

# 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 2011, 2006 and 2001 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 2011

#### OFFICE OF P-12 EDUCATION

##### Section 100.2(ee)(2) Technical Amendment

Justification for continuation without modification: The amendments concerning diploma credit for languages other than English (LOTE) and State assessments in Social Studies, that were adopted at the December 2010 Regents meeting, inadvertently omitted language in section 100.2(ee)(2), concerning Academic Intervention Services, that was previously adopted by the Regents in July and October 2010. The technical amendment is necessary to clarify and resolve this inconsistency by re-inserting the inadvertently omitted language.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided) and 3204(3).

Assessment of public comment: No public comment received.

##### Section 100.2(p)(14) Annual Measurable Objective

Justification for continuation without modification: The rule is necessary in order to specify how districts, public schools, and charter schools are held accountable for the performance of their students in accordance with the federal Elementary and Secondary Education Act (ESEA) and how Struggling and Persistently Struggling Schools are determined to make Demonstrable Improvement in accordance with Education Law 211-f. The rule ensures that a system of accountability will remain in place until New York has made decisions regarding new accountability requirements in accordance with the Every Student Succeeds Act (ESSA).

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 210(not subdivided), 215(not subdivided), 305(1), (2) and (20), 309(not subdivided) and 3713(1) and (2).

Assessment of public comment: No public comment received.

Section 100.5(b)(7)(v) Regents Advanced Diploma Math Requirements

Justification for continuation without modification: These regulations are necessary to implement policy adopted by the Board of Regents to indicate mathematics assessments that can be used to meet the assessment requirements necessary for students to earn Regents Diplomas with advanced designation. These regulations were last amended in January 2012 to reflect additional options for students to meet these requirements.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided) and 3204.

Assessment of public comment: No public comment received.

##### Section 100.5(d)(10) Online & Blended Course Credit

Justification for continuation without modification: These regulations are necessary to implement policy adopted by the Board of Regents to specify the requirements for Online and Blended Course Credit. The regulations were adopted in June 2011 and have not been modified.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided) and 3204(3).

Assessment of public comment: No public comment received.

##### Section 100.17 Distinguished Educator

Justification for continuation without modification: The rule is necessary in order to ensure the appointment of qualified individuals to assist low performing schools and to define the criteria regarding the selection, roles, responsibilities, protocols, procedures and expenses for distinguished educators in accordance with Education Law section 211-c and Commissioners Regulations 100.17.

Legal basis for rule: Education Law sections 207(not subdivided), 305(1), 211-b(1-5), 211-c(1-8) and section 1 of Part A of Chapter 57 of the Laws of 2007.

Assessment of public comment: No public comment received.

##### Section 119.5 Charter School Lottery

Justification for continuation without modification: The rule is necessary to establish standards for the random selection process conducted by charter schools in cases where the number of applications exceeds the capacity of the grade level or building, and is required pursuant to Education Law section 2854. The rule ensures that the random selection process for charter school admission is performed in a transparent and equitable manner, is publicized in a manner consistent with the requirements of section one hundred four of the public officers law, and is open to the public.

Legal basis for rule: Education Law section 101(not subdivided), 206(not subdivided), 207(not subdivided), 305(1), (2) and (20) and 2854(2) and Chapter 101 of the Laws of 2010.

Assessment of public comment: No public comment received.

##### Section 155.17 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.

Legal basis for rule: Section 207, 305, and 2801-a of the Education Law.

Assessment of public comment: No public comment received.

##### Section 156.3(b) & (h) MR School Transportation

Justification for continuation without modification: The rule is necessary to implement the Comprehensive school bus driver safety train-

ing program of Education Law § 3650. Section 156.3(b) is necessary to insure the competence of school bus drivers, monitors, and attendants as qualified, certified pupil transportation professionals. The rule is also necessary to implement Education Law § 3637 in relation to idling school buses on school grounds. Section 156.3(h) requires school districts to minimize, to the extent practicable, the idling of the engine of any school bus.

Legal basis for rule: Education Law sections 207(not subdivided), 305(1), (2) and (20), 3624(not subdivided) and 3637(1), (2) and (3).

Assessment of public comment: No public comment received.

Section 200.1 & 200.4 “Intellectual Disability” Name Change

Justification for continuation without modification: The rule continues to be necessary to conform the Commissioner’s Regulations to “Rosa’s Law” (Public Law 111-256), which replaced the term “mental retardation” with “intellectual disability” in federal statutes, including the Individuals with Disabilities Education Act. While states were not required to replace the term “mental retardation” with “intellectual disability,” the Department, after conducting a multiple-state survey of disability classifications and seeking input from members of the Commissioner’s Advisory Panel for Special Education Services, determined that replacing “mental retardation” with “intellectual disability” ensures that the terminology used in the Commissioner’s Regulations is consistent with federal law and addresses issues of respect and dignity for individuals with disabilities.

The rule is also necessary to conform the Commissioner’s Regulations to the State statutory change of name of the Office of Mental Retardation and Developmental Disabilities to the Office for People With Developmental Disabilities.

Legal basis for rule: Education Law sections 207, 305(1), (2) and (20), 4402 and 4403(3).

Assessment of public comment: No public comment received.

Parts 275 & 276 Charter School Co-location Appeals

Justification for continuation without modification: The rule establishes the systems and processes governing charter school co-location appeals to the Commissioner, regulates the practice of such appeals, and is necessary to implement Chapter 101 of the Laws of 2010.

Legal basis for rule: Education Law §§ 101, 207, 305(1) and (2), 310(1) and (7), 311 and 2853(3)(a-5) and § 15 of Chapter 101 of the Laws of 2010.

Assessment of public comment: No public comment received.

OFFICE OF HIGHER EDUCATION

Section 27-1.1 HEOP

Justification for continuation without modification: This rule is necessary to establish the eligibility benefits pursuant to the provisions of section 6451 of the Education Law.

Legal basis for rule: Education Law Sections 207 and 6451(1).

Assessment of public comment: No public comment received.

Subpart 30-1 Instructional Support Services

Justification for continuation without modification: This regulation created a new tenure area for Instructional Support Services staff employed in a BOCES. The regulation is still required to allow teachers providing direct instructional support to other educators for the purpose of enhancing instruction and improving student performance employed by a BOCES to acquire tenure and/or seniority rights for the performance of such duties.

Legal basis for rule: Section 207(not subdivided) of the Education Law.

Assessment of public comment: No public comment received.

Part 80-STEM Expedited Pathway

Justification for continuation without modification: This rule allows individuals teaching at the College level in a STEM area to apply for a Transitional G or Initial Certificate based on their College degree and the subject area they are teaching to become classroom teachers. This rule needs to continue to allow additional teachers to qualify for STEM areas which are shortage areas.

Legal basis for rule: Education Law 207(not subdivided), 305(1) and (2), 3001(2), 3004(1) and (6) and 3006(1)(b).

Assessment of public comment: No public comment received.

Section 80-1.6 Teacher Certification Extensions (Residency)

Justification for continuation without modification: This rule allowed Initial certificate holders as well as Provisional certificate holders to qualify for additional time extensions on the basis of having been unable to secure verification of Permanent residency or U.S. citizenship from the USCIS. This rule is needed to allow these candidates to continue to teach in the NY public schools and BOCES.

Legal basis for rule: Education Law sections 207(not subdivided), 305(1) and (2), 3001(2), 3004(1) and 3006(1).

Assessment of public comment: No public comment received.

Section 80-4.3 Teacher Certification Flexibility

Justification for continuation without modification: This rule was designed to provide employing entities with flexibility in certification in certain certificate areas. This rule is still needed to allow Districts to employ certified teachers by allowing the teacher to gain a grade level extension in their specified certificate areas.

Legal basis for rule: Education Law sections 207, 3001, 3004(1).

Assessment of public comment: No public comment received.

Section 87.5 Employment Clearances Due Process Procedures

Justification for continuation without modification: These sections were added in 2001 to implement Chapter 180 of the Laws of 2000 which amended the Education Law to provide criminal history background checks. This section is necessary for individuals to receive appropriate due process in the review of their criminal histories.

Legal basis for rule: Education Law sections 207(not subdivided), 305(1), (2) and (30), and 3035(3).

Assessment of public comment: No public comment received.

Section 100.2, Subpart 30-2 Teacher and Principal Evaluations

Justification for continuation without modification: These sections were added in 2010 and further amended in 2012 to implement Chapter 103 of the Laws of 2010 and Chapters 21 and 68 of the Laws of 2012 which amended the Education Law to provide for a strengthened teacher and principal evaluation system. These sections are necessary for teachers and principals to receive annual professional performance reviews based on multiple measures of effectiveness, consistent with the requirements of the law.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 215(not subdivided), 305(1) and (2), and 3012-c(1) - (8), as added by Chapter 103 of the Laws of 2010.

Assessment of public comment: No public comment received.

OFFICE OF THE PROFESSIONS

Sections 3.2, & 60.2 Oversight Committee for Clinical Clerkships

Justification for continuation without modification: The Committee is functioning and working in accordance with the regulations. The regulations should remain in effect, so that the Committee can continue its work of ensuring that international medical schools meet New York State standards for placing medical students in long term clinical clerkships in this State.

Legal basis for rule: Education Law sections 207(not subdivided), 6506(4), 6507(2) and (4) and 6508(1).

Assessment of public comment: No public comment was received.

