



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

**FROM:** James N. Baldwin 

**SUBJECT:** Proposed Amendment of Sections 52.21, 57-3.1, 57-3.7, 80-1.2, 80-1.5, 80-1.12, 80-3.2, 80-3.7, 80-4.3, 80-4.4, and 200.20 of the Regulations of the Commissioner of Education Relating to Establishing the Students with Disabilities (All Grades) Certificate, Revising the Registration Requirements for Students with Disabilities (Birth-Grade 2) Programs, and Revising the Requirements for the Extension and Limited Extension to Teach Certain Subjects to Students with Disabilities

**DATE:** September 1, 2022

**AUTHORIZATION(S):** 

**SUMMARY**

**Issue for Decision (Consent)**

Should the Board of Regents adopt the proposed amendment of sections 52.21, 57-3.1, 57-3.7, 80-1.2, 80-1.5, 80-1.12, 80-3.2, 80-3.7, 80-4.3, 80-4.4, and 200.20 of the Regulations of the Commissioner of Education relating to establishing the Students with Disabilities (All Grades) certificate, revising the registration requirements for Students with Disabilities (Birth-Grade 2) programs, and revising the requirements for the extension and limited extension to teach certain subjects to students with disabilities?

**Reason(s) for Consideration**

Review of policy.

**Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at its September 2022 meeting. A copy of the proposed amendment is attached (Attachment A).

## **Procedural History**

The proposed amendment was presented at a joint meeting of the Higher Education and P-12 Education Committees for discussion at its May 2022 meeting. A Notice of Proposed Rule Making was published in the State Register on June 1, 2022, for a 60-day public comment period. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received more than 180 comments on the proposed amendment. An Assessment of Public Comment is included (Attachment B). No changes to the proposed amendment are recommended at this time. A Notice of Adoption will be published in the State Register on September 28, 2022. Supporting materials are available upon request from the Secretary to the Board of Regents.

## **Background Information**

The Students with Disabilities (SWD) teaching certificates are currently available at the following developmental levels: Birth-Grade 2, Grades 1-6, Grades 5-9, and Grades 7-12. However, the SWD (Grades 5-9) certificate is only available as an Emergency COVID-19 certificate, Professional certificate, or a reissuance of an Initial certificate since programs leading to this certificate title have not been registered with the Department on or after September 2, 2011.

The Department collects data on statewide teacher shortage areas and reports the shortage areas annually to the [U.S. Department of Education](#). Special education is one of the persistent statewide shortage areas. To address the shortage of certified special education teachers, the Department is proposing regulatory amendments to establish the Students with Disabilities (All Grades) certificate. This certificate will permit special education teachers to teach pre-Kindergarten through grade 12 and will give school districts the flexibility to place special education teachers in the grade levels with the highest staffing needs.

The Department also proposes to phase out the SWD (Grades 1-6) and SWD (Grades 7-12) certificate titles, other than for the Professional certificate or a reissuance of an Initial certificate, and registered programs leading to these certificate titles since the proposed SWD (All Grades) certificate will include the development levels of these certificates. The SWD (Birth-Grade 2) certificate and registered programs leading to this certificate would continue to be available and would not be phased out. Individuals who hold this certificate work with children from birth through grade 2, including ages 0-2 years that are not part of the grade range of the proposed SWD (All Grades) certificate. Both the SWD (Birth-Grade 2) and proposed SWD (All Grades) certificates would allow certificate holders to teach pre-Kindergarten through grade 2.

## **Proposed Amendments:**

### Registered Students with Disabilities (All Grades) Programs:

The Department proposes to amend section 52.21 of the Commissioner's regulations to create registration requirements for programs leading to the Initial and/or Professional SWD (All Grades) certificates. The Department would no longer register new programs leading to the current SWD (Grades 1-6) and SWD (Grades 7-12) certificates on or after October 1, 2022, and would begin registering SWD (All Grades) programs on the effective date of the proposed amendment.

For institutions that currently have registered SWD (Grades 1-6) and SWD (Grades 7-12) programs, the programs would no longer be registered with the Department on or after September 1, 2029. The deadline of September 1, 2029, provides a sufficient transition period for institutions to register SWD (All Grades) programs and allows candidates to complete their current students with disabilities programs.

All registered teacher preparation programs leading to initial certification include a content core and a pedagogical core. The content core requirement for registered programs leading to the proposed SWD (All Grades) certificate is the same as the content core requirement for programs leading to the current SWD (Grades 7-12) certificate. Specifically, programs would require candidates to complete a major, concentration, or the equivalent, in one or more of the liberal arts and sciences. They would also complete a minimum of six semester hours in each of the subject areas of mathematics, English language arts, social studies, and science (a total of 24 semester hours) and have sufficient pedagogical skills to teach these subject areas.

The pedagogical core requirements for registered programs leading to the proposed SWD (All Grades) certificate would focus on developing the same comprehensive knowledge, understanding, and skills for teaching students with disabilities in current SWD programs, but cover the broader student developmental level of the certificate (pre-Kindergarten to grade 12) and include teaching students with disabilities who are culturally and linguistically diverse.

Candidates who begin a proposed SWD (All Grades) program prior to the fall 2023 semester would complete field experiences and student teaching experiences across the age/grade range of the student developmental level of the certificate, and if they are in a program with at least two student teaching experiences, would student teach in two settings: pre-kindergarten through grade 6 and grades 7 through 12. For candidates who begin in the fall 2023 semester and thereafter, the program would require a combination of clinical experiences across the age/grade range of the student developmental level of the certificate, including pre-kindergarten through grade 6 and grades 7 through 12.

## Students with Disabilities (All Grades) Certificate:

The Department proposes to amend section 80-3.2 of the Commissioner's regulations to add the Students with Disabilities (All Grades) certificate to the list of certificate titles in the classroom teaching service, allowing candidates to be issued such certificate on the effective date of the proposed amendment.

The proposed amendment to section 80-1.2 of the Commissioner's regulations provides that the Department will not issue certificates in the SWD (Grades 1-6) and SWD (Grades 7-12) certificate titles, other than for the Professional certificate and reissuance of an Initial certificate, with an effective date that begins after September 1, 2030.

In addition, the Department may extend the effective date of such certificates after September 1, 2030, pursuant to the time extension requirements for certificates in section 80-1.6 of the Commissioner's regulations. The Professional certificate and reissuance of an Initial certificate in these certificate titles will continue to be issued, holding harmless candidates who have a valid or expired Initial SWD (Grades 1-6) and/or SWD (Grades 7-12) certificate.

The Department also proposes to amend section 80-3.7 of the Commissioner's regulations to allow candidates to apply for a SWD (All Grades) certificate through the individual evaluation pathway on the effective date of the proposed amendment. Candidates will continue to be able to apply for the SWD (Grades 1-6) and/or SWD (Grades 7-12) certificates through the individual evaluation pathway prior to September 1, 2023, and will be eligible for such certificates, provided that they meet all requirement(s) for the certificate prior to September 1, 2026. This timeline provides candidates with at least one year to apply and qualify for these current certificates through the individual evaluation pathway.

The content core requirement for the proposed SWD (All Grades) certificate is the same as the content core requirement for the SWD (Grades 7-12) certificate in the individual pathway to certification. Specifically, candidates would complete 30 semester hours of coursework in one or more of the liberal arts and sciences and six semester hours in each of the subject areas of mathematics, science, social studies, and English language arts within such content core.

The pedagogical coursework requirement for the proposed SWD (All Grades) certificate is the same as the pedagogical coursework requirements for the current SWD certificates in the individual evaluation pathway, except that six semester hours of coursework at a specified developmental level will no longer be required.

One of the exams required for the current SWD certificates is a multi-subject Content Specialty Test that assesses knowledge and skills in literacy and English language arts, mathematics, and arts and sciences. The multi-subject tests are tailored to the age/grade range of the current SWD certificates (e.g., Multi-subject: Secondary

Teachers (Grade 7-Grade 12)), and candidates must pass the multi-subject test at the age/grade range of the certificate sought.

Since a multi-subject test that spans all grades currently does not exist, the Department proposes to amend section 80-1.5 of the Commissioner's regulations to require candidates to pass any one of the following tests for the proposed SWD (All Grades) certificate until a multi-subject content specialty test for such certificate title is developed and available: Multi-Subject, Multi-subject: Teachers of Childhood (Grade 1-Grade 6), Multi-subject: Teachers of Middle Childhood (Grade 5-Grade 9), or Multi-subject: Secondary Teachers (Grade 7-Grade 12) content specialty tests. Having options for the multi-subject test allows the proposed certificate to be accessible to candidates who passed one of these multi-subject tests for their current certificate or will graduate from a SWD (Grades 1-6) and SWD (Grades 7-12) program in the future.

Extensions:

Currently, institutions may register a program leading to an extension for the SWD (Grades 7-12) certificate that authorizes candidates to teach students with disabilities in certain subjects in grades 7-12. In addition, teachers who hold a SWD (Grades 5-9) or SWD (Grades 7-12) generalist or content specialist certificate, or a Permanent Special Education certificate, may obtain an extension to teach students with disabilities in certain subjects in grades 5-9 or grades 7-12. With this extension, special education teachers can teach a special class in a subject area in the grade level of the extension.

The Department proposes to amend section 52.21 of the Commissioner's regulations to allow SWD (All Grades) programs to lead to such extension and to reduce the number of semester hours required in the subject area of the extension from 18 to 12. Similarly, the proposal amends section 80-4.3(n) of the Commissioner's regulations to enable teachers who hold the SWD (All Grades) certificate to be eligible for such extension. In addition, the current extension requirements of 18 semester hours in the subject area of the extension *and* passing the content specialty test in the subject area of the extension would be replaced with 12 semester hours in the subject area of the extension *or* passing the content specialty test in the subject area of the extension.

