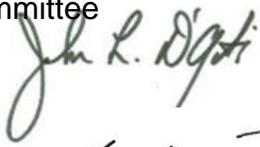




THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee  
Higher Education Committee

**FROM:** John L. D'Agati   
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**SUBJECT:** Proposed Amendments to Section 80-4.3 of the Regulations of the Commissioner of Education Relating to the Supplementary Bilingual Education Extension, and Section 80-5.18 of the Regulations of the Commissioner of Education Relating to Supplementary Certificates for English to Speakers of Other Languages (ESOL)

**DATE:** March 9, 2015

**AUTHORIZATION(S):**  

## SUMMARY

### Issue for Discussion

Should the Board of Regents amend Section 80-4.3 of the Regulations of the Commissioner of Education relating to the issuance of the Supplementary Bilingual Education Extension and Section 80-5.18 of the Regulations of the Commissioner of Education relating to the issuance of the Supplementary Certificates for English to Speakers of Other Languages (ESOL)?

### Reason(s) for Consideration

Review of policy.

### Proposed Handling

The proposed amendment will be presented for discussion at a joint meeting of the P-12 Education and Higher Education Committees at the March 2015 meeting of the Board of Regents. A copy of the proposed amendment is attached.

## **Procedural History**

A Notice of Proposed Rule Making will be published in the State Register on April 8, 2015 for a 45-day public comment period. Supporting materials are available upon request to the Secretary to the Board of Regents.

## **Background Information**

Over the past 10 years, New York State English Language Learner (ELL) student enrollment has increased by 20 percent. According to the U.S. Department of Education, ELL student enrollment has increased by 18 percent nationally. Currently in New York State, over 230,000 ELLs make up 8.9 percent of the total public student population. Students in New York State speak over 140 languages, with 61.5 percent of ELL students having Spanish as their home language. In addition, 41.2 percent of ELL students were born outside of the United States.

In the landmark 1974 decision, *Lau v. Nichols*, the United States Supreme Court established the right of ELL students to have “a meaningful opportunity to participate in the educational program.” That same year, an agreement between the New York City Board of Education and ASPIRA of New York (called the ASPIRA Consent Decree) assured that ELL students would be provided bilingual education. As such, ELL students must be provided with equal access to all school programs and services offered to non-ELL students, including access to programs required for graduation. Education Law §3204 and Part 154 of the Commissioner’s Regulations contain standards for educational services provided to ELL students in New York State. With this framework in place, the Department began to engage stakeholders to determine how the programs and services required in Part 154 could be enhanced to better meet the needs of the State’s multilingual population.

The Department’s process began in early 2012 with focus group discussions representing over 100 key stakeholders from around the State. Those discussions informed the development of a statewide survey of policy options that was released in June 2012, and resulted in over 1,600 responses from teachers, principals, superintendents, advocates and others interested in the education of ELL students. The Department then used the survey results and focus group discussions to develop proposed policy changes and enhancements. Proposed changes were then shared with stakeholders for feedback and were also shared with the U.S. Department of Justice, Office of Civil Rights, U.S. Department of Education staff responsible for Title I and Title III, and members of the Board of Regents for review and feedback.

At its September 2014 meeting, the Board of Regents adopted a number of changes to Part 154 of the Commissioner’s Regulations, including the addition of a Section 154-2 which establishes standards for English language learner (“ELL”) programs beginning with the 2015-2016 school year in school districts and BOCES to assure that such students are provided opportunities to achieve the same educational goals and standards that have been established by the Board of Regents for all students. In order to meet the requirements of this regulation, some districts and

BOCES may need to hire additional certified ESOL teachers and certified content area teachers with bilingual education extensions.

School districts have expressed concern that they will not be able find teachers that hold ESOL certification or teachers with Bilingual Education Extensions due to a shortage in these certificate titles.

Teachers with ESOL certification are certified to teach English to students who speak languages other than English as their first language. Teachers who have a supplemental bilingual education extension are teachers certified in a specific content area who have separately demonstrated an ability to speak, read and write in a particular foreign language sufficient to teach that specific content area to English language learners.

Section 80-4.3 of the Commissioner's Regulations currently allows certified teachers in the classroom teaching service to obtain a supplementary bilingual education extension to authorize such teachers to teach bilingual English language learners where there is a demonstrated shortage while the teacher is matriculated in a program at an institution of higher education leading to an extension in bilingual education. The supplementary bilingual education extension currently requires demonstrated Languages Other Than English (LOTE) proficiency and three semester hours of coursework in bilingual education, including study in theories of bilingual education and multicultural perspectives.

Section 80-5.18 of the Commissioner's Regulations currently allows a certified teacher in the classroom teaching service to obtain a supplementary certificate in English as a Second Language to allow these teachers to teach English to speakers of other languages while meeting the requirements for the Initial or Professional ESOL certificate. Currently, a supplementary certificate in ESOL requires six semester hours of content in the area of the certificate title and six hours in literacy. The supplementary certificate is valid for three years as long as the teacher holds a valid permanent, initial or professional certificate.

Both the supplementary bilingual education extension and the supplementary ESOL certificate require a certification signed by the superintendent, attesting to the fact that there is a demonstrated shortage of such certified teachers. In addition, the school district or BOCES will provide appropriate support to the candidate to ensure the maintenance of quality instruction for students, and the district will require the teacher to be enrolled in study at an institution of higher education leading to the initial or professional certificate.

