



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

**FROM:** William P. Murphy *William Murphy*

**SUBJECT:** Proposed Amendment of Section 52.21 of the Regulations of the Commissioner of Education Relating to the Assessment Requirements for School District Leader (SDL) and School District Business Leader (SDBL) Program Completion, the Institutional Recommendation for Professional SDL and SDBL Certification, and the Institutional Recommendation Transitional D Certification

**DATE:** March 3, 2022

**AUTHORIZATION(S):** *John P. Beltracchi*

### **SUMMARY**

#### **Issue for Decision (Consent)**

Should the Board of Regents adopt the proposed amendment of section 52.21 of the Regulations of the Commissioner of Education relating to the assessment requirements for school district leader (SDL) and school district business leader (SDBL) program completion, the institutional recommendation for Professional SDL and SDBL certification, and the institutional recommendation Transitional D certification?

#### **Reason(s) for Consideration**

Review of policy.

#### **Proposed Handling**

The proposed amendment is submitted to the Full Board for adoption as an emergency rule at its March 2022 meeting. A copy of the proposed amendment is attached (Attachment A), as well as a statement of facts and circumstances justifying emergency action (Attachment B).

## **Procedural History**

The proposed amendment was presented to the Higher Education Committee for recommendation to the Full Board for adoption as an emergency rule at the January 2022 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on January 26, 2022, for a 60-day public comment period.

Because the January emergency action will expire on April 10, 2022, a second emergency action is necessary to ensure the emergency rule remains continuously in effect until it can be permanently adopted at the May 2022 Regents meeting. A Notice of Emergency Adoption will be published in the State Register on April 27, 2022. Supporting materials are available upon request from the Secretary to the Board of Regents.

## **Background Information**

In response to the COVID-19 pandemic, the Board of Regents exempted school district leader (SDL) and school district business leader (SDBL) candidates from passing the SDL and SDBL assessment, respectively, for program completion and the institutional recommendation for Professional certification, if they completed all program requirements, other than the assessment requirement, during the 2019-2020 or 2020-2021 academic year. The Regents also exempted Transitional D candidates from passing the SDL assessment for the institutional recommendation for Transitional D certification if they completed all requirements for admitted candidates other than the assessment requirement on or before September 1, 2021. This temporary exemption, which was well received by the field, has now expired.

In order to achieve consistency across educator preparation programs, the Department now proposes to make these flexibilities permanent. Currently, and incongruously, only SDL, SDBL, and Transitional D candidates are required to pass a certification exam for program completion and/or the institutional recommendation for certification per the Commissioner's regulations; candidates enrolled in teacher, school building leader, or pupil personnel service preparation programs are not. Additionally, this proposed amendment will enable SDL, SDBL, and Transitional D candidates to pursue the Emergency COVID-19 certificate (8 NYCRR 80-5.27).

Since the above COVID-19 related flexibility was only provided in the 2019-2020 and 2020-2021 academic years, SDL, SDBL, and Transitional D candidates who have not passed the SDL or SDBL assessment (as appropriate) cannot currently receive institutional recommendation for certification, which is needed for such candidates to obtain the Emergency COVID-19 certificate. SDL and SDBL candidates would continue to be required to pass the SDL and SDBL assessment, respectively, to earn Professional certification, and Transitional D candidates would continue to be required to pass the SDL assessment to earn Transitional D certification.

## **Related Regents Items**

January 2022: [Proposed Amendment to Section 52.21 of the Regulations of the Commissioner of Education Relating to the Assessment Requirements for School District Leader \(SDL\) and School District Business Leader \(SDBL\) Program Completion, the Institutional Recommendation for Professional SDL and SDBL Certification, and the Institutional Recommendation Transitional D Certification](https://www.regents.nysed.gov/common/regents/files/122hea1.pdf)  
(<https://www.regents.nysed.gov/common/regents/files/122hea1.pdf>)

December 2021: [Proposed Amendment to Sections 52.21, 60.6, 61.19, 80-1.2, 80-3.7, 100.1, 100.2, 100.4, 100.5, 100.6, 100.7, 100.19 and 151-1.3 and the addition of Section 80-5.27 to the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](http://www.regents.nysed.gov/common/regents/files/1221brca4.pdf)  
(<http://www.regents.nysed.gov/common/regents/files/1221brca4.pdf>)

## **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, as an emergency measure, effective April 11, 2022, upon a finding by the Board of Regents that such action is necessary for the preservation of general welfare to continue to exempt candidates enrolled in school district leader (SDL) and school district business leader (SDBL) programs from taking and passing the SDL and SDBL assessment, respectively, for program completion and the institutional recommendation for Professional certification and to exempt candidates enrolled in a Transitional D program from taking and passing the SDL assessment for the institutional recommendation for Transitional D certification, to provide continuity for SDL, SDBL, and Transitional D candidates until the proposed rule can be permanently adopted and to ensure that the emergency action taken at the January 2022 meeting remains continuously in effect.

## **Timetable for Implementation**

If adopted as an emergency rule at the March 2022 Regents meeting, the emergency rule will become effective April 11, 2022. It is anticipated that the proposed rule will be presented to the Board of Regents for permanent adoption at the May 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the May 2022 meeting, the proposed amendment will become effective on June 1, 2022.

**Attachment A**

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

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

(vi) Requirements for program completion and recommendation for professional certificate.

(a) Candidates shall have successfully met all program requirements established by the institution of higher education and requirements for program registration.

