



TO: Higher Education Committee

FROM: William P. Murphy *William Murphy*

SUBJECT: Proposed Amendment to Sections 52.21, 80-1.5, 80-3.3, 80-3.4, 80-5.8, and 80-5.17 of the Regulations of the Commissioner of Education Relating to the Teacher Performance Assessment Requirement for Certification and Establishing a Teacher Performance Assessment Requirement for Registered Teacher Preparation Programs

DATE: December 9, 2021

AUTHORIZATION(S): *Don McG* *Bellotti*

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendment to sections 52.21, 80-1.5, 80-3.3, 80-3.4, 80-5.8, and 80-5.17 of the Regulations of the Commissioner of Education relating to the teacher performance assessment requirement for certification and establishing a teacher performance assessment requirement for registered teacher preparation programs?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Higher Education Committee for discussion at its December 2021 meeting. A copy of the proposed amendment is attached (Attachment A).

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on December 29, 2021 for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Beginning May 1, 2014, teacher candidates have been required to complete a teacher performance assessment, in addition to other certification exams, to obtain most teacher certificates in New York State. In particular, they must pass the edTPA to satisfy this requirement. The edTPA is a national teacher performance assessment where candidates demonstrate their readiness to teach.

For the edTPA, candidates plan for instruction and assessment, videotape themselves teaching and engaging students in learning, assess and analyze students' learning, and reflect on their practice. Candidates typically complete the edTPA during their student teaching or practicum experience. The edTPA costs \$300 and is administered and scored by the Evaluation Systems group of Pearson.

For out-of-state candidates, the one-year Conditional Initial certificate in the classroom teaching service is available for those who hold a valid teacher certificate in another U.S. state that is equivalent to the New York State certificate sought, completed an acceptable teacher preparation program in another U.S. state, and met all other requirements for certification other than the teacher performance assessment requirement. This certificate enables out-of-state candidates to teach in New York State public schools for one year while completing the edTPA.

The State Education Department has offered edTPA "safety nets" for candidates since the inception of the teacher performance assessment requirement, allowing eligible candidates to take and pass the Assessment of Teaching Skills - Written (ATS-W) in lieu of the edTPA. In addition, the edTPA Multiple Measures Review Process (MMRP) is available for candidates who do not pass the edTPA but score within two points of the passing score and meet additional eligibility requirements. Candidates who successfully complete the MMRP process are deemed to have satisfied the teacher performance assessment requirement.

During the COVID-19 pandemic, teacher preparation program faculty reported that the edTPA safety nets have been helpful; this experience also informed their recommendation that the edTPA be eliminated as a requirement for certification. They indicated that the edTPA often becomes the primary focus for candidates during the student teaching experience, which detracts from other potential learning experiences and responsibilities. In addition, it is difficult for candidates to manage the multiple tasks and related logistics of the assessment (e.g., videorecording) and it represents a significant out-of-pocket expense. Thus, according to these educators, the edTPA serves as a barrier to certification during this period of significant teacher shortages.

The Department is therefore proposing to modify the teacher performance assessment requirement by eliminating the requirement of the edTPA for certification and, instead, requiring that New York State registered teacher preparation programs integrate a teacher performance assessment into the candidates' student teaching, practicum, or similar clinical experience (e.g., residency, mentored in-service component). This assessment would be designed to promote the professional growth of candidates seeking their first initial teaching certificate and thus serve as both a formative and summative assessment for candidates.

The Department proposes the following definition that teacher preparation programs would use to develop or choose their teacher performance assessment.

- *Teacher performance assessment* means a multi-measure assessment where candidates demonstrate the pedagogical knowledge and skills identified in the New York State Teaching Standards, which align with the four principles of the New York State Culturally Responsive-Sustaining Education Framework, and their content knowledge and skill in teaching to the State learning standards in the grade band and subject area of a certificate sought.

As such, candidates would be explicitly assessed on the knowledge and skills expected of New York State teachers. The teaching standards, elements, and performance indicators for each element are described in the [New York State Teaching Standards](#). Those standards are aligned with the four principles of the [New York State Culturally Responsive-Sustaining Education Framework](#).

