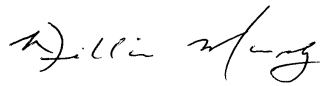





TO: The Honorable Members of the Board of Regents

FROM: William P. Murphy 

SUBJECT: Proposed Amendment of Sections 80-1.6, 80-1.7, 80-1.8, 80-5.9, 80-5.24, and 80-5.25 of the Regulations of the Commissioner of Education Relating to the Initial Reissuance, Provisional Renewal, and Time Extension Requirements

DATE: July 6, 2023

AUTHORIZATION(S): 

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of sections 80-1.6, 80-1.7, 80-1.8, 80-5.9, 80-5.24, and 80-5.25 of the Regulations of the Commissioner of Education relating to the Initial Reissuance, Provisional Renewal, and Time Extension requirements?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at its July 2023 meeting. A copy of the proposed amendment is attached (Attachment A).

Procedural History

The proposed amendment was presented to the Higher Education Committee for discussion at its April 2023 meeting. A Notice of Proposed Rule Making was published in the State Register on May 3, 2023, for a 60-day public comment period. Following publication in the State Register, the Department received two comments on the proposed amendment. An Assessment of Public Comment is included (Attachment B). No changes to the proposed amendment are recommended at this time. A Notice of Adoption will be

published in the State Register on August 2, 2023. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

The Initial certificate is an entry-level certificate for classroom teachers, school building leaders, and school counselors that is valid for five years. Initial certificate holders are expected to progress to a Professional certificate within the five-year period by completing all requirements for Professional certification.

The Provisional certificate is an entry-level certificate for pupil personnel services certificate titles, including the former School Counselor certificate title and the former School Administrator and Supervisor (SAS) certificate title. This certificate is also valid for five years. Provisional certificate holders are expected to progress to a Permanent certificate within the five-year period by completing all requirements for Permanent certification.

Some candidates, however, are unable to complete the Professional or Permanent certificate requirements within the five-year time frame, including the education and/or experience requirements. If eligible, these candidates can extend the validity period of their Initial or Provisional certificate in order to complete the Professional or Permanent certificate requirements by obtaining a Time Extension and/or either an Initial Reissuance or Provisional Renewal. The current requirements for these options are as follows:

- **Initial Reissuance.** For the five-year reissuance of an Initial certificate, candidates must: (1) have less than three years of experience that is required for the Professional certificate, and (2) pass the certification exam(s) in the area required for the certificate sought within one year before or after the application date of the Initial Reissuance or during the validity period of the Emergency COVID-19 certificate held in the area of the certificate sought.

Teachers and Initial School Counselor certificate holders can obtain only one reissuance, while school building leaders can receive a second reissuance if they meet the requirements for the first reissuance, meet all requirements for the Professional certificate except the experience requirement, and have been employed in a school district or BOCES to provide instructional support services during three of the past five school years (8 NYCRR 80-1.8).

- **Provisional Renewal.** Provisional certificate holders may be eligible for a single five-year renewal. The requirements for this renewal vary based on the certificate title (8 NYCRR 80-1.7):
 - Candidates who hold a pupil personnel services certificate, other than the Provisional School Counselor certificate, must complete all requirements for the Permanent certificate other than the experience requirement.

- Provisional SAS certificate holders must meet the above requirements and also pass the school building leader assessment that is required for certification as a school building leader.
- Provisional School Counselor certificate holders can obtain the renewal to meet the experience and/or education requirement for the Permanent certificate.
- **Time Extension.** Initial, Provisional, and some Transitional certificates¹ are renewable and can have the validity period extended once for three years from the expiration date of such certificate (8 NYCRR 80-1.6)². Candidates who are eligible for the time extension include those:
 - who are on leave from their teaching duties because of childbearing, childrearing, serious illness, or extended illness;
 - who are serving with the Peace Corps or other volunteer organization;
 - whose service as a teacher has been discontinued as a result of abolition of teaching positions in the school district in which they were employed;
 - who, because of extreme hardship or other circumstances beyond the control of the individual, were unable to complete the requirements for the permanent or professional certificate in a timely manner, excluding normal family commitments or inconvenience; or
 - who have been unable to secure employment as a teacher or who have been pursuing a career other than teaching.