(b) Candidates who have not earned a master's degree prior to admission shall qualify for a master's degree upon program completion, and shall have successfully completed 60 semester hours of graduate study that may include graduate study completed prior to admission and the graduate study required to develop knowledge and skills for school district leadership, as specified in the program's content requirements.

[(c) Candidates shall have completed successfully the New York State assessment for school district leadership, except that the candidate shall be exempt from such assessment for program completion and for the institutional recommendation for the professional certificate in response to the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis, if the candidate completed all program requirements other than the assessment requirement during the 2019-2020 or 2020-2021 academic year. The requirement of achieving a

satisfactory level of performance on the New York State assessment for school district leadership shall be waived if the candidate completes the registered program prior to the availability of such New York State assessment. The department shall determine the date on which such assessment is available and required.]

2. Clause (a) of subparagraph (iii) of paragraph (4) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) The program may recommend that the department issue transitional D certificates to admitted candidates who also meet the following requirements:

(1) Written commitment. Candidates shall hold a written commitment from a school district or BOCES for district-mentored and college-supervised employment as a school district leader, with mentoring of candidates for superintendent of schools to be provided by the regional BOCES District Superintendent or the New York City Regional Superintendent, or a superintendent identified by the regional BOCES District Superintendent or New York City Regional Superintendent, subject to the approval of the employing authorities.

(2) Program endorsement. Candidates shall have the program's endorsement for the transitional D certificate, including the program's description of how the candidate met each criterion used by the program to determine that the candidate had exceptional qualifications for becoming a school district leader with the substantial equivalent of three years of experience as a teacher, administrator, or pupil personnel provider in schools.

[(3) State assessment. Candidates shall pass the New York State assessment for school district leadership, except that the candidate shall be exempt from such assessment for the institutional recommendation for the transitional D certificate in response to the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis, if the candidate completed all requirements for admitted candidates other than the assessment requirement on or before September 1, 2021.]

3. Clause (c) of subparagraph (vi) of paragraph (5) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(vi) Requirements for program completion and recommendation for professional certificate.

(a) Candidates shall have successfully met all program requirements established by the institution of higher education and requirements for program registration.

(b) Candidates who have not earned a master's degree prior to admission shall qualify for a master's degree upon program completion, and shall have successfully completed 60 semester hours of graduate study that may include graduate study completed prior to admission and the graduate study required to develop knowledge and skills for school district business leadership, as specified in the program's content requirements.

[(c) Candidates shall successfully complete the New York State assessment for school district business leadership, except that the candidate shall be exempt from such assessment for program completion and for the institutional recommendation for the

professional certificate in response to the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis, if the candidate completed all program requirements other than the assessment requirement during the 2019-2020 or 2020-2021 academic year. The requirement of achieving a satisfactory level of performance on the New York State assessment for school district business leadership shall be waived if the candidate completes the registered program prior to the availability of such New York State assessment. The department shall determine the date on which such assessment is available and required.]

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

In response to the COVID-19 pandemic, the Board of Regents exempted school district leader (SDL) and school district business leader (SDBL) candidates from passing the SDL and SDBL assessment, respectively, for program completion and the institutional recommendation for Professional certification, if they completed all program requirements, other than the assessment requirement, during the 2019-2020 or 2020-2021 academic year. The Regents also exempted Transitional D candidates from passing the SDL assessment for the institutional recommendation for Transitional D certification, if they completed all requirements for admitted candidates other than the assessment requirement on or before September 1, 2021. This temporary exemption, which was well received by the field, has now expired.

In order to achieve consistency across educator preparation programs, the Department now proposes to make these flexibilities permanent. Currently, and incongruously, only SDL, SDBL, and Transitional D candidates are required to pass a certification exam for program completion and/or the institutional recommendation for certification per the Commissioner's regulations; candidates enrolled in teacher, school building leader, or pupil personnel service preparation programs are not. Additionally, this proposed amendment will enable SDL, SDBL, and Transitional D candidates to pursue the Emergency COVID-19 certificate (8 NYCRR 80-5.27).

Since the above COVID-19 related flexibility was only provided in the 2019-2020 and 2020-2021 academic years, SDL, SDBL, and Transitional D candidates who have

not passed the SDL or SDBL assessment (as appropriate) cannot currently receive institutional recommendation for certification, which is needed for such candidates to obtain the Emergency COVID-19 certificate. SDL and SDBL candidates would continue to be required to pass the SDL and SDBL assessment, respectively, to earn Professional certification, and Transitional D candidates would continue to be required to pass the SDL assessment to earn Transitional D certification.

The proposed amendment was presented to the Higher Education Committee for recommendation to the Full Board for adoption as an emergency rule at the January 2022 meeting of the Board of Regents, effective January 11, 2021. Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the May 2022 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the May meeting, would be June 1, 2022, the date the Notice of Adoption would be published in the State Register.

However, the emergency rule will expire on April 10, 2022. Therefore, a second emergency action is necessary at the March 2022 meeting for the preservation of the general welfare and public health in order to continue the exemption for candidates enrolled in school district leader (SDL) and school district business leader (SDBL) programs from taking and passing the SDL and SDBL assessment, respectively, for program completion and the institutional recommendation for Professional certification, and the exemption for candidates enrolled in a Transitional D program from taking and

passing the SDL assessment for the institutional recommendation for Transitional D certification, and to ensure that the emergency action taken at the January 2022 meeting remains continuously in effect until the rule can be permanently adopted.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at its May 2022 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for State agency rule making.