Reducing the number of semester hours required in the subject area of the extension will permit candidates who are enrolled in the current SWD (Grades 7-12) program or proposed SWD (All Grades) program to efficiently complete the extension program, likely resulting in more candidates seeking the extension. This will address the need for more special education teachers who are qualified to teach a special class in a subject area in grades 7-12. Further, permitting eligible special education teachers to obtain the extension by passing the content specialty test in the subject area of the extension, instead of requiring such eligible teachers to complete coursework, gives them an option for demonstrating their content knowledge while removing a potential financial barrier to certification.

The limited extension also enables teachers who hold a SWD (Grades 5-9) or SWD (Grades 7-12) generalist or content specialist certificate, or a Permanent Special Education certificate, to teach students with disabilities in certain subjects in grades 7-12, for a limited period of time. One of the options for obtaining the limited extension is to pass the content specialty test in the subject area of the limited extension. The Department proposes to amend section 80-4.3(t) of the Commissioner's regulations to remove this option for obtaining the limited extension because passing the content specialty test in the subject area will become an option for the extension to teach students with disabilities in certain subjects in grades 5-9 or grades 7-12, as described above. In addition, the proposed amendment will allow teachers who hold the SWD (All Grades) certificate to be eligible for the limited extension.

### **Additional Amendments:**

Since SWD (Birth-Grade 2) programs would continue, the proposed amendment revises this program's pedagogical core requirement such that these programs will focus on developing comprehensive knowledge, understanding, and skills for teaching students with disabilities, including students with disabilities who are culturally and linguistically diverse. The addition of "students with disabilities who are culturally and linguistically diverse" is consistent with the proposed pedagogical core requirement for the SWD (All Grades) program. SWD (Birth-Grade 2) programs would need to include this new requirement by September 1, 2024, or at the time a new program is registered, whichever occurs first.

Additionally, the proposed amendment removes regulations relating to programs leading to teaching students with disabilities in middle childhood and the individual evaluation pathway for SWD (Grades 5-9) certification since these options no longer exist. The proposed amendment also adds the SWD (All Grades) certificate, or programs leading to this certificate, to regulations that list one or more special education certificates or programs in sections 52.21, 57-3.1, 57-3.7, 80-1.12, 80-4.4, and 200.20 of the Commissioner's regulations, as appropriate.

Finally, the proposed amendment includes technical revisions to internal citations to align the proposed amendment with the proposed Literacy (All Grades) certificate amendment, which was proposed at the February 2022 Regents meeting<sup>1</sup> as an addition to section 80-3.7(a)(2) of the Commissioner's regulations.

### **Related Regents Items**

May 2022: [Proposed Amendment of Sections 52.21, 57-3.1, 57-3.7, 80- 1.2, 80-1.5, 80-1.12, 80-3.2, 80-3.7, 80-4.3, 80-4.4, and 200.20 of the Regulations of the Commissioner of Education Relating to Establishing the Students with Disabilities \(All Grades\) Certificate, Revising the Registration Requirements for Students with Disabilities \(Birth-](#)

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<sup>1</sup> The proposed Literacy (All Grades) certificate amendment was revised at the June 2022 Regents meeting and is also being presented for permanent adoption at the September 2022 Regents meeting.

[Grade 2\) Programs, and Revising the Requirements for the Extension and Limited Extension to Teach Certain Subjects to Students with Disabilities](https://www.regents.nysed.gov/common/regents/files/522hep12d1.pdf)

(<https://www.regents.nysed.gov/common/regents/files/522hep12d1.pdf>)

February 2022: [Proposed Amendment to Section 30-1.8 of the Rules of the Board of Regents and Sections 52.21, 80-1.2, 80-3.2, and 80-3.7 of the Regulations of the Commissioner of Education Relating to Establishing the Literacy \(All Grades\) Certificate](https://www.regents.nysed.gov/common/regents/files/222p12hed1.pdf)

(<https://www.regents.nysed.gov/common/regents/files/222p12hed1.pdf>)

March 2011: [Adoption of Proposed Regulations Relating to the Program Registration Requirements for Teacher Education Programs and the Restructuring of Adolescence Level Teacher Certification for Students with Disabilities](https://www.regents.nysed.gov/common/regents/files/documents/meetings/2011Meetings/March2011/311brca2.pdf)

(<https://www.regents.nysed.gov/common/regents/files/documents/meetings/2011Meetings/March2011/311brca2.pdf>)

**Recommendation**

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

VOTED: That sections 52.21, 57-3.1, 57-3.7, 80-1.2, 80-1.5, 80-1.12, 80-3.2, 80-3.7, 80-4.3, 80-4.4, and 200.20 of the Regulations of the Commissioner of Education be amended, as submitted, effective September 28, 2022.

**Timetable for Implementation**

If adopted at the September meeting, the proposed amendment will become effective on September 28, 2022.

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS AND REGULATIONS  
OF THE COMMISSIONER OF EDUCATION

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

1. Clause (a) of subparagraph (iii) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) In addition to meeting the applicable provisions of this Part, including but not limited to the applicable provisions of section 52.2 of this Part, programs registered as leading to a professional certificate shall lead to a master's or higher degree and meet one of the following requirements:

(1) ...

(2) ...

(3) for professional certificates in early childhood education, childhood education, middle childhood education (generalist), teaching students with disabilities in early childhood, teaching students with disabilities in childhood for programs registered prior to October 1, 2022, [teaching students with disabilities in middle childhood (generalist) for programs registered prior to September 2, 2011,] teaching students with disabilities in adolescence (generalist) for programs registered [on or after September 2, 2011]prior to October 1, 2022, teaching students with disabilities in all grades, teaching students who are deaf or hard of hearing, teaching students who are blind or visually impaired, teaching English to speakers of other languages, and educational technology specialist,

and for no other professional certificates, the program shall lead to a master's or higher degree that includes at least 12 semester hours in graduate study that links pedagogy and content in each of the following areas of the State learning standards for students: English language arts; mathematics, science and technology; and social studies. Such programs shall be jointly designed by faculty of these content areas and faculty of education to link content and pedagogy; or

(4) for professional certificates in middle childhood education (specialist); adolescence education; [teacher of students with disabilities in middle childhood education (specialist) for programs registered prior to September 2, 2011; teacher of students with disabilities in adolescence education for programs registered prior to September 2, 2011;] teacher of a special subject; or teacher of the career field of agriculture, or business and marketing and for no other professional certificates, the program shall lead to a master's or higher degree that includes at least 12 semester hours in graduate study that links pedagogy and content in the subject of the certificate or a related subject. Such programs shall be jointly designed by faculty of these content areas and faculty of education to link content and pedagogy.

2. Subparagraph (vi) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(vi) Programs leading to initial certificates valid for teaching students with disabilities in early childhood[,]; childhood[, middle childhood for programs registered prior to September 2, 2011,] or adolescence registered prior to October 1, 2022; or for teaching students with disabilities in all grades.

(a) Content core.

(1) [Programs registered prior to September 2, 2011. In addition to meeting the general requirements for the content core prescribed in clause (2)(ii)(a) of this subdivision, the content core shall include the preparation for meeting the content core requirements for the general teaching certificate at the same student developmental level: early childhood, childhood, middle childhood, or adolescence, as prescribed in this subdivision.

(2) Programs registered on or after September 2, 2011.

(i) Students with disabilities in [early] childhood for programs registered prior to October 1, 2022, and in early childhood. In addition to meeting the general requirements for the content core prescribed in clause (2)(ii)(a) of this subdivision, the content core shall include the preparation for meeting the content core requirements for the general teaching certificate at the same student developmental level for early childhood and childhood, as prescribed in this subdivision.

[(ii)] (2) Students with disabilities in adolescence (generalist) for programs registered prior to October 1, 2022, and in all grades. In addition to meeting the general requirements for the content core prescribed in clause (2)(ii)(a) of this subdivision, the content core shall include a major, concentration, or the equivalent, in one or more of the liberal arts and sciences. Within the course of study, the program shall ensure that the candidate has completed a minimum of six semester hours in each of the following subject areas: mathematics, English language arts, social studies, and science and the candidate has sufficient pedagogical skills to teach these subjects. These requirements, in combination with the pedagogical core, shall ensure that the candidate has a knowledge base for teaching [students with disabilities at the adolescence level] the

State learning standards as prescribed in Part 100 of this Title to students with disabilities at the student developmental level(s) of the certificate.

(b) Pedagogical core.

(1) Students with disabilities in childhood and adolescence (generalist) for programs registered prior to October 1, 2022. In addition to meeting the general requirements for the pedagogical core prescribed in clause (2)(ii)(b) of this subdivision, the pedagogical core shall include the preparation for meeting the pedagogical core requirement for the general teaching certificate at the same developmental level and shall focus on developing comprehensive knowledge, understanding, and skills for teaching students with mild, moderate, severe, and multiple disabilities at the student developmental level of the certificate.

(2) Students with disabilities in early childhood and all grades. In addition to meeting the general requirements for the pedagogical core prescribed in clause (2)(ii)(b) of this subdivision, the pedagogical core shall include the preparation for meeting the pedagogical core requirement for the general teaching certificate at the same developmental level(s) and shall focus on developing comprehensive knowledge, understanding, and skills for teaching students with mild, moderate, severe, and multiple disabilities at the student developmental level(s) of the certificate. By September 1, 2024, or at the time a new program is registered, whichever occurs first, the pedagogical core shall also include developing comprehensive knowledge, understanding, and skills for teaching students with disabilities who are culturally and linguistically diverse.

