RULE REVIEW

Education Department

Section 207 of the State Administrative Procedure Act (SAPA) requires that each State agency review, after five years and thereafter at five-year intervals, each of its rules which is adopted on or after January 1, 1997 to determine whether such rules should be modified or continued without modification.

Pursuant to SAPA section 207, the State Education Department submits the following list of rules that were adopted during calendar year 2005 and 2000 that the Department has reviewed and determined should be continued without modification. All section and part references are to Title 8 of the New York Code of Rules and Regulations.

A. Calendar Year 2005

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

100.1(t) State Learning Standards for Mathematics

Justification for continuation without modification: The rule is necessary to modify the definition of the State learning standards for mathematics, consistent with policy enacted by the Board of Regents. The rule added the following provision: ''Students will, through the integrated study of number sense and operations, algebra, geometry, measurement, and statistics and probability, understand the concepts of and become proficient with the skills of mathematics, communicate and reason mathematically and become problem solvers by using appropriate tools and strategies.''

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 308, 309(not subdivided) and 3204(3).

Assessment of public comment: no comments were received.

125.1 Voluntary Registration of Nonpublic nursery schools and kindergartens

Justification for continuation without modification: The rule removed the requirement for annual visits by Department consultants to each of the registered schools, and replaced it with a visitation plan that is consistent with the current resources of the Department and the needs of the schools. The rule focuses on schools whose registration status may be in jeopardy for various reasons, by requiring annual site visits to the approximately twenty percent (30-40) of the schools that are in one or more of the following categories: (i) schools with registration certificates that will expire during the year; (ii) schools operated by new applicants, including schools operated by new owners; (iii) schools located in newly constructed or renovated sites; and (iv) schools that require onsite technical assistance to alleviate regulatory non-compliance issues. The rule provides flexibility concerning the visits by Department staff to registered schools to determine compliance with regulatory requirements, and will allow the Department to provide more focused technical assistance and support to schools targeted for annual visits to ensure compliance with the Commissioner's Regulations.

Statutory authority: Education Law sections 207 and 210.

Assessment of public comment: no comments were received.

100.3, 100.4 & 80-5.12 Middle-level education

Justification for continuation without modification: The rule implements a Regents Policy Statement on Middle-level Education. Districts with low-performing schools are authorized to propose a program that strengthens core academic subjects and effective academic intervention services, and provides all students with exploratory subjects that address the learning standards, are of high interest to students, and further reinforce core academic learning (Model B). Low-performing schools receive regulatory relief from the prescribed time requirements for units of study in the exploratory courses in order to implement their proposed program. Districts with new or high-performing schools are authorized to submit proposals for restructuring the full educational program (Model C#1) or specific program refinements (Model C#2) and be granted relief from programmatic regulatory requirements. In addition, the rule authorizes districts under certain circumstances to apply for approval to implement an ''Experiment in Organization'' that provides for the flexible assign of certified teaching staff. The rule also made technical changes to align the Commissioner's regulations with the State learning standards and clarifies testing requirements related to students with disabilities. The rule provides school districts additional flexibility in meeting State intermediate learning standards and increasing student proficiency in English language arts and mathematics consistent with the federal No Child Left Behind Act.

Statutory authority: Education Law sections 101, 207, 208, 215, 305(1) and (2), 308(not subdivided), 309(not subdivided), 4403(3) and 3713(1) and (2).

Assessment of public comment: no comments were received.

100.2(p) school and school district accountability

Justification for continuation without modification: The rule establishes 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. The rule is in response to guidance provided by the U.S. Department of Education and is necessary to ensure consistency with NCLB accountability requirements and the Individuals with Disabilities Education Improvement Act of 2004 (Pub. L. 108-446). NCLB section 1111(b)(2) requires each state that receives funds to demonstrate, as part of its State Plan, that the state has developed and is implementing a single, statewide accountability system to ensure that all LEAs, public elementary schools and public high schools make adequate yearly progress (AYP). Each state must implement a set of yearly student academic assessments in specified subject areas that will be used as the primary means of determining the yearly performance of the state and each LEA and school in the state in enabling all children to meet the State's academic achievement standards.

Statutory authority: Education Law sections 101, 207, 210, 215, 305(1), (2) and (20), 309(not subdivided) and 3713(1) and (2)

Assessment of public comment: no comments were received.

100.5 State assessments, graduation and diploma requirements

Justification for continuation without modification: The rule revised the graduation and diploma requirements first adopted by the Board of Regents in July 1999, and subsequently revised in November 2003, to

help ensure that all students in the State's public schools have the skills, knowledge and understandings they need to succeed in the next century.

Despite the significant increase in the number of students with disabilities taking Regents level courses and passing Regents examinations, there still is a significant gap between the performance of special education and general education students. Therefore, the rule provides an additional safety net for all students with disabilities entering grade 9 in the 2005-06 school year. Under this safety net, students with disabilities may achieve a passing score of 55-64 on the five required Regents examinations to meet local diploma requirements.

The rule revised requirements for obtaining a Regents high school diploma, a Regents diploma with advanced designation, and a local high school diploma. The rule phased-in the 65 passing score on the five required Regents examinations to meet graduation requirements by requiring students who enter grade 9 in the 2005-06 school year to achieve 65 or above on two required Regents examinations and a score of 55 or above on the remaining three required Regents examinations, by requiring students who enter grade 9 in the 2006-07 school year to achieve 65 or above on three required Regents examinations and a score of 55 or above on the remaining two required Regents examinations, by requiring students who enter grade 9 in the 2007-08 school year to achieve 65 or higher on four required Regents examinations and a score of 55 on the one remaining required Regents examination, and by requiring students who enter grade 9 in the 2008-09 school year to achieve 65 on all five required Regents examinations.

The rule also establishes an appeal process for students who first enter grade 9 in September 2005 or thereafter and who fail, after at least two attempts, to attain a score of 65 or above on a required Regents examination for graduation. A standing committee chaired by the school principal would review all appeals within 10 days of submission and make a recommendation to the superintendent of the school district or, in the case of New York City, the Chancellor or his/her designee.

Statutory authority: Education Law sections 101, 207, 208, 209, 305(1) and (2), 308, 309 and 3204(3).

Assessment of public comment: no comments were received.

Part 105 Special act school districts

Justification for continuation without modification: The rule is necessary to implement Chapters 628 and 629 of the Laws of 2004 by adding a new Part 105 that establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district. Section 105.1 provides for definitions of terms used in the new Part. Section 105.2 establishes eligibility requirements for appointment as a public member. Section 105.3 establishes appointment procedures, term lengths, procedures to fill vacancies, and provides that public members, upon appointment, shall have all the rights, privileges, powers, duties and responsibilities of members of the board of education of a union free school district.

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 308 and 309(not subdivided) and Chapters 628 and 629 of the Laws of 2004.

Assessment of public comment: no comments were received.

175.5 Superintendent's conference days

Justification for continuation without modification: The rule permits a school district to use up to two of the allowed four superintendents' conference days provided for in Education Law section 3604(8) for teacher rating of State assessments, including assessments required under the federal No Child Left Behind Act of 2001. The rating of students' performance on the State assessments is an effective way for teachers to learn the new learning standards and therefore constitutes permissible staff development activities relating to implementation of the new high learning standards and assessments, as authorized by Education Law section 3604(8). The rule provides school districts with additional flexibility and discretion to use this staff development function to fulfill their State test scoring requirements while minimizing impact on student instructional time. The rule was amended in June 2009 to extend this provision for an additional four years, to June 30, 2013.

Statutory authority: Education Law sections 101, 207 and 3604(8).

Assessment of public comment: no comments were received.

136.1, 136.2 & 136.3 School health services

Justification for continuation without modification: The rule is necessary to implement and otherwise conform the Commissioner's Regulations to Chapter 477 of the Laws of 2004. School health services staff in New York State public schools will be able to provide services that are consistent with current standards in medical and health care practice and State law.

Statutory authority: Education Law sections 207; 901(1) and (2); 902(1), (2) and (3); 903(1) and (2); 904(1) and (2); 905(1), (2), (3) and (4); 906(1) and (2); 911(1); 913; 914(1) and Chapter 477 of the Laws of 2004.

Assessment of public comment: no comments received.

136.3 School health services

Justification for continuation without modification: The rule clarifies the accommodation for religious beliefs provision in the Commissioner's Regulations to ensure consistency with Public Health Law section 2164 and the Regulations of the Commissioner of Health and Chapter 477 of the Laws of 2004. The rule is necessary to conform the Commissioner's Regulations to the Regulations of the Department of Health and thereby ensure consistency with the legislative intent of Chapter 477 of the Laws of 2004. Section 136.3(a)(2) was also amended to ensure conformance to applicable legal requirements regarding disclosure of confidential information by adding the phrase ''except where otherwise prohibited by law.'' In addition, section 136.3(a)(2) was amended to conform its provisions to Education Law section 904(1), as amended by Chapter 477 of the Laws of 2004, which provides for notification of ''persons in parental relation'' instead of ''guardian'' and provides for notification of ''defective sight or hearing, or other physical disability.''

