TO: The Honorable Members of the Board of Regents

FROM: Angelica Infante-Green

SUBJECT: Addition of section 100.5(h) of the Commissioner's Regulations, relating to the New York State Seal of Biliteracy

DATE: April 11, 2016

AUTHORIZATION(S):

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents add a new subdivision (h) to section 100.5 of the Commissioner's Regulations to establish criteria (including proficiency levels and assessment options) that students must achieve to earn a Seal of Biliteracy?

Reason(s) for Consideration

Implementation of statute (Education Law §815).

Proposed Handling

This item will come before the Full Board for action at the April 2016 Regents meeting.

Procedural History

The proposed rule was discussed by the P-12 Education Committee at the January 2016 Regents meeting. A Notice of Proposed Rule Making was published in the State Register on January 27, 2016.

The proposed rule was revised to correct certain inadvertent omissions and grammatical and typographical errors. A Notice of Revised Rule Making was published in the State Register on February 10, 2016.

A copy of the proposed rule and an Assessment of Public Comment are attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 271 of the Laws of 2012 added a new Education Law §815, effective September 1, 2012, to establish the New York State (NYS) Seal of Biliteracy to recognize high school graduates who have attained a "high level of proficiency in listening, speaking, reading, and writing in one or more languages, in addition to English". NYS is the second state to implement a Seal of Biliteracy program, after California, which established a similar program in 2012. In the first year of implementation, California awarded its seal to more than 10,000 graduating high school students who demonstrated proficiency in more than 40 different languages.

In January 2014, the Board of Regents approved a Seal of Biliteracy pilot program for implementation by the New York State Education Department (NYSED) during the 2014-15 school year. The Seal of Biliteracy pilot program afforded districts and individual schools an opportunity to develop innovative ways of measuring and creating an approved path to attaining the Seal of Biliteracy, inform statewide policy development, and share best practices. Six districts and twenty individual schools voluntarily participated in the pilot.

The NYS Seal of Biliteracy will be awarded by the Commissioner to students who meet criteria established by the Board of Regents and attend schools in districts that voluntarily agree to participate in the program. The Seal of Biliteracy will be affixed to high school diplomas and transcripts of graduating pupils attaining Seal criteria and must be made available to students at no cost.

As a result of the yearlong pilot, NYSED set the target level of proficiency to attain the Seal of Biliteracy at Intermediate High, based on the American Council on the Teaching of Foreign Languages (ACTFL) scale. Findings from the pilot indicated that students should also have the flexibility to demonstrate proficiency in English and another language using a variety of methods including formal, nationally recognized assessments, coursework, projects, essays, portfolios, and prior coursework completed in a foreign country.

Implementation

A school district interested in implementing a Seal of Biliteracy program must notify NYSED in writing through an application process. The goal of this application process is to ensure planning, responsibility, and accountability.

Districts interested in establishing a Seal of Biliteracy program must also form a Seal of Biliteracy Committee (SBC) to create a Seal of Biliteracy plan for implementation. This plan must include details concerning communications, student application process, advisement, evaluation, and presentation of awards.

The SBC must include, but is not limited to, the following personnel: a World Language teacher, an English Language Arts (ELA) teacher, an English for Speakers of Other Languages (ESOL) teacher, a guidance counselor, and an administrator. The SBC will create a timeline for all activities pertaining to Seal of Biliteracy program implementation. The SBC's responsibilities are as follows:

- Development of a student application process;
- Oversight of student advisement;
- Evaluation of students; and
- Presentation of Seal of Biliteracy awards.

In addition, at the end of the school year, participating districts will report to NYSED the number of students receiving the seal along with relevant data (e.g. languages, number of ELLs, criteria chosen).

