





TO: P-12 Education Committee

FROM: Jeffrey Matteson 

SUBJECT: Proposed Addition of Subpart 124-1 to the Regulations of the Commissioner of Education Relating to District Superintendents

DATE: September 26, 2024

AUTHORIZATION(S): 

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the addition of Subpart 124-1 to the Regulations of the Commissioner of Education relating to District Superintendents?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment is presented to the P-12 Education Committee for discussion at the October 2024 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on October 23, 2024, for a 60-day public comment period. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

The Department proposes to clarify the responsibilities and employment conditions for District Superintendents. District Superintendents play a pivotal role in the educational landscape of New York State. As the executive officers of Boards of Cooperative Educational Services (BOCES), District Superintendents are responsible for overseeing the provision of shared educational programs and services to component school districts within their respective sole supervisory districts. This role, as defined under Education

Law §1950, positions the District Superintendent as both a local educational leader and a representative of the Commissioner of Education, tasked with ensuring that state policies and priorities are effectively implemented across their districts.

Given the unique dual reporting structure of District Superintendents—where they are accountable to both the BOCES Board of Trustees and the Commissioner—there is a critical need for guidelines that outline their authority, duties, and benefits. The reporting structure of District Superintendents has historically created complexities in ensuring that their role is consistently understood and applied across the state. The proposed regulation seeks to:

- **Ensure Consistency:** By clearly delineating the responsibilities and powers of District Superintendents, the regulations provide a uniform standard that aligns with the statutory requirements of Education Law Section 1950. This is crucial for maintaining coherence in how District Superintendents operate within their dual roles.
- **Support Effective Leadership:** Clarifying the role of District Superintendents strengthens their ability to lead regionalization and other state-led initiatives effectively. The proposed regulations emphasize the importance of their role in translating state policies into actionable plans that meet the unique needs of their districts.
- **Streamline Oversight:** The proposed regulations also address the need for clear procedures regarding the employment status, compensation, and benefits of District Superintendents, including the handling of leave accruals. This ensures that both the BOCES Board of Trustees and the Department can effectively manage and support these leaders, who are critical to the success of educational initiatives across the state.

The proposed Subpart 124-1 of Part 124 of the Commissioner’s regulations describes the general role and responsibilities of District Superintendents, including executing policies set by the BOCES Board of Trustees, managing BOCES administrative functions, and ensuring compliance with state education mandates and guidelines. It also addresses the employment status of District Superintendents, explaining that while their daily operations and compensation are managed by the BOCES Board of Trustees, they also report to the Commissioner and serve as their representative in the field (the Department also ensures compliance with statutory salary caps and contract requirements). Finally, the amendment outlines policies related to leave accruals, timekeeping, insurance and health care benefits, and moving expenses, providing a consistent framework that aligns with state employment requirements while accommodating specific BOCES employment contracts.

Related Regents Items

Not applicable.

Recommendation

Not applicable.

Timetable for Implementation

It is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the February 2025 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the February 2025 meeting, the proposed amendment will become effective on February 26, 2025.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 215, 305, 1950, 2204, 2205, 2209, 2212, 2215, and 2216 of the Education Law.

1. The Regulations of the Commissioner of Education is amended by adding a new Subpart 124-1 to Part 124 to read as follows:

Subpart 124-1 District Superintendents

Section 124-1.1 General role

(a) Pursuant to Education Law §1950, a board of cooperative educational services (BOCES) provides shared educational programs and services to component school districts within the state and is governed by a BOCES board of trustees (board).

(b) The district superintendent shall be the executive officer of a BOCES, and where a BOCES comprises two or more supervisory districts, the district superintendents, together with the president of the BOCES, shall act as an executive committee.

(c) The district superintendent shall serve as the representative of the Commissioner for a sole supervisory district. They are responsible for overseeing the BOCES and the component school districts of supervisory districts. This role includes, but is not limited to, overseeing the development and implementation of regionalization plans pursuant to Subpart 124-2 of this Part, providing services for and facilitating collaboration among component school districts, carrying out duties and responsibilities as directed by the Commissioner, reporting to and attending all board meetings, and acting as the primary liaison between the Department and the BOCES.

Section 124-1.2 Employment status

(a) Appointment and employment status.

(1) Pursuant to Education Law §1940(4), the BOCES shall have the power and duty to appoint a district superintendent in the manner provided in Education Law §2204, provided such district superintendent meets the qualifications requirement prescribed in Education Law §2205.

(2) The office of the district superintendent shall be vacant upon any event prescribed in Education Law §2208.

(3) A district superintendent may be removed from office pursuant to Education Law §2212, or as otherwise specified in their contract.

(4) Any change in employment status, suspension, or disciplinary action of the district superintendent shall be reviewed with the Department prior to any such action being taken by the board.

(b) Operations. The daily operations and duties of the district superintendent are at the direction of the board. Provided, however, that the Commissioner may assign tasks to the district superintendent as needed.

(c) Employment contract.

(1) The BOCES shall have the discretion to provide the payment of supplementary salary to the district superintendent by the sole supervisory district. Provided, however, that the total salary of a district superintendent is subject to the statutory salary cap set forth in Education Law §1950(4)(a)(2).

(2) The term of any employment contract or agreement between a district superintendent and the BOCES shall not exceed three years.

(3) Copies of employment contracts and amendments to such contracts entered into shall be filed with the Commissioner within five days of execution pursuant to Education Law §1950(4)(a)(1). The Commissioner shall review such filed contracts.