Section 29.7 Customized Packaging of Prescription Drugs

Justification for continuation without modification: This rule clarifies the manner in which pharmacists may package certain medications to encourage patient compliance with complex medication regimens. The rule also provides standards and protections for purity, potency and labeling of medications.

Legal basis for rule: Education Law sections 207, 6504, 6506(1), 6508(1), 6509(9) and 6510(1).

Assessment of public comment: No public comment was received.

Sections 70.8 Public Accountancy Registration of a Firm

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Education Law sections 207(not subdivided),

6504(not subdivided), 6506(1), 6507(2)(a), Chapter 456 of the Laws of 2011.

Assessment of public comment: No public comment was received.  
Sections 29.19 & 79-5 Midwifery

Justification for continuation without modification: These regulations were needed to conform to amendments of the Midwifery Practice Act. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Education Law sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6508(1) and 6509(9).

Assessment of public comment: No public comment was received.

Section 59.14 Waivers for Entities Providing Professional Services

Justification for continuation without modification: Section 59.14 was adopted to implement the provisions of law that authorize the Department to issue a waiver from corporate practice restrictions to a not-for-profit or education corporation that meets the requirements in law and regulation. The regulations were subsequently amended pursuant to Chapter 554 of the Laws of 2013 to include individuals licensed and authorized to practice applied behavior analysis. The waiver allows an eligible entity to employ individuals licensed and authorized to practice under Articles 154, 163, or 167 of the Education Law to provide services within the practice of those professions; the waiver allows a qualified entity to employ individuals licensed and authorized under Articles 131, 139, or 153 of the Education Law to provide psychotherapy, as defined in section 8401(2) of the Education Law.

Absent these waivers, a qualified entity could not employ licensed or authorized professional to provide the described services and hundreds of not-for-profit and education corporations would no longer be able to meet the mental health needs of New York's residents. Therefore, it is necessary to maintain the regulations to implement the law.

Legal basis for rule: Education Law sections 207(not subdivided), 6503-a(1)(a) and (c), 6504(not subdivided), 6507(2)(a), and Chapter 187 of the Laws of 2011.

Assessment of public comment: No public comment was received.

Section 62.8 Veterinarian and Veterinary Technicians Continuing Education

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Education Law sections 207, 6504, 6506, 6507(2)(a), 6704-a, and 6711-b, and Chapter 328 of the Laws of 2010.

Assessment of public comment: No public comment was received.

Sections 63.7 & 63.10 Collaborative Drug Therapy Management

Justification for continuation without modification: These amendments were added to reflect statutory provisions for pharmacists engaging in Collaborative Drug Therapy Management (CDTM). As the statute remains in effect, the amendments should do so also.

Legal basis for rule: Education Law sections 207(not subdivided), 6801(1-a), 6507, 6801-a(1-6) and 6827(2) of the Education Law and Chapter 21 of the Laws of 2011.

Assessment of public comment: No public comment was received.

Sections 68.11 and 68.12 Engineering continuing education

Justification for continuation without modification: These amendments implement a statutory requirement. As the statute remains in effect, these amendments should do so also.

Legal basis for rule: Education Law Sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 7211(4) and 7212(4).

Assessment of public comment: No public comment was received.

Section 78.5 Massage Therapy

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Sections 207(not subdivided), 6504(not subdivided), 6507(2)(a) and 7807(2) of the Education Law, and section 2 of Chapter 463 of the Laws of 2010.

Assessment of public comment: No public comment was received.

OFFICE OF CULTURAL EDUCATION

Section 3.27 Deaccessioning

Justification for continuation without modification: This regulation provides guidance and standards for the chartering and registration of museums and historical societies with collections. It establishes standards for organization, mission, governance, finance, facilities, collections care and maintenance, deaccessioning, and education and interpretation programs.

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

Assessment of public comment: There were no official public comments in 2016.

OFFICE OF OPERATIONS AND MANAGEMENT SERVICES

Section 3.8 Executive Deputy Commissioner

Justification for continuation without modification: The rule conformed the Rules of the Board of Regents to changes made in the internal organization of the State Education Department. The rule continues to be necessary to reflect these changes relating to the designation of the Executive Deputy Commissioner as the deputy commissioner of education specified in Education Law section 101, who shall exercise the duties of the Commissioner of Education in her absence or disability, or when a vacancy exists in the office of Commissioner.

Legal basis for rule: Education Law section 101(not subdivided).

Assessment of public comment: No public comment was received.

B. CALENDAR YEAR 2006

OFFICE OF P-12 EDUCATION

Sections 170.12, 170.2 and 170.3 of the Commissioner's regulations, regarding school district financial accountability

Justification for continuation without modification: The rule is needed to implement Chapter 263 of the Laws of 2005. The rule establishes systems and processes that provide for transparency and accountability in the conduct of district business, strengthens oversight, and increases accountability.

Legal basis for rule: Education Law sections 207(not subdivided), 215(not subdivided), 305(1) and (2), 1604(35), 1709(20-a), 1711(2)(e), 1950(4)(k), 2102-a(1) through (4), 2116-a(3), 2116-b(1) through (7), 2116-c(1) through (9), 2117(1), 2503(5), 2508(5), 2509(4), 2523(2), 2524(1), 2525(1) and (2), 2526(1), (1-a) and (2), 2527(not subdivided), 2554(2-a), 2562(2), 2566(6), 2573(4), 2576(1)(a), 2580(2) and 3713(1) and (2), and Chapter 263 of the Laws of 2005.

Assessment of public comment: No public comment received.

Section 175.5 of the Commissioner's Regulations, regarding length of school day

Justification for continuation without modification: The rule amended section 175.5(b) of the Commissioner's Regulations and is necessary to provide that the minimum daily sessions lengths set forth in section 175.5(a), for purposes of determining State aid, shall not apply to school days during which Regents examinations have been scheduled.

Pursuant to section 175.5(a) of the Commissioner's Regulations, in order for a school day to be counted for State aid purposes, students in Grades 7 through 12 must attend school for a minimum of five and one-half hours. Subdivision (b) of section 175.5 allows an exception to this rule where a school day of less than five and one-half hours is conducted because of certain circumstances specified in the subdivision. The rule added the scheduling of Regents examinations to the list of permissible circumstances allowing an exception. As a result, schools are able to count for State aid purposes a school day that includes a half-day Regents Examination session. In addition, the Department is able to provide school districts and boards of cooperative educational services (BOCES) with a more flexible Regents examination schedule that minimizes the number of instances in which general education students and students with disabilities might be expected to take two examinations required for a diploma on the same day.

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

Assessment of public comment: No public comment received.

Section 100.2(c) of the Commissioner's Regulations, regarding instruction in life safety

Justification for continuation without modification: The rule is necessary to conform the Commissioner's Regulations to Chapter 242 of the Laws of 2005 by requiring the addition of a course of instruction in injury prevention and life safety education to existing curricula. Section 100.2(c) establishes State learning requirements for injury prevention and life safety education.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided), 808(1) and 3204(3).

Assessment of public comment: No public comment received.

Section 100.5 of the Commissioner's Regulations, regarding mathematics graduation and diploma requirements

Justification for continuation without modification: The rule revised mathematics graduation and diploma requirements consistent with policy adopted by the New York State Board of Regents. The rule is necessary to implement revisions to the commencement level mathematics graduation and diploma requirements to align with the revised high school performance indicators for the following three mathematics courses: Integrated Algebra, Geometry, and Algebra 2 and Trigonometry.

The rule limited to two the number of units of credit earned for any of these three commencement level mathematics courses. It clarified that, to earn a Regents diploma with advanced designation, students entering grade 9 prior to September 2009 must pass two of the three commencement level Regents examinations through one of the following combinations: Mathematics A and Mathematics B, or Mathematics A and Algebra 2 and Trigonometry, and that students who enter grade 9 in September 2009 and thereafter must pass three commencement level Regents examinations in mathematics titled Mathematics A or Integrated Algebra, Geometry, and Algebra 2 and Trigonometry. The rule also provided for students who first enter grade 9 in September 2009 and thereafter, who completed all coursework and testing requirements for the Regents diploma with advanced designation in mathematics and/or science, and who passed, with a score of 85 or better, three commencement level Regents examinations in mathematics and/or three commencement level Regents examinations in science, to earn a Regents diploma with advanced designation, with an annotation on the diploma that denotes mastery in mathematics and/or science, as applicable.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 305(1) and (2), 308(not subdivided), 309(not subdivided) and 3204(3).

Assessment of public comment: No public comment received.

Sections 19.5, 200.1, 200.4, 200.7 and 200.22 of the Commissioner's Regulations, regarding aversive behavioral intervention

Justification for continuation without modification: The rule is necessary to continue standards for behavioral interventions, including a prohibition on use of aversive interventions; to provide for a child specific exception; and to establish standards for programs using aversive interventions. The rule ensures that aversive interventions are used only when necessary; in accordance with research-based practices; under conditions of minimal intensity and duration to accomplish their purpose; and in accordance with the highest standards of oversight and monitoring.

Legal basis for rule: Education Law sections 207(not subdivided), 210(not subdivided), 305(1), (2) and (20), 4401(2), 4402(1), 4403(3) and 4410(13)

Assessment of public comment: No public comment received.

