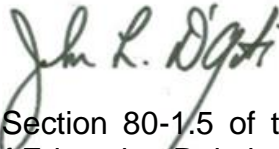






**TO:** The Honorable the Members of the Board of Regents

**FROM:** John L. D'Agati 

**SUBJECT:** Amendment to Section 80-1.5 of the Regulations of the Commissioner of Education Relating to Safety Nets for the Revised Content Specialty Tests

**DATE:** December 29, 2016 

**AUTHORIZATION(S):** 

### SUMMARY

#### **Issue for Decision (Consent Agenda)**

Should the Board of Regents amend Section 80-1.5 of the Commissioner's Regulations to amend the safety nets for the revised content specialty tests?

#### **Reason(s) for Consideration**

Review of Policy.

#### **Proposed Handling**

The proposed amendment is submitted to the Full Board for emergency action and adoption as a permanent rule at its January 2017 meeting (see Attachment A for a copy of the proposed amendment and Attachment B for the Statement of Facts and Circumstances Justifying the Emergency Action).

#### **Procedural History**

A Notice of Proposed Rule Making and Emergency Action was published in the State Register on November 2, 2016. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents. Following the 45-day public comment period required under the State Administrative Procedure Act, the Department received one comment on the proposed amendment (An Assessment of Public Comment is included as Attachment D).

## **Background Information**

In April 2012, Governor Cuomo established an Education Reform Commission that was charged with reviewing a broad range of education policy issues. The Commission made several recommendations, one of which was the creation of a “bar”-like exam, indicating the importance of ensuring that only qualified individuals are given the state’s approval to educate our children.

In an effort to implement this requirement, new and revised certification exams were developed. These new and revised exams were released to the field in May 2014.

## **Description of the Currently Required Certification Examinations**

The edTPA, a performance examination, is a multiple-measure examination system comprised of three tasks: (i) planning instruction and examination; (ii) instructing and engaging students in learning; and (iii) assessing student learning.

The Academic Literacy Skills Test (ALST) measures skills and competencies in reading and writing aligned to college and career readiness standards, including: (i) analyzing text structure; (ii) writing to sources; and (iii) using valid reasoning and relevant evidence to support claims.

The Educating All Students Exam (EAS) measures skills and competencies that address: (i) diverse student populations; (ii) English language learners; (iii) students with disabilities and other special learning needs; (iv) teacher responsibilities; and (v) school-home relationships.

The Content Specialty Tests (CSTs) measure content knowledge in a particular subject area, and are aligned with the New York State learning standards.

Due to concerns that programs did not have adequate time to prepare students for the new and revised certification exams, at its April 2015 meeting, the Board requested that the Department propose safety net options for the ALST, EAS and the CSTs. In response to the Board’s request, at its May 2015 meeting, the Board of Regents adopted safety nets applicable to each of the certification examinations, which were to expire on June 30, 2016. At its July 2016 meeting, the Board of Regents extended these safety nets for an additional year - until June 30, 2017.

## **Ongoing Development of the Revised Content Specialty Tests**

Currently, there are a total of 41 single-subject or multi-subject CSTs, 19 of which have been revised and released to the field (see Appendix C for a schedule of all currently released CSTs and those to be released). There are 14 revised CSTs that were released in November 2016. Due to concerns that some programs may have adjusted their curricula to prepare their students for the revised CSTs while other

programs may not have done so, the Department is proposing a change in the safety nets for all CSTs.

### **Safety Net for Newly Operational single subject CSTs:**

For the 14 CSTs that were released in November 2016, the Department is proposing a new safety net that will allow candidates to take and pass **either** the revised CST or the predecessor CST for certification. Based on concerns from the field, the Department believes this will provide teacher education programs with additional time to prepare for the revised CSTs. This policy serves to help relieve some of the financial burden on candidates because they will not be required to take and fail the revised CST before taking the predecessor CST. This safety net will expire on June 30, 2019.