Some educators may be eligible for the Time Extension, but not the Initial Reissuance/Provisional Renewal, and vice versa. For example, educators who have three or more years of experience, but have not completed the education requirement for the Professional or Permanent certificate, could pursue the Time Extension but not the Initial Reissuance/Provisional Renewal. On the other hand, educators may be eligible for the Initial Reissuance/Provisional Renewal and not be able to benefit from the Time Extension because their certificate expired more than three years ago and the extension can only add three years to the expiration date (e.g., they stepped away from their career in education to raise a family or pursue other interests).

Proposed Amendments

The Department is proposing to revise the Initial Reissuance, Provisional Renewal, and Time Extension requirements to ensure that educators have an opportunity to extend the validity period of their certificates during extenuating circumstances that may prevent them from completing the requirements for the Professional or Permanent certificate. Since

¹ Transitional A, B, C, and G certificate are currently renewable and eligible for a Time Extension.

² The time validity of expired certificates held by individuals on active duty with the Armed Forces may be extended for the time of such active service and an additional 12 months from the end of such service.

the Time Extension is only an option for three years after a certificate expires, the proposed amendment removes this limited option for Initial and Provisional certificate holders, and instead, allows these certificate holders to obtain up to two reissuances/renewals with more flexible eligibility requirements.

This flexibility should increase the pool of qualified educators during this time of educator shortages. Additionally, the proposal streamlines the options for extending the validity period of certificates by making the options clearer to educators while maintaining the expectation that educators make progress toward the Professional or Permanent certificate.

Initial Reissuance:

The proposed amendment allows educators to receive up to two five-year Initial Reissuances instead of only one reissuance. The requirement to pass the certification exam again would be removed. For the first reissuance for teachers and school counselors, they must meet all requirements for the Professional certificate except the education and/or experience requirement. If they desire a second reissuance, they must: (1) meet all requirements for the Professional certificate except the education or experience requirement, and (2) show that they have made progress towards completing one of these two requirements.

The Professional School Building Leader certificate has an experience requirement, but no education requirement, beyond the Initial School Building Leader certificate requirements. Therefore, the proposal allows educators who hold school building leader certification to have their certificate reissued up to two times if they meet all requirements for the Professional School Building Leader certificate except the experience requirement.

Educators who were issued one Initial Reissuance and one Time Extension in the past could not receive a second reissuance under this proposal. Further, educators who received one Time Extension in the past could only receive one reissuance. However, educators who were issued their first Initial Reissuance on or after May 20, 2020, and prior to August 2, 2023, may receive a second reissuance under the proposed first reissuance requirements, which are similar to the Time Extension requirements. Specifically, both sets of requirements do not require educators to meet either the education and/or experience requirement for the Permanent certificate.

Provisional Renewal:

The proposed amendment allows educators to receive up to two five-year Provisional Renewals instead of only one renewal. For the first renewal for educators in the pupil personnel service, they must meet all requirements for the Permanent certificate except the education and/or experience requirements. If they need a second renewal, they must: (1) meet all requirements for the Permanent certificate except the education or experience requirement, and (2) show that they have made progress towards completing one of these two requirements. These requirements are consistent with the proposed Initial Reissuance requirements outlined above.

Currently, educators who hold the former Provisional SAS certificate can obtain a Provisional Renewal by achieving a satisfactory score on the school building leader assessment that is required for School Building Leader certification. The Department has not issued Permanent SAS certificates to educators with expired Provisional SAS certificates since October 1, 2014. To complete the transition to Initial and Professional School Building Leader certificates, the proposal requires educators who hold an expired Provisional SAS certificate to apply and qualify for the renewal prior to September 2, 2024. This timeline provides these educators with over one year to complete the requirements for the renewal.

