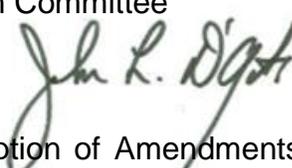




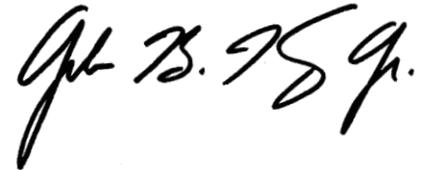
TO: Higher Education Committee

FROM: John L. D'Agati 

SUBJECT: Emergency Adoption of Amendments to Section 52.21 and Part 80 of the Regulations of the Commissioner of Education to Provide Teacher Candidates, who Apply for Teacher Certification Prior to June 30, 2015 and Who Take and Fail the Teacher Performance Assessment (edTPA), with the Option of Obtaining an Initial Certificate if the Candidate Passes the ATS-W Prior to June 30, 2015 and Subsequent to Receiving His/Her Score on the edTPA

DATE: April 29, 2014

AUTHORIZATION(s):



SUMMARY

Issue for Decision

Should the Board of Regents amend section 52.21 and Part 80 of the Commissioner's Regulations to provide teacher candidates who apply for teacher certification prior to June 30, 2015 and who take and fail the edTPA, with the option of obtaining an initial certificate if the candidate passes the ATS-W prior to June 30, 2015 and subsequent to receiving his/her score on the edTPA?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Higher Education Committee for emergency adoption at its April 2014 meeting (see Attachment A - Amendment to the Regulations).

Procedural Handling

A Notice of Proposed Rule Making and Emergency Adoption will be published in the State Register on May 14, 2014. A Statement of Facts and Circumstances Justifying the Emergency Adoption is attached as Attachment B. Supporting materials are available upon request to the Board of Regents.

Background Information

At the November and December 2009 Board of Regents meetings, the Board approved a number of initiatives for the purpose of transforming teaching and learning and school leadership in New York State. The Board of Regents discussion included the development of new examinations, creation of performance assessments for teachers and school building leaders, and the revision of the current Content Specialty Tests (CSTs). The teacher performance assessment was intended to measure candidates' readiness for the classroom consistent with the New York State Teaching Standards, which were adopted with extensive stakeholder input.

In May 2010, the Board reaffirmed the direction for the new examinations, which includes the Academic Literacy Skills Test (ALST), the Educating All Students test (EAS), the edTPA, and the School Building Leader performance assessment (SBL), as well as revisions to the Content Specialty Tests (CSTs). The new certification examinations were described in New York's Race to the Top (RTTT) application in 2010, are part of New York's RTTT scope of work, and were scheduled to be implemented in May 2013. Stakeholder engagement – particularly teacher preparation program faculty – in the development of the new teacher performance assessment began in 2010. The NYS-developed performance assessment was similar in construct and was field tested twice (spring and fall of 2011) and over 250 faculty members and over 550 students participated. Work continued on the NYS-developed performance assessment until we learned about the opportunity to partner with SCALE to implement the edTPA. NYS also conducted an edTPA statewide field test in 2013. At its February 2012 meeting, the Board of Regents approved a shift in the implementation date of the new certification examinations (edTPA, ALST, EAS and the SBL) from May 1, 2013 to May 1, 2014. This implementation date was selected in order to provide educator preparation programs with an additional year to prepare teaching candidates, while at the same time ensuring that the timeframes in the State's RTTT application are met.

As discussed at the December 2012 and October 2013 Regents meetings, the Department partnered with the Teacher Performance Assessment Consortium (TPAC) in February 2012 and is utilizing the edTPA as its teacher performance assessment, which was developed by the Stanford Center for Assessment, Learning and Equity (SCALE). The edTPA is a multiple-measure assessment system aligned to state and national standards, including the Common Core State Standards and the Interstate Teacher Assessment and Support Consortium (InTASC). Most importantly, the edTPA is on the cutting edge of teacher candidate assessment practices nationally and has been adopted by 34 states and the District of Columbia. The assessment is based on the National Board for Professional Teaching Standards (NBPTS). The edTPA is designed to measure a candidate's readiness to teach by assessing teaching behaviors designed to foster student learning such as the candidate's ability to demonstrate

effective planning, instruction, and assessment. In order for candidates to complete the edTPA, they need to submit a video of their performance in the classroom.

