



TO: The Honorable the Members of the Board of Regents

FROM: Angélica Infante-Green *A. Infante - Green*
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SUBJECT: Amendment to Subpart 80-3 and Section 80-4.3 of the Regulations of the Commissioner of Education Relating to the Creation of Limited Extensions for Teachers Holding a Students with Disabilities Generalist Certificate Who Teach a Special Class in Grades 7-12 and a Statement of Continued Eligibility for Teachers Holding a Students with Disabilities Generalist Certificate Who Teach a Special Class in Grades 7-12 and Were Previously Allowed to Teach in Another Content Area by School Districts Using the HOUSSE Rubric for Federal Aid Purposes under the No Child Left Behind Act

DATE: July 6, 2018

AUTHORIZATION(S):

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt the proposed amendment to Subpart 80-3 and §80-4.3 of the Commissioner's Regulations relating to the creation of limited extensions for teachers holding a students with disabilities generalist teaching certificate who teach a special class in grades 7-12 and a statement of continued eligibility for teachers holding a students with disabilities generalist teaching certificate who teach a special class in grades 7-12 and were previously allowed to teach in another content area by school districts using the High, Objective, Uniform State Standard of Evaluation (HOUSSE) Rubric under the No Child Left Behind Act?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

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

Procedural History

A Notice of Proposed Rule Making was published in the State Register on April 25, 2018. Supporting materials are available upon request from the Secretary to the Board of Regents. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received comments on the proposed amendment (Assessment of Public Comment is included as Attachment C).

Background Information

The Every Student Succeeds Act (ESSA) eliminated the No Child Left Behind (NCLB) Act of 2001 requirement that teachers be “Highly Qualified” in the area of their teaching assignment in order for local educational agencies (LEA) to receive certain federal aid. However, the Department is still required to ensure that educators in LEAs receiving federal funding fulfill state certification requirements.

NCLB required local educational agencies to provide a teacher of core academic subjects who is not new to the profession the opportunity to meet the NCLB requirement to be Highly Qualified, in part, through passing a “High, Objective, Uniform State Standard of Evaluation” (HOUSSE). The Department developed a HOUSSE rubric (see Attachment A) for practicing teachers in New York State that listed different ways in which teachers could demonstrate Highly Qualified status in the area of their teaching assignment. Compliance with the HOUSSE requirements did not lead to teacher certification; it only led to Highly Qualified status for federal aid purposes.

The Department has become aware that some school districts have been using the HOUSSE rubric to ensure that teachers of students with disabilities in grades 7-12 who teach special classes comprised of students with disabilities can teach at least one subject area in these special classes (e.g., English Language Arts (ELA), mathematics, science, and/or social studies) so that separate content teachers are not needed for each subject area. The Department also recognizes that there is a shortage of teachers of students with disabilities in grades 7-12 who also hold the subject area certificates needed to teach the core subject areas of ELA, mathematics, science, and/or social studies in special classes.

Providing pathways to subject area certification for teachers of students with disabilities in grades 7-12 who are assigned to teach special classes, but do not hold the appropriate subject area certificates, would both help to address this shortage and ensure that these teachers know the content that they are teaching.

Proposed Amendment

New York State holds high standards for public school teachers by requiring them to be certified in the area of their teaching assignment. The Department is proposing the following options for teachers who hold the students with disabilities generalist in grades 7-12 certificate and are assigned to teach special classes, but do not hold the appropriate subject area certificate(s):

- Option 1. The statement of continued eligibility (SOCE) would be available in the areas of biology, chemistry, earth science, ELA, mathematics, physics, and social studies. Teachers who hold a students with disabilities generalist certificate in grades 7-12 have been assigned to teach a special class, and have at least three years of satisfactory full-time teaching experience in grades 7-12 on or before July 1, 2019, during which time they were considered Highly Qualified by a school district in one or more subject areas through the HOUSSE rubric, would be certified in those subject area(s) through the SOCE. To receive the SOCE in one or more subject areas, teachers must complete the required teaching experience prior to July 1, 2019.
- Option 2. The limited extension would be available for teachers who hold a students with disabilities generalist certificate in grades 7-12 who have been assigned to teach a special class, but do not qualify for the SOCE. The limited extension would enable these teachers to become certified for a limited time in one or more specific subject areas while they complete the additional coursework (up to 18 semester hours) required for certification in the subject areas of biology, chemistry, earth science, ELA, mathematics, physics, and social studies.

