NOTICE OF REVIEW OF EXISTING RULES PURSUANT TO STATE ADMINISTRATIVE PROCEDURE ACT SECTION 207 (Calendar Years 2019, 2018, 2017, 2014, 2013, 2012, 2007, 2002 and 1997)

Section 207(1)(a) of the State Administrative Procedure Act (SAPA) requires that each State agency review each of its rules which is adopted on or after January 1, 1997 in the calendar year specified in the notice of adoption for the rule, provided that at a minimum every rule shall be initially reviewed no later than in the fifth calendar year after the year in which the rule is adopted, and, thereafter, every rule shall be re-reviewed at five-year intervals.

Additionally, section 207(1)(b) of SAPA requires that, for any rule adopted on or after January 1, 2013, for which a regulatory flexibility analysis, rural area flexibility analysis, or job impact statement is required, the initial review shall occur no later than in the third calendar year after the year in which the rule is adopted; provided, however, that the agency may propose a different review period in such analysis or statement, along with its justification for doing so, and shall invite public comment thereon.

Pursuant to SAPA section 207, the State Education Department submits the following list of its rules that were adopted during calendar years 2019, 2018, 2017, 2014, 2013, 2012, 2007, 2002 and 1997 and invites public comment on the continuation or modification of such rules. All section and part references are to Title 8 of the New York Code of Rules and Regulations. Comments should be sent to the respective agency representative listed below for each particular rule, and must be received within 45 days of the date of publication of this Notice.

A. CALENDAR YEAR 2019 (3 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Sections 114.1 Breakfast after the Bell

Description of Rule: School breakfast programs.

Need for Rule: To initiate, maintain, or expand school breakfast programs and make technical amendments to conform to federal requirements.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208 (not subdivided), 209 (not subdivided), 305(1) and (2) and Sections 4 and 5 of Chapter 537 of the Laws of 1976, as amended by Chapter 56 of the Laws of 2018.

Section 114.5 Meal Shaming

Description of Rule: Prohibition against meal shaming.

Need for Rule: Requires certain schools to develop a plan to prohibit against meal shaming or treating pupils with unpaid meal fees differently.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208 (not subdivided), 209 (not subdivided), 305(1) and (2) and 908 (as added by Section 1, Part B of Chapter 56 of the Laws of 2018).

Sections 52.21 and 80-3.10 Principal Preparation Pilot Program

Description of Rule: P-20 Principal Preparation Pilot Program.

Need for Rule: To establish the requirements for the P-20 Principal Preparation Pilot Program.

Legal Basis for Rule: Education Law 102, 207, 305, 3004, 3006, 3006-a and 3009.

Section 154-2.3(i) ELL Grade Span Waiver

Description of Rule: English Language Learner grade span requirement.

Need for Rule: To provide a one-year renewable waiver to expand the allowable grade span for English as a New Language and Bilingual Education classes to three contiguous grades.

Legal Basis for Rule: Education Law sections 207, 208, 315, 305, 2117, 2854(1)(b), and 3204.

Sections 52.21 and 80-4.3 CTE Extension

Description of Rule: Limited extensions and program requirements for certain career and technical education teachers.

Need for Rule: To create an extension for holders of the Career and Technical Education Certificate to teach grades 5 and 6.

Legal Basis for Rule: Education Law sections 101, 205, 207, 3001, 3004 and 3009.

Sections 80-3.15 and 80-4.3 Special Education SOCE and Limited Extensions

Description of Rule: Addition of certificate titles eligible for grade level extensions, limited extensions, and a statement of continued eligibility.

Need for Rule: To create limited extensions and continued eligibility in the core subject areas for teachers of students with disabilities.

Legal Basis for Rule: Education Law sections 101, 207, 210, 215, 305, 3001, 3004 and 3009.

Sections 100.2, 200.1, 200.2, 200.3, 200.4, 200.5, 200.15 IDEA

Description of Rule: Students with disabilities.

Need for Rule: To conform the Commissioner's regulations to Chapters 422, 428 and 429 of the Laws of 2017 and Chapter 32 of the Laws of 2018.

Legal Basis for Rule: Education Law sections 101, 207, 305(1), (2) and (20), 3204, 4402, 4403(3) and 4410(13), Chapters 422, 428 and 429 of the Laws of 2017 and Chapter 32 of the Laws of 2018.

Sections 100.2(hh), 200.7, 200.20 and Subpart 57-1 Child Abuse in an Educational Setting

Description of Rule: Reports of child abuse in an educational setting.

Need for Rule: To implement the provisions of Chapter 363 of the Laws of 2018 relating to reports of child abuse in an educational setting.

Legal Basis for Rule: Education Law sections 101, 207, 305, 1125(1)-(10),1126(1)-(4), 1128(1)-(4), 1132(1)-(4), 3028-b and Chapter 363 of the Laws of 2018.

Agency Representative:

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

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OFFICE OF HIGHER EDUCATION

Section 80-3.7 Certificate Progression

Description of Rule: Certificate Progression Pathway.

Need for Rule: To establish initial certificate requirements for individuals who have a graduate degree and two years of postsecondary teaching experience.

Legal Basis for Rule: Education Law sections 207, 205, 3001, 3004 and 3006.

Section 80-1.5 Science Safety Net

Description of Rule: Creation of safety nets for the science Content Specialty Tests (CSTs).

Need for Rule: To allow candidates to be held harmless during a one-year transition period from the predecessor CSTs to the revised CST's.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 305, 3001, 3003, 3004 and 3009.

Sections 80-3.15 and 80.4-3 SOCE

Description of Rule: Statement of continued eligibility for certain teachers of students with disabilities.

Need for Rule: To extend the deadline to apply for a statement of continued eligibility for certain teachers of students with disabilities.

Legal Basis for Rule: Education Law sections 101, 207, 210, 215, 305, 3001, 3003, 3004 and 3009.

Sections 52.21 and 80-3.7 Student Teaching

Description of Rule: Student teaching requirements for teacher certification and the registration of teacher preparation programs.

Need for Rule: To amend the student teaching requirements for teacher certification and registered teacher education programs.

Legal Basis for Rule: Education Law sections 207, 305, 3001 and 3004.

Section 80-5.25 Transitional H

Description of Rule: Transitional H Pathway for School District Business Leader certification.

Need for Rule: To expand the type of eligible experiences for the Transitional H Pathway for School District Business Leader certification.

Legal Basis for Rule: Education Law sections 101, 207, 305, 3001, 3004 and 3009.

Sections 52.21, 80-2.1, 80-3.1, 80-3.11, 80-3.12 and 80-5.23 and the Titles of Subparts 80-2 and 80-3 School Counselor

Description of Rule: Registration requirements for school counselor programs and certification requirements for school counselors.

Need for Rule: To amend requirements for registered school counselor programs and the certification requirements for school counselors.

Legal Basis for Rule: Education Law sections 101, 207, 210, 215, 305, 3001, 3003, 3006 and 3009.

Section 80-1.5 Educational Technology Specialist

Description of Rule: Safety Net for the Educational Technology Specialist Content Specialty Test (CST).

Need for Rule: To extend the Educational Technology Specialist Content Specialty Test (CST) safety net through June 30, 2019.

Legal Basis for Rule: Education Law sections 101, 207(not subdivided), 210, 305, 3001, 3004 and 3009.

Section 80-1.5 Library Specialist

Description of Rule: Extension of the edTPA Safety Net for candidates who receive a failing score on the library specialist edTPA.

Need for Rule: To extend the edTPA safety net expiration date to enable candidates to be held harmless during the edTPA Library Specialist handbook revision process.

Legal Basis for Rule: Education Law §§101, 207(not subdivided), 210, 305, 3001, 3004 and 3009.

Section 52.21Transitional D

Description of Rule: Requirements for Transitional D programs that lead to School District Leader certification.

Need for Rule: To require that Transitional D programs provide written notification to candidates that they must apply for the Transitional D certificate upon enrollment in the program and submit an institutional recommendation for certification immediately upon the candidates’ enrollment to ensure that candidates know they must apply for certification and would receive an institutional recommendation for certification in a timely manner.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 305, 3001, 3004 and 3009.

Section 80-5.17 Conditional Initial Certificate Requirements

Description of Rule: Conditional Initial certificate requirements.

Need for Rule: To provide that candidates may be eligible for an Initial certificate even after their conditional Initial certificate expires.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 305, 3001, 3004, 3006 and 3009.

Section 80-6.1 Continuing Teacher and Leader Education (CTLE)

Description of Rule: Continuing Teacher and Leader Education (CTLE) for educators in nonpublic schools.

Need for Rule: To make technical amendments to the CTLE regulations for educators employed in nonpublic schools.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 305, 3001, 3004, 3006, 3006-a and 3009.

Sections 80-5.8 and 805.20 Endorsement

Description of Rule: Eligibility requirements for the endorsement pathway for certification as an educator in the classroom teaching service.

Need for Rule: To provide candidates with more flexibility to be eligible for the endorsement pathway.

Legal Basis for Rule: Education Law sections 207, 305, 3001, 3004, 3006, 3007 and 3009.

Sections 52.21, 75.8, 200.2, 90.18, 100.2, 100.13, 100.15, 100.17, and 100.19, Subparts 151-1, 154-2, 57-2, Parts 30 and 80, and Repeal of 80-3.6, 80-3.4(a)(1), 80-3.10(a)(2)(i) and (b)(1) and 80-3.10(c)(1) Professional Development Plan

Description of Rule: Relates to professional development plans and other related requirements for school districts and BOCES.

Need for Rule: To improve the quality of teaching and learning for teachers and leaders for professional growth.

Legal Basis for Rule: Education Law sections 101, 2017, 305(1), 3004(1), 3006, 3006-a and 3009.

Agency Representative:

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

William P. Murphy

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OFFICE OF THE PROFESSIONS

Sections 63.4 and 63.9 Administration of Vaccines by Pharmacy Interns

Description of Rule: The administration of certain vaccines by pharmacy interns.

Need for Rule: To implement the provisions of Chapter 359 of the Laws of 2018.

Legal Basis for Rule: Education Law 207(not subdivided), 6504(not subdivided) 6507(2), 6527(7), 6801(2), 6801(4), 6802(22), 6806, 6902(1) and 6909(7) and Chapter 359 of the Laws of 2018.

Section 63.6 Pharmacy Certificate Sales.

Description of Rule: Certification of manufacturers and wholesalers for export purposes.

Need for Rule: To clarify who may issue free sale certificates to New York State registered manufacturers or wholesalers.

Legal Basis for Rule: Education Law 207(not subdivided), 6504(not subdivided), 6507(2), 6801(1), 6802(7), 6802(16), 6802(18), 6802(21), 6808(4).

Section 64.7 RN Immunizations

Description of Rule: Execution by registered professional nurses of non-patient specific orders to administer immunizations.

Need for Rule: To conform the regulation to current immunization standards.

Legal Basis for Rule: Education Law 207(not subdivided), 6504,(not subdivided) 6507(2), 6902(1), and 6909(5) and (7).

