

FOR IMMEDIATE RELEASE

APRIL 6, 2020

For More Information Contact:

JP O'Hare or Jeanne Beattie

(518) 474-1201

www.nysed.gov



Board of Regents Acts on Series of Emergency Regulations to Ease the Burdens on Educators, Students and Professionals in the Wake of the COVID-19 Pandemic

The Board of Regents today adopted emergency regulations to ease the burdens and provide important flexibility for educators, students, professionals and others to address interruptions in the wake of the COVID-19 pandemic. The series of amendments address numerous issues resulting from the interruptions districts, institutions of higher education and licensed professionals are experiencing caused by the COVID-19 pandemic.

“The COVID-19 pandemic has put a tremendous burden on many New Yorkers and our schools and children are no exception,” Board of Regents Chancellor Betty A. Rosa said. “The regulations passed by the Board today will allow schools, students and professionals much-needed flexibility while they adapt to this rapidly evolving situation.”

“At a time when we as New Yorkers are coming together in our efforts to safely endure the COVID-19 pandemic, it’s important that we look for ways to ease hardships this situation may be causing on those around us,” State Education Department Interim Commissioner Shannon Tahoe said. “These regulatory amendments make the changes necessary to allow our schools, institutions of higher education and our professions need to continue to operate effectively during this public health crisis.”

Summary of the Amendments

A summary of the amendments follows. Full descriptions of the changes can be found in the [Regents item](#)



Professions

Amendments to the Commissioner’s regulations will allow the Department to excuse the continuous experience requirements for speech language pathology, audiology, and occupational therapy where such continuous experience cannot be completed due to the State of Emergency declared by the Governor.

Further, the Department will accept passing examination scores from Public Accounting applicants that are outside the required 18-month examination window where such examinations could not be completed

within 18 months due to the State of Emergency declared by the Governor.

Additionally, the Department will be authorized to modify professional educational program requirements for licensure, to the extent authorized by law, and grant an exemption for in person supervision experience requirements for licensed clinical social work, licensed master social work, mental health counseling, marriage and family counseling, creative arts therapy, and psychoanalysis where such requirements and/or in person supervision cannot be completed due to the State of Emergency declared by the Governor.

School and District Accountability

The federal government has provided New York State with a one-year waiver from provisions of the Every Student Succeeds Act (ESSA) pertaining to State assessments and school and district accountability determinations due to the unique circumstances that have arisen as a result of the COVID-19 crisis. Therefore, the Department amends the Commissioner's regulations to specify that the Commissioner will not conduct a review of school and district performance using 2019-20 school year data. The accountability status of public schools and districts for the 2020-21 school year will remain the same as for the 2019-20 school year; and 2018-19 school year results shall be used in any instance where 2019-20 school year results would have been used as part of the process of making 2021-22 school year accountability determinations.

Additionally, the proposed amendment provides that the Commissioner may, upon a finding of good cause, modify timelines for the 2019-20 through 2021-22 school years [any required timelines] pertaining to notifications, plans, reports, or implementation of activities required of schools and districts because of their accountability status during those school years.

Special Education

The Commissioner's regulations are amended to ensure that State approved private schools, State operated schools, Special Act School Districts, State supported schools and preschools will not be penalized because they are unable to provide instruction or operate for 180 days where such schools are closed pursuant to an Executive Order of the Governor. The amendments also permit impartial hearing officers to conduct special education due process hearings by video conference during the COVID-19 crisis. Additionally, the amendments allow hearing officers to extend cases up to 60 days rather than 30 days while schools are closed pursuant to the terms of the Executive Order(s) issued by the Governor.

In regard to requirements that preschool providers make-up missed services within 30 days of the missed session, the amendment allows providers to not include days that the school is closed pursuant to the terms of the Executive Order(s) issued by the Governor. Additionally, the regulations extend the time period to arrange for special education programs and services to be provided where a school is closed pursuant to an Executive Order issued by the Governor.

Bilingual Education

The Commissioner's regulations are amended to not include any day(s) where a school is closed pursuant to an Executive Order of the Governor to count toward the following timelines:

- English language learner identification process timeline;
- parental notification and information timeline; and
- the English as a New Language/Bilingual Education placement timeline.