Educators who were issued one Provisional Renewal and one Time Extension in the past could not receive a second renewal under this proposal. Further, educators who received one Time Extension in the past could receive only one renewal. However, educators who were issued their first Provisional Renewal on or after May 20, 2020, and prior to August 2, 2023, may receive a second renewal under the proposed first renewal requirements, which are similar to the Time Extension requirements. Specifically, both sets of requirements do not require educators to meet either the education and/or experience requirement for the Permanent certificate.

Time Extension:

The proposed amendment revises the type of certificates that are eligible for the Time Extension. Specifically, Initial or Provisional certificate holders would no longer be eligible for the Time Extension, while Internship, Residency, and Transitional H certificate holders would become eligible for the Time Extension.

The Internship, Residency, and Transitional H certificates are available to candidates who are matriculating in an educator preparation program and are employed by New York State public schools during their internship, residency, or leadership experience, respectively. Extending eligibility for the Time Extension to these candidates is consistent with the current practice of allowing candidates who hold a Transitional B or C certificate and are matriculating in a teacher preparation program to request such an extension. The Time Extension would extend the validity period of these certificates by three years, giving them additional time to complete the clinical experience requirement in their program if needed due to extenuating circumstances.

Transitional A, B, C, and G certificate holders are currently eligible for a Time Extension. The proposal codifies that a Transitional A certificate holder must submit a commitment of employment of at least one year from a public or nonpublic school or BOCES as a teacher in the area of the certificate sought after the expiration date of the certificate to obtain the Time Extension. Transitional G certificate holders would also need to submit a commitment of employment of at least one year from a school district as a teacher in the area of the certificate sought after the expiration date of the certificate to obtain the Time Extension.

Additionally, Transitional B, Transitional C, Transitional H, Internship, and Residency certificate holders must submit evidence of continued matriculation in their registered educator preparation program after the expiration date of the certificate to obtain the Time Extension in the proposal.

Finally, educators who were issued a three-year Time Extension for their Initial certificate, Initial Reissuance, Provisional certificate, or Provisional Renewal would have the expiration date of such time extension extended by two years, if the expiration date is on or after August 31, 2023. The additional two years would make the validity period of the Time Extension five total years in length, similar to the length of the proposed first and second Initial Reissuance and Provisional Renewal validity period.

Related Regents Items

April 2023: [Proposed Amendment of Sections 80-1.6, 80-1.7, 80-1.8, 80-5.9, 80-5.24, and 80-5.25 of the Regulations of the Commissioner of Education Relating to the Initial Reissuance, Provisional Renewal, and Time Extension Requirements](https://www.regents.nysed.gov/sites/regents/files/423hed1.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/423hed1.pdf>)

March 2022: [Proposed Amendment of Section 80-1.8 of the Regulations of the Commissioner of Education Relating to the Requirements for the Reissuance of an Initial Certificate](https://www.regents.nysed.gov/common/regents/files/322brca5.pdf)
(<https://www.regents.nysed.gov/common/regents/files/322brca5.pdf>)

May 2020: [Proposed Amendment to Section 80-1.6 of the Regulations of the Commissioner of Education to Allow a Time Extension for the Initial Reissuance and Provisional Renewal](https://www.regents.nysed.gov/common/regents/files/520brca9.pdf)
(<https://www.regents.nysed.gov/common/regents/files/520brca9.pdf>)

January 2013: [Proposed Amendments to the Regulations of the Commissioner of Education Relating to Renewals of Provisional Certificates and Reissuances of Initial Certificates](https://www.regents.nysed.gov/common/regents/files/113hea2%5B1%5D.pdf)
(<https://www.regents.nysed.gov/common/regents/files/113hea2%5B1%5D.pdf>)

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 and sections 52.21, 80-3.2, 80-3.3, and 80-3.7 of the Regulations of the Commissioner of Education be amended, as submitted, effective August 2, 2023.

Timetable for Implementation

If adopted at the July meeting, the proposed amendment will become effective on August 2, 2023.