Early on, the Department established strong systems of support to ensure that each college and university had the information needed to successfully prepare its candidates. In April 2012, the Office of Higher Education announced the creation of a set of agreements with SUNY, CUNY, and the Commission on Independent Colleges and Universities (clcu) to provide professional development to enhance collaboration between schools of education and colleges of arts and sciences around the Regents Reform Agenda. The project has funded trainings focused on the Common Core Learning Standards, Data-Driven Instruction, Clinically Rich Teacher Preparation, the new certification examinations, and APPR. Funding from RTTT was used to provide a total of \$10 million to SUNY, CUNY, and clcu. In November 2013, the Office of Higher Education offered SUNY, CUNY and clcu an additional \$1.5 million total to continue faculty professional development using RTTT funding. The chart below provides a summary of the faculty professional development meetings conducted across the State during the 2013-14 academic year on a variety of topics including all new certification examinations (Academic Literacy Skills Test, Educating All Students test, Revised Content Specialty Tests, SBL and edTPA). The faculty development scope of work is outlined and fully described in each sector’s work plan, available online at <http://www.highered.nysed.gov/mou.html>.

Faculty Professional Development Summary of Meetings and Participants (as reported by the sectors to SED) 2013-14 Alone				
	# of Quarter 1 Meetings	# of Quarter 2 Meetings	Total # of Meetings occurring July 2013 – January 2014	# of Participants for Quarter 2 Only
SUNY	253	311	564	807
CUNY	70	247	317	850
clcu	504	664	1168	838
Statewide Totals	827	1222	2049	2495

Statewide field tests of the edTPA – with optional campus participation - occurred during the 2012-13 academic year. Fifty-one campuses participated.

In January 2013, the Governor’s Education Reform Commission, recognizing the need for excellent teachers, released its preliminary report and recommended the establishment of a “bar” like exam for entry into the teaching and principal profession. In March 2013, the state budget was enacted with a provision requiring the creation of standards for a teacher and principal bar exam certification program. A full timeline of the Department’s implementation of the certification examinations is included as Attachment C.

We are five years into the implementation of the new and revised certification examinations. The Department has already provided a one- year extension and \$11.5

million to CUNY, SUNY, and clcu to support the provision of faculty professional development on topics such as the Common Core and the new certification examinations. Further, with a modest, but meaningful number of operational test takers so far, (approximately 1,660), the Department has estimated that the pass rate is approximately 83%.

However, in an effort to address the concerns raised by the field, while at the same time recognizing the previous extensions and investments made in this exam, the Department recommends that the Board of Regents either stay the course with the current timeline for the edTPA or take the following actions:

1. Any candidate who applies for and meets all the requirements for an initial certificate on or before June 30, 2015, except he/she does not receive a satisfactory passing score on the teacher performance assessment, if required, may be issued an initial certificate; provided that subsequent to receiving a score for the teacher performance assessment and prior to June 30, 2015, the candidate receives a satisfactory level of performance on the written assessment of teaching skills examination in lieu of a satisfactory level of performance on the teacher performance assessment. Transitional C certificate holders (generally Career and Technical Education teachers who are career changers or hold a graduate academic or professional degree) would be provided similar flexibility in meeting the edTPA requirement for a professional certificate.
2. Under the current Section 52.21(b)(2)(iv) of the Commissioner's Regulations, an institution shall be required to submit a comprehensive corrective action plan in the event that fewer than 80 percent of students, who have satisfactorily completed the institution's program during a given academic year and have also completed one or more of the examinations required for a teaching certificate, pass each such examination that they have completed. If the Department does not approve the corrective action plan, the institution shall be subject to denial of re-registration in accordance with the requirements of Section 52.23 of the Commissioner's Regulations. The Department recommends that the 80% passage requirement be waived for students who take the edTPA in the 2013-2014 and 2014-2015 academic years. Instead, programs with fewer than 80% of students who pass the edTPA in these academic years will be required to submit a professional development plan to the Department that describes how the program plans to improve the readiness of faculty and pass rate for candidates on the edTPA. The Department will not use edTPA scores in the State's institutional profiles until the 2015-2016 academic year.
3. The Department has a strong willingness to collaborate with stakeholders regarding the evolution of the edTPA in the future. The Department will form a taskforce with representatives from the CUNY, SUNY, clcu, the Teacher Education Advisory Group, the United University Professions, the Professional Staff Congress and P-12. This taskforce will (1) work proactively with the Department, SCALE, and the American Association of Colleges for Teacher Education as SCALE continues to refine the edTPA assessment including review of the rubrics and handbooks; (2) work proactively with the Department and SCALE to support implementation of the edTPA by SUNY, CUNY and the

independent sector; and (3) collaborate with the Department and SCALE on the development of a process for the identification and dissemination of exemplary practices in NYS programs as they implement the edTPA.

In addition, at its February 2014 Regents meeting, in response to a number of New York State institutions who have expressed concern that a 20-day student teaching placement may not provide teacher candidates sufficient time to develop their skills and videotape with sufficient frequency to capture exemplary teaching practice, the Board of Regents discussed a proposed amendment to the Commissioner's Regulations to provide the option for a single teaching placement. To ensure that teacher candidates are provided with meaningful clinical experiences across the grade level of the certificate, the single teaching placement option must meet the following criteria: the field experience must equal or exceed the minimum hours currently required and the single student teaching placement must equal or exceed a minimum of 40 days of student teaching or practica. In addition, the mentoring teacher of record at the partnering school/district should hold permanent or professional certification in the area of the certificate sought or a closely related area, and meet one or more of the following criteria: designated by the district as a teacher mentor or coach, rated Effective or Highly Effective under the school's/district's approved Annual Professional Performance Review (APPR) plan under Education Law Section 3012-c, or hold National Board Certification.

We know that good teaching matters. This is why the Department began to transform teacher preparation in 2009. In order to ensure that all students are college and career ready we know that we must not only support our current teachers by providing strong systems of support and professional development; we must also ensure that every future teacher is ready to support student learning if we are to reach our goal of ensuring every student graduates college and career ready.

The Department's commitment to a teacher performance assessment since 2009 and our \$11.5 million investment in faculty professional development are just two examples of New York's commitment to rigorous new teacher preparation standards. The edTPA is a high-quality exam that has been adopted by 34 states and the District of Columbia, and we are very excited about its potential here in New York. We know, however, that some faculty members at schools of education are again asking for more time to ensure strong implementation of this video-based portfolio approach. We look forward to continuing our work with SUNY, CUNY, and clcu to support New York's schools of education to ensure that every student has access to well-prepared teachers.

Recommendation

It is recommended that the Board of Regents take one of the following actions:

VOTED: That the Board of Regents continue on its current implementation pathway and require candidates applying for certification on or after May 1, 2014 or candidates who applied for certification on or before April 30, 2014 but did not meet all the requirements for an initial certificate on or before April 30, 2014 to take and pass the edTPA; or in the alternative

VOTED: That subclause (1) of clause (b) of subparagraph (iv) of paragraph (2) of subdivision (b) of section 52.21, paragraph (2) of subdivision (b) of section 80-3.3, section 80-3.4 and subparagraph (ii) of paragraph (1) of subdivision (b) of section 80-5.13 of the Regulations of the Commissioner of Education be amended, as submitted, effective April 29, 2014, 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 ensure that teacher candidates who will be applying for certification on or after May 1, 2014 and prior to June 30, 2015, have timely and sufficient notice that, if they fail the edTPA and subsequently take and pass the ATS-W prior to June 30, 2015, they may receive an initial certificate.

