



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

**FROM:** William P. Murphy 

**SUBJECT:** Proposed Amendment to Sections 52.21 and 80-2.9 and Subpart 80-4 of the Regulations of the Commissioner of Education Relating to the Creation of the Bilingual Education Extension, Supplementary Bilingual Education Extension, and Registration Requirements for Programs Leading to the Bilingual Education Extension for Initial and Professional School Counselor Certificates

**DATE:** December 2, 2021

**AUTHORIZATION(S):**    
**SUMMARY**

**Issue for Decision (Consent)**

Should the Board of Regents adopt the proposed amendment to sections 52.21 and 80-2.9 and subpart 80-4 of the Regulations of the Commissioner of Education relating to the creation of the Bilingual Education extension, Supplementary Bilingual Education extension, and registration requirements for programs leading to the Bilingual Education extension for Initial and Professional School Counselor Certificates?

**Reason(s) for Consideration**

Review of Policy.

**Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at its December 2021 meeting. A copy of the proposed amendment is included (Attachment A).

**Procedural History**

The proposed amendment was initially presented to the Higher Education Committee for discussion at its May 2021 meeting. A Notice of Proposed Rule Making was

published in the State Register on May 26, 2021. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received one comment on the proposed amendment. An Assessment of Public Comment is included (Attachment B). Based on the comment received, revisions to the proposed amendment were made. A Notice of Revised Rule Making was published in the State Register on September 29, 2021. Following the 45-day public comment period required under the State Administrative Procedure Act, the Department received no comments on the revised proposed amendment. Therefore, an Assessment of Public Comment is not required and no further revisions to the proposed amendment are necessary. A Notice of Adoption will be published in the State Register on December 29, 2021.

### **Background Information**

Currently, school counselor candidates can obtain Provisional and Permanent certificates by completing a registered school counselor program or specified coursework requirements. In addition, they can seek the Bilingual Education extension or Supplementary Bilingual Education extension for Provisional and Permanent School Counselor certificates. Some institutions with registered school counselor programs also have programs that lead to the Bilingual Education extension for Provisional and Permanent School Counselor certificates.

Section 80-2.9 of the Commissioner's regulations lists the requirements for the Bilingual Education extension for pupil personnel service professionals (e.g., school counselors), administrative and supervisory personnel, and school media specialists who hold Provisional and Permanent certificates. For this Bilingual Education extension, they must either:

- complete the appropriate registered Bilingual Education extension program that includes study in cultural perspectives, theory and practice of bilingual/multicultural education, methods of providing services in the native language, and an appropriate college-supervised field experience in the certificate area in a bilingual context, or
- complete 15 semester hours of collegiate study at an institution with a registered bilingual education program to include cultural perspectives, theory and practice of bilingual/multicultural education, and methods of providing services in the native language.

The Supplementary Bilingual Education three-year extension for Provisional and Permanent School Counselor certificates allows certified school counselors who are enrolled in a registered program leading to the Bilingual Education extension to work as a bilingual school counselor where there is a demonstrated shortage. One of the requirements for this three-year extension is to complete three semester hours in bilingual education as described in the registered Bilingual Education extension program requirements, including study in theories of bilingual education and multicultural perspectives.

## New Initial and Professional School Counselor Certificates

At its May 2017 meeting, the Board of Regents established new Initial and Professional School Counselor certificates and the registration requirements for school counselor programs that lead to the new Initial and Professional School Counselor certificates. The Initial and Professional School Counselor certificates will begin to be issued on February 2, 2023. Candidates must apply and qualify for the current Provisional School Counselor certificate prior to February 2, 2023.

Therefore, amendments to Commissioner's regulations are needed for the Bilingual Education extension and Supplementary Bilingual Education extension to be available for the new Initial and Professional School Counselor certificates and for institutions of higher education to register programs that lead to the Bilingual Education extension for Initial and Professional School Counselor certificates.