Section 100.2(gg) of the Commissioner's Regulations, regarding uniform violent and disruptive incident reporting

Justification for continuation without modification: The rule is necessary to provide a ranking, standard for reporting, and more concise definition of reportable offenses as required by the uniform violent

and disruptive incident reporting system for the reporting of incidents by school districts, BOCES, charter schools and county vocational education and extension boards, as required by Education Law section 2802, and to use a school violence index as a comparative measure of the level of school violence in a school, and thereby assure to the extent practicable that the reports are uniform and comparable throughout the State with respect to the type of incidents reported and the actions taken in response to such incidents.

Legal basis for rule: Education Law sections 101(not subdivided), 207(not subdivided), 305(1) and (2), 2801(1) and 2802(2), (3), (4) and (6) and Chapter 402 of the Laws of 2005.

Assessment of public comment: No public comment received.

Section 100.2(p) of the Commissioner's Regulations, regarding school accountability

Justification for continuation without modification: The rule established criteria and procedures to ensure State and local educational agency compliance with the provisions of Education Law section 211 and the federal No Child Left Behind Act of 2001 relating to academic standards and school/district accountability.

The rule specified procedures for the registration of public schools; monitoring of school and district performance for adequate yearly progress determinations; process for identification of schools for registration review, removal or schools from registration review and revocation of the registration of a public school; high school equivalency program review; recognition of schools and districts as high performing and rapidly improving; registered nonpublic high school registration review and nonpublic school accountability performance criteria; and school/district accountability (inclusive of differentiated accountability).

Legal basis for rule: Education Law sections 101, 207, 210, 211-A, 211-B, 211-C, 215, 305(1), (2) and (20), 309 and 3713(1) and (2).

Assessment of public comment: No public comment received.

#### OFFICE OF HIGHER EDUCATION

Section 80-1.7 of the Commissioner's Regulations, regarding renewal of provisional certificates in the pupil personnel service and administrative and supervisory service

Justification for continuation without modification: The rule restored the opportunity for candidates to renew expired provisional certificates in the pupil personnel service and in the title school administrator and supervisor (authorizing service as a school building principal) and established requirements for the renewal of these certificates.

Legal basis for rule: Education Law sections 207(not subdivided); 305(1) and (7); 3001(2); 3004(1); 3006(1)(b); and 3009(1).

Assessment of public comment: No public comment was received.

Section 80-5.6 of the Commissioner's Regulations, regarding teaching assistants

Justification for continuation without modification: The rule established requirements for the certification of teaching assistants for service in the State's public schools: extended the validity of the level I and II teaching assistant certificates, specified additional requirements for the renewal of the level I teaching assistant certificate, required additional collegiate study for the level II teaching assistant certificate, and clarified coursework requirements. It is needed to provide teaching assistants time to meet requirements for the next level certificate and to ensure that level I certificate holders are on track for meeting the one-year experience requirement for the level II certificate.

Legal basis for rule: Education Law sections 207(not subdivided); 305(1), (2), and (7); 3001(2); 3004(1); 3006(1)(b); and 3009(1) and (2).

Assessment of public comment: No public comment was received.

Section 7.1 of the Regents Rules and sections 52.21, 80-2, 80-3 & 80-5 of the Commissioner's Regulations, regarding certification in educational leadership

Justification for continuation without modification: The rule strengthened certification requirements that candidates must meet in order to be certified as school leaders for service in New York State

public schools. It is needed to assure that persons receiving such certificates exhibit the essential characteristics of effective leaders.

Legal basis for rule: Education Law sections 207(not subdivided); 210(not subdivided); 305(1), (2), and (7); 3001(2); 3003(1), (3), and (5); 3004(1); 3006(1)(b); 3007(2); 3009(1); and 3604(8).

Assessment of public comment: No public comment was received.

Section 52.21 of the Commissioner's Regulations, regarding accreditation of teacher preparation programs

Justification for continuation without modification: Teacher preparation programs are required to achieve accreditation by a professional education accrediting association acceptable to the department or by the regents accreditation process. The rule established a one-time process through which existing teacher education programs may defer the date by which they must be accredited.

Legal basis for rule: Education Law sections 207(not subdivided); 210(not subdivided); 215(not subdivided); 305(1) and (2); 3001(2); and 3004(1).

Assessment of public comment: No public comment was received.

Sections 3.46 & 3.58 of the Regents Rules, regarding proprietary colleges

Justification for continuation without modification: The rule strengthened the oversight of proprietary colleges in New York State to ensure high standards of quality.

Legal basis for rule: Education Law sections 207(not subdivided); 210(not subdivided); 215(not subdivided); 216(not subdivided); 218(1) and (2); 224(1)(a) and (b); and section 137 of Chapter 82 of the Laws of 1995.

Assessment of public comment: No public comment was received.

#### OFFICE OF THE PROFESSIONS

Sections 61.2 & 61.18 of the Commissioner's Regulations, regarding dental licensure

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Sections 207(not subdivided); 6506(1); 6507(2)(a); 6601(not subdivided); 6604(3) and (4) of the Education Law; and Section (3) of Chapter 76 of the Laws of 2004.

Assessment of public comment: No public comment was received.

Sections 52.36, 52.37, 52.38, 79-13, 79-14 and 79.15 of the Commissioner's Regulations, regarding clinical laboratory technology practitioners

Justification for continuation without modification: These regulations were adopted to implement the educational program components of the clinical laboratory practitioners law. As the law remains in effect, it is necessary to retain the regulations that implement the law.

Legal basis for rule: Education Law sections 207(not subdivided); 210(not subdivided); 212(3); 6501(not subdivided); 6504(not subdivided); 6507(2)(a), (3)(a), and (4)(a); 6508(1); 8605(1)(b) and (c) and (2) (b) and (c); 8606(2) and (3); 8607(1) and (2); and 8608.

Assessment of public comment: No public comment was received.

Section 64.4 of the Commissioner's Regulations, regarding nurse practitioner

Justification for continuation without modification: This amendment was intended to phase out the use of alternative criteria for the certification of nurse practitioners in additional specialty areas of practice. Such alternative criteria were intended to provide a temporary route to certification for certain nurses who were employed in the specialty area prior to the effective date of the nurse practitioner statute. The alternative criteria are no longer needed, and the amendment strengthened the educational preparation of nurse practitioners.

Legal basis for rule: Education Law sections 207(not subdivided); 6504(not subdivided); 6507(2)(a) and (3)(a); 6902(3)(a); and 6910(1)(c) and (5).

Assessment of public comment: No public comment was received.

Section 79-1.5 of the Commissioner's Regulations, regarding landscape architecture

Justification for continuation without modification: Education Law

Section 7328, which requires landscape architects to participate in continuing education, remains in effect. Accordingly, section 79-1.5 of the Commissioner's Regulations, which sets forth the implementing regulations, should remain in effect as well.

Legal basis for rule: Education Law sections 207(not subdivided); 212(3); 6504(not subdivided); 6507(2)(a); and 7328(1), (2), (3), (4), (5), and (6).

Assessment of public comment: No public comment was received.

Sections 70.1 of the Commissioner's Regulations, regarding the definition of the practice of public accountancy

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Education Law sections 207(not subdivided); 210(not subdivided), 6506(1) and (6); 6507(2)(a), (3)(a), and (4)(a); and 7404 (1)(2) and (2).

Assessment of public comment: No public comment was received.

Sections 29.17 and 77.9 of the Commissioner's Regulations, regarding physical therapy

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Legal basis for rule: Education Law sections 207(not subdivided); 6504(not subdivided), 6506(1), 6507(2)(a), 6509(9), and 6731(d).

Assessment of public comment: No comments were received

#### OFFICE OF CULTURAL EDUCATION

Sections 185.5, 185.13 and 185.14 of the Commissioner's Regulations, regarding records retention

Justification for continuation without modification: The rule substantially revised schedules CO-2 and MI-1 since they were last issued in 2002. The major revisions in both schedules are new Community College sections appearing in each, authorizing the disposition of records held by New York's community colleges. In addition to updating the community college sections of the two schedules, other sections in Schedules CO-2 and MI-1 have also been updated based on changes to record keeping systems since the 2002 editions. The rule continues to be necessary in order to maintain the updated Records Retention and Disposition Schedule CO-2 and Records Retention and Disposition Schedule MI-1.

Legal basis for rule: Education Law sections 207(not subdivided) and Arts and Cultural Affairs Law section 57.25(2).

Assessment of public comment: none received.

#### C. CALENDAR YEAR 2001

##### OFFICE OF P-12 EDUCATION

Section 7.1 of the Regents Rules and section 135.4 of the Commissioner's Regulations, regarding professional coaching certificates

Statutory authority: Education Law sections 101, 207, 212(3), 305(1) and (2), 803(5), 3006(1)(b) and (2)(a)(iii) and 3204(2).

Justification for continuation without modification: The rule is necessary to comply with Regents policy. The rule provides flexibility to school districts to hire the most qualified candidates for interschool athletic coaching positions and to create a stable pool of qualified non-teacher coaching candidates to offset decreases in qualified certified teacher coaching candidates caused by teacher retirements.

Section 7.1 of the Regents Rules and section 135.4 of the Commissioner's Regulations established a professional coaching certificate that is valid for three years to a candidate who has completed the first aid requirements as set forth in section 135.4 of the Commissioner's Regulations and three course requirements established for coaching by the State Education Department, and has a minimum of three years coaching experience in a specific sport in a New York State interschool athletic program. The professional coaching certificate may be renewed for an additional three-year period if the candidate meets the requirements of section 135.4 and has received a satisfactory evaluation by the principal or athletic director for each of the preceding three years that the candidate coached in the specific sport.

