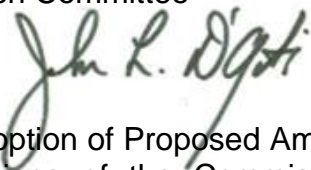





**TO:** Higher Education Committee

**FROM:** John L. D'Agati 

**SUBJECT:** Emergency Adoption of Proposed Amendments to Part 52 of the Regulations of the Commissioner of Education Relating to Minimum Admission Standards for Graduate-Level Teacher and Educational Leadership Programs and Requirements for the Suspension and/or Deregistration of Certain Programs with Completers Who Fail to Achieve a Minimum Pass Rate on Certification Examinations for Three Consecutive Years

**DATE:** September 9, 2015

**AUTHORIZATION(S):** 

## SUMMARY

### Issue for Decision

Should the Board of Regents amend Part 52 of the Commissioner's Regulations to require graduate-level teacher and educational leadership programs to establish minimum admission standards and requirements for the suspension and/or deregistration of certain programs with completers who fail to achieve a minimum pass rate on certification examinations for three consecutive years?

### Reason(s) for Consideration

Required by State statute.

### Proposed Handling

The proposed amendment will be presented to the Higher Education Committee for recommendation to the Full Board as an emergency adoption at the September 2015 meeting of the Board of Regents. A copy of the proposed amendment is attached as Attachment A.

## **Procedural History**

A Notice of Proposed Rule Making and Emergency Action will be published in the State Register on October 7, 2015. The Statement of Facts and Circumstances Justifying the Emergency Adoption is attached as Attachment B. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

## **Background Information**

Chapter 56 of the Laws of 2015 added new §§ 210-a and 210-b to the Education Law to require all institutions with graduate-level teacher and educational leadership programs registered by the Department to “adopt rigorous selection criteria geared to predicting a candidate’s academic success in its program.”

The new law also requires the Department to suspend the program’s authority to admit new students if, for three consecutive academic years, fewer than 50 percent of its students who have completed the program, pass each of the certification assessments required for their first initial certificate, and deregister the program if it does not significantly improve.

### **1. Admission Requirements**

The Department, consistent with the requirements of §210-a, will require institutions programs with graduate-level teacher and educational leadership programs commencing instruction on or after July 1, 2016, to establish rigorous minimum selection criteria geared to predicting a candidate’s academic success in the program. The law requires candidates who are seeking their first initial certificate admitted to such programs to have a minimum cumulative undergraduate grade point average of 3.0 or higher in the candidate’s undergraduate program, and to have achieved a minimum score, to be set by the institution, on the Graduate Record Examination (GRE), or a substantially equivalent admission assessment. Pursuant to the law, each program is entitled to exempt up to 15 percent of its incoming class from these admission requirements based on the exempted student’s demonstrated “potential to positively contribute to the teaching profession” or for “other extenuating circumstances pursuant to the regulations of the commissioner. The Department has clarified this exemption to also extend to a student’s ability to positively contribute to the educational leadership profession for students in a graduate-level educational leadership program. However, the Department did not list any other extenuating circumstances in the regulation because it believes that an exemption should only be permitted where a student is able to demonstrate the potential to positively contribute to the teaching and/or educational leadership profession and if a student cannot demonstrate such potential, an exemption should not be granted. Further, adding extenuating circumstances does not increase the percentage of students exempted from the admission criteria set forth in the statute.

## 2. Minimum Program Completer Certification Assessment Pass Rate, Suspension and Deregistration

Section 210-b requires that, if fewer than 50 percent of the program completers in a graduate teacher or educational leadership program pass each examination required for certification for three consecutive academic years, the Department must suspend the program's authority to admit new students. This provision in the new law became effective July 1, 2015. The law provides that the program shall be permitted to continue operations for the length of time it would take all students currently admitted and/or enrolled students to complete the program based on a full-time course schedule. If, during that time, the Commissioner determines that student and/or program performance has significantly improved, the Commissioner may reinstate the program's ability to admit new students. In making this determination, the statute instructs the Department to consider performance on each certification examination of the cohort of students completing an examination not more than five years before the end of the academic year in which the program is completed or not later than September 30 following the end of such academic year, where such academic year is defined as July 1 through June 30<sup>th</sup>, and shall consider only the highest score of individuals taking a test more than once. The Department will seek input from the field and, at a future date, recommend to the Board of Regents how it will define significant improvement.

A program that has been suspended would be permitted to continue operations for the length of time it would take all currently admitted and/or enrolled students, if such students were to attend classes on a full-time basis, to complete the requirements for their degrees. The institution would be required to notify all admitted and/or enrolled students of the suspension and, in the case of students attending classes on a part-time basis, the institution would be required to notify these students that they may not be able to complete the program before it may become de-registered.

The program may also appeal the suspension during this time, in a manner and timeframe prescribed by the Commissioner. The law further provides authority to the Commissioner to affirmatively reinstate the program's ability to admit new students if: (i) student or program performance improves; or (ii) the Department's suspension is successfully overturned on appeal. If the program's ability to admit new students is not affirmatively reinstated by the Commissioner, the law requires the program to be deregistered.

Education Law §210-b also authorizes the Commissioner to conduct expedited suspension and registration reviews for graduate programs pursuant to Commissioner's Regulations. The Department will be discussing this provision of the new law with stakeholders and the State Professional Standards and Practices Board for Teaching to determine what situations should trigger expedited reviews and will come back to the Board of Regents sometime over the next few months to discuss their recommendations.

