

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 208, 210, 212, 301, 305, 308, 311, 661, 1709, 2801-a, 3001, 3001-d, 3004, 3004-c, 3009, 3035, 4402, 4403, 4404, 4410, 6501, 6504, 6506, 6507, 6527, 6802, 6909, 7404, 7704, 7904, 7904-a, and 8206 of the Education Law and Chapter 110 of the Laws of 2020.

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 due to the COVID-19 crisis during the 2020-2021 and/or 2021-2022 school [year]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:

2. Subparagraph (ii) of paragraph (3) of subdivision (c) of section 80-5.4 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(ii) In extreme circumstances where there is an urgent need for a substitute teacher and the district has undertaken a good faith recruitment search for a properly certified candidate, and determined that there are no available certified teachers to perform the duties of such position, a substitute teacher, without a valid teaching certificate and who is not working towards certification, but who holds a high school diploma or its equivalent, may be employed by the school district or board of cooperative educational services beyond the 40-day limit, for up to an additional 50

days (90 days total in a school year), if the district superintendent (for districts that are a component district of a board of cooperative educational services and boards of cooperative educational services) or the superintendent (for school districts that are not a component district of a board of cooperative educational services) certifies that the district or board of cooperative educational services, as applicable, has conducted a good faith recruitment search and there are no available certified teachers that can perform the duties of such position. In rare circumstances, a district or BOCES may hire a substitute teacher beyond the 90 days, if a district superintendent or superintendent attests that a good faith recruitment search has been conducted and that there are still no available certified teachers who can perform the duties of such position and that a particular substitute teacher is needed to work with a specific class or group of students until the end of the school year. The provisions of this subparagraph shall be applicable during the 2020-2021 and 2021-2022 school [year]years due to the COVID-19 crisis.

3. A new subparagraph (i) shall be added to paragraph (4) of subdivision (b) of section 200.6 of the Regulations of the Commissioner of Education as follows:

(i) Notwithstanding the provisions of this paragraph, due to the COVID-19 crisis for the 2021-2022 school year, a teacher who holds a valid certificate in the classroom teaching service in students with disabilities (grades 1-6), students with disabilities (grades 5-9) generalist, or students with disabilities (grades 5-9) content specialist shall be considered appropriately certified to teach a student with a disability in grades 7-12, provided that they otherwise meet all certification requirements for the teaching assignment.

4. Subparagraph (iv) of paragraph (1) of subdivision (e) of section 145-2.15 of the Regulations of the Commissioner of Education is to read as follows:

(iv) where testing centers and institutions are unable to administer and proctor the test at such locations identified in subparagraphs (i), (ii), or (iii) of this subdivision due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis the test may be administered and proctored remotely provided such remote administration and proctoring is in accordance with federal requirements.

5. Subdivision (f) of section 155.17 of the Regulations of the Commissioner of Education is amended to read as follows:

(f) *Reporting*. Each superintendent shall notify the commissioner as soon as possible whenever the emergency plan or building-level school safety plan is activated and results in the closing of a school building in the district, and shall provide such information as the commissioner may require in a manner prescribed by the commissioner. School districts within a supervisory district shall provide such notification through the district superintendent, who shall be responsible for notifying the commissioner. Such information need not be provided for routine snow emergency days. Provided, however, that for the 2020-21 and 2021-22 school [year] years, districts shall provide such notification for snow emergency days, including those days converted to remote instruction under the 2020-21 and 2021-22 snow day pilot in accordance with the provisions of this subdivision.

6. Subparagraph (i) of paragraph (5) of subdivision (j) of section 200.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(i) An impartial hearing officer may grant specific extensions of time beyond the periods set out in this paragraph, in subparagraph (3)(iii) of this subdivision, or in section 200.16(h)(9) of this Part at the request of either the school district or the parent. The impartial hearing officer shall not solicit extension requests or grant extensions on his or her own behalf or unilaterally issue extensions for any reason. Each extension shall be for no more than 30 days; except that [during the State of emergency declared by the Governor pursuant to an Executive Order(s) for the] due to the COVID-19 crisis, an extension may be granted beyond 30 days but no more than 60 days. Not more than one extension at a time may be granted. The reason for each extension must be documented in the hearing record.

7. Paragraph (2) of subdivision (b) of section 75.2 of the Regulations of the Commissioner of Education is amended to read as follow:

(2) Credit toward the experience requirement may be given for part-time employment accumulated at the rate of not less than 12 hours per week for continuous periods of not less than six months. The department may excuse the requirement that such experience be continuous where such continuous experience cannot be completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

8. Paragraph (2) of subdivision (a) of section 75.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) Credit toward the experience requirement may be given for part-time employment accumulated at the rate of not less than two days per week and consisting of not less than 15 hours per week for continuous periods of not less than six months.

