

Assessment of Public Comment

The State University of New York (“SUNY”) Board of Trustees’ Charter Schools Committee (the “Committee”) received over 8630 comments on its proposed teacher certification requirements regulations. Approximately 2134 individual comments, which include comments with multiple signers or representative organizations, were opposed to, and 73 individual comments, which also include representative organizations, in favor of, the proposed regulations. Additional opposition comments came in the form of either automatically generated email (3257) or comments generated by a petition (3165). Some of the same comments were sent to multiple SUNY recipients and some commenters sent duplicate comments so some double counting was unavoidable within the limits of the resources available to the SUNY Charter Schools Institute (the “Institute”), which gathered and analyzed the comments for the Committee.

As a preliminary matter, a number of commenters, including over 10 elected officials, expressed concern that the bulk of the comment period occurred during August when district school teachers are on vacation. They advocated for an extension of the comment period of up to 60 days or for a new comment period to commence in September 2017. In response, the Institute continued to collect comments from the public and review them for use in making changes to the proposed regulations. Additionally, the large number of comments generated during the public comment period indicated significant public engagement on this issue during the original 45-day period and thereafter, indicating that an extension of the public comment period was not warranted.

The automatically generated email form submissions and approximately 1400 other comments expressed general opposition to any change to the current state certification system overseen by the New York State Education Department (“NYSED”). A number of commenters incorrectly believed that the regulations would result in full NYSED certification for teachers in SUNY authorized charter schools.

1. COMMENT: A large group of commenters expressed concerns that the Committee’s proposal would lower the certification standards for teachers, certify unqualified teachers, and lack sufficient ongoing review. Commenters asserted that this would hurt students, possibly by providing students an education that does not meet the sound basic education requirements of the New York Constitution and *Campaign for Fiscal Equity v. State of N.Y.*, 100 N.Y. 2d 893 (2003). Commenters also asserted this would hurt the teaching profession, by:
 - a. Underpreparing new teachers;
 - b. Exacerbating the teacher shortage;
 - c. Preventing certified teachers from getting jobs;
 - d. Creating a two-tiered teaching profession;
 - e. Causing teacher retention and turnover issues;
 - f. Opening the door for teachers to not be held accountable for excellence; and
 - g. Preventing new teachers from appreciating the long-term ramifications of not being NYSED certified.

RESPONSE: Poor student performance outcomes in any school of a charter school education corporation would disqualify the corporation from participating in this certification pathway per § 700.4(f) of the regulations. In fact, applicant charter schools must be high performing schools that provide more than the sound basic education required by the state Constitution. There is no indication that students will be harmed by this rule.

SUNY authorized charter schools have informed the Institute that they have had difficulty finding and hiring qualified teacher candidates despite their efforts. The Committee proposed the regulations as one small step to help charter schools to hire highly-qualified teachers they feel are effective. It sees the regulations as a viable alternative for a small number of teachers in SUNY authorized charter schools to complying with the teacher certification requirements in New York Education Law § 2854(3)(a-1) to address a shortage of qualified teachers by training and utilizing the talents of highly-qualified professionals who currently have not completed a traditional teacher training program. The regulations should not have any impact on district school teachers, the teaching profession in general, or the value of other teaching degrees.

Each teacher certified pursuant to these regulations must sign an affirmation acknowledging that the certification resulting from the regulations is not transferrable to a district school or a non-SUNY authorized charter school, § 700.4(d)(6). The regulations also plainly state that they do “not affect any certification approved by NYSED nor ... waive any conditions imposed on holders of [state] teacher certifications,” § 700.6. However, parts of the regulations are fully transferable to the NYSED certification process because they are required by the NYSED process, in particular, the Mandated Reporter of Child Abuse and Neglect, and School Violence Intervention and Prevention training in § 700.4(b)(4)(iv), and the Educating All Students (“EAS”) test, which was added to § 700.4(b)(6) in response to public comments. Nothing in the regulations prohibits teachers from working toward NYSED certification.

SUNY authorized charter schools are held to a high standard, which in turn hold their teachers to a high standard. Subdivision 700.4(f) of the regulations allows the Institute to terminate a teacher instruction program if any school in an education corporation is not renewed, and as part of the charter renewal process the Institute may review and consider teacher retention data.

2. COMMENT: Commenters expressed concern that the proposed regulations will diminish the value of SUNY education degree programs, reduce the number of students in SUNY teaching programs, and/or incur costs that would harm SUNY programs. Others argued that the regulations were not in keeping with SUNY’s other teacher preparation programs by lacking a clear and accredited curriculum; external, supervised student (pre-employment) teaching experience; and traditional P-20 partnerships.

RESPONSE: The SUNY Board of Trustees and Education Law § 355(2-a) give the Committee authority to regulate SUNY authorized charter schools only. The Committee intends to help the community of successful SUNY authorized charter schools by promulgating the regulations to continue to allow innovation directly tied to student performance outcomes. The Institute believes any costs related to this regulation can be borne within existing appropriations and will have no impact on SUNY’s institutions of higher education. In addition, the regulations will

allow SUNY higher education institutions to partner with charter schools to deliver teacher instructional programs, which could generate revenue for those institutions.

