




TO: P-12 Education Committee
FROM: Ken Slentz 
SUBJECT: Approval of Proposed Amendment to Sections 100.5, 100.6 and 200.5 Relating to a New York State Career Development and Occupational Studies Commencement Credential (NYS CDOS Commencement Credential)

DATE: June 10, 2013

AUTHORIZATION(S):

SUMMARY

Issue for Decision

Should the Board of Regents adopt as a permanent rule the proposed amendment of sections 100.5, 100.6, and 200.5 of the Regulations of the Commissioner of Education to establish a New York State Career Development and Occupational Studies Commencement Credential (NYS CDOS Commencement Credential)?

Reason(s) for Consideration

Implementation of Regents Policy.

Proposed Handling

The proposed amendment will be submitted to the P-12 Education Committee and Full Board for permanent adoption at the June 2013 meeting.

Procedural History

In December 2012, the Board discussed a proposed amendment to sections 100.5, 100.6, and 200.5 of the Regulations of the Commissioner of Education that would authorize school districts and nonpublic schools to award a credential to a student with a disability upon graduation that would recognize the student's preparation

for entry level employment. A Notice of Proposed Rule Making was published in the State Register on December 26, 2012 for a 45-day public comment period.

The proposed amendment was revised in response to public comment and discussed at the March Regents meeting. At the April Regents meeting, the proposed amendment was presented at a joint meeting of the P-12 Education and the Adult Career and Continuing Education Services Committees and to the Full Board for adoption as an emergency rule, effective April 23, 2013. A Notice of Emergency Adoption and Revised Rule Making was published in the State Register on May 8, 2013 with public comment accepted through to June 7, 2013.

The proposed amendment is being presented for adoption as a permanent rule at the June Regents meeting. A copy of the proposed rule and an Assessment of Public Comment are attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That subparagraph (i) of paragraph (7) of subdivision (b) of section 100.5; section 100.6; and subparagraph (iii) of paragraph (5) of subdivision (a) of section 200.5 of the Regulations of the Commissioner be amended, as submitted, effective July 3, 2013.

Timetable for Implementation

The proposed amendment was adopted as an emergency rule at the April Regents meeting, effective April 23, 2013. If adopted at the June Regents meeting, the proposed amendments will become effective as a permanent rule on July 3, 2013. Department actions to support implementation of the credential will be discussed at the July 2013 Board of Regents Meeting.

Attachments

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 305, 4402 and 4403

1. Subparagraph (i) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective July 3, 2013, as follows:

(i) Except as provided in subparagraphs (vi), (vii), (viii) and (xi) of this paragraph, and paragraph (d)(7) of this section, for students first entering grade nine in the 2001-2002 school year and thereafter, there shall be no diplomas [or], certificates, or credentials other than the following:

(a) Regents diploma;

(b) Regents diploma with an advanced designation;

(c) State high school equivalency diploma as provided in section 100.7 of this Part;

(d) High School Individualized Education Program Diploma as provided in section 100.9 of this Part; [or]

(e) Regents diploma, or Regents diploma with an advanced designation, with an affixed technical endorsement awarded upon completion of an approved career and technical education program pursuant to paragraph (d)(6) of this section;

(f) Skills and achievement commencement credential as provided in section 100.6(a) of this Part; or

(g) New York State career development and occupational studies commencement credential as provided in section 100.6(b) of this Part.

2. Section 100.6 of the Regulations of the Commissioner of Education is amended, effective July 3, 2013, as follows:

§100.6 High school exiting credentials.

(a) Skills and achievement commencement credential. Beginning with the 2013-14 school year and thereafter, the board of education or trustees of a school district shall, and the principal of a nonpublic school may, issue a skills and achievement commencement credential to a student who has taken the State assessment for students with severe disabilities, as defined in section 100.1(t)(2)(iv) of this Part, in accordance with the following provisions:

[(a)] (1) Prior to awarding the skills and achievement commencement credential, the governing body of the school district or nonpublic school shall ensure that:

[(1)] (i) . . .

[(2)] (ii) . . .

[(3)] (iii) . . .

[(b)] (2) . . .

[(c)] (3) . . .

[(d)] (4) The credential shall be issued together with a summary of the student's academic achievement and functional performance, as required pursuant to section 200.4(c)(4) of this Title, that includes documentation of:

[(1)] (i) . . .

