



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

**TO:** P-12 Education Committee  
**FROM:** Ken Slentz   
**SUBJECT:** Amendment of Section 100.5(d) of the Commissioner's Regulations Relating to Transfer High School Credit for Students in State Agency Educational Programs

**DATE:** April 21, 2014

**AUTHORIZATION(S):**



### SUMMARY

#### Issue for Discussion

Should the Board of Regents amend section 100.5(d) of the Commissioner's Regulations to provide that principals of registered public high schools shall grant transfer credit to a student for credit awarded while the student attended an educational program administered by a State agency pursuant to Education Law §112 and Part 116 of the Commissioner's Regulations, upon the attestation of the chief administrator of such program that the student has met certain criteria as specified in the proposed amendment?

#### Reason For Consideration

To expand opportunities for students to receive high school credit for work completed while the student was enrolled in an educational program operated by a State agency pursuant to Education Law §112 and Parts 116 of the Commissioner's Regulations.

#### Proposed Handling

This item is being presented to the Regents P-12 Education Committee for discussion at the April 2014 Regents meeting. A copy of the proposed amendment is

attached. A Notice of Proposed Rule Making will be published in the State Register on May 7, 2014.

#### Procedural History:

Both Office of Children and Family Services (OCFS) Commissioner Gladys Carrion in April 2008 and Senator Velmanette Montgomery and Assemblyman William Scarborough in June 2009 have discussed with the Board of Regents their desire to find ways to ensure that youth receive credit for rigorous coursework completed while in the custody of OCFS. In recent months, staff from SED, OCFS and the Governor's Office have met to discuss strategies to ensure that, upon enrollment or reenrollment in a public high school, students receive appropriate credit for coursework completed while receiving instruction in educational programs operated by OCFS.

#### Background Information

Education Law §112 and Part 116 of the Commissioner's Regulations relate to standards for educational programs and services for students in full-time residential care in homes or facilities operated or supervised by a State department or agency or political subdivision, such as the Office of Children and Family Services and the Office of Mental Health.

Commissioner's Regulation §100.5(d)(5) currently provides that a principal must award transfer credit to students for any coursework they completed at a registered New York State high school, but may award transfer credit for work done at educational institutions other than New York State registered high schools "based on whether the record indicates that the work is consistent with New York State commencement learning standards and is of comparable scope and quality to that which would have been done in the school awarding the credit." Under this provision, students who attend educational programs operated by OCFS and other State agencies pursuant to Education Law §112 and Part 116 of the Commissioner's Regulations are not automatically granted credit for their coursework because such facilities are not registered high schools. Rather, upon a student transferring to a public school, each principal makes an individual determination to grant or deny the student credit for such coursework based upon whether the principal deems the coursework done at a State agency facility to be comparable.

As a result, there is no consistency across the State in how coursework completed at these State agency facilities is credited. Because students are unsure of the degree to which principals will award credit for work done at State agency facilities, some students find this a disincentive to re-enroll in school once released from such facilities. To the extent that principals deny credits for such coursework, the challenges for students who reenroll and attempt to earn a high school diploma become even greater.

To address this issue, SED staff recommend that the Board of Regents amend Commissioner's Regulations section 100.5(d)(5) to provide that principals of registered public high schools shall grant transfer credit to a student for credit awarded while the student attended an educational program administered by a State agency pursuant to Education Law §112 and Part 116 of the Commissioner's Regulations, upon the attestation of the chief administrator of such program that:

- the student has completed coursework that is aligned with the applicable New York State commencement-level learning standards, including the New York State Common Core Learning Standards, and meets the requirements for the award of units of credit including, but not limited to, the requirement for 180 minutes of instruction per week throughout the school year, or the equivalent; and
- the student was provided instruction by a teacher certified pursuant to Part 80 of this Title.

