






TO: The Honorable the Members of the Board of Regents

FROM: John L. D'Agati 

SUBJECT: Proposed Amendment to Section 52.21 of the Regulations of the Commissioner of Education Relating to Graduate Admission Examination Requirements to Implement Chapter 454 of the Laws of 2017

DATE: March 28, 2018

AUTHORIZATION(S):  

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend §52.21 of the Regulations of the Commissioner of Education relating to graduate admission examination requirements to implement Chapter 454 of the Laws of 2017?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is submitted to the Higher Education Committee for recommendation to the Full Board for adoption as an emergency rule at its April 2018 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 February 7, 2018. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 56 of the Laws of 2015 added §210-a to the New York State Education Law to require all institutions with graduate-level teacher and educational leadership programs registered by the Department to “adopt rigorous selection criteria geared to predicting a candidate’s academic success in its program.” One of these criteria includes achieving a minimum score on the Graduate Record Examination (GRE) or a substantially equivalent admission examination. In 2015, the Department amended §52.21 of the Commissioner’s Regulations to implement the new law.

On December 13, 2017, the Governor signed Chapter 454 of the Laws of 2017 amending §210-a of the Education Law to remove the requirement for certified teachers and school administrators who already hold a graduate degree to take either the GRE or a substantially equivalent admission examination to meet the minimum selection criteria for graduate teacher or educational leadership programs. For those teachers and educational leaders who already hold a graduate degree, the GRE is no longer required.

In order to implement the change in law, which has an immediate effective date, the proposed regulation amendment to §52.21 of the Commissioner’s Regulations makes it clear that the graduate admission examination requirement does not apply to certified teachers and school administrators who already hold a graduate degree.

Related Regents Items

[January 2018.](#)

(<http://www.regents.nysed.gov/common/regents/files/118hea1.pdf>)

Recommendation

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

VOTED: That §52.21 of the Regulations of the Commissioner of Education be amended, as submitted, effective April 24, 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 §210-a and to ensure that the rule remains continuously in effect until it can be adopted as a permanent rule.

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 May 2018 meeting. If adopted at the May 2018 meeting, the proposed amendment will become effective as a permanent rule on May 23, 2018.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207 and 210-a of the Education Law and Chapter 454 of the Laws of 2017.

Subclause (1) of clause (l) of subparagraph (i) of paragraph (2) of subsection (b) of section 52.21 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(1) Institutions with registered graduate level teacher and educational leadership programs shall adopt rigorous selection criteria geared to predicting a candidate's academic success in its program. These rigorous selection criteria shall include, but not be limited to, a minimum score on the graduate record examination or a substantially equivalent admission examination, as determined by the institution, and achievement of a cumulative grade point average of 3.0, or its equivalent, in the candidate's undergraduate program; provided, however, that such graduate record examination or substantially equivalent admission examination requirement shall in no case apply to currently certified teachers or educational leaders who already hold a graduate degree.

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING THE EMERGENCY
ACTION

Chapter 56 of the Laws of 2015 added Section 210-a to the Education Law to require all institutions with graduate-level teacher and educational leadership programs registered by the Department to “adopt rigorous selection criteria geared to predicting a candidate’s success in its program.” One of these criteria includes achieving a minimum score on the Graduate Record Examination (GRE) or a substantially equivalent admission examination. Section 52.21 of the Commissioner’s Regulations was amended to implement this new law.

On December 13, 2017, the Governor signed a bill amending § 210-a of the Education Law. The amendment removes the graduate admission examination requirement for those certified teachers and school administrators who already hold a graduate degree. In order to implement the change in law, the proposed regulation amendment clarifies that the graduate admission examination requirement does not apply to those certified teachers and school building leaders who already hold a graduate degree. 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 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) Sections 202(1) and (5), is the May 2018 Regents meeting. Furthermore, pursuant to SAPA Section 203(1), the earliest effective date of the proposed amendment, if adopted at the May Regents meeting, is May 23, 2018, the date a Notice of Adoption would be published in the State Register. However, because the change in law has an immediate effective date,

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 the amended law.

In addition, the proposed amendment was adopted at the January 2018 Regents meeting and became effective as an emergency measure on January 23, 2018. The emergency will expire on April 23, 2018. Therefore, a second emergency action is needed to ensure that the rule remains continuously in effect until it can be adopted as a permanent rule at the May 2018 Regents meeting.