



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

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

**FROM:** Angélica Infante-Green *a. infante - green*

**SUBJECT:** Proposed Amendment to Section 80-4.3 of the Regulations of the Commissioner of Education Relating to Grade-Level Extensions for Certain Candidates Who Hold a Students with Disabilities Generalist Teaching Certificate

**DATE:** May 31, 2018

**AUTHORIZATION(S):** *[Handwritten signatures]*

## SUMMARY

### Issue for Decision (Consent Agenda)

Should the Board of Regents adopt a proposed amendment to Section 80-4.3 of the Commissioner's Regulations relating to grade-level extensions for certain candidates who hold a Students with Disabilities Generalist certificate?

### Reason(s) for Consideration

Review of Policy.

### Proposed Handling

The proposed amendment is submitted to the Full Board for adoption at its June 2018 Board of Regents meeting (Attachment A is a copy of the proposed amendment).

### Procedural History

The proposed amendment was submitted to the Joint P-12 Education and Higher Education Committees at the December 2017 Regents meeting. A Notice of Proposed Rule Making was published in the State Register on December 27, 2017. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received several comments on the proposed amendment (an Assessment of

Public Comment is included as Attachment B) and recommended that additional revisions be made to the proposed amendment as a result of such comments.

The revised proposed amendment was submitted to the Joint P-12 Education and Higher Education Committees at the April 2018 Regents meeting. A Notice of Proposed Rule Making was published in the State Register on April 25, 2018. Following the 30-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 as Attachment C). Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

### **Background Information**

There has been a continuous shortage of teachers who hold Students with Disabilities Generalist certificate titles in New York State. The Department has been considering ways to increase the number of qualified certificate holders in this area and has worked with the field to address these shortages. One way to expand the pool of qualified teachers of students with disabilities is to extend the grade levels in which they can teach.

### **Proposed Amendment**

At this time, the Department is proposing four different extension certificates for current holders of Students with Disabilities Generalist certificates, as outlined below:

Current Certification	Teaching Experience Requirement	Teachers Choose One of the Following Requirements		Proposed Extension
		CTLE	College Course	
Birth – Grade 2	Minimum of 3 years teaching experience at 1 <sup>st</sup> and/or 2 <sup>nd</sup> grade levels.	Minimum of 45 hours of acceptable CTLE focused on elementary level education.	Minimum of 3 semester hours of pedagogical coursework focused on elementary level education.	Grades 3-4
Grades 1-6	Minimum of 3 years teaching experience at 1 <sup>st</sup> and/or 2 <sup>nd</sup> grade levels.	Minimum of 45 hours of acceptable CTLE focused on early childhood education.	Minimum of 3 semester hours of pedagogical coursework focused on early childhood education.	PK-K
	Minimum of 3 years teaching experience at 5 <sup>th</sup> and/or 6 <sup>th</sup> grade levels.	Minimum of 45 hours of acceptable CTLE focused on middle level education.	Minimum of 3 semester hours of pedagogical coursework focused on middle level education.	Grades 7-8
Grades 7-12	Minimum of 3 years teaching experience at 7 <sup>th</sup> and/or 8 <sup>th</sup> grade levels.	Minimum of 45 hours of acceptable CTLE focused on middle level education.	Minimum of 3 semester hours of pedagogical coursework focused on middle level education.	Grades 5-6

For each of the proposed extension titles, a Students with Disabilities Generalist certificate holder must have a minimum of three years of teaching experience in either of the two grade levels closest to the grade levels of the extension, plus either 45 hours of acceptable Continuing Teacher and Leader Education (CTLE) or 3 semester hours of pedagogical coursework focused on the grade levels of the extension sought. Experience for this purpose shall be defined as at least 75% or more of the candidate's time is spent teaching students with disabilities in either of the two grade levels closest to the grade level extension during each of the three school years. For example, a teacher who currently holds a Students with Disabilities Generalist (Grades 1-6) certificate who has had a minimum of three years teaching experience at the 5<sup>th</sup> and/or 6<sup>th</sup> grade levels must complete either 45 hours of acceptable CTLE focused on middle level education or a 3 semester hour course focusing on middle level pedagogy to obtain a Students with Disabilities Generalist Extension in grades 7-8.