Agency Representative:

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

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OFFICE OF CULTURAL EDUCATION

Sections 179.3 and 179.5 Public Broadcasting

Description of Rule: Reports required by educational broadcast councils and radio stations.

Need for Rule: Reduce costs incurred by each Council and Radio Station for redundant annual certified audits & to streamline reporting process.

Legal Basis for Rule: Education Law sections 207 and 236.

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:

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B. CALENDAR YEAR 2018 (4 YEAR REVIEW)

The State Education Department did not adopt any rules in the year 2018 to be initially reviewed in 4 years.

C. CALENDAR YEAR 2017 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Sections 100.2 and 100.5 LOTE Examinations

Description of Rule: Criteria for approval of pathway assessments in Languages Other Than English (LOTE).

Need for Rule: To provide for approval of pathway examinations in Languages Other Than English (LOTE), to meet diploma requirements.

Legal Basis for Rule: Education Law sections 101, 207 (not subdivided) 208(not subdivided), 209(not subdivided), 305(1), 309(not subdivided) and 3204.

Section 100.5(d)(7) ELL Appeal

Description of Rule: Eligible score band of an appeal of the English Language Arts Regents Examination for eligible English Language Learners (ELLs).

Need for Rule: To align the Commissioner’s regulations with the recent expansion of the eligible score band for appeals for certain Regents Examinations for all students.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 215(not subdivided), 305(1) and (2), 2117(1) and 3204(2) and (2-a).

Agency Representative:

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

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OFFICE OF THE PROFESSIONS

Section 64.7 STI Screening

Description of Rule: Screening of individuals at increased risk of syphilis, gonorrhea and chlamydia (sexually transmitted infections or STIs).

Need for Rule: To allow execution by registered professional nurses of non-patient specific orders to screen persons at increased risk of STIs.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6527(6)(g), 6902(1), 6909(4)(g), and Chapter 502 of the Laws of 2016.

Sections 60.12, 63.13, 64.5 HIV

Description of Rule: Dispensing of post-exposure prophylaxis drugs to prevent HIV in persons who may have been recently exposed.

Need for Rule: To allow execution by licensed pharmacists of non-patient specific orders to dispense HIV post-exposure prophylaxis drugs.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6527(7-a), 6801(5), 6902(3), 6909(8), and Chapter 502 of the Laws of 2016.

Section 79-7.2 Certified Athletic Trainer Education Requirements

Description of Rule: Education requirements for certification as a certified athletic trainer.

Need for Rule: To conform the Commissioner’s regulations to current national education standards for certification by elimination the education pathway (8 NYCRR 79-7.2(b)) by July 1, 2022.

Legal Basis for Rule: Education Law §§207(not subdivided), 6504(not subdivided), 6507(2)(a) and 8355(2).

Section 62.8 Veterinary Continuing Education

Description of Rule: Continuing education requirements for veterinarians and veterinary technicians.

Need for Rule: To provide that veterinarians may provide free spaying and neutering services as part of their continuing education requirements.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6704-a and Chapter 398 of the Laws of 2016.

Agency Representative:

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

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D. CALENDAR YEAR 2014 (3 YEAR INITIAL & 5 YEAR SUBSEQUENT REVIEW)

OFFICE OF P-12 EDUCATION

Section 100.2(ee) Academic Intervention Services (AIS)

Description of Rule: Academic Intervention Services (AIS).

Need for Rule: To establish modified requirements for AIS during the 2014-2015 school year.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided) and 3204(3).

Section 100.5(d) State Facility Transfer Credit

Description of Rule: Transfer credit for students in a State Agency educational program.

Need for Rule: To provide transfer credit for students in a State Agency educational program upon attestation of chief program administrator

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 210(not subdivided), 215(not subdivided), 305(1) and (2) and 309(not subdivided).

Section 100.17 Distinguished Educators

Description of Rule: Modifies criteria for appointment, roles, responsibilities, protocols and procedures for distinguished educators.

Need for Rule: To ensure the appointment, consistent with statutory requirements, of qualified individuals, who have demonstrated consistent growth in academic performance or educational expertise including superior performance in the classroom, to serve as distinguished educators to assist low performing schools.

Legal Basis of Rule: Education Law sections 207, 305(1), (2) and (20), 211-b(1-5), and 211-c(1-8).

Sections 200.1(x), 200.5(j)(3), (4), (5), and (6) and 200.16(h)(9) Special Education Impartial Hearings

Description of Rule: Impartial due process hearings for special education matters.

Need for Rule: Ensure that due process hearings are conducted in a more efficient and expeditious manner in order to meet statutory time lines.

Legal Basis of Rule: Education Laws sections 101 (not subdivided), 207 (not subdivided), 305(1) and (2) and (20), 3214(3)(g), 4402(1) and (2), 4403(3), 4404(1) and 4410(7)(b) and (13).

Agency Representative:

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

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OFFICE OF HIGHER EDUCATION

Section 30-2.1 APPR Performance Definition

Description of Rule: Definition of “performance” for Annual Professional Performance Reviews (APPR).

Need for Rule: To clarify that the references to “performance” of the teacher or principal in the classroom or school for purposes of Education Law §3012-c(1) and (5)(b) and section 30-2.1(d) and 30-2.11(c) of the Rules of the Board of Regents are references to the teacher’s or principal’s performance on the APPR, as measured by the teacher’s or principal’s overall composite rating.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and(2) and 3012-c.

Sections 52.21, 80-1.1, 80-3.5 and 80-3.3 edTPA

Description of Rule: Teacher performance assessment (edTPA) requirement for certification.

Need for Rule: To provide teacher candidates, who apply for teacher certification prior to June 30, 2015 and who take and fail the teacher performance assessment (edTPA) with the option of obtaining an initial certificate if the candidate passes the ATS-W prior to June 30, 2015 and subsequent to receiving his or her score on the edTPA.

Legal Basis of Rule: Education Law sections 207(not subdivided), 305(1) and (2), 3001(2), 3004(1), 3006(1)(b) and 3009(1).

Part 80 Reciprocity

Description of Rule: Reciprocity requirements for classroom teachers.

Need for Rule: To establish a standardized reciprocity process for the review of teaching candidates from other jurisdictions.

Legal Basis of Rule: Education law sections 207 (not subdivided), 305(1) and (2), 3001(2), 3004(1), 3006(1)(b), 3007(1) and (2) and 3009(1).

Section 80-1.1(b)(47) Definition of Part-Time Experience for Permanent or Professional Certification

Description of Rule: Definition of part-time experience for permanent or professional certification.

Need for Rule: To provide certification candidates serving as substitute teachers with an alternative to meet part-time continuous service experience requirements.

Legal Basis of Rule: Education Law sections 207 (not subdivided), 305(1), 3001(2), 3006(1)(b) and 3009(1).

Sections 80-3.3 and 80-3.7 Individual Evaluation

Description of Rule: Individual evaluation pathway.

Need for Rule: To discontinue the individual evaluation pathway for certain certificate titles and continue the individual evaluation pathway for all other certificate titles.

Legal Basis of Rule: Education Law sections 207(not subdivided), 210(not subdivided), 305(1) and (2), 3001(2), 3004(1), 3006(1)(b) and 3009(1)(b).

Section 102.4 Test Security

Description of Rule: Mandatory reporting requirements and testing misconduct.

Need for Rule: To formally implement the recommendations of Special Investigator Hank Greenberg to enhance the security of the State assessment program by prohibiting certain testing misconduct, establishing a mandatory reporting requirement for certain school personnel who learn of any security breach or other testing misconduct, and to sanction those who fail to comply.

Legal Basis of Rule: Education Law sections 207 (not subdivided), 225(1)-(11) and 305(1) and (2) and Civil Service Law section 75-b(2)(a).

Agency Representative:

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

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Section 100.7(a)(2) State High School Equivalency Diploma

Description of Rule: State High School Equivalency Diploma.

Need for Rule: To permit, for a limited time, acceptance of partial passing scores on one or more sub-tests of the GED® examination for the corresponding sub-test on the State High School Equivalency examination (the Test Assessing Secondary Completion – TASC).

Legal Basis of Rule: Education Laws sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 305(1) and (2), 308(not subdivided) and 3204.

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:

Ceylane Meyers-Ruff

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E. CALENDAR YEAR 2013 (4 YEAR INITIAL & 5 YEAR SUBSEQUENT REVIEW)

OFFICE OF P-12 EDUCATION

Section 100.2(ee) Academic Intervention Services (AIS)

Description of Rule: Academic Intervention Services.

Need for Rule: To establish modified requirements for AIS during the 2013-2014 school year.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided) and 3204(3).

Sections 100.5(b)(7)(i), 100.6 and 200.5(a)(5)(iii) Career Development and Occupational Studies Credentials

Description of Rule: New York State Career Development and Occupational Studies Commencement Credentials.

Need for Rule: To establish criteria for a career development and occupational studies commencement credential for students with disabilities.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 305(1) and (2), 4402(1 - 7) and 4403(3).

Section 119.7 Charter School Charter Renewals

Description of Rule: Charter renewals of charter schools.

Need for Rule: To clarify standards for charter renewals of charter schools for which the Board of Regents is the authorizing entity.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1), (2) and (20), 2851(4) and 2852(1), (2), (3), (5), (5-a), (5-b) and (6) and 2857(1).

Section 135.4(c)(7)(ii)(d) Duration of Competition in High School Athletics

Description of Rule: Duration of competition in high school athletics.

Need for Rule: To eliminate the one additional season limit on waivers for students with disabilities to participate in athletic competition.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) & (2), 803(not subdivided), and 3204(2) & (3).

Agency Representative:

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

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OFFICE OF HIGHER EDUCATION

Sections 80-3.3, 80-3.4, 80-3.10, 80-5.13, 80-5.15 and 80-5.20(a)(1)(v) Teacher and School District Leader Certification Examinations

Description of Rule: Teacher and School District Leader certification examinations.

Need for Rule: To adopt technical changes to the certification examination requirements for certain teachers and school district leaders.

Legal Basis of Rule: Education Law sections 207, 305(1), 3001(2), 3006(1)(b) and 3009(1).

Sections 80-1.2(b), 80-1.6 and 80-2.1(a)(2)(i) and (ii) Definition of Date of Issuance of Certificates and Expiration of Certain Permanent Certificates from Expired Provisionals

Description of Rule: Definition of date of issuance of Certificates and Expiration of Certain Permanent Certificates from Expired Provisionals

Need for Rule: To amend the definition of effective date of a certificate to allow persons to be employed in their certificate area on the date their certificate is issued, rather than the February 1 or September 1 following the issuance date of their certificates. The proposed amendment also establishes an expiration date of October 1, 2014 for the issuance of a permanent certificate in the classroom teaching service or school administrator and supervisory service for candidates with an expired provisional certificate.

Legal Basis of Rule: Education Law sections 207 (not subdivided), 305(1), 3001(2), 3006(1)(b) and 3009(1).

Agency Representative:

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OFFICE OF THE PROFESSIONS

Sections 63.11 and 63.12 Interpretations and Translations for Prescription Drugs, Standardized Labeling and Patient-Centered Data Elements for Medications

Description of Rule: Interpretations and translations for prescription drugs, standardized labeling and patient-centered data elements for medications.