(4) In no event shall the terms of the district superintendent's contract, including

any provisions relating to an increase in salary, compensation or other benefits, be contingent upon the terms of any collective bargaining agreement between the BOCES and its teachers or other employees.

Section 124-1.3 Responsibilities

(a) District superintendents shall have the general powers and duties as prescribed in Education Law §2215.

(b) As the executive officer of the BOCES, the district superintendent is responsible for executing policies set by the board, managing BOCES administrative functions, participating in executive sessions of the board when deemed appropriate by such board, carrying out tasks as assigned by the Commissioner, and ensuring compliance with state education mandates and guidelines.

(c) The district superintendent shall lead investigations of potential violations of the Education Law in their component school districts and provide reports of the outcome of such investigations as directed by the Commissioner, or their designee.

(d) Unless excused by the Commissioner, the district superintendent shall attend each monthly statewide district superintendent meeting.

(e) Each year, on a form and manner prescribed by the Commissioner, the district superintendent shall complete and submit their performance evaluation to the Department.

Section 124-1.4 Intermediary role

The district superintendent shall act as an intermediary between the Department, BOCES, and component school districts to facilitate the successful execution of education initiatives within the sole supervisory district, including translating state educational priorities into actionable regionalization plans that align with the unique needs and resources of the component school districts.

Section 124-1.5 Leave accruals

(a) Upon commencement of employment, or anytime thereafter, each board shall have the authority to permit carryover of unused vacation and/or sick leave per calendar year for district superintendents from their current or former employer at the discretion of the board and commissioner. Provided, however, that at the time of separation from service, no district superintendent shall be compensated for accrued and unused vacation credits or sick leave, or use accrued and unused sick leave for retirement service credit or to pay for health insurance in retirement, except at the maximum number of days allowable for management/confidential employees of the state.

(b) To the extent that holidays are provided by the BOCES to the district superintendent that exceed those made available to management/confidential employees of the state, the district superintendent shall be entitled to such holidays provided they make themselves available to carry out responsibilities at the direction of the Commissioner on those days.

(c) Leave accruals shall be at the discretion of the board, upon consent of the Commissioner. Provided, however, that such accruals, at the end of the calendar year, shall not exceed the maximum number of days allowable for managerial/confidential employees of the state pursuant to regulations promulgated by the state civil service commission, nor may any district superintendent at the time of separation from service be compensated for accrued and unused vacation credits or sick leave, or use accrued and unused sick leave for retirement service credit or to pay for health insurance in retirement, at a rate in excess of the rate permitted to managerial/confidential employees of the state pursuant to regulations of the state civil service commission.

(d) A district superintendent who retires directly from State service may negotiate in their contract with the BOCES up to the maximum days allowable for

management/confidential employees of unused sick leave or the equivalent of a retirement service credit on a day-to-day basis and up to the maximum days allowable for management/confidential employees to offset the cost of health insurance in retirement. For the latter, the value of unused sick leave is converted to a monthly credit, which is applied toward paying any contribution the employee makes for health insurance for the rest of his or her life. Such benefit shall be at the expense of the BOCES, unless the district superintendent is enrolled in the New York State Health Insurance Program (NYSHIP) at the time of separation, and shall not apply to the salary cap.

(e) The local BOCES has discretion to set leave and sick time for the district superintendent, pursuant to their contract, as long as such accruals do not exceed the maximum allowed for management/confidential employees. Nothing shall prohibit a district superintendent, upon employment or anytime thereafter, from accruing the maximum leave and sick time accrual, or some increment thereof, as long as such accruals do not exceed the maximum allowed for management/confidential employees.

(f) District superintendents shall not be eligible for enrollment in the management/confidential Income Protection Plan (IPP).

Section 124-1.6 Timekeeping

(a) District superintendents shall be exempt from recording their leave, accruals, and time worked through the New York State Leave and Accrual Tracking System (LATS) if a comparable system collecting the same data regarding leave, accruals, and time worked exists at the local BOCES level.

(b) The district superintendent or BOCES shall provide the data collected through any such local leave and accrual timekeeping system to the Department or other state entity, if requested, within ten business days.

Section 124-1.7 Insurance and health care benefits

(a) In addition to the payment of supplementary salary, a BOCES may provide for the payment of all or a portion of the cost of insurance benefits for the district superintendent, including health insurance, disability insurance, life insurance or any other form of insurance benefit made available to managerial/confidential employees of the state. Any such payments for whole life, split dollar, or other life insurance policies having a cash value, or any payments toward the employee contribution, co-pay, or uncovered medical expenses under a health insurance plan shall be included in the total salary of the district superintendent, during the time of employment of the district superintendent.

(b) The BOCES may negotiate health care coverage both in-service and in retirement, in excess of, or separate from, health care coverage provided by the State of New York for the benefit of a district superintendent. Contributions by the BOCES to a Health Saving Account or comparable account for the purpose of covering qualified health expenses, or a plan deductible, shall not count towards the salary cap prescribed in Education Law §4405(4)(a)(2) for the district superintendent.

Section 124-1.8 Moving Expenses

Newly hired district superintendents may be reimbursed by the BOCES for individual and family moving expenses pursuant to their contract and subject to the limitations within State Finance Law §202, which shall not count towards the salary cap. A newly hired district superintendent is not eligible, however, for related expenses such as selling or buying a house or renting temporary quarters. Reimbursement shall not be granted if the distance between the newly hired district superintendent's old and new place of employment, or between the new place of employment and place of residence at the time of employment, is less than 35 miles.