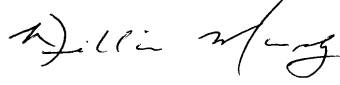






THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: Higher Education Committee

FROM: William P. Murphy 

SUBJECT: Proposed Amendments to Sections 80-3.15 and 80-4.3 of the Regulations of the Commissioner of Education Relating to the Addition of Subject Areas to the Limited Extension and Statement of Continued Eligibility (SOCE) for Certain Teachers of Students with Disabilities and Technical Amendments to the Limited Extension, SOCE, and Subject Area Extensions in Grades 7-12 for Certain Teachers of Students with Disabilities

DATE: January 2, 2020

AUTHORIZATION(S):  

SUMMARY

Issue for Decision

Should the Board of Regents adopt proposed amendments to §80-3.15 and §80-4.3 of the Regulations of the Commissioner of Education relating to the addition of subject areas to the limited extension and statement of continued eligibility (SOCE) for certain teachers of students with disabilities and technical amendments to the limited extension, SOCE, and subject area extensions in grades 7-12 for certain teachers of students with disabilities?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendments are submitted to the Higher Education Committee for recommendation and to the Full Board for adoption as a permanent rule at its January 2020 Board of Regents meeting (Attachment A is a copy of the proposed amendment).

Procedural History

A Notice of Proposed Rule Making was published in the State Register on October 23, 2019. Supporting materials for the proposed amendments are available upon request from the Secretary to the Board of Regents. 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).

Background Information

At its July 2018 meeting, the Board of Regents created limited extensions and an SOCE in the core subject areas for teachers who hold a Students with Disabilities (Grades 7-12) Generalist certificate and teach one or more subject areas in special classes in grades 7-12. The core subject areas include: biology, chemistry, earth science, English Language Arts, mathematics, physics, and social studies.

Teachers of students with disabilities who teach a special class in grades 7-12 and earn an SOCE are deemed certified in the subject area. The limited extension is available for teachers who are not eligible for the SOCE and is valid for five years while they pursue the requirements for the subject area certificate or subject area extension in grades 7-12. The limited extension is renewable one time for an additional five years under certain conditions. The limited extension and SOCE are only valid in a special class as defined in §200.1(uu) of the Regulations of the Commissioner of Education.

The Board of Regents added the following certificate titles eligible for the limited extension and SOCE at its February 2019 meeting: Students with Disabilities (Grades 5-9) Generalist and Content Specialist, Students with Disabilities (Grades 7-12) Content Specialist, and the Permanent Special Education Generalist. Expanding the list of eligible certificate titles enables more qualified teachers of students with disabilities who teach a special class in grades 7-12 to seek the limited extension and SOCE.

When the limited extension and SOCE regulations were amended to include the new certificate titles, the titles were not added to all subdivisions of the regulations. The new certificate titles also need to be added to the list of eligible certificates for the subject area extension in grades 7-12 so that teachers who hold a certificate in one of the titles and a limited extension in a subject area could be eligible for the subject area extension in grades 7-12.

Finally, school districts and BOCES have shared with the Department that teachers of students with disabilities who teach a special class have been teaching general science and languages other than English, as well as the core subject areas. They have expressed a need to add general science and languages other than English as subject areas for the limited extension and SOCE.

Proposed Amendment

The Department is proposing to add general science and languages other than English in either grades 5-9 or grades 7-12 to the list of subject areas for the limited extension and SOCE in response to school district and BOCES needs. For teachers who earn the limited extension in general science and progress toward the General Science Extension, they would need to hold a valid Initial or Professional Biology, Chemistry, Earth Science, or Physics certificate to fulfill the requirements for the General Science Extension.

In addition, the following certificate titles would be added to the limited extension, SOCE, and subject area extension in grades 7-12 in appropriate places in the regulations: Students with Disabilities (Grades 5-9) Generalist and Content Specialist, Students with Disabilities (Grades 7-12) Content Specialist, and the Permanent Special Education Generalist. The additions make the list of eligible certificate titles for the three credentials consistent throughout the regulations and enable teachers who hold a certificate in one of the titles and a limited extension in a subject area to be eligible for the subject area extension in grades 7-12.

Related Regents Items

[July 2018](http://www.regents.nysed.gov/common/regents/files/718brca4.pdf) <http://www.regents.nysed.gov/common/regents/files/718brca4.pdf>

[February 2019](http://www.regents.nysed.gov/common/regents/files/219brca4.pdf) <http://www.regents.nysed.gov/common/regents/files/219brca4.pdf>

[June 2019](http://www.regents.nysed.gov/common/regents/files/619hea2.pdf) <http://www.regents.nysed.gov/common/regents/files/619hea2.pdf>

[October 2019](http://www.regents.nysed.gov/common/regents/files/1019hed1.pdf) <http://www.regents.nysed.gov/common/regents/files/1019hed1.pdf>

Recommendation

VOTED: That §80-3.15 and §80-4.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective January 29, 2020.

Timetable for Implementation

If adopted at the January 2020 meeting, the proposed amendment will become effective on January 29, 2020.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 210, 215, 305, 3001, 3004 and 3009.

1. Section 80-3.15 of the Regulations of the Commissioner of Education shall be amended to read as follows:

§ 80-3.15 Statement of continued eligibility for teachers of students with disabilities to teach a special class in grades 7-12.

(a) Upon application, a person who meets the requirements of this section and is employed in a public school or other school for which teacher certification is required to teach a special class, as defined in section 200.1(uu) of this Title, may be issued a statement of continued eligibility pursuant to which such person may teach one or more of the following subject areas in a special class without a teaching certificate in these areas as is required under this Part: biology, chemistry, earth science, English Language Arts, general science, language other than English (specified) in either (grades 5-9) or (grades 7-12), mathematics, physics, and social studies; provided that such person holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist; or the special education [(grades K-12)] generalist permanent certificate and meets the requirements of this section for each subject area for which the person is seeking a statement of continued eligibility.

(b) ..

(c) The statement of continued eligibility shall be valid for service in any district and shall be continuously valid provided that the person holds a valid initial or professional certificate in students with disabilities [generalist (grades 7-12)] (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, or the special education generalist permanent certificate and is teaching in a special class, as defined in section 200.1(uu) of this Title.

2. Subdivision (n) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(n) Requirements for the extension to teach certain subjects in grades 7-12.

(1) Purpose. The purpose of an extension issued under this section is to authorize a teacher who [is certified] holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades 5-9[-generalist) or (grades 7-12-generalist]) generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate to authorize the teacher to be employed as the teacher of record for students with disabilities in certain subjects.

(2) Subjects for which extension may be obtained. A teacher who [is certified] holds a valid initial or professional certificate in the classroom teaching service in students with disabilities [(grades 5-9 generalist) or (grades 7-12-generalist)] generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate may seek an extension under this

subdivision in one of the following subjects: mathematics; English language arts; biology; chemistry; earth science; physics; social studies; language other than English (specified) in either (grades 5-9) or (grades 7 through 12).

(3) Requirements for the extension. The candidate shall meet the requirements in each of the following paragraphs:

(i) the candidate shall hold a valid initial or professional certificate in [students with disabilities (grades 7-12 generalist) or] students with disabilities (grades 5-9 [generalist) or a valid provisional or permanent certificate for teaching students with disabilities in (grades pre-K through 12)] generalist, students with disabilities (grades 5-9) content specialist, students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, or the special education generalist permanent certificate;

3. Subdivision (t) of section 80-4.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(t) Requirements for the issuance of a limited extension to teach a specific subject in a special class in grades 7-12.

(1) Purpose. The purpose of limited extensions issued under this subdivision is to authorize a teacher who holds a valid initial or professional certificate in the classroom teaching service in students with disabilities (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, or the special education [(grades K-12)] generalist permanent certificate to teach one of the following subject areas in a special class as defined in section 200.1(uu) of this Title: biology, chemistry, earth science, English Language Arts, general science, language other than

English (specified) in either (grades 5-9) or (grades 7-12), mathematics, physics, and social studies.

(2) ...

(3) Requirements for a limited extension. A limited extension may be issued to a candidate in a specific subject area provided that the candidate holds a valid initial or professional certificate in the classroom teaching service in students with disabilities [generalist (grades 7-12)] (grades 7-12) generalist, students with disabilities (grades 7-12) content specialist, students with disabilities (grades 5-9) generalist, students with disabilities (grades 5-9) content specialist, or the special education generalist permanent certificate and meets the requirements in one of the following

subparagraphs:

(i) . . .

(ii) . . .

(iii) . .

(iv) . . .

(v) . . .

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on October 23, 2019, the State Education Department (SED) received the following comment on the proposed amendments. Below is an assessment of the public comment received.

