



TO: The Honorable the Members of the Board of Regents

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

SUBJECT: Adoption of Section 80-1.6 of the Regulations of the Commissioner of Education to Extend the Time Validity of an Expired Initial, Transitional and/or Conditional Initial Certificate for Up to One Additional Year if a Candidate Took One of the Revised Content Specialty Tests (CSTs) Required for His/Her Certificate Title and Did Not Receive a Score During a Timeframe Prescribed by the Commissioner

DATE: April 6, 2015

AUTHORIZATION(s):

Richard A. Santorum

Elizabeth R. Berlin

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend Section 80-1.6 of the Commissioner's Regulations to extend the time validity of an expired initial, transitional and/or conditional initial certificate for one additional year if a candidate took one of the revised Content Specialty Tests (CSTs) required for his/her certificate title and did not receive a score during a timeframe prescribed by the Commissioner?

Proposed Handling

The proposed amendment is being presented to the Full Board for adoption as an emergency action at the April 2015 Regents meeting. A Statement of the Facts and Circumstances Which Necessitate Emergency Action is attached.

Procedural History

The proposed amendment was discussed by the Higher Education Committee and adopted as an emergency rule at the February 2015 Regents meeting, effective February 10, 2015. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on February 25, 2015.

The February emergency rule will expire on May 10, 2015. A second emergency action is necessary at the April Regents meeting to ensure that the rule remains continuously in effect until it can be presented for adoption and take effect as a permanent rule. A copy of the proposed amendment is attached. Supporting materials are available upon request from the Secretary 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, including the creation of performance assessments for teachers and school building leaders, and the revision of the current Content Specialty Tests (CSTs).

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.

Over the last several months, the Department has been working to revise the CSTs consistent with the Regents Reform Agenda and the New York State teaching standards (see Attachment C for the CST revision schedule). Although the first group of revised CSTs became operational in September 2014, the results of the revised CSTs cannot be determined or released to teacher candidates until the standard setting process is completed.

Since the CST results have not yet been released, there are certificate holders who may lose their certification if their certificates are not extended. This could result in teachers being terminated from employment for lack of a valid certificate.

The proposed amendment provides for a time extension of up to one year for an expired initial certificate, transitional certificate and/or conditional initial certificate to provide time for the exam results to be released and individuals to re-take the test in the event they are unsuccessful the first time.

Examples:

Teachers who were issued a conditional initial teaching certificate prior to May 1, 2014 need a passing score on the appropriate CST in order to have their initial certificate issued before the conditional initial certificate expires. Without the passing score on the appropriate CST, the conditional initial certificate will expire and the teacher will no longer be certified. If these teachers do not receive an initial certificate, they may be terminated from employment.

Teachers who hold an initial certificate and are not able to gain the required three years of experience for the professional certificate may apply for a reissuance of their initial certificate. To have their initial certificate reissued, the teacher is required to retake and pass the appropriate CST within one year of application for the reissuance. Without a passing score on the appropriate CST, the initial certificate cannot be issued. The initial certificate will expire and the teacher will no longer be certified if we do not provide for an additional time extension on these certificates, which may result in termination from employment.

Teachers who were issued certain Transitional B certificates (i.e. Students with Disabilities, Deaf and Hard of Hearing, English to Speakers of Other Languages) that required a CST for the Transitional B certificate are required to pass the appropriate CST in order to be issued the initial certificate. For these candidates, the Transitional B certificate will expire and the initial certificate cannot be issued until the teacher receives a passing score on the appropriate CST. Teachers that hold a Transitional B certificate will not be issued the initial certificate unless we provide for an additional time extension on these certificates, and they may be terminated from employment.

Recommendation

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

VOTED: That subdivision (c) of section 80-1.6 of the Regulations of the Commissioner of Education is amended, effective May 11, 2015, upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to ensure that the emergency rule adopted at the February 2015 Regents meeting remains continuously in effect until the proposed rule can be presented for adoption and take effect as a permanent rule.