Criteria for Awarding the NYS Seal of Biliteracy

Lessons learned from the Seal of Biliteracy pilot indicate that districts should have flexibility when assessing student language proficiency. Each district should consider its student population and available resources when developing its Seal of Biliteracy program. Although standardized exams such as the Advanced Placement exam are good measures of language proficiency, such exams can be costly. Furthermore, most nationally recognized assessments are not offered in less common, low-incidence languages. On the occasions when such assessments are available in low-incidence languages, they often only test oral proficiency. NYSED will implement a menu of criteria from which students can choose their path to biliteracy, with faculty advisement, if needed. (This menu of criteria is set forth in Attachment 1). NYSED will set minimum requirements that students will need to earn the Seal of Biliteracy, as well as a point system with a menu of choices for students to demonstrate their proficiency in English and another language to be considered by the Board of Regents.

The minimum requirements and the point system will benefit all students, including those who speak a low-incidence language. Individual districts will have the flexibility to produce their own portfolios, culminating projects, and/or scholarly essays. Culminating projects and scholarly essays can be part of a larger portfolio that districts choose as a requirement toward earning the Seal of Biliteracy.

Evaluation

Applicants for the Seal of Biliteracy will be evaluated by the district or school SBC. The SBC will look at all coursework, assessments, and other work completed by students to ensure criteria for the Seal are met. The SBC should consider interviewing students in the target language to measure language proficiency, especially when students have been working on a portfolio, project, or essay assessment.

Awarding of Seals

NYSED will create a seal to be placed on student diplomas, which will be available to districts at no cost. To order diploma seals, districts will complete a Seal Request Form developed by NYSED.

If the results of a language assessment (e.g. Advanced Placement) taken while the student is enrolled in the district are not available at the time of graduation, seals may be awarded after graduation once the results are known. Districts may recognize these students as "candidates for the Seal of Biliteracy" during graduation ceremonies.

When the Seal of Biliteracy is awarded, a seal will be affixed to the student's diploma and language will be added in the student's transcript regarding the Seal.

Summary of Proposed Rule

The proposed rule establishes the following criteria for the NYS Seal of Biliteracy.

The minimum requirement for students to earn a NYS Seal of Biliteracy will be to graduate with a NYS Regents diploma.

In addition, students seeking to earn a NYS Seal of Biliteracy must earn three points in each of the two areas listed below:

- Area 1: Proficiency in English
  - One point for achieving each of the items below:
    - Score 75 or higher on the NYS Comprehensive English Regents Examination, or score 80 or higher on the NYS Regents Examination in English Language Arts (Common Core), * or
      ELLs score 75 or above on two Regents exams other than English, without translation;
    - ELLs score at the Commanding level in two modalities on the New York State English as a Second Language Achievement Test (NYSESLAT);
    - Complete all 11th and 12th grade ELA courses with an average of 85 or higher or a comparable score using another scoring system set by the district and approved by the Commissioner;

        - Receive a score of 3 or higher on an Advanced Placement (AP) English Language or English Literature exam, or receive a total score of 80 or higher on the Test of English as a Foreign Language (TOEFL).

    - Two points for achieving this item:
        - Present a culminating project, scholarly essay or portfolio that meets the criteria for speaking, listening, reading, and writing established by the district's Seal of Biliteracy Committee to a panel of reviewers with proficiency in English.

- Area 2: Proficiency in a World Language
    - One point for achieving each of the items below:
        - Complete a level four "Checkpoint C" level World Language course, with a grade of 85 or higher or a comparable score using another scoring system set by the district and approved by the Commissioner for both the coursework and final examination;
        - Score at a proficient level (minimum passing scores listed below) on an accredited Checkpoint C World Language assessment, as follows:
            - **AP –** Advanced Placement Examination (minimum score 4)
            - **IB –** International Baccalaureate (minimum score 5)
            - **STAMP4S –** Standard Based Measurement of Proficiency (minimum score 6)
            - **DELE –** Diplomas of Spanish as a Foreign Language through Cervantes Institute of NYC (minimum score B1)
            - **AAPPL –** The ACTFL Assessment of Performance toward Proficiency in Languages (minimum score I-5)
            - **OPI –** The ACTFL Oral Proficiency Interview
            - **OPIc –** The ACTFL Oral Proficiency Interview by Computer
            - **WPT/BWT –** The ACTFL Writing Proficiency Test/Business Writing Test
            - **RPT –** The ACTFL Reading Proficiency Test
            - **LPT –** The ACTFL Listening Proficiency Test
            - ALIRA – The ACTFL Latin Interpretive Reading Assessment (minimum score I-4)
            - **SLPI: ASL –** American Sign Language Proficiency Interview (minimum score intermediate plus);
        - For students enrolled in a bilingual education program, complete all required Home Language Arts (HLA) coursework and district HLA exam with a score of 85 or higher or a comparable score using another scoring system set by the district and approved by the Commissioner;
        - Provide transcripts from a school in a foreign country showing at least three years of instruction in the student's home/native