The Department recommends further amendments to §100.5(d) of the regulations to ensure that students attending these State agency education programs are eligible for transfer credit on the same basis as students in the public schools with respect to the alternative methods for earning credit, including credit by examination, make up credit, independent study, and on-line/blended courses. The proposed amendment would provide that principals of registered public high schools must award transfer credit upon attestation of the chief administrator of the State agency educational program that the student has met the requirements for the award of credit by examination, make up credit, independent study or online/blended courses.

With Board approval, Department staff will also work with OCFS on a Memorandum of Understanding ("MOU") to ensure compliance with applicable laws, regulations, directions and policies regarding test security, administration and scoring as well as to ensure that OCFS annually reports to the Department on the credits it awards annually to students.

Based on the most current available data (June 2010 examination cycle), SED expects that approximately 250 students per year would be eligible to receive credit for OCFS coursework as described above. The courses in which students would most often receive credit are English, Algebra, Geometry, Living Environment, Earth Science, Global Studies, and US History and Government.

#### Timetable for Implementation

It is anticipated that the proposed amendment will be presented for adoption at the July Regents meeting.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 210, 215, 305 and 309

1. Paragraph (1) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective July 30, 2014, as follows:

(1) Credit by examination. A student may earn a maximum of 6 1/2 units of credit for either a Regents or local diploma without completing units of study for such units of credit, if:

(i) based on the student's past academic performance, the superintendent of a school district or the chief administrative officer of a registered nonpublic high school or the chief administrator of an educational program administered by a State agency pursuant to Education Law section 112 and Part 116 of this Title, or his or her designee, determines that the student will benefit academically by exercising this alternative;

(ii) . . .

(iii) the student passes an oral examination or successfully completes a special project to demonstrate proficiency, in such knowledge, skills and abilities normally developed in the course but not measured by the relevant Regents examination or State-approved examination if used, as determined by the principal or the chief administrator of an educational program administered by a State agency; and

(iv) . . .

(v) . . .

(vi) Credit by examination shall be awarded to a student enrolled in an educational program administered by a State agency pursuant to paragraph (5) of this subdivision.

2. Paragraph (5) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective July 30, 2014, as follows:

(5) Transfer credit. Transfer credit is awarded for work done outside the registered New York State high school awarding the credit.

(i) The principal shall evaluate the transcript or other records of a transfer student enrolling in a New York State high school. Based on the student's transcript or other records, the principal shall award the appropriate units of transfer credit towards a high school diploma.

(a) Registered high schools. The principal shall grant transfer credit for all credit awarded by any New York State registered public or nonpublic high schools.

(b) Other educational/cultural institutions and independent study.

(1) Except as provided in subclause (2) of this clause, [The] the principal, after consultation with relevant faculty, may award transfer credit for work done at other educational and cultural institutions and for work done through independent study. The decision as to whether or not to award transfer credit for work done at educational institutions other than New York State registered high schools shall be based on whether the record indicates that the work is consistent with New York State commencement learning standards and is of comparable scope and quality to that which would have been done in the school awarding the credit.

(2) Transfer credit by attestation (State agency educational programs).

(i) Definitions. For purposes of this subdivision, "State agency" means a State department or agency or political subdivision, except a board of education or a board of

cooperative educational services, that provides an educational program pursuant to Education Law section 112 and Part 116 of this Title.

(ii) A principal shall award transfer credit to any student for credit awarded while the student attended an educational program administered by a State agency pursuant to Education Law section 112 and Part 116 of this Title, upon the attestation of the chief administrator of such program, in a format prescribed by the commissioner, of the following:

(a) the student:

(1) has completed coursework that is aligned with the applicable New York State commencement-level learning standards, including the New York State Common Core Learning Standards, and that meets the requirements of this Part for the award of units of credit including, but not limited to, the requirement for 180 minutes of instruction per week throughout the school year, or the equivalent, as set forth in section 100.1(a) of this Part, and/or

(2) has met the requirements for the award of credit by examination pursuant to paragraph (1) of this subdivision; and/or

(3) has met the requirements for the award of make-up credit pursuant to paragraph (8) of this subdivision; and/or

(4) has met the requirements for the award of credit for independent study pursuant paragraph (9) of this subdivision; and/or

(5) has met the requirements for the award of credit for online and/or blended courses pursuant to paragraph (10) of this subdivision;

and

(b) the student was provided instruction by a teacher certified pursuant to Part 80 of this Title or, where the coursework was for make-up credit or in online and/or blended courses, the student was provided instruction in accordance with the requirements of paragraphs (8) and (10), respectively, of this subdivision.

