

Incidental Teaching & Substitute Teaching



No. 21-20 (*Updated and replaces 20-17*)

November 2021

November 2021:

In its ongoing response to the COVID-19 crisis and the reopening of schools, the State Education Department has amended regulations that governing incidental teaching and substitute teaching. These changes initially in effect for the 2020-2021 school year remain in effect for the 2021-2022 school year.

Incidental teaching: For the 2020-2021 and 2021-2022 school years, a superintendent of schools may assign certified teachers to teach a subject not covered by their certificate for a period not to exceed ten (10) classroom hours a week when no certified or qualified teacher is available after an extensive and documented search. For additional information about incidental teaching, please see <http://www.highered.nysed.gov/tcert/resteachers/employmentissues.html#incidental>.

Incidental teaching, governed by Part 80.5-3 of Commissioner's Regulations, occurs when a teacher is assigned to teach a subject outside of the teacher's certification area. Such an assignment may only take place when the district can document that no certified or qualified teacher is available after extensive recruitment. Historically these assignments were not to exceed five (5) classroom hours per week.

NOTE:

- Incidental teaching assignments do not apply to teaching special education; the federal Individuals with Disabilities Act (IDEA) requires that special education instruction must be provided by certified special education teachers.
- Ten (10) classroom hours may constitute a 'substantial portion' of time as defined in Part 30 Regulations of the Commissioner and thus may raise questions relating to tenure. However, appropriate tenure assignments require proper certification and incidental assignments, by definition, preclude the teacher having the proper certification.

Substitute teaching: During the 2020-2021 and 2021-2022 school years, substitute teachers who do not hold a valid teaching certificate and are not working towards certification may be employed by the school district or BOCES beyond the 40-day limit.

Employment may be continued up to an additional 50 days (90 days total in a school year) if the BOCES district superintendent or the school superintendent certifies that the school district or BOCES, as applicable, has conducted a good faith recruitment search for a properly certified candidate and determined that 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 BOCES district superintendent or school 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.

For additional information about student teaching go to the [Substitute Teaching](#) webpage.

Members who want to explore their certification options in relation to incidental teaching assignments or have questions about using substitute teaching for certification purposes can submit their questions at [Contact \(nysut.org\)](#).