The Department is proposing to create the Bilingual Education extension and Supplementary Bilingual Education extension for the new Initial and Professional School Counselor certificates, continuing these extension options for school counselors in the future. The proposal also outlines the registration requirements for programs that would lead to the Bilingual Education extension for Initial and Professional School Counselor certificates. School counselor programs have expressed an interest in offering this type of extension program at their institution.

### **Original Proposed Amendment**

#### Proposed Bilingual Education and Supplementary Bilingual Education Extensions

The Department proposes to amend section 80-4.3 of the Commissioner's regulations to establish the Bilingual Education extension and Supplementary Bilingual Education extension for candidates who hold the Initial or Professional School Counselor certificate and apply for the extensions on or after February 2, 2023. Candidates who hold the Provisional or Permanent School Counselor certificate and apply for the Bilingual Education extension or Supplementary Bilingual Education extension on or after February 2, 2023 would also need to meet the proposed Bilingual Education extension requirements.

For the proposed Bilingual Education extension, candidates must either complete a registered program leading to the Bilingual Education extension for the Initial or Professional School Counselor certificate; or complete 15 semester hours of study that includes theories of bilingual education and multicultural perspectives, and methods of providing school counselor services to English language learners using native language and English. These requirements are consistent with the requirements for the Bilingual Education extension for Provisional and Permanent School Counselor certificates.

The proposed Supplementary Bilingual Education extension requires candidates to complete three semester hours in bilingual education as prescribed in the requirements for

a Bilingual Education extension, including study in theories of bilingual education and multicultural perspectives. This coursework requirement aligns with the coursework requirement for the Supplementary Bilingual Education extension for Provisional and Permanent School Counselor certificates.

### Proposed Bilingual Education Extension Program Registration Requirements

Additionally, the Department proposes to amend section 52.21 of the Commissioner's regulations to create registration requirements for programs that lead to the Bilingual Education extension for Initial and Professional School Counselor certificates. The coursework requirements would include study in theories of bilingual education and bilingualism, multicultural perspectives in education, and methods of providing school counselor services to bilingual English language learners using the native language and English. The candidates would be required to complete college-supervised field experiences of at least 50 clock hours in providing bilingual services. These requirements are consistent with the registration requirements for programs that lead to the Bilingual Education extension for Provisional and Permanent School Counselor certificates.

### Proposed Revisions Following the First Public Comment Period

At the September 2021 Regents meeting, the Department proposed to revise 1) the Bilingual Education extension requirements for candidates who hold the Provisional, Permanent, Initial, or Professional School Counselor certificate and apply for the extension on or after February 2, 2023 and 2) the registration requirements for programs that would lead to the Bilingual Education extension for Initial and Professional School Counselor certificates.

The proposed revision to the Bilingual Education extension requirements for candidates who hold the Provisional, Permanent, Initial, or Professional School Counselor certificate and apply for the extension on or after February 2, 2023 in section 80-4.3 of the Commissioner's regulations reduces the number of semester hours for the extension from the original proposal from 15 to 12 semester hours and adds coursework in sociolinguistics and psycholinguistics. The requirement of 12 semester hours of coursework, including study in sociolinguistics and psycholinguistics, is consistent with the requirements for the Bilingual Education extension for candidates who hold a classroom teacher certificate. Both classroom teachers and school counselors work very closely with students. The new proposal ensures that school counselors are as prepared to work with bilingual English language learners as classroom teachers.

The Department also proposed to revise the amendments made to section 52.21 of the Commissioner's regulations to add study in sociolinguistics and psycholinguistics, consistent with the program registration requirements for the Bilingual Education extension for candidates who hold a classroom teacher certificate.

## **Related Regents Items**

May 2017: [Proposed Amendment of Sections 52.21, 100.2\(j\) and Part 80 of the Commissioner's Regulations Relating to School Counseling, Certification Requirements for School Counselors and Program Registration Requirements for School Counseling Preparation Programs.](https://www.regents.nysed.gov/common/regents/files/517brca14.pdf)

(<https://www.regents.nysed.gov/common/regents/files/517brca14.pdf>)

July 2019: [Proposed Amendments to Sections 52.21, 80-2.1 80-3.1, 80-3.11, 80-3.12 and 80-5.23 and the Titles of Subparts 80- 2 and 80-3 of the Commissioner's Regulations Relating to School Counseling Program Registration, School Counselor Certification Requirements, and a One-Year Time Extension for Institutions of Higher Education to Meet the New Program Registration Requirements](http://www.regents.nysed.gov/common/regents/files/719brca1.pdf)

(<http://www.regents.nysed.gov/common/regents/files/719brca1.pdf>)

May 2021: [Proposed Amendments to Sections 52.21 and 80.29 and Subpart 80-4 of the Commissioner's Regulations Relation to the Creation of the Bilingual Education Extension, Supplementary Bilingual Education Extension, and Registration Requirements for Programs Leading to the Bilingual Education Extension for Initial and Professional School Counselor Certificates](https://www.regents.nysed.gov/common/regents/files/521hed2.pdf) (<https://www.regents.nysed.gov/common/regents/files/521hed2.pdf>)

September 2021: [Proposed Amendment to Sections 52.21 and 80-2.9 and Subpart 80-4 of the Regulations of the Commissioner of Education Relating to the Creation of the Bilingual Education Extension, Supplementary Bilingual Education Extension, and Registration Requirements for Programs Leading to the Bilingual Education Extension for Initial and Professional School Counselor Certificates](https://www.regents.nysed.gov/common/regents/files/921hed1.pdf)

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## **Recommendation**

It is recommended that the Board of Regents take the following action:

VOTED: That the Board of Regents adopt the proposed amendments to sections 52.21 and 80-2.9 and subpart 80-4 of the Regulations of the Commissioner of Education, as submitted, effective December 29, 2021.

## **Timetable for Implementation**

If adopted at the December 2021 meeting, the proposed amendments will become effective on December 29, 2021.

**Attachment A**

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 210, 305, 3001, 3004, and 3009.

1. Paragraph (4) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(4) Programs leading to extensions and annotations. To be registered as a program leading to an extension or annotation of a teaching or school counselor certificate, the program shall meet the requirements of this paragraph. The requirements for the extension or annotation are additional to the requirements set forth in this subdivision for the [teaching] certificate but may be completed as part of the program leading to the certificate.

(i)...

(ii)...

(iii) Programs leading to extensions authorizing the provision of bilingual education for certificates in school counselor shall require:

(a) study that will permit the candidate to obtain the following knowledge, understanding and skills:

(1) theories of bilingual education and bilingualism;

(2) multicultural perspectives in education;

(3) sociolinguistics and psycholinguistics;

(4) methods of providing school counselor services as appropriate to the school counselor certificate to bilingual English language learners, using the native language and English; and

(b) college-supervised field experiences of at least 50 clock hours in providing bilingual services, as appropriate to the school counselor certificate.

2. Subdivision (a) of section 80-2.9 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) The validity of a provisional or permanent certificate issued pursuant to this Part may be extended by the commissioner to include bilingual education if the holder of such certificate meets the requirements described in paragraph (1), (2), (3) or (4) of this subdivision, provided that the candidate applied for and upon application qualified for such extension prior to February 2, 2004 for certificates in the classroom teaching service, or prior to February 2, 2023 for certificates in the school counselor title, except for candidates who are applying for an extension to a certificate title in pupil personnel service, other than the school counselor title, or the administrative and supervisory service for which no time limit for application is applicable. Candidates who apply for an extension in bilingual education on or after February 2, 2004 for certificates in the classroom teaching service, or apply for an extension in bilingual education on or after February 2, 2023 for certificates in the school counselor title, shall meet the requirements of Subpart 80-4 of this Part. Candidates who apply for an extension in bilingual education on or after February 2, 2004 for certificates in the pupil personnel service, other than candidates who apply for an for such extension on or after February 2, 2023 for certificates in the school counselor title, or the administrative and supervisory service shall be required to meet the requirements of this section.

