
INFORMATION BULLETIN

~ Incidental Teaching ~

Although New York State teacher certification requirements changed in February 2004, the regulations governing incidental teaching remain unaffected (See Appendix A). Incidental teaching occurs when a teacher is assigned to teach a subject outside of the teacher's certification area for a period not to exceed five classroom hours a week. Such an assignment may only take place when the district can document that no certified or qualified teacher is available after extensive recruitment. In addition as indicated in Appendix B, the district must obtain approval for an incidental teaching assignment through the BOCES District Superintendent (or in New York City, through the Chancellor of the NYC Department of Education) acting on behalf of the State Education Department.

The request for approval of the incidental teaching assignment must be submitted by the district no later than 20 business days after the assignment and include:

- Evidence of extensive recruitment for a certified teacher in that certification area;
- The name and certification area of the assigned teacher;
- The subject being taught on an incidental basis;
- The total number of classes in that subject being taught on an incidental basis;
- The qualifications of the teacher to teach the subject on an incidental basis;
- The specific reasons why the assignment is necessary;
- The anticipated duration of the assignment; and
- The number of applications, approved or pending, for authorization to make incidental teaching assignments in the same certification area for which the current authorization is being sought.

A determination on the request is to be issued within 20 business days of receipt of the application. If approved, the incidental teaching assignment will terminate on the last day of the school year for which it is granted. If disapproved, the district must discontinue the incidental teaching assignment within seven business days of the receipt of the disapproval notice.

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A renewal of an incidental teaching assignment can occur upon submission of another request for approval that includes, in addition to the previously stated information, an assurance by the Superintendent of Schools that:

- The teacher who previously taught the course on an incidental basis has either been offered the opportunity to continue to teach that course or has not been offered the assignment because of evidence that the course was not taught in an acceptable manner;
- The teacher who is assigned to teach the course has completed at least three semester hours of credit or a satisfactory equivalent leading to certification in the subject to be taught. If this has not occurred, the teacher may also agree to complete this requirement “no later than September 1st of the school year next following the first renewal of such approval;” and
- **The teacher assigned to teach the course will be reimbursed by the district for the tuition cost of any portion of the three semester hours of credit or the equivalent that is taken by the teacher at the request of the district.** The approval request should include satisfactory evidence that this reimbursement has occurred if the teacher has previously taught the course on an incidental basis according to a previously renewed approval.

Advice to Local Leaders

- Since the reimbursement requirement is in Commissioner’s Regulations, make sure that districts provide reimbursement for coursework required of teachers on an incidental teaching assignment -- even if it is not in your collective bargaining agreement!
- Incidental teaching assignments do not affect a teacher’s tenure area because the assignment is not a “substantial portion” of time as defined in Part 30 of the Regulations of the Commissioner of Education addressing tenure areas. A tenure area is determined by a teacher spending a substantial portion of time, or 40 percent or more of their total time, in the performance of duties. An incidental teaching assignment cannot exceed five classroom hours a week.
- For No Child Left Behind (NCLB) purposes, teachers serving incidental teaching assignments satisfy the certification part of the definition of “highly qualified” teachers because state regulations permit incidental teaching without an additional credential. However, to satisfy the subject matter competency part of the NCLB definition of “highly qualified,” such teachers must also demonstrate subject matter competency in the incidental subject they are teaching. The High Objective Uniform State Standard of Evaluation (HOUSSE) checklist can be used for this purpose. (See NYSUT Information Bulletin #200319 on High Objective Uniform State Standard of Evaluation (HOUSSE).)
- Be aware that teachers working more than five hours per week beyond the scope of their certificate titles are not incidental teaching but teaching out-of-title since they are not state-certified for such a teaching assignment.
- The federal Individuals with Disabilities Act (IDEA) requires that special education instruction must be provided by certified special education teachers. As a result, incidental teaching assignments do not apply to teaching special education.

APPENDIX A - The Regulations of the Commissioner of Education on Incidental Teaching

§ 80-5.3 Incidental Teaching.

