






TO: The Honorable the Members of the Board of Regents

FROM: John L. D'Agati 

SUBJECT: Proposed Amendment to Section 80-5.17 of the Regulations of the Commissioner of Education to Permanently Extend the Option for Certain Out-of-State Candidates to be Eligible for a Conditional Initial Certificate

DATE: July 6, 2017 

AUTHORIZATION(S): 

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt by emergency measure a proposed amendment to Section 80-5.17 of the Regulations of the Commissioner of Education to permanently extend the option for certain out-of-state candidates to be eligible for a conditional initial certificate?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

The proposed amendment is submitted to the full Board for adoption as an emergency measure at its July 2017 meeting. A copy of the proposed amendment and a Statement of Facts and Circumstances are included as Attachments A and B.

Procedural History

A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on June 29, 2017. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

A conditional initial certificate in the classroom teaching service has been available for out-of-state candidates who meet all the requirements for an initial certificate in the classroom teaching service except for successful completion of the edTPA. Such certificate is valid for one year, during which time the candidate must complete the edTPA requirement. Upon successful completion of this requirement, the candidate will receive his/her initial certificate in the classroom teaching service.

The Department created the conditional initial certificate for those individuals who hold a teaching certificate in another state but do not meet the three year experience requirement to qualify for endorsement of the certificate. The provision was adopted on a temporary basis, which has expired, but the Department has found that it is essential for those individuals who want to come to New York but do not have access to a classroom, and therefore have difficulty completing the edTPA.

Proposed Amendment

Since the adoption of the edTPA in other states is still continuing to grow, the Department proposes to permanently extend the option for out-of-state candidates to be eligible for the conditional initial certificate so that these candidates, who have met all other requirements for an initial certificate other than completion of the edTPA, can obtain a certificate and be employed in New York State schools. They can then take the edTPA and obtain an initial certificate upon successfully passing this performance assessment.

Related Regents Items

June 2017: <https://www.regents.nysed.gov/common/regents/files/617hea3.pdf>

Recommendation

VOTED: That Section 80-5.17 of the Regulations of the Commissioner of Education be amended, effective September 11, 2017, as an emergency action to preserve the general welfare by allowing out-of-state candidates to obtain a conditional initial certificate while completing their edTPA requirement during their first year of employment in New York State and to ensure that the emergency rule adopted at the June 2017 Regents meeting remains in effect until it can be adopted as a permanent rule.

Timetable for Implementation

If adopted by the Board of Regents at the July 2017 meeting, the proposed amendment will become effective as a second emergency measure on September 11, 2017. Following the 45-day public comment period required by the State Administrative Procedure Act, it is anticipated that the proposed amendment will be adopted by the Board of Regents at its September 2017 meeting and become effective as a permanent rule on September 27, 2017.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 3004 and 3009.

Subdivision (a) of section 80-5.17 of the Regulations of the Commissioner of education, shall be amended, to read as follows:

(a) Conditional initial certificate in the classroom teaching service.

For out-of-state candidates applying for initial certification (in a certificate title in the classroom teaching service for which this Part requires completion of a teacher performance assessment) [on or before May 1, 2017], the commissioner may issue to a candidate who has received a satisfactory passing score on all other required examination requirements, as required for the title and type of certificate sought in this State, a one-year nonrenewable conditional initial certificate, notwithstanding that the candidate has not received a satisfactory passing score on the teacher performance assessment, and deem that all other requirements for the initial certificate in the certificate title sought have been met, provided that the candidate holds a valid regular teacher's certificate or an authorization to practice that the commissioner deems equivalent in the same or an equivalent title by another state or territory of the United States and otherwise meets the requirements for endorsement as set forth in section 80-5.8(a) of this Title, except the teacher performance assessment, if required, and the candidate has not already taken and received an unsatisfactory score on the teacher performance assessment.

Attachment B

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment permanently extends the option for out-of-state candidates to be eligible for the conditional initial certificate so that these candidates, who have met all other requirements for an initial certificate other than completion of the edTPA, can obtain a certificate and be employed in New York State schools. They can then take the edTPA and obtain an initial certificate upon successful completion of this performance assessment.

The deadline for applying for the initial certificate and being eligible for the conditional initial certificate was May 1, 2017, and at its June 2017 meeting, the Board of Regents, through an emergency action, removed this deadline.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(4-a), is the September 2017 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the July meeting would be September 27, 2017, the date a Notice of Adoption would be published in the State Register. The emergency rule adopted at the June 2017 Regents meeting will expire on September 10, 2017. Emergency action is therefore needed at the July 2017 meeting in order to ensure that the emergency action taken at the June 2017 Regents meeting will remain continuously in effect until it can be adopted as a permanent rule so that out-of-state candidates pursuing certification and

employment in the 2017-2018 school year will be able to use the conditional initial certificate option.