Statutory authority: Education Law sections 207; 901(1) and (2); 902(1), (2) and (3); 903(1) and (2); 904(1) and (2); 905(1), (2), (3) and (4); 906(1) and (2); 911(1); 913; 914(1) and Chapter 477 of the Laws of 2004.

Assessment of public comment: no comments received.

OFFICE OF HIGHER EDUCATION

Sections 80-3.3(a)(1) and 52.21(b)(2)(i)(h) – Duration of Initial Teaching Certificate and Flexibility in Staffing of Teacher Preparation Programs.

Justification for continuation without modification: The rule increases the duration of the initial certificate for classroom teaching from three, or four years with extension, to five years. The previous duration of the initial certificate was considered too short to provide new teachers with sufficient time to complete the master's degree program required for the professional certificate. Since adoption, experience with this rule indicates its benefit to certificate holders and no negative effects to certificate holders, employers or students.

The rule also provides teacher preparation programs that meet articulated standards of institutional accountability greater flexibility in the staffing of those programs. It is important to note that no other academic programs leading to professional licensure in the professions registered by the Department are required to maintain a specified percentage of full-time faculty by either the Department or their accrediting body.

Statutory authority: Education Law § § 207; 210; 215; 305(1), (2), and (7); 3001(2); 3004(1); and 3006(1)(b).

Assessment of public comment: no comments were received.

Sections 3.47(d)(2) and 3.50 (b)(17)– Authorization of Degrees.

Justification for continuation without modification: The rule authorizes the conferral in New York State of the graduate professional degree of Doctor of Nursing Practice (D.N.P.) for completion of a practice oriented doctoral program in nursing. The rule arose from a request by Columbia University to offer a program in nursing leading to the Doctor of Nursing Practice degree. This degree provides an alternative to the existing doctoral programs in nursing (Ph.D. and D.N.S. degree programs) that are research oriented. The new degree benefits nurses who are interested in achieving a terminal degree that

focuses on expert clinical practice. The Department expects the degree to be used primarily by, but not limited to, those programs that educate nurse practitioners and nurse-midwives.

Statutory authority: Education Law § § 207; 210; 218(1) and 224(4).

Assessment of public comment: no comments were received.

Section 80-2.3(f) Certification and scope of practice in school social work

Justification for continuation without modification: The rule is needed to implement the statutory requirements of Chapter 2004 of the Laws of 2004. Effective September 1, 2004, social work became a practice protected profession under Article 154 of the Education Law, and the titles changed for individuals licensed in social work under Article 154 of the Education Law. The rule clarifies the scope of practice for holders of provisional or permanent certificates in school social work. The rule also updates these titles and requires the candidate for permanent certification to be licensed and registered by the State Education Department as a licensed master social worker or licensed clinical social worker.

Statutory authority: Education Law § § 207; 305(1), (2), and (7); 3001(2); 3004(1); 3006(1)(b); 3009(1); 3010; 7702(2)(a) and (3)(a); and 7706(5)(a).

Assessment of public comment: no comments were received.

Sections 52.21(b)(4), 80-4.1(a)(2) and 80-4.3(d) Teacher certification in gifted education.

Justification for continuation without modification: The rule requires candidates seeking to meet the education requirement for the extension in gifted education through equivalent coursework to complete 12 semester hours of coursework in specified subjects, rather than six. The rule clarifies the content of the education requirement for the extension, ensuring that coursework is focused specifically on preparing teachers for providing instruction and support to gifted students and adequately preparing candidates for the New York State certification examination.

The rule also clarifies the content requirements for meeting the education requirement, either through a registered program or through equivalent course completion, and clarifies that the coursework must be specifically focused on training teachers for providing instruction and support to gifted students.

The rule continues to be needed to clarify and strengthen the education requirements for the extension of a teaching certificate in gifted education to better align with the competencies tested in the teacher certification examination for this extension as articulated in the examination's framework. No negative effects from implementation of this rule have been reported.

Statutory authority: Education Law sections 207; 210; 305(1),(2), and (7); 3001(2); 3004(1); 3006(1)(b); 3009(1); and 3010.

Assessment of public comment: no comments were received.

Sections 80-2.3(e)(1), 80-2.9(a)(5), and 80-4.3(a)(3) Bilingual school psychologists

Justification for continuation without modification: The rule establishes an expedited pathway for licensed psychologists who have demonstrated proficiency in a language other than English to obtain the first level certificate necessary to work as a school psychologist without first completing a college supervised internship in school psychology. In addition, the rule establishes an expedited pathway for holders of certificates in school psychology, speech and language disabilities, and for teaching the speech- and hearing-handicapped to be issued an extension to their certificate authorizing them to provide bilingual education services.

School districts around the State and most particularly, the New York City School District, have experienced persistent, serious shortages of certified bilingual school psychologists and teachers of students with speech and language disabilities whose principal language in not English. The rule was designed to address this shortage of school personnel with bilingual skills and is effective only until September 2010.

Statutory authority: Education Law sections 207; 210; 305(1),(2), and (7); 3001(2); 3004(1); 3006(1)(b); 3009(1); and 3010.

Assessment of public comment: no comments were received.

126.10(j) & 126.17(c) Monetary assessment of Proprietary Schools

Justification for continuation without modification: The rule specifies the existing method that the State Education Department uses for assessing new schools for the tuition reimbursement account and the proprietary vocational school supervision account. The rule clarifies requirements for the monetary assessment of new schools and for-profit English as a Second Language (ESL) Schools for the tuition reimbursement account and the proprietary vocational school supervision account.

The rule is necessary to formalize Department practices in keeping with the recommendations from a New York State Comptroller's audit.

Statutory authority: Education Law sections 207; 5001(1), (4)(e) and (f), and (9); and 5007 (10) and (12) of the Education Law.

Assessment of public comment: no comments were received.

OFFICE OF THE PROFESSIONS

Section 52.32 and Subpart 79-9 of the Commissioner's Regulations – mental health counseling.

Justification for continuation without modification: The rule is needed to implement the requirements of Article 163 of the Education Law, as added by Chapter 676 of he Laws of 2002 by establishing professional education program registration standards; professional study, examination, experience, and limited permit requirements; provisions for the use of classification systems; and special provisions for the profession of mental health counseling. A Notice of Proposed Rule Making to amend sections 79-9.3 and 79-9.4 and to add a new section 79-9.7 was published in the State Register on March 31, 2010. The other sections should continue without modification to define acceptable education and examination for licensure as a mental health counselor in New York.

Statutory authority: Education Law sections 207; 210; 6501; 6504; 6507(2)(a), (3)(a), and (4)(a); 6508(1); 8402(3)(b), (c), and (d); 8409; 8411(2)(a) and (b) and (3).

Assessment of public comment: no comments were received.

Section 52.33 and Subpart 79-10 of the Commissioner's Regulations – marriage and family therapy.

Justification for continuation without modification: The rule implement the requirements of Article 163 of the Education Law, as added by Chapter 676 of he Laws of 2002 by establishing professional education program registration standards; professional study, examination, experience, and limited permit requirements; provisions for the use of classification systems; and special provisions for the profession of marriage and family therapy. A Notice of Proposed Rule Making to amend sections 79-10.3 and 79-10.4 and to add a new section 79-10.7 was published in the State Register on March 31, 2010. The other sections should continue without modification to define acceptable education and examination for licensure as a marriage and family therapist in New York.

Statutory authority: Education Law sections 207; 210; 6501; 6504; 6507(2)(a), (3)(a), and (4)(a); 6508(1); 8403(3)(b), (c), and (d); 8409; 8411(2)(a) and (b) and (3).

Assessment of public comment: no comments were received.

Section 52.34 and Subpart 79-11 of the Commissioner's Regulations – creative arts therapy.

Justification for continuation without modification: The rule implements the requirements of Article 163 of the Education Law, as added by Chapter 676 of the Laws of 2002 by establishing professional education program registration standards; professional study, examination, experience, and limited permit requirements; provisions for the use of classification systems; and special provisions for the profession of creative arts therapy. A Notice of Proposed Rule Making to amend sections 79-11.3 and 79-11.4 and to add a new section 79-11.7 was published in the State Register on March 31, 2010. The other sections should continue without modification to define acceptable education and examination for licensure as a creative arts therapist in New York.

Statutory authority: Education Law sections 207; 210; 6501; 6504; 6507(2)(a), (3)(a), and (4)(a); 6508(1); 8404(3)(b), (c), and (d); 8409; 8411(2)(a) and (b) and (3).

Assessment of public comment: no comments were received.

Section 52.35 and Subpart 79-12 of the Commissioner's Regulations – psychoanalysis.

