



**STEP BY STEP GUIDE TO  
REGULATIONS**

**APRIL 27, 2016**

# Basics

- o State Board must approve regulations
  - o Two reading process
- o General Assembly approval (or inaction) required for *most* regulations
  - o Federal regulations do not have to be submitted to the General Assembly
- o Follow the *Administrative Procedures Act*
  - o To allow adequate notice
- o Deadlines are absolute!

# Resources

- o Regulations Folder on the “P” Drive
  - o Sample forms for each phase
  - o Word Processing Standards
  - o Revised Standards Manual
  - o Actual documents filed in the past
- o Website
  - o <http://ed.sc.gov/policy/state-board-of-education/>
    - o Scroll down to the “State Board Regulations Process” block at the bottom of the web page

# Contact Information

o When corresponding to the Office of General Counsel regarding regulations send the e-mail to:

o [nredd@ed.sc.gov](mailto:nredd@ed.sc.gov) with a copy to [chazelwood@ed.sc.gov](mailto:chazelwood@ed.sc.gov)

# As soon as...

- o You determine that you need to do a Drafting Notice, notify Noelle Redd for
  - o a Drafting Notice template
  - o a Promulgation Timeline
    - o Timeline will list due dates for your regulation during the promulgation process

# Drafting Notice

## o Drafting Notice (DN)

- o This is to inform the public that the agency is considering a regulatory change
- o Does not obligate agency to take action

## o Send your DN to Office of General Counsel (OGC) and we will have it published in the State Register.

## o When?

- o To be published in the current month's State Register the drafting notice needs to be submitted to the State Register by the 2<sup>nd</sup> Friday of the month
- o Get the drafting notice to Noelle the week before to allow time for any possible corrections

# Amendments

- o Noelle will provide you with the “official” version of the existing regulation from the SC General Assembly website
  - o Noelle will imbed the existing regulation into a template and will e-mail you the correct template to use
- o **Do not** use track changes mode in Word to make your changes on the template
  - o Use underline and strikethrough from the formatting tools on the “Home” tab in Word

# Amendments

- o Please use the template that Noelle sends you, it will have all of the Legislative Council's formatting requirements imbedded in the template document
  - o If you cut and paste from another document to insert into the template, **PLEASE DO NOT** include the paragraph returns from the document you are cutting from, the paragraph returns in that document also contain imbedded formatting requirements that will over-write the template's formatting requirements
- o Do not use auto-numbering/lettering

# New Regulations

- o Follow the Word Processing Standards found on page 16—26 of the *Standards Manual For Drafting And Filing Regulations (2011)*

# Approval Process

- o SCDE internal approval
- o SBE approval (2 readings)
- o General Assembly approval

# SCDE Approval

- o Once the regulation has been amended/drafted by the office, it must be approved internally before it is placed on the State Board Agenda
- o Prepare the regulation like any other State Board action item
  - o Item will require an SBE Synopsis

# Committee Agenda

- o Following the timelines for submittal of items for a committee agenda, transmit the synopsis and the regulation to the administrative assistant responsible for the committee that will review the regulation (and copy Noelle on all submissions)
  - o Policy and Legislative—Noelle Redd
  - o Standards and Learning—Crystal Dennis
  - o Educator Professions—Tammy Jeffers
  - o Innovation and Finance—Kim Moss

# Which Committee?

- o The determination regarding which State Board committee reviews the regulation, depends on the content of the regulation
- o If you have a question as to which committee is responsible, contact Cathy Hazelwood, 734-8218 in the Division for Legal Affairs

# Transmittal for Committee Agenda

- o What's required
  - o Electronic copy (Word) of the synopsis and regulation (submit each document, separately)
  - o REMINDER - use the template provided by Noelle to format the regulation

# Committee Action

- Like any other action item, the regulation must be approved in committee
- Presentation by staff
  - Staff must present the regulation to the committee
  - Explain/answer questions

# Changes by Committee

- o Take careful notes on changes made by the committee, **you** will be responsible for making the necessary changes to the regulation
  - o If you need someone to take notes for you while you discuss the changes with the committee, feel free to bring a co-worker with you
    - o **It is not the responsibility** of the Committee Admin to take notes for you
- o Edit the document to include the committee's changes
  - o Need to have changes ready for the 1:00 p.m. Board meeting (that same day!)
  - o Be prepared to point out the changes made by the committee if asked at the full Board meeting

# Review by State Board

- o The committee chair will move that the State Board approve the regulation for first reading
- o You may or may not be asked to speak before the State Board (it depends on the will of the Board)
- o Even if you don't have to make a presentation, be prepared to answer questions
- o Make sure you or the appropriate staff are at the Board meeting to answer questions

# Changes by State Board

- o The State Board may change the regulation that comes out of committee
- o They will do this through an amendment
- o If amendments are made, take careful notes because **you** will be responsible for making the necessary changes to the regulation
  - o If you need someone to take notes for you while you discuss the changes with the Board, feel free to bring a co-worker with you
    - o **It is not the responsibility** of the SBE Admin to take notes for you

# Transmittal of Approved Regulation

- o As soon as your Item is approved/changed/disapproved by the State Board, e-mail Noelle
  - o If changes were made, include all changes that the State Board made
- o You do not e-mail Noelle the State Board synopsis
- o Noelle will transmit the regulation to the Legislative Council for publication in the State Register

# Verification

- o You will be asked to verify that the language in the Proposed Regulation is accurate
- o Legislative Council will send two versions, one with strikethroughs/underlines “dirty” and one “clean” copy of your regulation, with all changes made, for you to verify

# Verification

- o **Read both** versions of the entire regulation to make sure it is correct, sign and date the verification statement that appears on both first pages of the regulation
- o Scan the first two pages and e-mail to Noelle
- o If a correction is required, please make the correction on both documents, sign, date, scan both documents, in their entirety, and e-mail them to Noelle
  - o Noelle will then transmit the documents to the Legislative Council and make them aware of any corrections.

