




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

TO: Higher Education Committee

FROM: Joseph P. Frey


SUBJECT: Proposed Amendment to Sections 80-4.13 and 80-5.18 of the Commissioner's Regulations, Relating to Teacher Certification Flexibility to Avoid or Mitigate Reductions in Force

DATE: April 19, 2010

AUTHORIZATION(S):

SUMMARY

Issue for Decision

Should the Board of Regents adopt as an emergency measure proposed amendments to Sections 80-4.13 and 80-5.18 of the Commissioner's Regulations relating to teacher certification flexibility to avoid or mitigate reductions in force?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

This item will come before the Higher Education Committee for emergency action at its April 2010 meeting. Action is necessary at the April 2010 Board of Regents meeting in order to inform reduction in force decisions that must be made by school districts prior to school budget votes in May 2010. A statement of facts and circumstances justifying this emergency action is attached.

Procedural History

The Regents have historically provided flexibility in teacher certification. In 2000, the Board of Regents provided flexibility in Section 80-5.12 of the Commissioner's Regulations through the Experiment in Organizational Change. This provision, which allows certain school districts that propose an experiment concerned with organizational changes in their elementary, junior or senior high school to employ a certified teacher

for any teaching assignment, for a five year period, if the teacher is deemed by the superintendent, or other legally authorized body, to be qualified by education and experience.

In 2004, the Regents also approved the use of Supplementary certificates in Section 80-5.18 of the Commissioner's Regulations, allowing certified teachers to teach in a subject area and/or grade level, while the teacher completes the necessary requirements to qualify for the new certificate. The provisions of the attached amendment are similar to existing flexibility provisions but tailored to meet the needs of districts in this immediate fiscal crisis.

The purpose of these amendments is to retain effective teachers with appropriate education and experience who may be reassigned to meet the needs of other students.

Background Information

School districts and the New York State Council of School Superintendents requested that the Regents consider flexibility in the following four areas to help them retain effective teachers while meeting key staffing needs during the current fiscal crisis:

Grades 7-12 Academic Area Certification Extended to Grades 5 and 6

The proposed amendment provides a level of flexibility in certification similar to that of the Experiment in Organizational Change. During a period of fiscal crisis, a district could reassign a teacher who is employed by the district and certified in the classroom teaching service in a subject area in grades 7-12 to teach that same subject area in grades 5 or 6 through a limited extension to the teacher's existing certificate. The limited extension will be valid for two years and shall be valid with that employing entity only. A full extension may be issued to the candidate if the candidate meets the requirements within those two years.

Childhood Education Extended to Kindergarten

The proposed amendment authorizes a teacher who is currently certified in childhood education (grades 1-6) to be reassigned to teach kindergarten under a limited extension to their existing certificate for a two-year period while they complete six semester hours of pedagogical coursework in early childhood education. At that point, the teacher could apply for the full extension to teach kindergarten.

Childhood Education Extended to Grades 7 and 8

Similar to the regulation on the Experiment in Organizational Change, the proposed amendment authorizes a certified and qualified elementary school teacher (grades 1-6) to be reassigned to a position teaching an academic subject in grades 7 and 8. The teacher would need to have appropriate education and experience for such teaching assignment as demonstrated by earning Highly Qualified status under NCLB in order to be granted a limited extension to their existing certificate title. Also, the teacher must agree to: 1) successfully complete the Content Specialty Test in that subject area, and 2) complete 6 semester hours of course work in Middle Childhood Education, within

the next two years to qualify for the full certificate extension when their limited extension expires.

Students with Disabilities

School superintendents also requested flexibility for general education teachers, who have passed the Students with Disabilities Content Specialty Test, to teach students with disabilities in the subject area(s) and grade level of the general education teacher's current general education certificate title.