Assessment of public comment: No public comment received.

Part 57 and section 100.2(dd)(2) of the Commissioner's Regulations, regarding training in school violence prevention and intervention

Statutory authority: Education Law sections 101, 207, 305(1) and (2) and 3004(3) and section 9 of Chapter 181 of the Laws of 2000.

Justification for continuation without modification: The rule is necessary to comply with the Safe Schools Against Violence in Education Act signed into law in July 2000. The rule established standards for Department approval of providers of course work or training in school violence prevention, and requires school districts to include such training in their professional development plans.

Part 57 and section 100.2(dd)(2) of the Commissioner's Regulations established standards for Department approval of providers of coursework or training in school violence prevention and intervention and required school districts and BOCES to include in their professional development plans provisions for training of employees holding a teaching certificate or license in the classroom teaching service, school service, or administrative and supervisory service in school violence prevention and intervention.

Assessment of public comment: No public comment received.

Section 100.2(hh) of the Commissioner's Regulations, regarding reporting of Child Abuse in an educational setting

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 1125(6), 1128(1), (2) and (3), 1128-a(1) and (2), 1132(2) and 3028-b and sections 12 and 13 of Chapter 180 of the Laws of 2000.

Justification for continuation without modification: The rule is necessary to implement Chapter 180 of the Laws of 2000. Section 100.2(hh) of the Commissioner's Regulations required school administrators and superintendents, upon receipt of a written report alleging that a child has been abused in an educational setting, to promptly provide the parent of the child with a written statement setting forth parental rights, responsibilities and procedures, and required each school district and BOCES to establish and implement on an ongoing basis a training program regarding the procedures for reporting of child abuse in an educational setting for all current and new teachers, school nurses, school counselors, school psychologists, school social workers, school administrators, other personnel required to hold a teaching or administrative certificate or license, and school board members. Section 100.2(hh) of the Commissioner's Regulations was further modified to clarify that charter schools must also comply with these provisions.

Assessment of public comment: No public comment received.

Section 100.5 and 100.2 of the Commissioner's Regulations, regarding Career and Technical Education programs and high school diploma requirements

Statutory authority: Education Law sections 101, 207, 208, 209, 215, 305(1) and (2), 308, 309 and 3204(3).

Justification for continuation without modification: The rule is necessary to implement Regents policy. The rule established criteria by which school districts and BOCES may operate career and technical education programs approved by the Commissioner and award high school diplomas to students who successfully complete such programs. Approved programs provide students pursuing career and technical education programs with flexibility in attaining required units of credit for graduation and provide for a technical endorsement on a Regents diploma, Regents diploma with advanced designation or a local diploma upon completion of an approved program. The rule also corrected certain technical errors concerning the units of credit requirement for mathematics and certain citation errors.

Section 100.5 and 100.2 of the Commissioner's Regulations created a process of program approval for career and technical education programs that allows flexibility in the attainment of graduation requirements; provided for a diploma with a technical endorsement to be awarded to students who successfully complete certain requirements, including an industry-developed technical assessment of skills in a specific technical field; and corrected technical errors concerning the units of credit for mathematics to meet graduation requirements.

Assessment of public comment: No public comment received.

Section 100.5(a)(5) and (b)(7) of the Commissioner's Regulations,

regarding the State assessment system and diploma requirements for students with disabilities

Statutory authority: Education Law sections 101, 207, 208, 209, 305(1) and (2), 308, 309, 3204(3) and 4403(3).

Justification for continuation without modification: The rule is necessary to implement Regents policy relating to State learning standards, State assessments and graduation and diploma requirements, to provide additional time to gather data on how students with disabilities are performing on required Regents examinations, including the effect of multiple tests, to increase the participation of students with disabilities in the general education curriculum, and to study the impact of academic intervention services for these students. The rule extended for four years the provisions that permit students with disabilities who entered grade nine in or after September 2001 and prior to September 2005, and who failed one or more of the Regents examinations in English, mathematics, United States history and government, global history and geography, and science required for high school graduation, to meet local diploma requirements by passing the respective Regents Competency Tests (RCTs) or their equivalent in these subject areas. The Board of Regents amended section 100.5 in December 2003 and again in January 2010 to extend the RCT safety net provision to make it available to all students with disabilities entering grade 9 prior to September 2011. The RCTs are available to these students until they graduate or until the end of the school year in which they turn 21. In July 2005, the Board of Regents adopted an amendment to section 100.5 to provide an additional safety net for all students with disabilities entering grade 9 in the 2005-06 school year, by allowing students with disabilities to meet local diploma requirements by achieving a passing score of 55-64 on the five required Regents examinations to meet local diploma requirements. In October 2012, the Board of Regents further amended section 100.5 to expand the safety net for students with disabilities to earn a local diploma by allowing students with disabilities to earn a local diploma through the use of a compensatory score option, based on the student attaining a score above 65 on one or more of the five required Regents exams, which score(s) could be used to compensate score(s) between 45-54 on one or more of the other required Regents exams (other than the English and mathematics Regents tests).

Assessment of public comment: No public comment received.

Sections 100.13 and 175.43 of the Commissioner's Regulations, regarding requirements and calculations for operating standards aid

Statutory authority: Education Law sections 207 and 3602(38) and section 31 of Part A of Chapter 60 of the Laws of 2000.

Justification for continuation without modification: The rule is necessary to comply with Chapter 60 of the Laws of 2000. Sections 100.13 and 175.43 of the Commissioner's Regulations identify the calculation used to determine whether school districts qualify for additional Operating Standards Aid, provided to recognize improvement in meeting Regents higher learning standards.

Assessment of public comment: No public comment received.

Section 104.1 of the Commissioner's Regulations, regarding pupil attendance recordkeeping

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 3024, 3205(1), (2) and (3), 3210(1) and (2) and 3211(1).

Justification for continuation without modification: The rule is needed to implement Regents policy to ensure effective school attendance programs by requiring that schools collect data through accurate attendance recordkeeping, and analyze attendance data to identify individual and group patterns so as to provide programs and services that will assist each student to successfully meet higher academic standards. Section 104.1 of the Commissioner's Regulations requires each school district, BOCES, charter school, and county vocational educational extension board to adopt a comprehensive attendance policy; keep records of each pupil's presence, absence, tardiness and early departure in a register of attendance; record attendance of students in non-departmentalized kindergarten through grade 8 once per school day; record attendance in each period of scheduled instruction of students in grades 9-12 or in departmentalized schools at any grade level; record absences as excused or unexcused; establish local policy regarding student attendance and the awarding of course

credit; annual review student attendance records and make revisions to the comprehensive attendance policy that are deemed necessary; and provide parents or persons in parental relation a summary of the attendance policy and each teacher with a copy of the attendance policy.

Assessment of public comment: No public comment received.

Section 110.6 of the Commissioner's Regulations, regarding summer school programs

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 308, 309 and 3602(39) and section 32 of Chapter 60 of the Laws of 2000.

Justification for continuation without modification: The rule is necessary to implement Chapter 60 of the Laws of 2000. The rule established standards for the receipt of State aid for summer school programs and summer camp programs pursuant to Education Law section 3602(39), as added by section 32 of Chapter 60 of the Laws of 2000. Section 110.6 of the Commissioner's Regulations establishes standards relating to aid for summer school programs and summer camp programs; provides aid to summer school programs designed to improve student performance in required academic subjects, to prepare students for Regents examinations, and to prepare students to retake parts of the Regents examinations; and provides aid to summer camps designated by the Chancellor of the New York City School District that provide summer school services for at least three hours per day by a certified teacher.

Assessment of public comment: No public comment received.

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

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

Justification for continuation without modification: The rule established procedures for the reallocation of unused or unclaimed State limitation amount allocations of Qualified Zone Academy Bonds (QZABs). The rule is needed to establish a method for the Commissioner to reallocate any unused or unclaimed amounts of the State limitation amount for the issuance of QZABs so that such amounts may be applied towards qualified projects who otherwise would not be eligible to receive them. The rule was subsequently amended in March 2011 to provide special allocation requirements for charter schools.

Assessment of public comment: No public comment received.

Section 155.23 of the Commissioner's Regulations, regarding multi-year cost allowance for school district building aid

Statutory authority: Education Law sections 207 and 3602(6) and section 5 of Part A of Chapter 60 of the Laws of 2000.

Justification for continuation without modification: Section 155.23 of the Commissioner's Regulations establishes the methodology school districts and BOCES must apply when establishing a multi-year cost allowance for computation of building aid and the procedures to appeal the determination. The rule is necessary to comply with Chapter 60 of the Laws of 2000, which required the Commissioner to promulgate regulations prescribing the methodology for establishing a multi-year cost allowance for the purpose of computation of building aid to school districts and to establish procedures for school districts to appeal a determination that a building has not been adequately maintained.

Assessment of public comment: No public comment received.

Section 155.24 of the Commissioner's Regulations, regarding school pesticide neighbor notification

Statutory authority: Education Law sections 101, 207, 305(1) and (2), 409(1) and 409-h(1) - (3) and section 6 of Chapter 285 of the Laws of 2000.

Justification for continuation without modification: The rule is necessary to implement Education Law section 409-h, as added by Chapter 285 of the Laws of 2000, which established the process by which the statute is implemented, including provisions relating to State notification and withholding of State aid with respect to a school's noncompliance with the statute.

