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NO HEARING(S) SCHEDULED

Development and Implementation of Regionalization Plans

I.D. No. EDU-39-24-00006-EP

Filing No. 731

Filing Date: 2024-09-10

Effective Date: 2024-09-10

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Proposed Action: Addition of Part 124 to Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 215, 305, 1950, 2216 and 2204

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: The Department recognizes the need for a strategic approach to addressing educational disparities, fiscal constraints, and operational inefficiencies across districts in New York State. Regionalization can help solve these challenges, creating equitable educational opportunities through partnerships among school districts, Boards of Cooperative Educational Services (BOCES), and other stakeholders.

The goal of regionalization plans is to increase opportunities for students, build upon the existing strengths and capacity in communities across New York, address enrollment challenges, and manage fiscal constraints by fostering equitable educational environments through collaboration. The proposed amendment requires that each component school district of a supervisory district work with the District Superintendent to develop and implement a regionalization plan at least every ten years. This would result in 37 plans, one for each supervisory district.

The regionalization planning process must, at minimum, include the Districts Superintendents facilitating: (1) a strengths and needs tool on a form prescribed by the commissioner; (2) convenings with school districts and stakeholders; (3) an interim progress report on a form prescribed by the commissioner; and (4) the regionalization plan on a form prescribed by the commissioner. Component school districts and supervisory districts would begin implementing the approved regionalization plans no later than the start of the 2026-2027 school year.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the January 2025 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the January meeting, would be January 29, 2025, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the September 2024 meeting, effective September 10, 2024,

for the preservation of the general welfare to ensure component school districts in each supervisory district timely begin the regionalization planning process in an effort to provide students with equitable access to educational opportunities and address operational efficiencies.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the January 2025 Regents meeting, which is the first scheduled meeting after expiration of the 60- day public comment period mandated by SAPA for state agency rulemaking. However, since the emergency action will expire before the January Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the November 2024 Regents meeting.

Subject: Development and implementation of regionalization plans.

Purpose: The development of regionalization plans by component districts in collaboration with BOCES superintendents in order to best utilize educational resources.

Text of emergency/proposed rule: Part 124 Board of Cooperative Educational Services

Subpart 124-2 Regionalization Plans

Section 124-2.1 Purpose and applicability

The purpose of this Part is to establish a framework for the development and implementation of regionalization plans by component school districts in collaboration with district superintendents. The goal of regionalization plans is to increase opportunities for students, build upon the existing strengths and capacity in communities across New York, address enrollment challenges, and manage fiscal constraints by fostering equitable educational environments through regional collaboration.

Section 124-2.2 Definitions

As used in this Part:

- (a) District superintendent means the executive officer of a board of cooperative educational services.
- (b) Regionalization means the process of creating equitable educational opportunities for all students through collaborative partnerships among school districts, BOCES, and other stakeholders.
- (c) Regionalization plan means a strategic plan for a supervisory district where each component school district works with the district superintendent in the development of the plan, and the plan is designed to improve student opportunities and operational efficiencies through shared resources.
- (d) Supervisory district means a specific type of educational administrative division responsible for providing shared educational services to multiple school districts within its jurisdiction, including special education, career and technical education, and various support services. Supervisory districts shall facilitate cooperation and efficiency among school districts, ensuring that they have access to resources and programs that might be difficult to provide individually.
- (e) Stakeholder means a group that has a vested interest in the education of students and is involved in, or the potential beneficiary of, regionalization. Stakeholders include, but are not limited to, parents/guardians, business groups, collective bargaining units, professional education organizations, Indigenous nations, institutions of higher education, community groups, cultural institutions, and elected officials, where applicable.

Section 124-2.3 Regionalization plan development

- (a) Each component school district of a supervisory district shall work with the district superintendent, or an individual designated by the Commissioner in the event of a vacancy in the district superintendent position, to develop and implement a regionalization plan at least every ten years that shall include, but not be limited to, initiatives for enhancing educational opportunities, strategies for operational efficiencies, mechanisms for ongoing evaluation, and other information as prescribed by the

Commissioner.

(b) There shall be one regionalization plan for each supervisory district.

