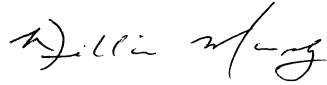




TO: The Honorable Members of the Board of Regents

FROM: William P. Murphy 

SUBJECT: Proposed Amendment of Section 80-5.3 of the Regulations of the Commissioner of Education Relating to Extending the Flexibility for Incidental Teaching

DATE: October 24, 2024

AUTHORIZATION(S):



SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of section 80-5.3 of the Regulations of the Commissioner of Education relating to extending flexibility for incidental teaching?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the November 2024 Regents meeting. A copy of the proposed amendment (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the Higher Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at the July 2024 meeting of the Board of Regents. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on July 31, 2024, for a 60-day public comment period.

Because the July 2024 emergency action was set to expire on October 13, 2024, a second emergency action was necessary at the September Regents meeting, effective October 14, 2024, to ensure that the emergency rule remained continuously in effect until it could be permanently adopted and take effect as a permanent rule.

A Notice of Emergency Adoption was published in the State Register on October 30, 2024.

Following publication in the State Register, the Department received no comments on the proposed amendment. Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are needed. A Notice of Adoption will be published in the State Register on November 20, 2024. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

At its December 2020, October 2021, September 2022, and September 2023 meetings, the Board of Regents permanently adopted regulatory amendments to increase the amount of incidental teaching permitted in schools from up to five classroom hours a week to up to 10 classroom hours a week during the 2020-2021, 2021-2022, 2022-2023, and 2023-2024 school years, respectively. This amendment helped school districts address staffing challenges related to and exacerbated by the COVID-19 pandemic. Through incidental teaching, certified teachers can teach a subject not covered by their certificate when the school district determines that no certified or qualified teachers are available. The school district must engage in extensive and documented recruitment efforts prior to making such a determination.

The Department now proposes to extend the flexibility for incidental teaching again through the 2024-2025 school year. This proposal will enable school districts to address ongoing staffing challenges by providing them with flexibility in making teaching assignments. Extending this flexibility for one additional school year will also provide time for the Department and Board of Regents to consider further reforms to the teacher and school leader certification process, one goal of which is to increase the supply of available and qualified educators.

Related Regents Items

[September 2024: Proposed Amendment of Section 80-5.3 of the Regulations of the Commissioner of Education Relating to Extending Flexibility for Incidental Teaching](https://www.regents.nysed.gov/sites/regents/files/924brca2.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/924brca2.pdf>)

[July 2024: Proposed Amendment of Section of Section 80-5.3 of the Regulations of the Commissioner of Education Relating to Extending Flexibility for Incidental Teaching](https://www.regents.nysed.gov/sites/regents/files/724hea2.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/724hea2.pdf>)

[September 2023: Proposed Amendment of Section 80-5.3 of the Regulations of the Commissioner of Education Relating to Extending a Flexibility for Incidental Teaching](https://www.regents.nysed.gov/sites/regents/files/923brca4.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/923brca4.pdf>)

[September 2022: Proposed Amendment of Sections 80-5.3 and 80-5.4 of the Regulations of the Commissioner of Education Relating to Extending Flexibilities for Incidental and Substitute Teaching](https://www.regents.nysed.gov/sites/regents/files/922brca3.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/922brca3.pdf>)

[October 2021: Proposed Amendment to Sections 52.30, 63.9, 70.4, 74.6, 75.2, 75.5, 76.2, 79-9.3, 79-10.3, 79-11.3, 79-12.3, 80-5.3, 80-5.4, 83.5, 87.2, 87.5, 145-2.15, 155.17, 200.5, 200.6, and 279.15 of the Regulations of the Commissioner of Education Relating to Addressing the COVID-19 Crisis](https://www.regents.nysed.gov/common/regents/files/1021brca7.pdf)
(<https://www.regents.nysed.gov/common/regents/files/1021brca7.pdf>)

[December 2020: Proposed Amendments to Sections 80-5.3, 80-5.4, 100.1, 100.2, 100.5, 100.6, 100.10, 117.3, 136.3, 145-2.1, 151-1.3, 154-2.2, 154-2.3, 156.3, and 200.4 of the Regulations of the Commissioner of Education Relating to Addressing the COVID19 Crisis and the Reopening of Schools](https://www.regents.nysed.gov/common/regents/files/1220brca7.pdf)
(<https://www.regents.nysed.gov/common/regents/files/1220brca7.pdf>)

Recommendation

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

VOTED: That section 80-5.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective November 20, 2024.

Timetable for Implementation

If adopted at the November 2024 meeting, the proposed amendment will become effective as a permanent rule on November 20, 2024.

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. The opening paragraph of section 80-5.3 of the Regulations of the Commissioner of Education shall be amended to read as follows:

A superintendent of schools may assign a teacher to teach a subject not covered by such a teacher's certificate or license for a period not to exceed five classroom hours a week, and during the 2020-2021 through the [2023-2024] 2024-2025 school years for a period not to exceed ten classroom hours a week, when no certified or qualified teacher is available after extensive and documented recruitment, and provided that approval of the commissioner is obtained in accordance with the following requirements: