

Regents Regulatory Relief Request

Flexibility to Raise Student Achievement



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Introduction

This paper requests regulatory relief for New York State school districts. The relief requested is within the jurisdiction of the Board of Regents and is desperately needed. We appreciate the mandate relief sought by the Regents to-date, but more aggressive action is necessary. We need real systems change to give our school districts a “fighting” chance to survive the next decade.

The regulatory requests included in this paper emphasize instructional flexibility, integration and student learning. For example, New York State appears to lag behind other states when it comes to allowing districts flexibility to award credit.

The National Governors Association reports that a total of 36 states currently “have policies that provide school districts and schools with some flexibility for awarding credit to students based on mastery of content and skills as opposed to seat time.” The report adds, “States may not be able to realize the full potential of education reform until the system’s focus shifts from time-based inputs to student learning outputs tied to the mastery of content and skills.”

Compounding this regulatory challenge are the extraordinary fiscal pressures districts are facing. We are experiencing unprecedented reform initiatives driven by the Board of Regents and the State Education Department, while trying to navigate through the most difficult financial environment in recent history. The State Education Department Finance Symposium, *School Finance for High Achievement: Improving Student Performance in Tough Times*, reinforced this fact. The presenters, including Commissioner John King, Jr., noted the urgent need to think differently about our financial and academic delivery systems. It was clear that without significant systems change dozens of districts will fall into structural deficit in the near future. For some districts, the ability to provide a sound, basic education for their children, guaranteed by our State Constitution, is already being challenged. More districts will follow in 2012-2013 if mandate/regulatory relief is not provided.

Superintendents are the educational professionals on the front line and the ones responsible for implementing the law and regulations in their schools. We believe in the goal of the reform effort and have been dedicated to its implementation. However, the reform necessitates superintendents and the Board of Regents initiating systems change; specifically instructional change at the district level and regulatory change by the Board of Regents.

THE COUNCIL has developed a strong advocacy agenda, focusing on significant and immediate mandate relief for our schools. To that end, we have partnered with several statewide groups to form *Let NY Work* (agenda attached). This is a historic effort to advance six critical areas, which would result in major mandate relief.

The *Let NY Work* partnership addresses only part of what schools need. *Let NY Work* emphasizes fiscal relief; schools also need relief from programmatic requirements that preclude them from using their resources more effectively, especially the use of time. Programmatic relief would be most beneficial to addressing students' learning needs and to implementing the Regents Reform agenda. We need help from our state, our Board of Regents, and we need it *now*. Your leadership will serve as an example to the legislature and send a clear message to the field that you understand their circumstances, support them, and will join with them in meeting the challenges they face. The school districts you oversee are struggling to direct more resources to children and your actions will assist in achieving this goal.

The complex nature of the reform initiative and severely constrained resources could significantly impede reform progress. The reform initiative challenges districts to use instructional time more effectively and creatively, accommodate the learning needs and styles of all children, strengthen accountability systems and professionally invest in staff. Although there may not be new resources, the creative use of existing resources is essential. Many of the current Regents' rules and regulations, however, prohibit creativity and flexibility. By their very nature, rules and regulations are prescriptive and do not encourage or accommodate district adaptability to best meet the needs of the children they serve and maximize the resources available to them.

To illustrate the disconnect between the New York State vision for instruction and the regulations, consider the training exemplar highlighted on the *EngageNY* website, *Letter from Birmingham Jail*. David Coleman advocates a rigorous text-based approach, which will result in students deeply understanding the historical and literary importance of this piece. He asks teachers to allow the students to "explore what is important", "to go deeper" and to "slow down". He asserts that "classroom work on this document could take six to eight days".

Unfortunately, many of the current regulations function as barriers to Coleman's recommendations. For example, those mandating the use of time limit teachers' ability to devote that much time to one document. With the following proposed adjustments to regulations, school districts will be able to meet the spirit and intent of the reform while maximizing and redirecting the resources available.

Proposed Solutions

The answers are clear and within the authority of the Board of Regents: provide the field with relief from prescriptive regulations that impede flexibility and the use of time.

Time is one of the most valuable resources schools have and one that is often overlooked. Time is also highly regulated in current regulations. The 1994 document, *Prisoners of Time*, was widely referenced and its principles supported by the Board of Regents. Its concepts were simple, yet true - schools in this country are “controlled by the clock”.

Our requests are fair, timely and within your authority:

- Align the rules and regulations you control with the spirit and intent of New York State’s reforms.
- Give schools the ability to utilize resources such as time differently and creatively to implement the reform requirements.
- Give schools the flexibility they need to redirect resources to support children.