[(2)] (ii) . . .

[(3)] (iii) . . .

School districts may use the State model form developed by the commissioner for the summary of academic and functional performance or a locally-developed form that meets the requirements of this subdivision.

(b) New York State career development and occupational studies commencement credential. Beginning July 1, 2013 and thereafter, the board of

education or trustees of a school district shall, and the principal of a nonpublic school may, issue a New York State career development and occupational studies commencement credential to a student with a disability who meets the requirements of paragraph (1) of this subdivision to document preparation for entry-level employment after high school, except for those students deemed eligible for a skills and achievement commencement credential pursuant to subdivision (a) of this section. Consistent with sections 100.2(q)(1) and 100.5 of this Part, the school district or nonpublic school shall ensure that the student has been provided with appropriate opportunities to earn a Regents or local high school diploma, including providing a student with meaningful access to participate and progress in the general curriculum to assist the student to meet the State's learning standards.

(1) Except as provided in paragraphs (2), (5) and (6) of this subdivision, prior to awarding the career development and occupational studies commencement credential, the board of education or trustees of the school district, or the governing body of the nonpublic school, shall ensure that each of the following requirements have been met:

(i) the school district has evidence that the student has developed, annually reviewed and, as appropriate, revised a career plan to ensure the student is actively engaged in career exploration. Such plan shall include, but is not limited to, a statement of the student's self-identified career interests; career-related strengths and needs; career goals; and career and technical coursework and work-based learning experiences that the student plans to engage in to achieve those goals. School districts shall provide students with either a model form developed by the commissioner to document a student's career plan, or a locally-developed form that meets the requirements of this subdivision and, as appropriate, shall assist the student to develop his/her career plan. The student's career plan may not be limited to career-related activities provided by the

school and may include activities to be provided by an entity other than the school; provided that nothing in this subdivision shall be deemed to require the school to provide the student with the specific activities identified in the career plan. A student's preferences and interests as identified in his/her career plan shall be reviewed annually and considered in the development of the student's individualized education program pursuant to section 200.4(d)(2)(ix) of this Title. A copy of the student's career plan in effect during the school year in which the student exits high school shall be maintained in the student's permanent record;

(ii) the school district has evidence that the student has demonstrated commencement level knowledge and skills relating to the career development and occupational studies learning standards set forth in section 100.1(t)(1)(vii)(a), (b) and (c) of this Part, including but not limited to career development, integrated learning and the universal foundation skills; and the student has successfully completed in grades 9-12 not less than the equivalent of two units of study in career and technical education course(s) and/or work-based learning experiences. The equivalent units of study shall be earned through coursework in career and technical education and/or work-based learning experiences, provided that the equivalent units of study shall include a minimum of 54 hours of documented school supervised work-based learning experiences related to career awareness, exploration and/or preparation which may, but are not required to, be completed in conjunction with the student's career and technical education course(s). For purposes of this subdivision: (1) career and technical education course(s) means a grade 9 -12 course or courses in career and technical education, as defined in section 100.1(l) of this Part, that consists of specialized and integrated courses that are approved by the local board of education or by the Department pursuant to section 100.5(d)(6)(iv); and (2) work-based learning experiences include, but are not limited to,

job shadowing, community service, volunteering, service learning, senior project(s) and/or school based enterprise(s), which shall be provided, consistent with Department guidelines, under the supervision of the district and documented in the student's transcript; and

(iii) Within one year prior to a student's exit from high school, at least one work skills employability profile for the student has been completed by designated school staff or other individuals knowledgeable about the student's employability skills and experiences that identifies the student's attainment of each of the commencement level career development and occupational studies learning standards set forth in section 100.1(t)(1)(vii)(a), (b) and (c) of this Part including, but not limited to career development; integrated learning; and universal foundation skills and, as appropriate, documents the student's attainment of technical knowledge and work-related skills, work experiences, performance on industry-based assessments and other work-related and academic achievements. School districts may use a model form developed by the commissioner to document a student's work skills employability profile, or a locally-developed form that meets the requirements of this subdivision. A copy of the student's work skills employability profile(s) shall be maintained in the student's permanent record.

