


TO: P-12 Education Committee  
Adult Career and Continuing Education Services  
Committee (ACCES)



FROM: Ken Slentz  
Kevin G. Smith

SUBJECT: Emergency Adoption of Proposed Amendment of  
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: April 11, 2013

AUTHORIZATION(S):

## SUMMARY

### Issue for Decision

Should the Board of Regents adopt, on an emergency basis, 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 attached proposed am

## 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. The proposed rule cannot be adopted until after publication of a Notice of Revised Rule Making in the State Register and expiration of a 30-day public comment period.

Therefore, in order to ensure that the proposed credential is available to students with disabilities effective July 1, 2013 when the regulation providing for an individualized education program (IEP) diploma sunsets, emergency adoption of the proposed rule is necessary.

A copy of the proposed emergency rule and an Assessment of Public Comment are attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

## Background Information

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student's achievement of the Career Development and Occupational Studies (CDOS) learning standards.

- At the August 2012 meeting, the Regents

Revisions Made to the Proposed Rule

Since publication of the proposed amendment in the State Register on December

- Section 100.6(b)(6) was revised to provide that 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 section 100.6(b)(1)(ii).
- Section 100.6(b)(7) was added to indicate that a school district that awards this credential to more than 20 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 SED, to ensure that

February Regents discussion memorandum (see Attachment 2 of the Regents item posted at <http://www.regents.nysed.gov/meetings/2013Meetings/March2013/313p12d4.pdf>).

## IEP Transition Planning and the Proposed Credential

Career planning and participation in CTE and work-based learning programs are integral components of the transition planning process. NYS regulations require each student with a disability who has an IEP to begin receiving transition programs and services the school year in which that student turns age 15, or younger if appropriate. Transition programs and services, which are designed to incrementally prepare the student with a disability to achieve his or her post-secondary goals, must be recommended by the Committee on Special Education and documented in the student’s IEP. The services, accommodations and supports that will enable the student with a disability to participate in transition instruction and activities, such as CTE courses and work-based learning activities, must also be in the IEP.

The following chart describes the strong connection between the proposed credential and appropriate and effective IEP transition planning and services for students with disabilities.

IEP	Proposed Credential Requirements
Beginning not later than the school year when a student turns age 15, the IEP must include transition goals and services.	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 IEP.

### Transition Needs and Goals:

- A statement of the student’s needs, taking into account the student’s strengths,

IEP	Proposed Credential Requirements
<p>services; community experiences; development of employment and other post-adult living objectives; and as appropriate acquisition of daily living skills and functional vocational evaluation</p>	<p>and/or</p> <ul style="list-style-type: none"> <li>• Work-based learning experiences</li> </ul>

Requirement to Develop an Exit Summary:  
 Before the termination of a student's eligibility due to graduation with a local high school or Regents diploma or exceeding the age eligibility for FAPE, the district must provide the student with:

a summary of the student's

- provide schools the opportunity to emphasize career applications through classroom instruction.

Examples and descriptions of work-based learning experiences, which include registered work-based learning programs (both paid and unpaid) and other work-based learning options, are provided in Attachment 5.

#### Data on Expected Credential Awards: A Comparison of School Districts

In comparing three NYS school districts, the following data and charts displays the percentages of students with disabilities in the 2006 cohort who graduated or dropped out after five years.



***Dis***

Data for Students with Disabilities Only

In this district, approximately 37.9 percent of students with disabilities could exit with the proposed NYS CDOS Commencement Credential as a supplement to a regular high school diploma.

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Data for Students with Disabilities Only



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 April 23, 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:









(3) The credential shall be issued at the same time the student receives his/her

Regents or local high school di



(7)



earliest effective date of the proposed amendment, if adopted at the June meeting, would be July 3, 2013, the date a Notice of Adoption would be published in the State Register. However, school districts must start preparations now, in order to timely implement programs leading to a New York State Career Development and Occupational Studies Commencement Credential for the 2013-2014 school year. Emergency action is therefore necessary for the preservation of the general welfare to immediately establish criteria for the issuance of a New York State Career Development and Occupational Studies Commencement Credential to ensure that programs leading to such Credential are timely implemented for the 2013-2014 school year pursuant to the regulation's requirements, and thereby ensure that students with disabilities have an exiting credential available to them when the IEP diploma sunsets as of June 30, 2013.

