NOTICE OF REVIEW OF EXISTING RULES PURSUANT TO STATE ADMINISTRATIVE PROCEDURE ACT SECTION 207 (Calendar Years 2020, 2019, 2018, 2015, 2014, 2013, 2008, 2003 and 1998)

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

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

Pursuant to SAPA section 207, the State Education Department submits the following list of its rules that were adopted during calendar years 2020, 2019, 2018, 2015, 2014, 2013, 2008, 2003 and 1998 and invites public comment on the continuation or modification of such rules. All section and part references are to Title 8 of the New York Code of Rules and Regulations. Comments should be submitted to Julia Patane, New York State Education Department, Office of Counsel, 89 Washington Avenue, Room 148 Albany, NY 12234 by email at REGCOMMENTS@nysed.gov and must be received within 45 days of the date of publication of this Notice.

A. CALENDAR YEAR 2020 (3 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Sections 155.1, 155.2, 155.3, 155.4, and 155.8 Building Condition Survey

Description of Rule: Building condition surveys and visual and periodic inspections of public school buildings

Need for Rule: To align the Commissioner's Regulations with amendments made to Education Law sections 409-9d, 409-e, and 3641 by sections 52-b, 52-e, and 52-f of Part YYY of Chapter 59 of the Laws of 2019.

Legal Basis for Rule: Education Law sections 101, 207, 215, 305, 308, 309, 403-a, 403-b, 408, 409, 409-d, 409-e, 409-f(1) and (2), 409-h, 1940(4)(t). 2215(17), 2503, 2554, 2801-a, 3602, 3641, 3713 (1) and (2), 4402, 4403, Energy Law section 9-103(8), Environmental Conservation Law sections 8-0113(8), 8-0117(5), 26 USC 54E, 26 USC54F, 26 USC 142 (a) and (k), 26 USC 1397E, Executive Law section 102(2) and article 2-B, Chapters 64 of 1994, 436 of 1997, 231 of 2002, 54 of 2016, and Part YYY of Chapter 59 of 2019.

Part 121 Data Privacy

Description of Rule: Strengthening data privacy and security in NY State educational agencies.

Need for Rule: To protect personally identifiable information.

Legal Basis for Rule: Education Law sections 2-d, 101, 207 and 305.

Section 175.5 Instructional Hour Requirement

Description of Rule: Authorizes the Commissioner to provide a waiver for up to four school years (2018-2019, 2019-2020, 2020-2021, and/or 2021-2022) for certain school districts that cannot meet the minimum instructional hours because of safety and/or scheduling issues.

Need for Rule: To address concerns by a small number of school districts that have indicated that, due to safety issues and/or other scheduling challenges, they are unable to meet the minimum annual instructional hour requirements. The Department notes that this waiver is no longer available, as the last year for the waiver was the 2021-2022 school year.

Legal Basis for Rule: Education Law sections 101, 207, 305, 3602, 3604 and 3609-a.

Section 100.5 Raise the Age

Description of Rule: Physical Education requirements for a diploma and transfer credits for students earning credit in an educational program.

Need for Rule: To implement Raise the Age legislation pursuant to Part WWW of Chapter 59 of the Laws of 2017.

Legal Basis for Rule: Education Law sections 101, 112, 207, 208, 209, 210, 215, 305, 209, 3202, and 3204 and Part WWW of Chapter 59 of the laws of 2017.

Subparts 30-2 and 30-3 Annual Professional Performance Reviews of Classroom Teachers and Building Principals

Description of Rule: Annual professional performance reviews (APPR) of classroom teachers and building principals.

Need for Rule: To implement Part YYY of Chapter 59 of the laws of 2019.

Legal Basis for Rule: Education Law sections 101, 207, 215, 305, 3012-d,

and Chapter 59 of the Laws of 2019.

Section 170.17 ESSA Financial Transparency Reporting Requirements

Description of Rule: Every Student Succeeds Act (ESSA) financial transparency reporting requirements.

Need for Rule: To implement financial transparency reporting requirements of ESSA.

Legal Basis for Rule: Education Law sections 101, 207, 305, 3614, and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C sections 6301 et seq. (Public Law 114-95, 129 STAT. 1802).

Sections 156.1, 156.2, 156.3 Transportation

Description of Rule: Updates provisions relating to pupil transportation and provides flexibility in response to the COVID-19 crisis.

Need for Rule: To update provisions relating to pupil transportation and to provide flexibility in response to the COVID-19 crisis.

Legal Basis for Rule: Education Law sections 101, 207, 305(14)(d), 1604(23), 1709, 3602(7)(a)-(b) and (d), 3624, 3625, 3635(4), 3637, and Vehicle and Traffic Law sections 509-g and 1229-d.

Section 119.3 Charter School Financial Transparency Reports

Description of Rule: Establishes criteria and procedures relating to charter school financial transparency reporting.

Need for Rule: To ensure compliance with the federal Every Student Succeeds Act (ESSA).

Legal Basis for Rule: Education Law sections 101, 206, 207, 305 and 2857.

Section 100.7(h) Alternative High School Equivalency Preparation and Alternative Transition Programs

Description: Alternative High School Equivalency Preparation (AHSEP) and Alternative Transition Programs (ATP).

Need for Rule: To expand the eligibility to run the Alternative High School Equivalency Preparation Programs (AHSEP) and the Alternative Transition Programs (ATP) to other State agencies responsible for providing daily instruction to residential students at least 16 years of age and under the age of 21.

Legal Basis for Rule: Education Law sections 206, 207, 210, 214, 215 and 305.

Section 135.4 Interschool Competition and Inclusive Athletic Activities

Description: Eligibility for participation of students with individualized educational programs (IEPs), section 504 or Americans with disabilities (ADA) plans in interschool competition and inclusive athletics.

Need for Rule: To clarify eligibility requirements for participation of students with IEPs section 504 or ADA pans in interschool competition.

Legal Basis for Rule: Education Law sections 101, 207, 305, 803, and 3204, section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, the Americans with Disabilities Act 42 U.S.C. §12101, et. seq., and the Individuals with Disabilities Education Act, 20 U.S.C. §1400, et. seq.

Section 170.14 Financial Transparency Requirement Reporting Deadlines

Description of Rule: Financial transparency requirement reporting deadlines.

Need for Rule: To permit the Department to establish the financial transparency reporting requirement deadline administratively.

Legal Basis for Rule: Education Law sections 101, 207, 305, 3614, and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C sections 6301 et seq. (Public Law 114-95, 129 STAT. 1802).

OFFICE OF HIGHER EDUCATION

Sections 80-3.15, 80-3.4 SOCE Subject Areas

Description of Rule: Addition of subject areas to the limited extension and statement of continued eligibility (SOCE) for certain teachers of students with disabilities.

Need for Rule: To enable more qualified teachers of students with disabilities to seek the limited extension and SOCE. The Department notes that applications for the SOCE must have been submitted to the Department on or before June 30, 2021.

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

Section 80-1.6 Time Extension

Description of Rule: Time extension of Initial, Transitional and Provisional certificates.

Need for Rule: To provide educators with a time extension after the issuance of their first Initial or Provisional certificate.

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

Section 3.14 Professional Standards Practices Board

Description of Rule: Requires the Professional Standards and Practices Board for Teaching (PSPB) to have at least four members who are practicing, certified school building or district administrators in schools or districts.

Need for Rule: By requiring at least four administrators on the Board, the Professional Practices subcommittee is likely to have the two administrators needed at any given meeting to hear moral character cases.

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

Part 80-1.5 Creating Safety Nets for the Arts Content Specialty Tests (CSTs).

Description of Rule: Creates safety nets for the Arts Content Specialty Tests (CSTs)

Need for Rule: To allow candidates to take either the applicable revised CST or the applicable predecessor CST in Dance, Music, Theater, and Visual Arts for one year after the revised CSTs become operational. The proposed safety nets allow candidates to be held harmless during the one-year transition period from the predecessor CSTs to the revised CSTs.

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

Section 80-5.28 Transitional J Certificate

Description of Rule: Transitional J certificate for military spouses.

Need for Rule: To create a Transitional J certificate for spouses of individuals on full-time active duty with the Armed Forces.

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

Part 49 State Authorization Reciprocity Agreement (SARA)

Description of Rule: Authorizes New York higher education institutions to participate in the SARA and the approval of out-of-state institutions to provide distance education to New York residents.

Need for Rule: To align the Commissioner's regulations with national SARA policy and federal regulations.

Legal Basis for Rule: Education Law sections 101, 207, 210, 210-c, 212 and State Finance Law section 97-llll.

OFFICE OF THE PROFESSIONS

Sections 29.2 and 52.26 and Part 61 Dental Assisting

Description of Rule: Changes references to “certified dental assistant” and “certified dental assisting” to “registered dental assisting.”

Need for Rule: To conform the Commissioner’s regulations with Chapter 390 of the laws of 2019.

Legal Basis for Rule: Education Law sections 207, 6504, 6507, 6509, 6608-a and Chapter 390 of the Laws of 2019.

Section 52.14 and 73.1 Chiropractic

Description of Rule: Amends requirements for chiropractic education programs and education requirements for licensure as a chiropractor.

Need for Rule: To conform educational requirements for the profession of chiropractic to the national preprofessional education standards.

Legal Basis for Rule: Education Law sections 207, 6504, 6507, 6551, and 6554.

Section 60.13 Out-of-State Physicians for Athletic Teams

Description of Rule: Permits physicians licensed in another state or territory to provide medical services to athletes and team personnel in New York

Need for Rule: To align the Commissioner’s regulations with Chapter 519 of the laws of 2018 and Chapter 199 of the Laws of 2019.

Legal Basis for Rule: Education Law sections 207, 6504, 6507, 6510, 6521, 6522, 6526, Chapter 519 of the Laws of 2018 and Chapter 199 of the Laws of 2019.

Section 79-13.5 Toxicology

Description of Rule: Restricted license for Clinical Laboratory Technologist.

Need for Rule: To implement Chapter 227 of 2019 by adding toxicology to the category of restricted licenses for Clinical Laboratory Technologists.

Legal Basis for Rule: Education Law sections 207, 6504, 6506, 6507 and 8610 and Chapter 227 of the laws of 2019.