Section 155.24 of the Commissioner's Regulations requires public school districts, nonpublic elementary and secondary schools, and BOCES to establish a pesticide notification procedure to provide information to staff who regularly work at school facilities, and to persons in parental relation to children regularly receiving instruction at school facilities, to inform them that pesticide products may be used periodically throughout the school year and how to register to receive 48-hour advance notification of certain applications. The rule also established a procedure for individuals to notify the State Education Department of any school's failure to comply with these requirements and authorized the Commissioner to withhold State aid if schools fail to adopt notification procedures or otherwise fail to implement these requirements.

Assessment of public comment: No public comment received.

Section 170.3(k) of the Commissioner's Regulations, regarding career education instructional equipment reserve fund

Statutory authority: Education Law sections 207 and 1950(4)(ee).

Justification for continuation without modification: Section 170.3(k) of the Commissioner's Regulations establishes procedures for the establishment, use, maintenance and liquidation of BOCES career education instructional equipment reserve funds. The rule is necessary to be consistent with Education Law section 1950(4)(ee).

Assessment of public comment: No public comment received.

Section 175.10 of the Commissioner's Regulations, regarding statute of limitations on State aid payments

Statutory authority: Education Law sections 207 and 3602(6).

Justification for continuation without modification: Section 175.10 of the Commissioner's Regulations changed the requirement for submitting claims for building aid so that it is consistent with other statute of limitation requirements for all State aid claims. The rule eliminated an inconsistency for submission of State aid claims for building aid, by requiring more timely annual submissions, consistent with current statute of limitation requirements for other State aid claims.

Assessment of public comment: No public comment received.

Sections 200.1, 200.2, 200.5 and 200.21 of the Commissioner's Regulations, regarding the impartial hearing process for students with disabilities

Statutory authority: Education Law sections 101, 207, 4403(3), 4404(1) and 4410(13).

Justification for continuation without modification: The rule is needed to ensure that impartial hearings are conducted in a timely manner consistent with Federal requirements by individuals who have the necessary and appropriate procedural and content knowledge and background to conduct an impartial hearing related to special education.

The rule established requirements relating to the impartial hearing process for students with disabilities, including the qualifications of impartial hearing officers, procedures for the appointment of an impartial hearing officer, procedures to conduct the hearing, data reporting requirements and procedures for the suspension or revocation of the impartial hearing officer determination.

Section 200.1(x) was amended, regarding the definition of "impartial hearing officer" and the officer's qualifications. This section was subsequently amended pursuant to a separate rule making in September 2001 to conform to the Individuals with Disabilities Education Improvement Act (IDEA). The rule was amended in 2005 to conform to the IDEA in 2007 to make a technical correction, and again in 2012 relating to the certification and appointment of impartial hearing officers.

Section 200.2(b) was amended to provide that the board of education is responsible for administrative procedures to appoint an impartial hearing officer.

Section 200.2(e) was amended to establish procedures for the timely and impartial appointment of impartial hearing officers. The rule was amended in 2005 to correct a cross citation, and further amended in 2007 to make a technical correction.

The amendment to section 200.5(i): (1) added that parental request

for impartial hearings must be in writing; (2) clarified that school districts or parents may initiate an impartial hearing; (3) relocated language within regulation regarding board of education responsibilities to impartially appoint hearing officers using a rotational list, rescinding an impartial hearing officer and their reporting requirements to section 200.5; (4) required that impartial hearing officers only accept appointment if available to initiate the hearing within the first 14 days of being contacted; (5) established a five day rule for disclosing information at a hearing; (6) established a timeline for rendering and mailing a decision when an extension has been granted; and (7) required the impartial hearing officer's decision to include a statement that either party has the right to appeal the decision. The rule was subsequently amended in 2004, 2005 and 2007 to conform State regulations relating to impartial hearings consistent with the IDEA and its implementing regulations (34 CFR Part 300) and to re-letter section 200.5(i) to section 200.5(j). The rule was further revised in 2014 to align the State's timeline requirements for issuing impartial hearing decisions to the federal requirements; address factors leading to delays in the completion of impartial hearings; and address other issues relating to the manner in which an impartial hearing is conducted.

The amendment to section 200.21(b): (1) required that complaints regarding impartial hearing officers be made in a signed written statement to the Commissioner and contain documentation of the facts upon which the complaint is based; (2) established a process by which the investigation must occur; and (3) established actions the Commissioner may take when misconduct is determined, including suspension and revocation of hearing officer certification.

Assessment of public comment: No public comment received.

Sections 200.1-200.7, 200.13, 200.16, 201.7, 201.11, 276.1, 279.3, 279.8 and 100.6 of the Commissioner's Regulations, regarding conforming and technical amendments to implement IDEA

Statutory authority: Education Law sections 101, 207, 3214(3), 4403(3) and (20), 4404(1) and (2) and 4410(13).

Justification for continuation without modification: The rule is needed to conform the Commissioner's Regulations to the federal regulations implementing IDEA, and strengthen the link between transition services and a student's movement from school to post-school activities and correct certain cross-citations.

The rule relates to definitions; board of education responsibilities; membership on Committees on Special Education; procedures for referral, evaluation, Individualized Education Program (IEP) development, placement and review; due process procedures; continuum of services; students with disabilities being educated in private schools and State operated or State supported schools; educational programs for students with autism; educational programs for preschool students with disabilities; general procedures for suspensions and removals of students with disabilities; expedited due process hearings; procedures for appeals to the State Review Office; rules of practice; and local certificates.

Section 200.1(dd) and (zz)(8) were amended regarding, respectively, the definition of "mediator" and "multiple disabilities." The rule was subsequently amended in 2003 and 2005 to conform to the definition of "mediator" consistent with the IDEA. Section 200.2(e)(1) was amended to replace the requirement that boards of education establish a list of the resumes of each impartial hearing officer with a requirement that boards of education establish a list that includes a statement of the qualification of each impartial hearing officer. The rule is needed to ensure that boards of education are appointing impartial hearing officers who have been certified through the State Education Department. The rule was subsequently amended in 2005 to correct a cross citation.

Section 200.3 was amended to clarify that the determination of knowledge or special expertise of persons appointed to be members of committees on special education, committees on preschool special education, and subcommittees on special education shall be made by the party who invited the individual to be members of the committee. The rule is needed to ensure compliance with 34 CFR section 300.321.

Section 200.4(b)(1) was amended to require that the individual evaluation of a referred preschool child be initiated by a committee on preschool special education and include a variety of assessment tools

to gather relevant and functional data about the student and information related to enabling a preschool child to participate in appropriate activities. The rule is needed to conform State regulations to 34 CFR sections 300.304 and 300.306 and clarify that a variety of assessment tools are needed when evaluating a preschool child.

Section 200.4(b)(4) was amended to clarify that a committee on special education shall arrange for an appropriate reevaluation of each student with a disability if conditions warrant a reevaluation or if the student's parent or teacher requests a reevaluation, but at least once every three years by a multidisciplinary team or group of persons. This provision was subsequently amended pursuant to a separate rule making, effective September 13, 2005, to conform to IDEA to provide that unless the parties agree, a reevaluation could not occur more frequently than once per year and at least every three years. The rule is needed to conform State regulations to 34 CFR 300.303. The rule was further amended in 2008 to conform State regulations consistent with the IDEA to allow written agreements between a parent and school district that a reevaluation is unnecessary.

Section 200.4(b)(6) was amended to add language requiring that materials and procedures used to assess a student with limited English proficiency measures the extent to which the student has a disability and needs special education, rather than measure the student's English language skills. This provision was subsequently amended pursuant to a separate rule making, effective September 13, 2005, to conform to the IDEA regarding the procedures used to assess a student with limited English proficiency.

Section 200.4(c)(4) was amended to clarify that a free appropriate public education must be available to any student with a disability who needs special education or related services, even though the student is advancing from grade to grade. The rule is needed to conform State regulations to 34 CFR section 300.101. The rule was subsequently amended in 2005 to re-number the provisions of this section as section 200.4(c)(5).

Section 200.4(d)(2)(i)(c) to add language requiring that present levels of performance for students, age 15 or younger if determined appropriate, include a statement of the student's needs taking into account the student's preferences and interests, as they relate to transition from school to post-school activities. This provision was subsequently amended pursuant to a separate rule making, effective September 13, 2005, to conform to IDEA to include other transition related components to the IEP. The rule is needed to strengthen the Department's ability to ensure compliance in the area of transition, consistent with CFR sections 300.43 and 300.320.

Section 200.4(d)(2)(ix) adds language that requires that individualized education program recommendations include a statement of the student's projected post-school outcomes, based on the student's needs, preferences and interests, in the areas of employment, post secondary education and community living. This provision was subsequently amended pursuant to a separate rule making, effective September 13, 2005, to conform to IDEA to include several other transition related components in the IEP. The rule is needed to strengthen the Department's ability to ensure compliance in the area of transition, consistent with CFR sections 300.43 and 300.320.

Section 200.4(e)(7) was amended to require school districts to provide special education and related services in accordance with the student's IEP and make a good faith effort to assist the student to achieve the goals and objectives or benchmarks listed in the student's IEP. This provision was subsequently amended pursuant to a separate rule making, effective September 13, 2005, to conform to IDEA to repeal objectives or benchmarks for certain students with disabilities.