(3) All programs shall [and] include, but need not be limited to [(1)] study in the following:

(i) ...

(ii) ...

(iii) ...

(iv) ...

(v) ...

(vi) ...

(vii) ...

(vii) ...

(ix) ...

[(2) for] (4) For registered programs with students who first enroll prior to the Fall 2023 semester, the program shall require field experiences and student-teaching experiences with students with disabilities across the age/grade range of the student developmental level of the certificate, through combined field experiences and student-teaching experiences, and for programs with at least two student-teaching experiences, student teaching in two settings as appropriate to the certificate: pre-K through kindergarten and grades 1 through 2; or grades 1 through 3 and grades 4 through 6; [or grades 5 through 6 and grades 7 through 9 for programs registered prior to September 2, 2011;] or grades 7 through 9 and grades 10 through 12; or for all grades, pre-kindergarten through grade 6 and grades 7 through 12. The time requirements for field experience, student teaching, and practica of item (2)(ii)(b)(2)(i) of this subdivision shall not be applicable for candidates holding another classroom teaching certificate or

candidates who are simultaneously preparing for another classroom teaching certificate and completing the full field experience, student teaching and practica requirement for that other certificate. In such instances, the programs shall require such candidates to complete at least the equivalent of 50 clock hours of field experiences and at least 20 days of practica or student teaching with students with disabilities, including experiences across the age/grade range of the student developmental level of the certificate;

~~[(3) for]~~(5) For registered programs with students who first enroll in the Fall 2023 semester and thereafter, the program shall require the combination of clinical experiences to provide candidates with experiences with students with disabilities across the age/grade range of the student developmental ~~[level]~~ level(s) of the certificate, including pre-kindergarten through grade 6 and grades 7 through 12 for programs in all grades, in accordance with the requirements in subclause (b)(2)(ii)(b)(2) of this section.

(c) The Department shall not register programs leading to initial and professional certificates for teaching students with disabilities in childhood or adolescence (generalist) on or after October 1, 2022, and any such registered programs shall no longer be registered with the Department on or after September 1, 2029.

3. Clause (b) of subparagraph (vii) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Pedagogical core. In addition to meeting the general requirements for the pedagogical core prescribed in clause (2)(ii)(b) of this subdivision, the pedagogical core

shall focus on developing comprehensive knowledge, understanding, and skills for teaching students with disabilities as prescribed in subclause [(vi)(b)(1)](vi)(b)(3) of this paragraph; and specialized knowledge, understanding and skills for teaching deaf or hard-of-hearing students that include, but need not be limited to:

4. Clause (b) of subparagraph (viii) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Pedagogical core. In addition to meeting the general requirements prescribed in clause (2)(ii)(b) of this subdivision, the pedagogical core shall focus on developing comprehensive knowledge, understanding, and skills for teaching students with disabilities, as prescribed in subclause [(vi)(b)(1)](vi)(b)(3) of this paragraph; and specialized knowledge, understanding, and skills for teaching students who are blind or visually impaired that includes, but need not be limited to:

5. Subitem (i) of item (2) of clause (a) of subparagraph (ix) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(i) study to develop comprehensive knowledge, understanding, and skills for teaching students with disabilities, as prescribed in subclause [(vi)(b)(1)](vi)(b)(3) of this paragraph, and specialized study to prepare for working with general education teachers in terms of the impact of speech, language, and hearing disabilities on learning in the general curriculum areas of the State learning standards for students, which are prescribed in Part 100 of this Title; and

6. Item (1) of clause (b) of subparagraph (xvii) of paragraph (3) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(1) Admission requirements. Alternative teacher certification programs that are registered prior to July 1, 2001, shall meet the admission requirements in effect at the time of registration or the admission requirements of this subclause. All alternative teacher certification programs that are registered on or after July 1, 2001, shall meet the admission requirements of this subclause.

(i) ...

(ii) ...

(iii) Candidates for a certificate in the classroom teaching service shall have completed an undergraduate or graduate major in the subject of the certificate sought, or an undergraduate or graduate major in a related field approved by the department for this purpose at the time of program registration, except that candidates for a certificate in early childhood education, childhood education, and middle childhood education-generalist[, or special education at those developmental levels for programs registered prior to September 2, 2011]; or special education at the early childhood level and at the childhood level[s] for programs registered [on or after September 2, 2011,] prior to October 1, 2022; or in teaching common branch subjects in the lower (PreK-3) and upper (4-6) elementary grades (PreK-6) shall meet the requirements of item (iv) of this subclause.

(iv) Candidates for certificates in early childhood education, childhood education, and middle childhood education-generalist[, or special education at those

developmental levels for programs registered prior to September 2, 2011]; or special education at the early childhood level and the childhood level[s] for programs registered [on or after September 2, 2011,] prior to October 1, 2022; or in teaching common branch subjects in the lower (PreK-3) and upper (4-6) elementary grades (PreK-6) shall have completed an undergraduate or graduate major in a liberal arts and sciences subject or interdisciplinary field.

(v) Candidates for a certificate in students with disabilities adolescence (generalist) for programs registered prior to October 1, 2022, or all grades shall have completed an undergraduate or graduate major, concentration, or the equivalent, in one or more of the liberal arts and sciences, and shall have completed at least six semester hours in each of the following subject areas: mathematics, English language arts, social studies, and science and have sufficient pedagogical skills to teach these subjects prior to completion of the program.

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

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

(i) Programs leading to extensions authorizing the provision of bilingual education for certificates for teaching early childhood education; childhood education; middle

childhood education; adolescence education; a special subject; literacy education; career and technical education; students with disabilities in early childhood, [or] childhood for programs registered prior to October 1, 2022, [or middle childhood for programs registered prior to September 2, 2011, or] adolescence for programs registered prior to October 1, 2022, or all grades; students who are blind or visually impaired; students who are deaf or hard of hearing; and students with speech and language disabilities shall require:

(ii) ...

(iii) ...

(iv) ...

(v) ...

(vi) ...

(vii) Programs leading to annotations to recognize additional pedagogical knowledge, skills, and experiences for teaching students with severe or multiple disabilities for certificates for teaching students with disabilities in early childhood, [or] childhood for programs registered prior to October 1, 2022, [or middle childhood, or] adolescence for programs registered prior to October 1, 2022, or all grades; students who are blind or visually impaired; students who are deaf or hard of hearing; and students with speech and language disabilities shall require:

(viii) Programs leading to extensions to authorize the teaching of certain subjects in grades 7 through 12 to students with disabilities for a certificate in students with disabilities adolescence (generalist) for programs registered prior to October 1, 2022, or

all grades shall require study of at least [18]12 semester hours in the subject to be taught.

8. Section 57-3.1 of the Regulations of the Commissioner of Education is amended to read as follows:

The purpose of this Subpart is to set forth standards for approval and the approval process for providers of coursework or training in the needs of students with autism that is offered to candidates for a teachers' certificate or license in any of the following classroom teaching titles: students with disabilities in early childhood, childhood, middle childhood, [or] adolescence, or all grades; speech and language disabilities; deaf and hard of hearing; and blind and visually impaired and for school administrators, to the [exent]extent required by section 3004 of the Education Law.

9. Section 57-3.7 of the Regulations of the Commissioner of Education is amended to read as follows:

An institution that offers a registered program leading to certification in any of the following classroom teaching titles: students with disabilities in early childhood, childhood, middle childhood, [or] adolescence, or all grades; speech and language disabilities; deaf and hard of hearing; and blind and visually impaired, pursuant to section 52.21 of this Title, shall be deemed approved, pursuant to this Subpart, for purposes of offering course work or training in autism within such program to students in the program.

10. Subdivision (b) of section 80-1.2 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (11) to read as follows:

(11) The commissioner shall not issue certificates in the students with disabilities (grades 1-6) and students with disabilities (grades 7-12) certificate titles, other than the professional certificate and reissuance of an initial certificate, with an effective date that begins after September 1, 2030. The commissioner may extend the effective date of such certificates, as applicable, after September 1, 2030, pursuant to the requirements of section 80-1.6 of this Subpart.

11. Subdivision (a) of 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.

(1) Notwithstanding any other provision of this Part, candidates seeking a certificate in the title of students with disabilities (all grades) shall be required to achieve a satisfactory level of performance in the multi-subject, multi-subject: teachers of childhood (grade 1 - grade 6), multi-subject: teachers of middle childhood (grade 5 - grade 9), or multi-subject: secondary teachers (grade 7 - grade 12) content specialty tests until a multi-subject content specialty test for such certificate title is operational.

12. Section 80-1.12 of the Regulations of the Commissioner of Education is amended to read as follows:

All candidates for a certificate or license valid for a certificate in the classroom teaching titles of students with disabilities in early childhood, childhood, middle childhood, [or] adolescence, or all grades; deaf and hard of hearing; blind and visually impaired and speech and language disabilities, who apply for a certificate or license on

or after September 2, 2009, shall have completed at least three clock hours of course work or training in autism, as required by section 3004 of the Education Law, which is provided by a registered program leading to certification pursuant to section 52.21 of this Title or other approved provider pursuant to Subpart 57-3 of this Title.