Nothing in this proposed regulation amendment should be interpreted to change the placement of students with special needs into integrated classrooms.

Limited Extension

Given the expectations and backgrounds of teachers of students with disabilities in grades 7-12 who teach a special class, the limited extension in a specific subject area would be valid for five years and may be renewed once for an additional five years if the teachers complete at least three semester hours of coursework in the subject area of the limited extension. This ten-year time period gives teachers flexibility to complete the coursework requirements for multiple subject area certificate extensions.

Teachers of students with disabilities in grades 7-12 who teach a special class could gain a limited extension in a subject by demonstrating their content knowledge through one of the following requirements:

- having at least two years of satisfactory full-time teaching experience with students with disabilities in grades 7-12 during which time they hold a valid Initial or Professional certificate in the classroom teaching service in students with disabilities generalist (grades 7-12) and who were previously considered Highly Qualified by a district in the subject area using the HOUSSE rubric for NCLB purposes prior to July 1, 2019; or
- passing the New York State Teacher Certification Examination Content Specialty Test in the subject area; or

- passing an industry accepted exam in the subject area; or
- completing at least 9 semester hours of coursework in the subject area, including any coursework completed during a teacher preparation program; or
- completing at least 45 hours of acceptable Continuing Teacher and Leader Education (CTLE) in the subject area and either: 1) having at least two years of satisfactory full-time teaching experience with students with disabilities in grades 7-12 in the subject area, or 2) being mentored for at least one year by a teacher in the school or school district who holds a professional or permanent certificate in the subject area.

Certification

Teachers who hold a students with disabilities generalist certificate in grades 7-12 who teach a special class are likely to teach multiple subject areas. They typically already possess one subject area certificate based on the completion of their preparation program and often have earned at least 6 semester hours in each subject area during their preparation program. This leaves them needing an additional 12 semester hours of coursework to earn the total 18 semester hours required for certification in each additional subject area.

Related Regents Items

December 2004

<http://www.regents.nysed.gov/common/regents/files/documents/meetings/2004Meetings/December2004/1204heppca6.htm>

April 2018

<http://www.regents.nysed.gov/common/regents/files/418p12hed2revised.pdf>

Recommendation

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

VOTED: That Subpart 80-3 and §80-4.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective August 2, 2018.

Timetable for Implementation

If adopted at the July 2018 meeting, the proposed amendment will become effective on August 2, 2018.

NEW YORK STATE HOUSSE RUBRIC - Part 1 – ELEMENTARY ASSIGNMENTS

This rubric is for teachers with **ELEMENTARY ASSIGNMENTS**, defined as classes in grades K-6 in common branch subjects; “special classes” for students with disabilities in grades K-6 or the age equivalent; and “special classes” for students with disabilities of any grade or age who all qualify for the New York State Alternate Assessment (NYSAA).

- Teachers of the above classes who are beyond the first year of their first certification and who have not passed **both** the New York State Teacher Certification Examination (NYSTCE) Liberal Arts and Sciences Test (LAST) **and** the NYSTCE Assessment of Teaching Skills – Written (ATS-W) -- or comparable tests accepted by SED when they were certified -- may demonstrate their subject matter competency and teaching skills using a “high objective uniform State standard of evaluation” (HOUSSE).
- To use the HOUSSE to demonstrate subject matter competency and teaching skills, teachers described above must earn at least 100 points as part of either (1) a pre-employment review or (2) an Annual Professional Performance Review conducted after August 1, 2003. Points may be earned on every line below.

Please refer to Part 3 for definitions.