This requirement will allow programs to develop a teacher performance assessment that is user-friendly and meets the needs of their candidates. Additionally, the teacher performance assessment could be completed with no additional costs to students, depending on each program's determination of its teacher performance assessment requirements.

Programs would have until September 1, 2023 to integrate a teacher performance assessment into candidates' student teaching, practicum, or similar clinical experience. This timing gives programs a transition period of over a year to develop or choose a teacher performance assessment and update their curriculum accordingly. Between the effective date of the proposed amendment and September 1, 2023, field experiences, student teaching, and practica must continue to comply with the program's philosophy, purposes, and objectives, with learning outcomes specified and their achievement regularly evaluated, as described in section 52.21.

Since the teacher performance assessment would move from a certification requirement to a program requirement, the Department is also proposing several attendant changes to Part 80 of the Commissioner's regulations related to certification. The edTPA safety net, edTPA MMRP, and Conditional Initial certificate in the classroom teaching service would be removed from the regulations along with references to the

teacher performance assessment requirement for certification. Candidates who apply for certification would no longer need to complete the edTPA on the date the proposed amendment becomes effective, including out-of-state candidates and candidates who apply for certification through the individual evaluation pathway.

Related Regents Items

July 2021: [Proposed Amendment of Section 80-1.5 of the Regulations of the Commissioner of Education Relating to Extending the edTPA Safety Net in Response to the COVID-19 Crisis](#)

(<https://www.regents.nysed.gov/common/regents/files/721brca2.pdf>)

February 2021: [Proposed Amendments to Sections 52.3, 52.21, 57-4.5, 70.4, 74.6, 75.2, 75.5, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 80- 1.13, 80-1.5, 80-3.15, 80-4.3, 83.5, 87.2, 87.5, 100.2, 100.4, 100.5, 100.6, 100.10, 100.21, 119.1, 119.5, 125.1, 151-1.4, 154- 2.3, 175.5, 200.4, 200.5, 200.7, 200.20 and 275.8 and Addition of Section 279.15 to the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](#)

(<https://www.regents.nysed.gov/common/regents/files/221brca6.pdf>)

July 2019: [Proposed Amendment to Section 80-1.5 of the Regulations of the Commissioner of Education Relating to the Extension of the edTPA Safety Net for Candidates Who Receive a Failing Score on the Library Specialist edTPA](#)

(<https://www.regents.nysed.gov/common/regents/files/719brca3.pdf>)

September 2018: [Proposed Amendment to Section 80-1.5 of the Regulations of the Commissioner of Education Relating to the Extension of the edTPA Safety Net for Candidates Who Receive a Failing Score on the Library Specialist edTPA](#)

(<http://www.regents.nysed.gov/common/regents/files/918brca6.pdf>)

December 2017: [Update on the edTPA Standard Setting Committee and Amendment to §80-1.5 of the Regulations of the Commissioner of Education to Extend the edTPA Safety Net and Revise the Eligibility Criteria for the Multiple Measures Review Process](#)

(<https://www.regents.nysed.gov/common/regents/files/1217brca15.pdf>)

June 2017: [Proposed Amendment to Section 80-1.5 of the Regulations of the Commissioner of Education Relating to the Establishment of a Multiple Measures Review Process for the edTPA](#)

(<https://www.regents.nysed.gov/common/regents/files/617brca14.pdf>)

March 2017: [Proposed Amendments to Part 80 of the Commissioner's Regulations Related to the Elimination of the Academic Literacy Skills Test \(ALST\) for Teacher Certification and to Remove Unnecessary References to the Liberal Arts and Sciences Test](#)

(<https://www.regents.nysed.gov/common/regents/files/317hea1revised.pdf>)

April 2016: [Extension of Existing Safety Nets for Candidates Who Take the New Teacher Certification Examinations \(ALST, edTPA, EAS and the Redeveloped CSTs\)](http://www.regents.nysed.gov/common/regents/files/416hea2.pdf)
(<http://www.regents.nysed.gov/common/regents/files/416hea2.pdf>)