Section 70.9(a) CPA

Description of Rule: Continuing education in the profession of Public Accountancy

Need for Rule: To implement the provisions of Chapter 413 of the Laws of 2018.

Legal Basis for Rule: Education Law sections 207, 6504, 6507, 6509, 7401, and 7409, and Chapter 413 of the Laws of 2018.

Sections 69.1, 69.2, 69.3 Architecture

Description of Rule: Requirements for licensure as an Architect.

Need for Rule: To more closely align the Commissioner's Regulations with national standards for licensure as an architect.

Legal Basis for Rule: Education Law sections 207, 6504, 6506, 6507 and 7304.

Section 61.18 Residency Program Dental Licensure

Description of Rule: Adds dental anesthesiology to the list of accredited residency programs in a specialty of dentistry.

Need for Rule: To prevent the State from losing qualified dental licensure applicants, with dental anesthesiology specialty training, because dental anesthesiology was not on the list of accredited residency programs in a specialty of dentistry that can be used to meet the residency program requirement for dental licensure.

Legal Basis for Rule: Education Law sections 207, 6504, 6506, 6507, 6601, 6604, and 6605-a.

Section 60.2 Advisory Committee Term Limits

Description of Rule: Term limits for members of the advisory committee on long-term clinical clerkships.

Need for Rule: To remove the two-term limit for committee members to most effectively advise the Board of Regents and the Department.

Legal Basis for Rule: Education Law sections 207, 605, 6501, 6504, 6506, 6507, 6508, 6524, 6525, 6526, 6541, and 6548.

Section 60.2 Social Work Exempt Settings

Description of Rule: Clarifies settings that do not require a waiver from corporate practice restrictions under Education Law §6503-a and are acceptable settings for completing the experience required for licensure in psychology, social work and mental health practitioners and education and supervision requirements for unlicensed individuals authorized to practice in certain settings without licensure as a psychologist or mental health practitioner

Need for Rule: To implement Part Y of Chapter 57 of the laws of 2018.

Legal Basis for Rule: Education Law sections 207, 212, 6501, 6503, 6503-a, 6504, 6506, 6507, 6508, 7601, 7605, 7704, 7705, 7706, 8402 and 8410, Insurance Law sections 3221 and 4303 and Part Y of Chapter 57 of the Laws of 2018.

Section 70.4 CPA Exams

Description of Rule: Licensing examinations in the profession of public accountancy.

Need for Rule: To conform the Commissioner's Regulations to the national licensing examination standards in public accountancy.

Legal Basis for Rule: Education Law sections 207, 6504, 6507, 6509, 7401, and 7404.

Section 64.1 RNS Degree in Nursing

Description of Rule: Implements New York’s “BS in 10 Law” to require that registered professional nurses attain a baccalaureate or higher degree in nursing within ten years of licensure in order to continue to practice in New York State.

Need for Rule: To implement Chapter 502 of the Laws of 2017 and Chapter 380 of the Laws of 2018.

Legal Basis for Rule: Education Law sections 207, 6504, 6506, 6507, 6905, Chapter 502 of the Laws of 2017 and Chapter 380 of the Laws of 2018.

Section 72.6 Psychology

Description of Rule: Continuing education requirements for licensed psychologists.

Need for Rule: To implement Chapter 436 of the 2018 requiring continuing education for psychologists.

Legal Basis for Rule: Education Law sections 7600, 7601, 7601-a, 7602, 7603, 7604, 7605, 7606, 7607, and Chapter 436 of the Laws of 2018.

OFFICE OF CULTURAL EDUCATION

Sections 185.5 and 185.15 Local Government Records Retention and Disposition Schedules

Description of Rule: Provides for a new records retention and disposition schedule for use by cities, towns, villages, fire districts, counties, school districts, boards of cooperative educational services, teacher resource and computer training centers, county vocational education and extension boards, and miscellaneous local governments.

Need for Rule: To revise and update requirements for the management and oversight of local government records

Legal Basis for Rule: Education Law §207(not subdivided) and Arts and Cultural Affairs Law §§57.19, 57.25 and 57.9.

OFFICE OF OPERATIONS AND MANAGEMENT SERVICES

COVID-19 Part III

Description of Rule: Addresses the COVID-19 crisis.

Need for Rule: To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis.

Legal Basis for Rule: Education Law sections 2-d, 101 206, 207, 208, 209, 210, 214, 215, 305, 308, 309, 661, 803, 804-c, 911, 1125, 1126, 1128, 1132, 3004, 3009, 3028-b, 3204, 3205, 3210, 3212, 3602, 6504, 6506, 6507, 6601, 6605-a.

COVID-19 Part IV

Description of Rule: Addressing the COVID-19 crisis and planning for the reopening of schools

Purpose of Rule: To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools.

Legal Basis for Rule: Education Law sections 101, 207, 208, 209, 215, 305, 308, 309, 602, 661, 905, 1709, 2117, 2854, 3001, 3004, 3009, 3204, 3205, 3208, 3212, 3214, 3602, 3602-c, 3602-e, 3604, 3623, 3713, 4401, 4403, and 4410.

COVID-19 Part V

Description of Rule: Addressing the COVID-19 crisis and planning for the reopening of schools.

Purpose of Rule: To provide regulatory flexibility due to the COVID-19 crisis and to plan for the reopening of schools.

Legal Basis for Rule: Education Law sections 101, 207, 208, 210, 215, 305, 315, 2117, 2843, 3001, 3004, 3009, 3204, 3713, and 8706.

B. CALENDAR YEAR 2019 (4 YEAR REVIEW)

The State Education Department did not adopt any rules in the year 2019 to be initially reviewed in 4 years.

C. CALENDAR YEAR 2018 (5 YEAR REVIEW)

The State Education Department did not adopt any rules in the year 2018 to be initially reviewed in 5 years.

D. CALENDAR YEAR 2015 (3 YEAR INITIAL, 5 YEAR SUBSEQUENT REVIEW)

OFFICE OF P-12 EDUCATION

Section 100.2(c)(11) CPR/AED Instruction

Description: Instruction in cardiopulmonary resuscitation (CPR) and use of automated external defibrillators (AEDs)

Need for Rule: To require hands-only instruction in CPR and instruction in the use of AEDs in senior high schools.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1), (2), (20) and (52), 308(not subdivided), 804-c(2), 804-d(not subdivided) and Chapter 417 of the Laws of 2014.

Section 200.9 SEIS Reimbursement

Description: Special education itinerant services (SEIS)

Need for Rule: To revise the SEIS tuition reimbursement methodology to: (1) provide that reimbursement is to be paid upon the actual provision of SEIS to the student, in conformity with Chapter 56 of the Laws of 2014; (2) allow flexibility in how the minimum billable units of service adjustment are applied; and (3) clarify that consultation with a student’s regular early childhood provider is expressly included as a potential function of a special education itinerant teacher.

Legal Basis for Rule: Education Law sections 101 (not subdivided), 207(not subdivided), 305(1), (2) and (20), 4003(1) and (2), 4401(5), 4405(4) and 4410(10), and section 11 of Part A of Chapter 56 of the Laws of 2014

Section 100.7 High School Equivalency

Description: State high school equivalency diploma.

Need for Rule: To update, clarify and make technical changes, including provisions relating to the Alternative High School Equivalency Preparation Programs (AHSEP), and otherwise conform to reflect current Department policy and practice.

Legal Basis for 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

OFFICE OF HIGHER EDUCATION

Section 145-2.2 Tuition Assistance Program Academic Standing

Description: Tuition Assistance Program.

Need for Rule: Establishment of standards for a student to regain good academic standing for the purposes of receiving awards under TAP.

Legal Basis for Rule: Education Law sections 101, 207 (not subdivided), 305(1) and (2), 602(2), 661(2) and 665(6).

Sections 30-1.3, 82-1 and 83-3 Probationary Appointments and Tenured Hearings

Description: Probationary appointments and tenured teacher hearings

Need for Rule: To Implement Subparts D and G of Part EE Chapter 56 of the Laws of 2015.

Legal Basis for Rule: Education Law sections 207(not subdivided), 215(not subdivided), 305(1) and (2), 2509(1) and (2), 2573(1), (5) and (6), 3001(2), 3004(1), 3009(1), 3012(1) and (2), 3012-c(1-10), 3012-d(1-15), 3014(1) and (2), 3020(3) and (4), 3020-a(2) and 3020-b(1-6), and Subparts D and G of Part EE of Chapter 56 of the Laws of 2015.

OFFICE OF THE PROFESSIONS

Sections 3.47 and 3.50 Doctorate in Occupational Therapy (O.T.D.)

Description: Doctor of Occupational Therapy (O.T.D.) degree.

Need for Rule: To authorize the conferral in New York State of the degree of Doctor of Occupational Therapy (O.T.D.).

Legal Basis for Rule: Education Law sections 207(not subdivided), 210 (not subdivided), 214 (not subdivided), 215 (not subdivided), 218(1), 224(4), and 305(1) and (2).

OFFICE OF CULTURAL EDUCATION

Section 230.2 Cultural Education Center Facilities

Description: Use of department facilities in the Cultural Education Center (CEC).

Need for Rule: To prescribe standards for the use of department facilities in the CEC.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided) and 305(1), (2), (6) and (20).

E. CALENDAR YEAR 2014 (4 YEAR INITIAL REVIEW, 5 YEAR SUBSEQUENT)

OFFICE OF P-12 EDUCATION

Sections 154.2 and 154.3 Examination Requirements for Identifying Pupils with Limited English Proficiency

Description: Pupils with limited English proficiency

Need for Rule: To specify the NYS Identification Test for English Language Learners (NYSITELL) for purposes of identifying pupils with limited English proficiency. The Department notes that sections 154.2 and 154.3 have been renumbered to sections 154-1.2 and 154-1.3, respectively.

Legal Basis for Rule: Education Law sections 207(not subdivided), 208(not subdivided), 215(not subdivided), 305(1) and (2), 2117(1) and 3204(2), (2-a), (3) and (6).

