



TO: The Honorable the Members of the Board of Regents

FROM: John L. D'Agati 

SUBJECT: Proposed Amendment to Section 80-3.5 of the Commissioner's Regulations to Establish New Pathway Options for the Transitional A Certificate in a Career and Technical Education Subject for Candidates who do not Meet the Current Requirements but who Possess Industry Experience, Credentials, or are in the Process of Completing Certification

DATE: December 1, 2016

AUTHORIZATION(S):



SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt the proposed amendment to Section 80-3.5 of the Commissioner's Regulations to establish new pathway options for the Transitional A certificate in a career and technical education subject for candidates who do not meet the current requirements but who possess industry experience, credentials, or are in the process of completing certification?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is submitted to the full Board for adoption as an emergency measure at its December 2016 meeting (see Attachment A - Amendment to Section 80-3.5 of the Commissioner's Regulations). A Statement of Facts and Circumstances Justifying the Emergency is included as Attachment B.

Procedural History

The amendment was adopted as an emergency measure at the June 2016 Board of Regents meeting. A Notice of Proposed Rule Making and Emergency Action was published in the State Register on June 29, 2016. The amendment was adopted as a second emergency action at the July 2016 Board of Regents meeting. Following the 45-day public comment period required under the State Administrative Procedure Act, the Department received one comment on the proposed amendment (see Attachment C - Assessment of Public Comment). At its September and October 2016 meetings, the Board of Regents adopted the revised rule as an emergency measure. A Notice of Revised Rule Making and Emergency Adoption was published in the State Register on November 16, 2016. A fourth emergency action is now needed to ensure that the emergency rule adopted at the June and July meetings and revised and adopted at the September and October meetings will remain in effect until it can be adopted as a permanent rule at the January 2017 Regents meeting. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Background Information

Over the past several years, the Board of Regents has discussed the expansion of career and technical education (CTE) programs in school districts and BOCES generally and of integrated credit allowance which will in turn create a greater demand for teachers certified in CTE titles. At its November 2013 meeting, the Board of Regents was presented with recommendations that would support existing and anticipated demand for teachers certified in CTE titles.

Currently, a Transitional A certificate in a specific CTE subject is issued to permit the employment of an individual in a specific CTE education title who does not meet the requirements for an initial certificate, but who possesses the requisite occupational experience. This certificate is valid for three years, and the candidate would complete the additional requirements for an initial certificate during the three years.

The three options available for a Transitional A certificate prior to the May 2016 Board of Regents meeting were:

- **Option A.** Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought;
- **Option B.** Candidates who possess a high school diploma or its equivalent (but who do not possess an associate's degree or its equivalent in the certificate area), and who have at least four years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought; and

- **Option C.** Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory teaching experience at the postsecondary level (excluding experience as a teaching assistant) in the career and technical education subject for which a certificate is sought.

All three Transitional A pathways described above also require:

- (1) Coursework or training in identification of and reporting of child abuse or maltreatment, school violence prevention and intervention, and harassment, bullying and discrimination prevention and intervention;
- (2) Evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination Content Specialty Test in the area of the certificate; and
- (3) An employment and support commitment. The candidate must submit evidence of having a commitment for three years of employment as a teacher in a public or nonpublic school or BOCES, which includes a mentored experience for the first year consisting of daily supervision by an experienced teacher during the first 20 days. However, the mentoring is not required if the candidate has two years of satisfactory employment as a teacher of students in grades 7-12 in a public or nonpublic school or BOCES.

Establishment of Additional Pathways

At its May 2016 Board of Regents meeting, the Board adopted by emergency action a proposed amendment to provide an additional opportunity for teachers to obtain a Transitional A certificate through a Pathway D Option. This was permanently adopted by the Board at its September 2016 meeting. Now, candidates may be eligible for a Transitional A certificate if they hold a full private career school teacher license issued by the Department's Bureau of Proprietary School Supervision (BPSS) and have taught under that license for two years in a New York State licensed private career school and meet certain other requirements.

Currently, pursuant to Section 126.6 of the Commissioner's Regulations, there are three license levels (permit, provisional and full license) for teachers licensed by BPSS. To apply for a permit, provisional or full license, candidates must complete an application and provide BPSS with all necessary documentation required for the level and license area(s) in which the candidate wishes to be licensed in. Currently, the requirements for a full Private Career School Teacher License by BPSS are (for most CTE subject areas):

- (1) To qualify for a full license, candidates must have completed a total of 90-clock hours in Professional Education, including methods of teaching or a total of 9 semester credits of college coursework in Professional Education.

Full licenses are valid for 4 years and are renewable.

During the three years that a candidate has a Transitional A certificate, he/she may apply for and complete all requirements for an Initial Certificate. These requirements include completion of college coursework, receiving a passing score on the NYSTCE exams, and completion of a 40-day student teaching placement in the certificate area sought.