(c) The regionalization planning process shall at a minimum include the district superintendents facilitating the completion of the following activities by the component school districts:

- (1) a strengths and needs tool on a form prescribed by the Commissioner;
- (2) convenings with school districts and stakeholders;
- (3) an interim progress report on a form prescribed by the Commissioner; and
- (4) the regionalization plan on a form prescribed by the Commissioner.

(d) Neighboring non-component school districts, including the big five city school districts, as well as charter schools and nonpublic schools, shall be invited by the district superintendent to voluntarily participate in the regionalization planning process, where applicable.

Section 124-2.4 Deadlines and approval process

(a) For the initial and subsequent regionalization plans:

(1) each component school district shall submit the strengths and needs tool to the Department on or before November 1, 2024, and on or before each November 1 every 10 years thereafter;

(2) the district superintendent shall launch the first convening with school districts and stakeholders on or before November 1, 2024, and on or before each November 1 every 10 years thereafter;

(3) the district superintendent shall submit the interim progress report to the Department on or before April 1, 2025, and on or before each April 1 every 10 years thereafter; and

(4) the district superintendent shall submit the regionalization plan for the supervisory district to the Department on or before October 1, 2025, and on or before each October 1 every 10 years thereafter.

(b) The regionalization plan shall be reviewed by the Department within 30 days. The Department shall grant approval of regionalization plans based on criteria determined by the Commissioner. Plans that do not meet these criteria shall be returned to the district superintendent with comments. For returned plans, the district superintendent shall work collaboratively with their component school districts to address any concerns and resubmit such plan with edits no later than 30 days. Such review cycle shall continue until the plan is approved by the Department.

(c) The regionalization planning process shall occur on a 10-year cycle with required activities identified by the Department in consultation with district superintendents, component school districts, and stakeholders.

Section 124-2.5 Implementation, amendments, and monitoring

(a) Component school districts and supervisory districts shall begin the implementation of approved regionalization plans no later than the start of the 2026-2027 school year.

(b) District superintendents may submit amendments to the regionalization plan on behalf of the component school districts to the Department for review and approval at any time after the Department's approval of the initial final plan. Such amendments shall be reviewed by the Department pursuant to the process set forth in section 125-2.4(b) of this Subpart.

(c) The district superintendent and component school districts shall review the regionalization plan initiatives and outcomes on occasion throughout the 10-year implementation cycle.

(d) The Department and district superintendent shall monitor the implementation of the regionalization plans by component school districts, and may conduct site visits and review performance metrics, to ensure outcomes meet the strategic objectives outlined in the plan as related to preparing students for

college, career, and civic readiness opportunities and enacting operational efficiencies. If such metrics are not being met, the Department or district superintendent shall compel the component district to amend its section of the regionalization plan to achieve desired outcomes as set forth by the component school district pursuant to subdivision (b) of this section.

Section 124-2.6 Responsibilities

(a) Department responsibilities:

(1) Provide technical assistance, data, guidance, and templates to support supervisory districts in developing regionalization plans.

(2) Review, approve, and provide feedback on submitted interim progress reports, regionalization plans, and amendments.

(3) Share effective practices regarding regionalization from school districts across the state.

(4) Provide ongoing support through technical assistance and evaluative metrics during the implementation of the regionalization plans and conduct site visits, where applicable.

(b) District superintendent responsibilities:

(1) Facilitate the development and implementation of regionalization plans by the component school districts in their supervisory district, including leading convenings and collecting, analyzing, and disseminating data.

(2) Ensure all component school districts actively participate in the planning process and adhere to the Department's guidelines. Work closely with stakeholder groups, neighboring districts, neighboring supervisory districts, non-component school districts, charter schools, and nonpublic schools, among other educational entities, where applicable, to ensure multiple perspectives and the needs of all students are considered.

(3) Serve as a point of contact for the Department regarding regionalization, submit comprehensive regionalization plans and interim progress reports to the Department by the specified deadlines, and provide the Department with updates pertaining to adherence with the requirements of this Subpart.

(4) Support component school districts in the implementation of the approved plans and submit any necessary amendments on their behalf.

(5) Work with other district superintendents to share effective practices across regions.

(c) Component school district responsibilities:

(1) Collaborate with the district superintendent and other component school districts in the development of the regionalization plan for the supervisory district, including collecting and summarizing needs of the district and addressing feedback from the Department on the plan.