language in Grade 8 or beyond, with equivalent grade average of B or higher.

- Two points for achieving this item:
  - Present a culminating project, scholarly essay, or portfolio that meets the criteria for speaking, listening, reading, and writing established by the district's Seal of Biliteracy Committee and that is aligned to the NYS Checkpoint C Learning Standards to a panel of reviewers with proficiency in the target language.

Finally, the proposed rule sets forth the following unique requirements for the following specific languages:

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- **Latin and Classical Greek:** The NYS Seal of Biliteracy will be earned by assessment of interpretive reading and presentational writing, not of listening or interpersonal face-to-face communication;
- **American Sign Language (ASL)**: The NYS Seal of Biliteracy will be earned by assessment of interpersonal signed exchange, presentational signing, and demonstrating understanding of ASL (such as interpreting a signed lecture or by summarizing and responding to questions aimed at overarching understanding);
- **Native American Languages:** The NYS Seal of Biliteracy will be earned by assessment of interpersonal face-to-face communication as well as interpretive listening and presentational speaking, and writing and reading where a written code exists.

<u>Revisions to Proposed Rule</u>

Since publication of the Notice of Proposed Rule Making in the State Register on January 27, 2016, the proposed rule was revised to correct certain inadvertent omissions and grammatical and typographical errors as follows:

- In section 100.5(h)(4)(ii)(b)(1)(iv), relating to "Area 2: Criteria for Demonstrating Proficiency in a World Language", in the phrase "provide transcripts from a school in a foreign country showing at least three years of instruction in the student's home/native language in Grade 6 or beyond, with equivalent grade average of B or higher" the reference to "Grade 6" was changed to "Grade 8". This change was made to ensure consistency with the higher level of instruction that the proposed rule requires from students in order to demonstrate proficiency in a World Language.

- In section 100.5(h)(3)(i)(a)(1), for grammatical purposes the term "World Language teacher" has been substituted for "world language teacher."

- In section 100.5(h)(4)(ii)(b)(1)(iii) deleted, as redundant, the word "Spanish" at the end of the phrase "DELE – Diplomas of Spanish as a Foreign Language through Cervantes Institute of NYC Spanish."

- In addition, for purposes of grammar and clarity, commas were inserted as follows:

    1. In section 100.5(h)(1), lines 8- 9, after the phrase “the value of diversity”;
    2. In section 100.5(h)(2), between “Native American Languages” and “native languages”;
    3. In section 100.5(h)(3)(i)(b)(2), after the phrase “but not limited to” and after “a student advisement schedule”;
    4. In section 100.5(h)(4)(ii), after the phrase “listed in subparagraph (i) of this paragraph”; and
    5. In section 100.5(h)(4)(ii)(a)(2), after the term “scholarly essay.”

Recommendation

Staff recommends that the Regents take the following action:

VOTED: That subdivision (h) of section 100.5 of the Regulations of the Commissioner of Education be added as submitted, effective May 4, 2016.

Timetable for Implementation

If adopted at the April Regents meeting, the proposed rule will become effective on May 4, 2016.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 815

Subdivision (h) of section 100.5 of the Regulations of the Commissioner of Education is added, effective May 4, 2016, as follows:

(h) New York State Seal of Biliteracy.