January 2016: [Overview of edTPA](https://www.regents.nysed.gov/common/regents/files/116hed1.pdf)
(<https://www.regents.nysed.gov/common/regents/files/116hed1.pdf>)

April 2014: [Emergency Adoption of Amendments to Section 52.21 and Part 80 of the Regulations of the Commissioner of Education to Provide Teacher Candidates, who Apply for Teacher Certification Prior to June 30, 2015 and Who Take and Fail the Teacher Performance Assessment \(edTPA\), with the Option of Obtaining an Initial Certificate if the Candidate Passes the ATS-W Prior to June 30, 2015 and Subsequent to Receiving His/Her Score on the edTPA](https://www.regents.nysed.gov/common/regents/files/413hea4Revision2.pdf)
(<https://www.regents.nysed.gov/common/regents/files/413hea4Revision2.pdf>)

September 2013: [Proposed Amendments to Part 80 of the Regulations of the Commissioner of Education Relating to the New Teacher and School Building Leader Certification Examination Requirements](https://www.regents.nysed.gov/common/regents/files/913brca6.pdf)
(<https://www.regents.nysed.gov/common/regents/files/913brca6.pdf>)

December 2012: [Proposed Amendment to Part 80 of the Regulations of the Commissioner of Education Relating to the New Teacher and School Building Leader Certification Examination Requirements](https://www.regents.nysed.gov/common/regents/files/documents/meetings/2012Meetings/December2012/1212hea1.pdf)
(<https://www.regents.nysed.gov/common/regents/files/documents/meetings/2012Meetings/December2012/1212hea1.pdf>)

Recommendation

Not applicable.

Timetable for Implementation

Following the 60-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 April 2022 meeting. If adopted at the April meeting, the proposed amendment will become effective on April 27, 2022.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 14, 101, 207, 208, 305, 308, 3001, 3004 and 3009 of the Education Law.

1. Subparagraph (xviii) through (xxi) of paragraph (1) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education are renumbered subparagraphs (xix) through (xxii) and a new subparagraph (xviii) is added to read as follows:

(xviii) *Teacher performance assessment* means a multi-measure assessment where candidates demonstrate the pedagogical knowledge and skills identified in the New York State Teaching Standards, which align with the four principles of the New York State Culturally Responsive-Sustaining Education Framework, and their content knowledge and skill in teaching to the State learning standards in the grade band and subject area of a certificate sought. The New York State Teaching Standards were adopted by the Board of Regents and published by the State Education Department on September 12, 2011, and are available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234. The four principles of the New York State Culturally Responsive-Sustaining Education Framework are: welcoming and affirming environment, high expectations and rigorous instruction, inclusive curriculum and assessment, and ongoing professional learning.

2. Item (iii) of subclause (2) of clause (c) of subparagraph (ii) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(iii) The field experiences, student teaching and practica shall:

(A) ...

(B) ...

(C) provide candidates with experiences in a variety of communities and across the range of student developmental levels of the certificate, experiences practicing skills for interacting with parents or caregivers, experiences in high need schools, and experiences with each of the following student populations: socioeconomically disadvantaged students, students who are English language learners, and students with disabilities; [and]

(D) for programs preparing candidates for more than one certificate, ensure that candidates have field experiences and/or student-teaching or practica experiences related to each certificate, as prescribed in paragraph (3) of this subdivision[.]; and

(E) effective September 1, 2023, include a teacher performance assessment for candidates seeking their first initial teaching certificate that shall be integrated into the candidates' student teaching, practicum, or similar clinical experience and designed to promote candidates' professional growth.

3. Section 80-1.5 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) All candidates for a certificate in the classroom teaching service shall submit evidence of having achieved satisfactory levels of performance on the New York State Teacher Certification Examinations.