Need for Rule: To implement Part V of Chapter 57 of the Laws of 2012 regarding interpretations and translations for prescription drugs, standardized labeling and patient-centered data elements for medications.

Legal Basis of Rule: Sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6829(1), (6), (7) and 6830 (1) of the Education Law, and Part V of Chapter 57 of the Laws of 2012.

Agency Representative:

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

Sarah S. Benson

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Section 100.8 Local Diploma Based On Experimental Programs.

Description of Rule: Local high school equivalency diplomas based upon experimental programs.

Need for Rule: To extend until June 30, 2013 the provision for awarding local high school equivalency diplomas based upon experimental programs.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided, 208(not subdivided), 209(not subdivided), 305(1) and (2), 309(not subdivided) and 3204(3).

Part 126 and section 145-2.3 Licensure of Non-Degree Granting Private Proprietary Schools

Description of Rule: Licensure of non-degree granting private proprietary schools.

Need for Rule: To implement the provisions of Chapter 381 of the Laws of 2012 which eliminates the distinction between licensed private schools and registered business schools, replaces the phrase “licensed private schools” with the more descriptive “licensed private career schools”, adjusts fees, which had not changed since 1990, and establishes a candidate school category that would allow a school to operate legally while it is in the process of obtaining a non-degree-granting proprietary school license.

Legal Basis of Rule: Education law sections 207 (not subdivided), 212(3), 305(1), 5001 through 5010 and Chapter 381 of the Laws of 2012.

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:

Ceylane Meyers-Ruff

Deputy Commissioner

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F. CALENDAR YEAR 2012 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Section 3.16(b) Charter School Public Hearings

Description of Rule: Charter school public hearings.

Need for Rule: To provide for the Commissioner to conduct, on behalf of the Board of Regents, public hearings required by Article 56 of the Education Law to solicit comments from the community on charter school matters.

Legal Basis for Rule: Education Law sections 101(not subdivided), 206(not subdivided), 207(not subdivided), 305(1), (2) and (20), 2853(3)(a) and 2857(1-a).

Section 100.2(c) Instruction in Civility, Citizenship and Character Education and the Dignity for All Students Act (DASA)

Description of Rule: Instruction in civility, citizenship and character education.

Need for Rule: To provide for instruction in civility, citizenship and character education in relation to the Dignity for All Students Act.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207(not subdivided), 305(1) and (2), and 801-a(1)(not subdivided), and section 3 of Chapter 482 of the Laws of 2010.

Sections 100.2(l) and 119.6 Codes of Conduct to implement the Dignity for All Students Act (DASA)

Description of Rule: Codes of conduct.

Need for Rule: To conform Commissioner’s Regulations on Codes of Conduct to the Dignity for All Students Act.

Legal Basis for Rule: Education Law sections 11(1) –(7), 12(1) and (2), 13(1)-(3), 14(1) and (3), 101 (not subdivided), 207(not subdivided), 305(1) and (2), and 2801(1) –(5), and sections 2 and 4 of Chapter 482 of the Laws of 2010.

Section 100.2(jj) Policy and Guidelines Prohibiting Discrimination and Harassment of Students (Dignity Act Training)

Description of Rule: Policy and guidelines relating to the Dignity for All Students Act prohibiting discrimination and harassment of students.

Need for Rule: To establish standards and criteria for issuance of policy and guidelines relating to the Dignity for All Students Act (Ch.482, L. 2010) prohibiting discrimination and harassment of students.

Legal Basis for Rule: Education Law sections 11(1-7), 12(1) and (2), 13(1-3), 14(1-3), 101(not subdivided), 207(not subdivided), 305(1) and (2) and 2854(1)(b), and Chapter 482 of the Laws of 2010.

Section 100.2(kk) Dignity for All Students Act Reporting Requirements

Description of Rule: Standards for reporting material incidents of discrimination and harassment under the Dignity for All Students Act.

Need for Rule: To establish standards for reporting material incidents of discrimination and harassment under the Dignity for All Students Act.

Legal Basis for Rule: Education Law sections 11(1-7), 15(not subdivided), 16(not subdivided), 101(not subdivided), 207(not subdivided), 305(1) and (2) and 2854(1)(b), and Chapter 482 of the Laws of 2010.

Section 100.5 Diploma Requirements for Students with Disabilities

Description of Rule: Diploma Requirements for Students with Disabilities.

Need for Rule: To provide a new safety net option for students with disabilities to earn a local diploma through the use of compensatory scoring.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 208 (not subdivided), 209 (not subdivided), 305(1) and (2), 308 (not subdivided) and 309 (not subdivided).

Sections 100.5, 100.6, 100.9 and 200.5 Skills and Achievement Commencement Credential.

Description of Rule: Skills and Achievement Commencement Credential.

Need for Rule: To replace the Individualized Education Program (IEP) diploma with a Skills and Achievement Commencement Credential.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 305(1) and (2), 4402(1 - 7) and 4403(3).

Sections 100.18, 100.2(m), 100.17(c)(3)(i), 120.3 and 120.4 Elementary and Secondary Education Act (ESEA) Flexibility and School District Accountability

Description of Rule: ESEA Flexibility Waiver and school and school district accountability.

Need for Rule: The rule is necessary to conform Commissioner's Regulations to New York's Elementary and Secondary Education Act (ESEA) Flexibility Waiver, as approved by the U.S. Department of Education Secretary on May 29, 2012, and address the Regents Reform Agenda.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 210(not subdivided), 215(not subdivided), 305(1) and (2), 309(not subdivided) and 3713(1) and (2).

Sections 136.5 and 135.4 Concussion Management and Awareness

Description of Rule: Concussion management and awareness.

Need for Rule: To establish criteria relating to mild traumatic brain injury sustained by pupils during instruction or school activities.

Legal Basis for Rule: Education Law sections 207(not subdivided), 305(1), (2) and (42) and 2854(1)(b) and Chapter 496 of the Laws of 2011.

Sections 200.2, 200.3, 200.4 and 200.5 Special Education Services for Students with Disabilities-Additional Parent Member of CSE and Electronic Access to IEPs

Description of Rule: Additional parent member of CSE and electronic access to IEPs.

Need for Rule: To conform Commissioner’s Regulations to Chapters 276 and 279 of the Laws of 2012 regarding the additional parent member of a committee on special education (CSE) and electronic access to students’ individualized education programs (IEPs).

Legal Basis for Rule: Education Laws sections 101(not subdivided), 207(not subdivided), 305(1) and (2) and (20), 4402(1)(b)(1)(b) and (7)(a), 4403(3) and 4410(13) and Chapters 276 and 279 of the Laws of 2012.

Sections 200.4 and 200.16 Preschool and School-Age Individual Evaluations

Description of Rule: Changes the timeline for the required completion of preschool evaluations; repeals the requirement that a psychologist prepare a written report of his/her determination as to whether each student with a disability needs a psychological assessment as part of his or her reevaluation; and clarifies that the 60-day timeline applies to initial individual evaluations to determine a student’s eligibility for special education.

Need for Rule: To provide mandate relief relating to special education requirements.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 4402(1), 4403(3), 4410(13).

Agency Representative:

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OFFICE OF HIGHER EDUCATION

Subpart 4-1 Institutional Accreditation for Title IV Purposes

Description of Rule: Voluntary institutional accreditation for Title IV purposes.

Need for Rule: To conform the Regents Rules to federal regulations relating to voluntary institutional accreditation for Title IV purposes.

Legal Basis for Rule: Education Law sections 207(not subdivided), 210(not subdivided), 214(not subdivided) 215(not subdivided) and 305(1) and (2).

Section 52.21 and Part 80 Transitional B and C Certificates and Program Registration Standards Leading to Such Certificates

Description of Rule: Transitional B and C certificates and program registration standards leading to such certificates.

Need for Rule: To allow certified teachers to enter a Transitional B or C certificate program to become certified in a different area.

Legal Basis for Rule: Education Law sections 207(not subdivided), 305(1), 3001(2), 3006(1)(b) and 3009(1).

Sections 80-1.5, 80-3.3, 80-3.4, 80-3.9, 80-3.10, 80-5.13, 80-5.14 and 80-5.22 Teacher and School Building Leader Certification Examinations

Description of Rule: Teacher and school building leader certification examinations.

Need for Rule: To establish the timeframes and what new certification examinations will be required for each certificate title.

Legal Basis for Rule: Education Law sections 207, 305(1), 3001(2), 3006(1)(b) and 3009(1).

Subpart 82-1 Teacher Discipline

Description of Rule: Procedures for hearings on charges against tenured school employees.

Need for Rule: To implement the provisions of Education Law section 3020-a, as amended by Chapter 57 of the Laws of 2012, relating to procedures for hearings on charges against tenured school employees.

Legal Basis for Rule: Education Law sections 207(not subdivided), 305(1) and (2), and 3020-a, as amended by Part B of Chapter 57 of the Laws of 2012.

Section 87.5 Due Process Procedures for Criminal History Record Checks of Prospective School Employees and Applicants for Certification

Description of Rule: Due Process Procedures for Criminal History Record Checks of Prospective School Employees and Applicants for Certification.

Need for Rule: To eliminate oral argument in appeals of State Education Department determinations denying clearance for employment for prospective school employees and applicants for certification as a result of a criminal history record check.

Legal Basis for Rule: Education Law sections 207(not subdivided), 305(30)(a), 3001-d(1-4) and 3035(3)(a).

Sections 145-2.1, 145-2.2 and 145-2.4 Tuition Assistance Program

Description of Rule: Updates the criteria for determining student eligibility for Tuition Assistance Program (TAP).

Need for Rule: To revise and clarify the criteria for determining student eligibility to participate in the Tuition Assistance Program (TAP).

Legal Basis for Rule: Education Law sections 207 and 661 of the Education Law.

Agency Representative:

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OFFICE OF THE PROFESSIONS

Sections 29.7(a) and 63.6(a)(7) Electronic Prescriptions

Description of Rule: Form and use of electronic prescriptions and maintenance of prescriptions by pharmacists in a secure electronic record.

Need for Rule: To implement Education Law sections 6802(23), as added, and section 6810(6)(a), as amended, by Chapter 590 of the Laws of 2011 regarding the form and use of electronic prescriptions and maintenance of prescriptions by pharmacists in a secure electronic record.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 6504 (not subdivided), 6506(1), 6507(2)(a), 6509(9), 6802(23) and 6810(6)(a), and Chapter 590 of the Laws of 2011.

Sections 29.18 and 59.15 Waiver Requirements from Corporate Practice Restrictions for Special Education Schools and Early Intervention Agencies

Description of Rule: Waiver requirements for special education schools and early intervention agencies.

Need for Rule: To implement Chapter 581 of the Laws of 2011 by establishing waiver requirements for special education schools and early intervention agencies.

Legal Basis for Rule: Education Law 207(not subdivided), 6501(not subdivided), 6503-b, 6504(not subdivided), 6506(2), 6507(2)(a), 6508(1), 6509(9), 6510(1)-(9) and 6511(not subdivided).