Section 200.4(f) was amended to require that for any meeting to develop, review or revise the IEP, the committee must consider the strengths of a student, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the student, the result of the student's performance on assessments and other special factors and revise the IEP as appropriate upon consideration of those factors. The rule is needed to conform State regulations to 34 CFR section 300.324. The rule was subsequently amended in 2005 to conform State regulations consistent with the IDEA and to make technical changes and re-number the provisions of this section.

Section 200.5(b) was amended to: (1) repeal language stating that parental consent is not required for a functional behavioral assessment; (2) add language allowing school districts to continue to pursue initial evaluations or reevaluations using the due process procedures if parents of students with disabilities refuse consent; and (3) add language clarifying that a school district may not use a parent's refusal to consent to one service or activity to deny the parent or child any other service, benefit or activity of the school district. The rule is needed to conform to 34 CFR 300.300. The rule relating to parent consent was subsequently amended in 2005, 2007 and 2009 consistent with the IDEA and its implementing regulations (34 CFR Part 300).

Section 200.5(d)(3) was amended to clarify that a school district may conduct a CSE meeting without a parent in attendance, if they are unable to convince the parent to attend, and that the school must keep detailed records of its attempts to contact a parent and the results of those attempts. The rule is needed to conform to 34 CFR sections 300.322, 300.503 and 300.300.

Section 200.5(h)(4) was amended to clarify that mediation is provided by community dispute resolution centers through a contract with the State Education Department. The rule is needed to conform to 34 CFR section 300.506.

Section 200.5(i)(4) was amended to clarify that except for preschool and expedited hearings, an impartial hearing officer shall render a decision, and mail a copy of the written, or at the option of the parent, electronic findings of fact and the decision to the parents, the board of education, and to the Office of Vocational and Educational Services for Individuals with Disabilities; and that the record of the findings of fact and the decision shall be provided at no cost to the parents. The rule is needed to conform to 34 CFR sections 300.511 and 300.512. The rule was subsequently amended in 2004 to correct a cross citation; in 2005, to re-letter section 200.5(i)(4) to section 200.5(j)(5); in 2007, to correct a cross citation; in 2010, to make a technical amendment to change "VESID" to the Office of Special Education; and in 2014 to conform the timeline for an IHO to render a decision consistent with the federal timeline in 34 CFR Part 300.

Section 200.5(j) was amended to: (1) clarify that any party aggrieved by the finding of fact and the decisions of an impartial hearing officer may appeal to a State review officer of the State Education Department; (2) require that a copy of the written decision of a State review officer, or at the option of the parents, electronic findings of fact and decision, be mailed to each of the parties; and (3) clarify that the State review officer may grant extensions beyond the specified time period to either party. The rule is needed to conform to 34 CFR sections 300.512, 300.514 and 300.515. The rule was subsequently amended in 2005 to re-letter section 200.5(j) to section 200.5(k).

Section 200.5(k)(1)(iii)(a) was amended to clarify that a complaint must be received within one year of the date of the alleged violation, except upon the finding that a longer period is reasonable because the violation is continuing or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date that the written complaint is received. The rule is needed to conform to 34 CFR sections 300.504 and 300.153. The rule was subsequently amended in 2005 to re-letter section 200.5(k) to section 200.5(l), and further revised in 2007 to conform State compliant procedures consistent with the IDEA and its implementing regulations (34 CFR Part 300) to remove the exception to the one year statute of limitations.

Section 200.5(m)(3)(iv) was amended to require that a surrogate parent be assigned to a student for as long as a surrogate parent is required. The rule is needed to conform to 34 CFR section 300.519. The rule was subsequently amended in 2005 to re-letter section 200.5(m) to section 200.5(n).

Section 200.6(g)(8) and section 200.13(d) were amended to change the term "parent counseling or education" to "parent counseling and training" as defined in section 200.1. The rule is needed to conform to 34 CFR section 300.34.

Section 200.7(b)(3) establishes that the content of a school conduct and discipline policy for an approved private school, a State-operated school or a State-supported school be consistent with the provisions of subparagraphs (a-d), (f) and (g) of paragraph (1) of section 100.2(1).

The rule is needed to conform to the Save Schools Against Violence (SAVE) legislation. The rule was subsequently revised in 2013 to add, consistent with Chapter 501 of the Laws of 2012, that the code of conduct developed by the Justice Center must govern the conduct of custodians with respect to the safety, dignity and welfare of students in residential schools.

Section 200.16(c)(3) was amended to repeal language that allowed committees, prior to making any recommendation to place a preschool child in an approved program owned or operated by the agency which conducted the initial evaluation, to inform parents that the committee cannot proceed with the process to review the child's needs within the established timelines until an additional evaluation has been completed. The rule is needed to conform to 34 CFR 300.323 and 300.324.

Section 200.16(h)(3)(iii) was amended to clarify that special classes for preschool students are to be provided on a half-day or full-day basis pursuant to sections 200.1(p), (q) and (v). The rule is necessary to standardize and simplify the rate setting and preschool approval process, consistent with 34 CFR section 300.101. The rule was subsequently amended in 2005 to re-letter section 200.5(h) to section 200.5(i).

Section 201.7(b) was amended to clarify that the trustees or the board of education of any school district, a district superintendent of schools or a building principal with authority to suspend a student pursuant to Education Law section 3214(3)(b) and (g) have authority to order placement of a student with a disability into an appropriate interim alternative educational setting. The rule is necessary to conform to SAVE legislation.

Section 201.11(a)(3) established that in reviewing a decision with respect to the manifestation determination, an impartial hearing officer must determine whether the school district has demonstrated that the student's behavior was not a manifestation of the student's disability consistent with the requirements of section 201.4 of this Part. The rule was subsequently amended in 2007 consistent with the IDEA and its implementing regulations (34 CFR Part 300) to repeal this requirement.

Section 201.11(c) was amended to require an impartial hearing officer to mail a copy of the written, or at the option of the parents, electronic findings of fact and decisions to the parents, to the board of education, and to the Office of Vocational and Educational Services for Individuals with Disabilities (VESID) of the State Education Department. The rule is needed to conform to 34 CFR section 300.512. The rule was subsequently amended in 2007 consistent with the IDEA and its implementing regulations (34 CFR Part 300) and the provisions of this rule were re-numbered as section 201.11(b)(5). The rule was further amended in 2010 to make a technical amendment to change "VESID" to the Office of Special Education.

Section 276.1(c) was amended to make technical corrections as a result of amendments to other sections of the regulations.

Section 279.3, as amended: (1) repealed language allowing a State Review Officer to base his or her decision on statements contained in a petition, which are deemed to be true, if an answer to the allegations in a petition is not served and filed according to the provisions of such regulations; and (2) authorized a State Review Officer to make a decision, that is considered final unless an aggrieved party seeks judicial review.

Section 279.8, as amended: (1) repealed language stating that oral argument before a State review officer is not permitted; (2) added language giving a State Review Officer the authority to determine if oral argument is necessary and to direct that such argument be heard at a time and place reasonably convenient to the parties; (3) authorized the State Review Officer to seek additional oral testimony or documentary evidence if determined necessary; (4) clarified that hearings to take additional evidence will be conducted before a State Review Officer at a time and place reasonably convenient to both parties; and (5) ensures that the procedures at such hearings are consistent with the due process requirements of section 200.5(j)(3).

Section 100.6 was amended to make technical corrections to cross citations related to the definition of a student with a disability and to local certificates.

Assessment of public comment: No public comment received.

Sections 200.2 and 200.5 of the Commissioner's Regulations, regarding procedures for appointment of impartial hearing officers

Statutory authority: Education Law sections 101, 207, 4403(3), 4404(1) and 4410(13).

Justification for continuation without modification: The rule is necessary to ensure the timely conduct of impartial hearings as required by the federal IDEA.

The rule established the time period for the board of education to appoint the impartial hearing officer and to ensure the State Education Department has the data to monitor the initiation and completion of impartial hearings.

Section 200.2(e) established additional procedures for boards of education to follow when appointing and rescinding appointments of impartial hearing officers and established hearing reporting procedures. The rule was subsequently amended in 2002.

Section 200.5(i)(3)(i), as amended: (1) established that the board of education appoint an impartial hearing officer no later than five business days after receipt of the request for the hearing; (2) provided the board of education the authority to designate member(s) to appoint the impartial hearing officer; and (3) relocated language regarding rescinding the impartial hearing officer's appointment. The rule relating to the impartial hearing process for students with disabilities was subsequently amended in 2004, 2005 and 2007 to conform State regulations consistent with the IDEA and its implementing regulations (34 CFR Part 300) and to re-letter section 200.5(i) to section 200.5(j). The rule was further revised in 2014 relating to the certification and appointment of an impartial hearing officer.

Assessment of public comment: No public comment received.

Sections 200.4 and 200.7 of the Commissioner's Regulations, regarding technical amendments to conform to State and federal requirements

Statutory authority: Education Law sections 101, 207, 4401-a(2) and 4403(3).

Justification for continuation without modification: The rule is needed to conform the Commissioner's Regulations to State and federal requirements and to correct certain cross citations.

The rule enacted technical amendments relating to the information that must be included in the written referral of a student suspected of having a disability and corrects certain cross citations.