The department may excuse the requirement that such experience be continuous where such continuous experience cannot be completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

9. Subparagraph (ii) of paragraph (1) of subdivision (b) of section 75.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(ii) Credit. Credit toward the experience requirement may be given for part-time employment, accumulated at the rate of not less than 12 hours per week for continuous periods of not less than six months. The department may excuse the requirement that such experience be continuous where such continuous experience cannot be completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

10. Subdivision (b) of section 76.2 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) For candidates who have accumulated other than full-time supervised experience, part-time experience may be counted if it is obtained at the rate of at least two full days per week (minimum of 15 hours) and for continuous periods of not less than two months for an accumulated total of six months. The department may excuse the requirement that such experience be continuous where such continuous experience cannot be completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

11. Subparagraph (v) of paragraph (1) of subdivision (c) of section 74.6 of the Regulations of the Commissioner of Education is amended to read as follows:

(v) the supervisor provides at least one hundred hours of in-person individual or group clinical supervision, distributed appropriately over the period of the supervised experience. The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of this subparagraph that cannot be successfully completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

12. Subparagraph (v) of paragraph (1) of subdivision (d) of section 74.6 of the Regulations of the Commissioner of Education is amended to read as follows:

v. the supervisor provides at least two hours per month of in-person individual or group clinical supervision. The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of this subparagraph that cannot be successfully completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

13. Paragraph (3) of subdivision (c) of section 79-9.3 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (3) to read as follows to reads as follows:

(3) The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of paragraph (1) of this subdivision that cannot be successfully completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

14. Paragraph (3) of subdivision (d) of section 79-10.3 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (3) to read as follows:

(3) The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of paragraph (1) of this subdivision that cannot be successfully completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

15. Paragraph (3) of subdivision (c) of section 79-11.3 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (3) to read as follows:

(3) The Department, in its discretion, may accept alternative means to meet the in-person supervision requirements of this paragraph (1) of this subdivision that cannot be successfully completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis[.,].

16. Paragraph (3) of subdivision (c) of section 79-12.3 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (3) to read as follows:

(3) The Department, in its discretion, may accept alternative means to meet the In-person supervision requirements of paragraph (1) of this subdivision that cannot be successfully completed due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

17. Subparagraph (i) of paragraph (2) of subdivision (b) of section 63.9 of the Regulations of the Commissioner of Education is amended to read as follows:

(i) patients 18 years of age or older, immunizing agents to prevent influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria, COVID-19, or

pertussis disease, pursuant to a patient specific order or a non-patient specific order;
and

18. Paragraph (1) of subdivision (c) of section 70.4 of the Regulations of the Commissioner of Education is amended to read as follows:

(1) Extension requests. The Department may in its discretion provide an applicant with an extension to the retention period prescribed in paragraph (c) of this subdivision. An extension may be granted upon a finding by the Department of extenuating circumstances outside the applicant's control. The length of an extension shall be determined by the Department as it relates to the length of the extenuating circumstances experienced by the applicant. The Department may consult with the State Board for Public Accountancy on the appropriateness of granting extension requests. The [department] Department may accept passing examination scores that are outside the 18-month requirement where such examinations cannot be completed in the 18-month due to the [State of emergency declared by the Governor pursuant to an Executive Order for the] COVID-19 crisis.

19. Paragraph (3) of subdivisions (a) and (b) of section 52.30 of the Regulations of the Commissioner of Education is amended to read as follows:

(3) include a field practicum of at least 900 clock hours in social work integrated with the curricular content prescribed in paragraph (2) of this subdivision. The Department, in its discretion, may modify the field experience, practicums or other such experience requirements set forth in this section, to the extent authorized by law, if such requirements cannot be successfully completed due to the COVID-19 crisis.

(3) include a field practicum of at least 900 clock hours in social work integrated with the curricular content prescribed in paragraph (2) of this subdivision. The Department, in its discretion, may modify the field experience, practicums or other such experience requirements set forth in this section, to the extent authorized by law if such requirements cannot be successfully completed due to the COVID-19 crisis.; and

20. Subdivision (d) of section 83.5 of the Regulations of the Commissioner of Education is amended by adding a new subdivision (d) to read as follows:

(d) Notwithstanding any provision of this section to the contrary, the Commissioner may excuse late filings for any timeline prescribed in this section where such late filings are due to [the State of emergency declared by the Governor pursuant to an Executive Order(s) for] the COVID-19 crisis.

21. Subparagraph (x) of paragraph (4) of section 87.5 of the Regulations of the Commissioner of Education is amended by adding a new subparagraph (x) to read as follows:

(x) Notwithstanding any provision of this paragraph to the contrary, the Department may excuse the timeframes prescribed in this paragraph for submission of responses by prospective school employees where such late submissions are due to [the State of emergency declared by the Governor pursuant to an Executive Order(s) for] the COVID-19 crisis.

22. Paragraph (5) of section 87.5 of the Regulations of the Commissioner of Education is amended by adding a new subparagraph (v) to read as follows:

(v) Notwithstanding any provision of this paragraph to the contrary, the Commissioner's designee may excuse the timeframes prescribed in subparagraphs (i)

and (ii) of this paragraph for submission of appeals and additional appeal papers by prospective school employees where such late submissions are due to [the State of emergency declared by the Governor pursuant to an Executive Order(s) for] the COVID-19 crisis.

23. Paragraph (2) of subdivision (k) of section 87.2 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) who will reasonably be expected by such covered school to provide services which involve direct contact, meaning in person, face-to-face communication or interaction, with students under the age of 21, or online communication or interaction directly with such students [during the period of a school closure ordered pursuant to an Executive Order of the Governor pursuant to a State of emergency for the COVID-19 crisis]; and

24. Section 279.15 of the Regulations of the Commissioner of Education is amended to read as follows:

§ 279.15 [Pre-review conference] Electronic Submissions

Notwithstanding any other requirement of this Part, a State Review Officer may, in his or her discretion, authorize the filing of a party's pleading, memoranda of law, supporting documents, or the record of the proceedings before the impartial hearing officer through electronic means [during the State of emergency declared by the Governor pursuant to an Executive order for] where such filings cannot be timely made due to the COVID-19 crisis.