Proposed Amendment

To provide additional certification pathways in CTE fields to address the immediate shortages in the field, at the June 2016 Board of Regents meeting, the Department recommended establishing new pathway options G, H, and I for Transitional A certificates for candidates who meet one of the three requirements listed below:

- **Option G.** Have a minimum of two years of work experience in the CTE subject area of the certificate sought and hold an industry-related credential, where available, or pass an industry accepted examination as approved by the Department *and* have an employment and support commitment.
- **Option H.** Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination *and* have an employment and support commitment.
- **Option I.** Are currently certified 7-12 grade teachers in *any* subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area *and* have an employment and support commitment.

The proposed amendment provides additional opportunities and flexibility for individuals with specific technical and career experience to obtain a Transitional A teaching certificate in their area of expertise, or a related area, thus allowing them to teach CTE subjects at the secondary school level. This will help to increase the supply of qualified, certified teachers in the career and technical education field in order to satisfy the increasing demand for those teachers.

Since the proposed amendment was presented to the Board of Regents at its July meeting for a second emergency action, the Department recommended one minor clarification to Option I to indicate that teachers in any subject area may pursue this pathway, not just teachers in any CTE subject area. This more accurately reflects the Department's intention to create a more flexible pathway option for individuals to pursue CTE certification. The Department also revised the regulation to clarify that mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 (not grades 5 through 12) in a public or nonpublic school or BOCES. The revised rule was adopted by the Board at its September 2016 meeting. The proposed amendment was published in the State Register to allow for a 30-day public comment period for the revised rule making. No comments were received on the revised rule.

Related Regents Items

June 2016 <https://www.regents.nysed.gov/common/regents/files/516hea1.pdf>

July 2016 <https://www.regents.nysed.gov/common/regents/files/716brca3.pdf>

September 2016 <https://www.regents.nysed.gov/common/regents/files/916brca3.pdf>

October 2016 <http://www.regents.nysed.gov/common/regents/files/1016brca1.pdf>

Recommendation

VOTED: That new paragraphs (5), (6), and (7) to subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education be added, as submitted, effective December 17, 2016, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to immediately adopt revisions to the proposed amendment in response to public comment, and to otherwise ensure that the emergency rule adopted at the June and July Regents meetings and revised and adopted at the September and October 2016 Regents meetings, remains continuously in effect until the effective date of its adoption as a permanent rule.

Timetable for Implementation

The revised emergency rule adopted at the October Regents meeting will expire on December 16, 2016. If the proposed amendment is adopted as an emergency rule at the December meeting, the proposed amendment will become effective on December 17, 2016. If adopted at the January Regents meeting, the proposed amendment will become effective as a permanent rule on January 25, 2017.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 3001, 3006, 3009.

1. The emergency taken at the July 2016 Regents meeting to add new paragraphs (5), (6) and (7) to section 80-3.5 of the Regulations of the Commissioner of Education, is rescinded, effective December 17, 2016.

2. Paragraph (2) of subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education shall be amended, effective December 17, 2016, to read as follows:

(2) The candidate shall meet the requirements for the transitional A certificate by successfully completing the requirements in paragraph (1) [or (2)] through (7) of this subdivision.

3. New paragraphs (5), (6), and (7) are added to subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education, effective December 17, 2016, to read as follows:

(5) Option G: The requirements of this paragraph are applicable to candidates who seek an initial certificate and who hold an industry acceptable credential in a career and technical education subject and have at least two years of acceptable work experience in the certificate area to be taught or in a closely related subject area acceptable to the department. The candidate shall meet the requirements in each of the following subparagraphs:

(i) Education. The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In

addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider, approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 of the Education Law.

(ii) Examination. The candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate.

(iii) Industry Related Credential or Industry Accepted Examination. The candidate shall either:

(a) hold an industry related credential in the certificate area taught or in a closely related subject area acceptable to the department; or

(b) receive a passing score on an industry accepted career and technical examination that demonstrates mastery in the career and technical education subject for which a certificate is sought or a closely related area as approved by the department through a request for qualifications process.

(iv) Experience. The candidate shall have at least two years of satisfactory work experience in the career and technical education subject for which a certificate is sought or a closely related subject area, as determined by the Commissioner;

(v) Employment and support commitment. The candidate shall submit evidence of having a commitment for three years of employment as a teacher in grades 7 through

12 in a public or nonpublic school or BOCES, which shall include a mentored experience for the first year that will consist of daily supervision by an experienced teacher during the first 20 days of teaching, except that such mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 in a public or nonpublic school or BOCES.

(6) Option H: The requirements of this paragraph are applicable to candidates who seek an initial certificate and who are enrolled in an approved career and technical education program registered pursuant to section 52.21 of this Title, or its equivalent in the certificate area to be taught or in a closely related subject area acceptable to the department; and have either at least one year of satisfactory experience in the career and technical area to be taught or in a closely related area or receive a passing score on an industry accepted career and technical examination that demonstrates mastery in the career and technical education subject for which a certificate is sought or a closely related area as approved by the department through a request for qualifications process. The candidate shall meet the requirements in each of the following subparagraphs:

(i) Education.

(a) The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider, approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate shall also complete at

least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 of the Education Law; and

(b) the candidate shall be enrolled in an approved career and technical education program registered pursuant to section 52.21 of this Title

(ii) Examination. The candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate.