3. The title of Subpart 80-4 of the Regulations of the Commissioner of Education shall be amended to read as follows:

SUBPART 80-4

REQUIREMENTS FOR EXTENSIONS AND ANNOTATIONS OF CERTIFICATES IN THE  
CLASSROOM TEACHING SERVICE [APPLIES] APPLIED FOR ON OR AFTER  
FEBRUARY 2, 2004 AND IN THE SCHOOL COUNSELOR TITLE APPLIED FOR ON OR  
AFTER FEBRUARY 2, 2023

4. Subdivision (a) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) Requirements for the extension in bilingual education.

The candidate shall meet the requirements in each of the following paragraphs:

(1) The requirements of this subdivision shall be applicable to the extension in bilingual education of provisional, permanent, initial, emergency COVID-19, or professional certificates in the classroom teaching service and provisional, permanent, initial or professional certificates in the school counselor title. The requirements of section 80-2.9 of this Part shall be applicable to the extension in bilingual education for certificates in the pupil personnel service, other than certificates in the school counselor title, or the administrative and supervisory service.

(2) The candidate shall meet the requirements in each of the following subparagraphs:

(i) Education.

(a)...

(b)...

(c) For candidates who are requesting the extension of a certificate in the school counselor title, the candidate shall satisfactorily complete a program registered pursuant to

section 52.21(b)(4)(ii) of this Title, or its equivalent consisting of a total of twelve semester hours of coursework. Such equivalent coursework shall include study in each of the following subjects:

(1) theories of bilingual education;

(2) multicultural perspectives;

(3) sociolinguistics and psycholinguistics; and

(4) methods of providing school counselor services to English language learners

using native language and English.

(ii)...

(3)...

(4) Supplementary bilingual education extension for certificates in the classroom teaching service and in the school counselor title.

(i) Purpose. The purpose of a supplementary bilingual education extension is to authorize a teacher who is currently certified in a title in the classroom teaching service to teach bilingual English language learners and to authorize a certified school counselor to work with bilingual English language learners, where there is a demonstrated shortage, while the [teacher] candidate is matriculated in a program at an institution of higher education leading to an extension in bilingual education.

(ii) Limitations. The supplementary bilingual extension shall be valid for three years from its effective date and shall not be renewable. A supplementary bilingual education extension shall also be limited to employment with an employing entity.

(iii) Requirements. To be eligible for a supplementary bilingual education extension, a candidate shall meet the following requirements:

(a) Application. The candidate shall apply for the supplementary bilingual education extension and upon application qualify for the supplementary bilingual education extension.

(b) Certification. The candidate shall hold a valid provisional, initial, emergency COVID-19, permanent, or professional certificate in a title in the classroom teaching service or a valid provisional, initial, permanent, or professional certificate in the school counselor title identified in [this Subpart or Subpart 80-3 of] this Part.

(c) The candidate shall be matriculated in a registered program leading to a bilingual education extension [of a certificate as a teacher in the classroom teaching service], as prescribed in section 52.21(b)(4) of this Title, provided that such program must require the candidate to pass an assessment of proficiency in the language of the bilingual education extension sought as a condition for entry into the program.

(d) Education. The candidate shall have completed coursework as prescribed in this subparagraph.

(1) The candidate shall have completed three semester hours in bilingual education as prescribed in the requirements for a bilingual education extension, set forth in this section, including study in theories of bilingual education and multicultural perspectives.