By extending the grade bands in which qualified teachers of students with disabilities may teach, the Department believes this will help to address the shortage of teachers of students with disabilities.

Following the 60-day public comment period, several comments were made on the proposed amendment. In response to those comments and other comments we received from the field, the Department made the following revisions to the proposed amendment:

- Allowing a candidate to submit satisfactory evidence of at least three years of teaching experience in public school districts of this State, State-supported or State-operated schools, private schools established under Chapter 853 of the Laws of 1976 or BOCES in either of the two grade levels closest to the grade level extension while holding a valid certificate to be considered for an extension.
- A new grades 10-12 extension for teachers holding a Student with Disabilities Generalist certificate in grades 5-9. To earn this extension for grades 10-12, candidates must have a minimum of three years teaching experience at 8<sup>th</sup> and/or 9<sup>th</sup> grade levels, complete at least 45 hours of acceptable CTLE or three semester hours of pedagogical coursework focused on adolescent level education, and at least 15 hours of acceptable CTLE or three semester hours in English Language Arts.

The Department does not believe any further revisions are needed based on the comment received during the 30-day public comment period on the revised rulemaking.

### **Related Regents Item(s)**

December 2017:

<https://www.regents.nysed.gov/common/regents/files/1217p12hed1.pdf>

April 2018: <http://www.regents.nysed.gov/common/regents/files/418p12hed1.pdf>

## **Recommendation**

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

VOTED: That Section 80-4.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective June 27, 2018.

## **Timetable for Implementation**

If adopted at the June 2018 meeting, the proposed amendment will become effective on June 27, 2018.

**Attachment A**

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 210, 215, 305, 3001, 3004 and 3009.

New subdivisions (o), (p), (q), (r) and (s) shall be added to Section 80-4.3 of the Regulations of the Commissioner of Education to read as follows:

(o) Requirements for a grade-level extension to teach students with disabilities (grades 3-4). The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (birth - grade 2);

(2) the candidate shall submit satisfactory evidence of at least three school years of teaching experience; provided that at least 75 percent of the candidate's time is spent teaching students with disabilities in grades 1 and/or 2 in public school districts of this State, State-supported or State-operated schools, private schools established under chapter 853 of the Laws of 1976 or BOCES while holding a valid certificate, during each of the three school years; and

(3) the candidate must either:

(i) provide satisfactory evidence of completion of at least 45 hours of acceptable continuing teacher and leader education focused on students with disabilities at the elementary level; or

(ii) the candidate shall complete a minimum of three semester hours of satisfactory pedagogical study or its equivalent, that is focused on students with disabilities at the elementary level.

(p) Requirements for a grade-level extension to teach students with disabilities in pre-kindergarten and kindergarten. The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (grades 1-6);

(2) the candidate shall submit satisfactory evidence of at least three years of teaching experience; provided that at least 75 percent of the candidate's time is spent teaching students with disabilities in grades 1 and/or 2 in public school districts of this State, State-supported or State-operated schools, private schools established under chapter 853 of the Laws of 1976 or BOCES, while holding a valid certificate, during each of the three school years; and

(3) the candidate must either:

(i) provide satisfactory evidence of completion of at least 45 hours of acceptable continuing teacher and leader education focused on students with disabilities at the early childhood level; or

(ii) the candidate shall complete a minimum of three semester hours of satisfactory pedagogical study or its equivalent, that is focused on students with disabilities at the early childhood level.

(q) Requirements for the extension to teach students with disabilities (grades 7-8). The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (grades 1-6);

(2) the candidate shall show satisfactory evidence of a minimum of three years of teaching experience; provided that at least 75 percent of the candidate's time is spent teaching students with disabilities in grades 5 and/or 6 in the public school districts of

this State, State-supported or State-operated schools, private schools established under chapter 853 of the Laws of 1976 or BOCES while holding a valid certificate, during each of the three school years; and

(3) either:

(i) provide satisfactory evidence of completion of at least 45 hours of acceptable continuing teacher and leader education focused on students with disabilities at the middle level; or

(ii) the candidate shall complete a minimum of three semester hours of satisfactory pedagogical study or its equivalent, that is focused on students with disabilities at the middle level.

