

**BOARD OF REGENTS REGULATION
TEACHER COMPETENCY IN ENGLISH**

PREAMBLE

These rules and regulations are promulgated in accordance R.I.G.L. 16-60-1, *et seq.* and more particularly in accordance with the obligation of the Rhode Island Board of Regents for Elementary and Secondary Education to “approve the ...instructional standards required to be maintained in the public elementary and secondary schools of the state” and “to adopt standards and require enforcement and to exercise general supervision over all elementary and secondary public ...education in the state....” (R.I.G.L.16-60-4 (9) 9i) & R.I.G.L.16-60-4 (3)) These regulations are also supported by R.I.G.L.16-2-2, R.I.G.L.16-7.1-2, R.I.G.L. 16-7.1-5, R.I.G.L.16-11-1, *et seq.*, R.I.G.L.16-12-4, R.I.G.L. 16-19-2, R.I.G.L.16-54-1, *et seq.*, R.I.G.L.16-67-1, *et seq.*, and R.I.G.L.16-67.1-1, *et seq.* As an additional matter these regulations support the requirement of the No Child Left Behind Act 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))

Pursuant to the provisions of R.I.G.L.42-35-3(c), consideration was given to: (1) alternative approaches to these regulations; (2) duplication or overlap with other state regulations; and, (3) significant economic impact placed on small business as defined in R.I.G.L.42-35-1, *et seq.*, as a result of these regulations. No alternative approach, overlap, or duplication nor any significant economic impact was identified. These regulations are intended to govern the evaluation of the English language competence of teachers employed in the public schools of Rhode Island, so as to ensure that students receive high-quality instruction. Because these regulations deal with professional practice standards, they are not expected to occasion additional costs for school districts, except for some possible cost relating to required due process procedures that will be needed to ensure compliance with state and federal law. A short explanation of the reason for the adoption of these regulations is contained in T-1-1 “Purpose of these Regulations,” below.

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T-1-1. Purpose of these Regulations. — It is evident that Rhode Island teachers must be able to read, write, and speak the English language with sufficient competence to allow

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them to teach effectively, participate in advisories and common planning time, and successfully participate in staff development programs. Moreover, 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. This means that, 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. 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. 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. The need for a teacher to have an effective command of English is so self-evident that it has long been a principle of Rhode Island public education that "no person should be considered qualified to teach in any school, who cannot speak and write the English language, if not elegantly, at least correctly."¹

T-1-2. Special Finding. -- The Board of Regents, 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 these regulations, 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 of Education in order to protect the educational welfare and safety of the students concerned. The Board of Regents further finds that the maintenance of effective instructional standards and the

¹ Rhode Island School Manual (1896), page 308.

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effective and safe operation of public schools require that school administrators be competent, as defined in these regulations, in the use of English.

T-1-3. Definition of “Teacher” for Purposes of these Regulations. — 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 16-12.1-2.

T-1-4. Competency Standard. — (a) A teacher, or prospective teacher, must 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. A teacher must also have the English skills necessary to fully participate in advisories and common planning time with other school professionals. Competency includes the ability to spell and to use correct grammar. In addition, a teacher must have the English skills necessary to enable the teacher to fully profit from participation in staff-development programs. In addition, 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 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.

T-1-5. Duty to Evaluate Competency in English. — 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. If a teacher is

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not competent in the use of the English language, as determined in accordance with these regulations, the employing entity must take immediate action to remove the teacher or administrator from classroom or administrative duties.

T-1-6. 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 or not 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 (10) school days. If for any reason this determination does not take place within ten (10) school days the Commissioner of Education shall take steps to ensure that a determination is promptly made. A delay in making the determination shall not abate proceedings under these regulations.

T-1-7. Evaluation Process. — (a) If concerns, in accordance with **T-1-4. Competency Standard**, 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. If this evaluator concludes that the teacher lacks competency in English, a second similarly trained evaluator shall observe the classroom instruction provided by the teacher. If both evaluators conclude that the teacher's English skills do not meet the competency standard specified in T-1-4. Competency Standard, the evaluators shall inform the superintendent or other chief executive officer who shall inform the teacher and the Commissioner of Education of the conclusion in writing on a form to be provided by the Commissioner of Education.

(b) 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 Board of Regents. This examination shall take place within ten (10) school days from the date the teacher is given notice of the findings of the two evaluators, unless the time for

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taking the examination is enlarged by the Commissioner of Education for good cause shown. A delay in the provision of the examination shall not abate proceedings under these regulations.

(c) If the teacher obtains a passing score on the Examination, as set by the Board of Regents, the teacher shall be deemed to be competent in English, and no further action concerning the teacher's competence in English shall be taken.

T-1-8. 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, all in accordance with Chapter 13 of Title 16 (Teachers' Tenure). The superintendent may recommend that the teacher be suspended for a period of time to enable the teacher to attain competency in English. 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 Board of Regents. 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.

T-1-9. Action by the Commissioner of Education. –(a) A teacher's lack of competency in the use of English, as defined in these regulations, constitutes good cause for suspending or annulling a teacher's teaching certificate in accordance with R.I.G.L.16-11-1, *et seq.* 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 T-1-4, the Commissioner may act to suspend or annul the teacher's certification in accordance with R.I.G.L.16-11-1, *et seq.* and R.I.G.L.42-35-14. As specified in T-1-7 (b) 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 Board of Regents, the teacher shall be deemed to be competent in English, and no further action concerning the teacher's

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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 of Education may summarily suspend the teacher's teaching certificate during the pendency of the due process procedures required by law and regulation.

(b) The due process procedures required by R.I.G.L. 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.

T-1-10. Training of Evaluators. —The Commissioner of Education shall determine an appropriate training program for those evaluators who are to make assessments of English competency for purposes of these regulations. The Commissioner of Education, pursuant to R.I.G.L.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. The Commissioner of Education may appoint those so certified as special visitors to conduct the evaluations required by these regulations.

T-1-11. Adoption of English Competency Examination. — The Board of Regents, on the recommendation of the Commissioner of Education, shall, in accordance with the Rhode Island Administrative Procedures Act, adopt an English Competency Examination and a qualifying score on this examination.

T-1-12. Effect of arbitration. --The results of arbitration shall have no effect on the authority of the Commissioner to annul a teaching certificate