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, in order to determine whether such rules should be modified or continued without modification.

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 that the Department has reviewed and determined should be continued without modification. All section and part references are to Title 8 of the New York Code of Rules and Regulations.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

Section 114.5 Meal Shaming

 Description of Rule: Prohibition against meal shaming.

 Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

Section 154-2.3(i) ELL Grade Span Waiver

 Description of Rule: English Language Learner grade span requirement.

 Justification for Continuation Without Modification: 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. The Department notes that it is considering amending this rule if necessary to ensure that students receive grade-appropriate instruction.

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

 Assessment of Public Comment: No public comment received.

Sections 100.2, 200.1, 200.2, 200.3, 200.4, 200.5, 200.11, 200.15, 200.16 IDEA

 Description of Rule: Students with disabilities.

 Justification for Continuation Without Modification: 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 and make technical revisions to correct cross citations.

 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

OFFICE OF HIGHER EDUCATION

Sections 52.21 and 80-3.10 P-20 Principal Preparation Pilot Program

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

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

Sections 52.21 and 80-4.3 CTE Grade Level Extension

 Description of Rule: Grade level extension for career and technical education teachers.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

Sections 80-3.15 and 80-4.3 Special Education Grade Level Extensions, Limited Extensions, and Statement of Continued Eligibility

 Description of Rule: Grade level extensions, limited extensions, and a statement of continued eligibility for certain teachers of students with disabilities.

 Justification for Continuation Without Modification: To add certificate titles eligible for grade level extensions, limited extensions, and 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, 3004 and 3009.

Assessment of Public Comment: No public comment received.

Section 80-3.7 Initial Certificate Requirements for College Professors.

 Description of Rule: Initial certificate requirements for college professions.

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 80-1.5 Safety Nets for the Science Content Specialty Tests

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

 Justification for Continuation Without Modification: To allow candidates to take either the applicable revised CST or the applicable predecessor CST in Biology, Chemistry, Earth Science, or Physics for one year after the revised CST becomes operational.

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

 Assessment of Public Comment: No public comment received.

Sections 80-3.15 and 80.4-3 Special Education Statement of Continued Eligibility and Limited Extensions

 Description of Rule: Statement of continued eligibility (SOCE) and limited extensions for certain teachers of students with disabilities.

 Justification for Continuation Without Modification: To extend the SOCE application deadline and the time period upon which the experience for the SOCE and limited extension must be completed by one year.

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

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: To amend the student teaching requirements for the individual evaluation pathway to certification and registered teacher preparation programs.

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

 Assessment of Public Comment: No public comment received.

Section 80-5.25 Transitional H certificate

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

 Justification for Continuation Without Modification: To expand the type of eligible experiences for the Transitional H certificate that leads to School District Business Leader certification.

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

 Assessment of Public Comment: No public comment received.

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 Registered Programs and Certification

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

 Justification for Continuation Without Modification: To amend the 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.

 Assessment of Public Comment: No public comment received.

Section 80-1.5 Safety Net for the Educational Technology Specialist Content Specialty Test

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

 Justification for Continuation Without Modification: To extend the Educational Technology Specialist Content Specialty Test (CST) safety net until six months after the revised Educational Technology Specialist CST is redeveloped and operational.

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

 Assessment of Public Comment: No public comment received.

Section 80-1.5 edTPA Safety Net

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

 Justification for Continuation Without Modification: To extend the edTPA safety net expiration date to enable candidates to be held harmless during the transition to the updated Library Specialist edTPA. The Department notes that this provision has been repealed.

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

 Assessment of Public Comment: No public comment received.

Section 52.21Transitional D Programs

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

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 80-5.17 Conditional Initial Certificate

 Description of Rule: Conditional Initial certificate requirements.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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

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

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

Sections 80-5.8 and 80-5.20 Endorsement Pathway to Certification

 Description of Rule: Eligibility requirements for the endorsement pathway to certification.

 Justification for Continuation Without Modification: To provide candidates with more flexibility to be eligible for the endorsement pathway to certification for certificate titles in the classroom teaching service or in the educational leadership service.

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

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 63.6 Pharmacy Certificate Sales.

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

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 64.7 RN Immunizations

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

 Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

Agency Representative:

OFFICE OF CULTURAL EDUCATION

Sections 179.3 and 179.5 Public Broadcasting

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

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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).

 Justification for Continuation Without Modification: To provide for approval of pathway examinations in Languages Other Than English (LOTE), to meet diploma requirements. The Department notes that the Board has subsequently adopted amendments to the Commissioner’s regulations changing the name of the Languages other than English (LOTE) exam to “World Language Comprehensive Exam.”

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

Assessment of Public Comment: No public comment received.

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).

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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).