We submit the following proposals for your consideration and action. It will take both extraordinary courage and hard work to change the existing paradigm. We stand ready to assist you in any way possible.

Thank you for your serious deliberation and consideration of the following proposals.

1. Demonstrated Competence vs. Seat Time

Education must be results-driven and all educators and students held accountable to outcome measures. Seat time (units of study) must not serve as the framework for accountability. We acknowledge and appreciate the selective opportunities provided to date for challenging Regents exams (6.5 credits), independent study (3 elective credits) and online course availability. This is a good start, but more is necessary.

- Flexibility in seat time allows students opportunities to explore academic areas in depth, as suggested by David Coleman. Scheduling slots or blocks of time to meet required minutes in schools with diminished resources, is almost impossible. Educational decisions driven by minutes or a bell do not create effective learning opportunities nor the rigor required to implement the Common Core Learning Standards.
- Students who have demonstrated competence in an area of study, through clear standards of performance, should be able to receive credit and move to a higher level of study within the content area.

Allow districts a process to grant academic credit where students can challenge assessments; either traditional or alternative formats with little or no seat time. Districts are developing more comprehensive assessment systems through the APPR requirements. These systems could be used creatively to demonstrate mastery and to grant credit. This one idea could assist districts in differentiating to meet the developmental and/or learning challenges of students.

- For students who have gaps in learning skills and information, the ability to spend more time learning in areas of need would eliminate a huge resource challenge through the requirement to spend “extra time” in Academic Intervention Services (AIS). Students could receive the time required without the stigma of AIS.
- Expand virtual, on-line learning or independent learning opportunities as options to meet graduation requirements. This would allow districts to offer programming in areas where resources are scarce and could be a viable means for leveling the playing field, especially in areas where staffing is difficult and the opportunity to collaborate is challenging due to geographic conditions.

We request the abolishment of minimum minutes required for courses of study. Allowing the decision to be made at a local level will increase the flexibility districts would have in truly meeting student learning needs. For example, a superintendent would be authorized to reallocate time from a non-core subject area(s) to increase student time on task in an academic need area.

2. Middle Level Requirements – 8 NYCRR § 100.4

Section 100.4 of Commissioner’s Regulations should be reviewed in reference to Section 100.3.

- Section 100.3 of the Commissioner’s Regulations defines program requirements for students in grades pre-kindergarten through four. The regulation defines the essential program components; requires the program to be “...based on the ages, interests, strengths and needs of the children” and specifies required subjects, “...all students shall receive instruction that is designed to facilitate their attainment of State Elementary Learning Standards in...”

Section 100.3 allows the school district to design an instructional program based on student need. The school district has the authority, responsibility and flexibility to direct resources to where they are most needed and align instructional time to maximize student learning.

- Section 100.4 of the Commissioner’s Regulations defines program requirements for grades five through eight but does not allow districts the flexibility to design a comprehensive program that is driven by student need. Rather, it is highly prescriptive. Program requirements not only define essential program components, they specifically prescribe units of study (seat time). The result is an approach that promotes subject and content isolation. It significantly expands “core” requirements giving virtually no discretion to the school district to monitor and adjust programs and/or time to address student need. Seat time is the focus, not children.

The flexibility in time would allow educators to focus “Time on Task” where it is needed rather than where it is required. The current system is much like punching a time clock. Prescribing the same time for learning for all students does not make sense based on what is known through research on teaching and learning.

We request Part 100.4 of the Commissioner’s Regulations to be rewritten to mirror Part 100.3. Part 100.3 allows schools to adjust time based on student needs.

3. Academic Integration

The Common Core Learning Standards have taken an important step in focusing on the amount of information required through each grade level curriculum. Training from the State Education Department (SED) through the Network Teams, webinars and *EngageNY* is clearly challenging teachers to employ the constructivist philosophy and integrate thinking skills. We believe the SED has not gone far enough.

Unfortunately, across the state we see a movement away from the integration of content due to the emphasis on norm-based testing. Moving beyond the traditional integration, such as math and science, to encouraging non-traditional integration, such as math and art, assists with the development of complex thinking skills, allows flexibility with seat time and brings not only rigor but excitement to the classroom.