The amendments will also provide an exemption to students from the unit of study requirements where a student is unable to meet such requirements due to schools being closed pursuant to an Executive Order and otherwise achieves the learning outcomes.

Additionally, the amendments provide that for the 2019-2020 school year, there will be no English language learner annual assessment due to such assessment being suspended as a result of the COVID-19 crisis.

Curriculum and Instruction

The Department amends the Commissioner’s regulations to provide an exemption to students from the unit of study requirements where a student is unable to meet such requirements due to schools being closed pursuant to an Executive Order of the Governor and where such student otherwise achieves the learning outcomes of such portion of unity of study completed.

Charter Schools

This amendment will permit the Commissioner to excuse delays of up to 30 days in required reporting and payment by charter schools to public schools for the length of time a school closure is ordered by an Executive Order of the Governor.

The Commissioner’s regulations were further amended to require charter schools to provide notice on their website of the date, time and place of lotteries for the random selection process for charter school student applicants if such lottery is provided during a school closure ordered pursuant to an Executive Order of the Governor. Additionally, amendments to the regulations will permit these lotteries to be held remotely, provided that the public has the opportunity to view or listen and such lottery is recorded and later transcribed.

Home Instruction

The Department will amend the Commissioner’s regulations to provide that an alternative form of evaluation for students receiving home instruction, in lieu of an annual assessment, will be permitted for all grades in the 2019-20 school year due to the State of Emergency declared by the Governor.

Higher Education

The Department amends the Commissioner’s regulations to:

- permit the Dignity for All Students Act (DASA) training to be conducted entirely online during the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis;
- create an edTPA safety net for candidates in registered educator preparation programs whose student teaching or similar clinical experience in spring 2020 was impacted by COVID-19;
- extend the Statement of Continued Eligibility (SOCE) application deadline for special education teachers who teach a special class in grades 7-12 from June 30, 2020 to June 30, 2021; and
- extend the time period by which full-time, acceptable teaching experience must be completed for the SOCE or limited extension from June 30, 2020 to June 30, 2021.

State Aid

Essentially will extend the deadline for completing student teaching and similar experience requirements

The amendments permit public school districts, public schools and charter schools to operate for less than 180 days without a reduction in State Aid if a school is closed pursuant to the terms of Executive Order(s) of the Governor. This amendment also permits missed instructional hours for any day that a school is closed pursuant to the terms of an Executive Order of the Governor to count toward the minimum annual instructional hour requirements.

Normally, schools need 180 days AND 900 instructional hours. The amendment allows schools to fall under these requirements if closed due to executive orders. Same thing for Pre K programs below

Early Learning

The regulations are amended to permit prekindergarten programs to operate for less than the 180-day requirement for a full-year program and the 90-day requirement for districts who started a half-year program using their Expanded Prekindergarten Grant, where such programs were scheduled to operate, but the school where the program operates is closed pursuant to the terms of an Executive Order of the Governor. Additionally, regulations will permit Department staff who are unable to conduct their annual visit of nonpublic nursery schools due to the COVID-19 pandemic to do so as soon as practicable when they reopen.

310 Appeals to the Commissioner

This amendment will permit service of pleadings and supporting papers for appeals to the Commissioner by alternative means during the time period of any movement restrictions or school closures directed by the Governor.

Part 83 and Part 87 Appeals

Regulations are amended to excuse the filing timeframes where required submissions are late due to a State of emergency declared by the Governor relating to:

- appeals to the Commissioner of a hearing officer’s determination of good moral character;
- due process procedures for prospective employees’ clearance for employment; and
- appeals of the Department’s determination to deny prospective school.

Additionally, the definition of “prospective school employee” is amended to include any individual who will reasonably be expected to provide services which involve online communication or interaction directly to students under the age of 21 during the period of a school closure ordered pursuant to an Executive Order of the Governor.

Office of State Review

The amendment to Commissioner’s regulation allows the State Review Officer to authorize certain filings through electronic means during the State of emergency declared by the Governor.

Timetable for Implementation

The emergency regulations will become effective on April 7, 2020. It is anticipated that the proposed amendment will be presented for permanent adoption at the July 2020 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act.

Follow us:   

New York State Board of Regents

The State Education Department / The University of the State of New York / Albany, NY 12234

Office of Communications / (518) 474-1201

