




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

TO: Higher Education Committee

FROM: Joseph P. Frey 

SUBJECT: Proposed Amendment of the Regulations of the Commissioner of Education Relating to Teachers' Certificates and Teaching Practice

DATE: November 27, 2009

STRATEGIC GOAL: Goal 3

AUTHORIZATION(S):

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend sections 80-1.2, 80-1.6, 80-2.2, 80-2.9, 80-3.6, 80-4.3, 80-5.6, 80-5.7 and 80-5.9 of the Regulations of the Commissioner of Education, relating to teachers' certificates and teaching practice?

Reason(s) for Consideration

Review of policy and State statute.

Proposed Handling

The proposed amendment is being presented to the Higher Education Committee for permanent adoption at the December 2009 Regents meeting. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Procedural History

A Notice of Proposed Rule Making was published in the State Register on September 30, 2009.

Background Information

The proposed amendment is necessary to conform the Commissioner's regulations to certain provisions of the Patriot Plan, which was enacted by the Legislature in Chapter 106 of the Laws of 2003. The Patriot Plan was enacted by the Legislature to recognize members of the military who are called to active duty so that such members are not discriminated against based upon their military status in areas such as housing, employment and education.

Section 308-a of the Military Law, as added by the Patriot Plan, waives professional continuing education requirements for persons in the military service who were licensed, registered or certified to engage in a profession or occupation prior to entering into military service for any entire licensing, registration or certification period during which such military service occurs. Where such military service is partially within a licensing, registration or certification period, this section provides that continuing education requirements shall be reduced proportionately so that such individual is not required to complete such requirements while in military service.

Section 308-b of the Military Law, as added by the Patriot Plan, provides that military personnel serving on active duty, who were licensed, certified or registered to engage in a profession or occupation prior to being called to active duty, and whose licensing certificate or registration shall expire during such period of active duty, shall have such license, certificate or registration automatically extended for the period of active duty and for 12 months after such military personnel have been released from active duty. However, this section shall not be construed to permit an individual whose authority to engage in a profession or occupation has been revoked or suspended to engage in such profession or occupation.

The proposed amendment implements the provisions of the Patriot Plan by reducing the professional development requirement for certificate holders called to active duty for the time of such active service. The proposed amendment also extends the validity of teaching certificates' for members of the military called to active duty for the period of such active service and an additional 12 months from the end of such service.

Recommendation

VOTED: That subdivision (a) of section 80-1.2, subdivision (b) of section 80-1.6, paragraph (1) of subdivision (e) of section 80-2.2, paragraph (5) of subdivision (a) of section 80-2.9, subdivision (c) of section 80-3.6, subparagraph (i) of paragraph (3) of subdivision (a) of section 80-4.3, subparagraph (ii) of paragraph (2) of subdivision (b) of section 80-5.6, and subdivision (c) of section 80-5.9 of the Regulations of the Commissioner of Education be amended; as submitted, effective January 7, 2010.

Timetable for Implementation

If adopted at the December Regents meeting, the proposed amendment will become effective January 7, 2010.

Attachment

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 3004 and 3006 of the Education Law.

1. Subdivision (a) of section 80-1.2 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(a) Applications.

(1) All applications submitted to the commissioner on or after September 1, 2009 for certificates issued pursuant to the provisions of this Part shall remain in active status for three years from the date of receipt of such application. If the candidate fails to complete all requirements for such certification within three years from the date of receipt of such application, the application shall be deemed denied by the commissioner, except the commissioner may extend the time validity of an active application beyond the three years provided for in this section, for individuals called to active duty with the Armed Forces for the time of active service and an additional 12 months after the end of such service, upon application for such an extension. If the candidate subsequently wishes to re-apply for such certification, the candidate shall submit to the commissioner a new application with the required documentation and the appropriate fee prescribed under Section 3006 of the Education Law.

(2) All applications submitted to the commissioner after September 1, 2009 for certificates in the classroom teaching service, school leadership or pupil personnel through individual evaluation or reciprocity under this Part shall include a transcript from each institution of higher education that the candidate attended. Upon receipt of such application, the commissioner shall provide a written or electronic evaluation to the candidate of his/her credentials and shall notify the candidate, in writing or electronically, if there are any remaining deficiencies in the candidate's application for certification through individual evaluation or reciprocity. If the candidate fails to satisfy

any remaining deficiencies in his/her application within three years from the date of receipt of such application, the application shall be deemed denied by the commissioner, except that the commissioner may extend the time validity of an active application beyond the three years provided for in this section for individuals called to active duty with the Armed Forces for the time of active service and an additional 12 months after the end of such service, upon application for such an extension. An application shall also be denied by the commissioner if the candidate submits additional documentation to correct any deficiencies in his/her application after the first evaluation and a second evaluation reveals that the application together with the additional documentation continues to be deficient and fails to meet the requirements for certification, as prescribed in this Part. If the candidate subsequently wishes to re-apply for such certification, the candidate shall submit to the commissioner a new application with any required documentation to satisfy any remaining deficiencies in such application and the appropriate fee as prescribed under Section 3006 of the Education Law.

2. Subdivision (b) of section 80-1.6 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(b) The time validity of expired certificates prescribed in this section 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.