(2) Participate in all convenings scheduled by the district superintendent and adhere to the Department's guidelines.

(3) Implement the approved regionalization plans, identify any necessary amendments to the plan, and engage in continual improvement.

(d) The Department, district superintendents, and component school districts shall undertake any other responsibilities needed to develop or implement regionalization plans or as otherwise directed by the Commissioner.

Section 124-2.7 Administrative costs

Any activities carried out by the district superintendent or the BOCES, pursuant to this Part, shall qualify as part of the BOCES administrative costs.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule

making. The emergency rule will expire December 8, 2024.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Room 112 E, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: David Frank, Assistant Commissioner, Office of Education Policy, 89 Washington Avenue, room 115 EB, Albany, NY 12234, (518) 408-1951, email: REGCOMMENTS@nysed.gov

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. **STATUTORY AUTHORITY:** Education Law § 207 grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law § 215 empowers the Regents and the Commissioner to visit, examine into and inspect, any institution in the University and any school or institution under the educational supervision of the State and may require reports therefrom giving information as the Regents or the Commissioner prescribe.

Education Law § 305 (1) and (2) provide that the Commissioner, as chief executive officer of the State's education system, with general supervision over all schools and institutions subject to the Education Law, or of any statute relating to education, and responsibility for executing all educational policies of the Board of Regents.

Education Law § 1950 establishes boards of cooperative educational services for the purpose of carrying out programs of shared educational services in the schools of the supervisory district and for providing instruction in such special subjects as the commissioner may approve.

Education Law § 2204 provides for the appointment of a District Superintendent of schools by boards of cooperative educational services.

2. **LEGISLATIVE OBJECTIVES:** The proposed rule is consistent with the above statutory authority and is necessary to establish a framework for the development and implementation of regionalization plans by component school districts in collaboration with District Superintendents.

3. **NEEDS AND BENEFITS:** The Department recognizes the need for a strategic approach to addressing educational disparities, fiscal constraints, and operational inefficiencies across school districts in New York State. Regionalization is a key strategy in helping to solve these challenges, creating equitable educational opportunities through partnerships among school districts, Boards of Cooperative Educational Services (BOCES), and other stakeholders. The goal of regionalization plans are to increase opportunities for students, build upon the existing strengths and capacity in communities across New York, address enrollment challenges, and manage fiscal constraints by fostering equitable educational environments through regional collaboration.

4. **COSTS:**

(a) **Costs to State government:** The proposed rule provides that any activities carried out by the District Superintendent or the BOCES would qualify as part of the BOCES administrative costs. Therefore, the proposed rule may impose a cost to the state to provide increased aid to cover the administrative costs incurred by the component school districts or BOCES. However, the Department anticipates that these additional costs will be minimal compared to the amount of BOCES aid currently expended by the state.

(b) **Costs to local government:** Regionalization and collaboration with BOCES and other school districts could lead to significant cost savings for local districts by enabling the sharing of both educational and operational activities. By pooling resources, districts can reduce expenses related to staffing, curriculum

development, and program delivery while enhancing access to specialized services. Additionally, shared operational activities such as transportation, facilities management, and administrative functions would further reduce overhead costs. While the proposed rule may involve some minimal administrative costs, districts are expected to use existing staff and resources to develop regionalization plans. Any incurred costs would be eligible for BOCES aid, minimizing the financial impact on local governments.

(c) Cost to private regulated parties. The proposed rule does not impose any costs on private parties.

(d) Cost to the regulatory agency: The proposed rule does not impose any costs on the State Education Department for implementation and continued administration, as the Department expects to use existing staff and resources to implement the proposed rule.

5. LOCAL GOVERNMENT MANDATES: The proposed rule requires that each component school district of a supervisory district work with the District Superintendent to develop and implement a regionalization plan at least every 10 years. The implementation of approved regionalization plans must begin no later than the start of the 2026-2027 school year.

6. PAPERWORK: The proposed rule requires each component school district of a supervisory district to work with the District Superintendent to develop a regionalization plan at least every ten years. For the initial and subsequent regionalization plans: (1) each component school district shall submit the strengths and needs tool to the Department on or before November 1, 2024, and on or before each November 1 every 10 years thereafter; (2) the District Superintendent shall submit the interim progress report to the Department on or before April 1, 2025, and on or before each April 1 every 10 years thereafter; and (3) the District Superintendent shall submit the regionalization plan for the supervisory district to the Department on or before October 1, 2025, and on or before each October 1 every 10 years thereafter.