13. Subparagraph (xxxi) through subparagraph (xlviii) of paragraph (1) of subdivision (e) of section 80-3.2 of the Regulations of the Commissioner of Education are relettered subparagraphs (xxxii) through subparagraph (xliv) and a new subparagraph (xxxi) is added to read as follows:

(xxxi) Students with Disabilities (all grades)

14. Subparagraph (iv) of paragraph (2) of subdivision (a) of section 80-3.7 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(iv) Pedagogical core. The candidate shall complete pedagogical coursework as prescribed in clause (a) of this subparagraph and teaching experience as prescribed in clause (b) of this subparagraph, provided that candidates identified in this subparagraph shall not be required to demonstrate completion of the pedagogical core requirements. A candidate who holds one or more provisional certificates, permanent certificates, initial certificates, or professional certificates in a title in the classroom teaching service, other than a title in a specific career and technical subject (grades 7-12), shall not be required to demonstrate completion of the pedagogical core requirements for an additional initial certificate in the classroom teaching service sought, except for such candidates who are seeking an additional initial certificate in one or more of the following titles: early childhood education, childhood education, generalist in middle childhood education (grades 5-9), specialist in middle childhood education (grades 5-9),

English to speakers of other languages (all grades), literacy (birth-grade 6)[ and], literacy (grades 5-12), literacy (all grades), students with disabilities (birth-grade 2), students with disabilities (grades 1-6), students with disabilities (grades 5-9), students with disabilities (grades 7-12), students with disabilities (all grades), deaf and hard of hearing (all grades), blind or visually impaired (all grades), and speech and language disabilities (all grades).

15. Paragraph (3) of subdivision (a) of section 80-3.7 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(i) ...

(ii) ...

(iii) ...

(iv) ...

(v)

(vi) Students with disabilities (grades 1-6) for candidates who apply for their certificate prior to September 1, 2023, and meet all requirements for the certificate prior to September 1, 2026.

(a) ...

(b) ...

(c) ...

(vii) [Students with disabilities (grades 5-9). This subparagraph applies to candidates who apply for their certificate prior to September 1, 2011 and complete all requirements before September 1, 2014.

(a) Content core.

(1) For generalist (grades 5-9) certificates, the content core prescribed in subparagraph (2)(iii) of this subdivision shall consist of 30 semester hours of coursework in one or more of the liberal arts and sciences. The candidate shall complete six semester hours in mathematics, six semester hours in science, and six semester hours in social studies within such content core and/or the general education core in the liberal arts and sciences.

(2) For specialist (grades 5-9) certificates, the content core prescribed in subparagraph (2)(iii) of this subdivision shall consist of 30 semester hours of coursework in the subject area of the certificate sought (English, a language other than English, biology, chemistry, earth science, physics, mathematics, or social studies). For social studies (5-9), within the 30-semester hour content core, the candidate shall complete coursework in economics and government, and a total of 21 semester hours of coursework that includes study in United States history, world history, and geography.

(b) Pedagogical core. Within the pedagogical core prescribed in subparagraph (2)(iv) of this subdivision, the candidate shall complete six semester hours of coursework appropriate to the student developmental level of the certificate sought. In addition to such prescribed pedagogical core, the candidate shall complete three semester hours in teaching literacy skills and 12 semester hours of coursework that includes study in each of the following subjects:

(1) foundations of special education;

(2) assessment, diagnosis, and evaluation of students with disabilities, including collaboration with caregivers and others, to promote academic achievement and independence; and

(3) curriculum, instruction, and managing learning environments for students with disabilities, including instructional and assistive technology.

(c) For candidates applying for a certificate or license on or after September 2, 2009, the candidate shall complete study in autism, as prescribed in section 80-1.12 of this Part, or its equivalent as determined by the commissioner.

(viii)] Students with disabilities (grades 7-12) for candidates who apply for their certificate prior to September 1, 2023, and meet all requirements for the certificate prior to September 1, 2026.

(a) ...

(b) ...

(c) ...

(viii) Students with disabilities (all grades).

(a) Content core. The content core prescribed in subparagraph (2)(iii) of this subdivision shall consist of 30 semester hours of coursework in one or more of the liberal arts and sciences. The candidate shall complete six semester hours in mathematics, six semester hours in science, six semester hours in social studies, and six semester hours in English language arts within such content core, and the candidate shall have sufficient pedagogical skills to teach these subjects.

(b) Pedagogical core. In addition to the pedagogical core prescribed in subparagraph (2)(iv) of this subdivision, the candidate shall complete three semester

hours in teaching literacy skills and 12 semester hours of coursework that includes study in each of the following subjects:

(1) foundations of special education;

(2) assessment, diagnosis, and evaluation of students with disabilities, including caregivers and others, to promote academic achievement and independence; and

(3) curriculum, instruction, and managing learning environments for students with disabilities, including instructional and assistive technologies and transition preparation.

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

(n) Requirements for the extension to teach certain subjects in grades 7-12.

(1) Purpose. The purpose of an extension issued under this section is to authorize a teacher who holds a valid initial, emergency COVID-19, or professional certificate in the classroom teaching service in students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (all grades), or the special education generalist permanent certificate to authorize the teacher to be employed as the teacher of record for students with disabilities in certain subjects.

(2) Subjects for which extension may be obtained. A teacher who holds a valid initial, emergency COVID-19, or professional certificate in the classroom teaching service in students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (all

grades), or the special education generalist permanent certificate may seek an extension under this subdivision in one of the following subjects: mathematics; English language arts; biology; chemistry; earth science; physics; social studies; language other than English (specified) in either (grades 5-9) or (grades 7 through 12).

(3) Requirements for the extension. The candidate shall meet the requirements in each of the following paragraphs:

(i) the candidate shall hold a valid initial, emergency COVID-19, or professional certificate in students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (all grades), or the special education generalist permanent certificate; and

(ii) the candidate shall complete the New York State teacher certification examination content specialty test in the subject for which a certificate extension is being sought[; and]

[(iii)] or the candidate shall satisfactorily complete at least [18]12 semester hours of study or its equivalent in the subject area of the certificate sought. For social studies, the candidate shall complete the [18]12 semester hours through a combination of study in United States history, world history, and geography.

(4) ...

17. Subdivision (t) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended 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, emergency COVID-19, or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (all grades), or the special education generalist permanent certificate 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, general science, language other than English (specified) in either (grades 5-9) or (grades 7-12), 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, emergency COVID-19, or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (all grades), or the

special education generalist permanent certificate and meets the requirements in one of the following subparagraphs:

(i) ...

(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)](iii) complete at least nine semester hours of coursework in the subject area in which the limited extension is sought; or

[(v)](iv) ...

18. Subdivision (a) of section 80-4.4 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(a) The candidate shall hold a valid provisional or permanent certificate for teaching special education, the deaf and hearing-impaired, the blind and partially sighted, the speech- and hearing- handicapped; or a valid initial, emergency COVID-19, or professional certificate in [early childhood special education]students with disabilities (birth-grade 2), [childhood special education]students with disabilities (grades 1-6), [middle childhood special education]students with disabilities (grades 5-9), [adolescence special education]students with disabilities (grades 7-12), students with disabilities (all

grades), deaf and hard of hearing (all grades), blind and visually impaired (all grades), speech and language disabilities (all grades).

19. Paragraph (5) of subdivision (b) of section 200.20 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(5) Each approved preschool program shall ensure that the educational director, if hired on or after September 1, 2016, shall possess a NYS teaching certificate pursuant to section 80-3.3 of this Title valid for classroom teaching services to students with disabilities, birth-grade 2 or all grades, or certification in early childhood education, or possesses New York State certification or licensure in speech-language pathology, psychology, occupational or physical therapy or another related services field as such term is defined in section 200.1(qq) of this Part; and, consistent with the requirements of section 80-3.10 of this Title, shall hold New York State certification as a School Building Leader or School District Leader or School Administrator/Supervisor. Nothing in this paragraph shall require that an approved preschool program hire an educational director in addition to the executive director when the executive director otherwise provides the on-site direction of the program.

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on June 1, 2022, the State Education Department (Department) received the following comment on the proposed amendment:

1. COMMENT: Approximately 150 commenters support the proposed regulatory amendment, including special education teachers and professionals; other teachers and school personnel; principals; superintendents; BOCES District Superintendents; district human resource personnel; directors of special education, curriculum, instructional support, student services, and pupil personnel services; directors of organizations providing special education services; the special education office in a school district; and a professional education organization. The commenters support keeping the SWD (Birth-Grade 2) certificate, the proposed timelines for implementation, and the proposed changes to the extension to teach students with disabilities in certain subjects in grades 5-9 or grades 7-12. The reasons that they support the proposed Students with Disabilities (All Grades) certificate are summarized below:

- **Shortage of special education teachers.** Commenters indicate that: there is a significant shortage of special education teachers, especially at the secondary level and in rural and small districts; it is very difficult to fill open positions, and the number of students who need special education services is increasing. One commenter stated that they are having difficulty filling preschool special education teacher positions, and another commenter expressed that the proposal will apply to, and be valuable within, correctional

facilities and alternative sites that are having difficulty fulfilling mandates because of shortages in qualified candidates.

