for a student with a disability placed in an in-state or out-of-state private school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 200.7 and 200.20(a) of the Commissioner's Regulations relating to the program standards for private schools and preschool programs approved to serve students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment to section 200.7(d) of the Commissioner's Regulations relating to the approval of the Commissioner of Education on an appointment of a student with a disability to a State-supported school and evaluations conducted by State-supported schools, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.16 of the Commissioner's Regulations relating to parent selection of a preschool evaluator, as may be necessary to conform to changes

to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.20(a) of the Commissioner's Regulations relating to public school districts as preschool evaluators and the approval of preschool programs, as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

Ken Slentz

Deputy Commissioner P-12

New York State Education Department

State Education Building, Room 2M West

89 Washington Avenue

Albany, New York 12234

(518) 474-3862

[nysedp12@mail.nysed.gov](mailto:nysedp12@mail.nysed.gov)

OFFICE OF HIGHER EDUCATION

Amendment of Part 30 of the Regents Rules relating to alignment of tenure areas to certain certification areas. A rural area flexibility analysis may be required.

Amendment of section 80-3.10 of the Commissioner's Regulations to clarify that the School District Leader certificate is the only certificate required for a Superintendent

also performing the roles of principal or business official in small school districts. A rural area flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations relating to changes regarding the new certification examinations. A rural area flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's Regulations to streamline moral character hearings. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be required.

Amendment of Part 135 of the Commissioner's Regulations to clarify the due process procedures relative to coaching licenses. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations to implement the teacher and principal career ladders. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be required.

Amendment of Part 52 of the Commissioner's Regulations, relating to the registration of curricula. A rural area flexibility analysis may be required.

Amendment of Part 4-1 of the Rules of the Board of Regents relating to the institutional accreditation standards for Title IV purposes. A rural area flexibility analysis may be required.

Amendment of section 80-5.4 of the Commission Regulations regarding clarification of the length of employment for substitute teachers. A rural area flexibility analysis may be required.

Amendment of section 80-1.2 of the Commissioner's Regulations regarding clarification of what a year of experience is.. A rural area flexibility analysis may be required.

Amendment of section 80-1.6 of the Commission Regulations regarding automatic issuance of a third year time extension. A rural area flexibility analysis may be required.

Repeal of section 80-5.8 and amendment of Part 80 of the Commissioner's Regulations to eliminate the regional credential and establish requirements for reciprocity of out-of-state licenses for teachers, school building leaders and pupil personnel service providers. A rural area flexibility analysis may be required.

Amendment of section 80-3.6 of the Commissioner's Regulations relating to professional development requirements. A rural area flexibility analysis may be required.

Add a new section 80-1.13, amend section 52.21 and Part 57 of the Commissioner's Regulations to implement the requirements for training on harassment, bullying and discrimination for certain school professionals applying for a certificate or license on or after July 1, 2013 and to establish the requirements for providers of such training to implement Chapter 102 of the Laws of 2012. A rural area flexibility analysis and a regulatory flexibility analysis for small businesses and local governments may be required.

Amendment of section 100.2(dd) and section 80-3.6 of the Commissioner's Regulations to require professional development plans to include a description of alignment to the Common Core Standards and to include as part of the 175 hour

requirement, professional development and training on the Common Core Standards. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be warranted.

Amendment of Part 80 of Commissioner's Regulations relating to the certification of bilingual teaching assistants, tenure areas for bilingual teaching assistants and bilingual teachers, and professional development requirements for teachers relating to the provision of instruction to English language learners. A regulatory flexibility analysis for local governments and a rural area flexibility analysis may be required.

Agency Representative

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

John D'Agati

Deputy Commissioner for the Office of Higher Education

New York State Education Department

Office of Higher Education

Room 977, Education Building Annex

89 Washington Avenue

Albany, New York 12234

(518) 486-3633

[sroberso@nysed.mail.gov](mailto:sroberso@nysed.mail.gov)

OFFICE OF THE PROFESSIONS

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the public accountancy and certified public accountancy

professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 52 and Subpart 79-8 of the Commissioner's Regulations relating to educational requirements for licensure in medical physics. A rural area flexibility analysis may be required.

Amendment of section 60.8 of the Commissioner's regulations to implement Chapter 48 of the Laws of 2012, relating to the separation, in law, of physician assistants and specialist assistants and the conversion of physician assistants from a registered profession to a licensed profession; retaining specialist assistants as a registered profession. A rural area flexibility analysis may be required.

Amendment to section 63.9 of the Commissioner's regulations to implement Chapter 447 of the Laws of 2012 relating to the prescription monitoring program registry. A rural area flexibility analysis and a regulatory flexibility analysis for small businesses may be required.

Amendment of Part 61 of the Commissioner's Regulations relating to dental anesthesia certification. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 63 of the Commissioner's Regulations relating to interpretation and translation requirements for prescription drugs and standardized medication labeling and to standardized patient-centered data elements with regard to prescription medications. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.