7. DUPLICATION: There are no other state or federal requirements on the subject matter of the proposed rule. Therefore, the amendment does not duplicate other existing state or federal requirements.

8. ALTERNATIVES: The proposed rule is necessary to establish a framework for the development and implementation of regionalization plans by component school districts in collaboration with District Superintendents. There are no significant alternatives to the proposed rule and none were considered, as this regulation was developed through discussions with relevant stakeholders.

9. FEDERAL STANDARDS: There are no related federal standards. Since there are no applicable federal standards, the proposed rule does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE: The proposed rule took effect as an emergency rule on September 10, 2024. It is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the January 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. Because the emergency action will expire before the January 2025 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the November 2024 meeting. If adopted at the January 2025 meeting, the proposed amendment will become effective on January 29, 2025.

For the initial and subsequent regionalization plans: (1) each component school district shall submit the strengths and needs tool to the Department on or before November 1, 2024, and on or before each November 1 every 10 years thereafter; (2) the District Superintendent shall submit the interim progress report to the Department on or before April 1, 2025, and on or before each April 1 every 10 years thereafter; and (3) the District Superintendent shall submit the regionalization plan for the supervisory

district to the Department on or before October 1, 2025, and on or before each October 1 every 10 years thereafter.

The implementation of approved regionalization plans must begin no later than the start of the 2026-2027 school year.

It is anticipated that the regulated parties will be able to comply with the proposed rule by the effective date.

Regulatory Flexibility Analysis

(a) Small Businesses:

The purpose of the proposed rule is to establish a framework for the development and implementation of regionalization plans by component school districts in collaboration with District Superintendents. The proposed rule does not have any adverse economic impact or impose any reporting, record keeping or any other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required pursuant to section 202-b(3)(a) of the State Administrative Procedure Act, and one has not been prepared.

(b) Local Governments:

1. EFFECT OF RULE:

The proposed rule applies to each of the 731 public school districts in the State. The proposed rule requires component school districts of a supervisory district to work with the district superintendent to develop and implement a regionalization plan. However, all neighboring noncomponent school districts, including the big five city school districts, as well as charter schools and nonpublic schools, shall be invited to voluntarily participate in the regionalization planning process as well.

2. COMPLIANCE REQUIREMENTS:

Each component school district shall submit a strengths and needs tool to the Department on or before November 1, 2024, and on or before each November 1 every 10 years thereafter; and shall work with the district superintendent to develop and implement regionalization plans.

3. PROFESSIONAL SERVICES: The proposed rule does not impose any professional service requirements.

4. COMPLIANCE COSTS:

Regionalization and collaboration with BOCES and other school districts could lead to significant cost savings for local districts by enabling the sharing of both educational and operational activities. By pooling resources, districts can reduce expenses related to staffing, curriculum development, and program delivery while enhancing access to specialized services. Additionally, shared operational activities such as transportation, facilities management, and administrative functions would further reduce overhead costs. While the proposed rule may involve some minimal administrative costs, districts are expected to use existing staff and resources to develop regionalization plans. Any incurred costs would be eligible for BOCES aid, minimizing the financial impact on local governments.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed rule does not impose any additional technological requirements on school districts. Economic feasibility is addressed under the Compliance Costs section above.

6. MINIMIZING ADVERSE IMPACT:

The proposed rule seeks to establish a framework for the development and implementation of regionalization plans by component school districts in collaboration with District Superintendents. While there may be some initial administrative costs, such as dedicating staff time to planning and

coordination, these are expected to be minimal, as districts can utilize existing personnel and resources. Additionally, any costs incurred by districts or BOCES will be aidable, mitigating financial strain. The cost savings potential of regionalization, through the sharing of both educational and operational activities, will far outweigh these initial expenditures. Districts may be able to reduce expenses in operations and educational development, thereby leading to more efficient use of resources. Overall, these minimal administrative costs are insignificant compared to the substantial long-term savings that regionalization can generate, as well as the amount of BOCES aid already provided by the state.

