



TO: The Honorable Members of the Board of Regents

FROM: William P. Murphy *William Murphy*

SUBJECT: Proposed Amendment of Section 30-1.8 of the Rules of the Board of Regents Relating to the Special Subject Tenure Areas

DATE: September 25, 2025

AUTHORIZATION(S): *Don McG* *Betty*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of section 30-1.8 of the Rules of the Board of Regents relating to the special subject tenure areas?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the October 2025 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the Higher Education Committee for discussion at the June 2025 Regents Meeting. A Notice of Proposed Rule Making was published in the State Register on June 25, 2025, for a 60-day public comment period. Following publication in the State Register, the Department received one comment on the proposed amendment. An Assessment of Public Comment (Attachment B) is attached. No changes to the proposed amendment are recommended at this time. If adopted at the October 2025 meeting, a Notice of Adoption will be published in the State Register on October 22, 2025. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

Pursuant to Education Law §§ 3012 and 3014, newly appointed classroom teachers in public school districts and boards of cooperative educational services (BOCES) serve a probationary period of four years¹. Subpart 30-1 of the Rules of the Board of Regents establishes the rules for such probationary appointments consistent with the Education Law. Upon their initial appointment to a probationary period, classroom teachers are assigned to one or more tenure areas in which the educator will devote a substantial portion of their time². Educators must hold the appropriate certification for any tenure area to which they are appointed. Subpart 30-1 of the Rules of the Board of Regents is further subdivided into sections that establish tenure areas related to elementary grades (common branch), middle grades (common branch), and academic subject areas³ for grades 7 through 12, and special subject areas.

The Rules of the Board of Regents governing special subject areas (§30-1.8) have been amended several times since they were established more than five decades ago. However, in several areas, these regulations do not conform to the existing certification structure outlined in Part 80 of the Commissioner's regulations and do not reflect current terminology in the field.

Proposed Amendment

The Department proposes to amend section 30-1.8 of the Rules of the Board of Regents as follows:

- New tenure areas will be established in agriculture – general, dance, theater, and visual arts;
- Certain existing tenure areas (business education, home economics, industrial arts, physical education, and school media specialist (library) will be renamed to match the current certificate titles;
- Special education tenure areas will be renamed to match current special education certificate titles and remove outdated language regarding students with disabilities;
- References to vocational education will be updated to reflect career and technical education;
- Certain existing CTE tenure areas will be renamed to match current certificate titles; and

¹ The Education Law further provides for a reduced probationary periods for newly appointed classroom teachers where such teachers have previously rendered satisfactory service in certain limited situations.

² §30-1.1 of the Rules of the Board of Regents defines “substantial portion of [their] time” as 40 percent or more of the total time spent by a professional educator in the performance of [their] duties, exclusive of time spent in preparation, monitoring or in co-curricular activities.”

³ The Rules of the Board of Regents define academic subject areas as English, social studies, mathematics, science, and world languages.

- Certain tenure areas (art, driver education, speech-remedial, school media specialist, and school media specialist (educational communications)) will be phased out after September 30, 2025.

Related Regents Items

[June 2025: Proposed Amendment of Section 30-1.8 of the Rules of the Board of Regents Relating to the Special Subject Tenure Areas](https://www.regents.nysed.gov/sites/regents/files/625hed2.pdf)

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Recommendation

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

VOTED: That section 30-1.8 of the Rules of the Board of Regents be amended, as submitted, effective October 22, 2025.

Timetable for Implementation

If adopted at the October meeting, the proposed amendment will become effective as a permanent rule on October 22, 2025.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Section 30-1.8 of the Rules of the Board of Regents is amended to read as follows:

(a) A professional educator who is employed to devote a substantial portion of his time to instruction in one or more of the following subjects shall be deemed to serve in a special subject tenure area or areas encompassing such subject:

(1) art through September 30, 2025;

(2) business [education] and marketing--general;

(3) driver education through September 30, 2025;

(4) [education of children with handicapping conditions--education of blind and visually handicapped children] blind and visually impaired;

(5) [education of children with handicapping conditions--education of deaf children] deaf and hard of hearing;

(6) [education of children with handicapping conditions--education of speech and hearing handicapped children] speech and language disabilities;

(7) [education of children with handicapping conditions--general special education tenure area (education of emotionally disturbed children; mentally retarded children; physically handicapped children; multiply handicapped children; and children with specifically defined learning disabilities)] students with disabilities--general;

(8) health;

- (9) [home economics] family and consumer sciences--general;
- (10) [industrial arts] technology education--general;
- (11) music;
- (12) physical education [and recreation];
- (13) literacy and reading;
- (14) speech—remedial through September 30, 2025;
- (15) English as a second language;
- (16) [Computer] computer science; [and]
- (17) Indigenous [Culture and Language Studies.] culture and language studies;
- (18) agriculture—general;
- (19) dance;
- (20) theater; and
- (21) visual arts.