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

Section 79-7.2 Certified Athletic Trainer Education Requirements

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

 Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

Section 62.8 Veterinary Continuing Education

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

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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).

Justification for Continuation Without Modification: To establish modified requirements for AIS during the 2014-2015 school year. The Department notes that this provision has subsequently been substantially amended.

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).

Assessment of Public Comment: No public comment received.

Section 100.5(d) State Facility Transfer Credit

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 100.17 Distinguished Educators

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 102.4 Test Security

Description of Rule: Mandatory reporting requirements and testing misconduct.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

OFFICE OF HIGHER EDUCATION

Section 30-2.1 APPR Performance Definition

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

Justification for Continuation Without Modification: 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. The Department notes that this provision has been repealed.

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

Assessment of Public Comment: No public comment received.

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

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

Justification for Continuation Without Modification: 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. The Department notes that in April 2022, amendments were made to modify the teacher performance assessment requirement by eliminating the requirement of the edTPA for certification and, instead, requiring that New York State registered teacher preparation program integrate a teacher performance assessment into the candidates’ student teaching, practicum, or similar clinical experience.

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

Assessment of Public Comment: No public comment received.

Part 80 Reciprocity

Description of Rule: Reciprocity requirements for teacher certification.

Justification for Continuation Without Modification: To establish teacher certification requirements for 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Sections 80-3.3 and 80-3.7 Individual Evaluation Pathway to Certification

Description of Rule: Individual evaluation pathway to certification.

Justification for Continuation Without Modification: To discontinue the individual evaluation pathway to certification for certain certificate titles and continue the individual evaluation pathway for all other certificate titles. The Department notes that this provision has been repealed.

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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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). The Department notes the TASC™ was discontinued on December 31, 2021, and effective January 2022, the GED® Test once again serves as the state’s general comprehensive exam. Therefore, in July 2022 the Department adopted a regulatory amendment of section 100.7(a) to permit candidates for the high school equivalency diploma to apply passing sub-test(s) scores from the GED® taken in calendar years 2002 through 2013 for the English version of the examination and 2003 through 2013 for the Spanish version of the examination as passing scores for up to four corresponding subtest(s) of the approved HSE examination (which was the TASC™) administered on or after January 1, 2014 and before December 31, 2021. Additionally, the proposed amendment permits candidates for the high school equivalency diploma to apply passing sub-test(s) scores from the TASC™ taken in calendar years 2014 through 2021 as passing score(s) for up to three corresponding sub-test(s) of the approved HSE examination (which is currently the GED®) administered on and after January 1, 2022.

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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: To establish modified requirements for AIS during the 2013-2014 school year. The Department notes that this provision has subsequently been substantially amended.

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).

Assessment of Public Comment: No public comment received.

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 (CDOS) Commencement Credentials.

Justification for Continuation Without Modification: To establish criteria for a CDOS commencement credential for students with disabilities. The Department notes that section 100.6 was subsequently amended in 2016 to expand the opportunity to all students to earn the CDOS Commencement Credential, except for students with severe disabilities who are eligible for the NYSAA who would exit with a Skills and Achievement Commencement Credential and to establish criteria for the approval of work-readiness assessments for earning the CDOS Commencement Credential.

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).

Assessment of Public Comment: No public comment received.

Section 119.7 Charter School Charter Renewals

Description of Rule: Charter renewals of charter schools.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: To extend until June 30, 2013 the provision for awarding local high school equivalency diplomas based upon experimental programs. The Department notes that this section was amended in 2016 to extend such provision to August 31, 2016. The Department notes that it is considering amending/repealing this rule because in May 2016, the Board of Regents approved an amendment to 8 NYCRR 100.7 adding NEDP as a third pathway to an HSE diploma and effective September 1, 2016, discontinuing it as a local diploma and lowering the age of eligibility from age 21 to age 18.

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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation of Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 100.5 Diploma Requirements for Students with Disabilities

Description of Rule: Diploma Requirements for Students with Disabilities.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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

Description of Rule: Skills and Achievement Commencement Credential.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. While the Department has added section 100.21 to the Commissioner’s regulations to implement the Department’s ESSA accountability system, section 100.21 provides that the provisions of such section shall apply in lieu of the provisions of section 100.2(p)(1) through (11) and (14) through (16) and section 100.18 of this Part during the period the Elementary and Secondary Education Act, as amended by ESSA is effective. Therefore, the amendments to section 100.18 of the Commissioner’s regulations are still necessary.

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).

Assessment of Public Comment: No public comment received.

Sections 136.5 and 135.4 Concussion Management and Awareness

Description of Rule: Concussion management and awareness.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

OFFICE OF HIGHER EDUCATION

Subpart 4-1 Institutional Accreditation for Title IV Purposes

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Subpart 82-1 Teacher Discipline

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

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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).