Justification for continuation without modification: The rule implements the requirements of Article 163 of the Education Law, as added by Chapter 676 of he Laws of 2002 by establishing professional education program registration standards; professional study, examination, experience, and limited permit requirements; provisions for the use of classification systems; and special provisions for the profession of psychoanalysis. A Notice of Proposed Rule Making to amend sections 79-12.3 and 79-12.4 and to add a new section 79-12.7 was published in the State Register on March 31, 2010. The other sections should continue without modification to define acceptable education and examination for licensure as a psychoanalyst in New York.

Statutory authority: Education Law sections 207; 210; 6501; 6504; 6507(2)(a), (3)(a), and (4)(a); 6508(1); 8405(3)(b), (c), and (d); 8409; 8411(2)(a) and (b) and (3).

Assessment of public comment: no comments were received.

Sections 74.3, 74.4. 74.5, 74.6 and 74.8 of the Commissioner's Regulations – social work.

Justification for continuation without modification: The rule establishes standards for licensure as a licensed master social worker or as a licensed clinical social worker, in accordance with changes in these requirements established by Chapter 230 of the Laws of 2004. Proposed emergency amendments to amend sections 74.3, 74.4, 74.5, 74.6 and 74.7 and to add a new section 74.9 will be published in the State Register in June 2010. The other sections should continue without modification to define acceptable education and examination for licensure as a Licensed Master Social Worker (LMSW) and Licensed Clinical Social Worker (LCSW) in New York.

Statutory authority: Education Law sections 207; 6501; 6507(2)(a) and (3)(a); 7701(1); 7704(2)(b) and (c); 7705(1) and (2); 7706(3); and 7707(2) and (4); and Insurance Law sections 3221(l)(4)(A) and (D) and 4303(i) and (n).

Assessment of public comment: no comments were received.

Sections 29.2, 29.15 & 29.16 of Regents' Rules - unprofessional conduct in the social work and mental health professions.

Justification for continuation without modification: These regulations define unprofessional conduct and the boundaries of professional practice for individuals licensed and registered to practice under Articles 154 and 163 of the Education Law. The Regents Rules define unprofessional conduct, and are necessary to protect the public from professional misconduct by licensees.

Statutory authority: Education Law sections 207; 6504; 6506(1); 6509(9); 7701(1) and (2); 7702(1); 7708(1) and (2); 8402(1); 8403(1); 8404(1); 8405(1); and 8407(1) and (2).

Assessment of public comment: no comments were received.

Sections 50.2 and 59.9 of the Commissioner's Regulations – fees for licensee photo IDs.

Justification for continuation without modification: The rule establishes a fee to defray the costs of photo identification cards to be issued to those professionals licensed and registered pursuant to Title VIII of the Education Law who elect to receive one, and repeals an outdated fee provision. The rule is necessary to continue to provide licensed and registered professionals with the option of obtaining a photo identification card.

Statutory authority: Education Law sections 207, 212, 6502(1), 6507(2)(a) and (4)(f).

Assessment of public comment: no comments were received.

Section 24.6 and Part 28 of Regents' Rules – prior disciplinary history.

Justification for continuation without modification: The rule is needed to implement sections 6506(6)(g) and 6507(5), as added by Chapter 239 of the Laws of 2004, by establishing procedures for the State Education Department's evaluation of an applicant's prior disciplinary history in another jurisdiction to determine whether the applicant is qualified to practice a licensed profession in New York State under Title VIII of the Education Law. As this is a requirement for licensing, the evaluative procedure is necessary and continues to be an important process relied upon by the Department.

Statutory authority: Education Law sections 207; 6504; 6506(1), (6)(h), and (10); and 6507(5).

Assessment of public comment: no comments were received.

Section 29.3 of Regents' Rules and sections 29.3, 68.3, 68.6, 68.11 & 68.12 – land surveying and engineering.

Justification for continuation without modification: the rule implements the Board of Regents' authority to define unprofessional conduct in the profession of land surveying and licensing examination and continuing education requirements in land surveying and engineering. Justification for continuation without modification: The purpose of the proposed amendment is to establish a definition of unprofessional conduct in the profession of land surveying and licensing examination and continuing education requirements in land surveying and engineering. The amendment defines unprofessional conduct in the profession of land surveying to include the revision, alteration, or update of an existing boundary survey without adequate confirmation of relevant boundary lines and monuments and requires the confirmation to include reasonable field verification. The amendment provides that the results of licensing examinations in engineering and land surveying would be reported on a pass/fail basis rather than by numeric grade. It also conforms Commissioner's Regulations to a recent statutory change that extended the public sector exemption to the continuing education requirement in engineering to certain licensed professional engineers who are designated management or confidential pursuant to Article 14 of the Civil Service Law. Finally, the amendment adds an educational activity, the structured educational tour, to the list of activities that may be engaged in by land surveyors and professional engineers to meet the mandatory continuing education requirement in these professions. The amendment conforms the engineering continuing education requirements for educational activities to the national authority's recommended guidelines.

Statutory authority: Education Law sections 207; 6504; 6506(1); 6507(2)(a); 6509(9); 7206(1)(4); 7206-a(1)(4); 7211(1)(d) and (4); and 7212(4).

Assessment of public comment: no comments were received.

Sections 69.1, 69.2, and 69.6 of the Commissioner's Regulations – exam and continuing education for architects.

Justification for continuation without modification: The rule establishes requirements for the licensing examination in architecture and for continuing education that licensed architects must complete to be registered to practice this profession in New York State. The rule eliminates the conditional admission to the Architect Registration Examination. The exam is still available to be taken at any time, except for Sundays and major holidays. Because of the frequency of the administration of the exam, there is still no need for conditional requirements for architects in order to be consistent with statutory requirements, and in order to be consistent with the profession of engineering.

The amendment to section 69.2 of the Commissioner's Regulations relates to the retention of credit for successfully completed parts of the licensure examination. The Department is currently drafting amendments to that provision and expects to publish a Notice of Proposed Rule Making and to adopt the changes later this year.

Statutory authority: Education Law sections 207; 6506(1); 6507(2)(a); 7304(4); 7308(2) and (4).

Assessment of public comment: no comments were received.

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

Section 100.2(x)(4)(i),(iii) and (iv) and 100.2(x)(7)(xii) Education of homeless children

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the federal Individuals with Disabilities Education Act (IDEA), as amended by Pub L. 108-446. The rule was amended to require a school district to: coordinate the transmittal of records for a student with a disability who is a homeless youth; provide comparable special education services to a homeless youth with a disability who enrolls in a school

district; ensure the local educational agency liaison assists in the enrollment and educational placement through coordination with the Committee on Special Education (CSE) for a student with a disability who is a homeless youth; and coordinate the implementation of the homeless provisions with IDEA.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 100.2(dd)(1)(iii) Professional Development Plan

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to IDEA, as amended by Pub L. 108-446. The rule was amended to require a school district to include in its professional development plans a description of professional development activities provided to school personnel who work with students with disabilities.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Part 101 Exemptions from attendance

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to IDEA, as amended by Pub L. 108-446. The rule repealed Part 101 relating to exemption from attendance.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.1 Definitions

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to correct cross citations in the definition of a student with a learning disability and guardian ad litem and to revise the definitions of parent, related services, school health services and transition services consistent with IDEA and the October 2006 amendments to Part 300 of the Code of Federal Regulations (34 CFR), which implement the IDEA. The rule was further amended in 2008 to revise the definitions of related services, school health services and transition services consistent with Chapter 378 of the New York State Laws of 2007 and the IDEA 2004 statutes and regulations.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.2(a), (b), (d), (e), (h) and (i) Board of Education Responsibilities

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to correct the federal cross citation relating to the National Instructional Materials Accessibility Standard (NIMAS) consistent with the IDEA and the October 2006 amendments to 34 CFR Part 300, which implement the IDEA.

The rule added child find requirements for students with disabilities who are homeless or wards of the State; added data requirements consistent with federal law; added new responsibilities relating to child find, evaluation, data collection and data reporting for students with disabilities placed in private elementary and secondary schools by their parents; required instructional materials to be in a format that meets the NIMAS as published in the federal Register; ensured that amendments to individualized education programs (IEPs) are disseminated consistent with Chapter 408 of the Laws of 2002 and recommendations made to IEPs without convening a meeting or by amending the IEP are provided to the board of education; repealed requirements for a comprehensive system of personnel development and required schools to include personnel development activities for staff working with students with disabilities in the professional development plan pursuant to section 100.2 of the Commissioner's Regulations; required boards of education and boards of cooperative educational services (BOCES) to establish written policies that identify the measurable steps it will take to recruit, hire, train and retain highly qualified personnel; required school districts to develop policies and procedures that describe the guidelines for the provision of appropriate accommodations necessary to measure the academic and functional performance of the student in the administration of district-wide assessments; and required a school district to identify how, to the extent feasible, it will use universal design principles in developing and administering any district-wide assessments.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.3 Committee on special education (CSE) and committee on preschool special education (CPSE)

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446 and NYS Education Law. The rule requires that not less than one regular education teacher and not less than one special education teacher or provider be members of the CSE, a subcommittee thereof, and the CPSE; and added, consistent with amendments made to section 4402 of the Education Law by Chapter 194 of the Laws of 2004, that the additional parent member on the CSE may be a parent of a student who has been declassified or who has graduated within the past five years.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7), 4410(13) and Chapter 194 of the NYS Laws of 2004.