Timetable for Implementation

If the Board of Regents votes to continue on its current implementation pathway and require candidates applying for certification on or after May 1, 2014 or candidates who applied for certification on or before April 30, 2014 but did not meet all the requirements for an initial certificate on or before April 30, 2014 to take and pass the edTPA, no further action is required.

If the Board of Regents votes to adopt the attached emergency regulations at its April meeting, the emergency rule will become effective on April 29, 2014. It is anticipated that the proposed amendment will be adopted by the Board of Regents as a permanent rule at their September 2014 meeting. If adopted at the September 2014 meeting, the proposed amendment will become effective as a permanent rule on October 1, 2014.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Subclause (1) of clause (b) of subparagraph (iv) of paragraph (2) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended, effective April 29, 2014, to read as follows:

(1) The department shall conduct a registration review in the event that fewer than 80 percent of students, who have satisfactorily completed the institution's program during a given academic year and have also completed one or more of the examinations required for a teaching certificate, pass each such examination that they have completed; provided that for the 2014-2015 and 2015-2016 academic years, the department shall not conduct a registration review based solely upon students having less than an 80 percent passage rate on the teacher performance assessment. However, programs with less than an 80 percent passage rate for the 2013-2014 and 2014-2015 academic years on the teacher performance assessment will be required to submit a professional development plan to the Department that describes how the program plans to improve the readiness of faculty and pass rate for candidates on the teacher performance assessment. For purposes of this clause, students who have satisfactorily completed the institution's program shall mean students who have met each educational requirement of the program, excluding any institutional requirement that the student pass each required examination of the New York State teacher certification examinations for a teaching certificate in order to complete the program. Students satisfactorily meeting each educational requirement may include students who earn a degree or students who complete each educational requirement without earning a degree. For determining this percentage, the department shall consider the performance on each certification examination of those 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 the September 30th following the end of such academic year, academic year defined as July 1st through June 30th, and shall consider only the highest score of individuals taking a test more than once.

2. Paragraph (2) of subdivision (b) of section 80-3.3 of the Regulations of the Commissioner of Education is amended, effective April 29, 2014, to read as follows:

(2) Examination. The candidate shall meet the examination requirement by meeting the requirements in one of the following subparagraphs:

(i)(a) Except as otherwise provided in this section, for candidates who have completed all requirements for initial certification on or before April 30, 2014 and who apply for certification on or before April 30, 2014, the candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination liberal arts and sciences test, written assessment of teaching skills, and content specialty test(s) in the area of the certificate on or before April 30, 2014, except that a candidate seeking an initial certificate in the title of Speech and Language Disabilities (all grades) shall not be required to achieve a satisfactory level of performance on the content specialty test. Instead of meeting the examination requirements of this subdivision, a candidate applying for certification on or before April 30, 2014 may achieve a satisfactory level of performance on the set of certification examinations described in subdivision (b) of this section, except that such candidate may receive a satisfactory level of performance on either the teacher performance assessment or the written assessment of teaching skills.

(b) Except as otherwise provided in this section, for candidates applying for certification on or after May 1, 2014 or candidates who applied for certification on or before April 30, 2014 but did not meet all the requirements for an initial certificate on or before April 30, 2014, such candidates shall submit evidence of having achieved a

satisfactory level of performance on the New York State Teacher Certification Examination teacher performance assessment, the educating all students test, the academic literacy skills test and the content specialty test(s) in the area of the certificate, except that a candidate seeking an initial certificate in the title of Speech and Language Disabilities (all grades) shall not be required to achieve a satisfactory level of performance on the content specialty test or the teacher performance assessment and a candidate seeking an initial certificate in the title of Educational Technology Specialist (all grades) shall not be required to achieve a satisfactory level of performance on the teacher performance assessment. Provided however, if a candidate applies for and meets all the requirements for an initial certificate on or before June 30, 2015 (including completing and submitting for scoring the teacher performance assessment), except the candidate does not receive a satisfactory score on the teacher performance assessment, the candidate may meet the requirements for an initial certificate, if subsequent to receiving a score for the teacher performance assessment and prior to June 30, 2015, a candidate receives a satisfactory level of performance on the written assessment of teaching skills examination in lieu of a satisfactory level of performance on the teacher performance assessment.