### **Currently Operational Redeveloped single subject CSTs:**

At its June 2015 and July 2016 meetings, the Board of Regents adopted safety nets for the revised CSTs which allowed candidates who have taken and failed the revised CSTs to take and pass the predecessor CST in lieu of passing the revised CST until June 30, 2017.

In making the change to the safety net for the newly operational CSTs (those released in November 2016), the Department also proposes making conforming changes to the existing safety nets for the currently operational revised CSTs (those CSTs that became operational in September 2014 or 2015) to allow candidates who apply for certification on or after October 18, 2016 or who have a pending certification application with the Department to take and pass either the revised CST or the predecessor CST for certification (even if the candidate took and passed the predecessor examination on or before October 18, 2016). This safety net for those currently operational CSTs will expire on June 30, 2017. These safety nets will expire before the safety net for the newly revised tests (those released in November 2016) because those students and institutions have already had time to prepare for the revised exams since those examinations will have been operational for over two years before the safety net expires.

See Attachment C for a description of when each examination became operational.

### **Safety Net for the Multi-Subject CSTs:**

For the MST B-2, 1-6, and 5-9, the Board of Regents enacted regulations to allow candidates who take and fail one or more parts of the MST B-2, 1-6, and 5-9 on or before June 30, 2017, to take and pass the predecessor Multi-Subject exam. The proposed amendment allows an individual who is a candidate on or after October 18, 2016 through June 30, 2017, to receive a satisfactory passing score on either the

revised MST B-2, 1-6, and 5-9 or the predecessor MST B-2, 1-6, and 5-9. This safety net will expire on June 30, 2017.

### **Safety Net for the Multi-Subject: Secondary Teachers Grade 7- Grade 12 Content Specialty Test:**

At its January 2016 meeting, the Board of Regents directed the Department to create a temporary safety net for those candidates who have taken and failed Part Two (the Mathematics portion) of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12 Content Specialty Test.

In order to be eligible for the safety net, a candidate must pass Part One (Literacy and English Language Arts) and Part Three (Arts and Sciences) of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12 CST and then take and fail Part Two (Mathematics) of the CST and then complete a mathematics tutorial that will be provided to candidates who qualify. The tutorial is intended to review mathematics lessons aligned to the New York State Learning Standards for mathematics comparable to the content on Part Two of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12 test. The tutorial also prompts candidates to answer certain questions to review the skills needed to prepare them for the math portion of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12.

Upon completion of the mathematics tutorial, candidates must then submit an attestation and transcript attesting that they have completed at least one college mathematics course (3 semester hours) and received a grade of 3.0 or higher or the substantial equivalent in that course.

The Department is currently bringing together a team of educators to review Part II (the math component) of this examination to determine if it is of appropriate rigor. While the educator panel reviews this portion of the examination, the Department recommends extending this safety net until June 30, 2018.

### **Related Regents Items**

<http://www.regents.nysed.gov/meetings/2009Meetings/December2009/1209hed2.htm>  
<http://www.regents.nysed.gov/common/regents/files/413hea4Revision2.pdf>  
<http://www.regents.nysed.gov/common/regents/files/716brca1.pdf>  
<http://www.regents.nysed.gov/common/regents/files/1016hea2.pdf>

### **Recommendation**

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

VOTED: That Section 80-1.5 of the Regulations of the Commissioner of Education be amended, as submitted, effective January 16, 2017, as an emergency

action to ensure that candidates who take one of the revised CSTs are aware of the changes to the existing safety option for the CST - i.e., that candidates can take either the predecessor CST or the revised CST until June 30, 2017 for those CSTs already operational, and until June 30, 2019 for those CSTs which became operational in November 2016 and that the temporary safety net for those candidates who have taken and failed Part Two (the Mathematics portion) of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12 Content Specialty Test has been extended until June 30, 2018 and to ensure that the emergency rule adopted by the Board of Regents at its October 2016 meeting remains continuously in effect until it can be adopted as a permanent rule; and further

VOTED: That Section 80-1.5 of the Regulations of the Commissioner of Education be amended, as submitted, effective January 25, 2017.