Therefore the proposed rule will not have any adverse economic impact on local governments, therefore differing approaches as prescribed in SAPA § 202-b(1) were not considered.

7. LOCAL GOVERNMENT PARTICIPATION:

A copy of the proposed rule has been shared with school districts and BOCES through the offices of the District Superintendents of each supervisory district in the State and with the chief school officers of the five big city school districts for review and comment.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS: The proposed rule will apply to each of the 731 public school districts in the State as well as all Boards of Cooperative Educational Services in the State (BOCES), including those located in the 44 counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square miles or less.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The proposed amendment requires that each component school district of a supervisory district work with the District Superintendent to develop and implement a regionalization plan at least every ten years. This plan is designed to improve student opportunities and operational efficiencies through shared resources and must include initiatives for enhancing educational opportunities, strategies for operational efficiencies, mechanisms for ongoing evaluation, and other information as required by the Commissioner. This would result in 37 plans, one for each supervisory district.

The regionalization planning process must, at minimum, include the District Superintendents facilitating: (1) a strengths and needs tool on a form prescribed by the Commissioner; (2) convenings with school districts and stakeholders; (3) an interim progress report on a form prescribed by the Commissioner; and (4) the regionalization plan on a form prescribed by the Commissioner.

Neighboring non-component school districts, including the big five city school districts, as well as charter schools and nonpublic schools, shall be invited by the District Superintendent to voluntarily participate in the regionalization planning process, where applicable.

Additionally, the proposed amendment: (1) sets forth deadlines and the approval process for initial and subsequent regionalization plans as well as requirements for implementation, amendments, and monitoring of such regionalization plans; (2) identifies the responsibilities of the Department, District Superintendents, and component school districts in relation to such regionalization plans; and (3) provides that all activities carried out by the District Superintendent and BOCES pursuant to the proposed amendment qualify as part of the BOCES administrative costs. Component school districts and supervisory districts would begin implementing the approved regionalization plans no later than the start of the 2026- 2027 school year.

3. COSTS:

Regionalization and collaboration with BOCES and other school districts could lead to significant cost savings for local districts by enabling the sharing of both educational and operational activities. By

pooling resources, districts can reduce expenses related to staffing, curriculum development, and program delivery while enhancing access to specialized services. Additionally, shared operational activities such as transportation, facilities management, and administrative functions would further reduce overhead costs. While the proposed rule may involve some minimal administrative costs on districts and BOCES located in rural areas, districts and BOCES are expected to use existing staff and resources to develop regionalization plans. Any incurred costs would be eligible for BOCES aid, minimizing the financial impact on regulated parties located in rural areas.

4. MINIMIZING ADVERSE IMPACT:

While there may be some initial administrative costs, such as dedicating staff time to planning and coordination, these are expected to be minimal, as districts can utilize existing personnel and resources. Additionally, any costs incurred by districts or BOCES will be aidable, mitigating financial strain. The cost savings potential of regionalization, through the sharing of both educational and operational activities, will far outweigh these initial expenditures. Districts may be able to reduce expenses in operations and educational development, thereby leading to more efficient use of resources. Overall, these minimal administrative costs are insignificant compared to the substantial long-term savings that regionalization can generate, as well as the amount of BOCES aid already provided by the state. Therefore, alternative approaches prescribed in SAPA § 202-bb(2) for rural areas were not considered.

5. RURAL AREAS OF PARTICIPATION:

A copy of the proposed rule has been shared with school districts and BOCES through the offices of the District Superintendents of each supervisory district in the State and with the chief school officers of the five big city school districts, including those located in rural areas, for review and comment.

Job Impact Statement

The purpose of the proposed rule is to establish a framework for the development and implementation of regionalization plans by component school districts in collaboration with district superintendents. The goal of regionalization plans is to increase opportunities for students, build upon the existing strengths and capacity in communities across New York, address enrollment challenges, and manage fiscal constraints by fostering equitable educational environments through regional collaboration.

Because it is evident from the nature of the proposed amendment that it will have no impact on jobs or employment opportunities attributable to its adoption or only a positive impact, no affirmative steps were needed to ascertain these facts, and none were taken. Accordingly, a job impact statement is not required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act, and one has not been prepared.