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 80-1.6 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 80-1.6. Extensions of time validity of certificates

(a)

(1) For candidates who applied for their first-time extension under this section prior to March 1, 2017, subject to the limitation provided in subdivision (e) of this section and excluding expired certificates in the classroom teaching service or expired provisional certificate in the title of school administrator and supervisor, the time validity of an expired provisional, initial or transitional certificate may be extended for a period not to exceed two years from the expiration date of such certificate, except as provided in subdivision [(c)] (f) of this section, upon application by the holder of a teaching certificate:

(i) who is on leave from his/her teaching duties because of childbearing, childrearing, serious illness, or extended illness;

(ii) who is serving with the Peace Corps or other volunteer organization;

(iii) whose service as a teacher has been discontinued as a result of abolition of teaching positions in the school district in which employed;

(iv) who, because of extreme hardship or other circumstances beyond the control of the individual, was unable to complete the requirements for the permanent or

professional certificate in a timely manner, excluding normal family commitments or inconvenience;

(v) for a candidate who has been unable to secure employment as a teacher or who has been pursuing a career other than teaching.

(2) For candidates who were issued a two-year time extension under this subdivision prior to March 1, 2017, and the two-year time extension expired on or after August 31, 2016, the commissioner shall automatically extend the time validity of the expired certificate beyond the two-year extension provided for in this subdivision, for a period not to exceed one year from the expiration date of the two-year extension.

(b) For holders of a provisional certificate or provisional renewal in the pupil personnel service, or for holders of an initial certificate, initial reissuance, or an internship, residency, or renewable transitional certificate in the classroom teaching service or school leadership applying for their first time extension on or after March 1, 2017, through August 1, 2023, the time validity of the expired certificate may be extended once per applicable transitional certificate and once after the issuance of the first provisional or initial certificate, per certificate title (educators would not be able to earn a time extension on both the initial certificate and initial reissuance or the provisional certificate and provisional renewal, per certificate title), for a period not to exceed three years from the expiration date of such certificate, except as provided in subdivision [(c)] (f) and (g) of this section, upon application by the holder of the certificate:

(1) who is on leave from his/her teaching duties because of childbearing, childrearing, serious illness, or extended illness;

(2) who is serving with the Peace Corps or other volunteer organization;

(3) whose service as a teacher has been discontinued as a result of abolition of teaching positions in the school district in which employed;

(4) who, because of extreme hardship or other circumstances beyond the control of the individual, was unable to complete the requirements for the permanent or professional certificate in a timely manner, excluding normal family commitments or inconvenience;

(5) for a candidate who has been unable to secure employment as a teacher or who has been pursuing a career other than teaching.

(c) For holders of an internship, residency, or applicable transitional certificate applying for their first-time extension on or after August 2, 2023, the time validity of the expired certificate may be extended once for a period not to exceed three years from the expiration date of such certificate, except as provided in subdivision (f) of this section, upon application by the holder of the certificate:

(1) who is on leave from their duties as an educator because of childbearing, childrearing, serious illness, or extended illness;

(2) who is serving with the Peace Corps or other volunteer organization;

(3) whose service as an educator has been discontinued as a result of abolition of educator positions in the school district in which employed;

(4) who, because of extreme hardship or other circumstances beyond the control of the individual, was unable to complete the requirements for the permanent or professional certificate or for their registered educator preparation program in a timely manner, excluding normal family commitments or inconvenience; or

(5) who has been unable to secure employment as an educator or who has been pursuing a career outside the field of education.

(d) Candidates who hold the transitional A certificate shall submit evidence of having a commitment of employment of at least one year from a public or nonpublic school or board of cooperative educational services as a teacher in the area of the certificate sought after the expiration date of such certificate to obtain the time extension. Candidates who hold the transitional G certificate shall submit evidence of having a commitment of employment of at least one year from a school district as a teacher in the area of the certificate sought after the expiration date of such certificate to obtain the time extension.

(e) Candidates who hold the internship, residency, transitional B, transitional C, or transitional H certificate shall submit evidence of continued matriculation in their registered educator preparation program pursuant to section 52.21 of this Title after the expiration date of such certificate to obtain the time extension.

