

COVID-19 Emergency Regulations

April 6, 2020



COVID-19 PANDEMIC

- On March 7, 2020 the Governor of New York State declared a State disaster emergency for the entire State of New York pursuant to Executive Order 202 and subsequently, issued additional Executive Orders in response to the COVID-19 crisis directing the closure of schools, directing non-essential work personnel to work from home, and directing non-essential gatherings of individuals of any size for any reason to be canceled or postponed.
- As a result of the Governor's numerous Executive Orders, it is necessary for the Department to adopt emergency regulations to address the issues resulting from the interruptions caused by the COVID-19 crisis.

Professions

- **Excuse the continuous experience requirements for speech language pathology, audiology, and occupational therapy.**

The Department proposes to allow for the opportunity to excuse the continuous experience requirements for speech language pathology, audiology, and occupational therapy where such continuous experience cannot be completed due to the State of Emergency declared by the Governor.

- **Accept passing examination scores from Public Accounting applicants that are outside the required 18 month examination window.**

The Department proposes to accept passing examination scores from Public Accounting applicants that are outside the required 18 month examination window where such examinations cannot be completed within 18 months due to the State of Emergency declared by the Governor.

Professions Continued

- **Modify educational program requirements to the extent authorized by law.**

The Department proposes to amend Commissioner's regulations to allow the Department to modify professional educational program requirements, to the extent authorized by law, if such requirements cannot be successfully completed due to the State of emergency declared by the Governor.

- **Grant an exemption for in-person supervision experience requirements for certain licensed professions.**

The Department proposes to grant an exemption for in-person supervision experience requirements for licensed clinical social work, licensed master social work, mental health counseling, marriage and family counseling, creative arts therapy, and psychoanalysis if such in-person supervision cannot be completed due to the State of Emergency declared by the Governor.

Accountability

- **The federal government has approved the Department's application for a one-year waiver for State assessments and accountability systems.**

The federal government has provided a one-year waiver from provisions of the Every Student Succeeds Act (ESSA) pertaining to State assessments and school and district accountability determinations due to the unique circumstances that have arisen as a result of the COVID-19 crisis.

Accountability Continued

- **District and School Performance Review and Accountability Status:**
 1. **The Commissioner shall not conduct school and district performance reviews using 2019-20 school year results.**
 2. **Accountability status of public schools and districts for the 2020-21 school year will remain the same for the 2019-20 school year.**
 3. **2018-19 school year results shall be used where 2019-20 results would have been used.**

As a result of the assessment and accountability waiver from the federal government, the Department proposes not to conduct a review of school and district performance using 2019-20 school year results; the accountability status of public schools and districts for the 2020-21 school year shall be the same as for 2019-20, and the 2018-19 school year results shall be used in any instance for which 2019-20 results would have been used as part of the process in making 2021-22 school year accountability determinations.
- **The Commissioner may modify timelines for the 2019-20 through 2021-22 school years.**

Additionally, the proposed amendment provides that the Commissioner may, upon a finding of good cause, modify for the 2019-20 through 2021-22 school years any timelines pertaining to notifications, plans, reports, or implementation of activities required by such section.

Special Education

- **Ensure that State approved private schools, State operated schools, Special Act School Districts, State supported schools and preschools will not be penalized because they are unable to provide instruction or operate for 180 days.**

The Department proposes to amend regulations to ensure that State approved private schools, State operated schools, State supported schools and preschools will not be penalized because they are unable to provide instruction or operate for 180 days during the COVID-19 crisis; consistent with the Governor's Executive orders.

- **Allow impartial hearing officers to conduct special education due process hearings by video conference.**

The Department proposes to allow impartial hearing officers to conduct special education due process hearings by video conference during the COVID-19 crisis.

- **Allow hearing officers to extend cases up to 60 days rather than 30 days.**

The Department proposes to allow hearing officers to extend cases up to 60 days rather than 30 days while schools are closed pursuant to an Executive order issued by the Governor. This allows Impartial Hearing Officers better flexibility while school witnesses, administrators and parents are unavailable to partake in due process hearings.

