

REGULATORY AGENDA

Department of Agriculture and Markets

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act, notice is hereby provided of the following rules which the Department of Agriculture and Markets is considering proposing but for which a rulemaking proceeding has not been commenced. All section and Part references are to Title 1 of the New York Code of Rules and Regulations, except where noted.

DIVISION OF ANIMAL INDUSTRY

Section 45.6: Consider amending section 45.6 to require mandatory depopulation and cleaning and disinfection of the live poultry markets every 3 months.

Part 50: Consider amending regulations pertaining to livestock disinfection procedures and removing obsolete provisions.

Part 53: Consider amendments relative to the movement of cattle into New York State.

Part 57: Consider repealing sections 57.7 through 57.23 pertaining to the salmonella enteritidis testing program.

Part 60: Consider amending requirements governing the intrastate movement of deer in light of amendments to health requirements for captive cervids (Part 68) and also clarify requirements for tuberculosis testing.

Part 61: Consider adopting recordkeeping requirements for swine, cervid, camelid, goat and sheep dealers.

Part 64: Consider amending sections 64.4, 64.7 and 64.8 to clarify the requirement that veterinarians must have Class 2 USDA accredited status in order to submit samples for official equine infectious anemia (Coggins) tests.

Part 67: Consider amending importation restrictions on livestock originating in states with vesicular stomatitis virus to make those restrictions consistent with federal requirements.

Part 68: Consider amending animal health requirements to require tuberculosis surveillance on all captive cervid herds.

Part 77: Consider amending the standards of care for seized dogs, clarify the definition of a dog dealer and conform the definition of euthanasia to State law.

Part 82: Consider adopting pet dealer regulations to define the veterinary plan, the primary enclosure, the whelping box requirement, the exercise requirement, the isolation area and the standards for ventilation, temperature and light.

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DIVISION OF FOOD SAFETY AND INSPECTION

Part 161: Consider adding regulations with respect to the NYS Certified Program, a voluntary program to promote New York State crops and product of producers which operate in an environmentally responsible manner and/or are certified as to their good practice standards.

Part 245: Consider amending regulations concerning structural and sanitary requirements for slaughterhouses.

Parts 250, 252, 259; sections 261.8, 261.9, 262.1, 265.1, 266.1, 267.1, 271-4.7, 271-5.3(h), 271-5.3(j), 271-5.4(g); and Parts 277, 279, 280 and 281: Consider amending these Parts/sections to incorporate by reference the most recent Federal regulations (2016).

Part 261: Consider repeal of this Part and addition of a new Part 261, incorporating by reference 21 CFR Part 110.

Part 262: Consider amending regulations regarding fish processing and smoking establishments.

Part 273: Consider adding definitions for certain terms being used on product labels and labeling that have no definition in State law and regulation.

Part 282: Consider incorporating by reference 21 CFR Part 117 – Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Controls for Human Foods

Part 283: Consider incorporating by reference 21 CFR Part 507 – Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Controls for Food for Animals

Part 284: Consider incorporating by reference 21 CFR Part 112 – Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption

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DIVISION OF MILK CONTROL AND DAIRY SERVICES

Part 2: Consider amendments in order to regulate camel's milk.

Section 2.8: Consider amendments to make changes relative to the somatic cell count for prepasteurized milk from sheep and goats.

Section 2.8: Consider amendments to establish quality standards for raw milk cheeses.

Section 2.66: Consider incorporating by reference 21 CFR Part 117 – Current Good Manufacturing Practices, Hazard Analysis, and Risk Based Controls for Human Foods

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BUREAU OF WEIGHTS AND MEASURES

Part 220: Consider the repeal of section 220.8 (Retail Petroleum Devices) and 220.9 (Delivery of Petroleum Products) and renumbering sections 220.10 through 220.14 to sections 220.8 through 220.12.

Section 220.2: Consider adopting national standards for the specifications, tolerances and regulations for commercial weighing and measuring devices as published in the 2017 edition of NIST Handbook 44.

Section 220.2: Consider adopting temporary standards for global positioning systems (GPS) used in taximeters and other fee-for-ride transactions.

Section 220.4: Consider increasing fees for metrology laboratory testing.

Section 220.12: Consider increasing fees for type evaluations.

Part 221: Consider adopting NIST Handbook 130 standards for packaging and labeling and for methods of sale.

Section 221.11: Consider adopting national standards for the checking of the net contents of packaged goods as published in the 2015 edition of NIST Handbook 133.

Part 224: Consider adopting diameter size requirements for diesel fuel dispensers.

Part 224: Consider adopting current standards of the American Society for Testing Materials (ASTM) regarding gasoline (D 4814), diesel (D 975) and kerosene (D 3699). Also consider adopting stricter standards for levels of water in storage tanks.

Part 225: Consider adopting regulations to implement Agriculture and Markets Law section 192-h, relating to the installation of generators at service stations in the downstate area.

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DESIGNATED AGENCY REPRESENTATIVE: Frederick Brian Arnold, Esq.

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Office of Children and Family Services

Pursuant to section 202-d of the State Administrative Procedure Act (SAPA), the Office of Children and Family Services (OCFS) is required to publish a regulatory agenda for those regulations it is considering for publication in the State Register. Set forth below is an agenda for the second half of 2016. OCFS reserves the right to add, delete or modify, without further notice, except as required by SAPA, any item or information presented herein as relating to its 2016 Regulatory Agenda. Section 202-d of SAPA does not preclude OCFS from proposing for adoption a regulation that is not described in this agenda, nor does it require OCFS to propose for adoption a regulation that is described in this agenda.

Amendment of sections 441.3 and 482.2 of Title 18 of the New York Code of Rules and Regulations to establish standards under which chief executive officers and employees of corporations subject to the approval of OCFS could serve as voting members of the boards of directors of such corporations. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of section 441.22 of Title 18 of the New York Code of Rules and Regulations that would update the schedule for periodic medical examinations, monitoring and coordination of health services for children in foster care. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of sections 421.11, 421.15, 421.19, 421.27, 443.2 and 443.8 of Title 18 of the New York Code of Rules and Regulations to authorize OCFS to review and evaluate the results of criminal history record checks conducted by the Federal Bureau of Investigation of persons and their adult household members who have applied to a voluntary authorized agency or social services district for certification or approval as adoptive or foster parents. A regulatory flexibility analysis and rural flexibility analysis may be required.

Amendment of sections 408.6 and 452.9 of Title 18 of the New York Code of Rules and Regulations that would allow for the increase in the maximum length of stay at residential programs for victims of domestic violence. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of sections 452.4, 452.9, and 453.8 of Title 18 of the New York Code of Rules and Regulations that would create implementing regulations regarding the requirements pursuant to Chapter

584 of the Laws of 2015, as modified by Chapter 7 of the Laws of 2016, that will require residential programs for victims of domestic violence to allow a service animal or therapy dog to accompany the victim in a shelter. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Amendment of section 168.7 of Title 9 of the New York Code of Rules and Regulations relating to the confidentiality of records of youth under the care and supervision of the Office of Children and Family Services. A regulatory flexibility analysis and rural area flexibility analysis may be required.

