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TITLE 200 – BOARD OF EDUCATION

CHAPTER 20 – COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 20 – EDUCATOR QUALITY AND CERTIFICATION

PART 2 – Teacher Competency in English

2.1 Preamble

A. Legal authority

1. These rules and regulations are promulgated in accordance R.I. Gen. Laws § 16-60-1, *et seq.* and in accordance with the obligation of the Rhode Island Council on Elementary and Secondary Education (“the Council”) to “approve the ...instructional standards required to be maintained in the public elementary and secondary schools of the state” R.I. Gen. Laws § 16-60-4(9)(i), and “to adopt standards and require enforcement and to exercise general supervision over all elementary and secondary public ...education in the state....” R.I. Gen. Laws § 16-60-4(3).
2. These regulations support the requirement of the federal Elementary and Secondary Education Act (“ESEA”) that school districts must certify that, “... all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.” 20 U.S.C. § 6826(c).

2.2 Purpose of this Part

- A. It is evident that Rhode Island teachers must be able to read, write, and speak the English language with sufficient competence to allow them to teach effectively, participate in advisories and common planning time, and successfully participate in staff development programs.
- B. A teacher’s ability to effectively use the English language provides students with an exemplar they can use to improve their own competence in the use of English. Regardless of the specific subject the teacher is teaching, the teacher’s effective use of English in the classroom will tend to enlarge students’ vocabularies and enhance the ability of students to express complex thoughts in the English language. These improved student competencies will help students, particularly disadvantaged students and English language learners, to progress in all the other areas of their school work, while at the same time preparing them for success in college and careers.

- C. A teacher's command of English must also be sufficient to allow the teacher to deal with disciplinary situations, to understand the import of student comments that might constitute bullying or harassment, and to respond to student health, psychological, and social issues, along with issues involving the immediate safety and welfare of students.
- D. Because of these varied demands of the teaching profession, it is essential that all public-school teachers must be able to competently read, write, and speak English.

2.3 Special finding

- A. The Council, based upon its experience in supervising public education in Rhode Island, finds that it is critically important for students to receive effective instruction and that a teacher's lack of competency in the use of the English, as defined in this Part, creates a serious, immediate and continuing risk to student progress and safety, both of which require immediate and effective action by school authorities and by the Commissioner in order to protect the educational welfare and safety of the students concerned.
- B. The Council further finds that the maintenance of effective instructional standards and the effective and safe operation of public schools require that school administrators be competent, as defined in this Part, in the use of English.

2.4 Definition of "teacher" for purposes of this Part

The term "teacher," as used in these regulations, includes every person holding a position in the public schools of Rhode Island for which a certificate issued by the Rhode Island Department of Education is required. This regulation therefore applies to teachers and those administrators covered by R.I. Gen. Laws § 16-12.1-2.

2.5 Competency standard

- A. A teacher, or prospective teacher, must:
 - 1. Read, write, and speak the English language with sufficient competence to allow him or her to effectively teach students and prepare these students for success in required local and state assessments and evaluations. Competency includes the ability to spell and to use correct grammar.
 - 2. Have English skills necessary to fully participate in advisories and common planning time with other school professionals.
 - 3. Have English skills necessary to enable the teacher to fully profit from participation in staff-development programs.

4. Have English skills sufficient to allow the teacher to deal with disciplinary situations, to understand the import of student comments that might constitute bullying or harassment, and to respond to student health, psychological, and social issues, along with other issues involving the immediate safety and welfare of students.
- B. The fact that a teacher, or a prospective teacher, speaks with an accent shall not be considered evidence that the teacher, or prospective teacher, is not competent in English, unless the accent is so strong that it meaningfully impairs intelligibility. This standard must be interpreted in a way that complies with all applicable federal and state civil rights rules and regulations.

2.6 Duty to evaluate competency in English

- A. All school committees, school boards, charter public schools, and other public-school entities employing teachers shall ensure that these teachers are competent in the use of the English language.
- B. If a teacher is not competent in the use of the English language, as determined in accordance with this Part, the employing entity must take immediate action to remove the teacher or administrator from classroom or administrative duties.