# Second Reading

- There will usually be a month between first and second reading
- For example:
  - First reading in October
  - Second reading in December

# Second Reading

- o Takes place at the State Board meeting—**not** at a committee meeting
- o Takes place during the “Public Hearing” section of the agenda

# The State Board Synopsis

- o You need to prepare a synopsis
  - o It will be similar **but not** identical to the first reading synopsis.
  - o If you are recommending changes between first and second reading, provide the changes in the synopsis.

# The Regulation

- o The document that you attach **must** have the same content that was approved on first reading
- o However, if you want to suggest changes you may indicate changes to the regulation in *italics* or by highlighting in yellow but the synopsis must be clear and explain that the SCDE recommended changes are included
- o If there are significant changes, you may submit them as a separate document

# Where to find the template

- o At the appropriate time, Noelle will provide you with a copy of your regulation in the proper format
- o Work from this version

# State Board Agenda

- o The synopsis and attachments must be transmitted electronically to Noelle for review
- o After review, Noelle will forward both documents to LaTonia Holloway placement on the Board's agenda

# Public Comments

- o If you received written comments during the comment period, you must include those comments as an attachment to the Board item
  - o It is recommended scanning the comments and creating one PDF file with all the comments included
  - o The Board does not want a summary of comments but you should be ready to discuss the comments

# Public Hearing

- o This takes place during the full Board meeting
- o Generally, the SCDE staff will make a brief statement regarding the regulation
- o The Board Chair will allow the public to speak on the regulation
  - o People wishing to speak must sign up for public comment
  - o They are limited to 5 minutes or less

# Public Hearing

- After the public has a chance to speak, SCDE staff may be asked to answer questions or respond to the comments

# Approval

- Approval of the regulation requires a motion from a Board member
  - They can move to approve “as submitted” (meaning they accept the SCDE changes)
  - They can move to approve “as adopted in first reading”
  - Members may amend the regulation prior to the final vote

# Final Action

- o After the Board takes final action, the office initiating the regulation must notify Noelle indicating what action the Board took
  - o If changes were made, which version was approved
- o Upon submission to the Legislative Council, the office will need to sign the verifications that the regulation is correct

# General Assembly Approval

- o The regulation will be submitted to the General Assembly
- o 120—day automatic approval
- o Joint resolution to approve
- o Published in the State Register

# General Assembly Review

- Regulations will be referred to committee after received by the President of the Senate and the Speaker of the House
- General Assembly has 120 calendar days to review the regulation

# General Assembly Review

- o If there is no action on the regulation within 60 days of the committee receiving the regulation, the regulation must be placed on the agenda of the full committee at the next scheduled full committee meeting

# General Assembly Approval

- o Joint resolution to approve or disapprove
  - o Usually introduced by committee but it can be introduced by any member
- o Upon introduction of a joint resolution disapproving a regulation, the 120-day period is tolled (stopped) until a negative vote is taken on the joint resolution
- o If no joint resolution is introduced to disapprove, the regulation is approved on the 120<sup>th</sup> day and is effective upon publication (4<sup>th</sup> Friday of each month) in the *State Register*

# Withdrawal

- o The agency (State Board) may withdraw a regulation for any reason
  - o May be resubmitted if the resubmitted regulation contains no substantive changes
    - o Substantive changes-
      - o adding or deleting a word is considered a change to the intent of the regulation
    - o Non-substantive changes-
      - o punctuation, typos, and deleting extra spacing or blank lines

# Amendments

- o A legislative committee is not authorized to amend a regulation
- o However, the legislative committee may approve part of a regulation and delete a clearly separable portion in some cases

# Amendments

- o If a legislative committee determines that it cannot approve a regulation as submitted, it may notify the agency with recommendations of what changes would be necessary to obtain legislative committee approval

# State Board Actions

- If the State Board receives a letter requesting changes necessary for approval, it may:
  - Withdraw the regulation and resubmit it with the recommended changes
    - This action must be done by the State Board
  - Withdraw the regulation permanently
  - Take no action

# Committee Requests

- o These requests must be handled through Emily Heatwole, Office of Legislative Affairs
- o If Emily notifies you that a change is required for approval, it is the program office's responsibility to make the change but to coordinate that through Emily
  - o OGC may make the changes if the changes are minor
- o The request must be presented to and approved by the State Board at the next full board meeting
- o Once the State Board takes action, transmit the revised regulation to Noelle via e-mail, Noelle will prepare cover letters and transmit the revised regulation to the Legislative Council

Questions?