#	EDUCATION AND CREDENTIALS	POINTS EARNED
1	Successful completion of (a) a bachelor’s degree program with a general education component or (b) the Liberal Arts and Sciences Test (LAST). <i>(30 points)</i>	
2	Successful completion of a State-approved program leading to a common branch or special education certificate <u>or</u> successful completion of a State transcript review or individual evaluation leading to a common branch or special education certificate <u>or</u> possession of an extension to teach common branch classes on a 7–12 subject matter certificate. <i>(30 points)</i>	
3	Successful completion of a State-approved graduate program or 30 graduate credits in elementary education, special education, reading, math or other common branch subjects <i>(30 points)</i> or graduate credit in those subjects <i>(20 points for every 3 graduate credits)</i> .	
4	Certification by the National Board of Professional Teaching Standards in elementary education or special education. <i>(100 points)</i>	
PROFESSIONAL EXPERIENCE AND DEVELOPMENT		
5	Teaching experience in common branch or special education classes. <i>(Up to 50 points, 10 points per year, 15 points per year after school year 1998-1999)</i>	
6	Successful completion of professional development, pursuant to an employer’s professional development plan, that is aligned with the Regents learning standards. <i>(10 points for every 5 contact hours)</i>	
7	Supervision of a student teacher in a State-approved program leading to elementary or special education certification. <i>(30 points)</i>	
8	Professional service in elementary or special education. <i>(Up to 50 points, 10 points for each instance of professional service)</i> .	
9	A formal review of subject knowledge and teaching skills. <i>(50 points)</i>	
	TOTAL POINTS	
	Revised March 2006	

NEW YORK STATE HOUSSE RUBRIC - Part 2 – MIDDLE/SECONDARY ASSIGNMENTS

This rubric is for teachers with MIDDLE/SECONDARY ASSIGNMENTS, defined as classes in grades 7-12 in core academic subjects; classes in grades K-12 in the arts, languages other than English and reading; and “special classes” in core academic subjects for students with disabilities in grades 7-12 or the age equivalent.

- Teachers of the above classes who are beyond the first year of their first certification (or permitted to use IDEA flexibility) and who have not demonstrated their subject matter competency for each core academic subject they teach in one of the ways permitted by the NCLB may demonstrate their subject matter competency using a “high objective uniform State standard of evaluation” (HOUSSE). The other ways that teachers may demonstrate their competency in a core academic subject are: (1) passing a NYSTCE Content Specialty Test (CST) in the subjects or a comparable test accepted by SED when they were certified; (2) completing an undergraduate major in the subjects; (3) completing coursework equivalent to a major (30 credits) in the subjects; (4) completing a graduate degree in the subjects; or (5) having a NYS permanent or professional certificate in the subjects.
- To use the HOUSSE to demonstrate subject matter competency in each core academic subject they teach, teachers described above must earn at least 100 points using this checklist as part of either (1) a pre-employment review or (2) an Annual Professional Performance Review conducted after August 1, 2003. Points may be earned on every line below.

Please refer to Part 3 for definitions.

#	EDUCATION AND CREDENTIALS	POINTS EARNED
1	Successful completion of (a) a bachelor’s degree program with a general education component or (b) the Liberal Arts and Sciences Test (LAST) (30 points)	
2	Successful completion of a State-approved program leading to a certificate in the subject or a State transcript review or individual evaluation leading to a certificate in the subject (30 points)	
3	Successful completion of college courses in the subject (20 points for every 3 undergraduate credits and 30 points for every 3 graduate credits)	
4	Licensure in a recognized profession that is related to the subject. (100 points)	
5	Passing a federal or industry-standard exam in an occupational field related to the subject. (100 points)	
6	Certification in the subject by the National Board of Professional Teaching Standards. (100 points)	
PROFESSIONAL EXPERIENCE AND DEVELOPMENT		
7	Teaching experience in the subject in grades 7-12, including specially designed instruction deemed equivalent to the general education curriculum in grades 7-12. (Up to 50 points, 10 points per year, 15 points per year after school year 1998-1999)	
8	Successful completion of professional development in the subject, pursuant to an employer’s professional development plan, that is aligned with the Regents learning standards. (Up to 50 points; 10 points for every 5 contact hours)	
9	Supervision of a student teacher in a State-approved program leading to certification in the subject or to certification in special education in a setting in which specially designed instruction deemed to be equivalent to the general education curriculum in grades 7 through 12 is provided. (30 points)	
10	Professional service related to the subject. (Up to 50 points, 10 points for each instance of professional service.)	
11	Formal review of subject knowledge. (50 points)	
12	ONLY FOR TEACHERS OF MULTIPLE CORE ACADEMIC SUBJECTS WHO ARE “HIGHLY QUALIFIED” IN AT LEAST ONE CORE ACADEMIC SUBJECT. Mentoring or a program of intensive support that consists of structured guidance and regular, ongoing support in the subject from another teacher who is “highly qualified” in the subject. (Up to 60 points, 20 points per year)	
	TOTAL POINTS	
	Revised March 2006	