(r) Requirements for a grade-level extension to teach students with disabilities (grades 5-6). The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (7-12 generalist);

(2) the candidate shall show satisfactory evidence of a minimum of three years of teaching experience; provided that at least 75 percent of the candidate's time is spent teaching students with disabilities in grades 7 and/or 8 in the public school districts of this State, State-supported or State-operated schools, private schools established under chapter 853 of the Laws of 1976 or BOCES while holding a valid certificate, during each of the three school years; and

(3) either:

(i) provide satisfactory evidence of completion of at least 45 hours of acceptable continuing teacher and leader education focused on students with disabilities at the middle level; or

(ii) the candidate shall complete a minimum of three semester hours of satisfactory pedagogical study or its equivalent, as determined by the Commissioner, that is focused on students with disabilities at the middle level.

(s) Requirements for a grade-level extension to teach students with disabilities in (grades 10-12). The candidate shall meet the requirements in each of the following paragraphs:

(1) the candidate shall hold a valid initial or professional certificate in students with disabilities (grades 5-9);

(2) the candidate shall submit satisfactory evidence of at least three school years of teaching experience; provided that at least 75 percent of the candidate's time is spent teaching students with disabilities in grades 8 and/or 9 in the public schools of this State, State-supported or State-operated schools, private schools established under chapter 853 of the Laws of 1976 or BOCES, while holding a valid certificate, during each of the three school years; and

(3) the candidate shall:

(i) provide satisfactory evidence of completion of at least 45 hours of acceptable continuing teacher and leader education or a minimum of three semester hours focused on students with disabilities at the adolescent level (grades 10-12); and

(ii) complete at least 15 hours of acceptable continuing teacher and leader education or a minimum of three semester hours focused on English language arts.

## **ASSESSMENT OF PUBLIC COMMENT**

Since publication of the Proposed Rule Making in the State Register on December 27, 2017, the State Education Department (SED) received several comments:

### **1. COMMENT:**

Multiple commenters raised concerns about the proposed amendment to authorize certain extensions to certain Students with Disabilities (SWD) certificates. The commenters explain that the “effort and complication” outweigh the benefits of the proposed new extensions, increases the complexity of the certification structure, and creates a burdensome workload, especially for the Office of Teaching Initiatives (OTI) staff that is already overburdened. One commenter explains that the objectives of the proposed amendment can be met with candidates using the supplementary certification that already exists. Another suggestion is to address the immediate need for SWD certified teachers is to amend the current “valid NYS certification” requirement to “valid SWD certification at the adjacent level.”

### **DEPARTMENT RESPONSE:**

The supplementary certificate is one option; however, in order to receive a supplementary certificate, a candidate must submit a statement from the superintendent, or from an individual in an equivalent title, that the employing entity seeks to employ the candidate in a title with a demonstrated shortage of certified teachers and that, as a condition of employment, the candidate must be enrolled in study at an institution of higher education leading to an initial or professional certificate in the certificate title sought. However, such a statement is not needed for the proposed amendment. Instead, the

candidate may receive the grade level extension by completing certain education and experience requirements outlined in the proposed amendment.

The suggestion to amend the “valid NYS certification” requirement to “valid SWD certification at the adjacent level” would allow SWD certified teachers to teach adjacent grades levels without being required to gain additional knowledge about the adjacent grade levels. Instead, the extension(s) in the proposed amendment require candidates to complete certain continuing teacher or leader education (CTLE) or college coursework in the area of the adjacent grade levels, giving teachers who hold the extension the expertise needed to work in the adjacent grade levels at the time they enter the classroom.

## 2. COMMENT:

One commenter wrote to advise the Department not to adopt the proposed amendment related to the proposed extension to certain Students with Disabilities (SWD) certificates. The commenter explains that this will add “undue complications and subjective assessment of qualifications” that do not properly assess whether a teacher is prepared to teach the specific developmental levels. In addition, the new extensions increase the complexity of an already complicated certification structure and burdens the OTI staff.