- **Creates flexibility in hiring and staffing.** Commenters indicate that the current Students with Disabilities (SWD) certificate grade bands (e.g., grades 1-6, 7-12) limit their ability to fill open special education teacher positions and utilize special education teachers in their schools. They indicate that the proposal would allow them to better meet the needs of students by providing flexibility with hiring and teaching assignments across grade levels. They note that flexibility is needed to: move staff to different grade levels within and across schools, particularly in buildings with grades that span more than one certification (e.g., middle school); respond to annual changes in enrollments; match the skills of teachers with students' needs; maintain positive relationships and provide consistency for students through their schooling, and adjust assignments as students' needs shift over time and at different rates.
- **Teaching skills across grade levels.** Some commenters stated that special education teachers learn about disabilities and how to modify and instruct students with special learning needs, and state that this skill set can be applied across the grade levels. One commenter countered that there is a different skill set for teaching students with disabilities at the elementary and high school levels, but offered that experience, ongoing professional development, and supervision/mentoring of teachers would fill any gap. Commenters also indicated that: it is valuable for special education

teachers to understand the full continuum of grade range abilities among students with disabilities and the array of strategies across those spans which can be used to support their learning; special education teachers will encounter students whose levels of academic, social, emotional, and physical functioning may not correspond to their grade level; SWD (Grades 1-6) certificate holders are currently prepared well to co-teach a grades 7-12 class, where their primary function is to collaborate on the instruction; and the “all grades” certificate is in place for other certification areas and does not present challenges.

- **Professional learning and support.** Commenters reported that: they make sure that their special education teachers are well trained; special education teachers learn the curriculum well because it is always changing, and putting prospective teachers in grade bands limits them and the hiring districts; administrators know how to place teachers in the “best fit” positions within a district and how to develop teachers’ skill when they serve at a new level; a special education teacher can be trained and coached to become highly successful in the grade level they are hired, and special education teachers have core teachers with whom they can consult.
- **Former Permanent Special Education certificate.** Commenters opined that the former Permanent Special Education certificate that permits teachers to teach all grades is beneficial for everyone, allowing teachers to move across grade levels based on their interests, student needs, and the needs of the district. Several teachers who hold this former certificate spoke to these

benefits, explaining that the certificate enabled them to find the best fit for them and their students and that they feel better prepared to teach students with special needs. Commenters pointed out that teachers who hold the former certificate will begin to retire in the near future.

- **Improve recruitment.** Commenters felt that the proposed Students with Disabilities (All Grades) certificate will attract more highly qualified candidates and allow teachers to obtain special education certification without needing extensions that are costly and time-consuming.

DEPARTMENT RESPONSE: The comments are supportive of the proposed rule; therefore, no changes are necessary.

2. COMMENT: A few commenters' support for the proposal was conditional. One commenter supports the proposal if, in their view, teacher preparation programs leading to certification are rigorous and sufficiently robust with content knowledge in addition to pedagogical practices. Two commenters support the proposal if current special education teachers' certificates are also extended, with one commenter wanting the flexibility to teach at another grade level and another commenter not wanting to incur costs for additional classes and certification. One of these commenters noted that changing the certification grade level bands is not going to change the enormous teacher loss and deficit in this state or across the country; the commenter states that this problem is systemic and can only be solved if policymakers can "figure out how to make it better to be an educator."

DEPARTMENT RESPONSE: The proposed amendment includes the registration requirements for New York State teacher preparation programs leading to the SWD (All

Grades) certificate. The requirements are designed to prepare candidates with the knowledge and skills needed to work with students with disabilities in all grades (pre-Kindergarten through grade 12).

The SWD (All Grades) certificate has different requirements than the SWD (Birth-Grade 2), SWD (Grades 1-6), or SWD (Grades 7-12) certificates. Therefore, teachers would not be able to be awarded the certificate through legacy exceptions. If they wish to obtain the SWD (All Grades) certificate, teachers would need to apply and pay the application fee for the SWD (All Grades) certificate. Teachers who hold a current SWD certificate would be able to apply for the SWD (All Grades) certificate through a variety of pathways; each has different requirements. Applicants may or may not need to complete additional requirements for the certificate, depending on the pathway through which they are seeking the new certificate. No changes to the proposed rule are necessary.

3. COMMENT: Several commenters who support the proposed regulatory amendment offered suggestions and concerns related to the proposal as follows:

- a. The Students with Disabilities (All Grades) certificate should be awarded to all teachers who hold a Students with Disabilities (SWD) certificate in a grade band without additional requirements.
- b. In terms of pedagogical core requirements, special education teachers need to have a deeper understanding of the science of reading and its application and be able to identify/understand the deficits and processes that negatively impact student learning.

- c. Options to support teachers with the SWD (All Grades) certificate are needed and should be explored, such as mentorship or micro-credentials, so that they can teach middle school and high school subject area, classes.
- d. The SWD certificate should have a split between Kindergarten-grade 6 and grades 7-12. If the proposed grade band of pre-Kindergarten-grade 12 is approved, there should be required professional development for teachers assigned to different levels.
- e. Will the Board of Regents consider adding an extension for the Professional teacher certificate in SWD (Birth-Grade 2) and SWD (Grades 1-6), or would Professional teacher certificate holders be eligible for an extension in SWD (All Grades)?
- f. Regarding the extension proposal, one commenter suggested that teachers who hold Professional SWD (Birth-Grade 2) or SWD (Grades 1-6) certificates be allowed to extend their certificates by completing semester hours or passing a content specialty test. Another commenter suggested permitting Professional SWD (Grades 1-6) certificate holders to apply for a two-year supplementary certificate after completing six of the required 12 semester hours, giving teachers two years to complete the remaining coursework and pass the content specialty test.
- g. The waiver for special education teachers teaching outside of their content area should be expanded as well, with the option to grant the content area extension if the candidate teaches (or has taught) that content area

- consecutively for three or five years or 200 hours (possibly retroactively, if the need exists).
- h. The content requirements are prohibitive and will create unintended barriers to entering special education programs at all levels. This requirement should be revised and alternatives should be established, such as increasing content pedagogy credits in programs; allowing for alternative assessments of content, not only College Level Examination Program (CLEP) exams; and require either 24 credits across any content area, or a concentration of 18 credits in two of the three areas, instead of a distribution across all disciplines.
  - i. The proposed SWD (All Grades) certificate will have the opposite effect on recruiting teacher candidates to work with very young children, ages Birth-Grade 2. Another commenter stated that special education teaching positions in grades 1-6 are more desirable and may cause teachers to not apply for special education teaching opportunities in grades 7-12, therefore causing an even greater deficit for the need for special education teachers in grades 7-12.
  - j. Many alternative teacher certification program participants do not have the 30 credits in liberal arts and will require them to undertake credits at their own cost.

**DEPARTMENT RESPONSE:** In response to the commenters' suggestions and concerns:

- a. The SWD (All Grades) certificate has different requirements than the SWD (Birth-Grade 2), SWD (Grades 1-6), or SWD (Grades 7-12) certificates.

Therefore, teachers would not be able to be awarded the certificate through legacy exceptions. If teachers wish to obtain the SWD (All Grades) certificate, they would need to apply and pay the application fee for the SWD (All Grades) certificate. Teachers who hold a current SWD certificate would be able to apply for the SWD (All Grades) certificate through a variety of pathways; each has different requirements. Applicants may or may not need to complete additional requirements for the certificate, depending on the pathway through which they are seeking the new certificate.

- b. Candidates who complete a New York State registered teacher preparation program leading to the SWD (All Grades) certificate will complete coursework in curriculum development and research-validated methods of instructing students with disabilities, including methods of teaching reading and methods of enrichment and remediation in reading, and six semester hours in language acquisition and literacy development by native English speakers and students who are English language learners and skill in developing the listening, speaking, reading, and writing skills of all students.
- c. Teachers who obtain the SWD (All Grades) certificate can teach a special class in a subject area in grades 7-12, with some or no students under alternate assessment, if they are certified in the subject area or meet the teaching experience requirement for the statement of continued eligibility (SOCE) in the subject area and have an active SOCE application in the TEACH system. There are several ways that special education teachers

can become certified in a subject area, including earning a subject area certificate, subject area extension, or limited extension in the subject area.

- d. The Department proposed the Students with Disabilities (All Grades) certificate to address the shortage of certified special education teachers. As a result, the Department also proposed to phase out the SWD (Grades 1-6) and SWD (Grades 7-12) certificate titles, other than for the Professional certificate or a reissuance of an Initial certificate, and registered programs leading to these certificate titles since the proposed SWD (All Grades) certificate will include the development levels of these certificates. Changing the SWD (Grades 1-6) certificate to a SWD (Kindergarten-Grade 6) certificate, as suggested, would not give school districts the flexibility to place special education teachers in the grade levels with the highest staffing needs. Teachers who obtain the Professional SWD (All Grades) certificate could complete continuing teacher and leader education (CTLE) clock hours in the content area of their certificate and/or pedagogy that would help them improve their practice at the different grade levels.
- e. Teachers who hold a Professional teacher certificate could obtain an additional certificate in SWD (Birth-Grade 2), SWD (Grades 1-6), or SWD (All Grades). The Department will consider the suggestion to create extensions in teaching students with disabilities for teacher certificate titles.
- f. Teachers who hold a SWD (Grades 5-9) or SWD (Grades 7-12) generalist or content specialist certificate, or a Permanent Special Education certificate, may obtain an extension to teach students with disabilities in certain subjects

in grades 5-9 or grades 7-12. With this extension, special education teachers can teach a special class in a subject area in the grade level of the extension. Teachers who hold a SWD (Birth-Grade 2) or SWD (Grades 1-6) certificate do not need a subject area extension to teach a special class in a subject area, which is why there is not a subject area extension available for these certificates.