Any questions, comments or requests for information concerning the items listed in this agenda may be referred to Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 486-9563. Email: leslie.robinson@ocfs.ny.gov. This regulatory agenda may also be accessed on OCFS' website at <http://ocfs.ny.gov/main/legal/Regulatory/>.

Education Department

Pursuant to section 202-d of the State Administrative Procedure Act, the State Education Department presents its regulatory agenda for the remainder of calendar year 2016. All section and part references are to Title 8 of the New York Code of Rules and Regulations. The State Education Department reserves the right to add, delete or modify, without further notice, except as required by the State Administrative Procedure Act, any item or information presented herein as relating to the June 2016 Regulatory Agenda.

OFFICE OF P-12 EDUCATION

Amendment of sections 30-2.3, 30-3.3, 30-3.4, 30-3.5, 30-3.11, and 30-3.13 of the Rules of the Board of Regents, relating to annual professional performance reviews of classroom teachers and building principals, to provide greater flexibility to districts and BOCES in implementing the provisions of Education Law § 3012-c and § 3012-d. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of sections 52 and 80 of the Commissioner's Regulations to require all prospective teachers to complete coursework on English Language Learner instructional needs, co-teaching strategies, and integrating language and content instruction for English Language Learners. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 80 of the Commissioner's Regulations to create a certification extension for bilingual teaching assistants. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 80-1.9 of the Commissioner's Regulations relating to the filing of district personnel data. A regulatory change may be required to align the requirement for collecting personnel data which has changed from staff filing a paper form to an electronic filing by school districts, BOCES and charter schools. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(a) of the Commissioner's Regulations relating to the definition of a unit of study. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.1(b) of the Commissioner's Regulations relating to the definition of a unit of credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(gg) of the Commissioner's Regulations relating to the violent and dangerous incident report system. A regulatory change may be required to implement policy and to amend the reportable categories in the violent and dangerous incident report system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations to conform to Education Law sections 207, 305, and 211-f as added by Chapter 56 of the Laws of 2015 and to align the already existing rules

with the new section 100.19 relating to Receivership. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(m) of the Commissioner's Regulations relating to the school report card. A regulatory change may be required to allow for the various data of the school report card to be identified individually. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(i) of the Commissioner's Regulations to allow the reporting of Complaints About the Use of Corporal Punishment by BOCES, District or Charter School Personnel to be done once a year. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(x) of the Commissioner's Regulations to conform to the Every Student Succeeds Act. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.3 of the Commissioner's Regulations relating to the PreK-4 Program requirements to reflect the adoption of the Common Core Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4 of the Commissioner's Regulations relating to program requirements in grades 5-6 to reflect the adoption of the Learning Standards. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2 of the Commissioner's Regulations relating to general school requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.2(j) of the Commissioner's Regulations relating to guidance counselors. A regulatory change may be required to update language and specific requirements to develop a comprehensive, developmentally appropriate school counseling program for each student attending a New York State public or charter school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations, relating to graduation requirements. A regulatory change may be required to allow for additional options for English language learners. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5 of the Commissioner's Regulations relating to diploma requirements for students pursuing a career/technical education program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.7 of the Commissioner's Regulations relating to the State High School Equivalency Program to increase the age of eligibility and minimum number of hours required by the program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of § 100.5(g)(1)(i) of the Commissioner's Regulations relating to the transition to the Regents Examination in English Language Arts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(b) of the Commissioner's Regulations relating to program requirements in grades five and six. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(c) of the Commissioner's Regulations relating to unit of study requirements in grades seven and eight. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(d) of the Commissioner's Regulations relating to grade eight acceleration for diploma credit. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.4(h) of the Commissioner's Regulations

relating to models for Middle Level Education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.5(a), (b) and (c) of the Commissioner's Regulations relating to graduation and diploma requirements. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Repeal of sections 100.14 and 100.15 of the Commissioner's Regulations relating to Excelsior Scholars Program and Grants for Summer Institutes for Mathematics and Science Teachers. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Extension of the amendment to sections 100.4(e)(2) and 100.18(b)(14) of the Commissioner's Regulations to provide flexibility to school districts and charter schools regarding the administration of Regents Examinations in Mathematics (Common Core) to grades 7 and 8 students. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 100.18 of the Commissioner's Regulations to align with any amendments made to the State's approved ESEA Flexibility Renewal Request, including but not limited to the identification of Local Assistance Plan Schools, Focus Schools, Priority Schools, and Focus Districts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 114.1(b) of the Commissioner's Regulations relating to nutrition standards. A regulatory change may be required to conform with federal statute and/or regulation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 117 of the Commissioner's Regulations relating to diagnostic screening for students who are new entrants or who have low test scores in reading or mathematics. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 118 of the Commissioner's Regulations relating to implementation of waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of ESEA flexibility pertaining to school and district accountability. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 119 of the Commissioner's Regulations to add a section relating to procedures regarding complaints brought pursuant to Education Law section 2855. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.1 of Commissioner's Regulations, relating to Charter School Tuition Reimbursement, to conform to section 4 of Part BB of Chapter 56 of the Laws of 2014. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 119.3 of the Commissioner's Regulations relating to charter school report cards to correct a citation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 120 of the Commissioner's Regulations relating to implementation of waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of ESEA flexibility pertaining to Supplemental Educational Services and Public School Choice. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 125 of the Commissioner's Regulations relating to the requirements for the voluntary registration of nonpublic nursery schools and kindergartens. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Subpart 151-1 of the Commissioner's Regulations relating to universal prekindergarten. A regulatory change may be required to implement policy relating to the suspension and expulsion of children in universal prekindergarten classes. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 151-1.3 of the Commissioner's Regulations relating to the Universal Pre-Kindergarten program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the instructional reporting and improvement system. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations relating to the Early Warning System and the use of standardized student-level attendance rules. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 136.3(b) of the Commissioner's Regulations to conform to Education Law section 901, as amended by the Laws of 2006, Ch. 58, pt. A-1, § 57, which removed the exemption of the city school districts of Rochester and Buffalo from the requirement to provide school health services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 144.11 of the Commissioner's Regulations to eliminate the requirement that school districts have an Early Grade Class Size Reduction Plan. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 155.17 of the Commissioner's Regulations relating to emergency response plans. A regulatory change may be required to retitle building-level school safety plans to building level school emergency response plans to conform with federal FEMA emergency preparedness guidelines and to change the due date of submissions due to the Department. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Development of a new Part of the Commissioner's Regulations to create identification, placement and program requirements for students who are English language learners in preschool. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.2 of the Regulations of the Commissioner of Education relating to least restrictive environment placements of students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.6 of the Commissioner's Regulations relating to Committee on Special Education recommendations for home and hospital instruction. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.7 of the Commissioner's Regulations relating to conditions of approval and the program standards for private schools approved to serve students with disabilities. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 200.20(a) of the Commissioner's Regulations relating to public school districts as preschool evaluators as may be necessary to conform to changes to State statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.16(c)(vi) of the Rules of the Board of Regents to update delegation of authority with respect to charter schools and relocation of a charter school to a different borough within a school district in a city having a population of one million or more. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding and to allow the Board of Regents to appoint a representative to hear oral arguments on behalf

of the Board of Regents and to make a determination in regard to such oral argument. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(3) of the Rules of the Board of Regents to update the revocation proceeding to revoke the certificate of incorporation after the assets of the education corporations have been discharged. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(a)(4) of the Rules of the Board of Regents to update the revocation proceeding to require that the imposition of a remedial action plan be agreed upon by the charter school. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 3.17(c) of the Rules of the Board of Regents to update the revocation proceeding to revoke the certificate of incorporation after the assets of the education corporations have been discharged. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