Section 200.4(a) was amended to require that a referral include a written description of the interventions and strategies used to remediate the student's performance prior to referral. The rule also provides that the building administrator may request a meeting with the parents to determine if the referred student would benefit from other services designed to meet the learning needs of the student while maintaining the student in general education. The rule was amended in 2008 to establish procedures for referrals and requests for referrals for an initial evaluation of a student for special education services, consistent with Chapter 378 of the New York State Laws of 2007 and the IDEA.

Section 200.4(d)(2)(iv) and section 200.7(d)(1)(ii) were amended to correct certain cross citations.

Assessment of public comment: No public comment received.

OFFICE OF ADULT CAREER AND CONTINUING EDUCATION SERVICES (ACCES)

Part 247 of the Commissioner's Regulations, regarding conforming and technical amendments pertaining to the vocational rehabilitation program

Statutory Authority: Education Law sections 101, 207, and 1004(1).

Justification for continuation without modification: The rule is needed to conform to federal requirements. The rule enacts technical changes to conform the Commissioner's Regulations relating to the State vocational rehabilitation program to Title I of the Rehabilitation Act, as reauthorized by Public Law 113-128, and the federal regulations promulgated under such Act. This rule should continue without modification, as federal requirements for the vocational rehabilitation program, as amended July 22, 2014, have not been finalized.

Assessment of public comment: no public comment received.

Sections 168.1, 168.2 and 168.6 of the Commissioner's Regulations, regarding Employment Preparation Education programs

Statutory authority: Education Law sections 101, 207 and 3602(24)(a-1) and section 23 of Chapter 60 of the Laws of 2000.

Justification for continuation without modification: These rules are necessary to comply with the laws mentioned above. Sections 168.1, 168.2 and 168.6 of the Commissioner's Regulations establish criteria for the operation of the Employment Preparation Education (EPE) program which enables school districts and BOCES to provide educational services to adults 21 and over with limited basic skills.

Assessment of public comment: no comments received.

OFFICE OF STATE REVIEW

Sections 279.3 and 279.8 of the Commissioner's Regulations, regarding conforming and technical amendments to implement IDEA

Statutory authority: Education Law sections 101, 207, 3214(3), 4403(3) and (20), 4404(1) and (2) and 4410(13).

Justification for continuation without modification: The rule continues to conform the regulations with the federal Individuals with Disabilities Education Act and 34 CFR section 300.515, by facilitating compliance with the timelines for issuing a decision by a State Review Officer.

The rule relates to procedures for appeals to the State Review Office.

Section 279.3, as amended: (1) repealed language allowing a State Review Officer to base his or her decision on statements contained in a petition, which are deemed to be true, if an answer to the allegations in a petition is not served and filed according to the provisions of such regulations; and (2) authorized a State Review Officer to make a decision, that is considered final unless an aggrieved party seeks judicial review.

Section 279.8, as amended: (1) repealed language stating that oral argument before a State Review Officer is not permitted; (2) added language giving a State Review Officer the authority to determine if oral argument is necessary and to direct that such argument be heard at a time and place reasonably convenient to the parties; (3) authorized the State Review Officer to seek additional oral testimony or documentary evidence if determined necessary; (4) clarified that hearings to take additional evidence will be conducted before a State Review Officer at a time and place reasonably convenient to both parties; and (5) ensures that the procedures at such hearings are consistent with the due process requirements of section 200.5(j)(3).

The rule is needed to conform the Commissioner's Regulations to the federal regulations implementing the Individuals with Disabilities Education Act.

Assessment of public comment: no comments were received.

OFFICE OF HIGHER EDUCATION

Section 80-1.11 and Part 87 of the Commissioner's Regulations, regarding fingerprinting and criminal history check of prospective school employees and applicants for teaching certification

Statutory authority: Education Law sections 207, 305(3)(a) and (b), 1604(39) and (40), 1709(39) and (40), 1804(9) and (10), 1950(4), (11) and (mm), 2503(18) and (19), 2554(25) and (26), 2854(3)(a-2) and (a-3), 3004-b(1) and (2), 3004-c, 3035(1), (3) and (4) and Chapter 180 of the Laws of 2000.

Justification for continuation without modification: The rule established requirements and procedures for the fingerprinting and criminal history record check of prospective school employees and applicants for teaching certification in order to implement the requirements of Chapter 180 of the Laws of 2000. The rule is necessary to implement Chapter 180 of the Laws of 2000 to set forth requirements and procedures for fingerprinting and criminal history record checks of prospective school employees. The rule established requirements for applicants for certification, as well as the requirements for school employer's vis-à-vis prospective school employees. It also described the Department's obligations with respect to issuing clearances for employment as well as due process considerations for individuals who may be denied clearance for employment. Additionally, the rule outlined the process for notifying school employers about subsequent arrests. Finally, it set forth the fee amount, who is obligated to pay the

fee, and set forth the rules surrounding the destruction of an individual's criminal history record.

Assessment of public comment: No public comment was received.

#### OFFICE OF THE PROFESSIONS

Sections 52.30, 74.1, 74.2, 74.4 and 74.5 of the Commissioner's Regulations, regarding standards for licensure qualifying social work programs

Statutory authority: Education Law sections 207, 210, 6504, 6507(1),(2)(a), and (4)(a); 6508(1); 7703, 7704(2) and (4), 7705, as amended by Chapter 230 of the Laws of 2004, and Insurance Law sections 3221(1)(4)(A) and (D) and 4303(i) and (n).

Justification for continuation without modification: The rule establishes standards for licensure qualifying programs in social work, education and examination requirements for licensure, requirements for applicants for limited permits to practice as a certified social worker (CSW), and requirements that must be met by certified social workers to qualify for reimbursement under certain group health insurance policies for psychotherapy services. Since their adoption in 2001, these regulations were repealed and replaced in 2004 and 2005, as a result of changes to Article 154 of the Education Law and subsequently due to other statutory changes in Article 154.

Section 52.30 established the requirements for licensure qualifying programs leading to the professional preparation for a licensed CSW, including specific course area requirements. Section 52.30 was repealed and replaced in 2004 due to the implementation of the new statutory scheme that provided for two new licensed professions (Licensed Master Social Worker and Licensed Clinical Social Worker) and therefore required two new licensure-qualifying programs.

Section 74.1 established the requirements for acceptable professional study leading to the professional preparation for a licensed CSW, including those programs conforming to section 52.30 and other programs that were comparable. Section 74.1 was repealed and replaced in 2004 due to the implementation of the new statutory scheme that provided for two new licensed professions (Licensed Master Social Worker and Licensed Clinical Social Worker) and therefore required two new licensure-qualifying programs.

Section 74.2 established the requirements for licensure qualifying professional examinations leading to the professional preparation for a licensed CSW. The section contained the specific subject areas of the examination and set forth the qualifications for admission to the examination. Section 74.2 was repealed and replaced in 2004 due to the implementation of the new statutory scheme that provided for two new licensed professions (Licensed Master Social Worker and Licensed Clinical Social Worker) and therefore required two new licensure qualifying programs. Section 74.2 was also amended in 2007 to clarify requirements for entry to the licensing examinations.

Section 74.4 established the requirements for receiving a limited permit to practice CSW while waiting to take the examination. The section required that applicants for limited permits must meet all other licensing requirements except for passing the exam. Section 74.4 was repealed and replaced in 2004 due to the implementation of the new statutory scheme that provided for two new licensed professions (Licensed Master Social Worker and Licensed Clinical Social Worker) and therefore required two new licensure qualifying programs. Section 74.4 was also amended in March 2005, October 2007, June 29, 2010 as emergency measure; September 23, 2010 as emergency measure, November 19, 2010 as emergency measure, effective November 19, 2010; November 23, 2010, effective December 8, 2010.

Section 74.5 established the requirements leading to the CSW gaining authorization to seek certain reimbursement for services from insurance carriers. The section contained the specific experience requirements that a candidate must meet, primarily in the area of psychotherapy. Section 74.5 was repealed and replaced in 2004 due to the implementation of the new statutory scheme that provided for two new licensed professions (Licensed Master Social Worker and Licensed Clinical Social Worker) and, therefore, required two new licensure-qualifying programs. Section 74.5 was subsequently amended March 22, 2005; June 29, 2010 as emergency measure; September 23, 2010 as emergency measure; November 19, 2010 as emergency measure effective November 19, 2010; and November 23, 2010 effective December 8, 2010.

The rule is needed to establish standards to ensure the quality of social work programs that are registered or seeking registration, to set criteria to measure the acceptability of social work programs offered outside the United States and its territories, to allow certain master's degree programs, within limitations, to permit students to use advanced standing credit for meeting their requirements, to ensure that candidates have adequate educational preparation prior to taking the licensing examination, to enable an applicant who has met the education requirement in substance to obtain employment in the social work field, and to clarify supervised experience requirements that must be met to qualify for reimbursement under certain group health insurance policies for psychotherapy services.

Assessment of public comment: No public comment was received.

Section 75.4 of the Commissioner's Regulations, regarding mandatory continuing competency for speech-language pathologists and audiologists

Statutory authority: Education Law sections 207, 212(3), 6502(1), 6504, 6507(2)(a), 6508(1) and 8209(1)(a), (b) and (c), (2), (3), (4), (5) and (6) and Chapter 266 of the Laws of 2000.

Justification for continuation without modification: This rule implements a statutory requirement. As the statute remains in effect, the rule should do so also.

Assessment of public comment: No public comment was received.