3. COMMENT: Comments were received, some from teachers, former teachers, or teacher's aides, stating that the minimum 30 instructional hours of classroom instruction provided in § 700.4(b)(4)(i) of the proposed regulations was not sufficient. Some stated that the requirements for charter teachers should be the same as for districts. One stated that the number of hours was not supported by research or used by any top public school systems. Another stated that the most effective teacher education programs require about 1000 clinical hours before student teaching.

Significant Alternatives Suggested: Increase the number of hours in § 700.4(b)(4)(i) to match the amount of time required by NYSED.

RESPONSE: After review of the comments and the NYSED requirements for a Transitional B certificate, the Committee finds the number of hours proposed should be increased from 30 to 160 as reflected in § 700.4(b)(4)(i) of the regulations, which matches NYSED Transitional B certificate requirements. To conform the exact amount of time the regulations will conform to NYSED "clock hours" rather than the "instructional hours" defined in § 700.2(o) of the proposed regulations, which also slightly increases all times (up to 10 minutes per hour). See, e.g., § 700.4(b)(4).

Significant Alternatives Incorporated: The Committee increased the number of required classroom hours from 30 to 160.

Changes Made to Rule: Subdivision 700.4(b)(4)(i) was amended to increase the number of classroom instruction hours from 30 to 160 matching the NYSED Transitional B requirements.. Subsection 700.2(o) of the proposed regulations was deleted in its entirety and replaced by "clock hours" throughout including in § 700.4(b)(4).

4. COMMENT: Comments were received stating that the 100 hours of field experience in § 700.4(b)(4)(ii) of the proposed regulations was not sufficient.

Significant Alternatives Suggested: Increase the number of field hours required in § 700.4(b)(4)(ii).

RESPONSE: NYSED's regulations governing Transitional B certificates require 40 clock hours of field experience to obtain the NYSED certificate. After review of the comments and the NYSED requirements, the Committee finds the number of field experience hours in the proposed regulations as reflected in § 700.4(b)(4)(ii) should be reduced from 100 to 40 clock hours, matching the number of field experience hours required for the NYSED Transitional B certificate requirement. This finding was in concert with the increase in classroom instruction hours from 30 to 160, increasing the total classroom instruction and field hours combined from 130 to 200, consistent with the NYSED Transitional B certificate requirement.

Significant Alternatives Incorporated: None.

Changes Made to Rule: Subdivision 700.4(b)(4)(ii) of the proposed regulations was amended to reduce the 100 hours of field experience to 40 hours.

5. COMMENT: A large number of commenters stated that the proposed regulations were insufficient for schools with higher populations of at-risk students including students of color, students with disabilities, and economically disadvantaged students. A commenter argued the proposed regulations will undermine an important factor in supporting students of color: retaining a qualified, diverse teaching force.

RESPONSE: The commenters offered no specific explanation or data on impact to any group of students. The regulations require that 60% of a charter school education corporation's schools outperform the local district schools on state tests and maintain a higher level of performance in order to maintain eligibility to provide an instructional program under this regulation. If the Institute determined that performance was not adequate to comply with the requirements of the regulation, the Institute would take immediate steps to address any issues found, and then seek to revoke the approval of the teacher instructional program pursuant to § 700.4(f) of the regulations. Further, the Institute disagrees with the notion that regulations that only will apply to SUNY authorized charter schools will undermine all of the efforts in the state to build and retain a qualified, diverse teaching force.

6. COMMENT: A few commenters supported the concept of charter schools piloting and sharing effective innovations in organization and practice, and commented that their own preparation at reputable teaching programs did not prepare them or their colleagues for the classroom especially for students with disabilities and students and English language learners ("ELLs"). Commenters also supported the flexibility the regulations would allow for schools to provide specific and appropriate training to their teachers to best serve nontraditional student bodies.

RESPONSE: The Committee agrees that charter schools should be innovators including in the area of teacher preparation and serving nontraditional student bodies, and that charters should then share those evidence based practices with the broader educational community.

7. COMMENT: One commenter felt that approving the regulations would affect charter school performance, causing lower performance rates and higher failure rates at SUNY authorized charter schools, and even risking student safety.

RESPONSE: As stated in Comment 1, above, the Committee disagrees that this regulation will have a negative effect on charter school performance. Per § 700.4(b)(1) of the regulations, only high performing charter schools will be eligible to apply for a teacher instructional program. The Committee has a long record of placing student safety at the top of all concerns related to SUNY authorized charter schools. Subdivision 700.4(d)(1)(i)(b) of the regulations requires any teacher instructional program candidate to be fingerprinted and clear a criminal background check in the exact same manner as the NYSED teacher certification process. Per §§ 700.4(b)(4)(iv)(a), (b) of the regulations, candidates must also attend the same NYSED approved workshops on School Violence Intervention and Prevention, and Mandated Reporter of Child Abuse and Neglect as required for NYSED certification. The regulations in no way compromise the safety of students.

8. COMMENT: Several commenters were concerned about the underlying motivations for the regulations. Some questioned whether the Committee was following the philosophy of U.S. Secretary of Education Betsy DeVos with respect to promulgating the regulations, while others argued that regulations were motivated by a drive to cut costs, privatize education or increase profits.