Assessment of public comment: no comments were received.

Section 200.4 Procedures for referral, evaluation, IEP development, placement and review.

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to correct a cross citation and to conform State regulations relating to eligibility determinations including determinations of learning disabilities, IEP contents and provision of services and transfer of records for students who transfer school districts consistent with IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA. The rule was further amended in 2008 to conform State regulations relating to reevaluations and changes to an IEP after the annual review consistent with Chapter 378 of the NYS Laws of 2007 and IDEA statutes and regulations.

The rule conforms State regulations to federal law requirements relating to parental consent, individual evaluations and reevaluations, evaluation procedures, eligibility determinations including determinations of learning disabilities, IEP contents including transition services to be in effect beginning with the school year when the student turns age 15, the right of the parent to agree to alternative means of participation for CSE, subcommittee or CPSE meetings, annual review requirements, changes to the IEP after the annual review, and provision of services and transfer of records for students who transfer school districts.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.5 Due process procedures

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to correct a cross citation and to conform State Regulations relating to prior written notice, consent, procedural safeguards notice, mediation, due process hearing request notification requirements, impartial hearings and resolution process consistent with IDEA and the October 2006

amendments to 34 CFR Part 300, which implement IDEA. The rule was further amended in 2009 to conform State regulations relating to consent to the December 2008 amendments to 34 CFR Part 300.

The rule conforms State due process requirements to federal law relating to prior written notice, consent, notice of meetings, parent participation in CSE meetings, procedural safeguards notice, mediation, due process hearing request notification requirements, resolution sessions, impartial hearings, appeals of the decision of the State review officer and surrogate parents.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.6(m) Interim alternative educational setting (IAES)

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to reletter section 200.6(m) to section 200.6(n).) The rule adds IAES to the required continuum of services for students with disabilities.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

200.7(c)(4) and 200.7(d) Additional operational and administrative provisions related solely to private schools and Appointment of blind, deaf and severely physically disabled students to certain State-operated and State-supported schools

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule conforms State requirements to federal law relating to CSE members and due process for student placements in State-operated and State-supported schools.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.14(d) and (e) Day treatment programs certified by the Office of Mental Health

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule conforms the requirements for IEP development for students in day treatment programs to the amended requirements in section 200.4.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 200.16 Educational programs for preschool students with disabilities

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule conforms State requirements to federal law relating to CPSE membership, individual evaluation, eligibility determinations, reevaluations, IEP development, annual reviews, changes to the IEP, procedural safeguards and due process procedures. The rule was amended in 2007 to conform State regulations relating to procedural safeguards consistent with the IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.2 Definitions relating to procedural safeguards for students with disabilities subject to discipline

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to conform the definition of IAES consistent with the federal definition of this term. The rule conforms the definition of IAES to federal law and adds a definition of serious bodily injury.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.3 CSE responsibilities for functional behavioral assessments and behavioral intervention plans

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule was amended in 2007 to repeal section 201.3 and add a new section 201.3 to conform State Regulations consistent with the IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA. The rule conforms the CSE responsibilities for functional behavioral assessments and behavioral intervention plans to federal law.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.4 Manifestation determinations

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule conforms State requirements to federal law relating to the establishment of a manifestation team and factors to determine if the behavior of a student was or was not a manifestation of the student's disability. The rule was amended in 2007 to conform State Regulations relating to manifestation determinations consistent with the IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.5 Students presumed to have a disability for discipline purposes

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule revises the basis of knowledge as to whether a student is presumed to have a disability for discipline purposes to be consistent with federal law.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.7(d) and (e) General procedures for suspensions and removals of students with disabilities

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule makes technical changes relating to the manifestation team; added serious bodily injury as a reason school personnel may change a student's placement to an IAES; and provided that school personnel may consider unique circumstances for students with disabilities relating to discipline decisions. The rule was amended in 2007 to correct a cross citation and to conform State regulations relating to the consideration of unique circumstances for students with disabilities relating to discipline decisions consistent with IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment; no comments were received.

Section 201.8 Authority of impartial hearing officer (IHO) to order a change in placement to an IAES in a dangerous situation

Justification for continuation without modification: The rule is nec-

essary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule established the authority of an IHO to order a change of placement to an IAES, consistent with federal law. The rule was amended in 2007 to conform State regulations relating to the authority of an IHO to order a change in placement to an IAES in a dangerous situation consistent with IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.9(b) and (c) Coordination with superintendent's hearing and other due process procedures applicable to all students

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule changes the coordination with a superintendent's hearing and other due process procedures applicable to all students to federal requirements.

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

201.10(c), (d) and (e) Provision of services during suspensions

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule defines services a student with a disability must receive during suspensions of 10 school days or more and that the IAES setting shall be determined by the CSE. The rule was amended in 2007 to conform State regulations relating to the provision of services during suspensions consistent with IDEA and the October 2006 amendments to 34 CFR Part 300, which implement IDEA.

Statutory authority: Legal Basis for Rule: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a(1-7) and 4410(13).

Assessment of public comment: no comments were received.

Section 201.11(b) and (d) Expedited due process hearings

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the IDEA, as amended by Pub L. 108-446. The rule required the pendency setting for students with disabilities during expedited impartial hearings to be the IAES or other disciplinary setting. The rule was amended in 2007 to make a technical correction and to re-letter section 201.11(d) to section 201.11(c).

Statutory authority: Education Law sections 207(not subdivided), 3208(1-5), 3209(7), 3602-c(2), 4002(1-3), 4308(3), 4355(3), 4402(1-7), 4403(3), 4404(1-5), 4404-a (1-7) and 4410(13).

Assessment of public comment: no comments were received.

OFFICE OF MANAGEMENT SERVICES

100.2(x) & Parts 275 & 276 310 Appeals for Homeless

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to the Federal McKinney-Vento Homeless Education Assistance Act (42 U.S.C. sections 11431 et seq.), as amended by 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 modifies the procedures concerning appeals involving homeless children that are brought pursuant to Education Law section 310 to ensure the rights of homeless individuals consistent with Federal statutes. The rule modifies the procedures concerning appeals involving homeless children that are brought pursuant to Education Law section 310 to ensure the rights of homeless individuals consistent with Federal statutes.

Statutory authority: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and (2), 310(not subdivided), 311(not subdivided), 3202(1) and (8), 3209(7), and 3713(1) and (2).

Assessment of public comment: no comments received.

3.8 & 3.9 Chief of Staff and Counsel

Justification for continuation without modification: The rule is necessary to conform the Rules of the Board of Regents to changes made in the internal organization of the State Education Department, resulting in the elimination of the position of Chief of Staff. The rule provides for the position of Chief of Staff, to be appointed by the Board of Regents, and designates the Chief of Staff as the deputy commissioner of education as specified in Education Law section 101, who, in the absence or disability of the Commissioner or when a vacancy exists in the office of Commissioner, shall exercise and perform the functions, powers and duties of the Commissioner.

Statutory authority: Education Law section 101(not subdivided).

Assessment of public comment: no comments received.

3.8, 3.9 & 3.15 Chief Operating Officer

Justification for continuation without modification: The rule is necessary to conform the Rules of the Board of Regents to changes made in the internal organization of the State Education Department, resulting in the elimination of the position of Chief Operating Officer. The rule repealed provisions relating to the duties and responsibilities of the Chief Operating Officer of the State Education Department

Statutory authority: Education Law section 101(not subdivided) and 305(1) and (6).

Assessment of public comment: no comments received.

B. Calendar Year 2000

OFFICE OF ELEMENTARY, MIDDLE, SECONDARY AND CONTINUING EDUCATION

Section 21.2(a) of the Regents Rules - definition of ''textbook''

Justification for continuation without modification: The rule is necessary to implement Chapter 405 of the Laws of 1999, and ensures that that there is a definition of qualifying courseware and other content-based instructional materials in an electronic format for purposes of Textbook aid. The rule provides a definition of Textbook for purposes of the New York State Textbook Loan Program and Textbook Aid and clarifies that certain materials in electronic format qualify for this program and aid.

Statutory authority: Education Law sections 207 and 701(2) and section 8 of Chapter 405 of the Laws of 1999.

Assessment of public comment: no comments received.

Section 100.2(ff) of the Commissioner's Regulations - education and employment discharge planning for youth released from residential care of other State agencies

Justification for continuation without modification: The rule is necessary to implement the requirements of section 21 of Chapter 181 of the Laws of 2000, Safe Schools Against Violence Act (SAVE). The rule requires that boards of education ensure the prompt enrollment and admittance to attendance of youths released or conditionally released from residential facilities operated by or under contract with the Office of Children and Family Services, the Office of Mental Health, the Office of Mental Retardation and Developmental Disabilities or a local department of social services, and that school district personnel cooperate with such facilities and agencies in facilitating such prompt enrollment.