2.7 When competency must be determined

- A. A teacher's competency in English must be determined when a teacher is hired and when a decision is being made on whether to grant a teacher tenure.
- B. A determination of competency in English must also be made when warranted by teacher evaluations or by complaints or concerns expressed by parents, students, faculty members, or responsible persons. This determination must be made as soon as practicable, and in any event must be made within ten school days. If, for any reason, this determination does not take place within ten school days, the Commissioner shall take steps to ensure that a determination is promptly made. A delay in making the determination shall not abate proceedings under these regulations.

2.8 Evaluation process

- A. If concerns, in accordance with § 2.5 of this Part, are raised about a teacher's competency in the use of English, an evaluator who has been trained in evaluating such competency shall observe the classroom instruction provided by the teacher.
- B. If the evaluator concludes that the teacher lacks competency in English, a second similarly trained evaluator shall observe the classroom instruction provided by the teacher.

- C. If both evaluators conclude that the teacher's English skills do not meet the competency standard specified in § 2.5 of this Part, the evaluators shall inform the superintendent or other chief executive officer who shall inform the teacher and the Commissioner of the conclusion in writing on a form to be provided by the Commissioner.
- D. The form provided to the teacher shall inform the teacher that he or she will be accorded the opportunity to take an English competency examination endorsed by the Council. This examination shall take place within ten school days from the date the teacher is given notice of the findings of the two evaluators, unless the time for taking the examination is enlarged by the Commissioner for good cause shown. A delay in the provision of the examination shall not abate proceedings under these regulations.
- E. If the teacher obtains a passing score on the examination, as set by the Council, the teacher shall be deemed to be competent in English, and no further action concerning the teacher's competence in English shall be taken.

2.9 Required action from the school district, charter school, or other public school entity

- A. If the teacher does not take the examination or if the teacher fails the examination, the superintendent shall recommend to the school committee or to the governing board that the teacher be dismissed or suspended for cause or that a non-tenured teacher's contract not be renewed, in accordance with R.I. Gen. Laws Chapter 16-13. The superintendent may recommend that the teacher be suspended for a period of time to enable the teacher to attain competency in English.
- B. A teacher so suspended shall not be allowed to return to teaching duties until he or she has attained a passing score on the English competency examination required by the Council. If the teacher does not pass the required examination during the period of suspension, the superintendent shall request the suspension, nonrenewal, or dismissal of the teacher.

2.10 Action by the Commissioner

- A. A teacher's lack of competency in the use of English, as defined in this Part, constitutes good cause for suspending or annulling a teacher's teaching certificate in accordance with R.I. Gen. Laws § 16-11-4.
- B. When the Commissioner is informed by the superintendent or other chief executive officer acting under these regulations that a teacher's English skills do not meet the competency standard specified in § 2.5 of this Part, the Commissioner may act to suspend or annul the teacher's certification in accordance with R.I. Gen. Laws §§ 16-11-4 and 42-35-14.

- C. As specified in § 2.8 of this Part the teacher concerned shall first be accorded an opportunity to take an English competency examination. If the teacher obtains a passing score on the examination, as set by the Council, the teacher shall be deemed to be competent in English, and no further action concerning the teacher's competence in English shall be taken by the Commissioner. If the teacher does not take the examination or if the teacher fails the Examination, the Commissioner may summarily suspend the teacher's teaching certificate during the pendency of the due process procedures required by law and regulation.
- D. The due process procedures required by R.I. Gen. Laws § 42-35-14 shall be followed in such cases. If the Commissioner, in order to protect the health, safety, welfare and academic progress of students, elects to summarily suspend a teaching certificate prior to a full hearing on the merits of the case, the Commissioner, whenever it is reasonably possible, shall provide the affected teacher with an informal pre-deprivation hearing before the suspension takes place. A full hearing on the merits will be scheduled promptly and decision of the merits of the case will be provided in a timely manner.

2.11 Training of evaluators

- A. The Commissioner shall determine an appropriate training program for those evaluators who are to make assessments of English competency for purposes of these regulations.
- B. The Commissioner, pursuant to R.I. Gen. Laws § 16-11-2, shall conduct a sufficient examination of those evaluators who are to make assessments of English competency so as to ensure that these evaluators are competent to carry out their duties.
- C. The Commissioner may appoint those so certified as special visitors to conduct the evaluations required by these regulations.

2.12 Adoption of English competency examination

The Council, on the recommendation of the Commissioner, shall, in accordance with the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, adopt an English competency examination and a qualifying score on this examination.

2.13 Effect of arbitration

The results of arbitration shall have no effect on the authority of the Commissioner to annul a teaching certificate.