Sections 200.7 and 200.15 “Protection of People with Special Needs Act”

Description: Protection of People with Special Needs Act (L. 2012, Ch. 501)

Need for Rule: To conform Commissioner's regulations relating to students attending residential schools to L. 2012, Ch. 501.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 4002(1)-(3), 4212(a), 4314(a), 4358(a), 4403(11), 4308(3), 4355(3), 4401(2), 4402(1) - (7), 4403(3), (11) and (13), 4410(1) - (13), and Chapter 501 of the Laws of 2012.

F. CALENDAR YEAR 2013 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Section 100.5 Diploma Requirements for Students with Disabilities

Description of Rule: Diploma requirements for students with disabilities.

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

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

Sections 100.5, 100.6 & 200.5 Career Development and Occupational Studies Credentials

Description of Rule: Career Development and Occupational Studies (CDOS) credential.

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

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

Section 100.2(kk) Dignity Reporting

Description of Rule: Reporting requirements under the Dignity for All Students Act

Need for Rule: To implement Ch. 102, L. 2012 changes to the Dignity Act, for reporting incidents of harassment, bullying and discrimination.

Legal Basis of Rule: Education Law sections 11(7) and (8), 13(1), 15(not subdivided), 16(not subdivided), 101(not subdivided), 207(not subdivided), 305(1) and (2) and 2854(1)(b), and Chapter 102 of the Laws of 2012.

Sections 100.2(1)(2) and 119.6 Dignity Code of Conduct

Description of Rule: The inclusion of Dignity Act components in the Code of Conduct

Need for Rule: To conform regulations to code of conduct provisions in the Dignity for All Students Act, as amended by Ch.102, L.2012.

Legal Basis of 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 Chapter 102 of the Laws of 2012.

Section 100.2(c) Dignity Instruction

Description of Rule: The Dignity for All Students Act (L. 2010, Ch. 482; L.2012, Ch.102)

Need for Rule: To prescribe instructional requirements to implement the Dignity Act, as amended by Ch. 102 of the Laws of 2012.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 801-a(not subdivided) and 2854(1)(b) and Chapter 102 of the Laws of 2012.

Section 119.7 Charter School Charter Renewals

Description of Rule: Charter school renewals.

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

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

Section 200.18(b) Fiscal Audits of Special Education Preschool Programs and Services

Description of Rule: Fiscal audits of special education preschool programs and services for which a municipality bears responsibility.

Need for Rule: To implement L.2010, Ch.57, section 24 by establishing standards and procedures for municipalities to perform fiscal audits

Legal Basis of Rule: Education Law sections 207(not subdivided), 4401(2), 4403(3) and 4410(1)(g), (11)(c)(i) and (ii), and (13) and section 24 of Chapter 57 of the Laws of 2013.

Section 100.2(jj) Dignity Act Training

Description of Rule: Policy, procedures and guidelines prohibiting harassment, bullying (including cyberbullying) and discrimination against students

Need for Rule: To implement the Ch.102, L.2012 amendments to the Dignity for All Students Act.

Legal Basis of Rule: Education Law sections 11(7) and (8), 12(1), 13(1-5), 14(1-5), 101(not subdivided), 207(not subdivided), 305(1) and (2) and 2854(1)(b), and Chapter 102 of the Laws of 2012.

Title of Part 8 and Section 8.3 State Student Assessments

Description of Rule: State student assessments in the elementary and secondary grades.

Need for Rule: To clarify procedures for establishment of cut scores and performance standards for determining proficiency on State Assessments.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided) and 209(not subdivided).

Section 200.5 Accessing public or private benefits and insurance to pay for special education programs and services under the IDEA

Description of Rule: Accessing public or private benefits and insurance to pay for special education programs and services under the IDEA.

Need for Rule: To conform Commissioner's Regulations to federal parental notice and consent requirements in 34 CFR 300.154

Legal Basis of Rule: Education Law sections 207(not subdivided), 4402(2) and 4403(3)

Sections 200.7 and 200.15 Protection of People with Special Needs Act

Description of Rule: Protection of People with Special Needs Act (L. 2012, Ch. 501)

Need for Rule: To conform Commissioner's regulations relating to students attending residential schools to L. 2012, Ch. 501.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 4002(1)-(3), 4212(a), 4314(a), 4358(a), 4403(11), 4308(3), 4355(3), 4401(2), 4402(1) - (7), 4403(3), (11) and (13), 4410(1) - (13), and Chapter 501 of the Laws of 2012.

Sections 100.5 English Language Arts and Mathematics Common Core Learning Standards

Description of Rule: English Language Arts (ELA) and Mathematics Common Core Learning Standards (CCLS)

Need for Rule: To establish transition requirements for the Regents ELA and Mathematics examinations aligned to the CCLS.

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

Section 135.4 Duration of Competition in High School Athletics

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

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

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

Sections 155.2, 155.12 and 200.2 Special Education Space Plans

Description of Rule: Special education space plans.

Need for Rule: To conform the Commissioner's Regulations to L. 2013, Ch. 57, sections 2-a and 2-b.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1), (2) and (20), 308(not subdivided), 309(not subdivided), 2215(17), 4402(2), 4403(3) and sections 2-a and 2-b of Chapter 57 of the Laws of 2013.

Sections 100.5(g) and 100.18(b) Common Core Learning Standards (CCLS)

Description of Rule: New York State Common Core Learning Standards (CCLS).

Need for Rule: To provide for transition to the Common Core English Language Arts (ELA) and mathematics examinations in certain areas; To provide an additional opportunity for students to meet diploma requirements by passing either the Regents Comprehensive Examination in English or the Common Core ELA examination at the January 2014 test administration; and to update the names of the performance level descriptors for school accountability purposes.

Legal Basis of 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)

Sections 200.3 and 200.5 Additional Parent Member of a CPSE

Description of Rule: Committees on Preschool Special Education (CPSE).

Need for Rule: To conform Commissioner's Regulations to L. 2013, Ch. 213, relating to the additional parent member on a CPSE.

Legal Basis of Rule: Education Laws sections 101(not subdivided), 207(not subdivided), 305(1) and (2) and (20), 4402(1)(b)(1)(b), 4403(3) and 4410(13) and Chapter 213 of the Laws of 2013.

OFFICE OF HIGHER EDUCATION

Sections 80-1.7 and 80-1.8 Renewals of a Provisional SAS Certificate and Reissuances of Initial Certificates

Description of Rule: Renewals of a provisional SAS certificate and reissuances of initial certificates.

Need for Rule: To change the requirements for renewal of a SAS certificate & requirements for a reissuance of an initial certificate.

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

Section 80-5.5 Employment of Retired Public Employees

Description of Rule: Employment of retired public employee.

Need for Rule: To implement Retirement and Social Security Law §212(3), as added by Section 1 of Part Y of Chapter 55 of the Laws of 2013, which provides the Commissioner of Education with discretion to eliminate the earnings limitations for retired police officers employed by a school district as a school resource officer.

Legal Basis of Rule: Education Law sections 101(not subdivided), 207(not subdivided) and 305(1), (2) and (20); Retirement and Social Security Law sections 211(2)and (8); and 212(3) and Section 1 of Part Y of Chapter 55 of the Laws of 2013

Section 3.12 and Subpart 4-1 Relating to Institutional Accreditation for Title IV Purposes

Description of Rule: Institutional accreditation for Title IV purposes.

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

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

Sections 52.21, Subpart 57-4 and Part 80 Dignity Act Training

Description of Rule: Coursework or training in harassment, bullying and discrimination prevention and intervention.

Need for Rule: To require that applicants for an administrative or supervisory service, classroom teaching service or school service certificate or license on or after July 1, 2013, shall have completed at least six hours of coursework or training in harassment, bullying and discrimination prevention and intervention as prescribed in the Dignity for All Students Act.

Legal Basis of Rule: Education Law sections 14(5), 207(not subdivided), 212(3), 305(1) and (2), 3004(1), and 3007(not subdivided) and Chapter 102 of the Laws of 2012.

Sections 83.4 & 83.5 Moral Character Hearings for Certified Teachers and Other Certified School Personnel

Description of Rule: Moral character hearings under 8NYCRR Part 83 for certified teachers and other certified school personnel.

Need for Rule: To establish a rebuttable presumption that a certified individual who is convicted of any crime relating to the submission of false information, or who has committed fraud, relating to his/her criminal history record check lacks good moral character. The proposed amendment also authorizes the Commissioner to initiate a review of the findings and recommendation of a hearing officer or hearing panel in cases involving convictions for any crimes involving the submission of false information, or the commission of fraud, related to a criminal history check.

Legal Basis of Rule: Education Law sections 207(not subdivided), 305(7) and (30), 3001(2), 3001-d(2), 3004(1), 3004-c(not subdivided), 3006(1), 3009(1), 3010(not subdivided) and 3035(1) and (3).

Sections 80-1.13, 80-3.5, 80-5.14 and 80-5.22 Dignity Act Training

Description of Rule: Coursework or training in harassment, bullying and discrimination prevention and intervention.

Need for Rule: To conform the Commissioner's regulations to Education Law §14(5), as amended by Chapter 90 of the Laws of 2013, by making the training requirement on the social patterns of harassment, bullying and discrimination applicable to school professionals applying for a certificate or license on or after December 31, 2013, instead of on or after July 1, 2013.

Legal Basis of Rule: Education Law sections 14(5), 207(not subdivided), 305(1) and (2), 3004(1) and 3007(not subdivided) and Chapter 90 of the Laws of 2013

Sections 80-1.2, 80-1.6 and 80-2.1 Definition of Date of Issuance of Certificates and Expiration of Certain Permanent Certificates from Expired Provisionals

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

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

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

OFFICE OF THE PROFESSIONS

Sections 76.4, 76.9 and 76.10 Occupational Therapy

Description of Rule: Occupational therapy assistant students.

Need for Rule: To establish standards relating to continuing competency, limited permits and supervision of occupational therapy assistant students.

Legal Basis of Rule: Education Law sections 207 (not subdivided), 6504 (not subdivided), 6507(2)(a), 7905(1)(c), 7906(4), and 7908(1)(a), (b), and (c), (2), (3), (4), (5) and (6) and section 5 of Chapter 329 and section 2 of Chapter 444 of the Laws of 2012

Sections 3.47 and 3.50 Doctor of Acupuncture and Oriental Medicine (D.A.O.M) Degree

Description of Rule: Doctor of Acupuncture and Oriental Medicine (D.A.O.M.) degree.