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 112(1).

Assessment of public comment: no comments received.

Section 100.2(c) of the Commissioner's Regulations - instruction in false reporting of crimes

Justification for continuation without modification: The rule is necessary to implement Chapter 207 of the Laws of 1999. The rule requires that instruction in fire and arson prevention include materials to educate children on the dangers of falsely reporting a criminal incident or impending explosion or fire emergency involving danger to life or property or impending catastrophe.

Statutory authority: Education Law sections 207 and 808(1) and Chapter 207 of the Laws of 1999.

Assessment of public comment: no comments received.

Section 100.2(l) of the Commissioner's Regulations - school district code of conduct relating to Safe Schools Against Violence in Education Act

Justification for continuation without modification: The rule is necessary to implement sections 2 and 3 of Chapter 181 of the Laws of 2000, the Safe Schools Against Violence in Education Act (SAVE). The rule requires school districts and BOCES to adopt codes of conduct for the maintenance of order on school property and at school functions, which govern the conduct of students, teachers and other school personnel as well as visitors.

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 2801(1) through (5) and 3214(3) and (3-a).

Assessment of public comment: no comments received.

Sections 100.2, 100.3, 100.4 and 100.5 of the Commissioner's Regulations - technical changes to State Learning Standards, State Assessments and New Graduation and Diploma Requirements

Justification for continuation without modification: The rule is necessary in that it corrected technical errors in citation of certain sections of the regulations and reinstated certain original language that was incorrectly stated or inadvertently revised in the amendments adopted by the Board of Regents in July 1999.

Statutory authority: Education Law sections 101, 207, 208, 209, 305(1) and (2), 308 and 309

Assessment of public comment: no comments received.

Sections 100.2(m) and (p) and 100.7(h) and (i) of the Commissioner's Regulations - registration of public schools and school accountability performance criteria

Justification for continuation without modification: Sections 100.2(m) and (p) and 100.7(h) and (i) of the Commissioner's Regulations establish criteria for school accountability; enable the Commissioner to designate school performance on State assessments on three levels; establish adequate yearly progress targets for schools and require improvement plans for schools that fail to make adequate programs; and use a cohort measure for high school accountability. The rule is necessary to implement Regents policy and establishes school accountability criteria, designating schools as farthest from, below, or meeting school accountability performance criteria, consistent with policy adopted by the Board of Regents to ensure that all students in public schools have the skills, knowledge and understanding they need to succeed in the next century. The rule was amended in July 2003 to align the State's System of Accountability for Student Success with the federal No Child Left Behind accountability requirements.

Statutory authority: Education Law sections 101, 207, 210, 215, 305(1), (2) and (20), 308, 309, 3204(2) and (2-9) and 4403(3)

Assessment of public comment: no comments were received.

Section 100.3(b)(2) of the Commissioner's Regulations - State Assessment requirements for students in grades pre-kindergarten through sixth

Justification for continuation without modification: The rule is necessary to implement Regents policy to change the date for administration of the new State elementary assessment in social studies and to require school districts to retest fifth grade students who scored at Level 1 of the State designated performance level on the English language arts and/or mathematics elementary assessments administered in grade 4.

Statutory authority: Education Law sections 207, 208, 209, 305(1) and (2), 308, 309 and 3204(3)

Assessment of public comment: no comments were received.

Section 100.11 of the Commissioner's Regulations - school-based planning and shared decision-making in the NYC School District

Justification for continuation without modification: The rule is necessary to align section 100.11 of the Commissioner's Regulations with the New York City governance system, as provided in Chapter 720 of the Laws of 1997, by providing for the exercise by community school district superintendents of certain functions relating to school-based planning and shared decision-making. The rule insures that each community school district in the New York City school district will operate with a single, consistent school-based planning and shared decision-making plan.

Statutory authority: Education Law sections 101, 207, 215, 305(1) and (2), 308, 309, 2590-e(1) and (3), 2590-f(1) and (2) and 2590-h(15).

Assessment of public comment: no comment received.

Section 119.3 of the Commissioner's Regulations - charter school report card

Justification for continuation without modification: The rule is necessary to implement Chapter 4 of the Laws of 1998. The rule specifies the academic and performance data items for charter school report cards. The regulation requires each charter school to submit an annual report by August 1 of each year for the preceding school year, one component of which is a charter school report card that includes measures of the school's comparative academic and fiscal performance.

Statutory authority: Education Law sections 207 and 2857(2) and Chapter 4 of the Laws of 1998.

Assessment of public comment: no comments received.

Sections 151-1.4 and 151-1.8 of the Commissioner's Regulations - Universal Pre-Kindergarten Program

Justification for continuation without modification: The rule is necessary to comply with Chapter 405 of the Laws of 1999 to provide the option of a summer program when a school district is unable to operate a Universal Prekindergarten program during the regular school session. The rule establishes standards for the implementation of summer programs as part of the Universal Prekindergarten Program

Statutory authority: Education Law sections 101, 207, 3602-e(12) and section 39 of Part L of Chapter 405 of the Laws of 1999

Assessment of public comment: no comments were received.

Section 155.2 of the Commissioner's Regulations - school district construction plans and specifications

Justification for continuation without modification: The rule reduces duplicative documentation requirements and thereby streamlines the review process in the Office of Facilities Planning and provides mandate relief to school districts. The rule requires the submittal of only one set of plans and specifications to the Office of Facilities Planning for review and approval pursuant to Education Law section 408.

Statutory authority: Education Law sections 101, 207, 305(1), (2) and (19) and 408(1), (2) and (3).

Assessment of public comment: no comments were received.

Section 155.9 of the Commissioner's Regulations - State Environmental Quality Review and school district capital construction projects

Justification for continuation without modification: The rule removed the State Education Department as the lead agency for purposes of the State Environmental Quality Review (SEQR) process. The responsibility for thorough environmental investigations and review more appropriately lies with the local governmental authority proposing a specific project, since that authority is directly familiar with the proposed site and its surroundings, and has a greater knowledge for the potential impact that may result from the project.

Statutory authority: Education Law sections 101, 207, 305(1), (2) and (19), 408(3) and 1950(4)(t) and Environmental Conservation Law sections 8-0113(3) and 8-0117(5).

Assessment of public comment: no comments were received.

Section 155.17 of the Commissioner's Regulations - school safety plans

Justification for continuation without modification: The rule is necessary to implement Chapter 181 of the Laws of 2000 to improve school safety. The rule requires school districts to adopt district-wide school safety plans and building-level school safety plans.

Statutory authority: Education Law sections 101, 207, 305(1) and (2) and 2801-a.

Assessment of public comment: no comments were received.

Section 155.22 of the Commissioner's Regulations - Qualified Zone Academy Bonds

Justification for continuation without modification: The rule is needed to establish the process for allocation of the State's qualified zone academy bond limitation amount pursuant to 26 USC section 1397E. The rule establishes the process by which local educational agencies gain access to a federal tax credit program concerning Qualified Zone Academy Bonds.

Statutory authority: Education Law sections 101, 207, 305(1) and (2) and 26 USC section 1397E.

Assessment of public comment: no comments were received.

Section 170.11 of the Commissioner's Regulations - school property tax report cards

Justification for continuation without modification: The rule is necessary implement Chapter 405 of the Laws of 1999 and to make the calculation used for purposes of the display of the difference of Consumer Price Indexes consistent with the calculation used for the six-day budget notice and the calculation of the contingency budget cap. The rule establishes procedures for the preparation of school property tax report cards. It requires school districts to prepare an annual school tax report card and specified the format for the content, describes how it must be made available to the public and specifies when school districts must submit their school property tax report cards to the State Education Department.

Statutory authority: Education Law sections 207, 1608(7) and 1716(7) and sections 10-a and 10-b of Part L of Chapter 405 of the Laws of 1999.

Assessment of public comment: no comments were received.

Section 175.5 of the Commissioner's Regulations - use of Superintendent's conference days

Justification for continuation without modification: The rule is necessary to implement section 44 of Chapter 405 of the Laws of 1999. It ensures that a definition of qualifying staff development activities and the acceptable scheduling of such activities is available to determine the number of regularly scheduled days of session and days of authorized superintendents' conferences for purposes of State aid. The rule specifies the use of superintendent's conference days by public school districts and boards of cooperative educational services to satisfy a deficiency in the length of public school sessions for the instruction of pupils and to advance the implementation of standards and assessments.

Statutory authority: Education Law sections 207 and 3604(8) and section 44 of Chapter 405 of the Laws of 1999.

Assessment of public comment: no comments were received.