(c) . . .

(ii) . . .

(c) . . .

3.. Section 80-3.4 of the Regulations of the Commissioner of Education is amended, effective April 29, 2014, as follows:

Section 80-3.4. Requirements for the professional certificate in the classroom teaching service.

(a) . . .

(b) Requirements for professional certificates in all titles in classroom teaching service, except in a specific career and technical subject within the field of agriculture, business and marketing, family and consumer sciences, health, a technical area, or a trade (grades 7 through 12). The candidate shall meet the requirements in each of the following paragraphs:

(1) . . .

(2) . . .

(3) Examination.

(i) (a) . . .

(b) Candidates who hold a transitional C certificate for career changers and others holding a graduate academic or graduate professional degree, pursuant to the requirements of section 80-5.14 this Part, and who apply for certification on or after May 1, 2014 or candidates who apply for professional certification on or before April 30, 2014 but do not meet all the requirements for a professional certificate on or before April 30, 2014 shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination teacher performance assessment. Provided however, if a candidate applies for and meets all the requirements for a professional certificate on or before June 30, 2015 (including completing and submitting for scoring the teacher performance assessment), except the candidate does not receive a satisfactory score on the teacher performance assessment, the candidate may meet the requirements for a professional certificate, if subsequent to receiving a score for the teacher performance assessment and prior to June 30, 2015, a candidate receives a satisfactory level of performance on the written assessment of teaching skills examination in lieu of a satisfactory level of performance on the teacher performance assessment.

(ii) . . .

(c) . . .

4. Subparagraph (ii) of paragraph (1) of subdivision (b) of section 80-5.13 of the Regulations of the Commissioner of Education is amended, effective April 29, 2014, to read as follows:

(ii) Examination.

(a) A candidate who applies for an initial certificate on or before April 30, 2014, and who has completed all other requirements for an initial certificate or who has completed all requirements for an initial certificate except completion of their registered Transitional B program, on or before April 30, 2014 shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher certification examination written assessment of teaching skills test, and any other examination required for the provisional or initial certificate, as applicable, and/or a bilingual education extension of such certificate, as applicable, on or before April 30, 2014 or a satisfactory level of performance on teacher performance assessment, if applicable for that certificate title, and any other examination required for the provisional or initial certificate, as applicable, and/or a bilingual education extension of such certificate, as applicable.

(b) A candidate who applies for [certification] an initial certificate on or after May 1, 2014 or who applies for [certification] an initial certificate on or before April 30, 2014 but does not meet all the requirements for [a professional] an initial certificate on April 30, 2014, shall submit evidence of having achieved a satisfactory level of performance on the teacher performance assessment, if applicable for that certificate title, and any other examination required for the provisional or initial certificate, as applicable, and/or a bilingual education extension of such certificate, as applicable. Provided however, if a candidate applies for and meets all the requirements for an initial certificate on or before June 30, 2015 (including completing and submitting for scoring the teacher performance assessment), except the candidate does not receive a satisfactory score on the teacher performance assessment, the candidate may meet the requirements for an initial certificate, if subsequent to receiving a score for the teacher performance assessment and

prior to June 30, 2015, a candidate receives a satisfactory level of performance on the written assessment of teaching skills examination in lieu of a satisfactory level of performance on the teacher performance assessment.

