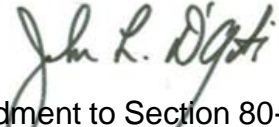






**TO:** The Honorable the Members of the Board of Regents

**FROM:** John L. D'Agati 

**SUBJECT:** Proposed Amendment to Section 80-6.1 of the Regulations of the Commissioner of Education Relating to Continuing Teacher and Leader Education for Teachers in Nonpublic Schools to Implement Chapter 311 of the Laws of 2017

**DATE:** November 30, 2017

**AUTHORIZATION(S):**  

### **SUMMARY**

#### **Issue for Decision (Consent Agenda)**

Should the Board of Regents amend §80-6.1 of the Regulations of the Commissioner of Education relating to continuing teacher and leader education (CTLE) to implement Chapter 311 of the Laws of 2017?

#### **Reason(s) for Consideration**

Review of Policy.

#### **Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as an emergency rule at the December 2017 Board of Regents meeting (Attachments A and B, respectively, are a copy of the proposed amendment and a Statement of the Facts and Circumstances Justifying the Emergency Adoption).

#### **Procedural History**

A Notice of Proposed Rule Making was published in the State Register on November 1, 2017. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

## **Background Information**

The 2015-2016 State Budget added §3006-a to the Education Law to require all holders of teaching certificates, teaching assistant certificates, and educational leadership certificates which are valid for life (Permanent, Professional, and Teaching Assistant Level III) to register with the Department every five years and that holders of the Professional and Teaching Assistant Level III certificates complete 100 hours of continuing teacher and leader education during the five year registration period.

Chapter 311 of the Laws of 2017 amended Education Law §3006-a to add nonpublic schools to the provisions relating to the mandatory continuing education requirements for all holders of professional certificates in the classroom teaching service, holders of level III teaching assistant certificates, and holders of professional certificates in the educational leadership service.

In order to implement the new law, the proposed regulation amends the definition of applicable school in §80-6.1 of the Commissioner's Regulations to include nonpublic schools.

## **Related Regents Items**

October 2017: <http://www.regents.nysed.gov/common/regents/files/1017hea1.pdf>

## **Recommendation**

Department staff recommends that the Board of Regents take the following action:

VOTED: That §80-6.1 of the Regulations of the Commissioner be amended, as submitted, effective January 15, 2018, 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 the proposed amendment to timely implement the changes to Education Law §3006-a, as amended by Chapter 331 of the Laws of 2017 and to ensure that the emergency rule adopted at the October 2017 Regents meeting remains continuously in effect until it can be adopted as a permanent rule.

## **Timetable for Implementation**

If adopted as a second emergency measure at the December meeting, the proposed amendment will become effective on January 15, 2018. Following the 45-day public comment period required under the State Administrative Procedure Act, it is anticipated that the proposed amendment will be presented to the Board of Regents for adoption at its January 2018 meeting. If adopted at the January 2018 meeting, the proposed amendment will become effective on January 25, 2018.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, 3001, 3004, 3006 and 3006-a of the Education Law and Chapter 311 of the Laws of 2017.

Subdivision (a) of section 80-6.1 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) Applicable school means a school district or board of cooperative educational services or nonpublic school that is providing instruction pursuant to Education Law §3204(2) located in New York State. For purposes of this definition, the City School District of New York and any of its components shall be considered a single school district.

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING THE EMERGENCY  
ACTION

The 2015-2016 State Budget added Education Law §3006-a to require all holders of teaching certificates, teaching assistant certificates, and educational leadership certificates which are valid for life (Permanent, Professional and Teaching Assistant Level III) to register with the Department every five years and that holders of the Professional and Teaching Assistant Level III certificates complete 100 hours of continuing teacher and leader education during the five-year registration period.

Chapter 311 of the Laws of 2017 amends Education Law §3006-a to add nonpublic schools to the provisions relating to the mandatory continuing education requirements for all holders of professional certificates in the classroom teaching service, holders of level III teaching assistant certificates, and holders of professional certificates in the educational leadership service. In order to implement the new law, the proposed regulation amends the definition of applicable school in section 80-6.1 of the Commissioner's regulations to include non-public schools.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register and expiration of the 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 202(1) and (5), is the January 2018 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the January Regents meeting, is January 25, 2018, the date a Notice of Adoption would be published in the State Register. Since the emergency rule adopted at the October 2017 meeting will

expire on January 14, 2018, emergency action to adopt the proposed rule is necessary now for the preservation of the general welfare in order to ensure that the proposed amendment is effective immediately in order to timely implement Chapter 311 of the Laws of 2017 and to ensure that the emergency rule adopted at the October 2017 meeting will not expire before it can be adopted as a permanent rule.