

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 208, 210, 215, 305, 315, 2117, 2854, 3001, 3004, 3009, 3204, 3713, and 8706 of the Education Law.

1. Subdivision (c) of section 79-8.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(c) A limited permit shall be valid for two years and may be renewed by the department for additional two-year periods for up to a total of no more than six years. Due to the State of Emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis, the Department, in its discretion, may renew such limited permit for additional two-year periods beyond six years for good cause shown, as determined by the Department

2. Subclause (2) of clause (c) of subparagraph (iv) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended, to read as follows:

(2) Programs shall be continuously accredited by either:

(i) ...; or

(ii) a professional education accrediting association acceptable to the Department that is seeking recognition from the Council for Higher Education Accreditation or the United States Department of Education. To pursue this option and have its programs be considered continuously accredited under this subclause, the institution shall provide the Department with satisfactory evidence, on a form prescribed by the Commissioner, that it intends to apply for accreditation with a professional education accrediting association that is seeking recognition from the Council for Higher Education

Accreditation or the United States Department of Education, prior to the expiration date of its current accreditation period. The institution will then have [five] six years from the date of such notification to successfully complete the accreditation process. If at any time during the accreditation process, the association determines that the institution's program or programs cannot be accredited by such association and/or that the institution has not diligently pursued an application for accreditation, then the institution's program or programs shall not be considered continuously accredited for purposes of this subclause.

3. Clause (b) of subparagraph (iii) of paragraph (6) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education is amended, to read as follows:

(b) Programs shall be accredited by either:

(1) ...; or

(2) a professional education accrediting association acceptable to the Department that is seeking recognition from the Council for Higher Education Accreditation or the United States Department of Education. To pursue this option and have its programs be considered continuously accredited under this clause, the institution shall provide the Department with satisfactory evidence, on a form prescribed by the Commissioner, that it intends to apply for accreditation with a professional education accrediting association that is seeking recognition from the Council for Higher Education Accreditation or the United States Department of Education, prior to the expiration date of its current accreditation period. The institution will then have [five] six years from the date of such notification to successfully complete the accreditation

process. If at any time during the accreditation process, the association determines that the institution's program or programs cannot be accredited by such association and/or that the institution has not diligently pursued an application for accreditation, then the institution's program or programs shall not be considered continuously accredited for purposes of this clause.

4. Clause (a) of subparagraph (ii) of paragraph (4) of subdivision (h) of section 100.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Area 1: Criteria for Demonstrating Proficiency in English.

(1) Students shall earn one point per item for achieving the following items:

(i) Score 75 or higher on the NYS Comprehensive English Regents Examination, or score 80 or higher on the NYS Regents Examination in English Language Arts [(Common Core)] (however, students in schools with an alternate pathway for graduation approved by the Commissioner will be held to those schools' criteria), or students who have been exempted from the applicable Regents Examination in English Language Arts in the June 2020 or August 2020 Regents examination administration pursuant to subparagraph (vi) of paragraph (5) of subdivision (a) of this section, or English Language Learners (ELLs) score 75 or above on two Regents exams other than English, without translation, or ELLs have been exempted from two of the applicable Regents examinations in the June 2020 or August 2020 Regents examination administration as pursuant to subparagraph (vi) of paragraph (5) of subdivision (a) of this section.

(ii) ELLs [score at the Commanding level in two modalities] earn an overall score of 290 on the New York State English as a Second Language Achievement Test (NYSESLAT) or who were identified in the 2019-2020 school year at the Transitioning or Expanding English Language Proficiency Level by the statewide English language proficiency identification assessment or the annual English language proficiency assessment and who earned credit in a course of study for English as a New Language or Bilingual Education in the 2019-2020 school year.

5. Subdivision (a) of section 154-2.3 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (10) to read as follows:

(10) (i) Notwithstanding any other provision of this section to the contrary due to the COVID-19 crisis, for the 2020-2021 school year, any parent of a student who attends a school which is operating fully remotely pursuant to the district's reopening plan, or have opted to have their child receive instruction entirely remotely pursuant to the district's reopening plan, and whose child has been provisionally identified as an ELL pursuant to paragraphs (1) and (2) of this subdivision, or paragraph (3) of this subdivision for students who have a disability, may submit a written statement to the district waiving the administration of the statewide English language proficiency identification assessment pursuant to paragraph (4) of this subdivision. The district shall maintain a record of such written waiver for at least three years.

(ii) A parent shall submit the waiver described in subparagraph (i) of this paragraph within ten (10) days after enrollment for the 2020-2021 school year, provided, however, that parents whose child was either newly enrolled during the COVID-19 closures in the 2019-2020 school year, Summer 2020 or the first twenty (20) days of the

2020-2021 school year shall submit such waiver within thirty (30) school days after the commencement of the 2020-2021 school year.

(iii) If a waiver is submitted pursuant to subparagraph (i) of this paragraph, the child shall remain provisionally identified as an ELL for the 2020-2021 school year, unless the school such child attends changes to in-person or hybrid instruction during such school year, or the parent has opted to no longer have their child receive instruction entirely remotely. Within ten days of either instance such child shall be administered the English language proficiency identification assessment pursuant to paragraph (4) of this subdivision.

(iv) School districts shall maintain a record of all waivers submitted pursuant to this paragraph for a period for at least three years.