(2) A statement shall be submitted by the chancellor, in the case of employment with the City School District of the City of New York; or by the superintendent, in the case of other employing boards; or by the chief school officer, in the case of employment with another entity required by law to employ certified teachers or school counselors certifying:

(i) the employing entity seeks to employ the candidate in a position in a certificate title in the classroom teaching service or in the school counselor certificate title with a

demonstrated shortage of certified teachers or certified school counselors with an extension in bilingual education;

(ii) the employing entity will require, as a condition of employment under the supplementary condition bilingual extension, the candidate's matriculation in a program at an institution of higher education leading to a bilingual extension; and

(iii) the employing entity will provide appropriate support to the candidate undertaking an assignment with the supplementary bilingual education extension to ensure the maintenance of quality instruction for such candidate.

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on May 26, 2021, the State Education Department (Department) received the following comment on the proposed amendment. This comment was previously published as part of the September 2021 Regents item:

1. COMMENT: Commenter noted that the proposed Bilingual Education extension for school counselors in section 80-4.3 of the Commissioner's regulations will require 15 semester hours of coursework while other certification titles with similar coursework content must complete only six semester hours of coursework. Commenter recommends that the proposed school counselor coursework also reflect a six-semester hour requirement because the commenter believes that nine semester hours of additional coursework would present an unnecessary financial burden, may deter individuals from obtaining the extension, and exacerbate shortages of appropriately certified staff.

Commenter stated that the proposed Supplementary Bilingual Education extension is valid for three years, which is consistent with the current validity period of a Supplementary Bilingual Education extension, but also pointed out that other Supplementary certificates outlined in section 80-5.18 of the Commissioner's regulations are valid for five years. Commenter recommends that the Supplementary Bilingual Education extensions referenced in sections 80-2.9(a)(5) and 80-4.3(a)(4) of the Commissioner's regulations also reflect a five-year validity period consistent with other Supplementary certificates.

DEPARTMENT RESPONSE: In their first recommendation, the Commenter suggests reducing the number of semester hours of coursework for the Bilingual Education extension for candidates who hold a School Counselor certificate from the proposed 15 semester hours to six semester hours. Currently, candidates who hold a Library Media Specialist certificate or Educational Technology certificate need to complete six semester hours to obtain the Bilingual Education extension. However, candidates who hold a teacher certificate other than the two above certificates must complete 12 semester hours to obtain the Bilingual Education extension.

Classroom teachers and school counselors both work very closely with students. The Department believes that school counselors need to be as prepared to work with bilingual English language learners as classroom teachers and that six semester hours would not provide sufficient preparation to work with this population in their role. However, the Department is open to the suggestion to reduce the number of semester hours and is now proposing that the number of semester hours of coursework for the Bilingual Education extension for candidates who hold a School Counselor certificate is 12 instead of 15 semester hours, consistent with the required number of semester hours for teachers.

The Commenter also recommended that the validity period of the Supplementary Bilingual Education extension be increased from three years to five years. The Supplementary Bilingual Education extension is currently available for candidates who hold a certificate in the classroom teacher service or pupil personnel service and are matriculated in a New York State registered educator preparation program that leads to the Bilingual Education extension.

All stand-alone Bilingual Education extension programs lead to an Advanced Certificate degree at this time and candidates typically complete the program in two years or less. Therefore, the Supplementary Bilingual Education extension validity period of three years is sufficient for candidates who hold the extension and matriculate in a Bilingual Education extension program.

In addition, the three-year validity period for the Supplementary Bilingual Education extension is consistent with the validity period for other teacher certificates in which candidates must be matriculated in a New York State registered educator preparation program. For example, the Transitional B, Transitional C, and Residency Certificates are valid for up to three years from their effective date and have an earlier expiration date if the certificate holders are no longer matriculated in their educator preparation program (e.g., complete or exit their program).

Finally, the Commenter's recommendation would increase the validity period of the Supplementary Bilingual Education extension for teachers as well as school counselors. Since it would impact teachers, this recommendation is outside the scope of the proposed regulation and thus no changes to the proposed rule are needed.