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SEPTEMBER 14, 2020

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Board of Regents Acts on Fifth Series of Emergency Regulations to Ease Burdens on Educators, Students and Professionals in the Wake of the COVID-19 Pandemic

The Board of Regents today adopted emergency regulations that afford essential flexibility for educators, students and professionals to address issues due to the ongoing COVID-19 pandemic. The emergency regulations include the continuation of previously adopted amendments as well as new regulatory changes.

"Throughout the pandemic, the health and safety of our students, educators, staff and licensed professionals have been our number one priority," said Vice Chancellor T. Andrew Brown. "The Board and I are committed to continuing to examine the unique needs of educators and professionals to ensure safe environments foal while effectively fulfilling their duties during the ever-changing circumstances of the pandemic."

"Our schools, institutions of higher education and licensed professionals have worked tirelessly to adapt to the rapidly evolving world caused by this pandemic," said Interim Commissioner Betty A. Rosa. "Today's action is the latest in a series of flexibilities the Board and the Department have extended to our partners to help them support their constituents during this unprecedented time."

Summary of the Amendments

A summary of the amendments follows. Full descriptions of the changes can be found in the Regents item.

Professions

Renewal of Limited Permits for Medical Physics. Commissioner's regulations are amended to permit the Department, in its discretion, to renew limited permits for medical physics for additional two-year periods beyond the current limit of no more than six years total, for good cause shown, as determined by the Department.

Higher Education

Accreditation of Educator Preparation Programs. The Commissioner's regulations are amended to provide additional time for institutions of higher education to complete the process for accreditation of their educator preparation programs from the time they notify the Department they are seeking accreditation from a professional education accrediting association acceptable to the Department that is seeking recognition from the Council for Higher Education Accreditation or the U.S. Department of Education. Such institutions will now have six years, instead of five, to complete the accreditation process.

English Language Learners

Seal of Biliteracy. The Commissioner's regulations are amended to provide that students who were exempted from Regents exams due to COVID-19-related cancellations will satisfy criteria for the New York State Seal of Biliteracy (NYSSB) that would have been met by the required June 2020 or August 2020 Regents exam(s).

Additionally, the Commissioner's regulations are amended to provide that English Language Learners (ELLs) will satisfy criteria for the NYSSB that would have been met by a 2020 NYS English as a Second Language Achievement Test (NYSESLAT) score through a combination of having achieved an English language proficiency level of Transitioning or Expanding on the 2019 NYSESLAT or NYS Identification Test for ELLs (NYSITELL) and who earned credit in a course of study for English as a New Language or Bilingual Education in the 2019-20 school year. This change provides parity for students who would otherwise be disadvantaged to earn the NYSSB due to cancellation of the 2020 NYSESLAT.

Finally, the Commissioner's regulations are amended to update the reporting of NYSESLAT scores. The regulation was based on a specification for reporting NYSESLAT scores that has not been in use since the 2014-15 school year. The former method of reporting scores was to provide separate proficiency levels for each of the four language modalities. In 2015, these scores were combined into a single scale score reflecting English language proficiency overall. The proposed new language will reflect this updated score reporting by allowing students to apply a NYSESLAT scale score of 290 towards the NYSSB. The Department has determined this score to be equivalent to the previous requirement of achieving the commanding proficiency level in two separate modalities.

ELL Identification. Commissioner's regulations are amended to provide that for the 2020-21 school year, any parent of a student who attends a school which is operating fully remotely or have opted to have their child receive instruction fully remotely in accordance with the district's reopening plan, and whose child has been provisionally identified as an English Language Learner via remote identification, may submit a waiver of the administration of the English language proficiency identification assessment.

If a parent submits such waiver, their child will remain provisionally identified as an ELL for the 2020-21 school year, unless the school such child attends changes to in-person or hybrid instruction during the school year, or the parent has opted to no longer have their child receive instruction entirely remotely.

If either situation occurs, the student must be administered the NYSITELL within 10 days of such occurrence.

Timetable for Implementation

The emergency regulations will become effective September 15, 2020. It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the December 2020 Regents meeting. However,

since the emergency regulation will expire before the December meeting, it is anticipated that an additional emergency action will be presented for adoption at the November 2020 Regents meeting.

Modifications to Existing Emergency Regulations

The Board also acted on modifications to previously approved emergency regulations to address issues resulting from the interruptions caused by the COVID-19 crisis. The revisions to emergency regulations relating to the COVID-19 crisis, which were initially adopted at the April and May 2020 Regents meetings and the emergency regulations relating to the COVID-19 crisis and the reopening of schools adopted at the July 2020 Regents meeting can be found in the Regents items.

Among these modifications include, amendments to the edTPA safety net, first adopted at the April 2020 Regents meeting, to allow additional candidates to be eligible for the safety net. Candidates who complete:

- a student teaching or similar clinical experience during the 2020-2021 academic year while enrolled in a New York State registered teacher preparation program;
- a student teaching experience during the 2020-2021 academic year while enrolled in an acceptable out-of-state teacher preparation program; or
- the teaching experience requirement for certification through the individual evaluation pathway during the 2020-2021 academic year would all be eligible for the safety net under the proposed revisions.

The Department revised the amendment establishing the Emergency COVID-19 certificate, first adopted at the May 2020 Regents meeting, by extending the deadline to complete the requirements for such certificate from September 1, 2020, to September 1, 2021.

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