Need for Rule: To authorize the conferral in New York State of the degree of Doctor of Acupuncture and Oriental Medicine (D.A.O.M.).

Legal Basis of Rule: Education Law sections 207(not subdivided), 210(not subdivided), 218(1), 224(4), and 305(1) and (2).

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

Description of Rule: Interpretation & translation for prescription drugs, standardized labeling & patient-centered data elements for medications.

Need for Rule: To implement Part V of Chapter 57 of the Laws of 2012.

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.

Section 60.2 Advisory Committee on Long-Term Clinical Clerkships

Description of Rule: Advisory committee on long-term clinical clerkships.

Need for Rule: Increases from one to two the number of Regents sitting on the Advisory Committee and authorizes the Regents Chancellor to appoint additional Committee members, upon consultation with the Board, and to remove and replace members who have been absent for three or more consecutive Committee meetings.

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

Section 76.10 Occupational Therapy Continuing Competency

Description of Rule: Occupational therapy continuing competency credits.

Need for Rule: Permits continuing competency credits for independent study related to fieldwork education and mentoring from outside the field.

Legal Basis of Rule: Education Law sections 207 (not subdivided), 212 (3), 6504 (not subdivided), 6507(2)(a), and 7908(4 ), (5) and (6).

Section 63.9 Administration of Meningococcal Disease Vaccinations by Pharmacists

Description of Rule: Administration of meningococcal disease vaccinations by pharmacists.

Need for Rule: To implement Chapter 274 of the Laws of 2013 to authorize qualified pharmacists to administer meningococcal disease vaccinations.

Legal Basis of Rule: Education Law sections 207 (not subdivided), 6504 (not subdivided), 6507(2)(a), 6527(7)(c), 6802(22) and 6909(7)(c), and Chapter 274 of the Laws of 2013.

Sections 79-9.4, 79-10.4, 79-11.4 and 79-12.4 Duration of Limited Permits for Applicants Seeking Licensure as Mental Health Practitioners

Description of Rule: Duration of limited permits applicants seeking licensure as mental health practitioners.

Need for Rule: Conform the Commissioner’s regulations to Chapter 485 of the Laws of 2013 that amended Article 163 of the Education Law by standardizing the duration of limited permits for applicants seeking licensure as a mental health counselor, marriage and family therapist, creative arts therapist or psychoanalyst at two years for the initial permit with the possibility of up to two one-year extensions, at the discretion of the Department.

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

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCESS)

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

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

Need for Rule: To implement the provisions of Chapter 381 of the Laws of 2012.

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.

G. CALENDAR YEAR 2008 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Section 175.41 Average Interest Rates Applied to Capital Debt Incurred by NYC for School Purposes

Description of rule: The rule provides an appropriate methodology for computation of the true cost of debt issued by New York City for the purpose of financing school construction.

Need for rule: The rule is needed to align the Commissioner’s regulations with statute and so that New York City can plan its capital expenditures and issue debt to fund them.

Legal basis for rule: Education Law sections 207(not subdivided) and 3602(6)(e)(1).

Section 100.2(x) Unaccompanied youth

Description of rule: Clarifies the definition of "unaccompanied youth" in the Commissioner's Regulations and Subtitle B of Title VII of the federal McKinney-Vento Homeless Education Assistance Act (42 U.S.C. sections 11431 et seq.), as amended. The rule also clarifies that disputes regarding transportation or a child's status as a homeless child or unaccompanied youth are includable as disputes that are subject to prompt resolution procedures in accordance with 42 U.S.C. section 11432(g)(3)(E).

Need for rule: The rule is needed to ensure State and school districts comply with the requirements of the McKinney-Vento Act.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and (2), 3202(1) and (8), 3209(1)(a) and (7) and 3713(1) and (2).

Section 100.15 Reasonable and Necessary Expenses of Distinguished Educators

Description of rule: Establishes criteria for the determination of reasonable and necessary expenses of members of school quality review teams and joint intervention teams, and distinguished educators, who are appointed by the Commissioner to assist low performing districts in improving their academic performance.

Need for rule: The rule is necessary to implement Chapter 57 of the Laws of 2007, which requires the development of an enhanced accountability system for New York State’s schools and districts and includes the development of a system of support and intervention in low performing schools.

Legal basis for rule: Education Law sections 207 (not subdivided) and 211-b(2)(a) and (b) and 211-c(7) and Chapter 57 of the Laws of 2007.

Section 156.3 Idling school buses

Description of rule: The rule prescribes requirements for minimizing the idling of school buses and other vehicles owned or leased by school districts.

Need for rule: The rule is necessary to implement Education Law section 3637, as added by Chapter 670 of the Laws of 2007, which requires the Commissioner to promulgate regulations requiring school districts to minimize, to the extent practicable, the idling of the engine of any school bus and other vehicles owned or leased by the school district while such bus is parked or standing on school grounds, or in front of any school.

Legal basis for rule: Education Law sections 207(not subdivided), 3624(not subdivided) and 3627(1), (2) and (3) and Chapter 670 of the Laws of 2007.

Parts 175, 100, 110 & 144 State Aid

Description of rule: Implements the Foundation Aid provisions enacted by Chapter 57 of the Laws of 2007, brings the Commissioner's Regulations into compliance with other statutory changes to the law, and eliminates obsolete provisions.

Need for rule: The rule is needed to repeal obsolete State Aid provisions and conform the Commissioner’s regulations with the statutory changes to Education Law section 3602 made by Chapter 57 of the Laws of 2007, which changed the school funding system by replacing approximately 30 State Aid categories with a single Foundation Aid.

Legal basis for rule: Education Law sections 101(not subdivided), 207 (not subdivided), 305(1), (2) and (20) and 3602, and Chapter 57 of the Laws of 2007.

Section 136.3 Dental Certificates

Description of rule: The rule prescribes requirements for school districts to request a dental health certificate from each student in the public schools at designated intervals.

Need for rule: The rule is consistent with statutory authority and is necessary to implement Education Law 903, as amended by Chapter 281 of the Laws of 2007.

Legal basis for rule: Education Law section 207(not subdivided), 305(1) and (2), and 903(2)(a) and (b), (3)(b) and (4).

Sections 177.1, 200.1, 200.3 through 200.7, 200.16 and 201.11 Special Education Programs and Services for Students with Disabilities

Description of rule: Ensures that chairpersons of committees on special education are appropriately qualified and establishes procedures when a district receives a request for referral of a student for an initial evaluation for special education services.

Need for rule: To conform the Commissioner's regulations to Chapter 378 of the Laws of 2007, the Individuals with Disabilities Education Act (IDEA) (20 USC 1400 et seq.), as amended by Public Law 108-446, and the amendments to 34 CFR Part 300.

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

Section 177.2 Disputes of Reimbursement Claims for Special Education Services Provided to Nonresident Parentally-Placed Nonpublic School Students with Disabilities

Description of rule: The rule prescribes a dispute resolution mechanism regarding claims for reimbursement of costs for special education provided to a nonresident student with a disability, who is parentally placed in a nonpublic school located in a school district other than the school district in which the student legally resides.

Need for rule: To implement Education Law §3602-c(7), as amended by Chapter 378 of the Laws of 2007.

Legal basis for rule: Education Law sections 207(not subdivided) and 3602-c(7) and section 4 of Chapter 378 of the Laws of 2007.

Section 100.14 Excelsior Scholars

Description of rule: Nomination of eligible students by school district superintendent to participate in excelsior scholar programs.

. Need for rule: The rule is necessary to clarify procedures for the nomination of eligible students to provide that in instances where a school district has fewer than 10 eligible students, the superintendent may nominate one such student.

implement Education Law section 3641-a, as added by Chapter 57 of the Laws of 2007.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and (2) and 3641-a(1), (2) and (3).

OFFICE OF HIGHER EDUCATION

Section 80-5.5 Waivers of Teacher Certification Requirements

Description of rule: The rule strengthens the current regulatory standards relating to the approval process for the employment of retired persons in public school districts other than the City of New York, boards of cooperative educational services and county vocational educational and extension board prescribed under Section 211 of the Retirement and Social Security Law.

Need for rule: To ensure that such standards conform with legislative intent and to provide transparency and effectiveness in the approval process.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 3003(1), 3004(1) and Retirement and Social Security Law sections 210(not subdivided) and 211(2) and (8).

Section 145-2.2 Tuition Assistance Program

Description of rule: Updates the academic achievement requirements (minimum credits and minimum cumulative grade point average) a student must meet before being certified for a payment on his or her tuition assistance program (TAP) award including such an award for accelerated study.

Need for rule: To conform the Commissioner’s regulations to changes made to Education Law §665(2) and (B) by Parts E-1 and E-2 of section 1 of Chapter 57 of the Laws of 2007.

Legal basis for rule: Education Law sections 207 (not subdivided), 602(1) and (2), 661(2), and 665(2) and (6).

Section 3.50 Honorary degrees

Description of rule: Establishes the list of honorary associate degrees that community colleges and other New York degree-granting institutions may award.

Need for rule: To implement the provisions of Education Law §6306(5-b), as added by Chapter 324 of the Laws of 2006, authorize honorary degrees "[s]ubject to the approval of the Board of Regents."

Legal basis for rule: Sections 207 (not subdivided), 210 (not subdivided), 214 (not subdivided), 215 (not subdivided), 305 (not subdivided) and 6306(5-b) of the Education Law.

Sections 52.21, 80-1.12 and Subpart 57-3 Autism training

Description of rule: Requires teachers seeking certification in special education titles to have course work or training in the needs of students with autism and establishes standards for Education Department approval of providers of course work or training in autism.

Need for rule: To implement the requirements of Education Law §3004 (4) and (5), as added by Chapter 143 of the Laws of 2006.

Legal basis for rule: Education Law sections 207(not subdivided), 215(not subdivided), 208 (not subdivided), 212(3), 305(1) and (2), 3004(1),(4) and (5) and 3007 (not subdivided).