(b) [A school or school system shall not prohibit an individual who is a current or prospective applicant for certification from videotaping a classroom for the purpose of meeting the requirements of the teacher performance assessment for certification as a teacher in the classroom teaching service or the performance assessment of teaching skills requirement for permanent certification, transmitting such videotape to the department, or otherwise fulfilling this classroom presentation requirement. A videotape made for this purpose shall be a confidential record of the department, and as such, is not subject to viewing or disclosure to any individual or entity other than the applicant for certification, appropriate departmental personnel, and others engaged by the department to evaluate the videotape for purposes of determining the candidate's eligibility for certification.

(c)]Except as otherwise prescribed in this subdivision, notwithstanding any applicable provisions of Subparts 80-1, 80-3, 80-4 and 80-5 of this Part or any other provision of rule or regulation to the contrary, a candidate who applies for and meets all the requirements for a certificate, except that such candidate does not achieve a satisfactory level of performance on one or more of the [new certification examinations the teacher performance assessment or the revised content specialty] examination(s), as prescribed by the commissioner, that is/are required for the certificate title sought, may instead use one or more of the following safety net options, in lieu of taking, retaking one or more of such [new and/or revised] certification examinations:

(1) [Teacher performance assessment.

(i) Except as otherwise provided in clause (c) of this subparagraph, a candidate who takes and fails to achieve a satisfactory level of performance on the teacher performance assessment (after completing and submitting for scoring the teacher performance assessment), may, in lieu of retaking the teacher performance assessment:

(a) receive a satisfactory score on the written assessment of teaching skills after receipt of his/her score on the teacher performance assessment and prior to June 30, 2018; or

(b) pass the written assessment of teaching skills on or before April 30, 2014 (before the new certification examination requirements became effective), provided the candidate has taken and failed the teacher performance assessment prior to June 30, 2018;

(c) a candidate who takes and fails to achieve a satisfactory level of performance on the library specialist teacher performance assessment (after completing and submitting for scoring the library specialist teacher performance assessment), may, in lieu of retaking the library specialist teacher performance assessment:

(1) receive a satisfactory score on the written assessment of teaching skills after receipt of his/her score on the library specialist teacher performance assessment and prior to December 31, 2021; or

(2) pass the written assessment of teaching skills on or before April 30, 2014 (before the new certification examination requirements became effective), provided the

candidate has taken and failed the library specialist teacher performance assessment prior to December 31, 2021.

(ii) A candidate who:

(a) completes a student teaching or similar clinical experience during the Spring 2020 or Summer 2020 terms while enrolled in a program registered pursuant to section 52.21 of this Title and could not complete their teacher performance assessment as a result of the COVID-19 crisis, as determined by the dean or his/her designee overseeing the candidate's program;

(b) completes a student teaching or similar clinical experience during the 2020-2021 academic year while enrolled in a program registered pursuant to section 52.21 of this Title;

(c) completes a student teaching experience during the 2020-2021 academic year while enrolled in a substantially equivalent teacher education program at a regionally accredited institution of higher education, or a higher education institution that the commissioner deems substantially equivalent, from another state or territory of the United States or the District of Columbia that leads to certification in the title and type of certificate sought in the jurisdiction where the higher education institution is located; or

(d) completes the teaching experience requirement for certification through the individual evaluation pathway during the 2020-2021 academic year, may either:

(1) take and receive a satisfactory level of performance on the teacher performance assessment;

(2) take the written assessment of teaching skills by September 1, 2023 and receive a satisfactory score on such assessment; or

(3) for a candidate who takes and fails to achieve a satisfactory level of performance on the teacher performance assessment, may, in lieu of retaking such assessment:

(i) take the written assessment of teaching skills by September 1, 2023 and receive a satisfactory score on the written assessment of teaching skills after receipt of his/her score on the teacher performance assessment; or

(ii) apply for a waiver of the edTPA requirement through the multiple-measures review process pursuant to subdivision (d) of this section, if he/she meets the eligibility requirements.

(2)] Content specialty test.