## DEPARTMENT RESPONSE:

Please see response to COMMENT #1 above. In addition, in response to the comment about the subjective assessment of qualifications, the Office of Teaching Initiatives (OTI) will work with the Office of Special Education (OSE) to assess the CTLE used to satisfy the requirements for the extension and ensure that any CTLE submitted is appropriate for the grade level extension sought.

### 3. COMMENT:

Multiple commenters raised concerns related to the proposed extension to certain Students with Disabilities (SWD) certificates.

(a) One concern is with the Pre-K-K extension for those with a SWD Grade 1-6 certificate. The concern is that the completion of CTLE to obtain this extension may not include specific pedagogy addressing competency in the SWD teaching certificate area. Also, while teachers must document completion of CTLE, there is not a specific requirement to document evidence of learning or performance, as opposed to the completion of a college course. The commenter believes that this option is not acceptable.

(b) Another concern relates to the option to take only one college course to acquire the extension. The commenter believes that a minimum of two courses would be needed in the specific pedagogical areas to gain the necessary experience.

### DEPARTMENT RESPONSE:

In response to the comments raised, the extensions are limited to two grade levels above or below the grade levels of the certificate held by the teacher. Based on the selected grade levels for the extension, at least three years of candidate's teaching experience must be in the grade levels close to the grade level of the extension sought, and the candidate must complete either one college level course or 45 hours of CTLE in the developmental level of the extension sought. If the candidate chooses the option of CTLE, the CTLE will be reviewed for content at the specific grade level extension sought. While there is no specific requirement to document evidence of learning or performance in CTLE, the candidate is also required to have three years of teaching experience within two grade levels of the grade levels of the extension sought. This teaching experience, coupled with CTLE or a college level course in the grade levels of

the certificate area sought, will provide the candidate with practical knowledge for working with students in the grade levels of the extension.

#### 4. COMMENT:

Several commenters raised concerns about the proposed amendment related to the proposed extension to certain Students with Disabilities (SWD) certificates. The comments assert that the proposal prioritizes add-on certification for special education over general education, does not provide quality assurance for credit hours or training, and eliminates the need for highly qualified teachers with specialized preparation to work with the youngest and most vulnerable population.

#### DEPARTMENT RESPONSE:

The purpose of the proposed amendment is not to “prioritize” one certification area over another, but to create a pathway for those individuals who have demonstrated the competency and skills needed to teach in an extended grade level through their prior experience and with some additional CTLE or coursework in the grade levels in which he/she is seeking an extension. Without a certified teacher, students with disabilities may be vulnerable to a teacher teaching outside of their certification, creating a situation with much less quality assurance related to their preparation.

Related to quality assurance, OTI will work with the OSE to assess the CTLE used to satisfy the requirements for the extension and ensure that the CTLE is appropriate for the grade level extension sought. Lastly, the Department believes that the teaching experience required in the proposal, coupled with CTLE or a college course, provides the candidate with practical knowledge for working with students in the grade levels of the extension that cannot be obtained with coursework alone.

## 5. COMMENT:

Several commenters raised the following concerns, including:

(a) The proposal is only a temporary fix and the commenters recommend a long-term solution to address the entire field serving students with disabilities.

(b) The commenters question whether there is a shortage in the students with disabilities field and whether this proposal will benefit the field. The commenter states that there are no figures that identify how this shortage is quantified in the field, the number of possible extension applications, or projections that estimate the number of anticipated certificate extensions.

(c) The commenters are concerned that the proposal will burden the Office of Teaching Initiatives (OTI) because the duties would be in addition to other administrative challenges such as certification registration that are already assigned to an overburdened office.

(d) The commenter is concerned about ensuring the rigor of the 45 hours of CTLE required and that the CLTE hours would need to be comparable and equivalent to the three semester hours of pedagogical coursework.

(e) Last, the commenter is concerned that the requirement of “at least 75 percent of the candidate’s time” teaching students in the grade levels of the extension sought is an “unwieldy standard” that will be difficult to determine. In addition, the commenter indicates that it will limit experience to New York State public schools instead of the broader definition referenced in section 80-1.1(b)(47) as simply school experience.

## DEPARTMENT RESPONSE:

In response to the comments above:

(a) While the proposal may be a temporary fix, the Department has been working with the field on developing long-term solutions to the issues facing those serving

Students with Disabilities. The Department agrees and will continue to explore options for a long-term solution to the shortage of special education teachers.