(1) Purpose and Intent. The purpose of this subdivision is to establish requirements for earning a New York State (NYS) Seal of Biliteracy pursuant to Education Law §815. The intent of the NYS Seal of Biliteracy is to encourage the study of languages; certify attainment of biliteracy; provide employers with a method of identifying high school graduates with language and biliteracy skills; provide universities with an additional method to recognize applicants seeking admission; prepare students with twenty-first century skills; recognize the value of foreign and home language instruction in schools; and strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community. The NYS Seal of Biliteracy shall be awarded by the Commissioner to students who meet the criteria of this subdivision and attend schools in school districts that are approved by the Commissioner pursuant to this subdivision to participate in the program. The NYS Seal of Biliteracy shall be affixed to high school diplomas and transcripts of graduating pupils attaining Seal criteria. No fee shall be charged to a student pursuant to this subdivision.

(2) Definitions. For purposes of this section, “foreign language” means any language other than English (LOTE) including all modern languages, Latin, American Sign Language, Native American languages, and native languages.

(3) School district requirements. School district participation in the NYS Seal of Biliteracy program is voluntary. A school district that wishes to participate in the program shall:

(i) form a Seal of Biliteracy Committee (SBC).

(a) The SBC shall include, but is not limited to, the following personnel:

(1) a World Language teacher,

(2) an English Language Arts (ELA) teacher,

(3) an English for Speakers of Other Languages (ESOL) teacher,

(4) a guidance counselor, and

(5) an administrator;

(b) The SBC shall:

(1) create a Seal of Biliteracy plan that includes, but is not limited to, details concerning committee recruitment and composition, communications, student advisement, evaluation, and presentation of awards;

(2) create a timeline for all activities pertaining to the Seal of Biliteracy program including, but not limited to, communications, a student advisement schedule, and dates for important benchmarks throughout the program year;

(3) develop a student application process, including an application form to be completed by interested students and returned to the SBC;

(4) provide for the assignment of an advisor to each student accepted into the program to review program requirements and meet regularly with the student to review the student's progress; and

(5) review and evaluate all coursework, assessments, and other work completed by each student to ensure criteria for the seal are met.

(ii) submit an application to the Commissioner, in a form and by a date prescribed by the Commissioner, for approval for the school district to participate in the program. Such application shall include a narrative that describes how the district will implement the NYS Seal of Biliteracy program, including plans for program communications, processes pertaining to student application, advisement and evaluation, and timelines and benchmarks for the program.

(iii) Participating school districts shall maintain appropriate records in order to identify students who have earned a NYS Seal of Biliteracy. At the end of each school year in which a school district participates in the program, the school district shall submit a report to the Commissioner, in a form and by a date prescribed by the Commissioner, that includes the number of students receiving the Seal along with relevant data including, but not limited to, the types of languages, number of English Language Learner (ELL) students, and the criteria chosen under subparagraphs (ii) and (iii) of paragraph (4) of this subdivision.

(4) Student requirements.

(i) Minimum requirement. Students who wish to receive the NYS Seal of Biliteracy shall complete all requirements for graduating with a Regents diploma

(however, students in schools with an alternate pathway for graduation approved by the Commissioner will be held to those schools' criteria);

(ii) Additional requirements. Except as provided in subparagraph (iii) of this paragraph, in addition to the minimum requirement listed in subparagraph (i) of this paragraph, students shall earn at least three points in each of the two areas listed below:

(a) Area 1: Criteria for Demonstrating Proficiency in English.

(1) Students shall earn one point per item for achieving the following items:

(i) Score 75 or higher on the NYS Comprehensive English Regents Examination, or score 80 or higher on the NYS Regents Examination in English Language Arts (Common Core) (however, students in schools with an alternate pathway for graduation approved by the Commissioner will be held to those schools' criteria), or English Language Learners (ELLs) score 75 or above on two Regents exams other than English, without translation;

(ii) ELLs score at the Commanding level in two modalities on the New York State English as a Second Language Achievement Test (NYSESLAT);

(iii) complete all 11th and 12th grade ELA courses with an average of 85 or higher, or a comparable score using another scoring system set by the district and approved by the Commissioner; and

(iv) receive a score of 3 or higher on an Advanced Placement English Language or English Literature exam, or receive a total score of 80 or higher on the Test of English as a Foreign Language (TOEFL).