(i) Except as otherwise provided in subparagraphs (ii), (iii) and (iv) of this paragraph, a candidate who takes and fails to achieve a satisfactory level of performance on any of the revised content specialty examinations from May 1, 2015 through October 17, 2016, may, in lieu of retaking such revised content specialty test:

(a) receive a satisfactory score on the predecessor content specialty examination after receipt of his/her failing score on the revised content specialty test; or

(b) pass the predecessor content specialty examination on or before the new certification examination requirements become operational.

(ii) A candidate who applies for certification on or after October 18, 2016 and/or who has a pending application for certification on file with the Office of Teaching Initiatives on October 18, 2016, as determined by the department, may receive a satisfactory passing score on either the revised content specialty test or the

predecessor content specialty exam (even if the candidate took and passed the predecessor examination on or before October 18, 2016) until June 30, 2017.

(iii) For revised content specialty tests that became operational on or after October 18, 2016 or for the revised educational technology specialist content specialty test, a candidate may take and receive a satisfactory passing score on either the revised content specialty test or the predecessor content specialty test until six months after the revised educational technology specialist content specialty test is redeveloped and operational.

(iv) A candidate who takes and fails to achieve a satisfactory level of performance on part two of the new multi-subject: secondary teachers grade 7 - grade 12 content specialty test, if required for the certificate area sought and he/she received a satisfactory level of performance on parts one and three of such test on or after September 1, 2014 until the date a revised part two is operational, may, in lieu of retaking part two of such examination:

(a) present the department with sufficient evidence of satisfactory completion of the mathematics tutorial approved by the department until the date a revised part two is operational; and

(b) submit an attestation on or before the date a revised part two is operational, on a form prescribed by the commissioner, attesting that the candidate has:

(1) demonstrated comparable mathematical skills to what is required by part two of the multi-subject (7-12) content specialty examination through course completion by completing a minimum of three semester hours in mathematics coursework satisfactory to the commissioner; and

(2) received a cumulative grade of a 3.0 or higher, or the substantial equivalent, in such coursework.

(v) When the revised content specialty examination(s) in biology, chemistry, earth science and physics become available, a candidate may take either the applicable revised content specialty examination or the applicable predecessor content specialty examination in biology, chemistry, earth science or physics, for one year after the applicable revised content specialty examination(s) become operational.

[(d) Multiple measures review process for the edTPA.

(1) A candidate may apply for a waiver of the edTPA requirement on or after the effective date of this section through a multiple-measures review process. Provided however, that this process will only apply if and when a new standard setting panel has been convened and makes a recommendation to the commissioner for a new passing score for the edTPA and such score has been approved by the commissioner for use with the edTPA. and the candidate meets the requirements set forth in paragraph (2) of this subdivision.

(2) To be eligible for a waiver of the requirement for the edTPA through the multiple-measures review process, a candidate shall:

(i) receive a score within two points below the new passing score set by the standard setting panel, as determined by the commissioner;

(ii) have a cumulative grade point average of a 3.0 in his/her program area or its equivalent. as determined by the commissioner;

(iii) receive a satisfactory passing score on all other examinations (or available safety nets) required for the teaching certificate sought; and

(iv) provide recommendations from faculty and cooperating teachers or other qualified individuals, as determined by the department, that the teacher has the minimum knowledge, skills and abilities in pedagogy to enter the classroom.

(3) The department will convene a multiple measures review panel to review waiver applications submitted pursuant to this section. Such panel shall be comprised of two P-12 teachers, two principals, two superintendents, two higher education faculty and one staff member from the department. The decision of the majority of the members shall determine whether a candidate will receive a waiver under this subdivision and such decision shall be final.]

4. Item (iii) of subclause (2) of clause (c) of subparagraph (ii) of paragraph (2) of subdivision (b) of section 80-3.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) Except as otherwise provided in this section, for candidates applying for certification on or after May 1, 2014 or candidates who applied for certification on or before April 30, 2014 but did not meet all the requirements for an initial certificate on or before April 30, 2014, such candidates shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination [teacher performance assessment, the]educating all students test[,] and the content specialty test(s) in the area of the certificate, when available, except that a candidate seeking an initial certificate in the title of Speech and Language Disabilities (all grades) shall not be required to achieve a satisfactory level of performance on the content [speciality]specialty test [or the teacher performance assessment and a candidate seeking an initial certificate in the title of Educational Technology Specialist

(all grades) shall not be required to achieve a satisfactory level of performance on the teacher performance assessment].