[(c)] (f) The time validity of expired certificates prescribed in this section [, including an expired provisional certificate in the classroom teaching service or an expired provisional certificate in the title of school administrator and supervisor,] held by individuals on active duty with the Armed Forces may be extended by the commissioner, upon application by the holder of such certificate, for the time of such active service and an additional 12 months from the end of such service.

(g) Candidates who were issued a time extension for their initial certificate, initial reissuance, provisional certificate, or provisional renewal pursuant to section 80-1.6(b)

of this Title shall have the expiration date of such time extension extended by two years, provided that the expiration date is on or after August 31, 2023.

2. Section 80-1.7 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 80-1.7. Renewal of a provisional certificate

(a)

[(1) Except as otherwise provided by subdivision (c) of this section, by application to the commissioner by the holder of the certificate, the commissioner may renew an expired provisional certificate in the administrative and supervisory service or the pupil personnel service on one occasion only] The holder of a provisional certificate in the pupil personnel service whose certificate has expired may have such certificate renewed on up to two occasions for a period of five years from the effective date of the [renewed provisional certificate is issued, provided that the candidate has met all requirements for the permanent certificate in the certificate title of the provisional certificate, except the experience requirement] renewal. [The requirements of this paragraph shall not apply to the renewal of a provisional certificate in the title of school counselor. The requirements of paragraph (2) of this subdivision shall apply to the renewal of a provisional certificate in the title of school counselor.

(2) By application of the holder of the certificate, the commissioner may renew an expired provisional certificate in the title school counselor on one occasion only for a period of five years from the date the renewed provisional certificate is issued in order to permit the candidate to meet the experience and/or education requirement for the permanent certificate in the title school counselor.]

(1) For the first renewal, the candidate shall meet all requirements for the permanent certificate in the certificate title of such provisional certificate except the education and/or experience requirement.

(2) For the second renewal, the candidate shall meet all requirements for the permanent certificate in the certificate title of such provisional certificate except the education or experience requirement.

(b) The requirements for the permanent certificate shall be those in effect at the time the renewed provisional certificate is issued.

(c) [The commissioner shall not accept an application for the renewal of a provisional school administrator and supervisor certificate submitted to the commissioner after September 1, 2013, unless the certificate holder] A candidate who holds an expired provisional school administrator and supervisor certificate and applies and qualifies for a renewal of such certificate prior to September 2, 2024, may have such certificate renewed on one occasion only for a period of five years from the effective date of the renewal, provided that the candidate has achieved a satisfactory score on the school building leader [assessment(s) that is required at the time the renewed provisional certificate is issued] assessment that is required for a certificate as a school building leader.

(d) Notwithstanding subdivisions (a) or (c) of this section, candidates who were issued one renewal of a provisional certificate and one-time extension pursuant to section 80-1.6(a) and (b) of this Title shall not be eligible to receive a second renewal of such provisional certificate. Candidates who were issued a time extension pursuant to section 80-1.6(a) and (b) of this Title shall be eligible to receive only one renewal of

such provisional certificate under the first renewal requirements in paragraph (a)(1) of this section. Candidates who were issued a renewal of a provisional certificate on or after May 20, 2020, and prior to August 2, 2023, may receive a second renewal under the first renewal requirements in paragraph (a)(1) of this section.

3. Section 80-1.8 of the Regulations of the Commissioner of Education is amended to read as follows:

(a) The holder of an initial certificate in the classroom teaching service or in the title school counselor whose certificate has expired [and who has not successfully completed three school years of experience, or its equivalent, as is required for a professional certificate, shall be reissued an initial certificate on one occasion only,] may have such certificate reissued on up to two occasions for a period of five years from the effective date of reissuance.

(1) [Candidates applying for a reissuance shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area required for the certificate sought, the New York State assessment required for a certificate as a school building leader, or the New York State assessment required for a certificate as a school counselor, which shall be taken within one year prior to or one year after the department's receipt of a completed application for the reissuance of the initial certificate or during the validity period of the Emergency COVID-19 certificate, provided such certificate is held in the same certificate title of the reissuance sought.] For the first reissuance, the candidate shall meet all requirements for the professional certificate in

the certificate title of such initial certificate except the education and/or experience requirement.