- g. For the proposed revision to the extension to teach students with disabilities in certain subjects in grades 5-9 or grades 7-12, candidates must demonstrate their content knowledge by completing 12 semester hours in the subject area of the extension or passing the content specialty test in the subject area of the extension. The coursework and test are more appropriate measures for demonstrating content knowledge than teaching a certain amount of time in the subject area.
- h. The content core requirements for the proposed SWD (All Grades) certificate and the current SWD (Grades 7-12) certificate are the same. One of the content core requirements is to complete a minimum of six semester hours in each of the subject areas of mathematics, English language arts, social studies, and science (total of 24 semester hours). Pedagogical coursework (e.g., teaching methods courses) satisfies the pedagogical core requirement for programs and certification, rather than the content core requirement. Pedagogical content knowledge coursework, or coursework that links pedagogy and content, cannot count towards the content core requirement for registered teacher preparation programs pursuant to section 52.21 of the

Commissioner's regulations. Candidates must meet the content core requirement through the individual evaluation pathway to certification by completing college coursework pursuant to section 80-3.7 of the Commissioner's regulations. Achieving an acceptable score on credit-bearing exams can count towards this requirement because the exam is documented as coursework with credits on a transcript. Since special education teachers may work with students in any subject area, it would be more appropriate to require candidates to complete subject area coursework across the four subject areas than to only require coursework in one or two subject areas for the SWD (All Grades) certificate.

- i. The proposed SWD (All Grades) certificate will permit special education teachers to teach pre-Kindergarten through grade 12 and does not include ages 0-2 years. Both the SWD (Birth-Grade 2) and SWD (All Grades) certificates would allow certificate holders to teach pre-Kindergarten through grade 2, giving candidates two options for seeking certification to teach young children in this age group. Candidates have a choice in which open teaching positions they pursue. The SWD (All Grades) certificate will make candidates more marketable and eligible for more open special education teaching positions. If there is not an opening at their first choice of a grade level (e.g., grades 1-6), they could apply for openings at the other grade levels for which they are eligible (e.g., grades 7-12). Once they are employed, the district or BOCES may move the candidate to a grade level based on staffing needs, where permissible.

- j. An admission requirement for Transitional B alternative teacher certification programs leading to the current SWD (Grades 7-12) and proposed SWD (All Grades) certificate is an undergraduate or graduate major, concentration, or the equivalent of at least 30 semester hours in one or more of the liberal arts and sciences. For Transitional B alternative teacher certification programs leading to the current SWD (Birth-Grade 2) and SWD (Grades 1-6) certificate, an admissions requirement is an undergraduate or graduate major in a liberal arts and sciences subject or interdisciplinary field requirement. As such, the admission requirement of 30 semester hours in liberal arts and sciences is consistent across SWD alternative teacher certification programs. Candidates would continue to meet this admissions requirement for SWD (All Grades) programs as they have in the past for other SWD programs, avoiding the creation of a new barrier for certification.

The Department addressed the commenters' suggestions and concerns; therefore, no changes are necessary.

4. COMMENT: Several commenters raised questions related to the proposed regulatory amendment as follows:

- a. What happens to teachers who hold a current SWD (Birth-Grade 2), SWD (Grades 1-6), or SWD (Grades 7-12) certificate regarding the SWD (All Grades) certificate? Would they need to pay for an application? Would they get a refund? Would their certificates be converted or extended to the proposed SWD (All Grades) certificate, would they be able to "upgrade" to the

- proposed certificate or obtain the proposed certificate through legacy exceptions, or would they need to retake exams and classes?
- b. How does this proposal apply to teachers who hold a SWD (Grades 1-6) and Childhood Education (Grades 1-6) certificate?
  - c. How does this proposal apply to special education teachers who hold a special education statement of continued eligibility?
  - d. How does this proposal apply to teachers who hold the former Permanent Special Education certificate?
  - e. Will there be considerations that make it easier for current SWD certificate holders or individuals who hold a certificate in another state to obtain the proposed SWD (All Grades) certificate?
  - f. Will teachers who work with very young students, ages birth through three or four years, be required to obtain a separate certificate, or will the SWD (All Grades) apply to them? If so, is there any way to create an SWD (All Grades) certificate that could extend through for the youngest children?
  - g. Will the Department reimburse SWD certificate holders who paid for grade level extensions over the past few years?
  - h. Why is the timeline so long?
  - i. What are the specific grade level and hour requirements for student teaching and pre-student teaching clock hours for students who would be enrolled in this program? Would they be expected to complete 50 pre-student teaching hours and 20 days in student teaching with students with disabilities in pre-Kindergarten-grade 6 and also in grades 7-12?

- j. If you are not mandating general education programs to move to a K-12 format, why are you proposing such an amendment for special education programs?
- k. Our programs find it extremely challenging to find providers for the birth through grade 2 group, stating that it will be a bit easier for candidates seeking grades 1-6 and grades 7-12 certification. Is this an area that may be addressed in the future?

DEPARTMENT RESPONSE: In response to the commenters' questions:

- a. Individuals who hold one of the current SWD certificates will not be required to obtain the new SWD (All Grades) certificate by the Department, as those certificates will continue to be recognized in the future. They can choose to pursue the SWD (All Grades) certificate if they wish. The SWD (All Grades) certificate has different requirements than the SWD (Birth-Grade 2), SWD (Grades 1-6), or SWD (Grades 7-12) certificates. Therefore, teachers who hold or held these certificates would not have their certificates automatically converted to the SWD (All Grades) certificate and would not be able to obtain the certificate through legacy exceptions. If they wish to obtain the SWD (All Grades) certificate, they would need to apply and pay the application fee for the SWD (All Grades) certificate. The fee reflects the time that Department staff devote to reviewing the documentation submitted for the application. Special education teachers would not receive a refund for past certificate application fees or assessment fee because they paid for services rendered by the Department. Teachers who hold a current SWD certificate would be

- able to apply for the SWD (All Grades) certificate through a variety of pathways that have different requirements. Applicants may or may not need to complete coursework or exams for the certificate, depending on the pathway through which they are seeking the new certificate. Teachers could pass any one of the following tests for the SWD (All Grades) certificate until a multi-subject content specialty test for such certificate title is developed and available: Multi-Subject, Multi-subject: Teachers of Childhood (Grade 1-Grade 6), Multi-subject: Teachers of Middle Childhood (Grade 5-Grade 9), or Multi-subject: Secondary Teachers (Grade 7-Grade 12) content specialty tests.
- b. Holding the Childhood Education (Grades 1-6) certificate in addition to the SWD (Grades 1-6) does not impact the eligibility for the SWD (All Grades) certificate. Please also see Department Response (a) above.
  - c. Holding the special education statement of continued eligibility in addition to a SWD certificate does not impact the eligibility for the SWD (All Grades) certificate. Please also see Department Response (a) above.
  - d. Teachers who hold the former Permanent Special Education certificate are permitted to teach all grades. Therefore, they would not need to apply for the SWD (All Grades) certificate. They would continue to hold their Permanent certificate, which would continue to be recognized as a certificate in New York State.
  - e. The SWD (All Grades) will have the same two reciprocity pathways to certification as other teacher certificate titles, “Endorsement of a Certificate”

(from another state) and the “Completion of a Comparable Educator Program in Another U.S. State.”

- f. Individuals who hold the SWD (Birth-Grade 2) certificate work with children from birth through grade 2, including ages 0-2 years that are not part of the grade range of the proposed SWD (All Grades) certificate. Both the SWD (Birth-Grade 2) and SWD (All Grades) certificates would allow certificate holders to teach pre-Kindergarten through grade 2. The SWD (All Grades) certificate does not include ages 0-2 years due to the specialized knowledge and skills that are needed to teach this age group.
- g. SWD certificate holders who paid an application fee for a grade level extension would not receive a refund because they paid for services rendered by the Department. Additionally, if these teachers needed a grade level extension in the past for their teaching assignment, they would be held to the regulations at the time and would need to apply for and meet the requirements of the grade level extension.
- h. Individuals can apply for the SWD (All Grades) certificate and the Department can begin registering teacher preparation programs leading to this certificate on the effective date of the proposal, which is September 28, 2022. For institutions that currently have registered SWD (Grades 1-6) and SWD (Grades 7-12) programs, the programs would no longer be registered with the Department on or after September 1, 2029. This deadline provides a sufficient transition period for institutions to register SWD (All Grades) programs and allows candidates to complete their current students with disabilities

programs. Given this timing, the Department will not issue certificates in the SWD (Grades 1-6) and SWD (Grades 7-12) certificate titles, other than for the Professional certificate and reissuance of an Initial certificate, with an effective date that begins after September 1, 2030. The deadline of September 1, 2030, takes into account that candidates matriculating in SWD (Grades 1-6) and SWD (Grades 7-12) programs through September 1, 2029, may need time to apply and complete the requirements for the SWD (Grades 1-6) and SWD (Grades 7-12) certificate upon program completion. Additionally, this would necessitate time for the Department to evaluate these applications.

- i. Candidates who begin a proposed SWD (All Grades) program prior to the fall 2023 semester would complete field experiences and student teaching experiences across the age/grade range of the student developmental level of the certificate. If they are in a program with at least two student teaching experiences, they would student teach in two settings: pre-kindergarten through grade 6 and grades 7 through 12. For candidates who begin in the fall 2023 semester and thereafter, the program would require a combination of clinical experiences across the age/grade range of the student developmental level of the certificate, including pre-kindergarten through grade 6 and grades 7 through 12.
- j. The Department is proposing to change the special education certificate grade band to “all grades” to address the shortage of certified special education teachers. School districts have consistently requested this change

so that they can place special education teachers in the grade levels with the highest staffing needs. The ultimate need to be addressed is students with disabilities, who are entitled to individualized education that meets their needs.