Sections 52.41, 77.1 and 77.11 Professional Study Requirements for Licensure in Physical Therapy

Description of Rule: Educational requirements for licensure as a physical therapist.

Need for Rule: To conform the regulations to Chapter 410 of the Laws of 2011, which raised the educational requirements for licensure in the profession of physical therapy from a bachelor’s degree to a master’s degree in physical therapy.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6506(1), 6507(2)(a), and 6734(b), and Chapter 410 of the Laws of 2011.

Sections 52.42 and 79-4.8 through 79-4.17 Polysomnographic Technologists

Description of Rule: Polysomnographic technologists.

Need for Rule: To implement the provisions of Chapter 262 of the Laws of 2011, which authorizes the Department to define, in regulation, the practice of polysomnographic technology and set forth the standards to be met for authorization.

Legal Basis for Rule: Education Law sections 207(not subdivided), 212(3), 6504(not subdivided), 6506(1), (2), (5), (6), (8), (9) and (10), 6507(2)(a), 6508(1), (2), (3) and (7), and 8505(5) and Chapter 262 of the Laws of 2011.

Section 60.10 Approval of International Medical Schools for Long-Term Clinical Clerkship Placements

Description of Rule: Approval of international medical schools for long-term clinical clerkship placements.

Need for Rule: To establish the approval standards and procedures for international medical schools to place students in long term clerkships in New York.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6501 (not subdivided), 6504(not subdivided), 6506(1), 6507(2)(a) and 6508(1).

Section 63.9 Administration of Acute Herpes Zoster (Shingles) Vaccinations by Pharmacists

Description of Rule: Authorizes qualified pharmacists to administer acute herpes zoster vaccinations.

Need for Rule: To implement Chapter 116 of the Laws of 2012 which authorizes qualified pharmacists to administer acute herpes zoster vaccinations.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 6504 (not subdivided), 6506(1), 6507(2)(a), 6527(7), 6801(5), 6802(23) and 6909(7), and Chapter 116 of the Laws of 2012.

Sections 76.4, 76.5, 76.6, 76.7 and 76.9 Occupational Therapy

Description of Rule: Occupational therapy.

Need for Rule: To implement Chapter 460 of the Laws of 2011, relating to the profession of occupational therapy.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 6504 (not subdivided), 6507(2)(a) and 7906 (4) and (7) and Chapter 460 of the Laws of 2011.

Sections 79-1.1 and 79-1.2 Landscape Architecture

Description of Rule: Landscape architecture.

Need for Rule: To align Landscape Architect Registration Examination admission requirements with national standards and clarify professional study and experience requirements for landscape architecture candidates.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6506(1), 6507(2)(a) and 7324(1) and (2).

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Section 100.5(b)(7) Veterans Diploma

Description of Rule: Award of local high school diploma to veterans of World War II, the Korean Conflict and the Vietnam War.

Need for Rule: To prescribe requirements for award of high school diplomas to veterans of World War II, the Korean Conflict and the Vietnam War.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided, 208(not subdivided), 209(not subdivided), 305(1), (2), (29), (29-a) and (29-b), 309(not subdivided) and 3204(3).

Section 100.8 National External Diploma Extension

Description of Rule: Local high school equivalency diplomas based upon experimental programs.

Need for Rule: To extend until June 30, 2013 the provision for awarding local high school equivalency diplomas based upon experimental programs.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided, 208(not subdivided), 209(not subdivided), 305(1) and (2), 309(not subdivided) and 3204(3).

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G. CALENDAR YEAR 2007 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Section 100.5 Regents Diploma With Honors

Description of Rule: Regents Diplomas with honors and Regents Diplomas with Advanced Designation with honors.

Need for Rule: To revise and clarify diploma requirements, provide flexibility to schools, and alternatives for students who seek a Regents Diploma with honors or a Regents Diploma with Advanced Designation with honors.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 208 (not subdivided), 209 (not subdivided), 305(1) and (2), 308 (not subdivided), 309 (not subdivided) and 3204(3).

Section 120.4 Supplemental Educational Services (SES)

Description of Rule: Supplemental Educational Services (SES).

Need for Rule: To prescribe requirements regarding the use of rewards and incentives by SES providers; to revise reporting dates for SES providers and local educational agencies (LEAs); and to correct inaccurate references in the SES regulations.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1), (2) and (33), 308(not subdivided), 309(not subdivided) and 3713(1) and (2).

Sections 100.13 and 170.12 Contracts for Excellence

Description of Rule: Establishes requirements for Contracts for Excellence.

Need for Rule: To establish requirements for Contracts for Excellence, including allowable programs and activities, criteria for public reporting by school districts of their total foundation aid expenditures, and other requirements for purposes of preparation of the Contracts by certain specified school districts.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 215 (not subdivided), 305(1) and (2), 211-d(1-9), and Chapter 57 of the Laws of 2007.

Sections 21.3 and 100.12 Loan of Instructional Computer Hardware

Description of Rule: Loan of instructional computer hardware.

Need for Rule: To implement Education Law sections 753 and 754, as added by Chapter 57 of the Laws of 2007, to provide for the loan of instructional computer hardware from public school districts to nonpublic school students.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 215 (not subdivided), 305 (1) and (2), 753 (1) and 754 (1) and sections 7-a and 7-b of Chapter 57 of the Laws of 2007.

Section 151-1 Universal Pre-Kindergarten Program

Description of Rule: Universal Pre-Kindergarten program.

Need for Rule: Conforms the Commissioner's Regulations to Education Law section 3602-e, as amended by Chapter 57 of the Laws of 2007, by establishing uniform quality standards for prekindergarten programs, criteria relating to program design, procedures for applying for universal prekindergarten grants, procedures by which districts select eligible agency collaborators through a competitive process, and facility requirements.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided) and 3602-e(1), (2), and (5)-(16), and section 19 of Chapter 57 of the Laws of 2007.

Sections 100.2, 120.6, 200.1 through 200.9, 200.13, 200.14, 200.16, 200.22, 201.2 through 201.11 Special Education programs and services

Description of Rule: Special education programs and services.

Need for Rule: To conform regulations to the reauthorization of the Individuals with Disabilities Education Act (IDEA); ensure consistency in procedural safeguards; promotes timely evaluations and services; and facilitates services in the least restrictive environment for students with disabilities.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 3208 (1-5), 3209(7),3214(3), 3602-c(2), 3713(1) and (2), 4002(1-3), 4308(3), 4355(3), 4401(1-11), 4402 (1-7), 4403(3), 4404(1-5), 4404-a(1-7), and 4410(13).

Section 154.2, Repeal and Addition of Section 154.3 and Repeal of Section 154.4 Pupils with Limited English Proficiency

Description of Rule: Students with limited English proficiency.

Need for Rule: Conforms the Commissioner’s Regulations to section 10 of Chapter 57 of the Laws of 2007 by prescribing requirements for the development of comprehensive plans for students with limited English proficiency by school districts.

Legal Basis for Rule: Education Law sections 207, 215, 2117(1), 3204(2),(2-a),(3) and (6) and section 10 of Chapter 57 of the Laws of 2007.

Section 175.5 Superintendents' Conference Days

Description of Rule: Superintendents' conference days.

Need for Rule: To extend for two years the provision in section 175.5(f) of the Commissioner's Regulations that allows a school district to use up to two of its superintendents' conference days for teacher rating of State assessments.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided) and 3604(8).

Section 3.16 Delegation of Authority with Respect to Certain Charter School Hearings

Description of Rule: Delegation of authority to conduct and hold public hearings concerning charter schools under Education Law section 2857(1-a).

Need for Rule: Delegates to the Commissioner of Education the Board of Regents' authority to conduct and hold public hearings to solicit comments from the community in connection with the issuance, revision, or renewal of a charter school’s charter pursuant to Education Law section 2857(1-a).

Legal Basis for Rule: Education Law sections 101 (not subdivided), 206 (not subdivided), 207 (not subdivided), 305(1), (2) and (20) and 2857(1) and (1-a) and section 7 of Part D-2 of Chapter 57 of the Laws of 2007.

Section 119.4 Charter School Public Hearings

Description of Rule: Procedures for public hearings concerning charter schools pursuant to Education Law section 2857(1). Establishes procedures for the conduct of public hearings by school districts to solicit comments from the community in connection with the issuance, revision, or renewal of a charter school’s charter pursuant to Education Law section 2857(1).

Need for Rule: Establishes procedures for the conduct of public hearings by school districts to solicit comments from the community in connection with the issuance, revision, or renewal of a charter school’s charter pursuant to Education Law section 2857(1).

Legal Basis for Rule: Education Law sections 101 (not subdivided), 206 (not subdivided), 207 (not subdivided), 305(1), (2) and (20) and 2857(1) and section 7 of Part D-2 of Chapter 57 of the Laws of 2007.

Section 170.13 Fiscal Maintenance of Effort

Description of Rule: Fiscal maintenance of effort; definition of “city funds”.

Need for Rule: To define "city funds" for purposes of determining maintenance of effort in cities having a population of one hundred twenty-five thousand or more inhabitants and less than one million inhabitants pursuant to Education Law section 2576(5-b), including state and private funding sources over which the city has no discretion, and which are to be excluded from the calculation of city funds subject to the maintenance of effort requirement.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided) and 305(1) and (2) and 2576(5-b) and section 9 of Part B of Chapter 57 of the Laws of 2007.

Section 100.3 Program Requirements for Students in Prekindergarten and Kindergarten

Description of Rule: Program requirements for prekindergarten and kindergarten programs.

Need for Rule: To align program requirements for prekindergarten and kindergarten programs operated by school districts and voluntarily registered nonpublic schools with those established for State-funded universal kindergarten programs.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 208 (not subdivided), 215 (not subdivided), 305(1) and (2), 308 (not subdivided), and 309 (not subdivided).

Section 117 Diagnostic Screening for Students Who Are New Entrants or Who Have Low Test Scores in Reading or Mathematics

Description of Rule: Diagnostic screening of students who are new entrants to school or who have low test scores on the statewide reading or mathematics assessment”.

Need for Rule: To provide for the diagnostic screening of students who are new entrants to school or who have low test scores on the statewide reading or mathematics assessment and to provide consistency between definitions in Part 117 and other provisions of the Commissioner’s Regulations, specifically, by conforming the definition of “handicapping condition” to the definitions of a “preschool student with a disability” and a “student with a disability”.

The rule is necessary to achieve consistency between the definitions in Part 117 and those in other provisions of the Regulations of the Commissioner of Education.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 3208(5) and 4403(3).

Sections 100.14 and 100.15 Excelsior Scholars Program and Grants for Summer Institutes for Mathematics and Science Teachers

Description of Rule: Excelsior Scholars Program and grants for summer institutes for mathematics and science teachers.

Need for Rule: To establish criteria for the award of grants for the Excelsior Scholars Program pursuant to Education Law section 3641-a and grants for Summer Institutes for Mathematics and Science Teachers pursuant to Education Law section 3641-b.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207 (not subdivided), 215 (not subdivided), 305(1) and (2) and sections 3641-a(1), (2) and (3) and 3641-b(not subdivided), as added by section 39 of Part B of Chapter 57 of the Laws of 2007.