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OFFICE OF HIGHER EDUCATION

Addition of a new subdivision 55 to section 305 of the Education Law to require that all colleges for teachers or teachers colleges in the state provide a course of instruction in mental health first aid to each student before graduation with a degree in teaching or education. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Amendment to Section 80-3.5 of the Commissioner's Regulations to establish new pathway options for the Transitional A certificate in Career and Technical Education subjects for candidates who have professional experience. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Addition of a new Part of the Commissioner's Regulations pertaining to the requirements for student and teacher data privacy and security pursuant to Education Law section 2-d, as added by Subpart L of Part AA of Chapter 56 of the Laws of 2014. A rural area flexibility analysis and/or a regulatory flexibility analysis may be required.

Amendment of section 3.56 of Regents Rules to clarify requirements for out-of-state institutions of higher education that are seeking Regents permission to operate in New York. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 50.1 of the Commissioner's Regulations to include a definition of a remedial course and a compensatory course as needed under sections 6451 and 6452 of the Education Law. A rural area flexibility analysis and regulatory flexibility analysis may be required.

Amendment of section 52.2(f) of the Commissioner's Regulations specifying the academic content of a transcript prepared by an Institution of Higher Education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 80 of the Commissioner's Regulations relating to the certification requirements for school counselors. A rural area flexibility analysis may be required.

Amendment of section 80-3.4 of the Commissioner's Regulations relating to education requirements for the professional certificate. A rural area flexibility analysis may be required.

Amendment of Part 80-4.3 and 80-5.18 relating to the requirements

for a Supplementary Bilingual Education extension and the Supplementary English to Speakers of Other Languages certificate. A rural area flexibility analysis may be required.

Amendment of Part 83 of the Commissioner's Regulations to streamline moral character hearings. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Amendment of Part 86 of the Commissioner's Regulations relating to the requirements for the Albert Shanker Grant. A rural area flexibility analysis may be required.

Amendment of Part 135 of the Commissioner's Regulations to clarify the due process procedures relative to coaching licenses. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.1(a)(iii) to provide a definition of a remedial course(s). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.2 to provide a definition of the term "the recognized equivalent of such certificate" as found in Education Law section 661(4)(f) for the purposes of determining eligibility for the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(3) to clarify and establish jurisdiction over a student at the time of the completion of secondary education. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 145-2.15(b)(2) to clarify the federally approved ability to benefit test administration for the purposes of the NYS Tuition Assistance Program. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations section 152-1.2 to insert language concerning remedial, developmental, and compensatory courses. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations Part 50 and Part 54 to amend the definitions and procedures related to off-campus instruction and locations. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Commissioner's Regulations to establish a new part to implement section 6449 of the Education Law as related to aggregate data reporting to the department as required by Chapter 76 of the Laws of 2015, the Sexual Assault, Dating Violence, Domestic Violence and Stalking Prevention and Response Policies and Procedures. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

John D'Agati

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Office of Higher Education

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OFFICE OF THE PROFESSIONS

Amendment of Part 17 of the Regents Rules relating to consent orders in disciplinary proceedings conducted pursuant to Title VIII of the Education Law. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions

of unprofessional conduct in the public accountancy and certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 29 of the Regents Rules relating to definitions of unprofessional conduct in the pharmacy profession. A regulatory flexibility analysis for small businesses and a rural flexibility analysis may be required.

Amendment of Part 61 of the Commissioner's Regulations relating to licensure by endorsement provisions for dentists. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 69 of the Commissioner's Regulations relating to licensure by endorsement provisions for architects. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 70 of the Commissioner's Regulations relating to the definitions of public accountancy and the certified public accountancy professions. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment to Subpart 79-7 of the Commissioner's Regulations relating to the education requirements for certified athletic trainers. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Amendment of Part 79 of the Commissioner's Regulations to create a new Subpart 79-17 to add a new profession entitled "Perfusionists"; to describe the scope of practice of a Perfusionist and to make Perfusion a title protected profession. A regulatory flexibility analysis for small businesses and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

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OFFICE OF CULTURAL EDUCATION

Amendment of Part 90 of the Commissioner's Regulations, relating to the library and library system programs and services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the above proposed amendment by contacting:

Bernard A. Margolis

State Librarian and Assistant Commissioner for Libraries

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New York State Library

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Amendment of sections 189.1 and 189.3 of the Commissioner's Regulations relating to the Documentary Heritage program, to revise procedures for the award of grants and for the provision of field services. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 188 of the Commissioner's Regulations related to state government archives and records management to update the

agency fee list to match the current organizational structure of executive branch agencies. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

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Assistant Commissioner for the State Archives

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OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Amendment of Parts 246, 247 and 248 of the Commissioner's Regulations, regarding conforming and technical amendments pertaining to the vocational rehabilitation and independent living programs. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Part 246 of the Commissioner's Regulations, relating to sheltered workshop programs and community rehabilitation providers, may be necessary to conform to federal regulations and to reflect new standards for services established in contracts. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of Parts 246 and 247 of the Commissioner's Regulations relating to the State vocational rehabilitation program operated pursuant to Title I of the Rehabilitation Act, as may be appropriate in order to conform to changes resulting from the passage of the Workforce Innovation and Opportunity Act (WIOA) on July 22, 2014, which amended the Rehabilitation Act. The draft federal regulations were released on April 16, 2015. The final federal WIOA regulations are expected to be released in June 2016. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Addition of a new section 247.19 of the Commissioner's Regulations as follows:

Readers Aid for blind or deaf students. Contingent upon the adoption of proposed amendments to § 4210 of the New York State Education Law, this section authorizes personnel responsible for the provision of reasonable accommodations at institutions of higher education or proprietary schools to apply for Readers Aid funding. Applications will include documentation that attests to student eligibility and meets additional requirements as established by ACCES-VR. Readers Aid funding will be awarded based on available funding and at ACCES VR's discretion, not to exceed \$4,000 per student per academic year. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Agency Representative:

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Amendment of section 126.1 of the Commissioner's Regulations to delete sections 126.1(a), (c), (k), (p), (q), (t), and (aa) which are either simple restatements or are redundant, as they are already defined in statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.1(o) of the Commissioner's Regulations to delete the term, "received," as used in the phrase "revenue received," in reference to the reporting of gross tuition. This change is needed to ensure that the term used accurately aligns with Generally Accepted Accounting Principles (GAAP), as required by statute. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.3(b) of the Commissioner's Regulations to ensure that advertising, in languages other than English, is translated into English for a review of the content, with an affirmation that the translation is an accurate translation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.4(e)(2)(i) of the Commissioner's Regulations to clarify the conditions related to a student's satisfactory academic progress and continued program participation. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.4(g) of the Commissioner's Regulations to align with section 5002(1)(c) of the Education Law, as related to non-occupational coursework. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.4(i) of the Commissioner's Regulations to refer directly to section 5002(1)(c) of the Education Law as the source of its authority. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.6(a) of the Commissioner's Regulations to align with statutory language and to reflect the new web-based method for receiving submissions, by changing the word "mailed" to "provided" and deleting the reference to the word "postmarked." A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.8(b)(3) of the Commissioner's Regulations to be deleted, as it is redundant with section 5001(4)(e) of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.10(a) of the Commissioner's Regulations to be revised to delete reference to statutory fee and method for notifying applicant, due to redundancy with section 5001(4)(a) of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 126.10(b) and (c) of the Commissioner's Regulations to be deleted as proposed deletions mirror nearly identical provisions in sections 5001(4)(c) and (d) and section 5001(7) of the Education Law. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of the Commissioner's Regulations to add a new section 126.10(k), as per section 5001(4)(f)(3) of the Education Law, to specify that any alternate licensing procedures applicable to non-profit schools exempt from taxation under section 501(c)(3) of the federal internal revenue code and whose programs, including registration fees, the sale of books, supplies, services, kits, uniforms or equipment are funded entirely through donations, exclusive of public sources, from individuals or philanthropic organizations, or endowments, and interest accrued thereon, shall be subject to all of the requirements of article 101 of Education Law and this Part, except that:

126.10(k)(1) - such schools shall be exempt from the requirements of Education Law, as follows:

126.10(k)(1)(i), § 5002(3) - which relates to tuition liability;

126.10(k)(1)(ii), § 5001(4)(e)(i) - which relates to the inclusion in financial statements of refunds due or owed to past or presently enrolled students;

126.10(k)(1)(iii), § 5002(2)(b)(5) - which relates to the inclusion in any school record of the amount of any refund paid to any student;

126.10(k)(1)(iv), § 5005(a)(4) - which relates to the disclosure to prospective and enrolled students of any refund policy and § 5005(e), and § 5005(f) which relates to a tuition reimbursement fund claim form;

126.10(k)(2) - such schools shall be exempt from the requirements of the following provisions of this Part:

126.10(k)(2)(i), § 126.4(c)(6) - which relates to data required to be submitted about tuition and other charges and method of payment;

126.10(k)(2)(ii), § 126.7(b)(6)–(9) - which relates to the inclusion in enrollment agreements of any tuition charges or fees or method of payment;

126.10(k)(2)(iii), § 126.7(b)(15) - which relates to any refund a school will make under certain prescribed circumstances;

126.10(k)(2)(iv), § 126.7(d), except § 126.7(d)(3) thereof, - which relates to the inclusion in enrollment agreements of a reasonable adjustment of tuition and other fees, and any refund policies;

126.10(k)(2)(v), § 126.7(e) - which relates to the option to use the refund policy of a nationally recognized accrediting agency and the use of the refund policy required by federal law;

126.10(k)(2)(vi), § 126.7(g) - which relates to the inclusion in the enrollment agreements of any refunds due;

126.10(k)(2)(vii), § 126.9(a)(8) - which relates to inclusion in the school catalog of a schedule of fees or charges;

126.10(k)(2)(viii), § 126.9(a)(9) - which relates to the inclusion in the school catalog of school policies and regulations governing the refund of any unused portion of tuition, fees and other charges in certain circumstances;

126.10(k)(2)(ix), § 126.9(a)(13) - which relates to the inclusion in the school catalog of financial assistance information;

126.10(k)(2)(x), § 126.9(a)(18) - which relates to the inclusion in the school catalog of information about tuition refunds from the Tuition Reimbursement Account (TRA);

126.10(k)(2)(xi), § 126.9(a)(19) - which relates to the inclusion in the school catalog of a weekly tuition liability chart;

126.10(k)(2)(xii), § 126.11(a)(10) - which relates to the maintenance of records of tuition, fees, public loans and grants, and their disbursement, by a school for seven years.

A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning the modification or continuation of any of the above rules by contacting:

Ruth A. Singer
Supervisor, Bureau of Proprietary School Supervision
Office of Adult Career and Continuing Education Services
Room 560 EBA
89 Washington Avenue
Albany, New York 12234
(518) 474-3969
Ruth.Singer@nysed.gov
OFFICE OF STATE REVIEW

Amendment of section 279.1 of the Commissioner's Regulations, relating to the incorporation and clarification of definitions and other provisions, as relevant to state-level review of hearings for students with disabilities, that are currently referenced in Parts 275 and 276; deletion of references to parts 275 and 276; clarification of the jurisdiction of a state review officer and procedures regarding state review proceedings; clarification regarding the authority of a state review officer to review manifestation determinations; and definition of the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.2 of the Commissioner's Regulations, relating to timelines for serving and filing a notice of intention to seek review; clarification of the purpose of notice of intention to seek review; clarification of timeframe in which to serve upon another party and file a notice of intention to seek review; addition of a notice of intention to cross-appeal requirement; and addition of a requirement to identify the issues sought to be reviewed by a state review officer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.3 of the Commissioner's Regulations,

relating to extensions of time for service of an answer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.4 of the Commissioner's Regulations, relating to the initiation and scope of a review and the timeliness of an appeal, clarification of sufficiency of content and time in which to serve the request for review and supporting papers upon the opposing party; clarification of required elements of a cross-appeal; clarification of methods and completion of permissible service; and procedures for filing a request for review and supporting papers with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.5 of the Commissioner's Regulations, relating to the content and service of an answer and supporting papers upon the opposing party and filing with the Office of State Review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.6 of the Commissioner's Regulations, relating to the content and service of additional pleadings upon the opposing party and filing with the Office of State Review; and State Review Officer authority to request additional briefing from the parties. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.7 of the Commissioner's Regulations, relating to endorsement and verification of pleadings. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.8 of the Commissioner's Regulations, relating to the form and content of pleadings and memoranda of law; and clarification of the requirement that pleadings be signed consistent with 22 NYCRR 130-1.1a(a). A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.9 of the Commissioner's Regulations, relating to content and submission of record; certification of record; providing consequences to districts that fail to timely file the complete record; and specifying content of records on appeal from interim decisions. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.10 of the Commissioner's Regulations, relating to requests for extensions of time; and submission of additional evidence or remand of a matter to the impartial hearing officer. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.11 of the Commissioner's Regulations, relating to calculating date by which service must be made. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of section 279.12 of the Commissioner's Regulations, clarifying provisions relating to the finality of state review officer decisions. A regulatory flexibility analysis and a rural area flexibility analysis may be required.