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

3. Paragraph (8) of subdivision (d) of section 100.5 of the Regulations of the Commissioner is amended, effective July 30, 2014, as follows:

(8) Making up incomplete or failed course credit. Commencing July 1, 2011 and thereafter, a school district, registered nonpublic school, [or] charter school or the chief administrator of an educational program administered by a State agency pursuant to Education Law section 112 and Part 116 of this Title may provide a student, who had the opportunity to complete a unit of study in a given high school subject but who failed to demonstrate mastery of the learning outcomes for such subject, with an opportunity to make up a unit of credit for such subject toward either a Regents or local diploma, pursuant to the following:

(i) . . .

(ii) The make-up credit program shall:

(a) . . .

(b) . . .

(c) ensure that the student receives equivalent, intensive instruction in the subject matter area provided, as applicable, under the direction and/or supervision of;

(1) a school district teacher who is certified in the subject matter area; or

(2) a teacher from a board of cooperative educational services (BOCES) that contracts with the school district to provide instruction in the subject matter area pursuant to Education Law § 1950, and who is certified in such area; or

(3) a teacher of the subject matter area in the registered nonpublic school, [or] charter school or educational program administered by a State agency pursuant to Education Law section 112 and Part 116 of this Title.

(iii) . . .

(iv) . . .

(v) Make up credit shall be awarded to a student enrolled in an educational program administered by a State agency pursuant to paragraph (5) of this subdivision.

4. Paragraph (9) of subdivision (d) of section 100.5 of the Regulations of the Commissioner is amended, effective July 30, 2014, as follows:

(9) Credit for independent study. Students enrolled in a school district, a charter school, [or] a registered nonpublic school or an educational program administered by a State agency pursuant to Education Law section 112 and Part 116 of this Title may earn a maximum of three units of elective credit towards a Regents diploma through independent study, pursuant to the following:

(i) . . .

(ii) . . .

(iii) The principal, after consultation with relevant faculty, shall award credit to the student for successful completion of the independent study and demonstrated mastery of the learning outcomes for the subject. Credit for independent study shall be awarded to a student enrolled in an educational program administered by a State agency pursuant to paragraph (5) of this subdivision.

(iv) For purposes of this paragraph, independent study shall be:

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(v) . . .

5. Paragraph (10) of subdivision (d) of section 100.5 of the Commissioner's Regulations is amended, effective July 30, 2014, as follows:

(10) Credit for online and blended courses.

(i) . . .

(ii) A school district, a charter school, [or] a registered nonpublic school or the chief administrator of an educational program administered by a State agency pursuant to Education Law section 112 and Part 116 of this Title may provide its students with an opportunity to earn units of credit towards a Regents diploma through online and/or blended course study, pursuant to the following:

(a) . . .

(b) The school district, registered nonpublic school, [or] charter school or the chief administrator of an educational program administered by a State agency shall ensure that:

(1) courses are aligned with the applicable New York State learning standards for the subject area;

(2) courses provide for documentation of student mastery of the learning outcomes for such subjects, including passing the Regents examination in the subject and/or other assessment in the subject if required for earning a diploma;

(3) instruction is provided by or under the direction and/or supervision of:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) in the case of a charter school, a teacher of the subject area from a charter school; or

(vi) in the case of an educational program administered by a State agency, a teacher of the subject area from such program.

(4) . . .

(5) . . .

(iii) Credit for online and blended courses shall be awarded to a student enrolled in an educational program administered by a State agency pursuant to paragraph (5) of this subdivision.