OFFICE OF THE PROFESSIONS

Sections 52.36 and 52.37 and Part 75 Speech/Language Pathology and Audiology

Description of rule: The rule updates the education, experience, examination and endorsement provisions for licensure of speech-language pathologists and audiologists.

Need for rule: The rule conforms New York State requirements for licensure as a speech pathologist or audiologist to federal Medicaid requirements, expands opportunities for qualified speech-language pathologists and audiologists in other jurisdictions to become licensed in New York State, and addresses shortages in the number of speech-language pathologists that exist in New York State school districts.

Legal basis for rule: Education Law sections 207(not subdivided), 212(3), 6504(not subdivided), 6506(5) and (6), 6507(1),(2)(a) and (4)(a), 8206(2), (3) and (4).

Sections 69.1, 69.2 and 69.3 Architectural Endorsement

Description of rule: The rule aligns the New York State requirements for admission into the Architect Registration Examination with national standards and modifies the endorsement provisions for applicants licensed in another jurisdiction prior to 1983 to conform to current practice.

Need for rule: The rule is consistent with statutory authority and aligns with national standards.

Legal basis for rule: Education Law sections 207(not subdivided); 6504(not subdivided); 6506(1) and (6)(c); 6507(2)(a); and 7304(1)(3), (2) and (3).

Sections 52.38, 52.39. 52.40. 79-13.1, 79-14.1 and 79-15.1 Clinical Lab Technology

Description of rule: Establishes educational requirements for licensure as a clinical laboratory technologist or cytotechnologist and for certification as a clinical laboratory technician, and standards for registered college preparation programs for these professions.

Need for rule: To implement Education Law §8605(2)(b), which authorizes the Department to establish implementing standards for education that must be successfully completed by an applicant to qualify for a license as a cytotechnologist, and section 8606(2), which authorizes the Department to establish implementing standards for education that must be successfully completed to qualify for certification as a clinical laboratory technician.

Legal basis for rule: Education Law sections 207 (not subdivided); 210 (not subdivided); 6501 (not subdivided); 6504(not subdivided); 6507(2)(a), (3)(a), and (4)(a); 6508(1); 8605(1)(b) and (2)(b); 8606(2).

Sections 61.15 and 61.19 Dental Continuing Education

Description of rule: Increases the amount of continuing education required of licensed dentists during each triennial registration period and requires certification in cardiopulmonary resuscitation and completion of coursework in New York State jurisprudence and ethics.

Need for rule: To conform the Commissioner’s regulations to section 4 of Chapter 183 of the Laws of 2007.

Legal basis for rule: Education Law sections 207(not subdivided); 6506(1); 6507(2)(a), 6604-a(2), 6604-a(6), 6611(10), and section 4 of Chapter 183 of the Laws of 2007.

Section 62.5 Veterinarian Technology

Description of rule: Allows students completing registered or accredited programs of education for veterinary technology admission to the licensing examination for veterinary technicians within the final six months of professional study.

Need for rule: To align examination admission requirements in this field with practice in other states and thereby remove the competitive disadvantage that New York students confront.

Legal basis for rule: Education Law sections 207(not subdivided); 6504 (not subdivided); 6506(1); 6507(2)(a) and (3)(a); and 6711(5).

Section 52.41 and Subparts 79-13, 79-14 & 79-15 Clinical Laboratory Technology

Description of rule: Establishes standards for licensure as a clinical laboratory technologist or a cytotechnologist and certification as a clinical laboratory technician or a histological technician

Need for rule: To implement the provisions of Chapter 204 of the Laws of 2008, which amended Article 165 of the Education Law.

Legal basis for rule: Education Law sections 207(not subdivided); 210 (not subdivided); 212(3); 6501 (not subdivided); 6504(not subdivided); 6507(2)(a), (3)(a), and (4)(a); 6508(1), 8606-a(2) and (3); 8610(3).

Section 150.4 High Needs Nursing

Description of rule: The rule permits online nursing programs to be eligible for state aid

Need for rule: To conform the Commissioner’s regulations to Chapter 57 of the Laws of 2008, which authorizes the Commissioner to award state aid to certain eligible independent colleges and universities for high needs nursing programs, including those institutions that offer online nursing programs via the internet.

Legal basis for rule: Education Law sections 207, 215 and 6401-a and Chapter 57 of the Laws of 2008.

Section 24.7 Professional License Restoration

Description of rule: Specifies that an applicant’s response to the report and recommendation made by the Committee on the Professions (COP) shall not contain any new evidentiary material.

Need for rule: To provide a more orderly and effective review of evidentiary information submitted in support of a restoration application.

Legal basis for rule: Education Law Sections 207, 6506(1) and 6511.

Section 63.9 Pharmacy Flu Shots

Description of rule: Establishes criteria for the certification of licensed pharmacists and requirements for the administration of immunization agents.

Need for rule: The rule is consistent with Education Law section 6801(2), as added by Chapter 563 of the Laws of 2008, which authorizes certified pharmacists to administer immunizing agents and authorizes the Commissioner to promulgate regulations regarding training and reporting requirements.

Legal basis for rule: Education Law §§207(not subdivided), 6504(not subdivided), 6507(2)(a), 6527(7), 6801(1),(2) and (3), 6802(22), 6828(1) and (2), and 6909(7) of the Education Law, and Chapter 563 of the Laws of 2008.

OFFICE OF CULTURAL EDUCATION

Section 3.27 Museum Collections Management Policies

Description of rule: Clarifies restrictions on deaccessioning of items in an institution's collections, consistent with generally accepted professional and ethical standards within the museum and historical society communities.

Need for rule: To implement Regents policy to protect the public’s interest in collections held by chartered museums and historical societies.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 216(not subdivided) and 217(not subdivided).

Section 90.7 Public Librarian Professional Certificates

Description of rule: Ensures that public librarian professional certificate holders certified on or after January 1, 2010 will participate in continuous professional development.

Need for rule: The rule is consistent with Regents policy to promote excellence in New York’s library workforce at all stages and levels.

Legal basis for rule: Education Law sections 207(not subdivided), 208(not subdivided), 254(not subdivided), 272(1)(k)(3) and 279(not subdivided).

Section 90.18 School Library Systems

Description of rule: School library systems.

Need for rule: The rule updates and clarifies certain terminology relating to the functions of and State aid for school library systems.

Legal basis for rule: Education law sections 282, 283 and 284.

OFFICE OF OPERATIONS AND MANAGEMENT SERVICES

Section 3.2 & 4-1.5 Regents Committees

Description of rule: The rule reorganizes the structure of the standing committees of the Board of Regents. Specifically, the Committee on Higher Education and Professional Practice will be separated into two committees, the Committee on Higher Education and the Committee on Professional Practice, and the Committee on Elementary, Middle, Secondary and Continuing Education and Vocational and Educational Services for Individuals with Disabilities will be separated into two committees, the Committee on Elementary, Middle, Secondary and Continuing Education (EMSC) and the Committee on Vocational and Educational Services for Individuals with Disabilities (VESID).

Need for rule: The rule is needed to conform the Rules of the Board of Regents to a reconfiguration of the standing committees of the Board of Regents. The Department notes that the rule was subsequently amended in 2009 to: (1) rename the EMSC Committee as the P-12 Education Committee and (2) abolish the VESID Committee and transfer its functions regarding special education for students with disabilities to the P-12 Committee and its functions concerning vocational rehabilitation to a newly established Adult Career and Continuing Education (ACCES) Committee.

Legal basis for rule: Education Law §207(not subdivided).

Parts 275, 276 and section 100.2(y) Education Law §310 Appeal Procedures

Description of rule: Revises the procedures relating to appeals to the Commissioner of Education pursuant to Education Law §310.

Need for rule: To clarify, update and prescribe appeal procedures and requirements, consistent with established practice.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and (2), 310(not subdivided) and 311(not subdivided).

OFFICE OF STATE REVIEW

Part 279 State Office Review

Description of rule: The rule revises the procedures for state-level review of impartial hearing officer determinations regarding services for students with disabilities

Need for rule: To clarify the procedures concerning appeals of impartial hearing officer decisions to a State Review Officer, correct citations and references and expedite and otherwise facilitate the processing of petitions for review to State Review Officers

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 311(not subdivided), 4403(1) and 93), 4404(2) and 4410(13)

H. CALENDAR YEAR 2003

OFFICE OF P-12 EDUCATION

Section 100.2(x) Homeless Children and Youth

Description of Rule: Education of homeless children and youth.

Need for Rule: Conform the Commissioner's Regulations to the amendments to Subtitle B of Title VII of the federal McKinney-Vento Homeless Education Assistance Act (42 U.S.C. sections 11431 et seq.) that were enacted pursuant to the federal No Child Left Behind Act of 2001 (NCLB) [Pub.L. 107-110]. The State is required to comply with the requirements of the McKinney-Vento Act and the NCLB as a condition to its receipt of federal funds. The rule incorporates a new definition for "unaccompanied youth."

Legal Basis for Rule: Education Law §§101, 207, 215, 305(1) and (2), 3202(1) and (8), 3205(1), 3209(7) and 3713(1) and (2).

Part 154 Students with Limited English Proficiency

Description of Rule: Establishes criteria for the identification and assessment of students with limited English proficiency (LEP) through the use of, respectively, the Language Assessment Battery-Revised (LAB-R) teat and the New York State English as a Second Language Test (NYSESLAT); establishes curriculum and reporting requirements for such students; and updates provisions in the regulations concerning such students.

Need for Rule: To conform the Commissioner's Regulations, relating to students with LEP, to the federal No Child Left Behind Act of 2001 (NCLB), which requires that the English proficiency of all LEP students be measured annually as part of the school accountability provisions of the Act.

Legal Basis for Rule: Education Law §§207(not subdivided), 215(not subdivided), 2117(1), 3204(2), (2-a), (3) and (6), 3602(10) and (22), and 3713(1) and (2).

Section 135.4 Certified Athletic Trainers

Description of Rule: Certified athletic trainers.

Need for Rule: To require Athletic Trainers employed by school districts to be certified by New York State pursuant to Article 162 of the Education Law; and to more specifically detail the scope of duties and responsibilities of Athletic Trainers employed by school districts.