Agency Representative:

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OFFICE OF HIGHER EDUCATION

Section Subpart 4-1 Voluntary Institutional Accreditation for Title IV purposes

Description of Rule: Voluntary Institutional Accreditation for Title IV purposes.

Need for Rule: To establish requirements and clarify existing standards and procedures that must be met by institutions of higher education voluntarily seeking institutional accreditation or renewal of such accreditation by the Board of Regents and the Commissioner of Education.

Legal Basis for Rule: Education Law sections 207 (not subdivided); 210 (not subdivided); 214 (not subdivided), 215 (not subdivided), and 305(1) and (2).

Sections 80-1, 80-3, 80-4 and 80-5 Requirements for Teachers’ Certification and Teaching Practice

Description of Rule: Teachers’ certification and teaching practice requirements.

Need for Rule: To clarify existing standards and procedures that must be met by teachers (classroom teachers, school leaders and pupil personnel professionals) when seeking certification by the Board of Regents and the Commissioner of Education. The rule also provides the Commissioner with the flexibility to accept candidates who substantially meet certain certification requirements and/or who have a valid certificate from another state or an authorization to practice from another country evidencing knowledge, skills and abilities comparable to those required for certification in New York State.

Legal Basis for Rule: Education Law Sections 207 (not subdivided), 208 (not subdivided), 305(1), (2) and (7), 308 (not subdivided), 3001(2), 3004(1), 3006(1)(b), 3007(not subdivided), and 3009.

Sections 80-1.11, 87.1, 87.2, 87.4, 87.5, 87.6, 87.8 and 87.10 Fingerprinting and Criminal History Record Check of Prospective Employees of Nonpublic and Private Elementary or Secondary Schools

Description of Rule: Requirements and procedures for the fingerprinting and criminal history record check of prospective school employees.

Need for Rule: To implement the requirements set forth in sections 305, 3001-d and 3035 of the Education Law, as amended by Chapter 630 of the Laws of 2006, relating to requirements and procedures for the fingerprinting and criminal history record check of prospective school employees for nonpublic and private elementary or secondary schools.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 3012-b and Section 9 of Part 12 of Chapter 57 of the Laws of 2007.

Subpart 4-1 Institutional Accreditation

Description of Rule: Voluntary institutional accreditation for Title IV purposes.

Need for Rule: The purpose of the rule is to establish requirements and clarify existing standards and procedures that must be met for institutions of higher education voluntarily seeking institutional accreditation of their teacher education programs, or renewal of such accreditation, by the Board of Regents.

Legal Basis for Rule: Education Law sections 207(not subdivided), 210 (not subdivided), 214 (not subdivided), 215 (not subdivided), and 305 (1), and (2).

Section 145-2.15 Administration of Ability-to-Benefit Tests for Eligibility for Awards.

Description of Rule: Administration of ability-to-benefit tests for eligibility for awards.

Need for Rule: To identify certain ability-to-benefit tests and the passing scores for such tests that the Board of Regents approves for purposes of eligibility for awards under section 661 of the Education Law. The rule also establishes criteria that the Department will utilize to determine if an approved ability-to-benefit test is independently administered in order to implement the requirements of Chapter 57 of the Laws of 2007.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 215 (not subdivided) and 661(4) and Sections 1 and 2 of Part E-1 of Chapter 57 of the Laws of 2007.

Section 150.2 and addition of section 150.4 State Aid Awards for High Needs Nursing Programs at Certain Independent Colleges and Universities

Description of Rule: State aid awards for high needs nursing programs.

Need for Rule: To establish eligibility criteria and the requirements and procedures for certain eligible independent colleges and universities to follow when applying for, or awarding, State aid awards for high needs nursing programs in order to implement the requirements of Chapter 57 of the Laws of 2007.

Legal Basis for Rule: Education Law sections 207 (not subdivided) and 6401-a(4) and Part E-4 of Chapter 57 of the Laws of 2007.

Section 27-1.1 Student Eligibility for the Higher Education Opportunity Program

Description of Rule: Economic eligibility criteria for the Higher Education Opportunity Program at independent colleges and universities.

Need for Rule: To update the current economic eligibility criteria for the Higher Education Opportunity Program at independent colleges and universities.

Legal Basis for Rule: Education Law sections 207 (not subdivided); 6451(1).

Sections 50.1, 52.2(c)(4), and 145-2.1(g) Disaster Planning

Description of Rule: Establishing equivalency of instruction and study in the temporary closure of an institution as a result of a disaster.

Need for Rule: To permit an institution to provide a statement of academic standards establishing equivalency of instruction and study in the temporary closure of an institution as a result of a disaster.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 202(1), 207 (not subdivided), 210 (not subdivided), 215 (not subdivided), and 305 (1), (2) and (20).

Section 52.21(b)(2)(iv)(c)(3)(i) and (ii) Accreditation of Teacher Education Programs

Description of Rule: Accreditation of teacher education programs.

Need for Rule: To enable certain teacher education programs to complete the accreditation process, by extending for six months the date by which teacher education programs registered prior to September 1, 2001 that are awaiting an accreditation decision following an accreditation review which included a site visit conducted on or before December 31, 2006, must achieve accreditation. In addition, the rule extends by six months the period of eligibility in which certain teacher education programs denied accreditation may request a deferral of the date for accreditation. The rule is needed to provide the Department with regulatory flexibility to accommodate sound teacher education programs that demonstrate the ability to earn accreditation within the short term.

Legal Basis for Rule: Education Law sections 207 (not subdivided); 210 (not subdivided); 215 (not subdivided); 305 (1) and (2); 3001(2); and 3004(1).

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OFFICE OF THE PROFESSIONS

Sections 29.17 and 77.9 Physical Therapy

Description of Rule: The practice of physical therapy without a referral.

Need for Rule: To implement the requirements of section 6731(d) of the Education Law by defining the experience requirement that a licensed physical therapist must meet to provide treatment without a referral, clarifying the content of the notice of advice provided to a patient prior to treatment by a physical therapist without a referral, and establishing a definition of unprofessional conduct relating to such practice.

Legal Basis for Rule: Education Law sections 207(not subdivided); 6504(not subdivided); 6506(1); 6507(2)(a); 6509(9), and 6731(d).

Part 31 Unauthorized Practice

Description of Rule: Civil enforcement proceedings for the unauthorized practice of the professions and the unauthorized use of a professional title.

Need for Rule: To implement the requirements of Section 6516 of the Education Law by specifying the requirements for the submission of complaints, investigations, hearing requests and stay requests; the contents of a cease and desist order; the standards for the imposition of civil penalties and restitution and the procedures for hearings and appeals.

Legal Basis for Rule: Sections 207 (not subdivided); 6506(1); 6512(1); 6513(1); and 6516 (1), (2), (3), (4), (5), (6), and (7) of the Education Law.

Sections 52.26, 61.9, and 61.13 Dental Assisting.

Description of Rule: Scope of practice for certified dental assistants and dental hygienists and the curriculum requirements for registration as a program leading to licensure in certified dental assisting.

Need for Rule: To implement Chapter 300 of the Laws of 2006 amended Sections 6608 and 6608-b of the Education Law to expand the scope of practice for certified dental assistants and dental hygienists and amending the curriculum requirements for registration as a program leading to licensure in certified dental assisting.

Legal Basis for Rule: Sections 207(not subdivided); 6506(1); 6507(2)(a), 6606(2), 6608(not subdivided) and 6608-b(4) of the Education Law.

Section 64.7 Human Immunodeficiency Virus Tests

Description of Rule: The execution by registered professional nurses of non-patient specific orders to administer human immunodeficiency virus tests.

Need for Rule: To establish requirements for registered professional nurses to meet when executing non-patient specific orders prescribed or ordered by a licensed physician or certified nurse practitioner for the administration of human immunodeficiency virus tests.

Legal Basis for Rule: Education Law sections 207 (not subdivided); 6507(2)(a); 6527(6); 6902(1) and 6909(4)(d) and (5).

Section 66.5(f) and Addition of Section 66.6 Optometry

Description of Rule: Continuing education requirements for licensed optometrists certified to use therapeutic pharmaceutical agents.

Need for Rule: To clarify existing mandatory continuing education requirements and provides more flexibility to the Department for exceptional circumstances that lead to non-compliance.

Legal Basis for Rule: Education Law sections 207 (not subdivided); 6507(2)(a); 7101 (not subdivided) and 7101-a(7).

Section 70.3 Public Accountancy

Description of Rule: Examination requirements for licensure in public accountancy.

Need for Rule: To revise standards and procedures relating to the examination for licensure in public accountancy.

Legal Basis for Rule: Education Law sections 207(not subdivided); 6504 (not subdivided); 6507(2)(a) and (3)(a); 6508(2)and 7404(1)(4).

Sections 74.2, 74.3, 74.4 and 74.6 Social Work

Description of Rule: Requirements relating to licensure as a licensed clinical social worker, limited permits to practice licensed clinical social work and the supervision of clinical social work services provided by a licensed master social worker.

Need for Rule: To conform to the content of the licensing examination, which is based on the expectation that the applicant will have completed at least two years of post-degree supervised experience.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 6501, 6504, 6507(2)(a),7704(2)(c), (2)(d) and 7705.

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OFFICE OF CULTURAL EDUCATION

Section 90.12 State Aid for Public Library Construction

Description of Rule: State aid for library construction and renovation projects.

Need for Rule: To prescribe eligibility requirements and criteria for applications for state aid for library construction and renovation projects, and to conform the Commissioner’s Regulations to recent changes made to Education Law section 273-a by Chapter 57 of the Laws of 2007.

Legal Basis for Rule: Education Law sections 207 (not subdivided), 215 (not subdivided) and 273(5), section 1 of Chapter 53 of the Laws of 2007, and section 4 of Part B of Chapter 57 of the Laws of 2007.

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H. CALENDAR YEAR 2002 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Sections 3.32 and 100.2(p) Registration of Public Schools

Description of Rule: Registration of public schools.

Need for Rule: To establish procedures for the registration of public schools

through the submission of a petition to the Board of Regents.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 210(not subdivided), 214(not subdivided), 215(not subdivided), 305(1) and (2) and (19) and 309 (not subdivided).

Part 120 No Child Left Behind Act of 2001 (Pub. L. 107-110)

Description of Rule: No Child Left Behind Act of 2001 (Pub.L. 107-110).

Need for Rule: To establish criteria and procedures to ensure State and local educational agency compliance with the federal No Child Left Behind Act of 2001 and Chapter 425 of the Laws of 2002.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1), (2) and (33), 2802(7), 3214(3)(d) and (f) and Chapter 425 of the Laws of 2002.

Section 136.4 On-Site Automated External Defibrillators

Description of Rule: Automated external defibrillator (AED)

Need for Rule: To implement Education Law section 917, as added and amended by Chapters 60 and 61 of the Laws of 2002, to prescribe standards for the use of automated external defibrillators by school districts, board of cooperative educational services, county vocational education and extension boards, and charter schools.