We specifically call your attention to the middle school where the Family and Consumer Science (FACS), Art, Technology, Physical Education, Health Education, Library Science and Information skills are often taught in isolation and driven by seat time. Integration in these areas would not only enhance student learning, it would offer much needed flexibility. Gene Bottoms’ research stated that:

Students taught with integrated curriculum reported that they specifically liked working in teams and indicated improvements in both attitude and work habits. Students at schools with highly integrated rigorous academic and CTE programs have significantly higher student

achievement in reading, mathematics, science, and social studies than students at schools with less integrated programs.¹

We request that you develop regulations that encourage and promote an integrated instructional approach to meeting the Common Core curriculum and allow students to earn credit in multiple content areas at the same time.

Note: We are not requesting a reduction in total units or instructional time. We are requesting the opportunity to utilize instructional time and award credits differently.

4. Flexibility

Career and Technical Education

- On February 13, 2012, a panel of distinguished educators addressing Career and Technical Education (CTE) spoke to the Board of Regents. This panel did an outstanding job highlighting the efficacy of CTE. *ConnectEd* reaffirms the panel's assertions related to CTE.

Student outcomes improve when CTE programs use a robust integrated curriculum aligning core academics and Career and Technical Education. The National Education Longitudinal Study and *ConnectEd*: California Center for College and Career has monitored CTE student achievement data and other factors for over a decade. Researchers identified that when CTE programs utilize an integrated curriculum, there is a positive correlation with:

- **Improved learning:** Students learned faster and retained concepts better when taught rigorous and relevant academic material in a context of real world application.
- **Higher academic achievement:** CTE students were found to have higher graduation rates and exit exam passing rates than students from the general population.
- **Higher wage earning potential:** Postsecondary students who participated in high school CTE career pathways that combined integrated curriculum with work-based learning achieved higher wages compared to similar students who did not participate in CTE pathway programs.
- **Lower dropout rates:** The risk of dropping out was four times higher when students took no CTE courses than when students completed three such courses for every four academic courses.²

¹ Bottoms, Gene 2008

² www.connectedcalifornia.org/linked_learning/evidence

Far too many students who are not college ready, but could be career ready, simply cannot wait until 11th grade to attend BOCES.

We request expanding the role of BOCES in developing Career Ready students.

We request the following:

- 1) The option of CTE beginning at BOCES in the 9th grade.*
- 2) For students to have the option to attend the BOCES for all four years of high school, immersed in a true Career and Technical Education curriculum.*
- 3) Increase the maximum number of credits that students can earn through Career and Technical Education (CTE) programs.*
- 4) Substituting the successful completion of a CTE technical assessment for one of the five Regents examinations (excluding substitution for Algebra and ELA). This would open up options and allow students to explore their area of interest in greater depth.*
- 5) For BOCES to be given the authority to confer diplomas with the joint approval of the local district superintendent and the district superintendent.*

Note: We acknowledge the Board of Regents' March 2012 meeting discussions related to the topics addressed in Section 3 and 4 of this paper and encourage the Board to continue efforts in this area.

Exploring Application of Charter School Regulation Flexibility for Public Schools

Charter School regulations differ from those that guide traditional public schools. Some of the flexibility granted in charter school regulations may be of assistance to public schools in providing more flexibility to achieve the goals of the reform effort. At the March 19th, 2012 meeting of the Regents P-12 Education Committee, Regent Young made the aforementioned point, specifically referring to arts education and Charter School Certification regulation. If the flexibility provided in Charter School regulations would assist public schools, these regulations must be seriously considered by the Board of Regents.

We request the Board of Regents authorize a review of Charter School regulations for the purpose of determining which regulations will provide flexibility and can be applied to K-12 schools.

We request the regulations identified be approved for K-12 public schools by the Board of Regents.

Physical Education Credits for Athletes

High school students participating in a team sport are required to spend many hours in practice and play that far exceed the time spent in a Physical Education course. Students who are engaged in high school athletics should be allowed to forego Physical Education classes, thereby allowing students to pursue other academic alternatives. Playing a sport is the demonstration of many of the skills and concepts taught through physical education class. It does not make sense that the state does not recognize this commitment. Again, an assessment could be used to allow athletes to demonstrate levels of excellence in the curriculum. This change in the regulation would allow Physical Education teachers to better serve students most in need of improved physical fitness, and athletes to focus more time in other courses or closing any academic gaps by replacing Physical Education with additional academic offerings.

We request high school students participating in a high school team sport receive credit for Physical Education.

5. Certification

Middle school educators and school districts need flexibility to utilize teachers across both K-6 and 7-12 certification areas if the superintendent deems the teacher qualified. Family and Consumer Science and Technology teacher certification requirements, for example, often prove to be inhibitors to middle level education initiatives. If rigid teacher certification requirements were removed, the expectations for these and other courses could be integrated effectively into current coursework, permitting scheduling flexibility to better meet student needs. Simplify Elementary, Special Education and Science certification areas.