8 NYCRR Part 80

**STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTION**

As discussed at the December 2012 and October 2013 Regents meetings, the Department has partnered with the Teacher Performance Assessment Consortium (TPAC) and is utilizing the edTPA as its teacher performance assessment, which was developed by the Stanford Center for Assessment, Learning and Equity (SCALE). The edTPA is a performance-based assessment designed to measure a candidate's readiness to teach by assessing teaching behaviors designed to foster student learning such as the candidate's ability to demonstrate effective planning, instruction, and assessment. In order for candidates to complete the edTPA, they need to submit a video of their performance in the classroom.

We are nearly five years into the implementation of the new and revised certification examinations. The Department has already provided a one year extension of the teacher performance assessment and \$ 11.5 million to CUNY, SUNY, and the independent colleges to support the provision of faculty professional development on topics such as the Common Core and the new certification examinations. However, in spite of the nearly five years of awareness raising, professional development offerings related to transition to the new assessment, and the one year extension that was already provided for programs and candidates, in order to address the concerns raised by the field while at the same time recognizing the previous extension and investments made in faculty development around the edTPA, the proposed amendment attempts to provide additional flexibility for candidates who take and fail the edTPA on their first attempt. The proposed amendment authorizes the Commissioner to issue an initial

certificate to a candidate who applies for and meets all the requirements for an initial certificate on or before June 30, 2015, except he/she does not receive a satisfactory passing score on the teacher performance assessment, if subsequent to receiving a score for the teacher performance assessment and prior to June 30, 2015, the candidate receives a satisfactory level of performance on the written assessment of teaching skills examination in lieu of a satisfactory level of performance on the teacher performance assessment.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register and expiration of the 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(1) and (5), is the September 2014 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the September 2014 Regents meeting is October 1, 2014, the date a Notice of Adoption would be published in the State Register. However, emergency action to adopt the proposed rule is necessary now for the preservation of the general welfare in order to ensure that teacher candidates who will be applying for certification on or after May 1, 2014 and prior to June 30, 2015, have timely and sufficient notice that, if they fail the edTPA and subsequently take and pass the ATS-W prior to June 30, 2015, they may receive an initial certificate.

It is anticipated that the emergency rule will be presented to the Board of Regents for adoption as a permanent rule at the September 2014 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act for proposed rulemakings.

Certification Examination Timeline

The “Five-Year Implementation Timeline edTPA and Other Teacher Certification Changes” is below:

2009

- The Board of Regents reviews initiatives to strengthen examinations for the certification of teachers and school leaders.
- November 2009. The Board of Regents discussion included the development of new examinations and the revision of the current Content Specialty Tests (CSTs).
www.regents.nysed.gov/meetings/2009Meetings/November2009/1109heemscd2.pdf
- December 2009. The Board of Regents continued to discuss the certification examinations.
www.regents.nysed.gov/meetings/2009Meetings/December2009/1209hed2.htm

2010

- Certification examination changes included in New York’s successful Race to the Top application.
- New York State develops and pilots performance assessment based on the TPA (the pre-cursor to the edTPA).
- Certification changes presented to NYSATE-NYACTE.

2011

- Certification changes presented at CUNY Deans Meeting and SUNY Deans Meeting.
- edTPA-aligned TPA field tested twice; 500 candidates and 250 faculty participate (spring and fall 2011).

2012

- Board of Regents pushes back implementation of new certification examinations from May 2013 to May 2014.
- March 2012: Board of Regents endorses edTPA, developed in partnership by Stanford University and the American Association of Colleges for Teacher Education, as the NYS performance assessment.
- April 2012: SED announces agreements with SUNY, CUNY and the Commission on Independent Colleges and Universities to provide \$10 million to help higher education institutions assimilate new information on teaching and learning into their programs.

2013

- The Education Reform Commission recommends establishment of a “bar” like exam for entry into the teaching and principal profession.
- March 2013: State budget includes provision requiring the creation of standards for a teacher and principal bar exam certification program.
- Fall 2013: New certification exams offered for the first time.
- November 2013: SED provides additional \$1.5 million in RTTT funding for faculty professional development.

2014

- May 2014: All education program graduates must take new certification exams, including edTPA, in order to be certified.