### **Timetable for Implementation**

If the Board of Regents adopts the attached emergency regulations at its January 2017 meeting, the emergency rule will become effective January 16, 2017 and the proposed amendment will become effective as a permanent rule on January 25, 2017.

**Attachment A**

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 215, 3001, 3003 and 3009 of the Education Law.

1. Subdivision (c) of section 80-1.5 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(c) [Notwithstanding] Except as otherwise prescribed in this subdivision, notwithstanding any applicable provisions of Subparts 80-1, 80-3, 80-4 and 80-5 of this Part or any other provision of rule or regulation to the contrary, a candidate who applies for and meets all the requirements for a certificate on or before June 30, 2018, except that such candidate does not achieve a satisfactory level of performance on one or more of the new certification examinations (the academic literacy skills test and/or the teacher performance assessment) or the revised content specialty examination(s), as prescribed by the Commissioner, that is/are required for the certificate title sought, [and such examination(s) was/were taken and failed on or after September 1, 2013 through June 30, 2017] may instead use one or more of the following safety net options, in lieu of taking, retaking one or more of such new and/or revised certification examinations:

(1) . . .

(2) . . .

[(3) . . .]

(3) Content Specialty Test.

(i) Except as otherwise provided in subparagraphs (ii), (iii) and (iv) of this paragraph, a candidate who takes and fails to achieve a satisfactory level of performance on any of the revised content specialty examinations from May 1, 2015

through October 17, 2016, in the candidate's certification area, may, in lieu of retaking such revised content specialty test:

(a) receive a satisfactory score on the predecessor content specialty examination after receipt of his/her failing score on the revised content specialty test; or

(b) pass the predecessor content specialty examination on or before the new certification examination requirements become operational.

(ii) A candidate who applies for certification on or after October 18, 2016 and/or who has a pending application for certification on file with the Office of Teaching Initiatives on October 18, 2016, as determined by the Department, may receive a satisfactory passing score on either the revised content specialty test or the predecessor content specialty exam (even if the candidate took and passed the predecessor examination on or before October 18, 2016) until June 30, 2017.

(iii) For revised content specialty tests that become operational on or after October 18, 2016, a candidate may take and receive a satisfactory passing score on either the revised content specialty test or the predecessor content specialty exam until June 30, 2019.

[(iii)] (iv) A candidate who takes and fails to achieve a satisfactory level of performance on part two of the new multi-subject: secondary teachers grade 7 - grade 12 content specialty test, if required for the certificate area sought and he/she received a satisfactory level of performance on parts one and three of such test on or after September 1, 2014 through [June 30, 2017] June 30, 2018, may, in lieu of retaking part two of such examination:

(a) present the Department with sufficient evidence of satisfactory completion of the mathematics tutorial approved by the Department prior to June 30, [2017] 2018; and

(b) submit an attestation on or before June 30, [2017] 2018, on a form prescribed by the Commissioner, attesting that the candidate has:

(i) demonstrated comparable mathematical skills to what is required by part two of the multi-subject (7-12) content specialty examination through course completion by completing a minimum of three semester hours in mathematics coursework satisfactory to the commissioner; and

(ii) received a cumulative grade of a 3.0 or higher, or the substantial equivalent, in such coursework.