(2) Students shall earn two points for achieving the following item: present a culminating project, scholarly essay, or portfolio that meets the criteria for speaking, listening, reading, and writing established by the school district's SBC to a panel of reviewers with proficiency in English.

(b) Area 2: Criteria for Demonstrating Proficiency in a World Language.

(1) Students shall earn one point per item for achieving the following items:

(i) complete a level four Checkpoint C World Language course, with a grade of 85 or higher, or a comparable score using another scoring system set by the district and approved by the Commissioner, for both the coursework and final examination consistent with Checkpoint C Learning Standards;

(ii) for students enrolled in a bilingual education program, complete all required Home Language Arts (HLA) coursework and the district HLA exam with an 85 or higher, or a comparable score using another scoring system set by the district and approved by the Commissioner;

(iii) score at a proficient level on one or one group, as applicable, of the following accredited Checkpoint C World Language assessments:

AP – Advanced Placement Examination (minimum score 4)

IB – International Baccalaureate (minimum score 5)

STAMP4S – Standard Based Measurement of Proficiency (minimum score 6)

DELE – Diplomas of Spanish as a Foreign Language through Cervantes Institute of NYC (minimum score B1)

AAPPL – The ACTFL Assessment of Performance toward Proficiency in Languages (minimum score I-5)

OPI – The ACTFL Oral Proficiency Interview (minimum score Intermediate High)

OPIc – The ACTFL Oral Proficiency Interview by Computer (minimum score Intermediate High)

WPT/BWT – The ACTFL Writing Proficiency Test/Business Writing Test (minimum score Intermediate High)

RPT – The ACTFL Reading Proficiency Test (minimum score Intermediate High)

LPT – The ACTFL Listening Proficiency Test (minimum score Intermediate High)

ALIRA – The ACTFL Latin Interpretive Reading Assessment (minimum score I-4)

SLPI: ASL – American Sign Language Proficiency Interview (minimum score intermediate plus); and

(iv) provide transcripts from a school in a foreign country showing at least three years of instruction in the student's home/native language in Grade 8 or beyond, with equivalent grade average of B or higher .

(2) Students shall earn two points for achieving this item: present a culminating project, scholarly essay, or portfolio that meets the criteria for speaking, listening, reading, and writing established by the district's SBC and that is aligned to the NYS Checkpoint C Learning Standards to a panel selected by the SBC consisting of at least one SBC member and at least two reviewers who are proficient in the target language.

(iii) Unique Requirements for Specific Languages: Special allowances may be necessary to accommodate the unique characteristics of certain languages. In cases where language assessments across all three modes of communication (interpersonal, interpretive and presentational) may not be appropriate or available, school districts may substitute a different assessment that meets the intent of the NYS Seal of

Biliteracy. Students seeking the Seal through languages not characterized by the use of listening, speaking, reading, or for which there is not a writing system, shall demonstrate the expected level of proficiency on an assessment of the modalities that characterize communication in that language, consistent with the recommendations in the "Guidelines for Implementing the Seal of Biliteracy" of the American Council on the Teaching of Foreign Languages (ACTFL), the National Association for Bilingual Education (NABE), the National Council of State Supervisors for Languages (NCSSFL) and TESOL International Association.

(a) Latin and Classical Greek: The NYS Seal of Biliteracy shall be earned by assessment of interpretive reading and presentational writing, not of listening or interpersonal face-to-face communication.

(b) American Sign Language (ASL): The NYS Seal of Biliteracy shall be earned by assessment of interpersonal signed exchange, presentational signing, and demonstrating understanding of ASL (such as interpreting a signed lecture or by summarizing and responding to questions aimed at overarching understanding).

(c) Native American Languages: The NYS Seal of Biliteracy shall be earned by assessment of interpersonal face-to-face communication as well as interpretive listening and presentational speaking, and writing and reading where a written code exists.