NEW YORK STATE HOUSSE RUBRIC - Part 3 - Definitions

TEACHING EXPERIENCE must be as a teacher, not a teaching assistant.

FORMAL REVIEW

A formal review must be based on coherent, objective information about a teacher's subject matter competency in a subject. Reviews must cover at least one of the following:

- Instructional goals, objectives and plans
- Instructional delivery
- Student achievement
- Self-assessment

Formal reviews should be conducted in accordance with local collective bargaining agreements, where applicable, but such agreements need not include such reviews.

GENERAL EDUCATION COMPONENT

The general education component of undergraduate programs is the coursework in the liberal arts and sciences that must be part of every State-approved bachelor's degree program in New York State under section 3.47 of the Commissioner's Regulations. For example, the liberal arts and sciences must be three-quarters of the work in Bachelor of Arts programs; one-half the work in Bachelor of Science programs; and one-quarter of the work in specialized bachelor's degree programs such as architecture.

PRE-EMPLOYMENT REVIEW

Candidates for teaching positions who are beyond their first year of certification may, with the agreement of their prospective employers, use the HOUSSE to demonstrate subject matter competency for all subjects they would be assigned to teach if they were hired.

PROFESSIONAL SERVICE

Examples of instances of professional service that would demonstrate a teacher's subject matter competency, and be counted as 10 points for each example, include:

- Providing district-approved professional development about the core subjects
- Providing mentoring to another teacher of the core subjects
- Giving presentations at professional meetings about the core subjects
- Developing curriculum in the core subjects
- Publishing in professional publications (journals, chapters, books) about the core subjects
- In the case of special education teachers:
 - Providing consultation services to general education teachers about teaching the general curriculum to students with disabilities
 - Providing special education services to students with disabilities in core academic subject areas
 - Providing services to nondisabled students in general education classes under the "incidental benefits" provisions of the IDEA
 - Providing supplemental instruction to students with disabilities related to a core subject area

Other comparable services may also be used.

Service can address either (1) the core academic subject itself or (2) strategies for teaching the core academic subject.

RECOGNIZED PROFESSIONS OR FEDERAL OR INDUSTRY-STANDARD EXAMS

IN AN OCCUPATIONAL FIELD RELATED TO THE SUBJECT

Career and Technical Education teachers would be most likely to use this type of information. LEAs and BOCES may use their best judgment to decide whether professional licensure and occupational exams are related to core academic subjects. See <http://www.op.nysed.gov/> for a list of professions licensed by the Board of Regents.

Revised March 2006

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. A new section 80-3.15 shall be added to the Regulations of the Commissioner of Education to read as follows:

§80-3.15 Statement of continued eligibility for teachers of students with disabilities who teach a special class in grades 7-12.

(a) Upon application, a person who meets the requirements of this section and is employed in a public school or other school for which teacher certification is required to teach a special class, as defined in section 200.1(uu) of this Title, may be issued a statement of continued eligibility pursuant to which such person may teach one or more of the following subject areas in a special class without a teaching certificate in these areas as is required under this Part: biology, chemistry, earth science, English Language Arts, mathematics, physics, and social studies; provided that such person holds a valid initial or professional certificate in the classroom teaching service in students with disabilities generalist (grades 7-12) and meets the requirements of this section for each subject area for which the person is seeking a statement of continued eligibility.

(b) A statement of continued eligibility must be obtained for each subject area the teacher seeks to teach without certification in the special class.