#### OFFICE OF MANAGEMENT SERVICES

Section 3.31 of the Regents Rules, regarding removal of trustees of education corporations

Statutory authority: Education Law section 101, 201, 202(1), 206, 207, 214, 215, 216 and 226(4).

Justification for continuation without modification: The rule established procedures to be used in proceedings of the Board of Regents pursuant to Education Law section 226(4) to remove trustees of education corporations created by the Board of Regents, for misconduct, incapacity, neglect of duty and/or failure or refusal of the institution to carry into effect its educational purposes. The rule is needed to codify in the Regents Rules the procedures for removal of trustees of education corporations created by the Board of Regents, and thereby ensure the consistent, systemized practice with respect to such proceedings.

Assessment of public comment: No comments received.

## Department of State

A Notice, published in the New York State Register in January of this year, listed the rules adopted by the Department of State in 2013, 2011, 2006 and 2001 that the Department would be reviewing in calendar year 2016. The Department has since received no public comment regarding continuation or modification of any of the listed rules. As indicated in the Notice published in January, the following list of rules does not include rules adopted as consensus or emergency rules, or rules that have been amended or repealed subsequent to adoption.

Pursuant to section 207(4) of the State Administrative Procedure Act, notice is hereby provided that the Department of State has conducted its 2016 review of rules adopted in 2013, 2011, 2006 and 2001. The original Notices of Proposed Rulemaking for all of the following rules required the preparation of a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, or Job Impact Statement.

#### RULES ADOPTED IN 2013

(1) DOS-22-12-00017 Administrative Expenses and Executive Compensation of Providers of Services to New Yorkers

Part 144 was added to Title 19 of NYCRR to address limits on the use of State funds/State-authorized payments for administrative expenses and executive compensation.

Analysis of the need for the rule: The rule is needed to continue implementing Executive Order No. 38 of 2012 and thereby ensure that State funds or State-authorized payments paid by this Department to certain providers (of critical services to New Yorkers) are not used to support excessive compensation or unnecessary administrative costs.

Legal basis for the rule: Executive Law, section 91

## (2) DOS-43-12-00001 Real Estate Advertising

Section 175.25 was added to Title 19 of NYCRR to provide protection to the public and guidance to real estate licensees pertaining to advertising by real estate licensees.

Analysis of the need for the rule: The rule is needed to continue advancing the legislative intent of Article 12-A of the Real Property Law, thereby protecting consumers and providing guidance to real estate licensees on proper advertising practices to ensure that advertisements are not false or misleading.

Legal basis for the rule: Real Property Law, section 442-k(1)

## (3) DOS-07-13-00002 Address Confidentiality Program

Part 134 was added to Title 19 of NYCRR to implement the Address Confidentiality Program, as required by Executive Law, section 108.

Analysis of the need for the rule: The rule is needed to continue administering New York State's Address Confidentiality Program.

Legal basis for the rule: Executive Law, section 108

## (4) DOS-16-13-00005 Appraisal Trainee/Supervision Standards and Reciprocity

Sections 1101.4, 1103.4 and 1104.1 of Title 19 of NYCRR were amended to conform New York's regulations regarding real estate appraisers to new Federal requirements.

Analysis of the need for the rule: The rule is needed for New York State to continue complying with certain federal real estate appraisal standards, and thereby maintain federal recognition of the State's appraisal program.

Legal basis for the rule: Executive Law, section 160-d

## (5) DOS-16-13-00006 Distinguishability of Corporation and Other Business Entity Names

Section 156.2 was repealed and a new section 156.2 was added to Title 19 of NYCRR to implement distinguishability requirements pertaining to entity names.

Analysis of the need for the rule: The rule is needed to continue providing improved guidelines to determine whether a proposed name is acceptable as the name of an entity in the records of the Secretary of State.

Legal basis for the rule: Executive Law, section 91

## (6) DOS-18-13-00006 Temporary Licenses and Verification of Education

Sections 160.5 and 160.33 of Title 19 of NYCRR were amended to implement the appearance enhancement phase of the statewide "E-Licensing" initiative.

Analysis of the need for the rule: The rule is needed to continue enabling appearance enhancement license applicants to schedule examinations and apply for licenses on-line.

Legal basis for the rule: General Business Law, section 402

## RULES ADOPTED IN 2011

## DOS-47-10-00010 Regulation of Crematories Subject to Not-For-Profit Corporation Law

Part 203 was repealed and a new Part 203 of Title 19 of NYCRR was added to clarify procedures and record requirements for crematories, and to enhance consumer protection.

Analysis of the need for the rule: The rule is needed to continue consistency between Part 203 of Title 19 of NYCRR and section 1517 of the Not-For-Profit Corporation Law, and to create clarity and uniformity in the cremation and funeral trades.

Legal basis for the rule: Not-For-Profit Corporation Law, Article 15

## RULES ADOPTED IN 2006

## (1) DOS-33-06-00004 Qualifying Courses for Home Inspection Applicants

Subpart 197-2 of Title 19 of NYCRR was added to establish standards for home-inspection courses, and procedures for course approval.

Analysis of the need for the rule: The rule is needed to continue the home-inspection licensing program of Article 12-B of the Real Property Law, as established by Chapter 461 of the Laws of 2004 and amended by Chapter 225 of the Laws of 2005.

Legal basis for the rule: Real Property Law, sections 444-c(6)(A) and 444-l

## (2) DOS-33-06-00005 General Liability Insurance for Licensed Home Inspectors

Part 197 and subpart 197-1 of Title 19 of NYCRR were added to establish the type and amount of liability coverage required of licensed home inspectors.

Analysis of the need for the rule: The rule is needed, pursuant to Article 12-B of the Real Property Law, to further continue the home-inspection licensing program.

Legal basis for the rule: Real Property Law, sections 444-k and 444-l

## RULES ADOPTED IN 2001

## (1) DOS-21-01-00003 State Cemetery Vandalism Restoration and Administration Fund

Subdivisions (i), (j) and (k) were added to section 200.11 of Title 19 of NYCRR to establish procedures for public cemetery corporations to obtain monies from the State Cemetery Vandalism Restoration, Monument Repair or Removal and Administration Fund.

Analysis of the need for the rule: The rule is needed to maintain a process for public cemetery corporations to apply for and utilize funds available for the repair or removal of monuments that create dangerous conditions, as authorized by Chapter 380 of the Laws of 2000.

Legal basis for the rule: Not-For-Profit Corporation Law, section 1504(c)(1)

## (2) DOS-27-01-00005 Bail Enforcement Agents and Their Employees

Part 170 of Title of 19 NYCRR was amended to provide for the licensing of bail enforcement agents.

Analysis of the need for the rule: The rule is needed to continue implementing Chapter 562 of the Laws of 2000, which requires bail enforcement agents to be licensed.

Legal basis for the rule: Section 13 of Chapter 562 of the Laws of 2000

## (3) DOS-31-01-00001 Coastal Policies for Long Island Sound

Part 600 of Title 19 of NYCRR was amended to implement the Long Island Sound Coastal Management Program.

Analysis of the need for the rule: The rule is needed to continue implementing the Long Island Sound Coastal Management Program.

Legal basis for the rule: Executive Law, sections 913 and 923

## (4) DOS-39-01-00024 Agency Notice and Filings

Parts 260 – 263 of Title 19 of NYCRR were amended to update and clarify notice and filing requirements applicable to State agency rule making.

Analysis of the need for the rule: The rule is needed to continue: addressing text formatting procedures applicable to rule filings, changing the title of a rule making form, and correcting the name of the Department division that receives rule filings.

Legal basis for the rule: Executive Law, 91, 102 and 146; State Administrative Procedure Act, section 202(9)

## (5) DOS-46-00-00001 Employee Identification Cards

Section 195.11(a)(1) of Title 19 of NYCRR was repealed and a new section 195.11(a)(1) was added to prescribe a new size and content for employee identification cards issued by licensed security and alarm installers.

Analysis of the need for the rule: The rule is needed to maintain regulatory provisions that make such cards less costly for licensees; the rule conformed the prescribed card size to standard identification card dimensions, and removed a regulatory provision that previously required information to be printed on both sides of the cards.

Legal basis for the rule: General Business Law, sections 69-m(1) and 69-n(5)

## (6) DOS-46-00-00016 Hearing Aids

Part 191 of Title 19 of NYCRR was repealed and a new Part 192 was added to regulate the conduct of the business of dispensing hearing aids and individual dispensers.

Analysis of the need for the rule: The rule is needed to continue implementing Article 37-A of the General Business Law.

Legal basis for the rule: General Business Law, section 803

(7) DOS-47-00-00010 Uniform Code: Reimbursement of Local Government Training Costs

Part 440 was added to Title 19 of NYCRR to provide for the disbursement of funds to local governments for reimbursement of training costs incurred in connection with local administration and enforcement of the New York State Uniform Fire Prevention and Building Code.

Analysis of the need for the rule: The rule is needed to maintain a process for local governments to be reimbursed by the State for eligible training costs associated with administration and enforcement of the Uniform Fire Prevention and Building Code.

Legal basis for the rule: Chapter 56 of the Laws of 2000

To obtain information concerning an above-indicated item, 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 Notice of Review of Rules is posted on the Department of State's website at: [http://www.dos.ny.gov/info/regulatory\\_\\_activity/rulereview/rulereview.htm](http://www.dos.ny.gov/info/regulatory__activity/rulereview/rulereview.htm).