We request the following:

- 1) Revise and simplify Elementary certification areas to a single N, K-5 designation.*
- 2) Revise and simplify Special Education certification areas, specifically a Generalist certification K-5 and 6-12.*
- 3) Make 7-12 Science a single certification area as currently is the case in Math certification or at minimum, permit more teaching outside of certification areas.*
- 4) Amend the action taken by the Board of Regents in the spring of 2010 by eliminating the 2-year limitation with the approval of the superintendent. The current regulation, in general, allows a teacher to move up or down two grade levels for a two year period without requiring additional coursework. If a teacher is evaluated to be effective or highly effective at the new grade level, the additional coursework should be waived.*

6. Statutory Change/School Year

The Regents' Reform Agenda is seeking deep systems change. As with any systems change process there is a need for intense professional learning, which is best achieved in concentrated blocks of time. Nonetheless, while the process of teaching and learning becomes more complex, learning time for educators has not changed.

State law requires school districts to conduct at least 180 "session" days to qualify for full state aid. The law allows districts to count up to four Superintendent's Conference Days for professional development as session days. Allowing districts to count professional development days offered in the summer as session days would reduce disruptions in student learning. However, state law currently requires that all session days be conducted between September 1st and June 30th.

We request a statutory change allowing districts to have days of session in the last two weeks of August for professional development (Superintendent's Conference Days). These days would be aided and would count towards the 180 day requirement.

7. Accountability

We recognize a strong accountability system is requisite for the recommendations included in this paper to be approved by the Board of Regents. Therefore, we propose the development of a State Education Department accountability process based on multiple measures, focused on continuous improvement over time and requiring the collection, analysis and reporting of empirical data to demonstrate effectiveness. Research supports the utilization of multiple measures as an effective evaluation tool. It is important to note that districts would have to demonstrate moving toward and/or achieving the standard(s) set by SED. The following represent the types of measures we would suggest:

Elementary Literacy Standard for ELA and Math

- By grade 3, all students will be on grade level or have demonstrated significant literacy gains as supported by the data.

Middle Level Literacy Standard for ELA and Math/College and Career Ready Skills

- By grade 8, all students will be on grade level or have demonstrated significant literacy gains as supported by the data.
- All students will demonstrate College and/or Career Ready skills that are age and grade level appropriate as evidenced by the data.

High School

- All schools will have achieved a 95 percent graduation rate or demonstrated significant improvements in graduation rates as supported by the data.
- All schools will demonstrate significant increases in the number of students taking and passing advanced academic work.

We understand that each school and/or district would be starting from a different baseline. Therefore, demonstrated significant improvement would vary from plan to plan. For example, a school with a 60 percent graduation rate that improves over a 3-year period to a 72 percent graduation rate may be considered significant. The district that improves from a baseline of 80 percent to 83 percent would not be considered significant. Criteria should be considered for aligning this improvement process with the Award Schools Process where applicable.

We would advocate working collaboratively with SED in the development of this accountability process.

Summary

The property tax cap has changed the educational landscape further restricting resources for schools. Over the past three years aid to education has been flat or reduced. Significant mandate relief and systems change has not been forthcoming. The Board of Regents has the authority to provide regulatory relief to school districts by changing many of the detailed mandates now in the Commissioner's Regulations in favor of regulations that offer school districts time and academic flexibility while maintaining accountability.

Sadly, while the approaches outlined in this paper make educational sense and would provide districts much needed flexibility to maximize their resources to the benefit of students, we cannot enact them on our own since state regulations are prohibitive. Thus, this lack of flexibility puts the current regulations in direct conflict with reform expectations.

School districts are facing a bleak financial and academic future unless we can change elements of the current system. Unfortunately, the tax cap and other fiscal challenges will more than likely result in a continued reduction of educators, staff and resources. The Regents' Reform Agenda requires districts to challenge and change the design and delivery of education. It is now, more than any other time in the near past, that we need to be creative and adaptive in response to the challenges before us. School districts cannot carry out this mission without a joint effort from all stakeholders at all levels. Out-dated, restrictive and prescriptive

regulations that served the old system do not provide the flexibility necessary to drive the new system nor do they serve the education needs of our students.

The requests made in this paper will serve to facilitate the Regents Reform Agenda while creating better learning opportunities for children. Aligning state regulations to the reform effort will allow districts to redirect resources to best meet the needs of their students.

We are available to discuss the recommendations included in this paper at your convenience.

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