In 2004, the Regents established a supplementary certificate authorizing a teacher who is currently certified in a title in the classroom teaching service to teach students with disabilities if there is a demonstrated shortage and the following requirements are met:

1. The Chancellor, in the case of employment with the City School District of the City of New York; or by the superintendent, in the case of other employing boards attests that:
 - a. it will employ the certified teacher to teach in the new assignment (which is a demonstrated shortage area for that school district),
 - b. it will require, as a condition of employment, that the candidate enroll in study to complete requirements for the initial or professional certificate in the title sought for the Supplementary certificate, and that
 - c. it will provide appropriate support to the candidate undertaking this new teaching assignment under the supplementary certificate to ensure quality instruction for students.
2. The teacher must:
 - a. hold the minimum degree required for an Initial certificate in the title sought,
 - b. agree to enroll in study at an institution of higher education to meet the requirements for the initial or professional certificate in that subject area and grade level,
 - c. pass the Students with Disabilities Content Specialty Test, and
 - d. have completed at least nine semester hours of study in the instruction of students with disabilities.

The proposed amendment contains the same requirements except it is limited to a fiscal crisis rather than to a demonstrated shortage area, and a greater portion of the coursework may be completed while the teacher is teaching students with disabilities. The proposed amendment would also reduce the time allowed to complete the remaining pedagogical coursework from three years to two years.

Below is an example of how this could work in New York City:

New York City Example

On average, New York City hires approximately 400 Transitional B certified Special Education teachers each year. With the current fiscal crisis, New York City may

have to lay off several thousand teachers, many of whom have proven themselves to be effective in helping students learn. The amendment would allow New York City to choose to reassign an effective general education teacher to teach special education, provided there is no existing preferred eligibility list, and provided the teacher meets the following requirements:

- holds an Initial, Provisional, Permanent, or Professional teaching certificate in a title of the classroom teaching service and there is a comparable students with disabilities certificate title in that grade level and subject area(s);
- has at least one year of successful teaching experience in the public schools;
- passes the Students with Disabilities Content Specialty Test;
- completes at least three credit hours in special education pedagogical study; and
- commits to completing the remaining special education pedagogical study (nine semester hours) required for the Initial or Professional certificate within two years.

Summary

Limited Extensions and Supplementary B certificates would not be renewable and would expire at the end of the two-year period. It is intended that these Limited Extensions or Supplementary B certificates would provide a two-year bridge to authorize teaching for an already experienced teacher who is seeking to complete any remaining requirements to qualify for the full certificate extension in the new teaching assignment.

The proposed amendment addresses certification issues only. Hiring decisions or appointments to tenure areas continue to be governed by existing law and rules. For example, if, due to a previous reduction in force, a preferred eligibility list exists that covers the tenure area where the district seeks to fill a position, the school district must use the preferred eligibility list first before making any new appointments to that tenure area. Also, any reassignments to a new tenure area require the consent of the teacher and result in the teacher serving a probationary period in the new tenure area.

The Department has shared the proposed amendments with:

- District Superintendents
- Professional Standards and Practices Board for Teaching
- New York State Council of School Superintendents
- The Big 5 Conference
- New York State United Teachers
- School Administrators Association of New York State
- New York State School Boards Association
- Council of School Supervisors and Administrators – New York City

The wording of the attached proposed amendment includes changes based upon feedback from these groups. While not all groups agree with all provisions of each portion of the amendment, there is a general consensus that the amendment will

achieve the goal of retaining some effective teachers in the profession through reassignments that meet the needs of students.

Recommendation

VOTED: That new subdivisions (k), (l) and (m), intended to avoid or mitigate reductions in force during a fiscal crisis, be added to Section 80-4.3 and a new subdivision (d) be added to Section 80-5.18 of the Regulations of the Commissioner of Education, effective April 27, 2010, as an emergency action upon a finding by the Board of Regents that such action is necessary to protect the general welfare in order to inform reduction in force decisions that must be made by school districts prior to school budget votes in May 2010.

Timetable for Implementation

If adopted as an emergency measure at the April Regents meeting, the proposed amendment will become effective on April 27, 2010. A second emergency adoption will be necessary at the July Regents meeting to ensure that the regulations remain continuously in effect until the regulation becomes effective on August 11, 2010.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF
EDUCATION

Pursuant to sections 207, 3001 and 3004 of the Education Law.

1. New subdivisions (k), (l) and (m) are added to section 80-4.3 of the Regulations of the Commissioner of Education is amended, effective April 27, 2010, to read as follows:

(k) Requirements for the issuance of a limited extension to teach a subject in grades 7-8 during a period of immediate fiscal crisis and a 7-8 grade level extension.