Legal Basis for Rule: Education Law sections 207(not subdivided) and 917(1) and (2) and Chapters 60 and 61 of the Laws of 2002.

Sections 151-1.2 Universal Prekindergarten Programs

Description of Rule: Universal prekindergarten programs.

Need for Rule: To conform the definition of “eligible child” to Education Law section 3602-e(10)(a)(4), as amended by Chapter 383 of the Laws of 2001, relating to the age eligibility for children enrolled in summer only Universal Prekindergarten programs.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided) and 3602-e (10)(a)(4) and (12) and section 1-a of Part F of Chapter 383 of the Laws of 2001.

Section 155.25 Electrically Operated Partitions

Description of Rule: Establishes minimum standards for t electrically operated partitions or room dividers.

Need for Rule: To establish standards relating to the construction, maintenance and operation of electrically operated partitions located in classrooms or other facilities used by students in public and nonpublic schools or educational institutions within the state in compliance with Chapter 217 of the Laws of 2001 and Chapter 231 of the Laws of 2002.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 409-f(1) and (2) and 3602(6-c), Chapter 217 of the Laws of 2001, and Chapter 231 of 2002.

Section 200.2 Instructional Material in Alternative Formats

Description of Rule: Plans to ensure instructional material in alternative formats are provided to students with disabilities.

Need for Rule: The rule is necessary to implement Chapter 377 of the Laws of 2001, which requires every school district and BOCES to develop a plan to ensure that all instructional materials to be used in the schools of the district (or in the programs of the BOCES) are available in a usable alternative format for every student with a disability in accordance with his or her educational needs and course selections at the same time that such materials are available to non-disabled students.

Legal Basis for Rule: Education Law sections 207, 1604(29-a), 1709(4-a), 1950(4-a), 2503(7-a), 2554(7-a), 3602(10)(b), 4403(3) and Chapter 377 of the Laws of 2001.

Sections 200.2, 200.4 and 200.16 Individualized Education Programs (IEPs)

Description of Rule: Providing copies of individualized education programs (IEP’s) to teachers, related service providers and other providers.

Need for Rule: To implement Education Law section 4402(7), as added by Chapter 408 of the Laws of 2002, which requires that school districts establish a policy that: ensures that teachers and other service providers are provided with students’ individualized education programs (IEPs) prior to the implementation of such IEPs; ensures the confidentiality of such IEPs; and requires that teachers, assistants, support staff persons and other service providers be informed of their responsibilities in relation to the implementation of students’ IEPs prior to the implementation of such IEPs.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 4402(7), 4403(3), 4410(13) and Chapter 408 of the Laws of 2002.

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Sections 246.3 and 246.6 Vocational Rehabilitation Program

Description of Rule: Vocational rehabilitation program.

Need for Rule: To conform the Commissioner's Regulations to changes in federal law made in the 1998 reauthorization of the Rehabilitation Act (Pub.L.105-22) and thereby ensure that the State vocational rehabilitation program is conducted according to federal standards.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided) and 1004(1).

Agency Representative:

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OFFICE OF HIGHER EDUCATION

Sections 3.47 and 3.50 Authorization of a Degree Abbreviation (B.M.)

Description of Rule: Authorization of a degree abbreviation.

Need for Rule: The rule is needed to authorize the use by New York postsecondary degree-granting institutions authorized to confer the Bachelor of Music degree of the abbreviation “B.M” for that degree as an alternative to the existing abbreviation “Mus. B.” to be consistent with the abbreviation commonly used by other jurisdictions for this degree.

Legal Basis for Rule: Sections 207(not subdivided), 210(not subdivided), 218(1), and 224(4) of the Education Law.

Part 4 and Sections 3.14, 13.11,52.23 Accreditation of Teacher Education Programs and Voluntary Institutional Accreditation for Title IV purposes.

Description of Rule: Regents accreditation of teacher education programs and voluntary institutional accreditation for Title IV purposes.

Need for Rule: To establish standards and procedures that must be met by institutions of higher education seeking accreditation of their teacher education programs by the Board of Regents; aligns related provisions in the Rules of the Board of Regents and the Regulations of the Commissioner of Education with the new standards and procedures; and renumbers the rule and clarifies language related to voluntary institutional accreditation for Title IV purposes by the Commissioner of Education and the Board of Regents.

Legal Basis for Rule: Sections 207(not subdivided), 210(not subdivided), 212-c (not subdivided), 214(not subdivided), 215(not subdivided), and 305(1) and (2) of the Education Law.

Sections 87.3, 87.4, 87.5 and 87.9 Fingerprinting and Criminal History Check of Prospective School Employees and Applicants for Teaching Certification

Description of Rule: Fingerprinting and criminal history check of prospective school employees and applicants for teaching certification.

Need for Rule: To implement Chapter 380 of the Laws of 2001, which authorizes the exchange of criminal history records of certain individuals, upon their authorization, between the State Education Department and the City School District of the City of New York.

Legal Basis for Rule: Sections 207(not subdivided), 305(3)(a), 3004-b(1), 3035(3) and (3-a) of the Education Law and Chapter 380 of the Laws of 2001.

Section 52.21(b)(2)(iv)(b)(1) Requirements for Teacher Education Programs

Description of Rule: Teacher education programs requirements.

Need for Rule: To align the definition for pass rates on teacher certification examinations, used for purposes of triggering a State Education Department registration review of teacher education programs, with the Federal definition, used for purposes of Title II of the Higher Education Act.

Legal Basis for Rule: Sections 207(not subdivided), 210(not subdivided), 215(not subdivided), 305(1), and 3004(1) of the Education Law.

Section 80-2.6(c) Requirements for Certification of Teachers of the Speech and Hearing Handicapped

Description of Rule: Requirements for certificate of teachers of the speech and hearing handicapped.

Need for Rule: To enable licensed and registered speech-language pathologists in New York State to become certified as teachers of the speech and hearing handicapped through an alternative path.

Legal Basis for Rule: Sections 207(not subdivided), 305(1), (2), and (7), 3004(1) and 3006(1) of the Education Law.

Section 27-1.1 Student eligibility for the Higher Education Opportunity Program

Description of Rule: Income criteria for determining student eligibility to participate in the Higher Education Opportunity Program at nonpublic institutions of higher education.

Need for Rule: To update the current criteria for determining student economic eligibility for the Higher Education Opportunity Program.

Legal Basis for Rule: Sections 207(not subdivided) and 6451(1) of the Education Law.

80-1.7 and 80-5.15 Provisional Teaching Certificate and the Issuance of a Limited Certificate in the Classroom Teaching Service

Description of Rule: Renewal of an expired provisional teaching certificate and the issuance of a limited certificate in the classroom teaching service.

Need for Rule: To establish the requirements for the renewal of an expired provisional teaching certificate for an additional five-year term and for the issuance of a limited certificate in the classroom teaching service which would permit candidates to teach for the period September 1, 2003 through August 31, 2004, while they are completing academic requirements for the provisional certificate.

Legal Basis for Rule: Sections 207(not subdivided), 305(1), (2), and (7), 3004(1) and 3006(1) of the Education Law.

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OFFICE OF THE PROFESSIONS

Section 29.13(a) Definition of Unprofessional Conduct in the Practice of Massage Therapy

Description of Rule: The definition of unprofessional conduct in the practice of massage therapy.

Need for Rule: To remove an exception in the definition of unprofessional conduct in the practice of massage therapy relating to patient records, which pertains to licensed practitioners who are providing massage therapy services to clients in a health spa or similar setting, when such services are not provided pursuant to a prescription by a health care practitioner.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6506(1) and 6509(9).

Section 29.7(a)(21)(ii)(a) Definition of Unprofessional Conduct in the Practice of Pharmacy and Limitations on Assistance to Licensed Pharmacists by Unlicensed Individuals

Description of Rule: The definition of unprofessional conduct in the practice of pharmacy and limitations on assistance to licensed pharmacists by unlicensed individuals.

Need for Rule: To revise the list of activities, performed by an unlicensed individual while assisting a licensed pharmacist in the dispensing of a prescription that would invoke the requirement that a licensed pharmacist supervise no more than two unlicensed persons.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6506(1) and 6509(7) and (9), and 6801(not subdivided).

Section 29.10 Definition of Unprofessional Conduct and Work Paper Documentation and Retention in the Practice of Public Accountancy

Description of Rule: The definition of unprofessional conduct and work paper documentation and retention in the practice of public accountancy.

Need for Rule: To establish, in the definition of unprofessional conduct in the practice of public accountancy, standards that licensees must meet in relation to documentation in work papers and the retention of such papers.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6506(1) and 6509(9), and 7401(not subdivided).

Section 64.6 Practice of Nursing and Midwifery

Description of Rule: Profession of midwifery.

Need for Rule: To identify the licensed profession of midwifery as one of the licensed health care professions that is authorized to prescribe medical regimens to be executed by registered professional nurses that may direct the care provided by licensed practical nurses.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6507(1) and (2), 6902(1) and (2), and 6951(1), (2) and (3).

Part 77 Licensing of Physical Therapists and Certification of Physical Therapy Assistants

Description of Rule: Renewal of a limited permit for a physical therapist assistant.

Need for Rule: To implement Chapter 404 of the Laws of 2002 by establishing requirements for the renewal of a limited permit for a physical therapist assistant and prescribes the examination that must be passed for certification as a physical therapist assistant, and makes nonsubstantial changes in the requirements for licensure as a physical therapist.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6506(1), 6507(2)(a), 6734(d), 6735(c), 6740(c-1), and 6741-a(c), and Section 4 of Chapter 404 of the Laws of 2002.

Section 61.15(a) Mandatory Continuing Education for Dentists

Description of Rule: Mandatory continuing education for dentists.

Need for Rule: To implement Chapter 237 of the Laws of 2001 which requires licensed dentists to complete, on a one-time basis, no fewer than two hours of acceptable coursework regarding the recognition, diagnosis, and treatment of the oral health effects of the use of tobacco and tobacco products, as part of the dentist’s continuing education requirement.

Legal Basis for Rule: Education Law sections 207(not subdivided), 6502(1), 6504(not subdivided), 6507(2)(a) , and 6604-a(2) and (4).

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OFFICE OF CULTURAL EDUCATION

Sections 185.5, 185.13 and 185.14 Local Government Records Management

Description of Rule: Records Retention and Disposition Schedules CO-2 and MI-1.

Need for Rule: To amend Records Retention and Disposition Schedule CO-2 and Records Retention and Disposition Schedule MI-1, thus providing counties and miscellaneous local governments with means to dispose of valueless records not listed on the existing schedules, to maintain voluminous records no longer than the records are needed, and to make the schedules easier to understand.

Legal Basis for Rule: Education Law section 207(not subdivided) and Arts and Cultural Affairs Law section 57.25(2).

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OFFICE OF OPERATIONS AND MANAGEMENT SERVICES

Sections 3.16 and 3.17 Charter School Complaints and Revocations

Description of Rule: Charter school complaints and revocations.

