

**PROTOCOL FOR GRANTING VARIANCES
TO REGULATIONS OF THE BOARD OF REGENTS
OR REGULATIONS OF THE COMMISSIONER**

Definition. A variance constitutes an alternative method of compliance with regulations rather than a relaxation of educational standards. (A variance to federal regulations cannot be considered under this protocol.) Variances may be allowed when an alternative method of compliance with the intent of the regulation assures equal educational opportunity, is consistent with best educational practices or would lead to the attainment of at least equal or better student outcomes than could occur with the literal application or enforcement of the regulations. A variance will not exceed three (3) years in duration. To extend a variance beyond the three (3) year time frame, the request must be resubmitted.

School Committee procedure for applying for a variance. Before beginning the variance request process, the superintendent of schools will review the variance request to determine whether the request is one which falls within the authority of the commissioner of Education to grant. School Committee Counsel may be helpful in this. (Counsel for the State Department of Education will also be available to discuss this issue.)

- (1) The superintendent shall call for a school committee meeting on the variance request. Notice of the meeting shall be published twenty (20) work days in advance of the meeting and shall include the text of the variance sought along with an explanation of the variance. Notice of the meeting shall also be given to the Commissioner of Education and to any recognized groups including parent and community groups, bargaining agents, and professional organizations whose interests would be directly affected by the granting of a variance.

- (2) The Committee's recommendation shall be forwarded to the Commissioner with a copy of the minutes of the meeting and with any written comments received concerning the proposed variance. The Commissioner, in his/her discretion, may direct the taking of further testimony.
- (3) A grant or denial of the variance by the Commissioner shall be issued accompanied by a statement of the reason for the action taken. A variance may be granted to a part or to the whole request.
- (4) A grant or denial of a variance may be appealed to the Board of Regents under the provisions of Title 16 of the laws of Rhode Island relating to Education. (16-39-1, 16-39-2)

Authority to grant variance. The Commissioner has authority to issue variances to regulations issued by the Board of Regents and the Commissioner. Such variances may be issued to any individual local education agency requesting it. The Commissioner may initiate an open meeting to decide whether a variance should be granted. Notice of such meeting shall be published twenty (20) work days in advance of the meeting and shall include the text of the variance sought along with an explanation of the variance. Notice of the meeting shall also be given to any recognized groups including parent and community groups, bargaining agents, and professional organizations whose interests would be directly affected by the granting of a variance.

Effect of a variance granted by the Commissioner of Education. The Commissioner may elect to confine any variance granted to the school district requesting it or, in the alternative, the Commissioner may give statewide effect to the variance. Before the Commissioner gives statewide effect to a variance, a public hearing at the state level shall be held following the established procedures for proposed regulation changes and shall be submitted to the Board of Regents for approval.

Variance for private schools. The governing authority of a private school may be granted a variance on the same basis as such variances are granted to public schools.

Applicability of this variance procedure. This procedure for considering a variance will be used except when otherwise provided for by regulation or law.

Limitations on the availability of variances. Variances apply only to the regulations of the Board of Regents or commissioner of Education. This protocol shall not be applicable to individual variances of teacher certification requirements.

Limitation on the length of the effect of variances. Variances shall be reviewed by the Commissioner on an annual basis to determine whether or not continuation of a variance is appropriate.