Legal Basis for Rule: Education Law §§101, 207, 305(1) and (2), 803(5), 917(1) and (2), 3204(2), 8351 and 8352.

Section 156.3 Requirements for School Bus Drivers, Monitors and Attendants

Description of Rule: Requirements for school bus monitors and attendants.

Need for Rule: To conform section 156.3(c) of the Commissioner's Regulations to Chapters 472 and 529 of the Laws of 2003 by clarifying the training and testing requirements for school bus monitors and attendants and to permit school districts and boards of cooperative educational services to certify to the Commissioner that they need additional time to fully comply with the provisions of the regulation.

Legal Basis for Rule: Education Law §§207(not subdivided) and 3624 (not subdivided), and Vehicle and Traffic Law §§509-g (1) and 1229-d (3) and Chapters 472, 529 and 600 of the Laws of 2002.

Section 100.2(p) No Child Left Behind Act (NCLB) School/District Accountability

Description of Rule: School/district accountability under the No Child Left Behind Act of 2021 (Pub. L. 107-110).

Need for Rule: To establish criteria and procedures to ensure State and local educational agency compliance with the provisions of the federal No Child Left Behind Act of 2001 relating to academic standards and school/district 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 §§101, 207, 215, 305(1), (2) and (20), 309 and 3713(1) and (2).

Section 100.2(bb) No Child Left Behind Act (NCLB) School District Data Reporting Requirements

Description of Rule: School district data reporting requirements under NCLB.

Need for Rule: To establish criteria and procedures relating to school district data reporting to ensure State and local educational agency compliance with the provisions of NCLB relating to public reporting requirements.

Legal Basis for Rule: Education Law §§101, 207, 215, 305(1) and (2), 309, 1608(6), 1716(6), 2554(24), 2590-e(23), 2590-g(21), 2601-a(7) and 3713(1) and (2).

Section 119.3 No Child Left Behind Act (NCLB) Charter School Reporting Requirements

Description of Rule: Charter school reporting requirements under the NCLB.

Need for Rule: To establish criteria and procedures to ensure State and charter school compliance with the provisions of the NCLB relating to public reporting requirements.

Legal Basis for Rule: Education Law §§207, 2857(2) and 3713(1) and (2).

Section 107.2 Driver Education

Description of Rule: Driver education course certification.

Need for Rule: To implement Education Law §806-a, as added by Chapter 644 of the Laws of 2002, by establishing a certification process for driver education courses of the amount of time a holder of a class DJ or class MJ learner's permit has spent operating a motor vehicle while under the immediate supervision of a driver education teacher.

Legal Basis for Rule: Education Law §§207, 305(1) and (2) and 806-a(2) and §13 of Chapter 644 of the Laws of 2002

Sections 247.1, 247.2, 247.3 and 247.4 Vocational Rehabilitation Program

Description of Rule: Vocational rehabilitation program.

Need for Rule: To conform the Commissioner’s regulations pertaining to the Department’s operation of the vocational rehabilitation program to recent amendments to the Federal vocational rehabilitation regulations governing that program, and makes certain technical corrections.

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

Sections 200.1, 200.4, 200.16 and 201.10 Vocational Rehabilitation Program

Description of Rule: The rule aligns the State regulations with Federal regulations and technical amendments relating to special education.

Need for Rule: To align State regulations consistent with Part 300 of the Code of Federal Regulations (34 CFR 300) relating to the definition of mediator and to make technical corrections to the definition of independent educational evaluations, the contents of the individualized education program (IEP) for preschool students and to certain cross citations.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 3214(3), 4403(3), 4404(not subdivided) and 4410(5).

Sections 155.1, 155.2, 155.12, 155.15 and 200.2 Special Education Space Requirements Plans

Description of Rule: Special education space requirements plans.

Need for Rule: To ensure the provision of appropriate long-term education space for students with disabilities in the least restrictive environment.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and (2), 403-a(1)-(6), 1950(17), 3602(3), (6) and (10), 4402(1) and 4403(3).

Section 200.5(b) Parental Consent for Special Education Services

Description of Rule: Parental consent for special education services.

Need for Rule: To conform the Commissioner's regulations to the federal Individuals with Disabilities Education Act and its implementing regulations by repealing the requirement that a school district initiate an impartial hearing when a parent does not provide consent for the initial provision of special education services.

Legal Basis for Rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1), (2), and (20), 3713(1) and (2), 4402(1)(b)(2) and (3) and (2)(a), 4403(3) and 4404(1).

OFFICE OF HIGHER EDUCATION

Section 80-5.16 Transitional E Certificate

Description of Rule: Establish a new transitional E certificate that would permit the certification of candidates who have requisite work experience and meet other prescribed requirements to teach specific occupational subjects in the public schools of New York State.

Need for Rule: Because of the time limit established in regulation, modified temporary licenses are no longer routinely issued. There are, however, candidates waiting processing of applications that were filed during the appropriate time frame, but who need to complete certain requirements. These applicants will be eligible for the Modified Temporary License once those requirements are met. The regulation, therefore, continues to be needed.

Legal Basis for Rule: Education Law §§207, 305(1),(2), and (7), 3004(1), and 3006(1).

Sections 3.47 and 3.50 Authorization of the Degree of Bachelor of Social Work

Description of Rule: Authorizes the conferral in New York State of the degree, Bachelor of Social Work (B.S.W.), for completion of a baccalaureate program in social work.

Need for Rule: The degree is commonly used in other states, and the amendment benefits students in New York by affording them the opportunity to earn a baccalaureate degree that is specific to the field of social work.

Legal Basis for Rule: Education Law §§207, 210, 218(1), and 224(4).

Section 52.21(b)(2) – Requirements for teacher education programs.

Description of Rule: This rule relates to accreditation requirements for teacher education programs. The rule extended the date by which registered programs for the preparation of classroom teachers must achieve accreditation. For programs registered on or before September 1, 2001, the deadline was extended from December 31, 2004, to December 31, 2006. Section 52.21(b)(2)(iv)(c) was amended effective July 13, 2006, to provide an exception to the amended deadline for programs awaiting an accreditation decision or who are operating under a corrective action plan.

Need for Rule: Due to administrative demands on the accrediting organizations, some of those teacher preparation programs continue to await accreditation decisions as the amended deadline approaches. Emergency action is expected in December 2007 to amend the exception. The emergency action is needed to ensure the continuing ability of the impacted colleges to offer their teacher education programs and to protect the interests of teacher education students at those institutions.

Legal Basis for Rule: Education Law §§207, 210, 215, 305(1), and 3004(1).

Section 52.21 Requirements for educational leadership programs

Description of Rule: Requirements for educational leadership programs.

Need for Rule: The rule improves the preparation of education leaders in New York State by establishing new requirements for college programs that prepare school building leaders, school district leaders, and school district business leaders. The Department notes that section 52.21(c) was subsequently amended effective July 13, 2006, to clarify and strengthen requirements relating to the three educational leadership certifications: School Building Leader (SBL); School District Leader (SDL) programs; and School District Business Leader (SDBL) programs.

Legal Basis for Rule: Education Law §§207, 210, 215, 305(1), (2) and (7), 3004(1) and 3006(1).

Section 100.2(dd) Mentoring Programs at School Districts and BOCES

Description of Rule: Mentoring programs at school districts and Boards of Cooperative Educational Services (BOCES).

Need for Rule: To require school districts and BOCES to include a mentoring program for new teachers in their professional development plan.

Legal Basis for Rule: Education Law §§207, 215, 305(1), (2) and (7), 3004(1) and 3604(8).

Sections 80-3.3, 80-3.7, 80-4.3, and 84.4 Individual Evaluation Requirements and Other Requirements for Certification in the Classroom Teaching Service

Description of Rule: Individual evaluation requirements and other requirements for certification in the classroom teaching service.

Need for Rule: To establish requirements for classroom teaching certification through the individual evaluation of candidates who have not completed registered teacher education programs, streamline examination requirements for candidates who already hold classroom teaching certification, establish coursework requirements for extensions and annotations of certificates, and remove unnecessary certification requirements.

Legal Basis for Rule: Education Law §§207, 305(1), (2) and (7), 3004(1) and 3006(1)(b).

OFFICE OF THE PROFESSIONS

Sections 29.7, 63.6 and 63.8 Pharmacy and the Registration of New York Pharmacies and Nonresident Establishments

Description of Rule: The practice of pharmacy and the registration of pharmacies.

Need for Rule: To establish requirements relating to the counseling of patients by pharmacists and the maintenance of drug retail price lists by pharmacies.

Legal basis for rule: Education Law §§207, 6504, 6506(1), 6507(2)(a), 6509(9), 6801, 6808(1) and 6808-b(2), (4)(c),(6), (8) and (9).

Section 52.31 and Subpart 79-8 Professional Licensure in Medical Physics

Description of Rule: Professional licensure in medical physics.

Need for Rule: To implement the provisions of Article 166 of the Education Law by establishing education, experience, and examination requirements for licensure as a medical physicist; requirements for granting licensure without examination for prescribed individuals with experience in the field; requirements for granting limited permits and licensure by endorsement; and standards for registered college programs that lead to licensure in this profession.

Legal Basis for Rule: Education Law §§207, 6501, 6504, 6507(1), 2(a), (3)(a), and (4)(a) and (b), 6508(1) and (2), 8701(2) and (3), 8702(1), (2), (3), and (4), 8703, 8705(2), (3), and (4), 8706(3), and 8708(1) and (2).

Sections 61.2 and 61.18 Residency Option Pathway for Dental Licensure

Description of Rule: Residency option pathway for dental licensure.

Need for Rule: To establish requirements for a residency option pathway for dental licensure that would permit a candidate to substitute successful completion of an acceptable dental residency program for the licensure examination in clinical dentistry. Legal Basis for Rule: Education Law §§207, 6506(1), 6507(2)(a), 6601(not subdivided) and 6604(3) and (4).

Sections 52.10, 72.1, 72.2, 72.4, and 72.6 Licensure of Psychologists

Description of rule: Establishes requirements for limited permits to practice psychology, remove outdated registration requirements for educational programs leading to licensure in this profession, delete a provision concerning professional study for admission to the licensure examination, and repeal the regulatory definition of the practice of psychology which is not established in statute.