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, a board of education or trustees of the school district, or the governing body of the nonpublic school, may award the career development and occupational studies commencement credential to a student who has met the requirements for a nationally-recognized work-readiness credential, including but not limited to SkillsUSA, the National Work Readiness Credential, the National Career Readiness Certificate – (ACT) WorkKeys and the Comprehensive Adult Student Assessment Systems Workforce Skills Certification System.

(3) The credential shall be issued at the same time the student receives his/her Regents or local high school diploma or, for a student whose disability prevents the student from earning a Regents or local diploma, any time after such student has attended school for at least 12 years, excluding kindergarten, or has received a substantially equivalent education elsewhere, or at the end of the school year in which a student attains the age of 21.

(4) The certificate awarded shall be similar in form to the diploma issued by the school district or nonpublic school, except that it shall not use the term "diploma" but shall indicate that the student has earned a New York State career development and occupational studies commencement credential that has been endorsed by the New York State Board of Regents as a certificate of readiness for entry-level employment. Award of the credential shall be documented in the student's transcript.

(5) For students with disabilities who exit from high school prior to July 1, 2015, the district or nonpublic school may award the career development and occupational studies commencement credential to a student who has not met all of the requirements in subparagraph (ii) of paragraph (1) of this subdivision, provided that the school principal, in consultation with relevant faculty, has determined that the student has otherwise demonstrated knowledge and skills relating to the commencement level career development occupational studies learning standards.

(6) For students with disabilities who transfer from another school district within the State or another state, the principal shall, after consultation with relevant faculty, evaluate the work-based learning experiences and coursework on the student's transcript or other records to determine if the student meets the requirements in subparagraph (ii) of paragraph (1) of this subdivision.

(7) A school district that awards this credential to more than twenty percent of the students with disabilities in the cohort, where such credential is not a supplement to a regular high school diploma, shall be required to use a portion of its Part B Individuals with Disabilities Education Act grant funds for targeted activities as deemed necessary by the Department to ensure that students with disabilities have appropriate access to participate and progress in the general education curriculum necessary to earn a regular high school diploma.

[(e)] (c) If the student receiving a credential pursuant to subdivision (a) or (b) of this section is less than 21 years of age, such credential shall be accompanied by a written statement of assurance that the student named as its recipient shall continue to be eligible to attend the public schools of the school district in which the student resides without the payment of tuition until the student has earned a [regular] Regents or local high school diploma or until the end of the school year in which such student turns age 21, whichever shall occur first.

3. Subparagraph (iii) of paragraph (5) of subdivision (a) of section 200.5 of the Regulations of the Commissioner of Education is amended, effective July 3, 2013, as follows:

(iii) Prior to the student's graduation with an individualized education program (IEP) diploma or, beginning with the 2013-14 school year, prior to a student's exit with a skills and achievement commencement credential or a career development and occupational studies commencement credential as set forth in section 100.6 of this Title, such prior written notice must indicate that the student continues to be eligible for a free appropriate public education until the end of the school year in which the student turns age 21 or until the receipt of a [regular] Regents or local high school diploma.

PROPOSED AMENDMENT OF SECTION 100.5, 100.6, and 200.5 OF THE
REGULATIONS OF THE COMMISSIONER OF EDUCATION PURSUANT TO
SECTIONS 101, 207, 208, 305, 4402 and 4403 OF THE EDUCATION LAW,
RELATING TO THE NEW YORK STATE CAREER DEVELOPMENT AND
OCCUPATIONAL STUDIES COMMENCEMENT CREDENTIAL

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Emergency Adoption and Revised Rule Making in the State Register on May 8, 2013, the State Education Department received the following additional substantive comments that were not addressed in the previously published Assessment of Public Comment (NYS Register, May 8, 2013; EDU-52-12-00012-ERP)

1. COMMENT:

Credential will represent student mastery of 21st century skills and workplace preparedness. Both students and businesses will benefit. Students will be able to demonstrate mastery of the Career Development and Occupational Studies (CDOS) skills needed to enter employment, and future employers will be able to use this measure to identify qualified candidates. Linking the credential to nationally recognized work readiness credentials ensures the meaning and merit of the credential. Agree with change in title with associated requirement that the certificate reflect endorsement by the Regents. If districts award credential to more than 20 percent of its students with disabilities, something is not working. There needs to be this type of circuit breaker.

DEPARTMENT RESPONSE:

Comments are supportive; no response is necessary.