1. COMMENT: Two commenters are fully in support of adding General Science and Languages Other Than English to the subject areas for the statement of continued eligibility (SOCE) and limited extension. They point out that the Students with Disabilities (SWD) content extension exists for biology, chemistry, earth science, and physics, and the requirements for it are 18 credits in the content area and the Content Specialty Test (CST). Therefore, a special education teacher holding the SWD content extension in one of the sciences would be eligible to teach a self-contained Regents-level high school science special class with 18 credits in the content area. However, 48 credits are required to teach a middle school science special class; they would need 30 credits of biology, chemistry, earth science, and physics in the base science certificate and then another 18 credits in two sciences other than the base science certificate for the General Science extension. Commenters state that this is disproportionate and not reasonable. There is already a shortage of special education science teachers, and this would only exacerbate the problem.

Commenters suggest creating a SWD subject area extension for general science where the valid base certificate would be either the Permanent Special Education certificate or the Initial/Professional SWD Grades 5-9/7-12 Generalist/Content Specialist certificates. The content requirements could be 18 credits in either two or three areas of

science and perhaps even a passing score on any one of the four available science CSTs.

DEPARTMENT RESPONSE: The commenters are supportive of the proposed regulatory amendment to add general science and languages other than English to the list of subject areas for the limited extension and SOCE. They suggest adding general science to the list of subject areas for the subject area extension for special education teachers in grades 5-9 and 7-12, allowing these teachers to teach general science by completing 18 semester hours of specified science college coursework instead of 48 semester hours of specified science college coursework as required for the General Science extension. Although the suggestion is beyond the scope of the proposal, the Department will take it under consideration. No change is necessary.

2. COMMENT: Commenter stated that it appears districts and teachers have not received any information on the need for a statement of continued eligibility (SOCE) from the Department. Commenter identified two problems that stand in the way of teachers meeting the SOCE application deadline on June 30, 2020. First, special education teachers with Permanent certification, which appear to be a significant majority of the affected teachers, must take all of the workshops plus go through the fingerprinting process before applying for the SOCE. Second, the backlog in teacher certification is 16 weeks. These two problems indicate there is a need to move the deadline in order to provide the time needed for these teachers to get the SOCE.

Commenter noted that the cost of obtaining the SOCE is also an issue. Under the No Child Left Behind Act, there was no cost to the teacher for receiving clearance to teach under the HOUSSE rubric. Under the SOCE, the Department is requiring the teacher to pay \$100 for each subject they want a SOCE. Many of these teachers are

teaching multiple subjects. In addition, the cost of fingerprinting and the workshops add up quickly.

Commenter requested adding time for the affected teachers to receive their SOCE, the charge for multiple SOCEs to be \$100, and the Department to consider waiving the workshop and fingerprinting requirements for teachers with Permanent certification. In addition, commenter believes it is important to begin discussions on what the state is going to do going forward when the current teachers begin to retire. Currently, there are shortages in both Students with Disabilities (Grades 7-12) teachers and content area teachers in grades 7-12. When the Students with Disabilities (Grades 7-12) certificate was created, the expectation was that teachers receiving this certification would at the very least have a content area extension. Instead of producing teachers with the extension, it has led to a shortage.

DEPARTMENT RESPONSE: In December 2019, the Department sent a memo to school and district administrators with information about the subject area certification requirement and statement of continued eligibility (SOCE) for special education teachers who teach one or more subject areas in a special class in grades 7-12. Effective July 1, 2020, all certified special education teachers who teach one or more subject areas in a special class in grades 7-12, with some or no students under alternate assessment, must either: 1) be certified in each subject area that they teach, or 2) meet the teaching experience requirement for the SOCE and have an active SOCE application in the TEACH online system in each subject area that they teach.

Although the deadline to apply for the SOCE and pay the application fee is June 30, 2020, special education teachers can complete the remainder of the SOCE requirements within three years of the application date or two evaluations of the

application, whichever comes first, with the exception that the teaching experience requirement must be completed by June 30, 2020. To avoid a backlog of SOCE applications, SOCE applications that are in “Ready for Review” status will automatically receive expedited service and will be reviewed in 1-2 weeks.

The Department developed a new policy regarding the SOCE application fee. Special education teachers would submit a separate application for each subject area in which they are seeking a SOCE and pay the \$100 application fee for the first subject area. If they are interested in receiving a SOCE in other subject areas, they would submit additional SOCE applications, but not pay the application fees. These additional SOCE applications can then have the fee waived. The Department is not able to waive workshop and fingerprinting requirements that are required for certification by statute.

Since the comment is beyond the scope of the proposal, no change is necessary to the proposed regulatory amendment.