Section 175.42 of the Commissioner's Regulations - aid to partitioned school districts

Justification for continuation without modification: The rule is necessary to implement Chapter 405 of the Laws of 1999. The rule provides a method of apportioning aid to school districts in the first year of reorganization, where a school district was partitioned pursuant to Education Law section 2818 after July 1st of the school year.

Statutory authority: Education Law sections 207 and 3602-f(5) and section 83-a of Part L of Chapter 405 of the Laws of 1999.

Assessment of public comment: no comments were received.

Section 175.44 of the Commissioner's Regulations - partial full day kindergarten conversion aid

Justification for continuation without modification: The rule implements Education Law section 3602(12-a), as amended by section 12 of Part A of Chapter 60 of the Laws of 2000. The rule establishes standards for the receipt of full day kindergarten conversion aid by school districts that are converting to full day kindergarten but which are unable, due to limiting and extenuating circumstances, to serve all children who wish to attend a full day program.

Statutory authority: Education Law sections 101, 207 and 3602(12-a) and section 12 of Part A of Chapter 60 of the Laws of 2000.

Assessment of public comment: no comments were received.

Part 57 and section 100.2(dd) of the Commissioner's Regulations - approval of providers of coursework and training in school violence prevention and intervention

Justification for continuation without modification: The rule is necessary to implement section 9 of Chapter 181 of the Laws of 2000, Safe Schools Against Violence in Education Act (SAVE). The rule establishes standards for approval of providers of course work or training in school violence prevention and intervention that is offered to candidates for a teachers' certificate of license in classroom teaching service, school service or administrative and supervisory service.

Statutory authority: Education Law sections 101, 207, 305(1) and (2) and 3004(3).

Assessment of public comment: no comments were received.

OFFICE OF HIGHER EDUCATION

Section 52.21 of the Commissioner's Regulations - teacher education programs

Justification for continuation without modification: The rule clarifies, corrects omissions in, and makes technical corrections to the requirements for teacher education programs adopted by the Board of Regents in September 1999 and makes the requirements more responsive to school staffing needs, while preserving the standards for preparing effective classroom teachers. The rule made technical corrections to requirements for teacher education programs.

Statutory authority: Education Law sections 207, 210, 215, 305(1) and 3004(1)

Assessment of public comment: no comments were received.

Sections 52.21, 80-1.1, 80-3.4, 80-3.5, 80-5.13 and 80-5.14 - alternative teacher certification program

Justification for continuation without modification: The rule provides an alternative method for teacher candidates to obtain a provisional or initial teaching certificate and provides a means to alleviate teacher shortages in the public schools. The rule defines alternative teacher certification requirements leading to the transitional B certificate and the provisional or initial certificate for all titles in the classroom teaching service; specifies the requirements for registration of such alternative teacher certification programs, and renames the transitional certificate for career changes and others holding a graduate academic or graduate academic or professional degree as the transitional C certificate and the transitional certificate for teaching a specific career and technical subject as the transitional A certificate.

Statutory authority: Education Law sections 207, 210, 215, 305(1), (2) and (7), 3004(1) and 3006(1)

Assessment of public comment: no comments were received.

Sections 52.21, 80-1.4, 80-3.5 and 80-5.14 of the Commissioner's Regulations - requirements for teacher certification and teacher education programs concerning school violence prevention and intervention

Justification for continuation without modification: The rule is needed to implement the requirements of Education Law section 3004(3), as amended by Chapter 181 of the Laws of 2000, part of the Safe Schools Against Violence in Education Act (SAVE). The rule requires applicants for teaching certificates and licenses to have obtained at least two clock hours of course work or training in school violence prevention and intervention and to require registered teacher education programs to include such course work or training.

Statutory authority: Education Law sections 207, 210, 305(1), 3004(1) and (3).

Assessment of public comment: no comments were received.

Sections 80.2, 80.6, 80.7, 80.8, 80.10, 80.15 and 80.16 of the Commissioner's Regulations - requirements for provisional teacher certification

Justification for continuation without modification: the rule permits an out-of-state certified teacher to obtain a conditional provisional certificate to teach in New York State for two years. The rule alleviates personnel shortages in New York State public schools by removing barriers for teachers who are certified to teach in other states to become provisionally certified to teach in New York State public schools.

Statutory authority: Education Law sections 305(1), (2) and (7), 3004(1), 3006(1), 3007(1) and 3030(1)

Assessment of public comment: no comments were received.

Part 80 and 100.2(dd) - requirements for teachers' certificates, teaching practice and professional development for teachers

Justification for continuation without modification: The rule implements Regents teaching policy embodied in the report ''New York's Commitment: Teaching to Higher Standards. It strengthens teacher certification requirements and conform to Regents teacher education program standards, and ensure that all teachers are prepared to teach to the State learning standards. The rule revised the certification requirements for the classroom teaching services and for teaching assistants, revamped certification titles, established professional development requirements for teachers and teaching assistants, and required school districts and BOCES to report and maintain records on professional development.

Statutory authority: Education Law sections 101, 207, 215, 305(1), 3003(1), 3004(1), 3006(1)(b) and 3604(8)

Assessment of public comment: no comments were received.

Sections 83.4, 83.5 and 83.6 of the Commissioner's Regulations - penalties in moral character proceedings for certified teachers

Justification for continuation without modification: The rule is necessary to implement section 12 of Chapter 181 of the Laws of 2000, the Safe Schools Against Violence in Education Act (SAVE). The rule conforms the penalties available in moral character proceedings against an individual holding a teaching certificate with penalties established in statute.

Statutory authority: Education Law sections 207 and 305(7) and section 12 of Chapter 181 of the Laws of 2000.

Assessment of public comment: no comments were received.

Section 85.2 of the Commissioner's Regulations - Mentor Teacher-Internship Programs

Justification for continuation without modification: The rule ensures that all qualified school districts and BOCES are given the opportunity to obtain funding for a mentoring program. The rule permits a school district or board of cooperative educational services seeking a variance allowing an evaluative role for mentors to be eligible for funding of a Mentor Teacher-Internship program, provided that the terms of the applicable collective bargaining agreement prescribe such activity.

Statutory authority: Education Law sections 207 and 3033(1) and (2).

Assessment of public comment: no comments were received.

Part 126 of the Commissioner's Regulations - requirements for licensed private schools and registered business schools/computer training facilities

Justification for continuation without modification: The rule is necessary to implement Chapter 434 of the Laws of 1999. The rule established requirements for licensed private schools and registered business schools/computer training facilities.

Statutory authority: Education Law sections 207, 5001(1), (2) and (4)(b), 5002(2)(c), (3)(c), (4)(c) and (e), (6)(a) and (c), and (7), 5003(1)(d) and 5007(10) and Chapter 434 of the Laws of 1999.

Assessment of public comment: no comments were received.

OFFICE OF THE PROFESSIONS

Section 59.2 of the Commissioner's Regulations - education requirements for professional licensure

Justification for continuation without modification: The rule is needed to ensure that only individuals who meet the educational requirements for licensure are licensed and to protect the public from attempts by individuals to submit fraudulent licensure credentials. The rule requires applicants for professional licensure who seek to meet the education requirement for licensure through programs that are not registered or accredited to submit adequate evidence of verification of their educational credentials by an acceptable independent credentials verification organization.

Statutory authority: Education Law sections 207, 6504 and 6507(1), (2)(a) and (3)(a).

Assessment of public comment: no comments were received.

Section 61.10 of the Commissioner's Regulations - certification of licensed dentists in the use of conscious sedation, deep sedation or general anesthesia

Justification for continuation without modification: Education Law section 6605-a, as amended by Chapter 615 of the Laws of 1999, directs the Commissioner of Education to establish requirements in regulation. The rule establishes educational and training requirements for licensed dentists to be certified to employ conscious sedation, deep sedation, or general anesthesia in the practice of dentistry at any location other than a general hospital, and to establish practice requirements for the use of conscious sedation, deep sedation, or general anesthesia by such licensed dentists.

Statutory authority: Education Law sections 207, 6506(1), 6507(2)(a), 6601 and 6605-a(2).

Assessment of public comment: no comments were received.

Section 64.7 of the Commissioner's Regulations and section 29.14 of the Regents Rules - administration of immunization and anaphylaxis treatment agents b registered professional nurses.

Justification for continuation without modification: Chapter 573 of the Laws of 1999 directs the Commissioner of Education to promulgate regulations concerning the administration of immunization and anaphylaxis treatment agents by registered professional nurses pursuant to non-patient specific orders of licensed physicians or certified nurse practitioners. The rule establishes requirements that registered professional nurses must meet to administer immunization and anaphylaxis treatment agents through non-patient specific orders and protocols, the immunization and anaphylaxis treatment agents that may be administered, the requirements for orders and the protocols, and special requirements which define unprofessional conduct for the profession of nursing.

Statutory authority: Education Law sections 207, 6503(3), 6506(1) and (9), 6507(2)(a), 6509(9), 6527(6), 6807(3), 6902(1) and 6909(4) and (5).

Assessment of public comment: no comments were received.