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Sections 52.43, 77.1 and 77.11 Professional Study Requirements for Licensure in Physical Therapy

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

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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

Description of Rule: Polysomnographic technologists.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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

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

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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

Description of Rule: Occupational therapy.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Sections 79-1.1 and 79-1.2 Landscape Architecture

Description of Rule: Landscape architecture.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 100.8 National External Diploma Extension

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

Justification for Continuation Without Modification: To extend until June 30, 2013 the provision for awarding local high school equivalency diplomas based upon experimental programs. The Department notes that this section was amended in 2016 to extend such provision to August 31, 2016. The Department notes that it is considering amending/repealing this rule because in May 2016, the Board of Regents approved an amendment to 8 NYCRR 100.7 adding NEDP as a third pathway to an HSE diploma and effective September 1, 2016, discontinuing it as a local diploma and lowering the age of eligibility from age 21 to age 18.

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).

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 120.4 Supplemental Educational Services (SES)

 Description of Rule: Supplemental Educational Services (SES).

 Justification for Continuation Without Modification: 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. The Department notes that this section was renumbered as section 120.2 of the Commissioner’s 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).

Assessment of Public Comment: No public comment received.

Sections 100.13 and 170.12 Contracts for Excellence

Description of Rule: Establishes requirements for Contracts for Excellence.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Sections 21.3 and 100.12 Loan of Instructional Computer Hardware

 Description of Rule: Loan of instructional computer hardware.

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 151-1 Universal Pre-Kindergarten Program

Description of Rule: Universal Pre-Kindergarten program.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. The Department notes that the rule was subsequently revised in 2008 and again in 2009 to conform the Commissioner's Regulations the federal IDEA statutes and regulations and State statute. The rule was also revised in 2009 to extend the date for requiring the State’s forms for IEPs, prior written notice and meeting notice and in 2010 to authorize school districts to add up to two additional students to integrated co-teaching classes.

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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. The Department notes that sections 15.1 et seq. have been repealed and replaced by 154-1 et seq.

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.

Assessment of Public Comment: No public comment received.

Section 175.5 Superintendents' Conference Days

Description of Rule: Superintendents' conference days.

Justification for Continuation Without Modification: 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. The Department notes that this provision has been repealed as it was only applicable from September 29, 2005, through June 30, 2009.

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

Assessment of Public Comment: No public comment received.

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).

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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).

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 170.13 Fiscal Maintenance of Effort

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

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 100.3 Program Requirements for Students in Prekindergarten and Kindergarten

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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”.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Subpart 4-1 Institutional Accreditation

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: To update the current economic eligibility criteria for the Higher Education Opportunity Program at independent colleges and universities. The Department notes that the economic eligibility criteria in this section has subsequently been revised.

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

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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

Description of Rule: Accreditation of teacher education programs.

Justification for Continuation Without Modification: 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. The Department notes that this provision has been repealed.

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).

Assessment of Public Comment: No public comment received.

OFFICE OF THE PROFESSIONS

Sections 29.17 and 77.9 Physical Therapy

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

Justification for Continuation Without Justification: 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).

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: To clarify existing mandatory continuing education requirements and provides more flexibility to the Department for exceptional circumstances that lead to non-compliance. The Department notes that 8 NYCRR 66.5(f) was repealed in 2007 and replaced with 8 NYCRR 66.6.

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

Assessment of Public Comment: No public comment received.

Section 70.3 Public Accountancy

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

Justification for Continuation Without Modification: To revise standards and procedures relating to the examination for licensure in public accountancy. The Department notes that the CPA experience requirements have been amended multiple times since 2007, most recently in September of 2022.

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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

OFFICE OF CULTURAL EDUCATION

Section 90.12 State Aid for Public Library Construction

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

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: To establish procedures for the registration of public schools through the submission of a petition to the Board of Regents. While the Department has added section 100.21 to the Commissioner’s regulations to implement the Department’s ESSA accountability system, section 100.21 provides that the provisions of such section shall apply in lieu of the provisions of section 100.2(p)(1) through (11) and (14) through (16) and section 100.18 of this Part during the period the Elementary and Secondary Education Act, as amended by ESSA is effective. Therefore, the amendments to section 100.2(p) of the Commissioner’s regulations are still necessary.

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).

Assessment of Public Comment: No public comment received.

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).

Justification for Continuation Without Modification: 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. While the Department has added section 100.21 to the Commissioner’s regulations to implement the Department’s ESSA accountability system, section 100.21 provides that the provisions of such section shall apply in lieu of the provisions of section 100.2(p)(1) through (11) and (14) through (16) and section 100.18 of this Part during the period the Elementary and Secondary Education Act, as amended by ESSA is effective. Therefore, the amendments to section 100.2(p) of the Commissioner’s regulations are still necessary.