Amendment of section 279.13 of the Commissioner's Regulations, relating to service of petition for review. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Amendment of 279.14 of the Commissioner's Regulations, relating to pre-review conferences. A regulatory flexibility analysis for local government and a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

Justyn P. Bates
Office of State Review
80 Wolf Road, Suite 203
Albany, New York 12203
(518) 485-9373
osrcmment@nysed.gov

OFFICE OF MANAGEMENT SERVICES

Amendment of Parts 187 and 188 to update regulations relating to the inspection and copying of State Education Department records and to State Government Archives and Records Management. A regulatory flexibility analysis and/or a rural area flexibility analysis may be required.

Agency Representative:

Information may be obtained, and written comments may be submitted, concerning any of the above proposed amendments by contacting:

Richard J. Trautwein
 Counsel and Deputy Commissioner for Legal Affairs
 State Education Building Room 148
 89 Washington Ave., Albany, NY 12234
 (518) 474-6400
 legal@nysed.gov

Department of Financial Services

Pursuant to State Administrative Procedure Act (“SAPA”) Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3, 11, and 23 of the NYCRR that the New York State Department of Financial Services (“Department”) is presently considering proposing during the second half of 2016. Many of these items were previously published in the January 2016 Regulatory Agenda. Items that have already been published in the State Register as “proposed” actions are not included on the list. The Department’s regulatory plans are subject to change and the Department reserves the right to add to, delete from, or modify items in the Agenda without further notice.

This notice also is intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as required by Sections 202-b and 202-bb of SAPA.

I. Insurance Regulations

For inquiries about a specific item, please contact the person identified in the item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, please contact:

Sally Geisel, Supervising Attorney or
 Camielle Barclay, Senior Attorney
 New York State Department of Financial Services
 One State Street
 New York, NY 10004

Telephone Numbers: Sally Geisel - (212) 480-5287 and Camielle Barclay - (212) 480-5299

1. Summary description of proposal: Amendment of Part 101 to 11 NYCRR (Standards for Financial Risk Transfer Between Insurers and Health Care Providers) (Insurance Regulation 164) to permit, in consultation with the commissioner of the Department of Health, certain insurers to enter into financial risk transfer agreements with Accountable Care Organizations. Agency contact: Pascale Jean-Baptiste, Associate Attorney, Office of General Counsel - (212) 480-5289.

2. Summary description of proposal: Adoption of a new Part 5 to 11 NYCRR (Insurance Regulation 195) to implement the Superintendent’s authority under Insurance Law Section 316 to require an insurer or other person or entity making a filing or submission with the Superintendent to do so by electronic means, unless the insurer or other person or entity applies for, and the Superintendent grants, an exemption from the electronic filing requirement. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

3. Summary description of proposal: Amendment of 11 NYCRR 28 (Professional Bail Bond Agents) (Insurance Regulation 42) to provide standards designed to prevent the use of bail bond businesses in furtherance of organized crime and to protect collateral given by

indemnitors for the purpose of posting bail. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel – (212) 480-5286.

4. Summary description of proposal: Amendment of 11 NYCRR 25 (Public Adjusters) (Insurance Regulation 10) to address amendments made to the Insurance Law by Chapter 546 of the Laws of 2013. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel – (212) 480-2125.

5. Summary description of proposal: Adoption of new Part 111 to 11 NYCRR (Insurance Regulation 207) to require an authorized property/casualty insurer to submit with its annual statement a statement of actuarial opinion (“SAO”) and to require a domestic property/casualty insurer that files an SAO to file with the Superintendent an annual actuarial opinion summary, electronically. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

6. Summary description of proposal: Adoption of new Sub-part 151-7 to 11 NYCRR 151 (Insurance Regulation 119) to establish requirements for health care facilities to obtain a workers’ compensation insurance premium credit for safe patient handling programs. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

7. Summary description of proposal: Amendment of 11 NYCRR 82 (Insurance Regulation 203) to require a holding company and certain domestic insurers to describe their enterprise risk managements functions in their enterprise risk reports and to clarify certain language. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

8. Summary description of proposal: Amendment of 11 NYCRR 65 (Insurance Regulation 68) and Part 68 (Insurance Regulation 83) to implement an alternative dispute resolution process for disputes involving claims of independent livery drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324, and other applicable provisions of Article 2 of the Workers’ Compensation Law. Agency contact: Camielle A. Barclay, Senior Attorney, Office of General Counsel – (212) 480-5299.

9. Summary description of proposal: Adoption of a new part 35 to 11 NYCRR (Title Insurance Agents, Affiliated Relationships, and Required Disclosures) (Insurance Regulation 206) and amendments to certain other regulations, including 11 NYCRR 20 (Brokers and Agents - General) (Insurance Regulations 9, 18, and 29), 11 NYCRR 29 (Special Prohibitions) (Insurance Regulation 87), 11 NYCRR 30 (Producer Compensation Transparency) (Insurance Regulation 194), and 11 NYCRR 34 (Requirements Pertaining to the Location of an Insurance Agent or Broker at Each Place of Insurance Business: Reporting Requirements) (Insurance Regulation 125), to address amendments made to the Insurance Law by Part V of Chapter 57 of the Laws of 2014 regarding the licensing of title insurance agents and title insurance businesses. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel - (212) 480-5286. (Rules on this subject were adopted on an emergency basis most recently on May 5, 2016.)

10. Summary description of proposal: Adoption of a new part to 11 NYCRR addressing exclusions of coverage under commercial crime insurance policies. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel - (212) 480-5286.

11. Summary description of proposal: Amendment of 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance) (Insurance Regulation 35-D) to replace references in Sections 60-2.3 and 60-2.4 to “AAA/American Arbitration Association” with “designated organization”; amend rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry; and clarify the intent and application of the coverage via various editorial revisions to the regulation and to the prescribed policy endorsement form. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau – (212) 480-5595.

12. Summary description of proposal: Amendment of 11 NYCRR

68 (Charges for Professional Health Services) (Insurance Regulation 83) to adopt specific rules for fees charged for health services rendered outside New York State. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

13. Summary description of proposal: Amendment of 11 NYCRR 65-4 (Regulation Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Insurance Regulation 68-D) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

14. Summary description of proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Insurance Regulation 56) to adopt a new individual disability income table for valuing active life and disabled life reserves in consideration of a proposed NAIC adoption of such table. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

15. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to adopt the existing NAIC standards for waiver of premium reserves, to adopt the 2017 CSO mortality table for valuing life insurance reserves, and to revise the standards for varying premium term life insurance policies and universal life products with secondary guarantees for those policies where the 2017 CSO table will be the minimum standard. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

16. Summary description of proposal: Amendment of 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Insurance Regulation 172) to add an exception for proposed amendments expected to be adopted by the NAIC regarding policy reserves for life contracts, to revise lapse rates and economic volatility used in calculating the standard scenario reserve, to update the economic volatility assumption used in the stochastic modeling for variable annuities with guaranteed living benefits, and other revisions. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

17. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with an illustration; to modify the basis used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add additional requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollom, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

18. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts and Separate Account Annuities) (Insurance Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions, and actuarial requirements to reflect statutory changes, recent innovations in product design, and changes in contract administration of separate account and variable annuity products. Agency contact: Peter Dumar, Chief Insurance Attorney, Life Bureau - (518) 474-4552.