It is anticipated that the revised proposed amendment will be presented to the Board of Regents for adoption as a permanent rule at their June 2013 Regents meeting, which is the first scheduled meeting after expiration of the 30-day public comment period mandated by the State Administrative Procedure Act for revised rule makings.

PROPOSED AMENDMENT OF SECTIONS 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 A CAREER DEVELOPMENT AND OCCUPATIONAL STUDIES  
CREDENTIAL FOR STUDENTS WITH DISABILITIES

ASSESSMENT OF PUBLIC COMMENT

Since publication of a Notice of Proposed Rule Making in the State Register on December 26, 2012, the State Education Department (SED) received the following comments on the proposed amendment.

COMMENT:

Certificate will benefit many students with disabilities who were individualized education program (IEP) diploma bound; emphasizes individualized work readiness plan; prepares students for competitive employment; validates importance of career  
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students with disabilities are capable of holding jobs in array of career fields; and enhances students' ability to attain/retain employment. Immersion in hands on work experiences, with classroom reinforcement is best way to prepare students. Proposal



assist the student to meet the State's learning standards. We do not agree that the proposal would impose substantially different requirements on school districts. It is the responsibility of schools to prepare students with disabilities for post-school living, learning and working. Schools are currently required to provide appropriate transition activities for students with disabilities, in accordance with their IEPs, to meet students' post-secondary goals in the areas of education, training, employment and, as appropriate, independent living and to provide exit summary documents for students with disabilities when they leave school. The proposed rule would require documentation of a student's commencement level achievement of Career Development and Occupational Studies (CDOS) learning standards. SED has existing guidance on sample instructional activities as examples of how the CDOS standards can be presented in the classroom. Some activities are short, one-day events that focus on a single topic or concept. Others are multi-day instructional units that lead students through inquiry processes that increase their understanding. While there are specific CDOS standards, there are unlimited ways to teach those standards. There are many students now, including students without disabilities, who take career and technical education courses and engage in work-related activities, who graduate with regular high school diplomas. The proposed minimum instructional requirements require only 216 hours of career preparation, which is equivalent to two units of study, and the proposal allows for significant flexibility in how these hours can be earned to ensure that each student is provided an opportunity to earn a regular diploma. To further ensure, however, that students are provided the opportunity to graduate with a regular high school diploma, the proposed rule has been revised to add that, at the discretion of SED, a district that provides this credential to more than 20 percent of its cohort of students with disabilities, when the credential is not a supplement to a regular





are met when granting this credential to students with disabilities, the credential will have a positive post-school result for students with disabilities.

COMMENT:

Proposal fails to address relationship between certificate requirements (i.e., career planning, course work, work-based learning experiences and employability profile) and transition requirements and IEP development process.

DEPARTMENT RESPONSE:

Both federal and State regulations require that a student's strengths, preferences and interests be considered when developing a student's IEP and recommending transition activities that will prepare the student to meet his/her post-secondary goals. However, to make the direct connection between the IEP development process and the proposed exiting credential, the proposed rule has been revised to add that the student's preferences and interests as identified in the student's career plan must be considered when developing the transition components of the student's IEP.

COMMENT:

Proposal should be called a diploma instead of a certificate. Disservice to

graduates employable. "Certificate" does not create a mechanism for students to access higher education, military, training programs/trade schools or many entry level jobs that require a diploma. Not considering this a diploma penalizes districts as students will be considered non-completers for accountability purposes. Students will need to pursue a General Educational Development (GED) diploma or external degree program at their own cost or cost to vocational rehabilitation (VR) or State.

DEPARTMENT RESPONSE:

While the Board of Regents continues to consider options for multiple pathways to a diploma, this proposed rule was not intended to create a pathway to a diploma. Terms such as "certificate" or "credential" distinguish it from a regular diploma and avoid confusion as s e6 o efitsh itioon /TT6(eat)1nf7( owo)10()1 -2.3 Td ED) diu 0 Tc 0 Td

of “work readiness” have specific meaning in field; recipients must demonstrate achievement and certain level of employability skills that proposal does not have. Consider calling it NY State certificate of work readiness to address mobile society. Avoid confusion with Regents diploma and national certificates by calling it NYS certificate of student employability.