RESPONSE: Nothing in the regulations changes the nature of charter schools in this state. New York charter schools, whether or not they partner with a management entity, are not-for-profit entities, *see* Education Law § 2853(1) (referencing Not-For-Profit Corporation Law § 216-a), and they are deemed by the N.Y. Charter Schools Act of 1998 (as amended, the “Act”) to be independent and autonomic public schools and political subdivisions. Since 2010, the Act has not permitted charter school applicants to partner with for-profit management entities. In addition, § 700.4(e) of the regulations specifically disallows charging teacher candidates a fee for participating in a teacher instructional program. Lastly, the Institute has no investments and is part of SUNY, which is a not-for-profit education corporation within the University of the State of New York per Education Law § 352(1). Cost issues, including teacher pay, are outside the scope of the Institute’s focus. Finally, in promulgating the regulations, the Committee has been listening to the charter schools it oversees, not following any national philosophy.

9. COMMENT: Two commenters believed that charter schools would misrepresent that candidates had met the requirements of the regulations or that the persons reviewing candidates would not have the motivation to be critical of prospective charter school teachers.

RESPONSE: The Committee holds SUNY authorized charter schools to a high standard. The possibility of school closure will motivate charter schools to be highly critical of teacher candidates. In addition, § 700.4(f) of the regulations allows the Institute to review teacher instruction programs and terminate them at any time. Moreover, attending and passing any NYSED workshop or exam, such as the EAS or a students with disabilities content specialty exam, is verifiable through NYSED’s TEACH system.

COMMENT: Many commenters took issue with the qualifications of supervisors and instructors. Some commenters noted that the supervisors of field experience should have more than three years of experience but did not specify any alternative amount of experience. Others argued that supervisors should have tenure. Talking points received in opposition objected to instructors being uncertified teachers or administrators training teachers.

RESPONSE: The Institute reviewed this and similar comments, and did not recommend changing the experience necessary for supervisors. After reviewing the particular concerns touching on the subject of who should be the instructors of approved teacher instructional programs, the Institute concluded that uncertified teachers with the right experience, expertise, licensure or study should qualify as instructors.

10. COMMENT: NYSED, legislative commenters, and others asserted that SUNY does not have the authority under Education Law § 355(2-a) to promulgate regulations that override state law or regulations to provide charter schools relief from the requirements of Education Law

§ 2854(3)(a-1). They assert § 355(2-a) was only intended to allow SUNY the authority to regulate its charter schools because the authority did not exist prior. NYSED further asserted that proposed regulations attempt to supersede the State Education Commissioner's authority to issue teaching certificates, to promulgate regulations for teacher certification in accordance with Education Law § 3004(1), and to approve teacher certification programs under 8 NYCRR Part 52.

RESPONSE: The Committee disagrees with this assertion. The Committee was granted the authority to promulgate regulations regarding the operation, governance, and structure of the charter schools it oversees. The Committee has not taken any action affecting the State Education Commissioner's authority with respect to district schools or non-SUNY charter schools, as the regulations apply only to SUNY authorized charter schools.

11. COMMENT: Many commenters identified other reasons that charter schools struggle to hire and retain teachers including that teachers do not want to work in charter schools due to low pay and poor working conditions; that turnover is driven by harsh teaching techniques and unsupportive conditions; that recruiting efforts are falling short; and that there is a lack of effective mentoring. Commenters suggested the Committee should specify increases in teacher salaries and examine teacher recruitment and retention efforts.

RESPONSE: SUNY authorized charter schools have stated to the Institute that they have difficulty finding and hiring qualified teacher candidates. To address mentoring in the proposed regulations, the Committee amended them to include mentoring throughout the three-year certification period for teacher candidates by a principal, assistant principal, qualified field experience supervisor or qualified instructional program instructor. The Committee notes that the regulations include 40 hours of field experience, which is consistent with NYSED requirements.

The Institute has not been presented with evidence that any pay differential between charter and district schools is a source of the teacher shortage at issue, nor does it agree that waiting to pass regulations in favor of further study will be beneficial. There is a process for amendment if additional information or study warrants changes.

12. COMMENT: A few commenters expressed concerns with the interaction between the proposed regulations and union membership. One commenter stated that teachers certified under the regulations should be denied membership in teachers' unions and in teachers' retirement systems. Another expressed concern that charter schools prevent unionization.

RESPONSE: The Institute notes that it would be illegal to deny teachers the right to organize and collectively bargain, under threat of possible charter revocation under Education Law § 2855(1)(d). Further, at a charter school's option, the school may participate in the appropriate teachers retirement system pursuant to Education Law § 2854(3)(c).

13. COMMENT: A fair number of commenters analogized the regulations to other professions. Some said the regulations would be like allowing medical doctors or lawyers to practice without a license or to be licensed improperly. Others noted that the New York State Department of State requires 1000 hours of instruction to become a licensed cosmetologist.

RESPONSE: Given the differences in the professions, these comparisons are not fair ones.

14. COMMENT: Many commenters imagined other entities overseeing teacher credentialing under the proposed regulations, including the New York State United Teachers union, the New York State Board of Regents, and NYSED.

RESPONSE: The Committee disagrees with commenters' view regarding its oversight to approve charter school teachers under the Act. The Act assigns oversight of SUNY authorized charter schools to the SUNY Board of Trustees and the Board of Regents. Further, Education Law § 355(2-a) grants the Committee the authority to adopt regulations concerning the governance, structure, and operations of charter schools overseen by SUNY.

15. COMMENT: An elected official in support of the regulations noted the high performance of many charter schools in Brooklyn. The commenter stated that a looming teacher shortage will face all public schools and that applications to graduate schools of education dropped 40% in the last five years, and saw the regulations as a tool to create a pipeline of talent to allow SUNY authorized charter schools in New York City to meet the demand for quality public education.

RESPONSE: The Institute agrees with the comment.

16. COMMENT: A commenter stated that teachers need at least a bachelor's degree in education in order to teach in a classroom.

Significant Alternatives Suggested: Change the requirement of a bachelor's degree in § 700.4(b)(2) of the regulations to a bachelor's degree with a major in education.

RESPONSE: The proposed rule change would be stricter than current NYSED certification requirements, where many pathways do not commence with an education degree from an institution with an approved state teacher preparation program. The proposed change would make it harder to bring talented highly-qualified people from various fields into teaching.

Significant Alternatives Incorporated: None.

17. COMMENT: A commenter stated that the Committee should consider bringing back choices in education that "actually" lead to jobs for our students rather than approve the regulations.

RESPONSE: The comment is not related to the regulations.

18. COMMENT: A former high-level NYSED official who generally supported the regulations, and another commenter, argued that the potential teacher preparation program should be located in a school or network of schools that have shown evidence of success as measured by the metrics of a very high-quality approval and renewal authorizing system. One commenter said that ideally, state certification would shift wholesale to a clinical residency model, and true transparency of data concerning the impact of teachers in the classroom back-mapped to their

respective preparation programs. As the state is not currently doing this, the commenter viewed the teacher preparation program embodied in the regulations as a worthwhile experiment. The commenters thought the proposed regulations should include an independent body to evaluate and require changes of the internal assessments that programs will use. The commenters felt SUNY should assess the impact of the graduates of the proposed programs on the learning of students regardless of whether a value-added model or student growth percentile is used. One commenter said technical work has demonstrated that, when used to measure cohorts of teachers rather than individuals, such data can be highly reliable. Programs whose graduates underperformed should then be closed by the Institute, just as SUNY would close an underperforming charter school, according to the commenter.

Significant Alternatives Suggested: First, add an independent body to evaluate the internal assessments of education corporation teacher instructional programs with the authority to require changes to those assessments if they do not meet the standards of a quality review. Second, assess the impact of the graduates of the proposed teacher instructional programs on the learning of students taught by those graduates, and then close underperforming programs.

RESPONSE: The commenter suggests a potentially beneficial model for how charter school teacher preparation would be overseen. The Institute would encourage education corporations to measure the success of their programs in the manner described by the commenter, and the Institute could move in that direction in the future.

In addition, the regulations permit the Institute to monitor and revoke its approval of a teacher instructional program. See § 700.4(f) of the regulations. Similar to its approach to closing poor performing charter schools, see *Policies for the Renewal of Not-for-Profit Education Corporations and Charter Schools Authorized by the Board of Trustees of the State University of New York* (available at: <http://www.newyorkcharters.org/wp-content/uploads/SUNY-Renewal-Policies.pdf>), in the regulations, the Committee commits to the idea that the continuation of any approved teacher instructional program will be determined by student performance. See § 700.4(f) of the regulations.

Significant Alternatives Incorporated: None.

Changes Made to Rule: Subdivision 700.4(b)(6) of the proposed regulations was amended to mandate an independent final assessment of either the EAS or an assessment that measures all required elements of the EAS.

19. COMMENT: One commenter stated the regulations would bias and undermine educational research.

RESPONSE: The commenter was not specific about how the regulations would bias or undermine education research so the Institute cannot make a specific response.

20. COMMENT: Many commenters wrote in support of the certification process the regulations would create, some noting that it did not prevent a person from pursuing the traditional certification routes. Commenters expressed this support because:

- a. The focus on classroom work would better prepare teachers;
- b. The current NYSED certification processes are expensive, restrictive, and require too much professional development and that being hired in a district is difficult unless a candidate knows someone;
- c. The current NYSED certification process is too cumbersome;
- d. The onerous and costly nature of the process deters talented people;
- e. The SUNY certification could allow people with degrees in STEM fields, the arts and other languages to more easily enter the profession;
- f. There are many hardships associated with applying for certification reciprocity or starting the traditional certification process in New York; and
- g. Alternatives are needed to allow those with career experience or other postsecondary degrees outside of education to enter teaching.

RESPONSE: The Institute agrees with the comments to the extent that they are within the scope of the regulations. It acknowledges that some of the issues raised are beyond the scope of the regulations.

21. COMMENT: About a dozen comments from current charter school operators and representative organizations specifically endorsed the autonomy provided under the regulations to allow high performing charter schools to identify and hire individuals with different backgrounds. They see as a benefit both: 1) the ability of charter schools to train such individuals to become effective teachers while also allowing teacher instructional programs to continue to develop and systemize currently provided professional development; and, 2) the ability to train all individuals who want to teach in high performing schools in a manner specific to the schools' programs based on outcomes and not inputs.

RESPONSE: The Institute agrees with the comment.