(b) Although the Department is unaware of “exact numbers,” the proposal is directly responding to concerns raised in the field, by those serving the target population, school administrators, and the public.

(c) The Board of Regents has determined these certificate extensions will support the students in our schools and therefor the Office of Teaching Initiatives is prepared to take on this additional workload.

(d) Please see response to COMMENT #4 above.

(e) Again, this is a standard that OTI will work with the OSE to assess whether a candidate has met the requirement for three years of experience. The regulation requires 75 percent of the time must be in the grades adjacent to the extension. This, combined with the CTLE or course credit, will provide the preparation needed to allow for the certificate holder to support student learning in the extension grade levels.

#### 6. COMMENT:

Several commenters raised concerns that 45 hours of CTLE is not sufficient to provide teachers with the knowledge and skills to teach a new age group, mainly because CTLE credits do not require individuals to demonstrate mastery of the knowledge and skills of the coursework. The commenters recommend not allowing CTLE credits to be used for granting the proposed extensions.

#### DEPARTMENT RESPONSE:

The Department agrees that CTLE alone would not be sufficient. However, the Department believes that CTLE plus three years of teaching in an adjacent grade level is sufficient to successfully prepare already certified teachers to teach a new developmental age group. In addition, OTI will work with the OSE to assess the CTLE

used to satisfy the requirements for the extension and ensure that the CTLE is appropriate for the grade level extension sought.

**7. COMMENT:**

One commenter raised concerns regarding the Students with Disabilities extension and the choice of requirements proposed. The commenter is concerned that there is no specific pedagogy directly linked to grade-level performance and noted that the required coursework should target human development in children and/or adolescents with special needs in the specific grade levels. The commenter also believes that behavior management should be included, with behavioral interventions as well.

**DEPARTMENT RESPONSE:**

Candidates seeking extensions already have a students with disabilities certificate. The majority of the pedagogical, human development, and behavioral management content related to grade levels in the extension would have been included in the educator preparation program coursework that leads to the students with disabilities certificate. Therefore, the Department does not believe that additional coursework in these areas is needed. In addition, OTI and OSE will work together to assess the CTLE used to satisfy the requirements for the extension and ensure that the CTLE is appropriate for the grade level extension sought.

**8. COMMENT:**

Several commenters raised the concern that teachers with a current students with disabilities certificate in grades 1-6 who receive the PreK-K extension will not be prepared to teach in this grade band with either CTLE or just one college course. The commenters assert that the first six years are the most important in intervention for students with disabilities. While the commenters recognize a teacher shortage, they

believe that allowing individuals to obtain certifications they are not qualified to hold is not the way to solve the problem.

**DEPARTMENT RESPONSE:**

The proposed amendment provides flexibility for teachers who are already certified teachers of students with disabilities to gain certification in a narrow adjacent grade levels in which they have had three years of similar teaching experience and have at least 45 additional CTLE hours or one college level course in the grade levels of the extension sought. The Department believes that these additional requirements provide teachers with the knowledge and skills necessary to teach in adjacent grade levels.

## **Attachment C**

### **ASSESSMENT OF PUBLIC COMMENT**

Since publication of the Revised Rule Making in the State Register on April 25, 2018, the State Education Department (SED) received several comments:

#### **1. COMMENT:**

Commenter is concerned that the proposed regulation excludes candidates employed in charter schools from being eligible to apply for an extension and would not count a candidate's satisfactory experience teaching special education in a charter school towards the extension requirements. Commenter states that charter schools should be properly interpreted as covered within the term "public school districts" in the proposed subdivisions articulating the teaching experience requirements. However, in commenter's experience with other sections of the Commissioner's Regulations, a failure to explicitly include charter schools in the text of the regulation causes needless confusion. Commenter suggests explicitly including charter schools in the categories of schools listed in the subdivisions where satisfactory teaching experience may count toward a grade-level extension request.

#### **DEPARTMENT RESPONSE:**

Charter schools are not included in the phrase "public school districts" and therefore are not included in the list of school settings in which teaching experience would be considered for the proposed extension.