(1) Purpose. The purpose of extensions issued under this subdivision, subject to their period of applicability as set forth in paragraph (2) of this subdivision, is to authorize a teacher who is currently employed and certified in the classroom teaching service in childhood education (grades 1-6) or students with disabilities (grades 1-6) or an equivalent certificate title authorizing the teaching of all common branch subjects in childhood education (grades 1-6) to be reassigned by the employing entity to teach that subject in grades 7-8 during a demonstrated fiscal crisis to avoid or mitigate a reduction in force consistent with the requirements of law.

(2) Applicability. The provisions of this subdivision shall apply commencing April 27, 2010 and end on June 30, 2013.

(3) Limitations. A limited extension issued under this subdivision shall be valid for two years from its effective date and shall not be renewable. A limited extension may be issued to a teacher currently employed by an employing entity that meets the requirements in

paragraph (4) of this section. A limited extension shall authorize a candidate to teach a subject in grades 7-8 with that employing entity only. Thereafter, a 7-8 grade level extension may be issued to such teacher upon completion of the requirements in paragraph (5) of this subdivision and shall authorize the teacher to teach a subject in grades 7 and 8 in any employing entity.

(4) Requirements for limited extension. Notwithstanding the provisions of this section, a limited extension may be issued to a candidate in a specific subject area for grades 7 and 8 provided that the candidate meets the requirements in each of the following subparagraphs:

(i) The candidate shall hold a valid provisional, permanent, initial or professional certificate in the classroom teaching service in childhood education (grades 1-6) or students with disabilities (grades 1-6) or an equivalent certificate title authorizing the teaching of all common branch subjects in grades 1 through 6; and

(ii) The candidate shall submit a statement by the Chancellor, in the case of employment with the City School District of the City of New York; or by the superintendent, in the case of other employing boards; or by the chief school officer, in the case of employment with another entity required by law to employ certified teachers certifying that:

(a) the employing entity seeks to reassign a currently employed teacher to a new teaching position in grades 7-8 in a subject area in the classroom teaching service;

(b) the candidate meets the qualification requirements of section 120.6 of this Title, relating to the No Child Left Behind Act of 2001;

(c) the employing entity is in an immediate fiscal crisis and the issuance of an extension in grades 7-8 to such candidate will avoid or mitigate a reduction in force;

(d) the employing entity will provide appropriate support to the currently employed teacher undertaking a new teaching assignment under a limited extension to ensure the maintenance of quality instruction for students;

(e) the employing entity will require, as a condition of employment under the extension, the candidate's enrollment in study at an institution of higher education to complete the requirements in paragraph (5) of this subdivision; and

(f) the employing entity will not assign the employed teacher to teach courses for high school credit;

(5) Requirements for 7-8 grade level extension in a subject. Notwithstanding the provisions of this section, an extension to teach a subject in grades 7-8 shall be issued to a candidate in a specific subject area for grades 7 and 8 provided that the candidate successfully completes the New York State Teacher Certification Examination content specialty test in the subject for which a certificate extension is being sought and six semester hours of coursework in middle childhood education.

(l) Requirements for a limited extension to teach kindergarten during a period of immediate fiscal crisis and a kindergarten extension.

(1) Purpose. The purpose of extensions issued in this subdivision, subject to their period of applicability as set forth in paragraph

(2) of this subdivision, is to authorize a teacher who is currently employed and certified in the classroom teaching service in childhood education (grades 1-6) or students with disabilities (grades 1-6) or an equivalent certificate title authorizing the teaching of all common branch subjects in childhood education (grades 1-6) to be reassigned by the employing entity to teach kindergarten during a demonstrated immediate fiscal crisis to avoid or mitigate a reduction in force consistent with the requirements of law.

(2) Applicability. The provisions of this subdivision shall apply commencing April 27, 2010 and end on June 30, 2013.

(3) Limitations. A limited extension issued under this subdivision shall be valid for two years from its effective date and shall not be renewable. A limited extension may be issued to a teacher currently employed by an employing entity, provided that the requirements in paragraph (4) of this section are met. A limited extension shall authorize a candidate to teach kindergarten with that employing entity only. Thereafter, a kindergarten extension may be issued to such teacher upon completion of the requirements in paragraph (5) of this subdivision and shall authorize the teacher to teach kindergarten in any employing entity.