22. COMMENT: Some commenters noted the robust supports and professional development programs at some charter schools including programming provided before a teacher enters the classroom.

RESPONSE: The Institute agrees with these comments and has heard similar accounts from the field.

23. COMMENT: A few comments supported a certification system that is directly tied to student performance results.

RESPONSE: The regulations require that a charter school network maintain a high level of student performance in order to participate in the certification process.

24. COMMENT: An organization representing parents, many of them with students attending charter schools, provided a comment of general support.

RESPONSE: No response is necessary.

25. COMMENT: An organization representing New York business leaders supported creative and innovative solutions for identifying strong teacher candidates and preparing them for the classroom.

RESPONSE: The Institute agrees with the comment.

26. COMMENT: Several parents of charter school students expressed support based on what they witness to be a supportive environment of professional development for charter school teachers. They believe charter schools should be allowed to improve teacher quality in underserved neighborhoods. This comment was echoed by a charter school teacher who expressed satisfaction with the support by the teacher's charter school, and a charter school network operating in multiple states that cited its own considerable time and resources preparing teachers.

RESPONSE: The Institute agrees with the comments.

27. COMMENT: Several commenters wanted the Committee to consider several actions other than approval of the proposed regulations: reduce class size; increase starting salaries to a competitive level with business community; increase incentives for teachers to stay in teaching; increase (not decrease) criteria for becoming a teacher to enhance the capabilities of teachers; bridge gap between teacher education and school based professional development; working with weaker teacher candidates to improve their skills; working with starting teachers to support them and to extend their competencies; and finally recognize that the teacher's role goes beyond instruction and the classroom and includes advocacy, program evaluation, parent mediation, and school based collaboration.

RESPONSE: The Institute does view the regulations as an effort to "bridge gap between teacher education and school based professional development," and to support starting teachers. Holding schools accountable for student performance, the Committee leaves to the discretion of individual charter schools many of these determinations including the class size, whether they want to work with weaker teacher candidates, and the exact role of a teacher. Additionally, charter schools individually set teacher pay. The other comments are beyond the scope of the regulations.

28. COMMENT: One commenter asserted that a unilateral change in certification requirements violates "equal rule of the law."

RESPONSE: The Institute interprets the comment to assert a violation of equal protection of the law as guaranteed by section 1 of the 14th Amendment to the U.S. Constitution. The commenter did not provide any analysis of how the regulations violate the 14th Amendment so the Institute cannot make a specific response. Charter schools are schools of choice, no student is forced to attend a charter school by New York's compulsory education law.

29. COMMENT: One commenter stated that it is good for the state to avoid excessively challenging requirements for individuals who desire teacher certification. The commenter

believed, however, the requirements should be designed after consultation with expert educators who understand the specific level of academic training necessary for a person to become an educator.

RESPONSE: The regulations reflect the Institute's belief that staff in high performing charter schools are experts and among the best persons to develop teaching training for that particular charter school.

30. COMMENT: Several commenters wanted the Committee to use the standards in the New York City Department of Education's NYC Teaching Fellows program rather than the standards in the regulations for a variety of positive reasons.

RESPONSE: The exclusivity of the NYC Teaching Fellows program would not lend itself to producing the number of teachers needed in SUNY authorized charter schools. The regulations and the NYC Teaching fellows program do share the same, higher undergraduate grade point average ("GPA") requirement – 3.0.

31. COMMENT: A small number of commenters opposed the regulations stating charter and district schools are both funded with public money and, therefore, should have the same certification requirements.

RESPONSE: The Act gives charter schools significant autonomy that does not exist in district schools in exchange for the need to demonstrate student learning and achievement. Education Law § 355(2-a) gives SUNY authorized charters schools additional autonomy as set forth in Committee regulations.

32. COMMENT: A commenter who generally opposed the regulations was in favor of exploring ways to utilize uniquely qualified individuals if those individual can meet alternative standards equivalent to NYSED certification, like a master's degree in their field and relevant experience.

RESPONSE: The Institute agrees with the idea of using uniquely qualified individuals in the teaching force and submits that the regulations are such an equivalent.

33. COMMENT: A commenter asked if the training of district teachers is superior, why has student performance been flat or only marginally improved year-over-year despite steady yearly increases in district school budgets. Another stated that certification was denying our most vulnerable students the quality education they need and deserve. One of the commenters said charters put students first, while district teachers' unions put teachers first. The commenter attributed teacher union opposition to the regulations to a fear that reduced charter teacher training and spending may yield the same or better student achievement results than district schools.

RESPONSE: The comment is in favor of the regulations and speaks for itself.

34. COMMENT: Two commenters, a longtime early childhood educator of students with disabilities and a high school special education teacher, expressed concern about the preparation

of teachers to serve students with disabilities under the regulations.

RESPONSE: Appreciating the complexity of education students with disabilities, the Committee made changes to the proposed regulations including increasing the dual certification field work hours related to students with disabilities from 12 to 20, requiring teacher candidates for students with disabilities take and pass the appropriate students with disabilities content specialty exam (or an exam with all of the same required elements), and the inclusion of a requirement that six of the 40 hours of field experience be “focused on meeting the needs of students with disabilities.” The Institute will be requiring specific information on how teacher candidates will be instructed on classroom management, etc. in education corporation applications for teacher instructional programs.