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.

Assessment of Public Comment: No public comment received.

Section 136.4 On-Site Automated External Defibrillators

 Description of Rule: Automated external defibrillator (AED)

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Sections 151-1.2 Universal Prekindergarten Programs

 Description of Rule: Universal prekindergarten programs.

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 155.25 Electrically Operated Partitions

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

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. The Department notes that the rule was revised in 2005 to add the IDEA requirement that instructional materials meet the National Instructional Materials Accessibility Standard defined in section 1474(e)930(B) of the reauthorized IDEA (Public Law 108-446) and in 2010 to make technical amendments to update Federal law citations and change the address where a copy of federal regulations may be obtained within the New York State Education Department.

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.

Assessment of Public Comment: No public comment received.

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

Description of Rule: Providing copies of IEP’s to teachers, related service providers and other providers.

Justification for Continuation Without Modification: 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’ 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.

Assessment of Public Comment: No public comment received.

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Sections 246.3 and 246.6 Vocational Rehabilitation Program

 Description of Rule: Vocational rehabilitation program.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

 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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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

 Description of Rule: Teacher education programs requirements.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. The Department notes that the Speech Hearing Handicapped certificate no longer exists, therefore, the Department is considering repealing this rule.

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

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: To update the current criteria for determining student economic eligibility for the Higher Education Opportunity Program. The Department notes that the criteria for determining student economic eligibility has subsequently been revised.

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

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 64.6 Practice of Nursing and Midwifery

Description of Rule: Profession of midwifery.

 Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 61.15(a) Mandatory Continuing Education for Dentists

 Description of Rule: Mandatory continuing education for dentists.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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. The Department notes that in March 2022 the Department adopted regulatory amendments repealing sections 185.13 and 185.14 of the Commissioner’s regulations since prior records retention and disposition schedules have been superseded with schedule LGS-1 (Appendix L) pursuant to section 185.15 of the Commissioner’s regulations.

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

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment:

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Sections 176.1 and 176.2 Mandated Services Reimbursement

Description of Rule: Mandated services reimbursement.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment:

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

Section 100.2(p) School Deregistration

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

Justification for Continuation Without Modification: 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. While the Department has added section 100.21 to the Commissioner’s regulations to implement the Department’s ESSA accountability system, section 100.21 provides that the provisions of such section shall apply in lieu of the provisions of section 100.2(p)(1) through (11) and (14) through (16) and section 100.18 of this Part during the period the Elementary and Secondary Education Act, as amended by ESSA is effective. Therefore, the amendments to section 100.2(p) of the Commissioner’s regulations are still necessary.

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

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: To implement Board of Regents policy on raising standards for all students. It also satisfies federal public reporting requirements under the federal Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act of 2015.

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

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: To implement universal prekindergarten programs pursuant to the provisions of Chapter 436 of the Laws of 1997. The Department notes that these regulatory provision have been substantially revised to conform with Chapter 57 of the Laws of 2007.

 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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. The Department notes that this section has been renumbered as section 155.21 of the Commissioner’s regulations.

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

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. The Department notes that this rule was subsequently revised in 1999 and 2010 to conform the Commissioner’s Regulations to State statute.

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

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Part 247 Vocational Rehabilitation Program

Description of Rule: Vocational rehabilitation program.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

OFFICE OF OPERATIONS AND MANAGEMENT SERVICES

Section 3.8, 3.9 and 3.15 Chief Operating Officer

 Description of Rule: Removes the term "Chief Operating Officer".

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment:

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.

Justification for Continuation Without Modification: To update references to Records Retention and Disposition Schedule ED-1,which was substantially revised from its last issue in 1993-94. The Department notes that in March 2022 the Department adopted regulatory amendments repealing sections 185.12 of the Commissioner’s regulations since prior records retention and disposition schedules have been superseded with schedule LGS-1 (Appendix L) pursuant to section 185.15 of the Commissioner’s regulations.

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

Assessment of Public Comment: No public comment received.

Section 185.10(a) Local Government Records

Description of Rule: Local government records management.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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. The Department notes that in 2016 amendments to 8 NYCRR 59.4 and 80-1.3 were adopted to eliminate the citizenship requirements for the professions and teaching and educational leadership service.

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

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

Section 61.15 Dentistry Continuing Education

Description of Rule: Mandatory continuing education requirements for dentists.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 61.16 Dental Hygiene

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Section 63.7 Pharmacy

Description of Rule: Mandatory continuing education requirements for pharmacists.

Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

Section 29.10 Public Accountancy

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

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

Sections 29.13 Massage Therapy

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

Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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).

 Assessment of Public Comment: No public comment received.

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.

Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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).

Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.

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.

 Justification for Continuation Without Modification: 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.

 Assessment of Public Comment: No public comment received.