(iii) Experience and/or Examination. The candidate shall either:

(a) have at least one year of satisfactory work experience in the career and technical education subject for which a certificate is sought or a closely related area, as determined by the Commissioner; or

(b) receive a passing score on an industry accepted career and technical examination that demonstrates mastery in the career and technical education subject for which a certificate is sought or a closely related area as approved by the department through a request for qualifications process.

(iv) Employment and support commitment. The candidate shall submit evidence of having a commitment for three years of employment as a teacher in grades 7 through 12 in a public or nonpublic school or BOCES, which shall include a mentored experience for the first year that will consist of daily supervision by an experienced teacher during the first 20 days of teaching, except that such mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 in a public or nonpublic school or BOCES

(7) Option I: The requirements of this paragraph are applicable to candidates who seek an initial certificate and who are currently certified as a teacher in grades 7-12 in any subject area acceptable to the department, and who either: hold an industry related credential the career and technical education subject to be taught or in a closely related subject area acceptable to the department or have two years of satisfactory experience in the certificate area sought or a closely related subject area, as determined by the Commissioner. The candidate shall meet the requirements in each of the following subparagraphs:

(i) Education. The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider, approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate on or after December 31, 2013, shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 of the Education Law.

(ii) Examination. The candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate.

(iii) Certification. The candidate shall hold certification as a teacher in grades 7-12 in any certification area pursuant to Part 80 of this Title that is acceptable to the department.

(iv) Experience or Industry Related Credential. The candidate shall either:

(a) hold an industry related credential in the certificate area sought or in a related area, as determined by the Department; or

(b) have at least two years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought, or a related area, as determined by the Commissioner.

(v) Employment and support commitment. The candidate shall submit evidence of having a commitment for three years of employment as a teacher in grades 7 through 12 in a public or nonpublic school or BOCES, which shall include a mentored experience for the first year that will consist of daily supervision by an experienced teacher during the first 20 days of teaching, except that such mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 in a public or nonpublic school or BOCES.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION

The proposed amendment to section 80-3.5 is necessary to provide additional pathway options for a Transitional A certification in the CTE subjects for candidates who meet the requirements in one of the following pathway options:

- **Option G.** Have a minimum of two years of experience in the CTE subject area of certificate sought and hold an industry-related credential or pass an industry accepted examination as approved by the Department *and* have an employment and support commitment
- **Option H.** Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination *and* have an employment and support commitment
- **Option I.** Are currently certified 7-12 grade teachers in *any* subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area *and* have an employment and support commitment

A Notice of Proposed Rule Making was published in the State Register on June 29, 2016. Since then the proposed amendment was revised and a Notice of Revised Rule Making was published in the State Register on November 16, 2016. Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 30-day public comment period provided for in the State Administrative Procedure Act (SAPA) for a revised rulemaking, would be the January Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the January meeting, would be January 25, 2017, the date a Notice of Adoption would be published in the State Register. The emergency rule adopted at the

October 2016 Regents meeting will expire on December 16, 2017. Therefore, emergency action is necessary is therefore necessary to allow those who do not meet the current requirements but who possess industry experience, credentials, or are in the process of completing certification, but meet one of the three proposed new pathways, to begin teaching at the grade 7-12 level as early as possible during the 2016-2017 school year and to ensure that the proposed amendment adopted at the June and July Regents meetings and revised and adopted at the September and October Regents meetings as an emergency rule, remain continuously in effect until it can be adopted as a permanent rule.

8 NYCRR Subpart 80-3.5

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Rule Making in the State Register on June 29, 2016, the State Education Department (SED) received the following comment:

1. COMMENT:

One commenter raised the concern that the proposed pathways for CTE certification are a “patchwork approach” and that a broader discussion of CTE certification, including a more comprehensive and system-wide approach to CTE teacher certification is required moving forward. The commenter suggested that NYSED convene a work group to look at a more comprehensive approach to CTE certification and to re-convene the CTE Content Advisory Panel to discuss future changes to advance the CTE certification pathways. However, the commenter also expressed appreciation that the Department is recognizing the value of work experience and industry-credentials within the proposed amendment.

The commenter also expressed concern over the requirement that the amendment requires an employment and support commitment on the part of the candidate, and that districts and BOCES do not have the ability to connect with candidates as the need for a CTE teacher arises.

DEPARTMENT RESPONSE:

SED agrees that a more comprehensive approach to the CTE teacher certification pathways is needed, and is currently in the process of working with the field to further revise the regulations relating to CTE teacher certification. However, the

proposed amendment seeks to address the immediate concerns raised by the field relating to shortages in CTE teachers by providing an additional pathway to obtain a Transitional A teaching certificate.

In response to the request to convene a work group to look at a more comprehensive approach to CTE certification, the Department will take this under advisement, and will work to address this concern in the most appropriate way given the understaffing of the Department.

With respect to the concerns relating to the need for employment and support commitment, this is required for all candidates seeking a Transitional A certificate and therefore the Department does not believe a revision to the regulations is needed. Moreover, the purpose behind the employment and support commitment is to ensure that the teacher has the needed supports and mentoring when he/she enters the classroom.