- k. The Department will consider this issue and determine if it might need to be addressed in the future.

No changes to the proposed rule are necessary.

5. COMMENT: Multiple commenters do not support the proposed regulatory amendment, including teacher preparation program faculty and administrators, particularly those in special education programs; special education teachers; an administrator in an organization that provides special education services; and a professional organization representing educational professionals. The reasons that they do not support the proposed amendment may be sorted into the following categories:

- **Teacher Preparation Quality.** Commenters state that:
  - Teaching students at different grade bands, especially students with disabilities, requires specialized skills, and the proposed amendment will eliminate current SWD (Grades 1-6) and SWD (Grades 7-12) programs that provide special education teachers with critical strategies for meeting students' academic, social/emotional, and behavioral needs at the childhood and adolescent levels.
  - There is a research-based consensus that all teachers must possess nuanced understanding of human growth and development to make effective and appropriate pedagogical decisions, and the

expectation for special education teachers to possess and act on such knowledge is articulated in national standards for special education teacher preparation (Council for Exceptional Children, 2020) and codified in our nation's education laws (e.g., the Individuals with Disabilities Education Act).

- Survey data from teachers in their partnership program annually indicates that candidates fare best with specific methodologies and strategies geared to not only the grade level that they teach, but also for the specific population that they will serve.
- Teaching is a profession, and therefore specialization through in-depth study should be available as it is in other professional fields.
- The proposed amendment would not allow candidates to achieve the depth of knowledge and skills required of special education teachers within and across the grade bands. Additionally, broadening the content and curricular knowledge expectations for special education teachers will erode their expertise across the grade bands, which is concerning given the critical role special education teachers play in serving students who, by educational classification, require specially designed instruction to meet their unique learning needs. As such, the proposed amendment will make prospective special education teachers less prepared to teach in their grade band.

- Candidates in their special education programs are currently not fully prepared in a particular area or for all variations in their classrooms, needing diverse experiences post-graduation and careful mentoring.
- **Impact on Programs.** Commenters state that:
  - Existing SWD (Grades 1-6) or SWD (Grades 7-12) programs would need to add coursework and experiences to their current curricula to cover the “all grades” content needed, which would cause these programs to be longer and more costly. Student teachers would need to complete experiences at three levels instead of two, creating a burden on faculty and making a four-year undergraduate experience unlikely.
  - The specialized content would be reduced significantly to incorporate content and practicum experiences for both grade bands and keep the number of credits competitive. An educator preparation program’s ability to add the courses necessary to provide candidates with meaningful content at all grades levels is limited by the number of total credits and required coursework at the institution.
  - Dual certification programs leading to special education and other certifications (e.g., literacy, childhood education) would close or have lower enrollments for several reasons, including the fact that programs: are not able to make adjustments within the current structure; would need to have additional coursework and/or field experiences in grades 7-12; and do not have the capacity to expand to grades 7-12 practicum

requirements while keeping the same number of credits to make it competitive for students to apply. Further, dual certification programs would need to be designed to cover early childhood general education, childhood general education, adolescent general education, and pre-Kindergarten-grade 12 special education, which would deter institutions/candidates from creating/attending these programs, respectively. A commenter adds that their graduate-level preparation program draws from their own diverse undergraduate population, and progress made towards diversifying the teacher pipeline will potentially be reversed.

- Teacher preparation programs currently designed for the grade bands frequently utilize coursework in both general and special education preparation programs, but the proposed SWD (All Grades) certificate would require new methods and other general education courses that span pre-Kindergarten through grade 12 and limit the opportunities for general and special education candidates to share courses and experiences, including collaboration opportunities as expected in the field.
- One commenter just restructured and reorganized their SWD programs in response to a prior regulatory amendment, which has a negative impact on their programs, prospective and current candidates, and present and future special education curriculum. The proposed change will require extensive revision to existing teacher education programs

at a time when faculty and candidates are already stretched for a range of reasons and will slow down the recruitment of teachers and the certification process.

- A large majority of candidates fulfill fieldwork requirements in their own school settings. Broadening the grade band would create a financial hardship that may negatively impact the racial and socioeconomic diversity of candidates and would thus effectively end these popular and highly effective programs.
- Candidate will switch to a non-SWD certificate option more closely aligned with their grade interests (childhood or adolescent) to prevent districts from placing teachers in a classroom/grade level where there is need and not necessarily for which the teacher was hired, desires, or feels comfortable teaching, further impacting SWD shortages.
- With the current budget situation and ongoing retirements, institutions of higher education do not necessarily have funding to hire full-time or part-time faculty to increase the number of content and field experience courses needed to meet the new coursework requirements. The proposed transition to a SWD (All Grades) certificate also puts teacher educator jobs in danger, impacting programs, candidates, and schools of education as a whole.
- **Impact on Students with Disabilities.** Commenters state that:
  - The proposal raises concerns about equity due to too many underprepared teachers teaching children who require specialized

teachers, perpetuates the systemic problem of underprepared teachers who disproportionately serve historically underserved students, and adversely affects the education of our most diverse and sensitive population. The elimination of adolescent special education programs will make the teen mental health crisis worse; adolescents with learning, attention, and emotional needs deserve to have educators that are trained to work with their age group.

- The proposed SWD (All Grades) certificate ignores the age differences for children and youth with disabilities while maintaining those differences for children without disabilities, thus creating inequities for these two populations, including the intensity of field experiences within a particular age span. Students with disabilities deserve well prepared teachers who are pivotal in directly assisting each student in learning and developing to their fullest extent.
- The proposal is unwise given the growing number of students on the autism spectrum whose needs are incredibly diverse, and the failure of the current inclusive education certificates to meet the needs of other specialized areas such as deaf, severe emotional and behavioral disabilities, and visual impairment and blind.
- Having teachers with the SWD (All Grades) certificate will potentially limit the opportunities for students with disabilities to be included in general education classroom instruction, as many of these teachers will not feel confident being in content-based classrooms (especially at

the secondary level), and will likely result in returning the teaching of special education to discrete skill instruction in segregated settings because teachers will not have expertise and experiences with Kindergarten through grade 12 content standards and creating age-appropriate accommodations and modifications.

- **Impact on Early Childhood Education.** Commenters state that:
  - The proposed SWD (All Grades) certificate would permit certificate holders to teach preschool and primary ages without specialized expertise in early childhood, most particularly in the birth through Kindergarten age range that is fundamentally different from elementary and secondary learning, programming, and systems.
  - Programs find it extremely challenging to find providers for the birth through grade 2 group, stating that it will be a bit easier for candidates seeking grades 1-6 and grades 7-12 certification.
  - The proposal will most likely result in a significant decrease in SWD (Birth-Grades 2) certificate holders because schools and programs with early childhood special education programs will most likely prefer to hire SWD (All Grades) certificate holders and candidates will recognize the more limited opportunities available with the SWD (Birth-Grade 2) certificate and most likely obtain the SWD (All Grades) instead.
- **Special Education Teacher Shortage.** Commenters state that:

- Research shows special education teachers who feel underprepared leave the field at much higher rates than those who feel prepared; therefore, the proposal could undermine efforts to increase the number of qualified teachers by sending candidates with insufficient preparation into the field and increase the probability that candidates will leave the profession.
- Data from a commenter's institution suggests that enrollment in secondary education programs, including SWD (Grades 7-12), is typically quite a bit lower than in elementary education programs. Candidates choose their programs based on preference or interest in teaching specific grade levels and/or disciplines rather than certification regulations. This commenter further contends that there is a much larger interest in becoming a teacher of childhood special education and expresses worry that there will be a significant decrease in the overall number of candidates seeking SWD certifications in general. Another commenter indicated that enrollment numbers in both SWD (Grades 1-6) and SWD (Grades 7-12) programs remain stagnant and removing the grade bands will not increase enrollments in either area.
- The proposal will not result in an increased number of qualified candidates, but instead shuffle around the existing pool of certified special education teachers.
- **Former Special Education Certificate.** Commenters state that:

- While an argument might be made that New York State had a Special Education certificate that permitted teachers to teach all grades, the NYS certification system is no longer the same and our understanding of the student needs across grades pre-Kindergarten-grade 12 are more nuanced/specialized.
- The former Special Education certificate was deemed inadequate in preparing quality teachers for both elementary grades and secondary grades, where understanding the developmental levels of students with special needs is particularly pertinent for successful learning.
- The change to the current SWD certificate grade bands in the early 2000s was commendable, recognizing that special educators must have the age-specific foundations in general education and specialized knowledge and practice in assessment, planning, and intervention for children or youth with disabilities.
- **Other Comments.** Commenters state that:
  - The proposed SWD (All Grades) certificate may limit the type of work for co-teachers or resource teachers and will not allow them to teach content as a sole teacher in upper-level grades without additional hours of specific content credits.
  - Lowering the requirements for content area special class teachers continues to devalue and lower the standards for special education students.

- Taking away the content specialty from high school special education teachers is not a good idea; teachers cannot possibly be prepared to teach the content level for Regents exams or the needs of adolescents.
- A 12-credit, specific, subject-based extension does not make anyone more prepared to teach adolescent special education students.
- No other profession has had a reduction in certification or education requirements due to a shortage of employees for that profession. It is hard to imagine a proposal for an “all grades” science or math certification would be acceptable to any public education stakeholders.
- All special education teachers should strive to get additional certificates, otherwise they will never be regarded as relevant and competent by either the students or the general education co-teacher. All special education teachers should go back to school and deepen their learning in the subjects that they are co-teaching.