Need for Rule: To (1) establish procedures for the conduct of charter school revocation proceedings initiated by the Board of Regents, and (2) delegate to the Commissioner the authority of the Board of Regents to investigate and respond to complaints against charter schools pursuant to Education Law section 2855(4), authority to issue remedial orders to charter schools pursuant to Education Law section 2855(4), and the authority to place a charter school on probationary status and to develop and impose a remedial action plan pursuant to Education Law section 2855(3).

Legal Basis for Rule: Education Law sections 101(not subdivided), 206(not subdivided), 207(not subdivided), 305(1), (2) and (20) and 2855(1), (2), (3), and (4).

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I. CALENDAR YEAR 1997 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Section 108.7(b) Flag

Description of Rule: Requires public schools to provide specific instruction regarding respect for the flag of the United States of America, its display and use, to include, as a minimum, instruction regarding the provisions of Sections 170 through 177 of Title 36 of the United States Code.

Need for Rule: To comply with the requirements of Education Law section 802(1), as amended by Chapter 601 of the Laws of 1996, which requires public schools to provide the specified instruction.

Legal Basis for Rule: Education Law sections 207 and 802(1) and Chapter 601 of the Laws of 1996.

Section 135.4(c)(7)(ii)(b)(1) Athletic Eligibility

Description of Rule: Student eligibility requirements for interschool competition in grades 9, 10, 11 and 12, to provide that a student may participate in interscholastic athletics until the last day of the school year in which the student attains the age of 19. It affixes eligibility to a student’s age at the start of the legal school year and, thereby, reduces the number of disqualified students. The rule retains the current safety standard which generally precludes students over the age of 19 from participating in interscholastic athletics.

Need for Rule: To promote safe and equitable competition particularly in contact sports and eliminates the potential incentive of students staying in school longer in order to compete in athletic programs.

Legal Basis for Rule: Education Law sections 207, 305(1) and (2), 803(1) and (5) and 3204(3).

Sections 176.1 and 176.2 Mandated Services Reimbursement

Description of Rule: Mandated services reimbursement.

Need for Rule: To eliminate the onerous task of maintaining individual time records for each staff person involved in 14 of the 16 mandates by authorizing the use of time and effort standards established by the Commissioner to determine the time spent on each required service by nonpublic schools.

Legal Basis for Rule: Education Law sections 207 and Chapter 507 of the Laws of 1974, as amended by Chapter 903 of the Laws of 1984.

Section 100.2(bb) School District Report Cards

Description of Rule: The rule establishes criteria for the issuance of school district report cards by all public schools and requires school districts to annually prepare a report card and to make it available by appending it to copies of the proposed budget made publicly available.

Need for Rule: To comply with Chapter 474 of the Laws of 1996, which requires the Commissioner to establish criteria for the issuance and dissemination of school district report cards. It also satisfies federal public reporting requirements under the 1994 reauthorization of ESEA.

Legal Basis for Rule: Education Law sections 207, 1608, 1716, 2554(24), 2509-e(23), 2509-g(21) and 2601-a(7) and sections 157 through 162 of Chapter 474 of the Laws of 1996.

Section 156.12 Contracts for Pupil Transportation Services

Description of Rule: Requirements for boards of education that elect to award contracts for pupil transportation services through a request for proposals (RFP) instead of through competitive bidding.

Need for Rule: The rule is necessary to comply with Chapter 698 of the Laws of 1996, which requires the Commissioner to establish a process for the approval of contracts awarded in response to a request for proposals for pupil transportation services.

Legal Basis for Rule: Education Law sections 207, 305(14) and 3625 and Chapter 698 of the Laws of 1996.

Section 100.2(p) School Deregistration

Description of Rule: To establish a System of Accountability for Student Success for schools in New York State

Need for Rule: To set forth policy of the Board of Regents in order to carry out its responsibility to register public schools in New York State and to ensure that schools are preparing students appropriately to meet State standards. The regulation is also necessary to ensure that improvement efforts are initiated in schools that are not meeting State standards and that such schools are subject to revocation of registration for persistently unacceptable performance. The regulation also helps to ensure that the State is in compliance with federal requirements relating to school accountability.

Legal Basis for Rule: Education Law sections 207, 305(1) and (2) and 308.

Section 156.3(c) Qualifications for School Bus Drivers

Description of Rule: Testing of all new school bus drivers hired after September l, 1997, and a three-year phase-in of testing for veteran school bus drivers.

Need for Rule: To clarify the standards of fitness for school bus drivers consistent with the recommendations of the Commissioner's School Bus Driver Instructor Advisory Committee convened pursuant to section 156.3(c)(2) of the Commissioner's Regulations.

Legal Basis for Rule: Education Law sections 207 and 3624.

Section 100.2(m) Public School Performance Report

Description of Rule: Comprehensive assessment report for nonpublic schools and a public school performance report that include measures of academic performance and attendance, suspension and dropout rates for each school.

Need for Rule: To implement Board of Regents policy on raising standards for all students. It also satisfies federal public reporting requirements under the 1994 reauthorization of the federal Elementary and Secondary Education Act (ESEA).

Legal Basis for Rule: Education Law sections 101, 207, 215 and 305(1) and (2).

Section 100.2(cc) BOCES Report Cards

Description of Rule: Requires each board of cooperative educational services (BOCES) to prepare a BOCES report card and to append it to copies of the proposed administrative budget made publicly available.

Need for Rule: To comply with the provision in Chapter 436 of the Laws of 1997, which requires that each BOCES issue a report card on an annual basis, pursuant to regulations of the Commissioner, commencing with the 1997-98 school year.

Legal Basis for Rule: Education Law sections 101, 207, 215 and 1950(4)(kk) and section 13 of Part A of section 1 of Chapter 436 of the Laws of 1997.

Section 100.12 Instructional Computer Technology Plans

Description of Rule: Requires each school district to develop and maintain a plan for the use of instructional computer technology equipment in order to be eligible for aid for instructional computer technology expenses and identifies what should be included in the plan.

Need for Rule: To comply with the provision in Chapter 436 of the Laws of 1997 which requires, as a condition for eligibility for State aid, that each school district develop and maintain a plan for the use of instructional computer equipment.

Legal basis for Rule: Education Law sections 207 and 3602(26-a) and section 53 of Part A of section 1 of Chapter 436 of the Laws of 1997.

Part 151 and Section 156.7 Universal Prekindergarten Program

Description of Rule: Establishes program components, staff qualifications, program design, application procedures, transition rules, transportation provisions, and a required competitive process in order to implement the universal prekindergarten program.

Need for Rule: To implement universal prekindergarten programs pursuant to the provisions of Chapter 436 of the Laws of 1997.

Legal Basis for Rule: Education Law sections 101, 207, 3602(7)(d) and 3602-e and section 58 of Part A of section 1 of Chapter 436 of the Laws of 1997.

Section 155.17 Contracts for Mobile Instructional Units

Description of Rule: Establishes a process that school districts and BOCES must follow in the award and approval of contracts for mobile instructional units.

Need for Rule: To comply with Chapter 464 of the Laws of 1997, which requires the Commissioner to establish a process for the approval of contracts awarded in response to a request for proposals for mobile instructional units.

Legal Basis for Rule: Education Law sections 207 and 305(14), as amended by Chapter 464 of the Laws of 1997.

Section 170.3 Instructional Support Services

Description of Rule: Purchase of instructional support services by school districts not a component of a BOCES, including a city school in a city having a population in excess of 125,000, and defines for school districts what constitutes instructional support services.

Need for Rule: To implement the provisions of Chapter 436 of the Laws of 1997, by defining the term "instructional support services" for purposes set forth in Education Law section 1950(8-c).

Legal Basis for Rule: Education Law sections 101, 207 and 1950(8-c) and section 14 of Chapter 436 of the Laws of 1997.

Section 170.8 Annual School Budgets

Description of Rule: Requires school districts to prepare annual budgets and budget-related materials in plain language and organized in a manner that promotes public understanding of the material.

Need for Rule: To comply with the provisions of Chapter 436 of the Laws of 1997 which requires district to prepare annual budgets containing the above-specified components.

Legal Basis for Rule: Education Law sections 207, 1608 and 1716 and sections 5 and 7 of Part A of section 1 of Chapter 436 of the Laws of 1997.

Sections 200.1 (o) and (q), 200.1(tt)(uu), 200.9(f)(2) and (f)(3)(iii), 200.16 and 200.20(a)(1) and (3) Special Education Programs and Services to Preschool Students with Disabilities

Description of Rule: Evaluation of preschool students with disabilities and the recommendation for appropriate special education programs and services in the least restrictive environment and establishment of approved rates for preschool programs and tuition reimbursement.

Need for Rule: To comply with paragraph (b) of subdivision 5 of section 4410 of the Education Law, which compels the Commissioner to promulgate definitions needed to ensure that the individualized education program (IEP) of a preschool child indicates the extent of services to be provided to the child when a half-day or full-day program is recommended.

Legal basis for Rule: Education Law sections 207 and 4410, as amended by sections 164, 165, 166 and 169 of Chapter 474 of the Laws of 1996.

Section 200.2(c) District Plans for Special Education Programs and Services

Description of Rule: Requires that a district plan for special education programs and services be filed consistent with the time intervals required in section 3602(10), and that the district plan include an estimated budget.

Need for Rule: To ensure consistency with Education Law section 3602(10), which requires that district plans be revised and made available for public inspection and review by the Commissioner every two years.

Legal Basis for Rule: Education Law sections 207, 3602(3) and (10), 4402(1), (2) and (3), and 4410(13).

Section 200.6(b)(6) Specially Designed Reading Instruction to Students with Disabilities

Description of Rule: Adds specially designed reading instruction, provided by an individual who holds a certificate valid for a reading teacher, to the continuum of services that may be recommended for a student with a disability and authorizes the provision of such instruction.

Need for Rule: To ensure that specially designed reading instruction is provided by individuals with certification and expertise in the area of reading.

Legal Basis for Rule: Education Law section 207 and 4403(3).

Section 200.9(f)(4) Reimbursement of Transportation Expenses for Preschool Students with Disabilities

Description of Rule: Standardized methodology to develop regional maximum per trip rates for the reimbursement of transportation expenses incurred by municipalities providing services to preschool students with disabilities.

Need for Rule: To implement section 4410(c)(1) of the Education Law, which requires the Commissioner to establish regional ceilings for each region of the State on the maximum allowable State reimbursement and sets out factors the Commissioner must consider in developing such ceilings, and thus ensure that the transportation rates for preschool children between counties in the same geographic regions of the State are not widely discrepant.

Legal Basis for Rule: Education Law sections 207, 4401(4), 4402(4), 4405(2) and 4410(8), (10) and (13), and sections 171 and 175 of Chapter 474 of the Laws of 1996.

Sections 276.1(c), 276.10 and Part 279 State Level Review of Impartial Hearing Officer Determinations Regarding Services for Students with Disabilities

Description of Rule: Clarifies procedures for pendency determinations, school board initiated appeals, cross-appeals and review of interim issues, relating to impartial hearings concerning services for students with disabilities.