## **Recommendation**

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

VOTED: That Section 52.21 of the Regulations of the Commissioner of Education be amended, as submitted, effective September 21, 2015, as an emergency action, upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare, in order to timely implement the provisions of sections 210-a and 210-b.

## **Timetable for Implementation**

If the Board of Regents adopts the attached emergency regulations at its September 2015 meeting, the emergency rule will become effective on September 21, 2015. It is anticipated that the proposed amendment will be adopted by the Board of Regents as a permanent rule at their December 2015 meeting. If adopted at the December 2015 meeting, the proposed amendment will become effective as a permanent rule on December 30, 2015.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

1. A new clause (l) shall be added to (l) of subparagraph (i) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education, effective September 21, 2015, to read as follows:

(l) Minimum Selection Criteria by Graduate-Level Teacher and Educational Leadership Programs Commencing Instruction on or after July 1, 2016.

(1) Institutions with registered graduate level teacher and educational leadership programs shall adopt rigorous selection criteria geared to predicting a candidate's academic success in its program. These rigorous selection criteria shall include, but not be limited to, a minimum score on the Graduate Record Examination or a substantially equivalent admission examination, as determined by the institution, and achievement of a cumulative grade point average of 3.0, or its equivalent, in the candidate's undergraduate program.

(2) Each program may exempt no more than 15 percent of any incoming class of students from such selection criteria described in this subclause based on such student's demonstration of potential to positively contribute to the teaching and/or educational leadership professions, as applicable. A program shall report to the Department the number of students admitted pursuant to such exemption and the selection criteria used for such exemptions.

2. Subclause (3) of clause (b) of subparagraph (iv) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education shall be renumbered as subclause (4) and a new subclause (3) shall be added, effective September 21, 2015, to read as follows:

(3) Requirements for Suspension and/or Deregistration of Graduate-Level Teacher and Educational Leadership Program.

(i) The authority of a graduate-level teacher and educational leadership program to admit new students shall be suspended if, for three consecutive academic years, fewer than fifty percent of its students who have satisfactorily completed the program pass each examination that they have taken that is required for such student's first initial certification, or certification examinations associated with the program leading to a student's additional certification. The pass rate calculation shall include students who have taken one of the certification examinations and used a safety net pursuant to section 80-1.5(c) of this Title. Notwithstanding such suspension, the program shall be permitted to continue operations for the length of time it would take all currently admitted and/or enrolled students, if such students were to attend classes on a full-time basis, to complete the requirements for their degrees. Upon such suspension, the graduate program shall promptly notify each admitted and/or enrolled student of such suspension and in the case of students attending classes on a part-time basis, the institution shall notify these students that they will not be able to complete the program. If, during this time period, the Commissioner determines that student and/or program performance has significantly improved, the Commissioner may reinstate the program's ability to admit new students. If the Commissioner does not affirmatively reinstate the program's authority to admit new students during such time period, the program shall be deregistered.

(a) For purposes of this subclause, students who have satisfactorily completed the graduate program shall mean students who have met each educational requirement of the program, without regard to whether such students have been awarded a degree, and excluding any requirement that the student pass each required certification

examination for such student's first initial certificate, or each required certification examination for such student's school building leader certificate in order to complete the program.

(b) Following suspension of a program pursuant to the subclause, the institution may submit an appeal, on a form prescribed by the Commissioner, to the Commissioner within 30 days of such suspension. The Office of College and University Evaluation shall then have 10 days to submit a written reply to the Commissioner. The Commissioner shall then review the written papers submitted and issue a written decision on the appeal within 30 days of either the Office of College and University Evaluation' reply or if such office does not submit a reply, within 30 days of receipt of the appeal, whichever occurs later. However, a program that has had its ability to admit students suspended shall not admit new students while awaiting the Commissioner's decision on any appeal. An institution with a deregistered program shall not admit any new students in such program while awaiting the Commissioner's decision on its application for registration.

...

[(3)] (4) By January 15, 2000 and annually by January 15th thereafter, each institution with programs registered pursuant to this section shall provide the department with a list of all students who satisfactorily complete each of its teacher education programs in the preceding year, July 1st through June 30th.

**8 NYCRR §52.21**

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

The proposed rule is necessary to implement Education Law sections 210-a and 210-b, as added by Subpart B of Part EE of Chapter 56 of the Laws of 2015, regarding admission requirements for graduate-level teacher and educational leadership programs and the suspension and deregistration of certain registered programs with certain passage rates on the certification examinations.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the December 2015 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the December meeting, would be December 30, 2015, the date a Notice of Adoption would be published in the State Register. However, Chapter 56 of the Laws of 2015 was signed by the Governor on April 13, 2015, and the provisions of section 2 of Subpart B became effective July 1, 2015 and the provisions of section 1 of Subpart A become effective for registered graduate-level teacher and educational leadership programs commencing instruction on or after July 1, 2016. Therefore, emergency action is necessary at the September 15-16, 2015 Regents meeting for the preservation of the general welfare in order to immediately establish standards for the admission requirements for graduate-level teacher and educational leadership programs and for the suspension and de-registration of graduate-level teacher and educational leadership programs and thus ensure the timely



implementation of Education Law §§210-a and 210-b, as added by Subpart B of Part  
EE of Ch. 56 of the Laws of 2015.