Changes Made to Rule: Subdivision 700.4(b)(4)(i)(b) was amended to increase from 12 to 20 hours the of field experience related to meeting the needs of students with disabilities for a dual certification where one subject is students with disabilities. Subdivision 700.4(b)(6) was amended to require the content specialty test for students with disabilities to for candidates seeking certification in students with disabilities. Subdivision 700.4(b)(4)(ii) was amended to add six hours of field experience related to students with disabilities.

35. COMMENT: NYSED commented that the proposed regulations are not supported by the state’s Every Student Succeeds Act (“ESSA”) plan. It claims the proposed regulations will diminish the number of effective teachers thereby having a negative impact on at-risk populations. NYSED commented that a rigorous and high quality teacher preparation program fosters a high quality teacher with the likelihood to increase student achievement.

RESPONSE: As an authorizer, SUNY has fostered, through accountability, a portfolio of high performing charter schools, specifically increasing student achievement levels of at-risk populations. The regulations will allow those successful programs to increase the number of effective teachers fostered by the programs based on evidence of student outcomes. The proposals set forth in the ESSA plan are aimed at identifying and supporting low-performing schools, and at-risk populations in those schools. These regulations are applicable only at high-performing charter schools and so are not in conflict with the ESSA plan. The Institute notes that the ESSA plan has not yet been approved by the U.S. Department of Education.

36. COMMENT: NYSED stated that the proposed regulations do not require any student teaching or state teacher certification exams for prospective teachers. Another institutional commenter and an elected official echoed the foregoing comment. The institutional commenter and some others particularly wanted to see the education Teacher Performance Assessment (“edTPA”) included in the regulations.

Significant Alternatives Suggested: Include the edTPA as a requirement of the regulations.

RESPONSE: While the content specialty and other state certification exams including the EAS assessment have not guaranteed teachers who lift the achievement of the type of students who attend SUNY authorized charter schools, the Institute appreciates the value of them. As a result, the Committee amended the proposed regulations to include as part of the mandatory final

assessment either the EAS or an examination which measures, at a minimum, all required elements of the EAS test.

Significant Alterations Accepted: None.

Changes Made to Rule: Subdivision 700.4(b)(6) was amended to mandate the inclusion of the EAS or an examination which measures, at a minimum, all required elements of the EAS assessment.

37. COMMENT: NYSED asserted the regulations are in direct conflict with Education Law § 3602-ee (Statewide Universal Full-Day Pre-Kindergarten program) because § 3602-ee(8) requires that all teachers in the program meet the same teacher certification standards applicable to public schools and § 3602-ee(12) specifies that the limitations on the employment of uncertified teachers under § 2854(3)(a-1) also apply to pre-Kindergarten programs operated by participating charter schools.

RESPONSE: The Institute does not agree with NYSED's characterization of a direct conflict. Per § 3602-ee(12), charter schools may apply all of the exemptions of § 2854(3)(a-1) to their pre-K-12 teaching staff. If the regulations allow an alternative for SUNY authorized charter school teachers, then those few SUNY authorized schools would be able to count NYSED certified teachers together with teachers certified under the regulations for purposes of pre-K compliance.

38. COMMENT: A few commenters opposed to the regulations noted that the best educational systems in the world have very high educational requirements for teachers. Some cited the Finnish model where all teachers must hold master's degrees either in education or in the subjects they teach. The commenters stated that Finnish primary school teachers must go through a rigorous five to six year academic education program that normally is in one of the research universities that offer teacher education degrees, and subject teachers complete advanced academic studies in their field and must complete an additional year in an educational program.

RESPONSE: It is not clear that such systems would produce enough teachers to meet demand in the state, or that the small number of SUNY authorized charter schools could sustain such a teacher preparation system given available resources. The Institute notes that there are many differences between the Finnish and New York educational systems.

39. COMMENT: Commenters who believe teachers need more training stated that the state should be investing in more professional development.

RESPONSE: The Institute views the quality of professional development to be as important if not more important than mandated quantity. The charter schools that may apply for a teacher instructional program have high quality professional development.

40. COMMENT: A commenter who is an associate dean of teacher education at a private college did not find the Committee offered a compelling argument for the proposed regulations. The commenter and others would have preferred more research to back up the proposed regulations,

some describing the proposed regulations as lacking an evidence base to support them. The first commenter agreed that teacher certification requirements often are not directly linked to building teacher proficiency, and felt that non-essential requirements should be removed from all teacher preparation programs, which create an artificial barrier to those seeking to become teachers.

RESPONSE: The Committee believes the argument in favor of the regulations is compelling enough at this time to move forward. The other comments are outside the scope of the regulations.

41. COMMENT: One elected official commenter stated that the proposed regulations permit out of state teachers certified in another state to be eligible to receive a teacher's certificate without participation in an approved instructional program of any kind.

RESPONSE: In order for a person to receive a state certification in another state, the person would have engaged in a teacher training program approved by that state.

42. COMMENT: A representative organization of charter schools commented in support of the proposed regulations citing not only the purpose of charter schools but the continued difficulty of teachers at charter schools not being recognized as working in public schools by NYSED for certification purposes, i.e., work experience.

