






TO: The Professional Practice Committee

FROM: David H. Hamilton 

SUBJECT: Proposed Amendment of Section 74.2 of the Regulations of the Commissioner of Education Relating to the Licensing Examinations and Testing Accommodations in the Social Work Professions

DATE: April 30, 2025

AUTHORIZATION(S):  

SUMMARY

Issue for Decision

Should the Board of Regents adopt the proposed amendment of section 74.2 of the Regulations of the Commissioner of Education relating to the licensing examinations and testing accommodations in the social work professions?

Reason for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is submitted to the Professional Practice Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at its May 2025 meeting, effective May 6, 2025. A copy of the proposed rule (Attachment A) and a statement of facts and circumstances justifying emergency action (Attachment B) are attached.

Procedural History

If adopted as an emergency rule at the May 2025 meeting, a Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on May 21, 2025, for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

The proposed amendment of section 74.2 of the Commissioner's regulations would allow candidates for licensure as a Licensed Master Social Worker (LMSW) or Licensed Clinical Social Worker (LCSW) from whom English is a second language apply for English as a Second Language (ESL) accommodations.¹ Any organization approved by New York State to offer the examination may provide ESL accommodations, which typically consist of additional time to take the examination and the use of two dictionaries, one bilingual word-to-word translation dictionary and/or one general ESL dictionary.

In implementing Chapter 420 of the Laws of 2002, the Department previously determined that the Association of Social Work Boards (ASWB) would administer social work licensing examinations. All United States jurisdictions use ASWB's examinations and already permit the use of ESL accommodations. This regulation is thus necessary to ensure that all candidates have equitable access to the ASWB examination.

The examination is one-part of the social work licensure criteria, which includes education and, in the case of clinical practice, supervised experience in the profession. Test-takers who receive such accommodations must meet the same passing standard as other candidates.

Proposed Amendment

The proposed amendment of section 74.2 of the Commissioner's regulations conforms New York State's test policy for the Master's and Clinical examinations to ASWB's national standards, which include ESL testing accommodations.²

Related Regents Items

Not applicable.

Recommendation

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

VOTED: That section 74.2 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 6, 2025, as an emergency rule upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to provide these accommodations to anticipated Spring 2025 graduates for upcoming examination dates.

¹ ESL is a non-standard testing accommodation policy, distinct from reasonable accommodations authorized under the Americans with Disabilities Act (ADA).

² In September 2023, the Board of Regents permanently adopted ESL testing accommodations in the profession of architecture. See, <https://www.regents.nysed.gov/sites/regents/files/923brca14.pdf>

Timetable for Implementation

If adopted as an emergency rule at the May 2025 Regents meeting, the emergency rule will become effective May 6, 2025. It is anticipated that the proposed amendment will be presented for permanent adoption at the September 2025 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. Because the emergency action will expire before the September 2025 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the July 2025 meeting. If adopted at the September 2025 meeting, the proposed amendment will become effective as a permanent rule on September 24, 2025.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6506, 6507 and 7704 of the Education Law

1. Section 74.2 of the Regulations of the Commissioner of Education is amended to read as follows:

§74.2 Professional licensing examinations.

(a) Examination for licensure as a licensed master social worker.

(1) Each candidate for licensure as a licensed master social worker shall pass an examination: (i) that is offered by [the Association of Social Work Boards, its successors, or another] an organization determined by the department to have satisfactory administrative and psychometric procedures in place to offer the licensing examination; [and]

(ii) that the department determines adequately tests social work proficiency at the master's degree level and adequately measures the candidate's knowledge concerning practice as a licensed master social worker as defined in subdivision (1) of section 7701 of the Education Law[.]; and

(iii) notwithstanding section 59.3 of this Title, such examination may include testing accommodations offered by an organization that meets the requirements of part (a)(1)(i) of this paragraph and is acceptable to the department, such accommodations may include all non-standard accommodations, including, but not limited to English as a second language accommodations.

(2) Requirements for admission to examination for licensure as a licensed master social worker. To be admitted to the licensing examination, the candidate shall be required to:

(i) file an application for licensure with the department;

(ii) pay the fees for the licensure application and first registration period; and

(iii) present satisfactory evidence of having met the education requirement for licensure as a licensed master social worker, as prescribed in section 74.1(b) of this Part, including receipt of the social work degree.

(b) Examination for licensure as a licensed clinical social worker.

(1) Each candidate for licensure as a licensed clinical social worker shall pass an examination:

(i) that is offered by [the Association of Social Work Boards, its successors, or another] an organization determined by the department to have satisfactory administrative and psychometric procedures in place to offer the licensing examination; and

(ii) that the department determines adequately tests social work proficiency at the clinical level and adequately measures the candidate's knowledge concerning practice as a licensed clinical social worker as defined in subdivision (2) of section 7701 of the Education Law[.]; and

(iii) notwithstanding section 59.3 of this Title, such examination may include testing accommodations offered by an organization that meets the requirements of part (b)(1)(i) of this paragraph and is which acceptable to the department, such accommodations may include all non-standard accommodations, including, but not limited to English as a second language accommodations.

(2) ...

(i) ...

(a) ...

(b) ...

(c) ...

(d) ...

(c) Passing score. The passing score for the examination for licensure as a licensed master social worker and the examination for licensure as a licensed clinical social worker shall be determined by the Department [the State Board for Social Work].

Attachment B

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment is necessary to conform the Commissioner's regulations to align New York State's (NYS) social work licensure examination requirements with national standards set by the Association of Social Work Boards (ASWB). ASWB's master's and clinical examinations are used by all jurisdictions across the United States and its territories to determine if a licensure candidate is competent to independently practice the social work professions. Currently, NYS is the only jurisdiction that does not permit English as a Second Language (ESL) accommodations on the ASWB examinations. The proposed rule conforms the Commissioner's regulations to national standards by permitting ESL testing accommodations for the master's and clinical ASWB examinations.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency action) after expiration of the required 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 202(1) and (5) would be the September 2025 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September 2025 meeting, would be September 24, 2025, the date a Notice of Adoption would be published in the State Register.

Therefore, since ASWB's ESL testing accommodations policies are already effective in every other jurisdiction, emergency action is necessary at the May 2025 meeting, effective May 6, 2025, for the preservation of the general welfare in order

to provide these accommodations to anticipated Spring 2025 graduates for upcoming examination dates.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the September 2025 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the emergency action will expire before the September 2025 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the July 2025 Regents meeting.