AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 101, 207, 215, 305 and section 3012-c of the Education Law and Chapter 56 of the Laws of 2014.

1. That the emergency rule amending Subpart 30-2 of the Rules of the Board of Regents that was adopted by the Board of Regents as an emergency measure at the March 10-11 meeting is repealed, effective May 10, 2014.

2. Subdivision (b) of section 30-2.2 of the Rules of the Board of Regents shall be amended, effective May 10, 2014, to read as follows:

(b) Approved student assessment shall mean a standardized student assessment approved by the commissioner for inclusion in the State Education Department's lists of approved standardized student assessments for the locally selected measures subcomponent and/or to measure student growth in non-tested subjects for the State assessment or other comparable measures subcomponent <u>or for grades kindergarten through two, an assessment that is not a traditional standardized assessment that meets the requirements in paragraph (1) of this subdivision</u> .

<u>(1) Approved Assessments in grades kindergarten through two.</u>

<u>(i) Effective March 2, 2014, all standardized assessments for students in kindergarten through grade two shall be removed from the actual list of approved student assessments for use in annual professional performance review plans for the 2014-2015 school year and thereafter and traditional standardized assessments in grades kindergarten through grade two will no longer be approved assessments for these grades. However, an assessment that is not a traditional standardized assessment shall be considered an approved student assessment if the superintendent,</u>

district superintendent, or chancellor of a school district/BOCES that chooses to use such assessment certifies in its APPR plan that the assessment is a not a traditional standardized assessment [, as defined by the Commissioner in guidance,] and that the assessment meets the minimum requirements prescribed by the Commissioner in guidance.

(ii) Any school district or BOCES with an annual professional performance review plan approved or determined by the Commissioner [for use in the 2013-2014 school year] prior to April 1, 2014 that provides for the use of an approved student assessment for students in kindergarten through grade two remains in effect in accordance with Education Law §3012-c (2)(l) and the district or BOCES may continue to use such assessments until a material change is made and approved by the Commissioner to eliminate such use.

3. Subdivision (v) of section 30-2.2 of the Rules of the Board of Regents shall be renumbered to subdivision (w) of section 30-2.2 of the Rules of the Board of Regents, effective May 10, 2014.

4. A new subdivision (v) is added to section 30-2.2 of the Rules of the Board of Regents, effective May 10, 2014, to read as follows:

(v) Traditional standardized assessment shall mean a systematic method of gathering information from objectively scored items that allow the test taker to select one or more of the given options or choices as their response. Examples include multiple-choice, true-false, and matching items. Traditional standardized assessments are those that require the student (and not the examiner/assessor) to directly use a "bubble" answer sheet. Traditional standardized assessments do not include

performance assessments or assessments in which students perform real-world tasks that demonstrate application of knowledge and skills; assessments that are otherwise required to be administered by federal law; and/or assessments used for diagnostic or formative purposes, including but not limited to assessments used for diagnostic screening required by Education Law §3208(5).

5. Paragraph (2) of subdivision (a) of section 30-2.3 of the Rules of the Board of Regents shall be amended, effective May 10, 2014, to read as follows:

(2) (i) By July 1, 2012, the governing body of each school district and BOCES shall adopt a plan, on a form prescribed by the Commissioner, for the annual professional performance review of all of its classroom teachers and building principals in accordance with the requirements of Education Law §3012-c and this Subpart, and shall submit such plan to the Commissioner for approval. The plan may be an annual or multi-year plan, for the annual professional performance review of all of its classroom teachers and building principals. The Commissioner shall approve or reject the plan by September 1, 2012, or as soon as practicable thereafter. The Commissioner may also reject a plan that does not rigorously adhere to the provisions of Education Law §3012-c and the requirements of this Subpart. Should any plan be rejected, the Commissioner shall describe each deficiency in the submitted plan and direct that each such deficiency be resolved through collective bargaining to the extent required under article fourteen of the Civil Service Law. If any material changes are made to the plan, the school district or BOCES must submit the material changes, on a form prescribed by the Commissioner, to the Commissioner for approval.

(ii) If material changes are made to a plan that solely relate to the elimination of unnecessary assessments on students, the Commissioner shall expedite his or her review of such material changes and solely review those sections of the plan that relate to the eliminated assessments to ensure compliance with Education Law §3012—c and this Subpart, provided that the superintendent, district superintendent or chancellor shall provide a written explanation of the changes made to the plan, on a form prescribed by the Commissioner, and certify that no other material changes have been made to the plan. The Commissioner shall complete the review of material changes properly and completely submitted within 10 business days of submission. In order to be considered properly and completely submitted, the submission must use the form prescribed by the Commissioner and meet the requirements of Education Law §3012-c and this Subpart, and contain all required information including all appropriate signatures with appropriate dates.

(iii) To the extent that by July 1, 2012 or by July 1 of any subsequent year, if all of the terms of the plan have not been finalized as a result of unresolved collective bargaining negotiations, the entire plan shall be submitted to the Commissioner upon resolution of all of its terms, consistent with Article 14 of the Civil Service Law.