19. Summary description of proposal: Amendment of 11 NYCRR 100 (Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits) (Insurance Regulation 179) to revise the title and adopt the 2017 CSO mortality table for valuing life insurance reserves in consideration of a proposed NAIC adoption of such table. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

20. Summary description of proposal: Adoption of new part to 11 NYCRR to establish minimum standards for non-guaranteed elements in life insurance policies and annuity contracts and to establish minimum standards for written board criteria for determining non-guaranteed elements. Agency contact: William Carmello, Chief Actuary, Life Bureau - (518) 474-7929.

21. Summary description of proposal: Amendment of 11 NYCRR 12 (Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business) (Insurance Regulation 50) adjusting, as required by Insurance Law section 4228(e)(3)(G), the cumulative maximum training allowance subsidy limits for agents set forth in Insurance Law section 4228(e)(3)(C) - (E) for agents with respect to the types of policies specified in Insurance Law section 4228(a). Agency contact: James V. Regalbuto, Deputy Superintendent for Life Insurance, Life Bureau - (212) 480-5027.

22. Summary description of proposal: Adoption of a new Part to 11 NYCRR to establish guidelines regarding the proper expensing of title insurance premiums and additional charges by both insurers and their agents. Agency contact: Ellen R. Buxbaum, Associate Counsel, Civil Investigations, Financial Frauds & Consumer Protection Division - (212) 480-5383.

23. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of accident and indemnity insurance. Agency contact: Jason St. James, Senior Insurance Attorney, Health Bureau - (518) 486-7815.

24. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) regarding a blanket accident insurance policy that is issued in accordance with General Business Law section 1015.11. Agency contact: Tobias Len, Assistant Chief, Health Bureau - (518) 486-7815.

25. Summary description of proposal: Adoption of a new part to 11 NYCRR and/or amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of student accident and health insurance. Agency contact: Sarah L. Allen, Supervising Insurance Attorney, Health Bureau - (518) 486-7815.

26. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Insurance Regulation 140) to clarify and modify the actuarial reserve calculation, distribution allowances, allowable investments, and necessary filing requirements, in view of marketplace expansion in both the number and types of Continuing Care Retirement Communities. Agency contact: Christine Gralton, Assistant Chief, Health Bureau - (212) 480-5061.

27. Summary description of proposal: Amendment of 11 NYCRR 86 (Fraud Prevention Plans and Special Investigations Unit) (Insurance Regulation 95) to establish a requirement that a licensee required to submit a fraud prevention plan must revise its fraud prevention plan to reflect changes to the holding company, the lines of business that affect the SIU, and changes to SIU personnel or the provider of SIU services. Agency contact: Kathleen Grogan, Principal Examiner, Criminal Investigations Unit - (212) 480-5683.

II. Banking Regulations

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, please contact:

Christine M. Tomczak
Assistant Counsel
New York State Department of Financial Services
One State Street
New York, NY 10004
Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of new rules to implement the provisions of legislation addressing the mortgage foreclosure-related issues in the state, including:

(a) rules governing the registration and financial responsibility requirements for mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on May 9, 2016); and

(b) rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on May 22, 2016).

2. Summary description of proposal: Amendments of Part 38 of the General Regulations of the Superintendent to enhance advertising, disclosure, and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.

3. Summary description of proposal: Amendment of the Superintendent's Regulations regarding the Banking Development District ("BDD") program.

4. Summary description of proposal: Various amendments of the Superintendent's Regulations regarding check cashers, licensed lenders, money transmitters, sales finance companies, premium finance agencies, and budget planners.

5. Summary description of proposal: Amendment of Part 41 of the General Regulations of the Superintendent to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-1 of the Banking Law.

6. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Superintendent to incorporate advertising requirements for reverse mortgage loans and clarify the applicability of disclosure and filing requirements for HUD's Home Equity Conversion Mortgage program.

7. Summary description of proposal: Amendment of Parts 410 and 413 of the Superintendent's Regulations and Supervisory Procedures 101, 102, 103 and 104 to eliminate certain outdated regulatory requirements and to clarify language relating to the minimum licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

8. Summary description of proposal: Adoption of new rules clarifying that when financial statements submitted to the Department are required by law or regulation to be audited, the external auditors who provide the audit opinion on the statements may not also perform bookkeeping services for the audited entity.

9. Summary description of proposal: Amendment of Supervisory Procedure CB 117 in connection with the Department's consideration of adopting the interagency change of control application used by the federal financial institutions regulatory agencies.

10. Summary description of proposal: Adoption of a new regulation formalizing the assessment process for persons regulated under the Banking Law. (Rules on this subject were adopted on an emergency basis most recently on June 9, 2016).

III. Financial Services Regulations

For specific inquiries about the Financial Services Regulations included in this Regulatory Agenda, please contact the person identified in the item. For general inquiries about the item, or to obtain copies of current Financial Services Regulations, please contact the following:

Christine M. Tomczak, Assistant Counsel
New York State Department of Financial Services
One State Street
New York, NY 10004
Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of a new regulation implementing Banking Law Section 9-w, creating a standard student loan shopping sheet for all New York schools of higher education. Agency contact: Max Dubin, Assistant Counsel, Financial Frauds and Consumer Protection Division – (212) 480-7232.

2. Summary description of proposal: Adoption of a new part to 23 NYCRR, 11 NYCRR, and 3 NYCRR, establishing standards for cyber security for persons and entities regulated by the Department of Financial Services. Agency contact: Alexander Sand, Counsel, Capital Markets Division – (212) 709-3825.

Department of State

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the follow-

ing rules that the Department of State is considering proposing, but for which a rule making proceeding has not been commenced. All following references to regulatory provisions are to Title 19 of the New York Code of Rules and Regulations, unless otherwise noted. Please note that regulatory plans of the Department of State are subject to change; the Department reserves the right to add, delete, or modify items appearing on this list. Further, as indicated in SAPA section 202-d(2), the Department of State is not required to propose or adopt any rule listed on a regulatory agenda, and may propose or adopt a rule that has not been listed on an agenda.

Publication of this notice is intended to further assure that small businesses, local governments, and public and private interests in rural areas are given opportunity to participate in the rule making process, as provided by sections 202-b and 202-bb of SAPA. Each rule listed below may require a regulatory flexibility analysis or a rural area flexibility analysis, pursuant to SAPA sections 202-b and 202-bb, respectively.

The public is welcome to send written comments regarding this regulatory agenda of the Department of State to the agency representative indicated at the end of this list.

DIVISION OF BUILDING STANDARDS AND CODES

Chapter XXXII

Considering adding new Part(s) and/or amending existing Parts to establish rules, regulations, standards and procedures relating to (1) the measurement of the rate of compliance with the State Energy Conservation Construction Code, and requirements that such rate of compliance be measured on an annual basis; and (2) otherwise to implement Chapter 560 of the Laws of 2010 and section 376-a of the Executive Law.

Considering adding new Parts relating to energy efficiency standards for appliances and equipment.