RESPONSE: The Institute will look to work with NYSED to correct any misunderstanding by one of its offices.

43. COMMENT: One charter school resource organization provided its support for the proposed regulations with several revisions including increasing the prerequisite that the applicant education corporation have received a short-term renewal to a requirement that the applicant is currently within a full-term renewal. The commenter also wants the Institute to review the teacher instructional program as part of renewal of the education corporation.

Significant Alterations Suggested: Increase the prerequisite that the applicant education corporation have received a short-term renewal to a requirement that the applicant is currently within a full-term renewal. Review the teacher instructional program as part of renewal of the education corporation.

RESPONSE: The Committee reviewed the applicant eligibility requirements in the proposed regulations, and adopted the commenter's standard. The Committee revised the proposed regulations to require an applicant serving grades 3-8 to have 60% of its schools perform better on the state assessment than its school district of location or in New York City, its community school district with similar requirements for high schools.

At this time, the Institute feels it is premature to lock in a particular interval for program review. While the Institute has certainly discussed reviewing programs in conjunction with renewal, it wants to review best practices around evaluation of such programs prior to setting a universal review interval.

Changes Made to Rule: Subdivision 700.4(b)(1) of the proposed regulations was amended to add a new paragraph (i) that contains the performance standards set forth above, and a new subparagraph (i)(a) that requires a five year renewal for applicant eligibility.

44. COMMENT: A charter school network operating multiple schools supported the proposed regulations citing its own extensive time and energy spent correcting the faulty preparation of teachers in traditional teacher preparation programs to reverse anti-intellectual attitudes and low expectations of students that have been fostered by those programs. The commenter supported a system that attracts and fosters talent not a system that impedes talent from entering the arena.

RESPONSE: The comment speaks for itself.

45. COMMENT: A group of approximately 40 institutional commenters and number of other commenters including a union commenter discussed the “massive” turnover rates at charter schools due to harsh teaching techniques and unsupportive conditions. These factors, according to the commenters, are the real reason for a teacher shortage in charter schools. They urge the Committee to undertake an investigation of teacher retention factors rather than pass the proposed regulations. The union commenter cited research on teacher turnover and stated that the Committee is not following any of the researched solutions.

RESPONSE: The Institute disagrees with the commenters. It believes that waiting to pass the regulations will not be beneficial, and that there is a process for amendment if additional information or study warrants changes.

46. COMMENT: A school of education commenter offered four reasons why the proposed regulations should be rejected: research shows that effective teacher education programs involve rigorous integration of theory *and* practice, but the proposed regulations will detach teacher candidates from institutions of higher education; the proposed regulations will increase the inequities the education system where students from the poorest neighborhoods will have the most rigidly prepared teachers, whereas students in advantaged communities will have teachers with broader and more progressive backgrounds; the regulations will result in a two-tiered teacher class system; and, the proposed regulations are based on an incorrect belief that independent teacher education programs will be equal or better at attracting and preparing candidates for teaching than those situated in higher education.

RESPONSE: The Institute disagrees with the commenter’s assertions.

47. COMMENT: A self-identified union commenter cited a 2013 study involving Arizona, Oklahoma and Texas, none of which require any certified teachers in charter schools. According to the commenter, the study demonstrated that charter schools without certified teachers showed fewer learning gains than matched students in traditional public schools.

RESPONSE: As the Committee is not eliminating certification requirements in SUNY authorized charter schools, and the Institute maintains a rigorous approval and oversight process of its charter schools, this comparison is not valid.

48. COMMENT: A private graduate school of education acknowledged the state and national teacher shortages but stated the proposed regulations were not the solution to the issue. The commenter noted that some charter school networks have moved away from quick-entry programs, using alternative approaches like deeper partnerships with traditional universities, contracts with Relay's year-long co-teaching residency program, or new year-long versions of Teach for America. The commenter did not provide any evidence of outcomes from these changes. The commenter stated there is well-documented evidence that under-prepared teachers have higher attrition rates than teachers who had quality preparation experiences, suggesting it is also likely that certifications authorized under the regulations will not address the teacher shortages unless programs are voluntarily designed in line with more rigorous standards for preparation experiences than required under the proposed regulations.

RESPONSE: The concerns of the commenter have been addressed in responses to other comments.

49. COMMENT: The SUNY student assembly stated that the Committee by its proposal of the regulations was acting contrary to SUNY's mission. Among other arguments already described in previous responses, the commenter stated that the students in SUNY operated charter schools "will receive a diminished education, resulting in fewer opportunities, and ultimately a smaller tax base impacting the State for decades." The commenter was also "skeptical that the initiative to create a two-tiered teacher certification system will create a benefit for the system's 600,000 students."

RESPONSE: The Institute would like to assure the commenter that the Committee believes it is acting in the best interests of the students in SUNY authorized charter schools by passing the regulations. If the unique programs permitted by the regulations do not produce the results envisioned, the programs can be terminated by the Institute per § 700.4(f) of the regulations. With respect to the issue of benefitting SUNY's college students, all of the traditional teacher preparation pathways are still open to the students and now an additional pathway will be open. Lastly, SUNY institutions may be among the institutions of higher education referenced in the regulations, thus creating additional opportunities for those SUNY colleges.

