

## AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 310, and 311.

1. Section 276.4 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) Memoranda of law, consisting of the parties' arguments of law may be submitted by any party to an appeal, and may be requested by the commissioner's counsel or by the commissioner. The petitioner shall serve a copy of any memorandum of law upon every other party to the appeal in the manner provided by section 275.8(b) of this Title [and except in the case of a charter school location/co-location appeal pursuant to section 276.11 of this Part shall file such memorandum of law, with proof of service thereof in accordance with section 275.9 of this Title, within 20 days after service of the answer or 10 days after service of the reply, whichever is later] within 40 days after service of the petition. Each respondent shall serve a copy of any memorandum of law, upon every other party in the manner provided by section 275.8(b) of this Title [and, except in the case of a charter school location/co-location appeal pursuant to section 276.11 of this Part, shall file such memorandum] within 50 days after service of the petition. Reply memoranda will be accepted only with the prior approval of the commissioner. All memoranda of law shall be filed with proof of service thereof in accordance with section 275.9 of this Title[, within 30 days after service of the answer or 20 days after service of the reply, whichever is later. Where the answer is served upon petitioner or petitioner's counsel by mail, the date of mailing and the four days subsequent thereto shall be excluded in the computation of the 20-day period in which petitioner's memorandum of law must be served and filed. Except in the case of a

charter school location/co-location appeal pursuant to section 276.11 of this Part, reply memoranda will be accepted only with the prior approval of the commissioner]. The commissioner, in his/her sole discretion, may permit the late filing of memoranda of law upon written application by a party, setting forth good cause for the delay and demonstrating the necessity of such memoranda to a determination of the appeal, together with proof of service of a copy of such application upon all other parties to the appeal. [In a charter school location/co-location appeal pursuant to section 276.11 of this Part, memoranda of law shall be served and filed in the manner prescribed in such section 276.11 of this Part.] The procedures set forth in this subdivision shall not apply to charter school location/co-location appeals, which shall be governed by section 276.11 of this Part.

(b) Notwithstanding the provisions of subdivision (a) of this section, in an appeal regarding a homeless child's or youth's access to a free, appropriate public education pursuant to section 100.2(x) of this Title, the parent or guardian of a homeless child or youth or unaccompanied youth as defined in section 100.2(x) of this Title may serve a [memoranda] memorandum of law [may be served] in the manner provided by [either] section 275.8 [(b)] (a) or (e) of this Title.

2. Subdivision (b) of section 276.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Notwithstanding the provisions of subdivision (a) of this section, in an appeal regarding a homeless child's or youth's access to a free, appropriate public education pursuant to section 100.2(x) of this Title, the application and proposed affidavits,

exhibits and other supporting papers may be served in accordance with [either] section 275.8(b) or (e) [or section 275.13(b)] of this Title.

3. Subdivision (b) of section 277.1 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) the petition must include a notice to the officer in substantially the following form:

[SIR:]

Take notice that the petition and affidavits, copies of which are herewith served upon you, will be presented to the Commissioner of Education at Albany, and application thereon made for your removal from the office of..... of ..... School District ..... of the Town of ....., ..... County, and that you are required to transmit your answer to such application, duly verified, with an affidavit of service of a copy thereof upon petitioner, to the Office of Counsel, New York State Education Department, State Education Building, Albany, N.Y. 12234, or the charges contained in such petition and affidavit will be deemed to be admitted by you.

Please take further notice that your answer must conform with the provisions of the regulations of the Commissioner of Education relating to appeals before the Commissioner, copies of which are available from the Office of Counsel, New York State Education Department, State Education Building, Albany, N.Y. 12234. Such regulations require that an answer to the petition must be served upon petitioner, or if he be represented by counsel, upon his counsel, within 20 days after the service of the petition, and that a copy of such answer must, within five days after such service, be

filed with the Office of Counsel, New York State Education Department, State Education Building, Albany, N.Y. 12234.

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*(Signature)*

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P.O. Address