(c) The statement of continued eligibility shall be valid for service in any district and shall be continuously valid provided that the person holds a valid initial or

professional certificate in students with disabilities generalist (grades 7-12) and is teaching in a special class, as defined in section 200.1(uu) of this Title.

(d) Applications for the statement of continued eligibility shall be submitted to the Department, on a form prescribed by the Commissioner, on or before July 1, 2019 and candidates must meet the requirements in the following subparagraph to be issued a statement of continued eligibility for each subject area in which the statement of continued eligibility is sought prior to July 1, 2019:

(1) As part of the application, the candidate shall submit satisfactory evidence of at least three years of satisfactory full-time teaching experience prior to July 1, 2019, during which time the candidate met the qualifications to be considered highly qualified for a core academic subject for purposes of the No Child Left Behind Act (NCLB) under the former 34 C.F.R. 200.56 through passing the high objective uniform State standard of evaluation rubric (HOUSSE) to demonstrate subject matter competency in grades 7-12 in the subject area in which the statement of continued eligibility sought. The candidate shall submit, as part of the application, the completed HOUSSE rubric from the district(s) for each year of experience for each subject area that the candidate seeks a statement of continued eligibility.

2. A new subdivision (t) shall be added to Section 80-4.3 of the Regulations of the Commissioner of Education to read as follows:

(t) Requirements for the issuance of a limited extension to teach a specific subject in a special class in grades 7-12.

(1) Purpose. The purpose of limited extensions issued under this subdivision is to authorize a teacher who holds a valid initial or professional certificate in the classroom

teaching service in students with disabilities generalist (grades 7-12) to teach one of the following subject areas in a special class as defined in section 200.1(uu) of this Title: biology, chemistry, earth science, English Language Arts, mathematics, physics, and social studies.

(2) Limitations. A limited extension in a specific subject area issued under this subdivision shall be valid for five years from its effective date and may be renewed once for an additional five years if the candidate has completed at least three semester hours of coursework in the subject area of the limited extension sought prior to the expiration date of the first issuance of the limited extension. Candidates may apply for multiple limited extension(s) in different subject area(s).

(3) Requirements for a limited extension. A limited extension may be issued to a candidate in a specific subject area provided that the candidate holds a valid initial or professional certificate in the classroom teaching service in students with disabilities generalist (grades 7-12) and meets the requirements in one of the following subparagraphs:

(i) The candidate shall submit evidence of having at least two years of satisfactory full-time teaching experience in a public school, State-supported or State-operated school, or private schools established under 853 of the Laws of 1976 prior to July 1, 2019 during which time the candidate met the qualifications to be considered highly qualified for a core academic subject for purposes of the No Child Left Behind Act under the former 34 C.F.R. 200.56 through passing the high, objective, uniform State standard of evaluation rubric (HOUSSE) to demonstrate subject matter competency in grades 7-12 in the subject area for which the limited extension was sought. The candidate shall submit, as part of the application, the completed HOUSSE rubric from

the district(s) for each year of experience for each subject area that the candidate seeks a limited extension.

(ii) Submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test in the subject area in which the limited extension is sought.

(iii) Receive a satisfactory passing score on an industry accepted examination that demonstrates mastery in the subject area for which the limited extension is sought or in a closely related area that is approved by the department through a request for qualifications process.

(iv) Complete at least nine semester hours of coursework in the subject area in which the limited extension is sought.

(v) Provide satisfactory evidence of completion of at least 45 hours of acceptable continuing teacher and leader education focused in the subject area in which the limited extension is sought and provide satisfactory evidence of either (a) or (b):

(a) at least two years of satisfactory teaching experience in grades 7-12 in the subject area in which the limited extension is sought or in a closely related subject area acceptable to the department; or

(b) an employment and support commitment from a public school district or a State-supported or State-operated school or private school established under 853 of the Laws of 1976 for the teacher to be employed in a special class as defined in section 200.1(uu) for the period of the limited extension that shall include a plan from the school or school district for mentoring and appropriate instructional support from a teacher in the school or school district who holds a professional or permanent certificate and is certified in the subject area in which the limited extension is sought. Mentoring shall

include regular, ongoing collaboration between the teachers and types of mentoring activities may include, but are not limited to, modeling instruction, observing instruction, instructional co-planning, peer coaching, and team coaching.