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, 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:

(a) Not later than 20 business days after such an assignment, the superintendent of schools shall submit for approval an application, in a form satisfactory to the commissioner, containing the following information:

- (1) evidence of extensive recruitment of a teacher certified in the appropriate area;
- (2) the name and certification status of the teacher given such assignment;
- (3) the subject which the teacher is being assigned to teach on an incidental basis and the total number of classes in such subject being taught on an incidental basis;
- (4) the qualifications of the teacher to teach such subject on an incidental basis;
- (5) the specific reasons why an incidental assignment is necessary;
- (6) the anticipated duration of the incidental teaching assignment; and
- (7) the number of applications, approved or pending, for authorization to make incidental teaching assignments in the same certification area for which the current authorization is being sought.

(b) To be approved, such application shall demonstrate to the satisfaction of the commissioner that an incidental teaching assignment is necessary, that the teacher so assigned is the best qualified to teach the subject on an incidental basis, and that the requirements of this subdivision have been met.

(c) The commissioner will issue a determination within 20 business days of receipt of the district's application.

(d) In the event that the application is disapproved, the superintendent of schools, within seven business days of receipt of notice of such disapproval, shall terminate the incidental assignment. In the event that the application is approved, such approval shall be deemed to have commenced on the date of the incidental teaching assignment and shall terminate on the last day of the school year for which it is granted. The superintendent of schools may apply, in accordance with subdivision (e) of this section, for renewal of such approval for any teacher.

(e) To obtain renewal of such approval in any subsequent year, the superintendent of schools, as soon as possible after learning that the continued assignment of an incidental teacher is necessary, shall submit an application which, in addition to setting forth the information required pursuant to subdivision (a) of this section, contains an assurance by the superintendent of schools that:

(1) the teacher who previously taught the course on an incidental basis has been offered the opportunity to continue to teach the course or has not been offered such an opportunity because the superintendent has evidence that the course was not taught in an acceptable manner;

(2) the teacher who is assigned to teach the course has completed, or has agreed to complete no later than September 1st of the school year next following the first renewal of such approval, at least three semester hours of credit or a satisfactory equivalent leading to certification in the subject which the teacher is being assigned to teach; and

(3) the teacher who is assigned to teach the course will be reimbursed by the school district for the tuition cost of any portion of the three Semester hours of credit or the equivalent required pursuant to paragraph (2) of this subdivision that is taken by the teacher at the request of the school district, and satisfactory evidence that the teacher has been so reimbursed in the event the teacher who is assigned has previously taught the course on an incidental basis, pursuant to a previous renewed approval.

APPENDIX B – SED Field Memo on Approvals of Incidental Teaching Assignments



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

Office of Teaching Initiatives
Executive Coordinator

Date: October 1999

To: District Superintendents, Superintendents of Schools ,Principals of Public Schools

From: James A. Kadamus, Deputy Commissioner for Elementary, Middle,
Secondary and Continuing Education
Gerald W. Patton, Deputy Commissioner for Higher Education

Subject: **Change in Process for Approving Incidental Teaching**

We are writing to inform you about a change in the process for reviewing and approving incidental teaching assignments. Paragraph 7 of the Regulations of the Commissioner of Education, Section 80.2(c) “sunsets” with the close of the 1998-99 school year. Therefore, it is necessary to establish a process which would allow for continued provision of incidental teaching assignments without disruption to existing educational programs.

As of October 1, 1999, the District Superintendents will act as the agent for the Commissioner of Education in approving these teaching assignments in accordance with NYCRR80.2(c). The Education Department will supply each District Superintendent with the Application for Incidental teaching Assignment form for their use in this process.

Applications from all school districts, including those of the city school districts of Buffalo, Yonkers, Syracuse and Rochester, will be submitted to the District Superintendent in that region and NOT to the Office of Teaching. A school district, which is not a member of a Board of Cooperative Educational Services, must process applications through the nearest District Superintendent.

This new procedure will continue to permit school districts to assign a teacher to teach a subject not covered by teacher’s certificate or license for a period not to exceed five classroom hours a week, when no certified or qualified teacher is available after extensive and documented recruitment, and provided that the approval of the District Superintendent, on behalf of the Commissioner of Education, is obtained in accordance with NYCRR80.2(c). The involvement of the District Superintendents in this process will assure continuity for those districts requiring this service, while at the same time maintain the integrity and necessary oversight of these procedures.

NOTE: All incidental teaching in New York City is approved by the Chancellor.

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