(4) Requirements for a limited extension. Notwithstanding the provisions of this section, a limited extension may be issued to a candidate to teach kindergarten provided that the candidate meets the requirements in each of the following subparagraphs:

(i) The candidate shall hold a valid provisional, permanent, initial or professional certificate in the classroom teaching service in childhood

education (grades 1-6) or students with disabilities (grades 1-6) or an equivalent certificate title authorizing the teaching of all common branch subjects in grades 1 through 6; and

(ii) The candidate shall submit a statement by the Chancellor, in the case of employment with the City School District of the City of New York; or by the superintendent, in the case of other employing boards; or by the chief school officer, in the case of employment with another entity required by law to employ certified teachers certifying:

(a) the employing entity seeks to reassign a currently employed teacher to a new teaching position in kindergarten;

(b) the candidate meets the qualification requirements of section 120.6 of this Title, relating to the No Child Left Behind Act of 2001;

(c) the employing entity is in an immediate fiscal crisis and the issuance of a limited extension in kindergarten to such candidate will avoid or mitigate a reduction in force;

(d) the employing entity will provide appropriate support to the currently employed teacher undertaking a new teaching assignment under an extension to ensure the maintenance of quality instruction for students;
and

(e) the employing entity will require, as a condition of employment under the extension, the candidate's enrollment in study at an institution of higher education to complete the requirements in paragraph (5) of this subdivision.

(5) Requirements for kindergarten extension. Notwithstanding the provisions of this section, a kindergarten extension may be issued to a

candidate provided that the candidate satisfactorily completes six semester hours of pedagogical coursework in early childhood development.

(m) Requirements for the issuance of a limited extension to teach a subject in grades 5-6 during a period of immediate fiscal crisis and a 5-6 grade level extension in a subject.

(1) Purpose. The purpose of extensions issued under this subdivision, subject to their period of applicability as set forth in paragraph (2) of this subdivision, is to authorize a teacher who is currently employed and certified in the classroom teaching service in a certain subject in grades 7-12 and who has demonstrated an appropriate academic background to teach in the subject area of his/her grade 7-12 certificate, to be reassigned by the employing entity to teach that subject in grades 5-6 during a demonstrated immediate fiscal crisis to avoid or mitigate a reduction in force, consistent with the requirements of law.

(2) Applicability. The provisions of this subdivision shall apply commencing April 27, 2010 and end on June 30, 2013.

(3) Limitations. A limited extension issued under this subdivision shall be valid for two years from its effective date and shall not be renewable. A limited extension may be issued to a teacher currently employed by an employing entity that meets the requirements in paragraph (4) of this section. A limited extension shall authorize a candidate to teach a subject in grades 5-6 with that employing entity only. Thereafter, a 5-6 grade level extension may be issued to such teacher upon completion of the requirements in paragraph (5) of this subdivision

and shall authorize the teacher to teach a subject in grades 5-6 in any employing entity.

(4) Requirements for a limited extension to teach a subject in grades 5-6. Notwithstanding the provisions of this section, a limited extension may be issued to a candidate in a subject for grades 5-6 provided that the candidate meets the requirements in each of the following subparagraphs:

(i) The candidate shall hold a valid provisional, initial, permanent, or professional certificate in English language arts (7-12), language other than English (7-12), mathematics (7-12), biology (7-12), chemistry (7-12), earth science (7-12), physics (7-12), or social studies (7-12); and

(ii) The candidate shall submit a statement by the Chancellor, in the case of employment with the City School District of the City of New York; or by the superintendent, in the case of other employing boards; or by the chief school officer, in the case of employment with another entity required by law to employ certified teachers certifying:

(a) the employing entity seeks to reassign a currently employed teacher to a new teaching position in grades 5-6 in a subject area in the classroom teaching service;

(b) the candidate meets the qualification requirements of section 120.6 of this Title, relating to the No Child Left Behind Act of 2001;

(c) the employing entity is in an immediate fiscal crisis and the issuance of a limited extension to such candidate to teach grades 5-6 will avoid or mitigate a reduction in force;

(d) the employing entity will provide appropriate support to the currently employed teacher undertaking a new teaching assignment under a limited extension to ensure the maintenance of quality instruction for students; and

(e) the employing entity will require, as a condition of employment under the extension, the candidate's enrollment in study at an institution of higher education to complete the requirements in paragraph (5) of this subdivision.