Special Education Continued

- **Extend the time period for preschool providers to make up missed services.**
The Department proposes to amend regulations that require preschool providers to make-up missed services within 30 days of the missed session. The proposed amendment will not include days the school is closed pursuant to an Executive Order of the Governor.
- **Extend the time period to arrange for special education programs and services to be provided to a student with a disability.**
The Department proposes to extend the time period to arrange for special education programs and services to be provided to a student with a disability from 60 school days of receipt of consent to evaluate so that the 60 days will not include any days(s) that such school is closed pursuant to an Executive order issued by the Governor. As well, 30 school days will be extended for arranging an approved non-public school placement.

Bilingual Education

- **Provide that days when a school is closed will not count toward the following timelines:**

- 1. English language learner identification process**

- 2. Parental notification and information**

- 3. English as a New Language/Bilingual Education placement**

The Department proposes to not include any day(s) where a school is closed pursuant to an Executive Order of the Governor to count toward the following timelines : English language learner identification process timeline; parental notification and information timeline, and the English as a New Language/Bilingual Education placement timeline.

Bilingual Education Continued

- **Provide an exemption to students from the unit of study requirements where such student otherwise achieves the learning outcomes.**

The Department proposes to provide an exemption to the unit of study requirements where a student is unable to meet such requirements due to schools being closed pursuant to an Executive Order of the Governor and where such student otherwise achieves the learning outcomes for such course of study.

- **Provide that for this school year, there will be no English language learner annual assessment.**

The Department proposes to provide that for the 2019-2020 school year, there will be no English language learner annual assessment due to such assessment being suspended as result of the COVID-19 crisis.

Curriculum and Instruction

- **Provide an exemption to students from the unit of study requirement.** The Department proposes to amend Commissioner's regulations to provide an exemption to unit of study requirements where a student is unable to meet such requirements due to schools being closed pursuant to an Executive Order of the Governor and where such student otherwise achieves the learning outcomes of such portion of unit of study completed.

Charter Schools

- **Reporting and Payments: Excuse delays of up to 30 days in required reporting and payment by charter schools to public schools.**
 - The Department proposes to amend Commissioner's regulations to permit the Commissioner to excuse delays in required reporting by charter schools to public schools for the length of time of a school closure ordered by an Executive Order of the Governor, provided such delay does not exceed 30 days.
 - The Department also proposes to amend regulations to provide that when there is a delay in reporting by a charter school the Commissioner may excuse any delay in payment by a public school to a charter school, provided such delay does not exceed 30 days.

Charter Schools Continued

- **Lotteries: Require charter schools to provide notice on their websites of the date, time and place of lotteries for the random selection process for charter school student applicants and permit such lotteries to be held remotely.**
 - The Department proposes to require charter schools to provide notice on their website of the date, time and place of lotteries for the random selection process for charter school student applicants if such lottery is provided during a school closure ordered pursuant to an Executive Order of the Governor.
 - Additionally, the Department proposes to permit such lotteries to be held remotely, provided that the public has the opportunity to view or listen and such lottery is recorded and later transcribed.

Home Instruction

- **Alternative Form of Evaluation: Permit an alternative form of evaluation, in lieu of an annual assessment, for home instruction students.**
 - The Department proposes to permit an alternative form of evaluation, in lieu of an annual assessment, for all grades in the 2019-20 school year due to the State of Emergency declared by the Governor.
 - Currently, alternative form of evaluation is only available for certain grade levels.
 - Such alternative form of evaluation would contain a written narrative prepared by either a New York State-certified teacher, a home instruction peer group review panel, or other person, who has interviewed the child and reviewed a portfolio of the child's work. Such person shall certify either that the child has made adequate progress or that the child has failed to make adequate progress.

Higher Education

- **DASA Training: Permit DASA training to be conducted entirely online.**

The Department proposes to permit the Dignity for All Students Act (DASA) training to be conducted entirely online during the time period of the State of emergency declared by the Governor pursuant to an Executive Order.