DEPARTMENT RESPONSE: The Department recognizes that special education teacher preparation programs would need to offer coursework that addresses the broader student developmental levels of the Students with Disabilities (All Grades) certificate (pre-Kindergarten-grade 12). Although this coursework may not go into as much depth as the coursework in current special education programs, the supportive public comments articulate how it is valuable for special education teachers to understand the full continuum of grade range abilities among students with disabilities, and the ability to specially design and instruct students with special learning needs can

be applied across the grade levels. Additionally, the SWD (All Grades) certificate would also allow school districts to better meet the needs of students with disabilities by providing flexibility with hiring and teaching assignments across grade levels, particularly in rural and small districts and in buildings with grades that span more than one certification. This flexibility would also help address the persistent special education teacher shortage.

Several commenters indicated that SWD (All Grades) programs would be longer and more costly, forced to reduce the specialized content to keep the number of semester hours competitive, or forced to close or endure lower enrollments in the case of dual certification programs. Institutions of higher education would not necessarily need to increase the number of semester hours to offer this type of program, however; this would be a choice made by institutions. The proposal establishes a new certificate title with different education requirements, rather than reducing the amount of certification and education as indicated by a commenter.

The supportive public comments point out that school districts can provide professional learning and support for special education teachers so that they have the knowledge and skills needed to work with students with disabilities, which may not have been covered by their teacher preparation program. This professional learning and support can also help with the retention of special education teachers. The Department understands that institutions of higher education will engage in efforts to develop or revise their special education programs and will provide support during this process.

The Department believes that the proposal will have a positive impact on students with disabilities by increasing the pool of certified special education teachers,

enabling school districts to meet the needs of students across the grade bands. The Department does not anticipate that the creation of the SWD (All Grades) certificate will limit the opportunities for students with disabilities to be included in general education classroom instruction, increase discrete skill instruction in stand-alone special classes in a subject area, limit the type of work for co-teachers or resource room teachers, or diminish the requirements for subject area special class teachers.

Currently, special education teachers can teach a special class in a subject area in grades 7-12, with some or no students under alternate assessment, if they are certified in the subject area or meet the teaching experience requirement for the statement of continued eligibility (SOCE) in the subject area and have an active SOCE application in the TEACH system. There are several ways that special education teachers can become certified in a subject area, including earning a subject area certificate, subject area extension, or limited extension in the subject area. For the extension to teach students with disabilities in certain subjects in grades 5-9 or grades 7-12, the Department believes that candidates can sufficiently demonstrate the content knowledge needed to teach student with disabilities by completing 12 semester hours in the subject area of the extension or passing the content specialty test in the subject area of the extension.

In response to comments that candidates may be more interested in teaching students with disabilities in grades 1-6 instead of grades 7-12, the Department notes that, in the past, New York State offered an all grades Special Education certificate. Several special education teachers who hold this former certificate have described its benefits in public comments. Additionally, other states offer special education

certificates that span all grades. Therefore, there is ample support for the proposition that candidates will pursue a SWD (All Grades) certificate and program. This certificate does not require teachers to teach outside of their area of interest and would make them more marketable for school districts.

The Department holds the teaching profession in high esteem and greatly values the preparation that candidates receive in New York State registered teacher preparation programs. No changes to the proposed rule are necessary.

6. COMMENT: Several commenters who do not support the proposed regulatory amendment made the following suggestions:

- Consider a Kindergarten-grade 8 certification and a grades 5-12 certification, which would allow colleges to provide deliberate developmental coursework.
- Expand the already existing New York State Internship Certificate.
- Expand opportunities for institution of higher education and Department collaborations, such as those already in place that support qualified candidates in getting robust teacher education while also being in classrooms (e.g., teacher residency programs).
- Create structures for educator preparation programs (EPPs) and school districts to work together to solve the teacher shortage in special education. EPPs can build the programs, and offer the courses for certification extensions, but if schools are not encouraging staff to pursue this option for certification, candidates will not take them.

- Engage with faculty in teacher preparation programs directly so that together we can address our common concerns regarding shortages of highly prepared special education teachers
- Require a general behavior management class that includes foundational behavior management techniques, which includes Social Emotional Learning (SEL), consequences, and restorative practices, would better prepare and retain teachers.
- Incentivize candidates to choose special education as their area of certification.
- Create programs and incentives to encourage current teachers to earn SWD certifications in grades 7-12 or any other level, which was done previously for Teaching English to Speakers of Other Languages (TESOL) teachers.
- Incentivize EPPs to create programs in which candidates in adolescent subject area programs can more easily gain teaching SWD (Grades 7-12) certification within their programs by revising regulations to make the offering of these types of dual certification programs more manageable.
- Allow childhood or middle grades teachers with the interest in expanding to the adolescent level to gain additional expertise particular to this grade band through an extension, affording them the depth of preparation needed to serve students at this level.
- Work with institutions that already have SWD programs to add master's degree or advanced graduate certificate options with extensions for programs in an expedited manner.

- Allow EPPs to register SWD programs leading to certification extensions at the current developmental levels (grades 1-6 or 7-12). Why not allow EPP's to register special education certificate extension programs to make the process of adding special education certificates at any of the developmental levels much easier for teachers?
- Establish a means for teachers with tenure in one certification to move to a SWD position without needing to re-start a tenure process for the new position (and loss of original tenure). The job security might make it easier for schools to allow teachers who obtain the SWD certificate to make a change, which is a concern we hear routinely from our graduates.
- Strengthen the students with disabilities requirements for adolescent subject area certification. Preparing and supporting secondary subject area teachers and other affiliated staff for a stronger Multi-tiered System of Supports (MTSS) collaboration may help alleviate some of the need for SWD certified teachers in grades 7-12.
- Allow school districts to have flexibility in hiring outside certification levels, but with the expectation that those teachers without the appropriate grade level certification be given the time and resources to add additional coursework pertinent to getting the certification at the level for which they have been hired.
- Require Teacher Assistants for be specialized for Kindergarten-grade 6 or grades 7-12 to allow for more positional resources for students at a lower cost to the district. The teacher would be able to deliver the content, and the

Teacher Assistant in grades 7 – 12 would be more capable to deliver the content.

- Consider multiple approaches to attract, recruit, and retain highly qualified special education personnel identified by the U.S. Office of Special Education Programs.

DEPARTMENT RESPONSE: The Department appreciates the suggestions to help address the special education teacher shortage and will take several of them under consideration. Several of the suggestions could complement and bolster the proposal, such as expanding opportunities for institution of higher education and Departmental collaborations. For example, the new registration requirements for residency programs provide opportunities for collaborative residency programs, including dual certification programs, leading to the SWD (All Grades) certificate.

However, the suggestions would not address the special education teacher shortage to the same extent as the proposed amendment. For example, grade level extensions for the current SWD certificates were created in June 2018 and have not addressed the special education teacher shortage as needed.

School districts are not permitted to employ teachers in a teaching assignment for which they are not appropriately certified (Education Law §§ 3001, 3009), as suggested by a commenter, with the exception of incidental teaching. For the suggestion related to tenure, educators who are dually certified and teach a substantial portion of their time (i.e., 40% or more of their total time) in one or more of their designated tenure areas would accrue seniority in such designated area(s) (8 NYCRR section 30-1). They would not be able to accrue seniority in a tenure area in which they

were not working, such as accruing seniority in the elementary tenure area while completing a substantial portion of their time in special education. This regulation protects educators who are accruing tenure based on their workload.

The Department will continue to engage with teacher preparation programs and school districts on ways to address the special education teacher shortage.

No changes to the proposed regulation are necessary.

7. COMMENT: The commenter believes that additional information on the shortage problem would be useful in understanding the specific shortages both regionally and by grade levels. They understand and appreciate the recent shortage reports stemming from data in the TEACH system but assert that this data is not as clear as it could be because many certified SWD teachers also have certification in another area like childhood education.

DEPARTMENT RESPONSE: The Department collects data on statewide teacher shortage areas and reports the shortage areas annually to the U.S. Department of Education (USDE). The USDE [Teacher Shortage Area website](#) shows the years in which special education has been designated a statewide shortage area, and for some years the shortages are reported by region (e.g., New York City). For example, special education was a designated as a shortage area in grades 1-12 in New York City and in grades 5-12 in the remainder of the Big Five (Buffalo, Rochester, Syracuse, and Yonkers school districts) for the 2018-2019 and 2019-2020 school years. Special education was a statewide shortage area in grades 5-12 (2020-2021), pre-Kindergarten-grade 12 (2021-2022), and grades 7-12 (2022-2023).

The shortage area designations are based on teaching assignment data from two school years earlier, which is the most recent available at the time the designations are requested by USDE. The teaching assignment data are from the State Education Department's Personnel Master File (PMF) through the 2019-2020 school year and from the Student Information Repository System (SIRS) database beginning with the 2020-2021 school year. All data are reported by school districts and merged with certification data in the TEACH system to determine shortages.

The Department identifies teacher shortages areas based on the percentage of full-time equivalent teaching positions filled by teachers who did not possess the appropriate certification for their teaching assignment. In the case of special education teaching shortages, teachers did not hold the appropriate special education certificate for their teaching assignments. Special education shortage data are determined independently of data for other certification areas, such as childhood education. No changes to the proposed regulation are necessary.

8. COMMENT: Many comments were submitted that were unrelated to the proposed rule.

DEPARTMENT RESPONSE: Since these comments are outside the scope of the proposed rule, no changes are necessary.