Section 69.6 of the Commissioner's Regulations - mandatory continuing education for architects

Justification for continuation without modification: The rule implements Education Law section 7308, as added by Chapter 521 of the Laws of 1999. The rule establishes continuing education requirements and standards for the registration of licensed architects.

Statutory authority: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 7308(1)(a), (b) and (c).

Assessment of public comment: no comments were received.

Section 70.6 of the Commissioner's Regulations - mandatory continuing education for public accountancy

Justification for continuation without modification: The rule conforms the public accountancy continuing education requirements for self-study programs to the national authority's recommended guidelines and to ensure that licensees focus a portion of their continuing education on the subject of professional ethics. A recent amendment to the public accountancy regulations renumbered the sections and eliminated the distinction between interactive and non-interactive continuing education. The rule requires individuals licensed in public accountancy to participate in at least four contact hours of continuing education study in professional ethics during each triennial registration period and to prescribe that full contact hour credit would be given for interactive self-study programs used to fulfill the continuing education requirement.

Statutory authority: Education Law sections 207, 6502(1), 6504, 6507(2)(a) and 7409(1)(a)(2) and (4).

Assessment of public comment: no comments were received.

Sections 79-4.6 and 79-4.7 of the Commissioner's Regulations - mandatory continuing education for respiratory therapists and respiratory therapy technicians.

Justification for continuance without modification: The rule clarifies and implements the requirements of Education Law sections 8504-a and 8510-a, as added by Chapter 505 of he Laws of 1999, 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, standards for the approval of sponsors of continuing education to licensed respiratory therapists and licensed respiratory therapy techni-

cians, and the fee for the review of sponsors of continuing education to defray the cost of such review by the State Education Department.

Statutory authority: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1), 8504-a(1)(a), (b) and (c), (2) through (6), and 8510-a(1)(a)(b) and (c), (2) through (6).

Assessment of public comment: no comments were received.

OFFICE OF THE PROFESSIONS

Section 59.2 of the Commissioner's Regulations - education requirements for professional licensure

Justification for continuation without modification: The regulation requires applicants for professional licensure who seek to meet the education requirement for licensure through programs that are not registered or accredited to submit adequate evidence of verification of their educational credentials by an acceptable independent credentials verification organization. The regulation is needed to ensure that only individuals who meet the educational requirements for licensure are licensed and to protect the public from attempts by individuals to submit fraudulent licensure credentials.

Statutory authority: Education Law sections 207, 6504 and 6507(1), (2)(a) and (3)(a).

Assessment of public comment: no comments were received.

Section 61.10 of the Commissioner's Regulations - certification of licensed dentists in the use of conscious sedation, deep sedation or general anesthesia

Justification for continuation without modification: Education Law section 6605-a, as amended by Chapter 615 of the Laws of 1999, directs the Commissioner of Education to establish requirements in regulation. The regulation establishes educational and training requirements for licensed dentists to be certified to employ conscious sedation, deep sedation, or general anesthesia in the practice of dentistry at any location other than a general hospital, and to establish practice requirements for the use of conscious sedation, deep sedation, or general anesthesia by such licensed dentists.

Statutory authority: Education Law sections 207, 6506(1), 6507(2)(a), 6601 and 6605-a(2).

Assessment of public comment: no comments were received.

Section 64.7 of the Commissioner's Regulations and section 29.14 of the Regents Rules - administration of immunization and anaphylaxis treatment agents b registered professional nurses.

Justification for continuation without modification: Chapter 573 of the Laws of 1999 directs the Commissioner of Education to promulgate regulations concerning the administration of immunization and anaphylaxis treatment agents by registered professional nurses pursuant to non-patient specific orders of licensed physicians or certified nurse practitioners. The regulation establishes requirements that registered professional nurses must meet to administer immunization and anaphylaxis treatment agents through non-patient specific orders and protocols, the immunization and anaphylaxis treatment agents that may be administered, the requirements for orders and the protocols, and special requirements which define unprofessional conduct for the profession of nursing.

Statutory authority: Education Law sections 207, 6503(3), 6506(1) and (9), 6507(2)(a), 6509(9), 6527(6), 6807(3), 6902(1) and 6909(4) and (5).

Assessment of public comment: no comments were received.

Section 69.6 of the Commissioner's Regulations - mandatory continuing education for architects

Justification for continuation without modification: The regulation implements Education Law section 7308, as added by Chapter 521 of the Laws of 1999. The regulation establishes continuing education requirements and standards for the registration of licensed architects.

Statutory authority: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 7308(1)(a), (b) and (c).

Assessment of public comment: no comments were received.

Section 70.6 of the Commissioner's Regulations - mandatory continuing education for public accountancy

Justification for continuation without modification: The regulation requires individuals licensed in public accountancy to participate in at least four contact hours of continuing education study in professional ethics during each triennial registration period and to prescribe that full contact hour credit would be given for interactive self-study programs used to fulfill the continuing education requirement. The regulation conforms the public accountancy continuing education requirements for self-study programs to the national authority's recommended guidelines and to ensure that licensees focus a portion of their continuing education on the subject of professional ethics. A subsequent amendment to the public accountancy regulations renumbered the sections and eliminated the distinction between interactive and non-interactive continuing education.

Statutory authority: Education Law sections 207, 6502(1), 6504, 6507(2)(a) and 7409(1)(a)(2) and (4).

Assessment of public comment: no comments were received.

Sections 79-4.6 and 79-4.7 of the Commissioner's Regulations - mandatory continuing education for respiratory therapists and respiratory therapy technicians.

Justification for continuation without modification: The regulation clarifies and implements the requirements of Education Law sections 8504-a and 8510-a, as added by Chapter 505 of he Laws of 1999, 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, standards for the approval of sponsors of continuing education to licensed respiratory therapists and licensed respiratory therapy technicians, and the fee for the review of sponsors of continuing education to defray the cost of such review by the State Education Department. The regulation establishes continuing education requirements and standards that licensed respiratory therapists and licensed respiratory therapy technicians must meet to be registered to practice in New York State and requirements for approval of sponsors of continuing education.

Statutory authority: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1), 8504-a(1)(a), (b) and (c), (2) through (6), and 8510-a(1)(a)(b) and (c), (2) through (6).

Assessment of public comment: no comments were received.

OFFICE OF MANAGEMENT SERVICES

Part 281 of the Commissioner's Regulations - appeals to Commissioner of Education pursuant to Education Law section 3020(3) relating to employees or titles in the NYC School District

Justification for continuation without modification: The regulation is necessary to implement Chapter 3 of the Laws of 2000. The regulations establish procedures for appeals to the Commissioner of Education of certain disciplinary determinations for employees or titles in the City School District of the City of New York.

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 308 and 3020(3) and Chapter 3 of the Laws of 2000.

Assessment of public comment: no comments were received.

Office of Real Property Services

The following rule adoptions by the State Board of Real Property Services during 2005 were reviewed during 2010 pursuant to SAPA section 207 to determine whether they should remain in effect as adopted or should be modified. Each of these rules is contained in Title 9 of the NYCRR.

Notice of that Review appeared in the State Register of January 6, 2010. Public comments were requested by April 1, 2010. None were received. Each rule was submitted to the State Board of Real Property Services at the Board's June 18, 2009 meeting. Each was continued without modification.

Part 185 concerned the identification of assessment record billing owners in connection with public condemnation hearings under the Eminent Domain Procedure Law, effective July 6, 2005.

Statutory Authority: Laws of 2004, chapter 450.

Description: This amendment conformed the rules of the State Board to the requirements of chapter 450. This amendment was continued by the State Board at its May 4, 2010 meeting.

Part 188, effective June 30, 2005, specifically authorized payments for late vouchers for training expenses submitted by local assessment officials on the condition of the availability of state funds.

Statutory Authority: Real Property Tax Law [RPTL], sections 202(1)(l), 318(4), 354(4) and 1530(3)(f).

Description: This amendment allows the equitable distribution of State financial aid to local officials. This amendment was continued by the State Board at its May 4, 2010 meeting.

The following rules adopted in 2000 were continued in place without change for a second time.

Part 188-Minimum Qualification Standards, Training and Certification of Local Administration Personnel: Basic Courses of Training for Local Personnel, effective May 12, 2000, continued by State Board Resolution 05-14, June 14, 2005.

Statutory Authority-RPTL, sections 202(1)(l), 310, 312 and 1530.

Description: These rules implement the training and certification requirements of the RPTL. This amendment was continued by the State Board at its May 4, 2010 meeting.

Part 190-Assessment Rolls: Annual License Fees for Users of the Real Property System (RPS), effective January 26, 2000; continued by State Board Resolution 05-15, June 14, 2005. Statutory Authority-RPTL, section 202(1)(l) and State Finance Law section 97-kk.

Description: These rules provide the structure for the imposition of annual license fees to the users of RPS. This amendment was continued by the State Board at its May 4, 2010 meeting.

