



TO: The Honorable the Members of the Board of Regents

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

SUBJECT: Proposed Amendment to Section 80-1.6 of the Regulations of the Commissioner of Education to Allow a Time Extension for the Initial Reissuance and Provisional Renewal

DATE: April 23, 2020

AUTHORIZATION(S): *[Signature]* *Sharam L. Fajee*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment to Section 80-1.6 of the Regulations of the Commissioner of Education to allow a time extension for the Initial Reissuance and Provisional Renewal?

Reason(s) for Consideration

Required by State Statute.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at its May 2020 meeting. The proposed amendment is included as Attachment A.

Procedural History

The proposed amendment was initially presented to the Full Board for discussion at its January 2020 meeting. A Notice of Proposed Rule Making was published in the State Register on January 29, 2020. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received comments on the proposed amendment (Assessment of Public Comment is included as Attachment B). Based on the comments received, no further revisions to the proposed amendment were necessary. If adopted at the May 2020 meeting, the proposed amendment will become effective on May 20, 2020.

Background Information

Educators who do not complete the requirements for the Professional or Permanent certificate during the five-year validity period of their Initial or Provisional certificate, respectively, have the option to apply for an Initial Reissuance, Provisional Renewal, or Time Extension. They may receive only one five-year Initial Reissuance or Provisional Renewal.

To earn the Initial Reissuance, teachers and school building leaders must:

- have less than three years of experience;
- pass the Content Specialty Test in the subject area of the certificate sought or School Building Leader assessment, as appropriate, within one year before or after the Initial Reissuance application date; and
- have completed 50 hours of acceptable Continuing Teacher and Leader Education (CTLE) and/or professional learning within one year before or after the application date.

The Provisional Renewal is available to pupil personnel service professionals (e.g., school counselors) who have completed all requirements for the Permanent certificate with the exception of the experience requirement and/or academic requirements, depending on the certificate title.

Educators can also receive a one-time Time Extension, which adds three years to the expiration date of Initial and Provisional certificates and to the expiration date of certain Transitional certificates.

In some cases, educators are only eligible for the Time Extension because they cannot meet the requirements for the Initial Reissuance/Provisional Renewal (e.g., Initial certificate holders who have more than three years of experience). In other cases, educators can meet the requirements for the Time Extension and Initial Reissuance/Provisional Renewal simultaneously and must choose the one for which they will apply first.

Educators who are eligible for both the Time Extension and Initial Reissuance/Provisional Renewal can add the maximum amount of time to the validity period of their certificate by first applying for the Time Extension. By applying for the Time Extension first, they can, if needed, apply for the Initial Reissuance/Provisional Renewal at a later date as follows: (1) Initial/Provisional certificate (five years), (2) Time Extension (three years), and then (3) Initial Reissuance/Provisional Renewal (five years).

However, if these educators apply first for the Initial Reissuance/Provisional Renewal, the Time Extension cannot add time to the expiration date of the Initial Reissuance/Provisional Renewal. The Time Extension can only add time to the expiration date of the Initial/Provisional certificate pursuant to Section 80-1.6 of the Commissioner's Regulations. Therefore, if educators earn the Initial/Provisional certificate (5 years) and then the Initial Reissuance/Provisional Renewal (5 years), the Time Extension is not an option for extending the validity period of their certificate.

Proposed Amendment

The Department is proposing to allow educators who hold an Initial certificate, Initial Reissuance, Provisional certificate, or Provisional Renewal to receive one Time Extension after the issuance of their first Initial or Provisional certificate. The Time Extension would add three years to the expiration date of either the Initial certificate, Initial Reissuance, Provisional certificate, or Provisional Renewal. Educators would not be able to earn a Time Extension on both the Initial certificate and Initial Reissuance or the Provisional certificate and Provisional Renewal per certificate title.

This revision would enable educators who hold the Initial Reissuance/Provisional Renewal, but have not received a Time Extension, to earn a Time Extension that would add three years to the expiration date of the Initial Reissuance/Provisional Renewal. Educators who are eligible for both the Time Extension and Initial Reissuance/Provisional Renewal simultaneously would be able to apply for either one first, without foregoing the option of the other one, while completing the requirements for the Professional/Permanent certificate, respectively. These educators would have more flexibility because the order of the extensions would no longer matter.

Educators who hold a Transitional certificate that is not identified as “nonrenewable” in Part 80 of the Commissioner’s Regulations will continue to have the option of one three-year Time Extension per certificate title.

Related Regents Items

January 2020: [Proposed Amendment to Section 80-1.6 of the Regulations of the Commissioner of Education to Allow a Time Extension for the Initial Reissuance and Provisional Renewal](https://www.regents.nysed.gov/common/regents/files/120hed2.pdf)
(<https://www.regents.nysed.gov/common/regents/files/120hed2.pdf>)

Recommendation

VOTED: That the Board of Regents adopt the proposed amendment to Section 80-1.6 of the Regulations of the Commissioner of Education, effective May 20,2020.