- **edTPA: Create an edTPA safety net for candidates in registered educator preparation programs whose student teaching or similar clinical experience in spring of 2020 was impacted by COVID-19.**

The Department proposes to create an edTPA safety net for candidates in registered educator preparation programs (EPPs) whose student teaching or similar clinical experience in spring of 2020 was impacted by COVID-19, holding them harmless. These candidates would be able to take and pass either the ATS-W or edTPA. Eligible candidates who choose to take the edTPA but do not pass it, could take and pass the ATS-W, or pursue the edTPA Multiple Measures Review Process (MMRP), if they qualify.

Higher Education Continued

- **Extend the SOCE application deadline from June 30, 2020 to June 30, 2021.**
The Department proposes to extend the SOCE application deadline from June 30, 2020 to June 30, 2021 so that school districts have time to identify staff who are eligible for the SOCE, inform them about the application process and any supports provided, and submit the materials needed for applications.
- **Extend the time period by which full-time teaching experience must be completed to June 30, 2021.**
For the SOCE and limited extension, special education teachers must complete their satisfactory full-time teaching experience, while being considered Highly Qualified through passing a HOUSSE rubric in the subject area, prior to June 30, 2020. The Department proposes to extend the time period by which the experience must be completed to June 30, 2021, giving teachers the opportunity to gain more full-time satisfactory teaching experience for the SOCE or limited extension as they are losing time to do so during the COVID-19 crisis.

State Aid

- **Permit schools and districts to operate for less than 180 days without a reduction in State Aid.**

The Department proposes to amend Commissioner's regulations to permit public school districts, public schools and charter schools to operate for less than 180 days during the 10 month school year resulting from the period of closure in accordance with the terms of Executive Order(s) issued by the Governor pursuant to the state of emergency for the COVID-19 crisis.

- **Permit missed instructional hours to count toward annual instructional hour requirements.**

This amendment also permits missed instructional hours for any day that a school is closed pursuant to an Executive Order of the Governor to count toward the minimum annual instructional hour requirements set forth in such section.

Early Learning

- **Permit prekindergarten programs to operate for less than the 180-day and 90-day requirements.**

The Department proposes to permit prekindergarten programs to operate for less than the 180-day and 90-day requirements where such programs are closed consistent with the terms of the Executive Order(s) of the Governor.

- **Permit NYSED staff to conduct annual visit of nonpublic nursery schools and kindergartens as soon as practicable.**

The Department proposes to permit Department staff who are unable to conduct their annual visit of nonpublic nursery schools and kindergartens because they are closed pursuant to an Executive Order of the Governor, to conduct such annual visit as soon as practicable when they reopen.

310 Appeals to the Commissioner

- **Permit service of pleadings and appeals by alternative means where such services currently require in-person service.**

The Department proposes to amend Commissioner's regulations to permit service of pleadings and supporting papers for appeals to the Commissioner by alternative means during the time period of any movement restrictions or school closures directed by Governor Executive Order. Currently the Commissioner's regulations require personal service.

Part 83 Appeals

- **Excuse filing timeframes relating to appeals to the Commissioner of a hearing officer's determination of good moral character.**

The Department proposes to excuse the filing timeframes relating to appeals to the Commissioner of a hearing officer's determination of good moral character where such late filings are due to the State of emergency declared by the Governor.

Part 87 Appeals

- **Excuse late submissions relating to due process procedures for prospective employees' clearance for employment.**
The Department proposes to excuse late submissions relating to due process procedures for prospective employees' clearance for employment.
- **Excuse late submissions relating to appeals of the Department's determination to deny prospective school employees' clearance for employment.**
The Department proposes to permit the Commissioner's designee to excuse late submissions relating to appeals of the Department's determination to deny prospective school employees' clearance for employment where such submissions are late due to the State of emergency declared by the Governor.
- **Amend the definition of "prospective school employee".**
The Department proposes to amend the definition of "prospective school employee" to include any individual who will reasonably be expected to provide services which involve online communication or interaction directly to students under the age of 21 during the period of a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis.

Office of State Review

- **Provide that a State Review Officer may authorize certain filings through electronic means.**

The Department proposes to amend regulations to allow a State Review Officer to authorize certain filings through electronic means during the State of emergency declared by the Governor.



Questions?