## **Attachment B**

### **STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING THE EMERGENCY**

#### **ACTION**

Despite the high pass rates on the new and revised certification examinations by candidates who have completed preparation programs and have been recommended for certification, the field has expressed concern about the pass rates for candidates who have not completed a preparation program and have not yet been recommended for certification. In response to concerns from the field regarding the release of a new set of Content Specialty Tests in November 2016, the Department has presented emergency regulations to revise the current safety nets for all of the revised Content Specialty Tests to eliminate the requirement that these candidates take and fail the revised CSTs before passing the predecessor content specialty examination. For those Content Specialty Tests currently operational prior to this amendment, the revised safety net will expire on June 30, 2017. For those revised Content Specialty Tests to be released in November 2016, the safety net will expire on June 30, 2019.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register and expiration of the 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 202(1) and (5), is the January 2017 Regents meeting. Therefore, emergency action is needed to ensure that candidates who take one of the revised CSTs are aware of the changes to the existing safety option for the CST—i.e., that candidates can take either the

predecessor CST or the CST until June 30, 2017 for those CSTs already operational, and until June 30, 2019 for those CSTs which became operational in November 2016.

Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the January 2017 Regents meeting is January 25, 2017, the date a Notice of Adoption would be published in the State Register. However, the emergency rule adopted at the October 2016 Regents meeting will expire on January 15, 2017. Therefore, a second emergency action is needed at the January 2017 meeting to ensure that the emergency rule adopted at the October meeting remains continuously in effect until it can be adopted as a permanent rule.

**Attachment C**

**Multi-Subjects Content Exams Released:**

MS B-2 Part One Lit/ELA	September 2014
MS B-2 Part Two Math	
MS 1-6 Part One Lit/ELA	
MS 1-6 Part Two Math	
MS 5-9 Part One Lit/ELA	
MS 5-9 Part Two Math	
MS 7-12 Part One Lit/ELA	
MS 7-12 Part Two Math	
MS Part Three Arts & Sciences	

**Single Subject Content Exams Already Released:**

Agriculture	September 2014
Blind and Visually Impaired	August 2015
Business and Marketing	September 2014
Deaf and Hard of Hearing	
English Language Arts	
Educational Technology Specialist	
Family and Consumer Science	
Gifted Education	
Health Education	
Library Media Specialist	
Literacy	
Mathematics	
Physical Education	
Students with Disabilities Technology Education	August 2015

**Single Subject Content Exams Already Released:**

American Sign Language	November 2016
Cantonese	
English to Speakers of Other Languages	
French	
German	
Greek	
Hebrew	
Italian	
Japanese	
Latin	
Mandarin	
Russian	
Social Studies	
Spanish	

**To De Developed:**

Biology	TBD
Earth Science	
Chemistry	
Physics	
Dance	
Music	
Theater	
Visual Arts	

**Attachment D**

**8 NYCRR Subpart 80-1.5**

**ASSESSMENT OF PUBLIC COMMENT**

Since publication of a Notice of Proposed Rule Making in the State Register on November 2, 2016, the State Education Department (SED) received the following comment:

1. COMMENT: One commenter expressed concern regarding the redevelopment of the content specialty tests (CSTs) and requested that the Department not move forward with revising the CSTs and the “tougher criteria.” The commenter was concerned that it would not be possible to prepare for the tougher criteria.

**DEPARTMENT RESPONSE:**

Most of the redeveloped CSTs have already been implemented, and the proposed amendment provides those candidates further flexibility. For candidates who apply for certification on or after October 18, 2016 or who have a pending certification application with the Department, may take and pass either the revised CST or the predecessor CST for certification (even if the candidate took and passed the predecessor examination on or before October 18, 2016). This safety net will expire on June 30, 2017.

As for the 14 CST’s that were redeveloped in November 2016, the Department recognizes that some programs may have adjusted their curricula to prepare their students for the revised CSTs while other programs may not have done so. As a result, the proposed amendment includes a new safety net that will allow candidates to take and pass **either** the revised CST or the predecessor CST for certification. Based on

concerns from the field, the Department believes this will provide teacher education programs with additional time to prepare for the revised CSTs. This policy serves to help relieve some of the financial burden on candidates because they will not be required to take and fail the revised CST before taking the predecessor CST. This safety net will expire on June 30, 2019.