Timetable for Implementation

The proposed amendment was adopted as an emergency rule at the February 2015 Regents meeting, effective February 10, 2015, and will expire on May 10, 2015. If adopted at the April Regents meeting, the second emergency action will become effective on May 11, 2015 for a 60-day period. It is anticipated that the proposed rule will be presented for permanent adoption at the May 18-19, 2015 Regents meeting, after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act. If adopted at the May meeting, the proposed amendment will take effect as a permanent rule on June 3, 2015.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 3004 and 3006 of the Education Law.

Subdivision (c) of section 80-1.6 of the Regulations of the Commissioner of Education is amended, effective May 11, 2015, to read as follows:

(c) [The] Except as otherwise provided in this subdivision, the commissioner may extend the time validity of an expired provisional, excluding an expired provisional certificate in the classroom teaching service or an expired provisional certificate in the title of school administrator and supervisor, initial or transitional certificate beyond the two-year extension provided for in subdivision (a) of this section, for a period not to exceed one additional year, if in the six-months preceding the end of the two-year extension, the candidate is faced with extreme hardship or other circumstances beyond the control of the individual and is unable to complete the requirements for the professional certificate in a timely manner. The commissioner may further extend the time validity of an expired initial or transitional certificate for an additional period of not to exceed one additional year; and may extend the validity of a conditional initial certificate for a period of up to one year if a candidate took one of the revised content specialty examinations administered on or after September 2014, and is required for his/her certificate title and he/she did not receive his/her score on such examination from the department on such examination within a timeframe prescribed by the commissioner and he/she has met all the other certification requirements for the next certificate (i.e., the initial or professional certificate, as applicable).

STATEMENT OF FACTS AND EMERGENCY CIRCUMSTANCES

The proposed amendment provides for a time extension of up to one year for an expired initial certificate, transitional certificate and/or conditional initial certificate to provide time for a candidate's results on the content specialty test to be released without penalizing the teacher candidate.

The proposed amendment was adopted as an emergency action at the February 9-10, 2015 Regents meeting, effective February 10, 2015. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on February 25, 2015. 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 May 18-19, 2015 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the May meeting, would be June 3, 2015, the date a Notice of Adoption would be published in the State Register. However, the February emergency rule will expire on May 10, 2015, 90 days from its filing with the Department of State on February 10, 2014. A lapse in the rule's effective date could cause teachers to lose their teaching certificates and possibly their jobs. Emergency action is therefore necessary for the preservation of the general welfare to ensure that the proposed rule adopted by emergency action at the February 2015 Regents meeting remains continuously in effect until the rule can be adopted and take effect as a permanent rule.

It is anticipated that the proposed amendment will be presented for adoption as a permanent rule at the May 18-19, 2015 Regents meeting, which is the first meeting

scheduled after expiration of the 45-day period for public comment pursuant to the State Administrative Procedure Act.

Test Development Schedule

Test Field	Test Operational	Date New Test Is Required
CST Group 1: English Language Arts Health Education Library Media Specialist Literacy Mathematics Multi-Subject Physical Education	September 2014	As they are available in Fall 2014**
CST Group 2: Agriculture Business and Marketing Deaf and Hard of Hearing Educational Technology Specialist Family and Consumer Sciences Gifted Education Students with Disabilities	September 2014	As they are available in Fall 2014**
CST Group 3a: Blind and Visually Impaired Technology Education	Fall 2015	As they are available in Fall 2015**
CST Group 3b: American Sign Language Cantonese French German Greek Hebrew Italian Japanese Latin Mandarin Russian Spanish	Winter 2015–2016	As they are available in Winter 2015–2016**
CST Group 4: English to Speakers of Other Languages (ESOL) Social Studies	Fall 2016	As they are available in Fall 2016**
CST Group 5: Biology Chemistry Dance Earth Science Music Physics Theater Visual Arts	Fall 2017	As they are available in Fall 2017**