*****Massachusetts Department of***

***Elementary and Secondary Education***

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| Jeffrey C. Riley  *Commissioner* |  |

# MEMORANDUM

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| **To:** | Members of the Board of Elementary and Secondary Education |
| **From:** | Jeffrey C. Riley, Commissioner |
| **Date:** | September 18, 2020 |
| **Subject:** | Regulatory Amendments Addressing Educator Licensure for the 2020-2021 School Year, 603 CMR 7.00 – Confirming Emergency Adoption |

This follows up on my notification to the Board of Elementary and Secondary Education (Board) on September 3, 2020, and confirms that I took action on behalf of the Board to adopt two amendments to the Educator Licensure and Preparation Program Approval regulations on an emergency basis. Details are below. The Department of Elementary and Secondary Education (Department) is inviting public comment on the amendments and I will bring them back to the Board, with any changes resulting from the public comment, for final adoption at the Board’s meeting in November 2020.

**Background and Summary of Amendments**

The Department is supporting educators and districts as they work to best match student needs with the knowledge, skills, and abilities of educators to staff a variety of learning environments for the 2020-2021 academic year. In addition to granting newly authorized emergency licenses and allowing greater flexibility in granting hardship licensure waivers, these amendments to the Educator Licensure and Preparation Program Approval regulations allow greater staffing flexibility for the 2020-2021 school year in light of the COVID-19 pandemic.

The amendments to the regulations make two changes for the upcoming school year:

1. Increase in the time a teacher is allowed to teach “out of field.” The existing regulations (603 CMR 7.15(9)(a)) allowed individuals to teach up to 20% of their time outside of their license area. The amended regulation increases this allowable time to 50%. This means licensed educators could spend half of their time out of field without needing to secure a waiver. We have included an exception, based on federal law and guidance and Massachusetts Department of Public Health requirements: This additional flexibility does not apply to positions requiring a Special Education, English as a Second Language, or school nurse license.
2. Increase in the length of time an individual can be considered a long-term substitute. The existing regulation (603 CMR 7.02) required that the district secure a waiver for individuals in teaching assignments as a long-term substitute for more than 90 school days. The amendment increases the permissible time to the full 2020-2021 school year for an individual who holds a bachelor’s degree.

**Commissioner’s Delegated Authority**

On June 30, 2020, the Board voted to authorize me to act on its behalf in approving any matters that are not otherwise covered by the Board’s previous delegations of authority and that require Board action between June 30, 2020, and the next regular meeting of the Board in September 2020. The Board vote required the Commissioner to notify Board members in advance of any such action, which I did via my September 3, 2020 memorandum, and to report to the Board on any matters that have been so approved. This memorandum is my report on the regulatory changes that I approved on behalf of the Board. I notified the field of the change to the regulations, in my [Commissioner’s Weekly Update](https://mailchi.mp/doe.mass.edu/commissioners-weekly-update-9-8-20-info-for-school-health-offices-back-to-school-resources-enrolling-new-students?e=583fc2bc03#additionalflexibility) on September 8, 2020.

**Emergency Regulation and Next Steps**

We needed to adopt the regulations on an emergency basis to allow them to take effect immediately, in advance of school reopening for the 2020-2021 school year. In accordance with the Administrative Procedure Act, G.L. c. 30A, §3, I made a finding that the immediate adoption of these regulations was necessary for the preservation of public welfare, and the observation of the requirements of prior notice and public comment would be contrary to the public interest. Under the Administrative Procedure Act, emergency regulations are effective for three months, during which time the agency solicits and reviews public comment. The Department is inviting public comment on the amendments. Following our review of the public comment, I will bring the regulations back to the Board for final adoption in November 2020.

Enclosure: 603 CMR 7.00 Strikethrough version of relevant portion of regulations showing amendments

**Amendments to 603 CMR 7.00 – September 2020 – Adopted as emergency regulations to be followed by period for public comment, in accordance with G.L. c. 30A, §3.**

**A complete copy of the Educator Licensure regulations, 603 CMR 7.00, is available at** [**http://www.doe.mass.edu/lawsregs/603cmr7.html**](http://www.doe.mass.edu/lawsregs/603cmr7.html)**.**

**603 CMR 7.02: Definitions**

As used in 603 CMR 7.00, the following terms shall have the following meanings:

…

**Temporary Substitute Teacher:** An educator who is employed, on a temporary basis, for less than 90 consecutive school days in the same role, to take the place of a regularly employed educator who is absent. Any educator who is employed on a temporary basis for more than 90 consecutive school days in the same role must either be licensed for the role or working under a hardship waiver. In addition, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and the Governor’s March 10, 2020 declaration of a state of emergency, during the 2020-2021 school year, an educator who holds a bachelor’s degree may be employed as a temporary substitute teacher for up to the full school year in the same role, except in a role requiring a special education license or an English as a Second Language license, to take the place of a regularly employed educator who is absent.

**603 CMR 7.15: General Provisions**

**…**

**603 CMR 7.15(9) General Provisions for Employment**.

1. Legal Employment. To be eligible for employment by a school district in any position covered by a license issued under 603 CMR 7.00, a person must have been granted a license by the Commissioner that is appropriate for the role. A person holding a license may be employed for a maximum of 20% of his or her time in a role or at a level for which he or she does not hold a license. In addition, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and the Governor’s March 10, 2020 declaration of a state of emergency, during the 2020-2021 school year, a person holding a license may be employed for a maximum of 50% of his or her time in a role or at a level for which the individual does not hold a license, except in a role requiring a special education license, a school nurse license, or an English as a Second Language license.