Attachment 1

Earning the New York State Seal of Biliteracy

A. Students wishing to receive the New York State (NYS) Seal of Biliteracy must complete all requirements for graduating with a NYS Regents diploma*;
B. In addition to the above minimum requirement, students wishing to receive a NYS Seal of Biliteracy must earn **three (3) points** in each of **the two (2) areas** listed below:

Criteria for Demonstrating Proficiency in English	**Point Value**	**Criteria for Demonstrating Proficiency in a World Language**	**Point Value**
Score 75 or higher on the NYS Comprehensive English Regents Examination or score 80, or higher on the NYS Regents Examination in English Language Arts (Common Core)* or English Language Learners (ELLs) score 75 or above on two Regents exams other than English, without translation.	1	Complete a Checkpoint C level World Language course, with a grade of 85 or higher, or a comparable score using another scoring system set by the district and approved by the Commissioner, for both the coursework and final examination consistent with Checkpoint C standards.	1
ELLs score at the Commanding level on two modalities on the New York State English as a Second Language Achievement Test (NYSESLAT).	1	Provide transcripts from a school in a foreign country showing at least three years of instruction in the student's home/native language in Grade 8 or beyond, with an equivalent grade average of B or higher.	1
Complete all 11th and 12th grade ELA courses with an average of 85 or higher or a comparable score using another scoring system set by the district and approved by the Commissioner.	1	For students enrolled in a bilingual education program, complete all required Home Language Arts (HLA) coursework and the district HLA exam with an 85 or higher, or a comparable score using another scoring system set by the district and approved by the Commissioner.	1
Achieve the following scores on the examinations listed below: -3 or higher on an Advanced Placement (AP) English Language or English Literature examination, or -80 or higher on the Test of English as a Foreign Language (TOEFL).	1	Score at a proficient level on an accredited Checkpoint C World Language assessment (See "Checkpoint C World Language Assessments and Minimum Scores" on the following page.)	1
Present a culminating project, scholarly essay or portfolio that meets the criteria for speaking, listening, reading, and writing established by the district's Seal of Biliteracy Committee to a panel of reviewers with proficiency in English.	2	Present a culminating project, scholarly essay, or portfolio that meets the criteria for speaking, listening, reading, and writing established by the district's Seal of Biliteracy Committee and that is aligned to the NYS Checkpoint C Learning Standards to a panel of reviewers with proficiency in the target language.	2

Testing accommodations recommended in an individualized education program or section 504 Accommodations Plan must be provided for all State and districtwide assessments administered to students with disabilities, as consistent with State policy. Students with disabilities should also receive these testing accommodations on Checkpoint C World Language Assessments, as permitted.

*** Students in schools with an alternate pathway for graduation approved by the Commissioner will be held to those schools' criteria.**

Checkpoint C World Language Assessments and Minimum Scores

(based on ACTFL Intermediate High standards)

Completing one or one group of these examinations will yield one point towards the three total points necessary on the criteria point system for demonstrating world language proficiency.

ASSESSMENT	MIN SCORE
AP – Advanced Placement Examination	4
IB - International Baccalaureate	5
STAMP4S - Standard Based Measurement of Proficiency	6
DELE (Diplomas of Spanish as a Foreign Language) – through Cervantes Institute of NYC	B1
AAPPL -The ACTFL Assessment of Performance toward Proficiency in Languages	I-5
OPI – The ACTFL Oral Proficiency Interview **OPIc** - The ACTFL Oral Proficiency Interview by Computer **WPT/BWT** – The ACTFL Writing Proficiency Test/Business Writing Test **RPT** – The ACTFL Reading Proficiency Test **LPT** - The ACTFL Listening Proficiency Test .	Intermediate High In this section, students should take exams in as many modalities (speaking, listening, reading and writing) ***as available*** to qualify for Checkpoint C credit.
ALIRA - The ACTFL Latin Interpretive Reading Assessment	I-4
SLPI: ASL – American Sign Language Proficiency Interview	Intermediate Plus

<u>NOTE</u>: Some exams do not give results until after June. Students and advisors may need to plan accordingly.