Attachment C

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on April 25, 2018, the State Education Department (SED) received the following comments on the proposed amendment. Below is an assessment of the public comments received.

1. COMMENT:

Commenter asked if teachers who hold a K-12 Special Education certificate issued prior to February 2, 2004 are able to teach in a special class as “Highly Qualified” or if they would have to go through the process outlined in the Department’s proposal. Commenter noted that the proposal only refers to teachers who hold a Students with Disabilities (Grades 7-12) Generalist certificate.

DEPARTMENT RESPONSE:

Since the Department’s proposal only applies to teachers who hold a Students with Disabilities (Grades 7-12) Generalist certificate and teach a special class, the proposal would not apply to teachers who hold a K-12 Special Education certificate issued prior to February 2, 2004.

2. COMMENT:

Commenter indicated that a Permanent certificate should be listed along with a Professional certificate as a type of certificate that will satisfy one of the requirements in the proposed SOCE and limited extensions. Commenter also pointed out that a school district may not have completed a HOUSSE rubric each year. Commenter indicated that

the school district would be able to provide a copy of the initial completed rubric with a letter validating the years worked or the continuance of a teacher who may have performed the duties for multiple years if it would satisfy this requirement in the proposed regulation amendment.

DEPARTMENT RESPONSE:

The Department's proposal only applies to teachers who hold a Students with Disabilities (Grades 7-12) Generalist Initial or Professional certificate and teach a special class. The Permanent certificate is not an option for the Students with Disabilities (Grades 7-12) Generalist certificate title, so this type of certificate is not listed in the proposed regulation amendment.

School districts that did not complete the HOUSSE rubric for every year of satisfactory full-time teaching experience during which time the candidate met the qualifications to be considered highly qualified for a core academic subject for purposes of the No Child Left Behind Act will need to complete the HOUSSE rubric for the missing years according to the proposed regulation amendment.

3. COMMENT:

Commenter stated that rural schools are having great difficulty finding special education teachers with secondary certification and recommends changing the special education certification back to a K-12 certification. Commenter also suggests that school districts should not need a waiver nor should the Department require teachers who hold a grades 7-12 content certificate to obtain a certificate extension to teach grade 6 content in their content area. Commenter writes that a better understanding of the issues that the small, rural school districts are having as a result of teacher certification is needed.

DEPARTMENT RESPONSE:

No response is necessary because the recommendations are not related to the Department's proposal regarding the creation of an SOCE and limited extensions for teachers who hold a Students with Disabilities (Grades 7-12) Generalist certificate and teach a special class. However, the Department will take the commenter's suggestion into consideration for possible future regulatory amendments.

4. COMMENT:

Commenter strongly supports efforts by the Board of Regents and State Education Department staff to provide greater flexibility in the assignment of certified special education teachers who are currently limited by grade range and/or subject area specialization in their certification title. Commenter supports the proposals to create limited extensions and a Statement of Continued Eligibility (SOCE) for teachers who hold a Students with Disabilities (Grades 7-12) Generalist certificate and teach a special class. Commenter recommends extending the proposed SOCE and limited extensions to include teachers who hold Students with Disabilities (7-12) certification with a subject area designation and Special Education (PreK-12) certification. Commenter also suggests making the proposed SOCE and limited extensions available to teachers who hold Students with Disabilities (5-9) Generalist certification and Students with Disabilities (5-9) certification with a subject area designation so they could be assigned to teach specific subject areas within the 5-9 grade range. Due to the time-limited nature of the proposed limited extension requiring teachers to ultimately obtain a subject area extension, commenter believes the requirements for the subject area extension should be revisited as the required eighteen semester hours of study in the subject area will continue to be a barrier for many future applicants.

DEPARTMENT RESPONSE:

No response is necessary because the comments are supportive. The Department will take the commenter's suggestions into consideration for possible future regulatory amendments.