(5) Requirements for a 5-6 grade level extension in a subject area. A 5-6 grade level extension may be issued to a candidate in a specific subject area provided that the candidate meets the requirements of subdivision (b) of this section.

2. A new subdivision (d) is added to section 80-5.18 of the Regulations of the Commissioner of Education is amended, effective April 27, 2010, to read as follows:

(d) Supplementary B Certificate in Times of Demonstrated Fiscal Crisis.

(1) Purpose. The purpose of this subdivision is to avoid or mitigate a reduction in force due to a demonstrated immediate fiscal crisis by authorizing a teacher who is currently employed by an employing entity and who has demonstrated an appropriate educational background and/or experience to teach students with disabilities to be reassigned, consistent with the requirements of law, to teach students with disabilities in the subject area and grade level of his/her teaching certificate, while the teacher is engaged in study at an institution of higher education to

complete requirements necessary to qualify for an initial or professional certificate to teach students with disabilities.

(2) Applicability. The provisions of this subdivision shall apply commencing on April 27, 2010 and end on June 30, 2013.

(3) Limitations. A supplementary B certificate issued under this subdivision shall be valid for two years from its effective date and shall not be renewable. The supplementary B certificate shall only be issued to a teacher employed by the employing entity that is impacted by the immediate fiscal crisis and shall only authorize employment with such employing entity.

(4) Requirements for a supplementary B certificate in one of the certificate titles for the instruction of students with disabilities.

Notwithstanding any provision in this section to the contrary, a supplementary B certificate in one of the certificate titles for the instruction of students with disabilities may be issued to a candidate who meets the following requirements:

(i) Application. The candidate shall apply for the supplementary B certificate, and upon application qualify for the certificate.

(ii) Certification. The candidate shall hold a valid provisional, initial, permanent, or professional certificate in a title in the classroom teaching service identified in Subpart 80-2 or 80-3 of this Part and there must be a comparable students with disabilities certificate title in that grade level and subject area, as determined by the Commissioner.

(iii) Education. The candidate shall hold the minimum degree required for an initial certificate in the certificate sought and the candidate

shall have completed at least three semester hours of study in the instruction of students with disabilities.

(iv) Commitment. The candidate shall agree to be enrolled in study at an institution of higher education leading to an initial or professional certificate in the certificate title sought.

(v) Experience. The candidate shall have at least one year of successful teaching experience in the public schools of this State.

(vi) Examination. The candidate shall submit evidence of having achieved a satisfactory level of performance on the content specialty test in the area of instruction of students with disabilities.

(vii) Education. The candidate shall complete the remaining education requirements prescribed in clause (c)(4)(ii)(b) of this section prior to the expiration of the supplementary B certificate.

(viii) Statement. The candidate shall submit a statement by the Chancellor, in the case of employment with the City School District of the City of New York; or by the superintendent, in the case of other employing boards; or by the chief school officer, in the case of employment with another entity required by law to employ certified teachers certifying:

(a) the employing entity seeks to reassign the candidate to a teaching position in a certificate title for the instruction of students with disabilities wherein the candidate has an appropriate educational background and experience to provide instruction to students with disabilities for which the candidate would need the supplementary B certificate to qualify;

(b) the employing entity is in an immediate fiscal crisis and the issuance of a supplementary B certificate to such candidate will avoid or mitigate a reduction in force;

(c) the employing entity will provide appropriate support to the candidate undertaking a new teaching assignment under the supplementary B certificate to ensure the maintenance of quality instruction for students, including appropriate support and consultation with a teacher certified to teach students with disabilities at that grade level during the candidate's first year of teaching students with disabilities;

and

(d) the employing entity will require, as a condition of employment under the supplementary B certificate, the candidate's enrollment in study at an institution of higher education to qualify for an initial or professional certificate in the certificate title sought.