The Department is recommending changes, to be effective for a three year period, from July 1, 2015 until June 30, 2018, to the supplementary bilingual education extension and the ESOL supplementary certificate to allow more teachers to be eligible for these certificates. This will assist school districts and BOCES in finding certified ESOL teachers and bilingual teachers to instruct these students.

With respect to the supplementary bilingual education extension, the Department is presenting two additional pathways in lieu of matriculation in a registered program to the Board for its consideration.

Pathway I allows a candidate who has completed, or is currently enrolled in, a course leading to three semester hours in bilingual education, including study in theories of bilingual education and multicultural perspectives, to submit evidence of having achieved a satisfactory level of performance on a bilingual extension assessment in lieu of the current requirement to be matriculated in a registered preparation program.

Pathway II allows a candidate to submit evidence of having two years of satisfactory bilingual teaching experience and evidence of a satisfactory level of performance on the bilingual extension assessment in lieu of the current requirement to be matriculated in a registered preparation program.

With respect to the ESOL supplementary certificate, the Department is also presenting two additional pathways to the Board for its consideration.

Pathway I allows a candidate who has achieved a satisfactory level of performance on the ESOL CST, and who has completed, or is currently enrolled in, a course leading to three semester hours in methods of second language teaching in the elementary and secondary grades to be eligible for the ESOL supplementary certificate. The candidate would have three years to complete the balance of the currently required coursework, which includes three additional semester hours in methods of second language teaching in the elementary and secondary grades, and six semester hours of coursework in teaching literacy skills.

Pathway II allows a candidate who has achieved a satisfactory level of performance on the ESOL CST to submit evidence of having two years of satisfactory experience teaching English to speakers of other languages in lieu of the coursework requirements in methods of second language teaching in the elementary and secondary grades, and in teaching literacy skills. The candidate would have three years to complete the balance of the currently required coursework, as outlined above.

The Department is recommending that these additional pathways for the supplementary bilingual education extension and the ESOL supplementary certificate be available for a three year period, to conclude on June 30, 2018. If an extension of the time period for these changes becomes necessary, the Department will make a subsequent recommendation to the Board to extend the availability of these pathways prior to expiration of these changes.

### **Recommendation**

Not applicable.

## **Timetable for Implementation**

It is anticipated that the proposed rules will be adopted by the Board of Regents as a permanent rule at their June 2015 meeting. If adopted at the June 2015 meeting, the proposed rule will become effective as a permanent rule on July 1, 2015.

## Attachment A

### AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 3001, 3003, 3006 and 3009 of the Education Law.

1. Clause (c) of subparagraph (iii) of paragraph (4) of subdivision (a) of section 80-4.3 of the Regulations of the Commissioner of Education is amended, effective July 1, 2015, to read as follows:

(c) [The] (1) Except as otherwise provided in this clause, the candidate shall be matriculated in a registered program leading to a bilingual extension of a certificate as a teacher in the classroom teaching service, as prescribed in section 52.21(b)(4) of the Title, provided that such program must require the candidate to pass an assessment of proficiency in the language of the bilingual education extension sought as a condition for entry into the program.

(2) Candidates seeking a bilingual extension of a certificate as a teacher in the classroom teaching service during the time period of July 1, 2015 through June 30, 2018, may: (i) submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination bilingual extension assessment, or (ii) submit evidence of having at least two years of satisfactory bilingual teaching experience, in lieu of being matriculated in a registered program leading to a bilingual extension of a certificate as a teacher in the classroom teaching service as otherwise required by this clause.

2. Subclause (1) of clause (d) of subparagraph (4) of subdivision (a) of section 80-4.3 of the Regulations of the Commissioner of Education is amended, effective July 1, 2015, to read as follows:

(1) The candidate shall have completed three semester hours in bilingual education as prescribed in the requirements for a bilingual extension, set forth in this section, including study in theories of bilingual education and multicultural perspectives, provided however, that on and after July 1, 2015 until June 30, 2018, candidates who submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination bilingual extension assessment, as provided for in clause (c) of this subparagraph, may meet this coursework requirement by submitting evidence of being enrolled in a course satisfactorily meeting the requirements of this subclause, and further provided that the coursework requirement shall not be applicable to candidates who have submitted evidence of having at least two years of satisfactory bilingual teaching experience and having achieved a satisfactory level of performance on the New York State Teacher Certification Examination bilingual extension assessment, as provided for in clause (c) of this subparagraph.

3. Clause (f) of subparagraph (ii) of paragraph (4) of subdivision (c) of section 80-5.18 of the Regulations of the Commissioner of Education is amended, effective July 1, 2015, to read as follows:

(f) [For] (1) For candidates seeking a certificate for teaching English to speakers of other languages on and after July 1, 2015 until June 30, 2018, the candidate may meet the requirements of this clause by either:

(i) completing, or being enrolled in, a course leading to three semester hours in methods of second language teaching in the elementary and secondary grades; or

(ii) by submitting evidence of at least two years of satisfactory experience teaching English to speakers of other languages

(2) On or after July 1, 2018, candidates seeking a certificate for teaching English to speakers of other languages, the candidate shall have completed six semester hours of coursework in methods of second language teaching in the elementary and secondary grades and six semester hours in teaching literacy skills, as prescribed in the pedagogical core for the initial certificate in this certificate title, set forth in section 80-3.7 of this part.