

## 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 supervisory district. They are the executive officer of the BOCES. 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 pursuant to applicable sections of the law, 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 communicated to 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 pursuant to applicable sections of law, 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 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 for compliance with the provisions of Education Law §1950(4)(a)(2).

(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 §§1950, 2215, and 2216.

(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 pursuant to applicable sections of law, 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 any documents relevant to their

performance evaluation to the Department.

#### Section 124-1.4 Intermediary role

The district superintendent can act as an intermediary between the Department, BOCES, and component school districts to facilitate the successful execution of education initiatives within the supervisory district pursuant to applicable laws and regulations, 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. 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 shall be 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 ineligible to receive 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.