Need for rule: To implement the requirements of Chapter 676 of the Laws of 2002. This Chapter established a new route for obtaining a limited permit to practice psychology in section 7604(1-a) of the Education Law. This route permits an individual who has arranged for an acceptable supervised experience required for licensure to obtain a limited permit to participate in the experience.

Legal Basis for Rule: Sections 207(not subdivided), 210(not subdivided), 6506(1), 6507(2)(a) and (4)(a), 7601-a(1) and (2), 7603(2), and 7604(1) and (1-a) of the Education Law.

Sections 29.7, 63.6 and 63.8 Practice of pharmacy and Registration of Pharmacies

Description of Rule: Establishes requirements relating to the counseling of patients by pharmacists and the maintenance of drug retail lists by pharmacies.

Need for Rule: To improve efficiency in pharmacy practice, while strengthening the requirement in instances when counseling is appropriate. The rule is also needed to implement the requirements of section 6826 of the Education Law concerning drug retail price lists that must be maintained by pharmacies and made available to any person upon request.

Legal Basis for Rule: Education Law §§207, 6504, 6506(1), 6507(2)(a), 6509(9), 6801, 6806, 6808-b(2) and (6) and 6826(6).

Sections 61.9 and 61.13 Certified Dental Assisting and Dental Hygiene

Description of Rule: The rule establishes additional dental supportive services that certified dental assistants and licensed dental hygienists may perform while under the supervision of a licensed dentist.

Need for Rule: To establish additional dental supportive services that certified dental assistants may perform while under the direct personal supervision of a licensed dentist, and additional services that licensed dental hygienists may perform in the practice of dental hygiene while under the supervision of a licensed dentist as prescribed. The Department notes that the rule was subsequently modified in 2007, and in 2020 the profession of certified dental assisting was changed to registered dental assisting

Legal Basis for Rule: Education Law §§207, 6506(1), 6507(2)(a), 6606(1) and (2) and 6608.

Section 63.7 Mandatory Continuing Education for Licensed Pharmacists

Description of Rule: Requires licensed pharmacists to complete, as part of the existing 45-hour continuing education requirement that they must complete in each registration period, at least three hours in the processing and strategies that may be used to reduce medication and/or prescription errors.

Need for Rule: The rule specifies certain necessary areas of continuing education to foster safe pharmacy practice.

Legal Basis for Rule: Education Law §§207, 6502(1), 6504, 6507(2)(a) and 6827(2).

Sections 52.9 and 61.17 Dental Hygiene Restricted Local Infiltration Anesthesia/Nitrous Oxide Analgesia Certificate

Description of Rule: Establishes procedures and education and training requirements for licensed dental hygienists to be certified to administer and monitor local infiltration anesthesia and nitrous oxide analgesia in the practice of dental hygiene under the personal supervision of a licensed dentist and requirements that college programs must meet to be registered by the Department as leading to certification in this field.

Need for Rule: To ensure that licensed dental hygienists receive education and training sufficient to ensure the competent administration and monitoring of local infiltration anesthesia and nitrous oxide analgesia in the practice of dental hygiene and to establish standards for college programs leading to certification in this field.

Legal Basis for Rule: Education Law §§207, 6506(1), 6507(2)(a), 6605-b(1),(2) and (3) and 6606.

Sections 52.15 and 78.4 Licensure in Massage Therapy

Description of Rule: Requirements for licensure in massage therapy.

Need for Rule: To clarify clock hour requirements for programs leading to licensure in massage therapy and requirements for the endorsement of a license in massage therapy issued by another state, country, or territory.

Legal Basis for Rule: Education Law §§207, 210, 6506(1) and (6), 6507(2)(a) and (4)(a), 7802 and 7804(2).

Section 68.11 Mandatory Continuing Education Requirements for Professional Engineers

Description of Rule: Sets forth the continuing education requirements and standards that licensed professional engineers must meet to be registered to practice in New York State and requirements for approval of sponsors of such continuing education.

Need for Rule: To clarify and implement the requirements of section 7211 of the Education Law, as added by Chapter 146 of the Laws of 2002. The Department notes that this section was subsequently amended in December 2021 to implement the provisions of Chapter 260 of 2020 which consolidated the continuing education requirements for professional engineers, land surveyors and geologists.

Legal Basis for Rule: Education Law §§207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1), 7211(1)(a),(b),(c) and (d), (2),(3),(4),(5), and (6) and §2 of Chapter 146 of the Laws of 2002.

OFFICE OF CULTURAL EDUCATION

Part 179 Apportionment of Funds to Educational Broadcast Councils

Description of Rule: Apportionment of funds to educational broadcast councils.

Need for Rule: To prescribe requirements regarding how the annual appropriation for public television is apportioned among New York’s nine funded public television stations; to specify the reporting requirements to remain eligible to receive public funding; and to update language from "instructional" services to "educational telecommunications" services to reflect the current practices and trends in public broadcasting in New York State.

Legal Basis for Rule: Education Law §§207(not subdivided) and 236(3), (4) and (5).

OFFICE OF STATE REVIEW

Part 279 State Review of Impartial Hearing Officer Determinations Regarding Services for Students With Disabilities

Description of Rule: The rule clarifies procedures for practice on State level review of Impartial Hearing Officer determinations for students with disabilities.

Need for Rule: The rule is needed to expedite and otherwise facilitate the processing of petitions for review to State Review Officers. The Department notes that Part 279 was subsequently amended in January 2017 to revise procedures for appealing impartial hearing officer decisions to a State review officer.

Legal Basis for Rule: Education Law §§101, 207, 311, 4403(1) and (3), 4404(2) and 4410(13).

I. CALENDAR YEAR 1998 (5 YEAR REVIEW)

OFFICE OF P-12 EDUCATION

Section 100.12 Instructional Computer Technology Plans

Description of Rule: the regulation prescribes criteria for school districts to develop instructional computer technology plans, which include provisions for the maintenance and repair of equipment and provisions for related professional development.

Need for Rule: Instructional computer technology plans are required for the use of instructional computer technology equipment funded pursuant to section 3602(26-a) of the Education Law, the federal ESEA Title III Technology Literacy Challenge Fund and the federal Telecommunications Act E-Rate Discounts.

Legal Basis for Rule: Education Law sections 207, 3602(26-a) and section 53 of

155.16 Energy Performance Contracts

Description of Rule: Establishes criteria for the development and approval of energy performance contracts of school districts and BOCES in accordance with Energy Law §9-103(8) and in consultation with the State Energy Research and Development Authority and enables school districts and BOCES to reduce energy consumption and improve efficiency.

Need for Rule: To comply with sections 1 and 78 of Part A of section 1 of Chapter 436 of the Laws of 1997. The Department notes that this section has been renumbered as section 155.20

Legal Basis for Rule: Education Law sections 101, 207 and 305(27), Energy Law section 9-103(8) and sections 1 and 78 of Part A of section 1 of Chapter 436 of the Laws of 1997.

100.7(i) and 116.4 Alternative High School Equivalency Preparation Programs

Description of Rule: Makes residential facilities operated by the State Office of Children and Family Services eligible to operate approved alternative high school equivalency preparation (AHSEP) programs for students at least 16 years of age and under the age of 18; permits students in these facilities to take the GED test at the same age as students in local school districts or BOCES; allows students to be eligible to take the GED test when they are released from these facilities should they be unable or unwilling to return to the public school system. The Department notes that the regulation was amended in 1999 to expand the age range of students and subdivision 100.7 (i) was renumbered as subdivision 100.7 (h), and again in 2020 to expand the list of agencies that are eligible to operate AHSEP programs.

Need for Rule: Ensures equal access for students in facilities operated by the Office of Children and Family Services to participate in programs leading to a high school equivalency diploma.

Legal Basis for Rule: Education Law sections 207, 208, 209 and 3205(1), (2) and (3).

Section 200.1 (gg) Definition of Related Services

Description of Rule: Adds “orientation and mobility services” to the definition of related services. The Department notes that this subdivision has been relettered as (qq).

Need for Rule: To ensure that the list of related services in regulation is consistent with the related services specified in section 4401 of the Education Law.

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

Section 200.1(oo) Definition of Supplementary Aids and Services

Description of Rule: The rule defines “supplementary aids and services” as defined in 34 CFR section 300.28. The Department notes that this subdivision has been relettered as (bbb).

Need for Rule: This rule clarifies the definition of “supplementary aids and services,” consistent with federal regulations, which must be documented on a student’s individualized education program (IEP).

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

Section 200.1(ss) Definition of Transition Services

Description of Rule: The rule adds “related services” to the list of coordinated set of activities for transition services. The Department notes that this subdivision has been relettered as (fff).

Need for Rule: The rule is necessary to comply with Education Law section 4401(9) that includes related services in the definition of transition services.

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

Section 200.4 Procedures for Referral, Evaluation, IEP Development, Placement and Review

Description of Rule: Specifies that the IEP include: measurable annual goals; short-term objectives and benchmarks to enable the student to be involved in and progress in the general curriculum and meeting each of the student’s other educational needs that result from the disability; supplementary aids and services to be provided to the student, or on behalf of the student; specify the student’s participation in State or local assessments and participation in regular education programs (or, for preschool students, participation in appropriate activities with age-appropriate nondisabled peers); a statement of the program modifications or supports for school personnel that will be provided for the student to advance toward the annual goals, to be involved in the general curriculum and to participate in extracurricular and other nonacademic activities; for students age 14 and updated annually, a statement of the transition service needs of the student that focuses on the student’s courses of study; and a statement of how the student’s parents will be regularly informed of their child’s progress. This rule also requires that the Committee on Special Education shall, in the development of the IEP, consider special factors including a student’s needs relating to behavior, communication, limited English proficiency, instruction in and use of Braille, and assistive technology.

Need for Rule: This rule is necessary to comply with federal regulations regarding the required components of a student’s IEP.

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

Section 200.2(e) Impartial Hearing Officer Appointment

Description of Rule: This rule specifies that the appointment of impartial hearing officers (IHO) must be made on a rotational basis from an alphabetical list of IHOs who are certified by the Commissioner of Education and who are available to service in the district.