5. Subparagraph (iv) of paragraph (1) of subdivision (d) of section 80-3.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(iv) Examination. The candidate shall pass the New York State Teacher Certification Examination educating all students test[, and the content specialty test when available[, and the teacher performance assessment, when available] in the computer science area.

6. Paragraph (3) of subdivision (b) of section 80-3.4 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(3) Examination.

[(i)

(a) Candidates who hold a transitional C certificate for career changers and others holding a graduate academic or graduate professional degree, pursuant to the requirements of section 80-5.14 of this Part, and who apply for certification on or after May 1, 2014 or candidates who apply for professional certification on or before April 30, 2014 but do not meet all the requirements for a professional certificate on or before April 30, 2014 shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination teacher performance assessment.

(ii)] Candidates who seek a professional certificate in Speech and Language Disabilities (all grades) shall submit 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.

7. Subparagraph (iv) of paragraph (1) of subdivision (a) of section 80-5.8 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(iv) The candidate shall [either]:

(a)

[(1) have completed a teacher education program from a regionally accredited institution of higher education or a higher education institution that the commissioner deems substantially equivalent, provided that such program leads to an initial certificate, or a similar certificate title and type, in the jurisdiction in which the higher education institution is located; and

(2) meet the examination requirements for the title and type of certificate sought in this State; except if a candidate meets all the examination requirements except the teacher performance assessment, if required for the certificate type and title sought, the candidate shall be issued a one-year nonrenewable conditional initial certificate, provided that the candidate meets the requirements of section 80-5.17 of this Subpart; or

(b)

(1)] have at least three years of satisfactory experience in a public school (grades birth-12) in other state(s) or territory(ies) of the United States or the District of Columbia in a position that would have required the equivalent of an initial or professional certificate in the certificate title sought as a teacher in the classroom teaching service for employment in New York State and while under a certificate issued by such other state

authorizing such service, such experience must have been completed within seven years immediately preceding the application for endorsement of the out-of-state certificate; or the candidate shall have equivalent experience as determined by the commissioner; and

[(2)](b) submit satisfactory evidence that the candidate received evaluation ratings of effective or highly effective, or the substantial equivalent of such ratings, in at least three years of experience in a public school in other state(s) or territory(ies) of the United States or the District of Columbia in the certificate title sought as a teacher in the classroom teaching service for employment in New York State.

8. Section 80-5.17 of the Commissioner's regulations of the Regulations of the Commissioner of Education shall be amended to read as follows:

Section 80-5.17. Conditional initial certificate

[(a) Conditional initial certificate in the classroom teaching service.

For out-of-state candidates applying for initial certification (in a certificate title in the classroom teaching service for which this Part requires completion of a teacher performance assessment), the commissioner may issue to a candidate who has received a satisfactory passing score on all other required examination requirements, as required for the title and type of certificate sought in this State, a one-year nonrenewable conditional initial certificate, notwithstanding that the candidate has not received a satisfactory passing score on the teacher performance assessment, and deem that all other requirements for the initial certificate in the certificate title sought have been met, provided that the candidate holds a valid regular teacher's certificate or an authorization to practice that the commissioner deems equivalent in the same or an

equivalent title by another state or territory of the United States and otherwise meets the requirements for endorsement as set forth in section 80-5.8(a) of this Title, except the teacher performance assessment, if required, and the candidate has not already taken and received an unsatisfactory score on the teacher performance assessment.

(b)] Conditional initial certificate in the title school building leader.

The commissioner may issue a two-year nonrenewable conditional initial certificate in the title school building leader to a candidate who applies for the certificate after September 1, 2006 and meets the following requirements:

(1) ...

(2) ...