2. COMMENT:

There should be more leeway given to schools to offer the credential to more than 20 percent of students with disabilities as their only exiting credential. It is difficult for many students with disabilities to earn a diploma even with the Safety Net. The 20 percent cap will financially hinder districts, especially small rural districts with a limited number of students with disabilities per cohort. A similar 20 percent cap using a cumulative, rolling average of 6 cohort years is recommended. Agree with intention of the 20 percent cap, however, the cap is arbitrary and problematic. Clarify the percentage of Individuals with Disabilities Education Act (IDEA) grant funds that will be reallocated.

DEPARTMENT RESPONSE:

The proposed rule does not set a cap on school districts to award this credential to more than 20 percent of its students with disabilities who are not also exiting with a regular high school diploma when it is appropriate to do so. When a school district provides all its students meaningful access to participate and progress in coursework leading to a diploma, the Department will not find it necessary to redirect a district's use of its IDEA funds. Before taking such action, the Department will conduct a review of the school districts practices, in consideration of other data such as a significant reduction in a school district's drop out rates for students with disabilities. . Most students with disabilities should be able to earn a regular high school diploma and school districts should not 'track' students to only exit with the NYS CDOS Commencement Credential. . The amount of IDEA funds to be redirected would be determined on a district by district basis, but would not exceed 50 percent.

3. COMMENT:

Regulations allow only students with disabilities to pursue occupational paths. The CDOS learning standards are for all students and intended to be integrated into all curriculum. The credential gives the impression that these standards are only for special education students.

DEPARTMENT RESPONSE:

There is nothing in the proposed rule that would preclude a student with a disability from taking Career and Technical Education (CTE) coursework and engaging in work-based learning experiences, including those leading to a specific career path. SED agrees that the CDOS Learning Standards are intended for all students and are to be integrated into the curriculum, including, but not limited to, curriculum specific to career and technical education programs. While not specific to students with disabilities, the CDOS learning standards and associated skills are those necessary for successful transition to post-school employment. The Board of Regents is considering recommendations of the CTE Content Advisory Panel which include increased emphasis on career planning and readiness for all students and multiple pathways to a diploma. The limitation of this credential to only students with disabilities may be revisited after such time as the Regents finalize policy on multiple pathways to a diploma.

4. COMMENT:

Appreciate flexibility provisions for students exiting prior to June 30, 2015, yet providing the credential to students not completing coursework and work-based learning experiences will undermine the value of the credential and destroy credibility with business. Nothing prevents a district from advising a student who has not aged out as

of 6/30/13 to wait until 7/1/13 to receive the credential and thus by virtue of one day, be deemed work-ready. NYSED needs to offer meaningful criteria for this interim option. Principals should not have the final say in awarding the credential. Decisions should be a result of vote by relevant faculty or made by the Committee on Special Education (CSE). Define the term “relevant faculty”.

DEPARTMENT RESPONSE:

The proposed rule provides discretion for the next two years to the school principal to determine if a student has engaged in sufficient learning and work based learning experience that otherwise demonstrate that the student has met the commencement level CDOS learning standards and is ready for entry-level employment. This provision is necessary for students graduating in the next two years who may not have the opportunity to earn the full 216 required hours, but have engaged in relevant instruction and work-based learning transition activities and can demonstrate achievement of the commencement level CDOS learning standards. We believe that school principals will act in accordance with their professional and ethical responsibility to ensure that only students who meet equivalent standards are awarded this credential. This discretion is similar to a principal’s current discretion on transfer credits and credit by examination. Principals will make this recommendation in consultation with staff members who are personally knowledgeable about the student’s skills and achievements (e.g., teacher, work experience coordinator, job coach, etc.), and may include members of the CSE. The Department will provide guidance on the factors to be considered by school principals.

5. COMMENT:

Provide information regarding entry level job opportunities and where they exist.

DEPARTMENT RESPONSE:

CareerZone, a career exploration and management website for youth, provided at no cost to users by the NYS Department of Labor (www.careerzone.ny.gov), includes links to job openings. CareerZone is linked directly to Job Central, a national job database.

6. COMMENT:

Credential is only available to students taking the New York State Alternate Assessment (NYSAA).

DEPARTMENT RESPONSE:

Districts are required to offer this credential to all students with disabilities, excluding those who have taken NYSA. Students taking NYSA exit with the Skills and Achievement Commencement Credential.