50. COMMENT: A coalition of New York charter schools recognized problems related to teacher certification, including a potentially serious issue with talent pipeline, but urged the Committee toward further study before consideration of the proposed regulations in case of unforeseen consequences such as aggravating tensions that exist between various public education sectors. The commenter called upon the Institute to produce more data on the teacher shortage for more study and review by experts in teacher pedagogy. The commenter believes that new pathways to certification should be explored, and that, as innovators in public education, charter schools should be on the cutting edge of developing and providing those paths, but stated an undertaking of this scope should ideally be done in partnership with an existing teaching program at a state college or university.

RESPONSE: As set forth in other responses, the Institute believes that waiting to pass the regulations will not be beneficial, and that there is a process for amendment if additional information or study warrants changes. Additionally, the regulations expressly anticipate a

charter school partnering with a state college or university to improve teacher preparation.

51. COMMENT: A parent in a charter school expressed satisfaction with the school supported teachers in the student's school.

RESPONSE: The Institute, when it surveys parents, finds high levels of satisfaction with their students' charter schools.

52. COMMENT: One commenter in support of the proposed regulations wished the Committee was proposing teacher preparation programs across the state in a fashion similar to Massachusetts, which has both higher education and alternative / practiced based licensure programs.

RESPONSE: At this time, the Committee wishes to limit participation in teacher instructional programs to SUNY authorized charter schools and institutions of higher education.

53. COMMENT: An elected representative offered a number of comments. The commenter strongly believed in student teaching and stated that the regulations did not contain any. The commenter also believed the proposed regulations would disqualify charter schools from receiving federal Title I funds because ESSA requires Title I schools to follow the certification requirements of state law.

RESPONSE: The commenter saw the timing of pre-employment student teaching and an academic supervisor as important, however the Institute views the 160 field hours of supervised teaching in the regulations as the equivalent. The Institute does not share the commenter's view of the application of ESSA to Title I in the context of charter schools. Assuming the commenter's initial interpretation of ESSA is correct, the certification contained in the regulations is authorized under state law, Education Law § 355(2-a). Therefore, the certifications are part of state law, and following the regulations would be fulfilling the state's licensing requirements for purposes of ESSA.

54. COMMENT: An institutional commenter expressed a large number of separate reservations about charter schools and authorizers, favoring the idea that there should only be one authorizer in the state – NYSED. The commenter's unique argument was that allowing individual education corporations to determine when their staff is adequately trained without any external oversight or testing, sets a dangerous precedent.

RESPONSE: The Institute notes that authorizer best practice is to have multiple but not too many high quality authorizers in a state. The Institute disagrees with the commenter's view that education corporations will solely determine when their staffs are adequately trained without any external oversight or testing. In the first instance, the Institute will approve the teacher instructional program standards and then education corporation teacher candidates will have to complete that program to be certified under the regulations. Therefore, the Institute will also determine when a staff is adequately trained with the education corporation free to do additional training above and beyond. The Institute continually oversees the charter schools it authorizes and the same practice would be in place for the teacher instructional programs, the approval of

which is subject to revocation at any time per § 700.4(f) of the regulations.

55. COMMENT: A community college faculty organization commenter opposed the proposed regulations on many of the grounds referenced above in other comments. The commenter additionally criticized the proposed regulations as not coming from the SUNY provost's office and not being voted on by the full SUNY Board of Trustees.

RESPONSE: Education Law § 355(2-a) expressly grants the Charter Schools Committee of the SUNY Board of Trustees the authority to adopt regulations concerning the governance, structure, and operations of charter schools overseen by SUNY.

56. COMMENT: An organization representing New York independent colleges and universities opposed the proposed regulations on several grounds previously discussed in other comments. The commenter also opposed the regulations because the teacher candidate qualifications included completion of a bachelor's degree with a minimum cumulative GPA of 3.0, with the possibility of exceptions for extraordinary candidates with GPAs below 3.0. The commenter noted there was no definition of what constitutes "exceptional," or what justifies the exception in the proposed regulations.

RESPONSE: In response to this comment, the Committee reviewed the candidate qualifications in § 700.4(b)(2), deleted the language objected to by the commenter, and replaced it with: "or shall have been found to have the necessary knowledge and skills to successfully complete the program as determined by the institute." In the final regulations, the Institute clearly would make the determination based on the given standard. It should be noted that this same language is present in regulations granting the commissioner of education authority to determine that a candidate may enter an instructional program with less than a 3.0 GPA.

Changes Made to Rule: The Committee deleted "exceptional" language objected to by the commenter in § 700.4(b)(2) and replaced it with: "or shall have been found to have the necessary knowledge and skills to successfully complete the program as determined by the institute."

57. COMMENT: An organization representing school superintendents offered comments in opposition to the regulations, most of which are covered by the comments above. It also stated that because movement of students from charter schools is common, the schools superintendents oversee must maintain some additional capacity to accommodate such students. According to the commenter, the challenges of such districts will be compounded if weaker teaching leaves affected students behind where they ought to be.

RESPONSE: The provisions in the regulations allowing the Institute to revoke its approval of a teacher instructional program found in § 700.4(f) of the regulations coupled with the applicant requirements in § 700.4(b)(1) limiting applicants to high performing charter schools should alleviate these concerns.