**DEPARTMENT RESPONSE:**

To address the above public concerns, the proposed rule has been revised to change the name to “New York State (NYS) Career Development and Occupational Studies Commencement Credential” and require that the certificate awarded be similar in form to the diploma issued by the school district or nonpublic school, except that it cannot use the term "diploma", but must indicate that the student has earned a NYS Career Development and Occupational Studies Commencement Credential that has been endorsed by the NYS Board of Regents as a certificate of readiness for entry-level employment. The proposed rule has also been revised to add that, in lieu of the minimum requirements for a career plan and the minimum equivalent units of study requirements in CTE courses and/or work-based learning experiences, the credential may be awarded to a student who earns one of the nationally-recognized certificates of work readiness. There are many NYS school districts and Boards of Cooperative Educational Services (BOCES) that provide students with opportunities to earn these national credentials.

**COMMENT:**

The award of this certificate should not be limited to students with disabilities. This is counter to goal of increasing access for students to college and careers; diminishes credibility and devalues certificate; and gives districts incentive to classify students who cannot meet diploma requirements. By making this only for students with





COMMENT:

Proposal requires CDOS coursework and work experiences schools are not prepared to provide. Districts will need to develop curriculum, coursework and work experiences for students not in CTE programs. Districts will need to improve community contacts with employers. BOCES will need to offer CTE programs appropriate for students with disabilities.

DEPARTMENT RESPONSE:

We recognize and acknowledge that the statewide delivery of the CTE learning continuum is uneven; district capacity to offer meaningful CTE experiences is varied; and gaps in opportunity may exist. Increasing the opportunities for earning graduation credits through CTE courses in grades 9 and 10 encourages student engagement and persistence to graduation. Under separate policy making discussions, the Regents are considering a pathway of instruction in CTE and integrated course work. However, while the proposed credential requires achievement of the commencement level CDOS learning standards, it does not require "CDOS coursework". As stated above, instruction toward CDOS learning standards can be incorporated in academic coursework. However, schools will need to ensure that students with disabilities have meaningful access to CTE courses and other work-related experiences. We do not agree that the proposed rule would need to result in CTE programs only for students with disabilities. To provide additional flexibility, the proposed rule has been revised to add the option to award the credential when a student has earned one of the nationally-recognized work readiness credentials in lieu of the other minimum career plan, instruction and employability profile requirements.

COMMENT:

Not enough time in students' schedules to meet certificate requirements while preparing for regular diploma. Students working toward diploma often need extra support (e.g., repeat courses and exams, remedial coursework, etc.), and do not have time to engage in additional units of credit and work experience to meet certificate requirements within four years. Predict dropout rate will increase as students will not stay five years to complete requirements. Directing students into work readiness will limit time spent to meet diploma requirements and dilute instruction. Classes cannot serve dual purpose of preparing students for Regents exams and for functional life skills. Focus on Race to the Top and Common Core Standards leaves no time or funding for CDOS and CTE experiences. Question if districts have flexibility in prioritizing certificate requirements and if students can be given relief from preparing for exams to focus on certificate requirements.

DEPARTMENT RESPONSE:

It is the responsibility of each school district to prepare students with disabilities to graduate with a regular high school diploma and to provide appropriate transition planning and services to students with disabilities. The minimum number of instructional hours (216) necessary to earn this credential was selected in consideration of a student's need to complete other academic coursework. The Board of Regents is considering policy to provide students greater and earlier access to integrated courses and increasing the number of credits students can earn through integrated coursework to meet graduation requirements. Over a four (or more) year period of time (grades 9-12), it is reasonably expected that schools can provide students with work-based learning activities such as job shadowing, community service, volunteering, service learning, senior project(s) and/or school-based enterprise(s).

COMMENT:

Clarify if students are required to take and pass Regents exams and classes to earn the certificate.

DEPARTMENT RESPONSE:

While districts must continue to ensure that each student has been provided appropriate opportunities to earn a high school diploma and meaningful access to participate and progress in the general curriculum and State assessments to graduate with a regular high school diploma, there is no requirement in the proposed rule that conditions receipt of this credential based on whether the student has taken or passed his or her Regents examinations.

COMMENT:

Clarify if work towards certificate counts towards required 22 high school credits. Clarify if students in vocational programs will be awarded “credit” for work-based learning experiences while working towards a Regents diploma. Concerned about who will be responsible for teaching, monitoring and awarding credit for the certificate coursework and what passing means in relation to work experience.

DEPARTMENT RESPONSE:

Award of credit for a particular course is determined by the school principal. CTE courses, either approved by SED or approved by a local board of education, could be used to meet the requirements for the proposed credential. The 22 credits necessary for a high school diploma includes 3.5 credits that may be met through electives.