(b) A professional educator employed by a board of education or board of cooperative educational services to devote a substantial portion of his time to the provision of ancillary or supportive educational services in the following positions shall be deemed to serve in a special subject tenure area encompassing the duties of such position:

- (1) school attendance teacher;
- (2) school counseling and guidance;
- (3) school dental hygienist;
- (4) school media specialist through September 30, 2025;
- (5) school library media specialist [(library)];

(6) school media specialist (educational communications) through September 30, 2025;

- (7) school nurse teacher;
- (8) school psychologist; and
- (9) school social worker.

(c) A professional educator employed by a board of education or board of cooperative educational services to devote a substantial portion of his time to instruction in one of the following [vocational] career and technical education subjects shall be deemed to serve in a special subject tenure area co-extensive with the certificate possessed by the individual at the time of the probationary appointment:

- (1) agriculture--occupational;
- (2) health occupations;
- (3) [home economics] family and consumer sciences--occupational;
- (4) [occupational business education and distributive occupation subjects]

business--occupational;

- (5) technical subjects; and
- (6) trade subjects.
- (d) ...
- (e) ...
- (1) ...
- (2) ...
- (3) ...
- (4) ...

(5) ...

(6) ...

(7) ...

(8) ...

ASSESSMENT OF PUBLIC COMMENT

Since the publication of the Notice of Proposed Rule Making in the State Register on June 25, 2025, the State Education Department received the following comment on the proposed amendment:

1. COMMENT: One commenter expressed concern that the proposed amendment does not include sufficient clarity regarding the tenure and seniority rights of teachers affected by the proposed changes. Specifically, the commenter asks:

A) For the tenure areas that the proposed rule sunsets after September 30, 2025, will teachers currently tenured in those areas (i.e., art, driver education, school media specialist, and school media specialist (educational communications)) remain in their tenure area and accrue seniority credits in that area?

B) Specific to teachers of the arts, if the answer to “A” is that those teachers will remain in their existing tenure area, how will seniority be determined if a position is abolished in one of the new arts tenure areas while a teacher is still employed in the general “art” tenure area?

The commenter opines that it is not sufficient to clarify these types of concerns through guidance and that the proposed rule must be amended to address these specific scenarios. The commenter also expressed concern about potential costs to school districts if they are subject to the commissioner’s appeals and/or litigation related to these matters.

DEPARTMENT RESPONSE: With respect to Question A, the proposed rule prevents new appointments to the identified tenure areas after September 30, 2025. It

does not require teachers already tenured in the art tenure area to be assigned to a new tenure area. Pursuant to section 30-1.11 of the Rules of the Board of Regents, these educators would retain their tenure while they remain continuously employed by the board of education as a full-time member of the professional staff of the district. If a school district would like to move a teacher from the art tenure area to one or more of the new tenure areas (dance, theater, visual arts), they may only do so with their prior written consent (see 8 NYCRR 30-1.9(c)).

With respect to Question B, section 30-1.13 of the Rules of the Board of Regents prescribes the procedure that boards of education must follow if they abolish positions, which requires the board of education to identify the tenure area in which the position is to be abolished. The board of education must thereafter determine the person with the least seniority in such tenure area. Specific to the arts tenure areas, section 30-1.11 of the Rules of the Board of Regents explicitly states that no provisions within subpart 30-1 of the Rules of the Board of Regents shall require a board of education or board of cooperative educational services to place or retain an individual in a position for which such individual does not possess appropriate certification in accordance with the provisions of Part 80 of the Regulations of the Commissioner of Education.

With respect to the commenter's opinion that individual scenarios must be clearly defined in the regulation and cannot be addressed through field guidance, it would not be possible to prescribe the outcome that must occur in every possible tenure scenario through regulation. When read together, the provision of subpart 30-1 of the Rules of the Board of Regents provides a framework, consistent with Education Law, for boards of education and boards of cooperative educational services to follow when making

tenure determinations. Specific scenarios and other questions can appropriately be addressed by the Department through field guidance and other mechanisms (e.g., memoranda to the field) that interpret the regulations. As such, no changes to the proposed rule are necessary.