Need for Rule: This rule, subsequently amended effective September 1, 2001, January 10, 2002, and September 28, 2022, is necessary to ensure compliance with federal regulations which requires that impartial hearing officers be selected in a rotational manner.

Legal Basis for Rule: Education Law sections 207 and 4404(1).

OFFICE OF CULTURAL EDUCATION

3.27 and 3.30 Museums and Historical Societies Chartering and Registration

Description of Rule: Requires every Regents-chartered Museum and historical society must adopt a collections management policy which conforms to generally accepted professional and ethical standards.

Need for Rule: To protect collections, the public and chartered institutions by ensuring that artifacts held in trust for the public are gathered, maintained, preserved and made available according to accepted professional and ethical standards.

Legal Basis for Rule: Education Law sections 207 and 216.

90.3 Public Library System Plan of Service

Description of Rule: Requires each public library system to include in its plan of service a direct access provision for the total library resources within the system to all individuals residing within the system boundaries, and procedures for modification of its direct access conditions. The plan of service also includes procedures whereby libraries may modify direct access conditions of the system or of individual libraries.

Need for Rule: The rule reaffirms the commitment of no direct charge to an individual for public library services, requires a specific plan from the public library system for providing library services to unserved and underserved areas, helps reduce the burdens on overused libraries, allows flexibility for library systems to respond to local patterns of use and modify free direct access at the public library system level, and provides a procedure for waivers when remedies were needed outside of those listed in the regulation.

Legal Basis for Rule: Education Law sections 207, 254, 255(1), (2) and (3), 272(1)(g) and (h) and 273(1).

OFFICE OF THE PROFESSIONS

Sections 3.47 and 3.50 Master of Physical Therapy Degree and Abbreviations of Pharmacy Degrees

Description: Authorizes the conferral of a new degree, Master of Physical Therapy (M.P.T.), for completion of a professionally oriented master's degree program in physical therapy and conforms the abbreviations of three professional pharmacy degrees to current national usage.

Need for Rule: The need for schools to be able to award the M.P.T. degree arose from a request by a university to offer a physical therapy program leading to this degree. The M.P.T. degree benefits students by affording them the opportunity to earn a degree specific to the profession of physical therapy. The amendment to conform the abbreviations of the three professional pharmacy degrees to nationally accepted usage was proposed by the State Board of pharmacy, pharmacy educators, and licensed professionals in New York State.

Legal Basis for Rule: Education Law sections 207, 210, 218(1); 224(4); and 6734(b).

Section 52.28 and Part 67 Ophthalmic Dispensing Education and Licensure Requirements

Description: Sets forth in regulations the existing standards for registered programs leading to licensure in ophthalmic dispensing and certification in the fitting of contact lenses; strengthen the alternative training and experience requirements for applicants who have not completed a registered program in ophthalmic dispensing or its equivalent; and clarify the examination requirements for licensure and certification.

Need for Rule: To strengthen the alternative training and experience requirements for applicants who have not completed a registered program in ophthalmic dispensing by ensuring adherence to a common curriculum which has been determined by a national body of opticians to be equivalent to the didactic course work provided in registered programs in ophthalmic dispensing. The requirement of on-site supervision by a licensee is needed to ensure the on-site presence of a licensed practitioner when services are provided by an applicant-trainee. Moreover, the provision requiring a ratio of one applicant-trainee to one supervising licensee will ensure that appropriate and adequate supervision and training is provided to the applicant. Finally, limiting renewal of the training permit to a maximum of three years will help to ensure that supervisors provide appropriate learning experiences for an applicant-trainee within a reasonable time period.

Legal Basis for Rule: Education Law sections 207, 210, 6501, 6504, 6506(1), 6507(2)(a), (4)(a), 6508(1), 7121, 7124(a)(2) and (3) and (b) and 7125(c).

Section 66.5 Phase Two Therapeutic Pharmaceutical Agents

Description: Implements requirements relating to the certification of optometrists, to use phase two therapeutic pharmaceutical agents, including clarifying clinical training requirements, examination requirements, reporting requirements and continuing education requirements. The Department notes that this section has been subsequently amended in 1999, 2007, and 2022.

Need for Rule: To implement section 7101-a of Education Law. The regulation establishes standards for clinical training and the examination necessary for certification, establishes requirements for the reporting of the use of phase two drugs, and establishes requirements for continuing education.

Legal Basis for Rule: Education Law sections 207, 6502(1), 6504, 6507(2)(a)(3)(a) and 4(a), 6508(1) and (2), 7101, 7101-a(1)(f), (3), (4), (7), (9), (9a) and (11); and Ch. 517, L. 1995, sections 3 and 4(b).

Section 67.6 Ophthalmic Dispensing Continuing Education Requirements

Description: Specifies the manner in which licensed ophthalmic dispensers and those certified to dispense contact lenses shall meet the continuing education requirements specified in Education Law for triennial registration.

Need for Rule: To implement Education Law section 7128 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 ophthalmic dispenser.

Legal Basis for Rule: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 7128(1) - (6).

Section 52.13, 70.1 and 70.2 Public Accountancy Education and Licensure Requirements

Description: To set forth the standards for registered programs leading to licensure in public accountancy that, on or after August 1, 2004, require 150 hours of collegiate study in specified content areas, the requirement that individuals who apply for licensure in public accountancy on or after August 1, 2009 must complete a registered 150-hour program or the equivalent, and the reduction of the experience requirement from two years to one year for applicants who complete a 150-hour registered program in public accountancy or its equivalent.

Need for Rule: To strengthen the education requirements for licensure to accommodate licensees' need for core competencies required to practice public accountancy in today's complex business world. Such education will ensure the applicant’s balanced educational preparation in content areas of professional accountancy, general business, and liberal arts and sciences. It will also prepare applicants with such necessary skills as logical thinking, effective writing, ethics, judgment, and quantitative skills. The requirement of one-year experience will suffice an applicant with such preparation for entry into the public accountancy profession.

Legal Basis for Rule: Education Law sections 207, 210, 6501, 6504, 6506(1), 6507(2)(a) and (4)(a), 6508(1) and 7404(1)(2) and (1)(3).

Section 24.7 Fee for Review of Application for Restoration of Professional License

Description: This rule establishes fee requirements for the filing of petitions for restoration of professional licenses that have been revoked or surrendered.

Need for Rule: The Board of Regents is authorized to restore a license which has been revoked (Education Law §6511). This rule is necessary to implement the processes by which the Board of Regents considers petitions for the restoration of a professional license that was either revoked or surrendered.

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

Section 52.29, 63.1, 63.4 and 63.5 Pharmacy Education and Licensure Requirements

Description: Define educational and examination requirements for licensure in the profession of pharmacy. The regulations provide curriculum detail, define what constitutes an acceptable accrediting body, and provide a basis for licensure of pharmacists that graduate from non-accredited programs.

Need for Rule: To provides needed clarity since there are no other definitions of an acceptable educational curriculum for pharmacists in New York State. Additionally, the rule is required as a foundation for comparison of foreign non-accredited programs of study.

Legal Basis for Rule: Education Law sections 207, 210, 6501, 6506(6), 6507(2)(a) and (4)(a), 6508(1), 6805(1)(2) and 6806(1).

OFFICE OF HIGHER EDUCATION

7.3 and 80.2(l) Teacher Certification: Certificates of Qualification

Description of Rule: Eliminates, beginning September 1, 1998, the issuance of the certificate of qualification (CQ) to candidates eligible or provisional teacher certification. The CQ originally provided an additional five years for persons who completed teacher preparation programs to secure employment, at which time he or she surrendered the CQ for a provisional certificate.

Need for Rule: the CQ is no longer needed because in the early 1990s, provisional teaching certificates became renewable for an additional five years beyond their initial five-year issuance period, thereby fulfilling the purpose the CQ once served.

Legal Basis for rule: Education Law sections 207, 305(1) and 3004(1).

80.5, 80.6, 80.7, 80.8 and 80.17 Teacher Certification: NTE Core Battery Tests

Description of Rule: Eliminated the National Teacher Examination (NTE) Core Battery tests as an option to candidates, for teacher certification in certain specified areas, to satisfy the examination requirement for eligibility for a provisional and/or permanent teaching certificate in certain subjects. Candidates must instead satisfy the examination requirement by satisfactory performance on the liberal arts and sciences (LAST) portion and the written assessment of teaching skills (ATS-W) portion of the New York State Teacher Certification Examinations (NYSTCE). The Department notes that these sections have been renumbered.

Need for Rule: To make uniform the testing requirements for all candidates for teacher certification.

Legal Basis for rule: Education Law sections 207, 305(1), 3004(1)

145-9 Scholarships for Academic Excellence Program

Description of Rule: the rule changed the name of the Merit Scholarship for Academic Excellence program to the Scholarships for Academic Excellence program and corrected a citation to the Education Law relating to the school allocation formula for the scholarship program.

Need for Rule: To comply with the statutory name of the scholarship program and to provide a correct citation to the Education Law relating to the school allocation formula set forth in statute. Section 83 of Part C of Chapter 58 of the Laws of 1998 amended sections 605-a and 670-b of the Education Law to change the name of the Merit Scholarships for Academic Excellence to the Scholarships for Academic Excellence.

Legal Basis for rule: Education Law sections 207, 605-a(1)(b), 670-b(1), section 12 of Chapter 309 of the Laws of 1996, and section 83 of Part C of Chapter 58 of the Laws of 1998.

3.14, 83.2 and 83.4 State Professional Standards and Practices Board for Teaching

Description of Rule: Replaced the then existing Teacher Education, Certification and Practice Board with a new State Professional Standards and Practices Board for Teaching, which serves in an advisory capacity to the Regents and the Commissioner on matters related to teacher preparation, certification, practice and discipline of certificate holders contained in Part 83.

Need for Rule: To implement one of the recommendations of the Regents Task Force on Teaching, as adopted by the Board of Regents on July 17, 1998 and reflects the State Professional Standards and Practices Board for Teaching's assumption of the duties of the now defunct Teacher Education, Certification and Practice Board.

Legal Basis for rule: Education Law sections 207, 305(1) and 3004(1).