COMMENT:

Allow students to work toward certificate at their ability level instead of Regents level; develop portfolio demonstrating skills mastered for employment, and list area of





classroom to real world situations. Work-based learning is supported in the school and at the work site. While school-based learning focuses on academic and career and technical preparation as part of the classroom curriculum, work site learning occurs, away

DEPARTMENT RESPONSE:

There are many NYS school districts that have developed meaningful CTE and work-based learning opportunities for students with disabilities. SED will share information regarding actions a district can take, using existing resources, to provide meaningful courses of study and transition activities for students with disabilities.

COMMENT:

Burden of arranging work-based learning experiences outside of school will fall on families. Some students do not have family support to make this happen.

DEPARTMENT RESPONSE:

Schools, not families, are responsible for arranging work-based learning experiences and such experiences would need to be under school supervision.

COMMENT:

Clarify if NY labor laws impact on youth working for no pay. The Department of Labor (DOL) requires worker's compensation insurance for unpaid student interns.

DEPARTMENT RESPONSE:

Consistent with SED guidance, work experiences must be provided consistent with the Fair Labor Standards Act.

COMMENT:

Provide draft/template of certificate and employability profile. Provide more concrete information as to what should be included in career plan and employability profile. Clarify standards for high quality career plans.

DEPARTMENT RESPONSE:

The proposed rule provides that school districts must provide students with a career plan form using either a model form developed by SED or a locally-developed form and that school districts may use a model form developed by the commissioner to





Reinforce engaging students and families in process. Clarify active role parent should have in developing and reviewing career plan and employability profile.

DEPARTMENT RESPONSE:

We agree that students need to actively participate in selection of goals and activities to prepare them for work readiness. That is why award of this credential requires a student to develop a career plan. To address this comment, the proposed rule has been revised to ensure that a student's career plan is considered in the development of IEP recommendations for transition goals and activities. For all IEP meetings when transition goals and services will be discussed, both the parent and the student must be invited.

COMMENT:

Burden of collection of paperwork will fall on staff. Clarify who is responsible for documentation and if this is expected to be guidance counselors. Special education and general education teachers do not have training in career planning. Clarify who is responsible for calculating the number of required hours for students with disabilities.



COMMENT:

Concerned about local and State employers accep



DEPARTMENT RESPONSE:

SED will consider the above comments in developing guidance on the proposed credential.

COMMENT:

Concerned how districts will implement substantive requirements by September. July 1, 2013 start does not allow for development and dissemination of assessment tools and uniform standards and marketing to employers, and does not give districts enough time or information to budget or thoughtfully plan. Essential to have something in place for students previously working toward IEP diploma, but it will be difficult to make this effective as of July as districts. Districts are conducting annual reviews for next year and cannot establish programs or effectively adjust programs to address new certificate requirements by July and IEPs will need to be redone. Have this take effect 7/1/2014; implement with cohort entering grade 9 in 2013-2014; give year lead time; align timeline with overall reform of graduation requirements so students have meaningful choice of all graduation options available; and phase this in over time to give SED time to provide resources, and districts and students the time to prepare. Based on exceptions for 2014 and 2015, clarify if districts have two years to implement.

DEPARTMENT RESPONSE:

The proposed credential would be available to all students with disabilities exiting high school on or after July 1, 2013. For students with disabilities who exit from high school prior to July 1, 2015, the proposed rule allows a district or nonpublic school to award the credential to a student who has not met all of the 216 hours of instructional requirements (CTE and/or work-based learning experiences), 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

CDOS learning standards. We believe that this provides sufficient standards and flexibility for the phase in of this credential for those students who will not have had the opportunity to complete the minimum instructional requirements. However, even with such students, we would expect districts to be providing such CTE courses/work-based

credential, but the district has failed or refused to award the student with the credential, the student must resolve this with the local board of education.

COMMENT:

Concerned districts will be responsible for providing student specific coursework and experiences in his/her career choice and districts will be held accountable if students do not succeed.

DEPARTMENT RESPONSE:

The proposed rule indicates that nothing requires the school to provide the student with specific activities as identified in his/her career plan. However, they must consider the student's preferences and interests as identified on his/her career plan, in the development of the student's IEP relating to post-secondary goals, transition needs and activities.