Part 1201

Considering amending this Part to provide that (1) where a county elects not to enforce the Uniform Code, the local government in which a county facility is situated shall be responsible for enforcement of the Uniform Code with respect to such facility and (2) where both a county and the local government in which a county facility is located have elected not to enforce the Uniform Code, the Secretary of State shall be responsible for enforcement of the Uniform Code with respect to such facility.

Part 1202

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by the Department of State in certain local governments and counties substantially similar to the corresponding provisions in Part 1203; to update the provisions authorizing the use of third party inspectors; to add provisions authorizing the use of third party plan reviewers; to add provisions fixing the time within which a person or entity served with an Order to Remedy violation(s) of the Uniform Code must comply with such Order to Remedy; and/or to update the fee schedule currently contained in section 1202.7.

Part 1203

Considering amending this Part to (1) establish more appropriate inspection intervals for normally unoccupied buildings; (2) make such changes to this Part as may be required or appropriate to reflect the applicability of this Part to enforcement of the State Energy Conservation Construction Code; (3) add provisions relating to compliance by local governments with Constitutional due process requirements; and/or (4) revise provisions relating to the features required to be included in the code enforcement program established by a local government or other governmental unit or agency responsible for administration and enforcement of the Uniform Code and Energy Code.

Part 1204

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by state agencies substantially similar to the corresponding provisions in Part 1203.

Part 1205

Considering amending this Part to (1) make the procedures for variances under the State Uniform Fire Prevention and Building Code applicable to variances under the State Energy Conservation Construction Code; (2) add new provisions relating to variances under the State Energy Conservation Construction Code; (3) revise or clarify procedures concerning the administration of variances and appeals relating thereto.

Part 1209

Considering amending this Part pertaining to factory manufactured housing to update it, to increase fees for plan review and Insignias of Approval, and/or to add provisions relating to non-residential modular buildings.

Part 1210

Considering updating and amending this Part concerning manufactured homes; the certification and training of manufacturers, retailers, installers and mechanics of manufactured homes; and resolution of disputes.

Chapter XXXIII

Parts 1219-1228

Considering amending the State Uniform Fire Prevention and Building Code (the Uniform Code) and/or adding new provisions to the Uniform Code to address issues coming to the attention of the Department of State and the Code Council from time to time.

Part 1240

Considering amending the State Energy Conservation Construction Code (Energy Code) and/or adding new provisions to the Energy Code to address issues coming to the attention of the Department of State and the Code Council from time to time.

Part 1260

Considering amending or repealing the provisions relating to Certificates of Acceptability.

DIVISION OF CEMETERIES

Parts 200 to 203

Considering adding new regulation by which a cemetery that takes over an abandoned cemetery may apply for abandonment funds. It would be similar to existing regulation at 19 NYCRR §§ 200.11(g) and (h).

Considering adding new regulation of pre-need sales: proper trusting of receipts, reporting of liabilities at cost and market, and funding the Permanent Maintenance Fund.

Considering adding new regulation pursuant to recent legislation that permits cemetery corporations to seek to appropriate a percentage of its net appreciation in its permanent maintenance fund, and a percentage of its net appreciation in its perpetual care fund.

Considering adding new regulation requiring an annual report regarding cemetery indebtedness (implementing N-PCL § 1511).

DIVISION OF CONSUMER PROTECTION

21 NYCRR 4600 et seq.

Considering renumbering and amending regulations of the former State Consumer Protection Board.

21 NYCRR Part 4603

Considering amending regulations pertaining to “do-not-call” registry in order to conform them to recent statutory changes.

DIVISION OF CORPORATIONS, STATE RECORDS AND UCC

Part 130

Considering amending sections 130.2 and 130.3 regarding the procedures for filing and numbering local laws filed with the Division pursuant to Municipal Home Rule Law section 27.

Part 140

Considering amending section 140.6 to update the classification list of goods and services related to trademarks and service marks.

Part 154

Considering amending sections 154.4 through 154.7 to clarify the Division’s procedures related to the processing of expedited requests for services.

DIVISION OF LICENSING SERVICES

Part 160

Considering amending regulations to clarify that appearance enhancement practitioners may maintain material safety data sheets in electronic form.

Considering amending appearance enhancement regulations regarding esthetics curriculum and waxing procedures.

Part 175

Considering amending regulations pertaining to the deposit of money into escrow by real estate brokers and salespeople.

Considering amending regulations pertaining to the record retention requirements for real estate brokers.

Section 175.17

Considering amending this section so as to revive cease and desist zones in the state.

Section 175.25

Considering amending regulations relating to licensee advertising.

Parts 175-179

Considering amending regulations applicable to real estate brokers and salespeople to account for statutory and industry changes, and to add clarity to existing regulations.

Section 176.3

Considering amending regulations relating to curricula to include licensee safety.

Section 177.3(g)

Considering amending regulations relating to course approval to accommodate hour long programs.

Section 177.7

Considering amending regulations to change hour of instruction to 50 minutes for 1 hour course.

Part 195

Considering amending regulations pertaining to alarm installation, service and maintenance in order to clarify licensing requirements and to incorporate new technology and terminology.

Part 1102 et seq.

Considering amending regulations pertaining to real estate appraisal in order to permit the completion of qualifying education via distance learning.

Parts 170-175 and Part 1102 et seq.

Considering amending regulations pertaining to private investigators, watch guard patrol companies, security guards and real estate appraisers in order to further implement the New York State Enterprise E-Licensing initiative.

NEW YORK STATE ATHLETIC COMMISSION

Parts 205-216

Due to passage of Chapter 32 of the Laws of 2016, which repeals Chapter 912 of the Laws of 1920 as amended, and replaces it with a new Article 41 of the General Business Law, the Commission intends to repeal the existing 19 NYCRR Parts 205 through 216, and replace those Parts with updated Parts 206 through 214 that will conform to the new statutory framework for State Athletic Commission regulation of combative sports and professional wrestling within the State.

OFFICE OF PLANNING AND DEVELOPMENT

Parts 600 - 603

Considering amending the New York State Coastal and Inland Waterway Regulations affecting federal, state, local, and individual actions concerned with Article 42 of the New York State Executive Law (“Waterfront Revitalization of Coastal Areas and Inland Waterways”) and implementation of the Federal Coastal Zone Management Act in New York as described in the New York Coastal Management Program.

To obtain information or submit written comments concerning an item listed above, please contact David Treacy, Esq., Office of General Counsel, New York State Department of State, One Commerce Plaza, Albany, New York 12231-0001, (518) 474-6740; David.Treacy@dos.ny.gov. This agenda is posted on the Department’s

website at http://www.dos.ny.gov/info/regulatory_activity/index.html.

Office of Temporary and Disability Assistance

Pursuant to State Administrative Procedure Act (SAPA) § 202-d, the Office of Temporary and Disability Assistance (OTDA) is required to publish a regulatory agenda for those regulations that it is considering for publication in the New York State Register. Set forth below is an agenda for the second half of 2016. SAPA § 202-d does not preclude OTDA from proposing for adoption a regulation that is not described in the agenda, nor does it require OTDA to propose for adoption a regulation that is described in the agenda.