3. Paragraph (1) of subdivision (e) of section 80-2.2 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(1) For provisional certification in a certificate title in the classroom teaching service for which this Part requires completion of an examination requirement, the

commissioner may issue to a candidate who has not met such examination requirement a two-year nonrenewable conditional provisional certification, notwithstanding that the examination requirement has not been met, and deem that all other requirements for the provisional teacher's certificate in the certificate title in the classroom teaching service have been met, provided that the candidate holds a valid regular teacher's certificate in the same or an equivalent title by a state which has contracted with the State of New York pursuant to section 3030 of the Education Law, the interstate agreement on the qualifications of educational personnel, and provided further that such regular teacher's certificate issued by the other state evidences knowledge, skills, and abilities comparable to those required for certification in New York State. For individuals called to active duty with the Armed Forces, the two-year nonrenewable conditional provisional may be extended by the commissioner for the time of active service and an additional 12 months from the end of such service. To meet the requirements for a full provisional certificate in such certificate title, the candidate shall be required to submit to the commissioner, at least 60 days prior to the expiration of the conditional provisional certification, satisfactory evidence of meeting the examination requirement for the provisional certificate title sought, as prescribed in this Part. If the candidate meets such examination requirement, the commissioner shall issue a provisional certificate for the term commencing on the day after the expiration date of the conditional provisional certificate and ending five years after the effective date of the conditional provisional certificate. This paragraph shall not apply to a candidate who holds a temporary license to teach in a professional position in the classroom teaching service on or after March 8, 2000.

4. Paragraph (5) of subdivision (a) of section 80-2.9 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(5) Interim bilingual education extension for certificates in school psychology.

(i) An interim bilingual education extension may be issued to holders of a school psychologist certificate in the pupil personnel service who have demonstrated proficiency in a language other than English. The interim bilingual education extension shall be valid for three years from its effective date and shall not be renewable, except the time validity of a bilingual education extension may be extended for holders called to active duty in the Armed Forces for the time of active service and an additional 12 months from the end of such service. No interim bilingual education extension shall be issued with an effective date that begins after September 1, 2010.

(ii) . . .

5. Subdivision (c) of section 80-3.6 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(c) Adjustments to the requirement.

(1) An adjustment to the requirement prescribed in subdivision (b) of this section, in terms of clock hours and/or the time for completing professional development, shall be made by the commissioner, provided that the certificate holder documents good cause that prevents compliance, which shall include, but not be limited to, any of the following reasons: poor health certified by a physician; or a specific physical or mental disability certified by an appropriate health care professional; [or extended active duty with the Armed Forces of the United States;] or extreme hardship which, in the judgment of the department, makes it impossible for the professional certificate holder to comply with the professional development requirements in a timely manner; or for a certificate holder who is regularly employed by an applicable school in New York, inability to complete the requirement because of the failure of the applicable school in New York to adopt and implement a professional development plan. For certificate

holders called to active duty in the Armed Forces, the professional development requirement may be reduced proportionately by the commissioner so that the individual is not required to complete professional development for the time of active service.

6. Subparagraph (i) of paragraph (3) of subdivision (a) of section 80-4.3 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(i) An interim bilingual education extension may be issued to holders of certificates in speech and language disabilities or teaching the speech-and hearing-handicapped in the classroom teaching service and who have demonstrated proficiency in a language other than English. The interim bilingual education extension shall be valid for three years from its effective date and shall not be renewable, except the time validity of a bilingual education extension may be extended for holders called to active duty in the Armed Forces for the time of active service and an additional 12 months from the end of such service. No interim bilingual extension shall be issued with an effective date that begins after September 1, 2010.

7. Subparagraph (ii) of paragraph (2) of subdivision (b) of section 80-5.6 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, as follows:

(2) Licensure and certification requirements.

(ii) The requirements of this subparagraph shall apply to candidates who apply on or after February 2, 2004 for a credential to work as a teaching assistant. The candidate shall apply to the department for the certificate.

(a) Level I teaching assistant certificate.

(1) . . .

(2) Time validity. The certificate shall be valid for three years from its effective date. The certificate shall be renewable on one occasion only for three years, except for a certificate that already has been renewed once for a one-year term which may be renewed on one additional occasion only for three years, provided that for a certificate to be renewed the candidate must submit to the department adequate evidence substantiating that the candidate has a commitment for employment in a teaching assistant position under the level I teaching assistant certificate. For individuals called to active duty, the validity period of the level I teaching assistant certificate may be extended by the commissioner for a candidate called to active duty in the Armed Forces for the period of active service and an additional 12 months from the end of such service.

(b) Level II teaching assistant certificate.

(1) . . .

(2) Time validity. The certificate shall be valid for three years from its effective date and shall not be renewable, except that the validity period of the level II teaching assistant certificate may be extended by the commissioner for a candidate called to active duty in the Armed Forces for the period of active service and an additional 12 months from the end of such service.

(c) Level III teaching assistant certificate.

(1)

(2) Validity of certificate and professional development requirement. The level III teaching assistant certificate shall be continuously valid, provided that the professional development requirement prescribed in section 80-3.6 of this Part is met. The holder of

the certificate shall be required to meet such professional development requirement to maintain the continued validity of the certificate, except the commissioner may reduce the professional development requirement for a holder called to active duty in the Armed Forces so that the holder is not required to complete professional development for the time in active service.

(d) Pre-professional teaching assistant certificate.

(1) . . .

(2) Validity of certificate and renewal of certificate. The certificate shall be valid for five years from its effective date, at which time it must be renewed to be valid. In order to be renewed, the holder of the certificate shall demonstrate matriculation in a program registered as leading to teacher certification pursuant to section 52.21 of this Title, or its equivalent, or in a program with an articulation agreement with such a program, and completion during the five-year period in which the certificate is held of 30 semester hours of coursework in such a program. For individuals called to active duty in the Armed Forces, the validity period for a pre-professional teaching assistant certificate and any renewal of such certificate may be extended by the commissioner for the time of active service and an additional 12 months from the end of such service.

8. Subdivision (c) of section 80-5.9 of the Regulations of the Commissioner of Education is amended, effective January 7, 2010, 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 student in a registered or approved graduate program of teacher education.