6. A new paragraph (4) shall be added to subdivision (a) of section 30-2.3 of the Rules of the Board of Regents, effective May 10, 2014, to read as follows:

(4) Any plan submitted to the Commissioner on or after March 2, 2014 for use in the 2014-2015 school year and thereafter shall include a signed certification, on a form prescribed by the Commissioner, by the superintendent, district superintendent or chancellor, attesting that [no more than one percent of total instructional time in each

classroom or program of the district or BOCES is spent taking any locally determined traditional standardized third-party assessments from the approved list or traditional standardized district, regional or BOCES developed assessments for purposes of Education Law §3012-c. This paragraph shall not apply to assessments used for formative or diagnostic purposes];

(i) the amount of time devoted to traditional standardized assessments that are not specifically required by state or federal law for each classroom or program of the grade does not exceed, in the aggregate, one percent of the minimum in required annual instructional hours for such classroom or program of the grade; and

(ii) the amount of time devoted to test preparation under standardized testing conditions for each grade does not exceed, in the aggregate, two percent of the minimum required annual instructional hours for such grade.

Time devoted to teacher administered classroom quizzes or exams, portfolio reviews, or performance assessments shall not be counted towards the limits established by this subdivision. In addition, formative and diagnostic assessments shall not be counted towards the limits established by this subdivision and nothing in this subdivision shall be construed to supersede the requirements of a section 504 plan of a qualified student with a disability or federal law relating to English language learners or the individualized education program of a student with a disability.

7. Section 8.4 of the Rules of the Board of Regents is amended, effective May, 10, 2014, to read as follows;

§8.4 Courses and examinations in public schools.

(a) The commissioner shall establish regulations governing the following:

[(a)] (1) approved courses of study in public schools;

[(b)] (2) subjects in which Regents examinations are given in such schools;

[(c)] (3) the method of rating answer papers;

[(d)] (4) the credits to be allowed for subjects in which Regents examinations are not regularly offered.

(b) The amount of time devoted to required State assessments administered by or on behalf of the State and developed by the State directly or by contract for each grade shall not exceed, in the aggregate, one percent of the minimum required annual instructional hours for such grade. Nothing in this subdivision shall be construed to supersede the requirements of a section of the 504 plan of a qualified student with disability or federal law relating to English Language Learners or the individualized education program of a students with disabilities.

8. Subparagraph (iii) of paragraph (1) of subdivision (b) of section 30-2.5 of the Rules of the Board of Regents shall be amended, effective May 10, 2014, to read as follows:

(iii) Except as otherwise provided in subparagraphs (i) and (ii) of this paragraph, for classroom teachers who teach one of the core subjects, as defined in this subparagraph, where there is no approved growth or value-growth model at that grade level or in that subject, the school district or BOCES shall measure student growth based on a State-determined district-or BOCES-wide student growth goal setting process using a State assessment if one exists, or a Regents examination or department-approved alternative examination as described in section 100.2(f) of this Title (including, but not limited to, advanced placement examinations, International

Baccalaureate examinations, SAT II, etc.). If there is no State assessment or Regents examination for these grades/subjects, the district or BOCES must measure student growth based on the State determined goal-setting process with an approved student assessment, or a department-approved alternative examination as described in section 100.2(f) of this Title or a district, regional or BOCES developed assessment that is rigorous and comparable across classrooms. For purposes of this subparagraph, core subjects shall be defined as science [and social studies in grades six to] grade eight and high school courses in English language arts, mathematics, science and social studies that lead to a Regents examination in the 2010-2011 school year, or a State assessment in the 2012-2013 school year or thereafter. A school district or BOCES shall generate a score from 0 to 20 points for this subcomponent.

9. A new subdivision (e) shall be added to section 30-2.5 of the Rules of the Board of Regents shall be amended, effective May 10, 2014, to read as follows:

(e) Notwithstanding any other provision of this Subpart to the contrary, no annual professional performance review plan shall be approved by the Commissioner for use in the 2014-2015 school year or thereafter that provides for the administration of traditional standardized assessments to students in kindergarten through grade two that are not being used for diagnostic purposes or are required to be administered by federal law, including but not limited to assessments developed by any vendor, third-party or other comparable entity; except that nothing in this subdivision shall preclude the use of school- or-BOCES-wide, group or team results using State assessments that are administered to students in higher grades in the school or a district, regional or BOCES developed student assessment that is developed in collaboration with a vendor, if

otherwise allowed under this section or guidelines of the Commissioner. However, this subdivision shall not apply to any annual professional performance review plan approved or determined by the Commissioner for use in the 2013-2014 school year which remains in effect in the 2014-2015 school year and thereafter in accordance with Education Law §3012-c(2)(l).

10. Subdivision (a) of section 30-2.8 of the Rules of the Board of Regents shall be amended, effective May 10, 2014, to read as follows:

(a) Approval of student assessments for the evaluation of classroom teachers and building principals. [An] Except as otherwise provided in subdivision (e) of this section for assessments in grades kindergarten through two, an assessment provider who seeks to place an assessment on the list of approved student assessments under this section shall submit to the Commissioner a written application in a form and within the time prescribed by the Commissioner.

11. Subdivision (e) of section 30-2.8 of the Rules of the Board of Regents shall be amended, effective May 10, 2014, to read as follows:

(e) Pursuant to section 30-2.2 of this Subpart, effective March 2, 2014, the Commissioner will remove the names of any traditional standardized assessments approved for use in kindergarten through grade two from the list of approved assessments for use in the 2014-2015 school year and thereafter. However, an assessment that is not a traditional standardized assessment may be considered an approved student assessment if the superintendent, district superintendent, or chancellor certifies in its plan that the assessment is a not a traditional standardized

assessment [, as defined by the Commissioner in guidance,] and that the assessment meets the minimum requirements prescribed by the Commissioner in guidance.