Need for Rule: To ensure that impartial hearing officers (IHOs) are made aware of their responsibilities to determine issues of pendency pursuant to statute; to ensure clear identification of the sections of an IHO’s decision being challenged and relief sought; to clarify procedures, including timelines, to be followed when a board of education initiates an appeal from an impartial hearing officer's decision; to clarify procedures for cross-appeals; to conform appeals practice to Federal and State requirements; and to otherwise ensure that disagreements regarding a student’s status during the due process proceeding are addressed in a timely manner.

Legal Basis for Rule: Education Law sections 207, 311, 4403(1) and (3), 4404(2) and 4410(13).

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Part 247 Vocational Rehabilitation Program

Description of Rule: Vocational rehabilitation program.

Need for Rule: To ensure that the vocational rehabilitation program is conducted according to Federal requirements set forth in the 1992 amendments to the Rehabilitation Act and the corresponding Federal regulations which took effect March 13, 1997.

Legal Basis for Rule: Education Law sections 207 and 1004(1).

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OFFICE OF OPERATIONS AND MANAGEMENT SERVICES

Section 3.8, 3.9 and 3.15 Chief Operating Officer

Description of Rule: Replaces the term "Executive Deputy Commissioner" with the term "Chief Operating Officer" and designates the chief operating officer as the deputy commissioner of education as specified in Education Law section 101.

Need for Rule: To implement a change in the internal organization of the State Education Department which replaces the position of Executive Deputy Commissioner with the position of Chief Operating Officer.

Legal Basis for Rule: Education Law section 101.

Agency Representative:

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OFFICE OF CULTURAL EDUCATION

Section 185.5 and 185.12 Local Government Records

Description of Rule: Retention schedule for school districts, boards of cooperative educational services, teacher resources and computer training centers and county vocational education and extension boards.

Need for Rule: To update references to Records Retention and Disposition Schedule ED-1,which was substantially revised from its last issue in 1993-94.

Legal Basis for Rule: Education Law section 207 and Arts and Cultural Affairs Law section 57.25(2).

Section 185.10(a) Local Government Records

Description of Rule: Local government records management.

Need for Rule: To streamline the records management improvement grant application process by removing the requirement that a records management plan be developed and approved before that local government is eligible to apply for such grant.

Legal Basis for Rule: Education Law section 207 and Arts and Cultural Affairs Law section 57.35(1) and (2).

Sections 185.1, 185.7, 185.8, 188.2 and 188.20 Local and State Government Records Management

Description of Rule: Local and state government records management.

Need for Rule: To update language to reflect current technologies, remove two definitions of “digital images” and “source code” that are no longer necessary, add a new and more current definition of “automated information system”, add a new definition of “SARA”, remove the requirement that local government officials must maintain the paper original, or a paper copy, or a microform copy of all electronically imaged records which are scheduled to be retained for ten or more years, and updated the definition of “State Archives and Records Administration”.

Legal Basis for Rule: Education Law section 207 and Arts and Cultural Affairs Law sections 57.05, 57.17, 57.23(2) and (3) and 57.29.

Section 188.21 State Government Records Management

Description of Rule: Updates the schedule of fees to reflect changes in the organization of State government and to establish a process for the Division of the Budget to reduce or waive fees under certain conditions.

Need for Rule: To implement Arts and Cultural Affairs Law section 57.05 (9) and (11)(i) and (j), which authorizes the Commissioner of Education to implement a fee schedule to support records management activities for State government agencies and to promulgate rules and regulations setting forth fees to be paid for records management services.

Legal Basis for Rule: Education Law section 207 and Arts and Cultural Affairs Law section 57.05 (9) and (11)(i) and (j).

Agency Representative:

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OFFICE OF THE PROFESSIONS

Section 24.3(c) Waiver of Citizenship/Immunizations Requirement

Description of Rule: Authorizes the Board of Regents to grant time-limited waivers of the statutory citizenship or immunizations status requirements for licensure in medicine.

Need for Rule: To implement statutory amendments to the

provisions of Education Law §6524(b), which authorizes the Board of Regents to grant time-limited waivers of the citizenship or immigration status requirements for licensure in medicine.

Legal Basis for Rule: Education Law sections 207, 6504, 6506(1) and (10), 6507(4)(b) and 6524(6).

Section 24.7(h) Restoration of License

Description of Rule: Establishes time constraints and fee requirements for the filing of petitions for restoration of professional licenses which have been revoked or surrendered.

Need for Rule: To implement a process for consideration by the Board of Regents of petitions for the restoration of a professional license which was either revoked or surrendered.

Legal Basis for Rule: Education Law sections 207, 6504, 6506(1) and (10), 6508(4) and 6511.

Part 65 Licensure in Podiatry

Description of Rule: Requires all individuals who apply for licensure in podiatry on or after July 1, 2000 to have completed one year of supervised postgraduate hospital training in podiatry, acceptable to the Department.

Need for Rule: To require that podiatrists have adequate clinical experience, given discontinuance of the practical examinations as an evaluative method of determining minimal competence.

Legal Basis for Rule: Education Law sections 207, 6501, 6504, 6506(1), 6507(2)(a) and (3)(a), 7004(3) and (4) and 7007(1)(c).

Section 61.15 Dentistry Continuing Education

Description of Rule: Mandatory continuing education requirements for dentists.

Need for Rule: To implement Education Law section 6604-a for dentists, by establishing standards for what constitutes acceptable formal continuing education, education requirements when there is a lapse in practice, requirements for licensees under conditional registration and standards for the approval of sponsors of continuing education to licensed dentists.

Legal Basis for Rule: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 6604-a(1)(a), (b) and (c), (2), (3), (4) and (5).

Section 61.16 Dental Hygiene

Description of Rule: Mandatory continuing education requirements for dental hygienists.

Need for Rule: To implement Education Law section 6609-a, by establishing standards for what constitutes acceptable formal continuing education, educational requirements when there is a lapse in practice, requirements for licensees under conditional registration and standards for the approval of sponsors of continuing education to licensed dental hygienists.

Legal Basis for Rule: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 6609-a(1)(a), (b) and (c), (2),(3),(4) and (5).

Section 63.7 Pharmacy

Description of Rule: Mandatory continuing education requirements for pharmacists.

Need for Rule: To implement Education Law section 6827, by establishing standards for what constitutes acceptable formal continuing education, education requirements when there is a lapse in practice, requirements for licensees under conditional registration and standards for the approval of sponsors of continuing education to licensed pharmacists.

Legal Basis for Rule: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 6827(1)(a), (b) and (c), (2), (3), (4), (5) and (6).

Section 29.10 Public Accountancy

Description of Rule: Unprofessional conduct in the practice of public accountancy.

Need for Rule: To update and clarify the professional standards for public accounting by: (1) conforming the standards for unprofessional conduct in the Regents Rules with those prescribed by national and State standard-setting bodies; (2) limiting instances where accepting contingent fees would constitute unprofessional conduct; (3) eliminating references to outdated pronouncements of the American Institute of Certified Public Accountants; and (4) limiting a licensee’s responsibility to clients for uncompensated work products and clarifying a licensee’s responsibility to provide copies of documents.

Legal basis for Rule: Education Law sections 207, 6504, 6506(1) and (9), 6508(1) and 6509(9).

Sections 29.13 Massage Therapy

Description of Rule: Unprofessional conduct in the profession of massage therapy.

Need for Rule: To clarify and define unprofessional conduct in the practice of massage therapy and to conform regulatory language to statutory terms of massage therapy and massage therapist.

Legal Basis for Rule: Education Law sections 207, 6504, 6506(1) and (9), 6508(1) and 6509(9).

52.15, 78.1, 78.2, 78.3 and 78.4 Massage Therapy

Description of Rule: The rule (1) increases, from 500 to 1000 hours, the amount of instruction and specifies Minimum hours in certain curricular areas for the registration of professional massage therapy programs; (2) ensures that the massage therapy licensing examination measures candidates' knowledge of both western and oriental massage; (3) conforms the regulatory language to that in statute of the terms massage therapy and massage therapist; and (4) ensures that persons licensed as massage therapists on the basis of endorsement of licensure in other jurisdictions meet acceptable education, examination and practice standards.

Need for Rule: To ensure the quality of applicants' preparation for entry level licensure in massage therapy by upgrading educational requirements for professional programs to include subject matter and modalities used in contemporary practice and to ensure the competency of individuals licensed through the endorsement of a license issued by another jurisdiction by establishing education, examination and practice standards.

Legal Basis for Rule: Education Law sections 207, 210, 6501, 6504, 6506(6), 6507(2)(a) and (4)(a), 6508(1), 7801, 7804(2) and 7805(3).

78.4 (b) Massage Therapy

Description of Rule: The rule amended subdivision (b) of section 78.4 to replace the term "grant" with the term "recommend", concerning State Education Department actions taken with respect to licensure by endorsement.

Need for Rule: To provide clarification that the State Education Department recommends to the Regents the endorsement of a license issued by another jurisdiction and that the Regents make the decision concerning whether to grant licensure by endorsement.

Legal Basis for Rule: Education Law sections 207, 6501, 6504, 6506(6), 6507(2)(a) and 7804(2).

Sections 52.10, 72.1, 72.2 and 72.3 Psychology

Description of Rule: The rule: (1) revises the curricular requirements for the registration of professional programs in psychology to conform the education requirements to nationally accepted standards; (2) consolidates and clarifies the experience requirement; (3) admits to the licensing exam, applicants who have completed the required doctoral education and one year of supervised experience; and (4) corrects the name of the exam provider.

Need for Rule: To ensure the quality of applicants' preparation for entry-level licensure in psychology by upgrading educational requirements for professional programs.

Legal Basis for Rule: Education Law sections 207, 210, 6501, 6504, 6507(2)(a) and (4)(a), 6508(1), 7603(2), (3) and (4) and 7605(2) and (3).

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OFFICE OF HIGHER EDUCATION

85.1 and 85.2 Mentor-Teacher Internship Program

Description of Rule: The rule (1) makes the requirements for and limitations on interns and mentors who participate in the Mentor-Teacher Internship Program and allowable costs for that program consistent with changes in statutory requirements; (2) removes an unnecessary reference to licenses issued by the City School District of the City of New York; and (3) clarifies that the budget for the program may include up to 10 percent of the salary of each mentor per mentor-intern relationship.

Need for Rule: To conform the Commissioner's Regulations with the requirements and limitations for interns and mentors set forth in Education Law section 3033, as amended by section 117-b of Part A of section 1 of Chapter 436 of the Laws of 1997.

Legal Basis for Rule: Education Law sections 207 and 3033(4) and (5) and section 117-b of Part A of section 1 of Chapter 436 of the Laws of 1997.

145-9 - Merit Scholarships

Description of Rule: Establishes criteria, definitions and procedures for the Merit Scholarships for Academic Excellence Program, including selection criteria for scholarship nominees, definition of high schools that will receive an allocation of scholarship awards, and reporting requirements for the high schools.

Need for Rule: To implement the requirements of Education Law section 605-a and 670-b, as promulgated by sections 11 and 12 of Chapter 309 of the Laws of 1996.

Legal Basis for Rule: Education Law section 207, 605-a(1)(a) and (b) and 670-b(1) and sections 11 and 12 of Chapter 309 of the Laws of 1996.

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