Part 190-Assessment Rolls: Parcel Inventory Information, amended RPS-18-00-00008 effective August 30, 2000; continued by State Board Resolution 05-16, June 14, 2005.

Statutory Authority-RPTL, sections 202(1)(l), 500 and 501.

Description: These amendments provide inventory requirements that continue in place. This amendment was continued by the State Board at its May 4, 2010 meeting.

Part 201-State Assistance for Maintenance of a System of Improved Real Property Tax Administration: State Assistance to Local Assessing Units-RPS-09-00-00012, effective May 10, 2000; continued by State Board Resolution 05-17, June 14, 2005.

Statutory Authority-RPTL, sections 202(1)(l) and 1573.

Description: This amendment provides the structure for the annual and triennial State financial aid programs that continue in place. This amendment was continued by the State Board at its May 4, 2010 meeting.

Department of State

Pursuant to section 207(4) of the State Administrative Procedure Act (SAPA), the Department of State hereby gives notice that it has reviewed the following regulations which were adopted during 2005 and 2000:

RULES ADOPTED IN 2005

(1) DOS-34-04-00010. Administration and Enforcement of the Uniform Code.

This rule repealed Part 1203 and added new part 1203 to Title 19 NYCRR to revise the minimum standards applicable to a program for administration and enforcement of the Uniform Fire Prevention and Building Code. The statutory authority for the rule is contained in Executive Law, section 381.

Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations prescribing minimum standards for administration and enforcement of the Uniform Fire Prevention and Building Code. The rule contains revised standards to reflect amendments to the Uniform Fire Prevention and Building Code. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

(2) DOS-50-04-00006. Cease and Desist Zone for Real Estate Brokers and Salespersons.

This rule amended section 175.17(c)(2) of Title 19 NYCRR to establish a cease and desist zone in Community Districts 9, 10, 11 and 12 of the Bronx. The statutory authority for the rule is contained in Real Property Law, sections 442-h(3)(a) and (c).

Section 442-h(3)(a) of the Real Property Law authorizes the Secretary of State to establish a cease and desist zone upon determining that some homeowners in a defined area are subject to intense and repeated solicitation by real estate brokers and salespersons to list their homes for sale. Such determination was made within Community Districts 9, 10, 11 and 12 of the Bronx.

This regulation is in the process of being amended.

(3) DOS-50-04-00007. Cease and Desist Zone for Real Estate Brokers and Salespersons.

This rule amended section 175.17(c)(2) of Title 19 NYCRR to establish a cease and desist zone in the Borough of Queens. The statutory authority for the rule is contained in Real Property Law, sections 442-h(3)(a) and (c).

Section 442-h(3)(a) of the Real Property Law authorizes the Secretary of State to establish a cease and desist zone upon determining that some homeowners in a defined area are subject to intense and repeated solicitation by real estate brokers and salespersons to list their homes for sale. Such determination was made within the Borough of Queens.

This regulation is in the process of being amended.

(4) DOS-38-05-00003. Shared Municipal Services Incentive Awards.

This rule added Part 814 to Title 19 NYCRR to satisfy requirements of section 54(10)(H) of the State Finance Law. The statutory authority for the rule is contained in State Finance Law, section 54(10)(H).

This regulation will be continued without modification because section 54(10)(H) of the State Finance Law directed the Secretary of State to adopt rules and regulations to implement a competitive grant program established by the same section of law; some of the grants remain outstanding. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

RULES ADOPTED IN 2000

(1) DOS-09-99-00001. Cosmetology License.

This rule added section 162.4 to Title 19 NYCRR to establish qualifying education requirements for a cosmetology license. The statutory authority for the rule is contained in General Business Law, section 404

This regulation will be continued without modification because article 27 of the General Business Law requires cosmetologists to meet certain minimum standards of training and competence in order to ensure the health, safety, and welfare of the public. This rule addressed this requirement by requiring new applicants to complete a 1000 hour curriculum in order to qualify for a cosmetology license. The rule was promulgated by the Secretary of State after consultation with the Appearance Enhancement Advisory Committee and the State Education Department. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

(2) DOS-15-99-00005. Games of Chance.

This rule repealed sections 132.1 and 132.2, and added sections 132.1, 132.2, 132.4, and 132.5 to Title 19 NYCRR to clarify and modernize the rules dealing with the use of games of chance to sell commodities. The statutory authority for the rule is contained in General Business Law, section 369-e and Executive Law, section 91.

This regulation will be continued without modification because General Business Law section 369-e requires that persons, firms, and corporations which use games of chance to sell commodities must make a filing with the Department of State if the total announced value of prizes offered is in excess of five thousand dollars. The legislative objective of this section was to decrease the likelihood of prizes not being awarded when games of chance are used to sell commodities. The rule is necessary to clarify when a filing must be made with the Department and to preserve the protections for prizewinners contained in General Business Law section 369-e. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

(3) DOS-05-00-0000. Boxer-Promoter Contracts, Special Rules for Professional Boxing Championship Bouts, and the Standing Eight Count.

This rule amended Parts 205, 208, 212, 215, and 216 of Title 19 NYCRR concerning boxer-promoter contracts, special rules for professional boxing championship bouts, and the standing eight count. The statutory authority for the rule is contained in Unconsolidated Laws, section 8901.

This regulation will be continued without modification because the rule reformed the process for selection, licensing, and compensation of judges in professional boxing championship bouts; protects boxers by imposing additional requirements on boxer-promoter contracts; established new disclosure rules for organizations sanctioning professional boxing championships; and protects the health and safety of boxers. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

(4) DOS-07-00-0001. Information Posting by Public Not-for-Profit Cemeteries.

This rule repealed section 201.7 and added a new section 201.7 to Title 19 NYCRR concerning information required to be posted by public not-for-profit cemeteries regulated by the State Cemetery Board. The statutory authority for the rule is contained in Not-for-Profit Corporation Law, section 1504(c)(1).

This regulation will be continued without modification because the rule requires each public not-for-profit cemetery which does not have its main office on or adjacent to the cemetery premises to post a notice at the main entrance to the cemetery which states the name, title, and office telephone number of the superintendent or other person with primary responsibility for the operation of the cemetery. The rule is necessary to ensure that the public has a means of making those individuals responsible for the operation of these cemeteries (many of which are small and run by volunteers) aware of instances of vandalism and other issues affecting the operation of these cemeteries. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

(5) DOS-12-00-00008. Cease and Desist Zone.

This rule amended section 175.17(c)(2) of Title 19 NYCRR to establish a cease and desist zone in the community districts 9, 10, 11, and 12 of the Bronx. The statutory authority for the rule is contained in Real Property Law, section 442-h(3).

Certain homeowners in the above mentioned Bronx communities requested relief from intense pressure and repeated solicitations from real estate brokers and salespersons to list their homes for sale. These homeowners had no practical means of stopping these unwanted and intrusive solicitations other than establishment of a cease-and-desist zone. This rule authorizes homeowners in the designated communities to file an ''owner's statement'' with the Department of State which indicates a desire to not be solicited. These filings, which were published by the Department of State in cease-and-desist lists, provide those homeowners who did not wish to be solicited with an effective and practical means of notifying real estate brokers and salespersons that they do not wish to be contacted.

This rule is in the process of being amended.

(6) DOS-12-00-00011. Cease and Desist Zone.

This rule amended section 175.17(c)(2) of Title 19 NYCRR to establish a cease and desist zone in the County of Queens. The statutory authority for the rule is contained in Real Property Law, section 442-h(3).

Certain homeowners in the County of Queens requested relief from intense pressure and repeated solicitations from real estate brokers and salespersons to list their homes for sale. These homeowners had no practical means of stopping these unwanted and intrusive solicitations other than establishment of a cease-and-desist zone. This rule authorizes homeowners in the designated communities to file an ''owner's statement'' with the Department of State which indicates a desire to not be solicited. These filings, which were published by the Department of State in cease-and-desist lists, provide those homeowners who did not wish to be solicited with an effective and practical means of notifying real estate brokers and salespersons that they do not wish to be contacted.

This rule is in the process of being amended.

(7) DOS-20-00-00003. Definitions in Relation to Security and Fire Alarm Systems.

This rule amended section 195.1 of Title 19 NYCRR to clarify the meaning of terms in relation to security and fire alarm systems, and add a new definition. The statutory authority for the rule is contained in General Business Law, section 69-n(5).

This regulation will be continued without modification because article 6-D contains several terms that are vague and imprecise. The rule is needed to clarify the definitions of these terms and thereby ensure proper understanding and compliance with the provisions of article 6-D by regulated parties. There have been no statutory amendments or changes in policy to warrant any modification of the changes made by this regulation.

A summary of the above-listed regulations was published in the Regulatory Agenda section of the January 6, 2010 edition of the State Register. The Department of State did not receive any comments from the public in response to the publication.

For further information, contact: David Treacy, Office of General Counsel, New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Suite 1120, Albany, New York 12231-0001, (518) 474-6740.