COMMENT:

Clarify if certificate is stand alone or supplement to regular diploma. If student is

COMMENT:

Clarify how students who receive this certificate will be reported on school report cards and if they will be included with alternate assessment students who receive a Skills and Achievement Commencement Credential





necessary by SED 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.

COMMENT:

Allowing principals to issue certificates to students who have not completed coursework and experiences prior to July 1, 2015 jeopardizes credibility of credential. Need standards and guidelines for principals to use to ensure consistency and objectivity.

DEPARTMENT RESPONSE:

We believe that school principals, after consultation with relevant faculty, will be able to determine whether the student has otherwise demonstrated knowledge and skills relating to the commencement level CDOS in the three areas of the learning standards. While these students may not have completed the minimum equivalent of two units of study in CTE and work-based learning experiences, the principal must have other documentation that provides assurance that the student is demonstrating the essential knowledge and skills for entry level employment. The district may wish to convene a team of educators at the building level who can review student information and make recommendations to the school principal. Part 100 of the Commissioner's





students are on a certificate track and have not have taken prerequisite courses such that continuation in school would not lead to a diploma.

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. To further ensure that school districts are providing all students with disabilities appropriate access to coursework to earn a regular diploma, the proposed rule has been revised to provide discretion to SED to redirect the district's use of its IDEA discretionary funds.

COMMENT:

Educating students until 21 is problematic due to cost and students become disengaged by age 18. It is unfair to make students attend until age 21. Concerned how districts will provide additional years with no additional State aid. Responsibility should end when student earns certificate or has attained full time employment. Students with disabilities should be able to continue with their education until they are on par with their nondisabled peers.

DEPARTMENT RESPONSE:

Nothing in the proposed rule would require a student to remain in school until age 21. However, consistent with federal and State law and regulations, FAPE must be made available to students with disabilities until the end of the school year in which the student turns 21 or receives a regular diploma, whichever occurs first. Therefore, students with disabilities are entitled, but not required, to stay in school until age 21.

COMMENT:

Address independent living skills in all special education programs to help students be more independent. Schools should be more involved in helping families to

access adult service agencies. Create incentives for districts to work with over age students and removing penalties for districts with strong five and six graduation rates. Specific planning for 5-6 years would allow more students to complete requirements for diploma. Compensatory option does not help students with disabilities in reading and math; will increase referrals to special education so students can take advantage of safety net; and complexity will result in increased impartial hearings. Lowering safety net for exams devalues diploma.

**DEPARTMENT RESPONSE:**

These comments are beyond the scope of the proposed rulemaking.

Career Development and Occupational Studies (CDOS) Learning  
Standards<sup>3</sup>

Work -Based Learning Options <sup>4</sup>1. Registered work-based learning programs (paid and unpaid):

- *Career Exploration Internship Program* (a school-business partnership initiative that provides high school students, age 14 and above, the opportunity to obtain nonpaid, on-site, career exploration experiences)
- *Cooperative Career & Technical Education Work Experience Program (CO-OP)* (a work-based learning program for students age 16 and above, consisting of 150 to 600 hours of paid, school-supervised work experience, supported by related in-school instruction in a specific career and technical discipline)
- *General Education Work Experience Program* (a work-based learning program for students age 16 and above, consisting of 150 to 600 hours of paid, school-supervised work experience, supported by related in-school instruction in a specific career & technical discipline)
- *Career and Technical Education (CTE) Cooperative Work Experience Program* (a work-based learning option for non-CTE students, age 16 and above. The program consists of 150-600 hours of paid, supervised work experience, supported by the equivalent of at least one classroom period per week of related instruction)
- *Work Experience & Career Exploration Program* (a work-based learning initiative sponsored by the U.S. Department of Labor and the New York State Education Department. It is similar in design and operation as the General Education Work Experience Program, but designed specifically for at-risk students age 14-15)

2. Other work-based learning options:

- Job Shadowing
- Service Learning
- Senior Projects
- School-Based Enterprise
- Career Fair
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## OTHER STATES

Following is a summary of information on diploma options and graduation requirements for students with disabilities as reported in 2012 by the National Center on Educational Outcomes in their publication titled "Diploma Options, Graduation Requirements, and Exit Exams for Youth with Disabilities: 2011 National Study". Information obtained from the 50 states and the District of Columbia indicates there is a wide range of exiting options for students with disabilities.

- Three states (Alabama, Florida, and Mississippi) offer vocational or occupational diplomas for students with disabilities. Additionally, North Carolina offers an occupational course of study that prepares a student