Timetable for Implementation

If adopted at the May 2020 meeting, the proposed amendment will become effective on May 20, 2020.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 3001, 3003, 3004 and 3009 of the Education Law.

Clause (b) of section 80-1.6 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(b) For holders of a provisional certificate or provisional renewal in the pupil personnel service, or for holders of an initial certificate, initial reissuance or transitional certificate in the classroom teaching service or school leadership applying for their first time extension on or after March 1, 2017, the time validity of the expired certificate may be extended once per applicable transitional certificate and once after the issuance of the first provisional or initial certificate, per certificate title (educators would not be able to earn a time extension on both the initial certificate and initial reissuance or the provisional certificate and provisional renewal, per certificate title), for a period not to exceed three years from the expiration date of such certificate, except as provided in subdivision (c) of this section, upon application by the holder of the certificate:

ASSESSMENT OF PUBLIC COMMENT

Following publication of the Proposed Rule Making on January 29, 2020, the Department received the following comments on the proposed amendment.

1. COMMENT: Commenter writes in support of the proposed amendment to make Time Extensions available on Provisional Renewals and Initial Reissuances, explaining that school counselors are likely to run into some difficulty when their Provisional Renewals expire with the impending regulation changes to the Initial/Professional School Counselor certificates. Commenter further noted that verification of work experience is very difficult to obtain for Initial Reissuances, and extending the time will allow educators to find full-time work and then they can use only one verification form from one district instead of several forms from multiple districts.

DEPARTMENT RESPONSE:

Since the comment is supportive, no response is necessary.

2. COMMENT: Commenter writes in support of the proposed amendment but suggested revising it so that all Initial and Provisional certificates that have already been extended should be allowed to be extended again if they have also been reissued/renewed. Commenter noted that the decision to only extend a certificate once should be reconsidered in a time of teacher shortages and that many of the teachers who cannot extend their certificates again could be seasoned, highly effective teachers. Commenter shared that, although Section 80-1.1 defines a “Provisional” and “Initial” certificates as the first teaching certificate obtained, perhaps the proposed regulation could be modified slightly to allow extensions of all Provisional and Initial certificates, regardless of whether

they are first or second ones. Commenter pointed out that many states allow for multiple reissuances/renewals and do not have a master's degree requirement. Commenter stated that districts do have a responsibility to ensure that teachers are performing successfully and there have been numerous examples of individuals who have either been short a year or two of experience and are out of time.

Commenter further suggests that 80-1.8 should be amended such that teachers who have not been able to gain probationary positions in a New York State public school can have their Initial certificates reissued. Comment explained that teachers who are struggling with part-time work, working in day care settings, working in private schools, or working out of State are faced with the stark reality of significantly lower, inconsistent and perhaps unreliable wages and find it economically untenable to invest in a master's degree program and, while they may satisfy the three-year requirement for Professional certification, they should not be penalized for not completing the master's degree.

DEPARTMENT RESPONSE:

Section 80-1.6 of the Commissioner's regulations allows educators to receive one Time Extension on their Initial or Provisional certificate, but not on their Initial Reissuance or Provisional Renewal, respectively. The proposed amendment preserves the premise of one Time Extension while permitting educators to receive the Time Extension on either the Initial certificate or Initial Renewal, or, either the Provisional certificate or Provisional Renewal. The proposal gives educators flexibility in the order in which they apply for a Time Extension and Initial Reissuance/Provisional Renewal, enabling them to gain the additional time available under both types of extensions.

The commenter is suggesting changing the premise of one Time Extension so that the Time Extension is available for the Initial certificate, Initial Renewal, Provisional certificate, and Provisional Renewal. For example, the suggestion would permit educators to earn an (1) Initial certificate (five years), (2) Time Extension (three years), (3) Initial Reissuance (five years), and (4) Time Extension (three years).

The Department will not be changing the premise of one Time Extension at this time given the multiple routes to earn additional time (e.g., Time Extension, Initial Reissuance) and amount of additional time available to maintain the validity of an Initial and Provisional certificate. The focus of the proposal is to provide flexibility to Initial and Provisional certificate holders.

The commenter is also recommending that the Initial Reissuance eligibility requirements listed in Section 80-1.8 of the Commissioner's regulations be revised so that teachers who have not been able to gain probationary positions in a New York State public school can have their Initial certificates reissued. The Department is recommending a change to time extension requirements outlined in Section 1.5 of the Commissioner's regulations and is not recommending a change to the Initial Reissuance eligibility requirements at this time. Therefore, this suggestion falls outside the scope of the proposed amendment. The Department will consider the commenter's suggestion in the future.