



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 Section 80-1.6 of the Commissioner's Regulations, relating to Time Extensions to Initial or Provisional Teacher Certification for Individuals Awaiting Permanent Residence

DATE: December 7, 2010

AUTHORIZATION(S):

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendment to section 80-1.6 of the Commissioner's Regulations, relating to time extensions to Initial and Provisional certificates for individuals awaiting United States permanent residence as the last uncompleted requirement for Professional or Permanent certification?

Reason(s) for Consideration

Review of Policy

Proposed Handling

The proposed amendment is being presented to the Higher Education Committee for discussion at the December 2010 Regents meeting.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on December 22, 2010. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

As teachers with Provisional or Initial certificates progress toward Permanent or Professional certificates, a certain percentage request, and are granted, time extensions of up to two years to complete all requirements for the higher level certificates. In some cases, based upon a recent change in regulation, an additional year, beyond the two-year extension, is granted if a candidate is faced with extreme hardship or other circumstances beyond the control of the individual. Even with this flexibility, there remains a population of teachers who have met all academic, experience and testing requirements that are unable to qualify for Permanent or Professional certification because their application for U.S. Citizenship or permanent U.S. residency has not been acted upon by U.S. Citizenship and Immigration Services (USCIS).

Accordingly, we propose to amend section 80-1.6 to allow Initial certificate holders as well as Provisional certificate holders to qualify for additional time extensions on the basis of having been unable to secure verification of Permanent residency or U.S. citizenship from the USCIS. A copy of the proposed amendment is attached.

The proposed amendment is designed to provide the Commissioner with sufficient flexibility to allow individuals, many of whom have immigrated to the United States due to offers of employment as teachers in a specific subject shortage area, to continue teaching while their citizenship application awaits a decision by USCIS. If the certificates of such individuals are allowed to expire, their work visas cannot remain approved, potentially resulting in a seasoned teacher facing deportation.

Recommendation

It is recommended that the Higher Education Committee discuss and reach consensus on the proposed amendment, prior to taking action at the March 2011 Regents meeting.

Timetable for Implementation

It is anticipated that the proposed amendment will be submitted to the Board of Regents for adoption at the March 2011 Regents meeting, with an effective date of March 30, 2011.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 210, 212, 305, 3001, 3004 and 3006 of the Education Law.

Section 80-1.6 of the Regulations of the Commissioner of Education is amended, effective March 30, 2011, as follows:

Section 80-1.6 Extensions of time validity of certificates.

(a) Subject to the limitation provided in subdivision [(d)] (e) of this section, 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 subdivisions (b) and (c) and (d) of this section, upon application by the holder of a teaching certificate:

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) [for a candidate who is not a citizen of the United States, who has applied for citizenship and whose application for citizenship has not been acted upon by the United States Immigration and Naturalization Service;]

(b) . . .

(c) . . .

(d) The commissioner may extend the time validity of an expired provisional, or initial certificate beyond the extensions provided for in subdivisions (a) and (c) of this section, in increments of one additional year for a candidate who has applied for citizenship or permanent residency, and whose application for citizenship or permanent residency has not been acted upon by the U.S. Citizenship and Immigration Services

(USCIS) until the USCIS acts upon such application. Such candidates must provide documentation satisfactory to the Department that they meet these requirements, and that they have completed all academic, testing and experience requirements for Permanent or Professional certification.

(e) The commissioner will only extend the time validity of an expired provisional certificate under this section if the holder of such provisional certificate submits evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate, when a content specialty test(s) is required.