All references are to Title 18 of the New York Codes, Rules and Regulations (NYCRR) unless otherwise noted. The agenda items are organized pursuant to the Part of Title 18 NYCRR that most likely would be amended. However, the agenda items eventually could require amendments to different Parts than those listed below and/or to more than one Part of Title 18 NYCRR.

Part 301 – Veteran Assistance

Amend regulations to replace gender-specific terms with gender-neutral terms.

Part 311 – Change of Residence

Amend regulations to repeal certain residency requirements to reflect current policies and practices.

Part 340 – Public Access to Department Records under the Freedom of Information Law

Update regulations concerning public access to records under the Freedom of Information Law to reflect the current organization of the Department of Family Assistance.

Part 346 – Support Collection

Establish guidelines for the local child support enforcement units to follow in determining whether and under what circumstances a passport, which has been denied, revoked, or restricted by the United States (U.S.) Department of State due to non-payment of child support, may be released.*

Update regulations to allow for reporting increases in the amount subject to administrative enforcement in certified cases.

Part 347 – Establishment of Paternity and Enforcement of Child Support

Repeal the regulatory provision setting forth the child support standards chart.*

Update regulation pertaining to the establishment and modification of child support orders.*

Revise regulation concerning confidentiality of information based on federal requirements and the SSL.*

Revise regulations concerning the provision of child support services in intergovernmental cases.

Part 349 – General Provisions

Update provisions regarding persons who are permanently residing in the United States under the color of law (PRUCOL).*

Part 351 – Investigation and Eligibility

Clarify provisions concerning the submission of a social security number as a condition of eligibility for public assistance.*

Part 352 – Standards of Assistance

Amend regulations to make technical updates to Part 352, including updating references to “aid to dependent children” and “home relief” with “family assistance” and “safety net assistance” respectively.

Amend regulations to implement changes to public assistance lien policy consistent with SSL § 106.*

Amend regulations to implement changes to public assistance automobile resource limits consistent with Part X of Chapter 54 of the Laws of 2016.

Update regulations to require all homeless shelters using public funds to be subject to direct State regulation and to be inspected annually by the State.*

Part 358 – Fair Hearings

Revise regulations to clarify the distinction between the standard of proof required at the fair hearing and the standard required for judicial review.*

Amend the definition of the fair hearing record as it pertains to decisions without a hearing.*

Update regulations to clarify that the term “hearing officer” may be used interchangeably with the term “administrative law judge.”

Update regulations to conform with federal requirements regarding adjournments of fair hearings related to the Supplemental Nutrition Assistance Program (SNAP).*

Part 359 – Disqualification for Intentional Program Violation

Amend regulations to reflect changes to federal Supplemental Nutrition Assistance Program (SNAP) regulations regarding Intentional Program Violations, including changes to the definition of “trafficking” and the imposition of a ten-year disqualification.*

Revise regulation to clarify that disqualification consent agreements are reviewable at a fair hearing to ensure compliance with procedural requirements.*

Part 369 – Family Assistance

Amend regulation to address applications for or receipt of public assistance as an assignment to the State and the social services district of rights to support.

Part 381 – Method of Payment

Amend regulations to clarify the issuance of benefits through restricted payments under all public assistance category types.*

Part 385 – Public Assistance and Food Stamp Employment Program Requirements

Amend the title and the regulations of Part 385 to make technical updates, including updating references from “food stamp” to “SNAP.”

Clarify that support services may be provided to individuals assigned to work activities by the social services district.*

Revise assessment regulations to clarify that the requirements for exempt individuals in households without dependent children are consistent with those for exempt individuals in households with dependent children.*

Amend employment program provisions for notices of conciliation and notices of discontinuance or reduction to incorporate plain language requirements.*

Establish additional guidelines regarding work activity definitions and work documentation and verification procedures to make them consistent with standards required by federal regulations.*

Implement changes to participation rate regulations to conform to amendments to the SSL which require social services districts to expand the countable work activities available to safety net assistance participants without children to include community service programs, the provision of child care services to an individual participating in community service and time limited vocational education training, job search and job readiness assistance.*

Revise regulations for employment to comply with final federal regulations.*

Revise SNAP employment and training regulations to conform to federal regulations.*

Identify cases that may be excluded from participation rates pursuant to federal Temporary Assistance for Needy Families (TANF) regulations.*

Repeal provisions which permit foster care parents and individuals who are caring for a disabled household member to be deemed as community service participants as required by federal regulations.

Authorize shift of certain cases to non-TANF family assistance or to non-Maintenance of Effort (non-MOE) safety net assistance to facilitate implementation of changes as required by federal regulations.*

Revise regulations to implement changes to conciliation and employment sanctions process procedures pursuant to Chapter 562 of the Laws of 2015.

Part 387 – Supplemental Nutrition Assistance Program

Amend regulations to make technical updates to Part 387.

Revise regulations to raise the level of the minimum annual Home Energy Assistance Program (HEAP) or other energy assistance benefit required to confer eligibility for the SNAP Heating and Cooling Standard Utility Allowance (HCSUA) from \$1.00 to \$21.00.*

Update regulations to reflect the current policy that standard allowances for heating/air conditioning, utility and telephone costs are used in calculating shelter expenses for SNAP.*

Update regulations to reflect the current policy that households in shared living arrangements are entitled to the full applicable level of the standard utility allowance.*

Revise SNAP regulations concerning the special definition of the "head of the household."*

Delete SNAP monthly reporting/retrospective budgeting references and add provisions for change reporting.*

Conform regulations concerning in-office interviews for SNAP applicants to federal requirements.*

Generally update SNAP regulations to conform to changes in federal regulations and law.*

Amend regulations to reflect expanded categorical eligibility for SNAP.*

Amend regulations regarding what is a complete periodic report to require verification of income only if a change in income has been reported.*

Update regulations concerning quality control reviews to reflect federal SNAP requirements.

Part 393 – Home Energy Assistance Program (HEAP)

Amend HEAP regulations to reflect current practices and the provisions of the federally accepted HEAP State Plan.*

Part 800 - Homeless Housing and Assistance Program (HHAP)

Amend regulations regarding the conflict of interest rules for HHAP to address all ownership entities involved in HHAP projects. Revise and update certain definitions and terminology, clarify funding processes, and provide for the role of the Homeless Housing and Assistance Corporation Board as established in Private Housing Finance Law § 45-c.

It is not anticipated that small business regulation guides will need to be developed for the proposals set forth in this agenda.

* The asterisks identify rules for which a regulatory flexibility analysis or a rural area flexibility analysis may be required.

At this time, OTDA cannot specify the dates for publication in the New York State Register of the items listed above. OTDA would welcome comments related to this regulatory agenda at the address listed below, and each published Notice of Proposed Rule Making will provide a public comment period and a contact person to whom comments may be sent.

Any questions, comments, or requests for information concerning the items listed in this agenda may be referred to Richard P. Rhodes, Jr., Associate Attorney, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street 16C, Albany, New York 12243. Telephone: (518) 486-7503. E-mail: richard.rhodesjr@otda.ny.gov. The regulatory agenda may be accessed on OTDA's website at <http://otda.ny.gov/legal/>.

