



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

TO: P-12 Education Committee

FROM: John B. King, Jr.

SUBJECT: Proposed Amendment of Sections 100.5, 100.6, 100.9 and 200.5 of the Regulations of the Commissioner of Education Relating to a Skills and Achievement Commencement Credential for Students with Severe Disabilities

DATE: September 2, 2011

AUTHORIZATION(S):

SUMMARY

Issue for Discussion

Should the Board of Regents amend sections 100.5, 100.6, 100.9 and 200.5 of the Regulations of the Commissioner of Education to replace the current individualized education program (IEP) diploma with a Skills and Achievement Commencement Credential for students with severe disabilities who have taken the New York State Alternate Assessment (NYSAA)?

Reason for Consideration

Review of Policy

Proposed Handling

The proposed amendment is before the P-12 Education Committee for discussion at the September 2011 meeting.

Procedural History

In 1984, the Regulations of the Commissioner of Education were amended to authorize school districts to award a high school IEP diploma to a student with a disability. In 1999, the Regulations of the Commissioner of Education were further

amended to provide that the award of the IEP diploma be based on the student's achievement of the educational goals based on the appropriate level of the learning standards as specified in the student's IEP.

Background Information

The proposed policy recommendation to replace the IEP diploma emerged from a series of public discussions conducted by the Regents and the Department beginning in 2008. At their January 2010 meeting, the Board of Regents supported the development of a credential that would document a student's achievement against the Career Development and Occupational Studies (CDOS) Learning Standards and be available to all students as a supplement to the regular high school diploma, and, for some students with disabilities, replace the current IEP diploma. Department staff from P-12's Office of Special Education and Office of Career and Technical Education continued their review of other states' exiting credentials and sought further public comment to draft a proposed policy framework, including comment from representatives from ACCESS-VR.

In consideration of public comment, the Regents supported policy development in two phases:

- Phase I: Replace the IEP diploma with an alternate credential designed specifically for students with severe disabilities who have taken the NYSAA.
- Phase II: Defer development of an optional credential that documents attainment of CDOS standards and acknowledges a student's successful completion of academic and career and technical education programs and coursework for other students until the Regents reach decisions on any changes to the high school graduation requirements.

Proposed Policy

The proposed amendment would, effective beginning with the 2013-14 school year, establish a new credential to replace the current IEP diploma option.

- Only students with disabilities who have been instructed and assessed on the alternate performance level for the State learning standards are eligible for this credential award.
- The credential may be awarded any time after such student has attended school for at least 12 years, excluding kindergarten or received a substantially equivalent education elsewhere; or at the end of the school year in which a student attains the age of 21.
- The credential would not be considered a regular high school diploma in accordance with State standards or for federal accountability purposes.
- The credential must be issued together with a summary of the student's academic achievement and functional performance (i.e., the Student Exit Summary) and must include documentation of the student's level of

- Procedural safeguards are proposed to ensure that parents are properly notified prior to the award of the credential 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.

A Notice of Proposed Rule Making will be published in the State Register on October 5, 2011. Public comment on the proposed amendment will be accepted for 45 days from the date of publication in the State Register. A copy of the proposed amendment is attached. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

Recommendations

It is recommended that the Regents P-12 Education Committee reach consensus on the intent of the proposed amendment prior to taking action at the January 2012 Regents meeting.

Timetable for Implementation

The proposed amendment is before the Committee for discussion in September 2011 and, following the receipt of public comment, will be submitted for action at the January 2012 meeting with a proposed effective date of February 1, 2012.

Attachment

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Subparagraph (iii) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective February 1, 2012, as follows:

(iii) Earning a Regents or local high school diploma shall be deemed to be equivalent to receipt of a high school diploma pursuant to Education Law, section 3202(1) and shall terminate a student's entitlement to a free public education pursuant

to such statute. Earning a high school equivalency diploma [or], an Individualized Education Program diploma or a skills and achievement commencement credential as set forth in section 100.6 of this Part shall not be deemed to be equivalent to receipt of a high school diploma pursuant to Education Law, section 3202(1) and shall not terminate a student's entitlement to a free public education pursuant to such statute.

2. Section 100.6 of the Regulations of the Commissioner of Education is repealed, effective February 1, 2012.

3. A new section 100.6 of the Regulations of the Commissioner of Education is added, effective February 1, 2012, as follows:

§100.6. 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) Prior to awarding the skills and achievement commencement credential, the governing body of the school district or nonpublic school shall ensure that:

(1) the student has been recommended by the committee on special education to take the alternate assessment in lieu of a required State assessment;

(2) such student meets the definition of a student with a severe disability as defined in section 100.1(t)(2)(iv); and

(3) the student has been afforded appropriate opportunities to participate in community experiences and development of employment and other instructional activities to prepare the student for post-secondary living, learning and employment .

(b) The credential may be issued at 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.

(c) The credential shall be similar in form to the diploma issued by the school district or nonpublic school, except that there shall appear on such credential a clear annotation to indicate that the credential is based on achievement of alternate academic achievement standards.

(d) 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) the student's level of achievement and independence for each of 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, universal foundation skills that include basic skills in reading, writing, listening, speaking, math and functional math; thinking skills; personal qualities; interpersonal skills; use of technology; managing information and resources; systems skills;

(2) the student's academic skills, as measured by the State assessment for students with severe disabilities; and

(3) the student's strengths and interests and, as appropriate, other student achievements and accomplishments.

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.

(e) If the student receiving a credential 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 high school diploma or until the end of the school year in which such student turns age 21, whichever shall occur first.

4. A new subdivision (g) is added to section 100.9 of the Regulations of the Commissioner of Education, effective February 1, 2012, as follows:

(g) The provisions of this subdivision shall be deemed repealed on June 30, 2013 and no IEP diploma shall be awarded pursuant to this section on or after July 1, 2013.

5. Subparagraph (iii) of paragraph (5) of subdivision (a) of section 200.5 of the Regulations of the Commissioner of Education is amended, effective February 1, 2012, 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 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 high school diploma.