(2) For the second reissuance, the candidate shall meet all requirements for the professional certificate in the certificate title of such initial certificate except the education or experience requirement.

(b) [Notwithstanding the above, an initial certificate as a school building leader may be reissued a second time if the certificate holder has met all of the requirements for the professional certificate except the experience requirement and has been employed in a school district or BOCES to provide instructional support services as defined in section 80-5.21 of this Part during three of the past five school years.] The holder of an initial certificate in the title school building leader whose certificate has expired may have such certificate reissued on up to two occasions for a period of five years from the effective date of reissuance, provided that they meet all requirements for the professional certificate in the title school building leader except the experience requirement.

(c) Notwithstanding subdivisions (a) or (b) of this section, candidates who were issued one reissuance of an initial certificate and a time extension pursuant to section 80-1.6(a) and (b) of this Title shall not receive a second reissuance of such initial certificate. Candidates who were issued a time extension pursuant to section 80-1.6(a) and (b) of this Title shall receive a reissuance of such initial certificate on one occasion only under the first reissuance requirements in paragraph (a)(1) of this section. Candidates who were issued a reissuance of an initial certificate on or after May 20,

2020, and prior to August 2, 2023, may receive a second reissuance under the first reissuance requirements in paragraph (a)(1) of this section.

4. Subdivision (c) of section 80-5.9 of the Regulations of the Commissioner of Education is amended to read as follows:

(c) The certificate shall be valid for no more than two years from its effective date [and is not renewable]. For individuals called to active duty in the Armed Forces, the validity period of the internship certificate may be extended for the time of active service and an additional 12 months from the end of such service, provided that the holder is a candidate in a registered or approved graduate program of teacher education, school leadership or school counseling program.

5. Paragraph (2) of subdivision (c) of section 80-5.24 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) Limitations. [The certificate shall not be renewable.] The certificate shall authorize a candidate to work only in a school, school district, or board of cooperative educational services for which a commitment for employment and mentoring has been made. The candidate shall not be the teacher of record.

6. Paragraph (1) of subdivision (a) of section 80-5.25 of the Regulations of the Commissioner of Education is amended to read as follows:

(1) Time validity. The Transitional H certificate shall be valid for three years from its effective date [and shall not be renewable].

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on May 3, 2023, the State Education Department received the following comment on the proposed amendment:

1. COMMENT: The commenter supports the proposed amendment and indicates that the current regulations for the reissuance of an Initial certificate may act as a barrier for highly qualified educators. The commenter states that the proposed reissuance regulations will remove inequitable barriers for those whom the Department has already deemed qualified to teach in New York State, but need additional time to complete three years of full-time employment and/or a master's degree. The commenter explains that the extension of the Initial certificate validity period will help teachers meet the requirements to continue their careers as educators and expresses hope that the proposed amendment will also apply to refugees/immigrants who are waiting for a visa status change.

DEPARTMENT RESPONSE: This comment is supportive of the proposed rule; therefore, no changes are necessary. The proposed amendments to the requirements for the Time Extension, reissuance of an Initial certificate, and renewal of a Provisional certificate do not preclude refugees/immigrants who are waiting for visa status change from applying.

2. COMMENT: The commenter expresses interest in the proposed amendment and how it could affect them personally. They describe how their school counselor certification expired, its validity was extended, and how they subsequently considered

enrolling in a second master's degree program in counseling. They assert that going back to school full-time and working full-time would present a hardship.

DEPARTMENT RESPONSE: This comment is supportive of the proposed rule; therefore, no changes are necessary. Individuals who are interested in determining their eligibility for the revised Initial Reissuance, Provisional Renewal, or Time Extension can review information about them on the [Office of Teaching Initiatives website](#) on or after the effective date of the proposed amendment on August 2, 2023, or contact the Office of Teaching Initiatives at tcert@nysed.gov.