7. COMMENT:

For many of these students, their mental health status will not allow them to participate in work-readiness activities.

DEPARTMENT RESPONSE:

We believe most students can participate in instructional and work-based learning experiences when provided with appropriate instruction, supports and services.

8. COMMENT:

Students participating in NYSA should not be excluded from earning this credential. This exclusion creates a glass ceiling that may not allow the student to demonstrate employability and reach their full potential.

DEPARTMENT RESPONSE:

The Skills and Achievement Commencement Credential was specifically designed for students with severe disabilities who take the State's alternate assessment. These students, given the severity of their disability, would not likely be able to demonstrate achievement of the commencement level CDOS standards. All CSEs should ensure that only students with severe disabilities, as such term is defined in regulation, are taking the NYSAA so as not to preclude other students from the opportunity to earn the CDOS Commencement Credential.

9. COMMENT:

A Letter of Agreement should be developed between SED's P-12 Office and the Adult Career and Continuing Education Services Vocational Rehabilitation (ACCES-VR) Office that aligns activities and expectations of the CDOS credential with the Youth Employment Services Models. The Joint Agreement of Transition Services is a starting point for clarification and articulation. Clarify the role of ACCES-VR in partnering with districts and/or funding job coaching and related services.

DEPARTMENT RESPONSE:

ACCES-VR has been very involved in the development of this credential. Consistent with the Joint Agreement on Transition Services, the Office of Special Education and ACCES-VR will continue to work in collaboration with school districts and other State agencies to ensure a coordinated approach to the provision of transition services.

10. COMMENT:

Will creating a resume in an English Language Arts (ELA) class meet the coursework requirement?

DEPARTMENT RESPONSE:

No. Coursework requirements must be met through CTE course(s) completed after grade 8. These include specialized CTE courses or CTE courses that are integrated with academic courses, that are approved by the Department or that are approved by the local boards of education. However, the creation of a resume in ELA is a relevant instructional activity to ensure that a student has met one of the commencement level CDOS learning standards.

11. COMMENT:

Concern that this credential will identify students as having disabilities as it is only available to students with disabilities, which may violate civil rights protections. NYSED should align with Office of Civil Rights (OCR) requirements. Clarification is needed regarding what can be on a transcript. Documenting the credential in the Career Plan is recommended to prevent a student from being identified as a student with a disability on his/her transcript.

DEPARTMENT RESPONSE:

Many states offer certificates and/or diplomas specific to students with disabilities. Each student can decide whether to disclose to potential employers or others that he/she earned this credential. Students with disabilities deserve to be recognized with a credential that has potential to lead to post-school employment opportunities. Limiting this credential to only students with disabilities may be revisited by the Board of Regents in the future.

12. COMMENT:

It is easy for students who struggle academically to see themselves as having completed their education once they receive a “commencement” credential. Receipt of the credential is a disincentive for students to remain in school and continue to pursue a diploma. If students complete CTE coursework and work-based learning requirements in grades 9-12, why would a district continue programming after 12th grade?

DEPARTMENT RESPONSE:

A student may not exit from school with the NYS CDOS Commencement Credential, when it is not a supplement to a regular high school diploma, unless the student has completed at least 12 years of school, excluding Kindergarten. Students earning the credential when it is not a supplement to a regular diploma continue to be eligible for a free appropriate public education (FAPE) and are eligible to return to school until they have attained a regular high school diploma or reached the end of the school year in which they turn 21, whichever comes first. While the credential will signal that the student has met standards that demonstrate readiness for entry-level employment, the credential is not a high school diploma that would provide student access to other post-school activities the student may wish to pursue such as continuing education and the military. Each district should present this credential option to students in such a way as to encourage them to remain in school.

13. COMMENT:

Prior notice of FAPE is insufficient. Students and families are entitled to know the credential's limitations so that they can make appropriate decisions.

DEPARTMENT RESPONSE:

SED will advise districts of necessary actions to ensure parents and students are provided information to understand the differences between a regular diploma and the credential.

14. COMMENT:

Few New York City non-CTE schools offer the required courses and experiences. It is a burden for every district to offer these courses and experiences.

DEPARTMENT RESPONSE:

It is the responsibility for all schools serving students with disabilities ages 15 and older to prepare them for meaningful post-school living, learning and working by providing them with meaningful transition activities, including relevant coursework, instruction, services and activities.