Amendment of Part 65 of the Commissioner's Regulations relating to the implementation of Chapter 438 of the Laws of 2012 which expanded the definition of the practice of podiatry, established new ankle surgery privileges, and authorized the Department to issue ankle surgery limited permits. A rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

Douglas E. Lentivech  
Deputy Commissioner for the Professions  
New York State Education Department  
Office of the Professions  
89 Washington Avenue  
West Wing, Second Floor - Education Building  
Albany, NY 12234  
(518) 486-1765

[opdepcom@mail.nysed.gov](mailto:opdepcom@mail.nysed.gov)

OFFICE OF CULTURAL EDUCATION

Amendment of Part 90 of the Commissioner's Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative

Information may be obtained, and written comments may be submitted, concerning the above proposed amendment by contacting:

Bernard A. Margolis

State Librarian and Assistant Commissioner for Libraries

New York State Education Department

New York State Library

Room 10C34

Albany, NY 12230

(518) 474-5930

[bmargolis@mail.nysed.gov](mailto:bmargolis@mail.nysed.gov)

Amendment of sections 189.1 and 189.3 of the Commissioner's regulations relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the agency fee list to match the current organizational structure of executive branch agencies. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

Christine Ward

Assistant Commissioner for the State Archives

9A49 Cultural Education Center

Albany, New York 12230

(518) 473-7091

[cward@mail.nysed.gov](mailto:cward@mail.nysed.gov)

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Bureau of Proprietary School Supervision

Amendment of Part 126 of the Commissioner's Regulations to change the title of schools supervised from "Private Trade and Correspondence Schools" to "Licensed Private Career Schools and Certified English as a Second Language Schools." It removes the distinction between licensed private schools, registered business schools, and computer training facilities. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to define by the number of hours the difference between a curriculum and a course. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to define practical experience for curriculum approval and for school personnel work experience. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to clarify the requirements of scholarships offered by licensed private career schools. A regulatory

flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to require a teacher to possess an occupationally required credential if such is required for employment in that field. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to reflect the increase from \$50 to \$100 for applications for all teachers' permits/licenses, directors' permits/licenses, amendments of temporary permits/licenses, and renewals of such licenses. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to remove the subjects taught in a registered business school or computer training facility as they no longer apply. ESL schools and requirements for licensing are added. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to specifically include that schools teaching personal training as schools requiring licensing. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to clarify the parameters for offering of workshops or trade shows without licensure. A regulatory

flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to reflect the new school application fee of \$5,000 and the increased fees for renewal application fees. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to add the new category of candidacy schools and the requirements for being a candidacy school. This will offer institutions the ability to continue operation while seeking licensure. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to raise the requirement to submit audited financial statements to schools with \$500,000 gross tuition income or above. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations adds an additional condition under which the Commissioner might deny, suspend, revoke, or decline to renew a license. This permits the Commissioner to review financial viability of the school in order to reduce the threat to student tuition funds, school closure, and the Tuition Reimbursement Account (TRA). A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations permits the Commissioner to review a school report on its financial health and to identify methods of

restoring viability while the school has been placed on probation. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to eliminate the transfer of ownership for schools. Rather, a new school application will be required for any ownership transfer of 25 percent or more to prevent 'flipping'. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to redefine the calculation of tuition assessment based on length of licensure to clarify the current guidelines. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to prescribe loan disbursement based on cost of program to protect both the student and the TRA. Excluded are credit card payments or personal payment by another party. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to add additional entrance requirements for shorter courses to inform higher-end certification courses where students already have specific pre-requisites. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to require that all catalogs include a weekly tuition liability chart to show students what liability they have if they drop out. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to institute a fee for curriculum review to reflect the resources dedicated to this function. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to lift the restrictions on teacher licensure so that a licensed teacher may teach at any school. This will reduce the number of unlicensed teachers and improve their employability. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to define under what circumstances a student at a candidate school may file a complaint. Students at candidate schools must receive disclosure that the protections afforded students at licensed schools do not apply to them. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to increase fines for civil penalties and administrative sanctions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to permit the director to apply for an agent license at no additional cost as part of the licensing process. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to increase the cost of an agent certification, while adding another year to the length of the certification. A

regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to permit the Department to effect teach out agreements in the event that the closing school has not done so. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to expand the items that are reimbursable through the TRA at the time of school closure to include reimbursement for fees and book charges. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to clarify what action is taken if the TRA falls below a certain amount and rises above a certain amount. It defines the suspension and the resumption of tuition assessment, and to what schools this pertains. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to provide for the Commissioner to use up to \$200,000 for the purpose of securing and scanning of closed school records to provide better student access to the records. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to require the Office of the State Comptroller (OSC) to perform its audit of the TRA on a bi-annual basis,



rather than yearly basis. An audited statement will be required. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 126 of the Commissioner's Regulations to install term limits for the Advisory Council members, with the provision that they may be re-elected. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above proposed amendment by contacting:

Carole W. Yates, Director

ACCES—Proprietary School Supervision

99 Washington Avenue

One Commerce Plaza, Room 1613

Albany, NY 12234

[cyates@mail.nysed.gov](mailto:cyates@mail.nysed.gov)

Vocational Rehabilitation

Amendment of Parts 246, 247 and 248 of the Commissioner's Regulations relating to the State vocational rehabilitation and independent living programs, as necessary, to eliminate references to the former Office of Vocational and Educational Services for Individuals with Disabilities. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment of Part 246 of the Commissioner's Regulations relating to the sheltered employment, workshop and community rehabilitation programs, as may be

necessary to conform to federal regulations and to reflect new standards for services. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment of Parts 246 and 247 of the Commissioner's Regulations relating to the State vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to possible changes made if Congress reauthorizes that act this year. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency representative:

Information may be obtained, and written comments may be submitted, concerning the modification or continuation of any of the above rules by contacting:

Frank Coco, CRC

Manager, VR Policy and Partnerships

Office of Adult Career and Continuing Education Services

Room 1603, One Commerce Plaza

Albany, New York 12234

(518) 474-3946

[fcoco@mail.nysed.gov](mailto:fcoco@mail.nysed.gov)

Adult Education Programs and Policy

Amendment to Section 100.7 of the Commissioner's Regulations that would both update and revise outdated provisions as well as authorize a process whereby assessments other than the approved New York State High School Equivalency exam could be approved as an alternative pathway to a High School Equivalency Diploma. An

independent expert panel of nationally recognized educational assessment specialists would review educational assessments which would have to demonstrate their alignment with Common Core Standards. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Amendment to section 100.8 of the Commissioner's Regulations to provide for the opportunity for adult students to earn a local High School Equivalency Diploma based upon experimental programs approved by the commissioner until June 30, 2014, after which date such boards may no longer award a local high school equivalency diploma. A regulatory flexibility analysis for local government and a rural flexibility analysis may be required.

Agency Representative

Information may be obtained, and written comments may be submitted concerning the above proposed amendments by contacting:

Mark Leinung,

Director – Adult Education Programs and Policy

Adult Career and Continuing Education Services

New York State Education Department

Room 1622, One Commerce Plaza

Albany, NY 12234

(518) 474-8892

[mleinung@mail.nysed.gov](mailto:mleinung@mail.nysed.gov)

OFFICE OF STATE REVIEW

Amendment of section 279.1 of the Commissioner's Regulations, relating to the incorporation and clarification of definitions and other provisions, as relevant to state-level review of hearings for students with disabilities, that are currently referenced in Parts 275 and 276; deletion of references to parts 275 and 276; clarification of the jurisdiction of a state review officer and procedures regarding state review proceedings; and clarification regarding the authority of a state review officer to review manifestation determinations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.2 of the Commissioner's Regulations, relating to timelines for serving and filing a Notice of Intention to Seek Review; clarification of purpose of Notice of Intention to Seek review; clarification of timeframe in which to serve upon another party and file a Notice of Intention to Seek review; and addition of a notice of certification requirement. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.3 of the Commissioner's Regulations, relating to service of an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.4 of the Commissioner's Regulations, relating to the initiation and scope of a review and the timeliness of an appeal, clarify sufficiency of content and time in which to serve the petition for review and memorandum of law upon the opposing party; procedures for filing a petition for review with the Office of State Review; and add disclosure of whether a related action or proceeding is pending in

another forum. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.5 of the Commissioner's Regulations, relating to the content and service of an answer and supporting papers upon the opposing party and filing with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.6 of the Commissioner's Regulations, relating to additional pleadings and new matters raised in an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.7 of the Commissioner's Regulations, relating to verification of pleadings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.8 of the Commissioner's Regulations, relating to the table of authorities, clarification of the requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a); and submission of electronic copies of pleadings and memoranda of law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.9 of the Commissioner's Regulations, relating to content and submission of record; certification of record and clarification that 279.9 (b) refers to complete record. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.10 of the Commissioner's Regulations, relating to requests for extensions of time and length of extensions permitted; submission of

additional evidence; clarification of effect of agreements to extend the time in which to initiate a review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.11 of the Commissioner's Regulations, relating to calculating date of mailing and type of mail. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.12 of the Commissioner's Regulations, clarifying provisions relating to the finality of state review officer decisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.13 of the Commissioner's Regulations, relating to service of petition for review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of 279.15 of the Commissioner's Regulations, relating to definitions of terms in Part 279. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

Justyn P. Bates

Office of State Review

80 Wolf Road, 2nd Floor

Albany New York 12203

(518) 485-9373