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Board of Regents Expands Safety Net Option for Students with Disabilities to Earn Local Diploma

The Board of Regents today adopted regulations to expand the criteria under which students with disabilities may be eligible to graduate high school with a local diploma. The amendments to the “superintendent determination” option will be in effect for students seeking to graduate in January 2018 and thereafter.

"We know that our students with special needs students can and will meet the State's rigorous learning standards, and we're increasing the avenues by which they can demonstrate their proficiency in these standards," said Board of Regents Chancellor Betty A. Rosa. "As policy makers, it's our job to give all students the opportunity to demonstrate their ability to meet the State's graduation requirements. The rules we adopted today will enable many students with disabilities to graduate high school with a meaningful diploma."

"We must continue to have high expectations for all students," said State Education Commissioner MaryEllen Elia. "The rules adopted today by the Board of Regents maintain the rigor of our graduation requirements, while providing a new mechanism for students with disabilities to demonstrate they've met the State's graduation standards."

Some students with disabilities are unable to demonstrate proficiency on standard State assessments, even with testing accommodations. State regulations therefore provide several “safety net” options for these students to graduate with a local diploma, including the superintendent determination option.

To be eligible for the superintendent determination option, a student with a disability must meet certain conditions that are defined in State regulations. Prior to the adoption of today's amendments, the regulations required students to earn a minimum score of 55 on both the English language arts (ELA) and mathematics Regents examinations (or successfully appeal a score between 52 and 54) to be considered for a superintendent determination.

The amended regulations now permit students who have passed their ELA and mathematics Regents-level courses, but are unable to earn a minimum score of 55 on the ELA and mathematics Regents examinations (or successfully appeal a score between 52 and 54) to seek a superintendent determination by completing the requirements of the NYS Career Development and Occupational Studies (CDOS) Commencement Credential.

For students with disabilities who use the CDOS Commencement Credential to meet this eligibility condition, the superintendent must conduct a review to determine whether the student has otherwise demonstrated proficiency in the knowledge, skills and abilities in ELA and mathematics, as well as any other subject areas in which the student was not able to demonstrate his or her proficiency of the State's learning standards as measured by the corresponding Regents examination required for graduation.

Some students may not have had the opportunity to work toward earning the CDOS Commencement Credential and would be unable to use the credential to meet this eligibility condition for the superintendent determination option. Therefore, the new rule provides discretion to school principals, in consultation with relevant faculty, to award a CDOS Commencement Credential to certain students with disabilities who are otherwise eligible to graduate in either the 2017-2018 or 2018-2019 school year, if such students have otherwise demonstrated the knowledge and skills related to the CDOS learning standards sufficient for entry-level employment.

The principal must have evidence that the student has successfully completed relevant instructional and work-based learning activities during the student's secondary school years that demonstrates the student has readiness skills for entry-level employment. Students who are awarded the CDOS Commencement Credential for purposes of eligibility for the superintendent determination option may not use such credential to meet the requirements for the career development and occupational studies graduation pathway to a local or Regents diploma.

The Board adopted the regulation change as an emergency measure at the December meeting of the Board of Regents and it is effective on Dec. 12. A Notice of Proposed Rule Making will be published in the State Register on Dec. 27. Public comments on the proposed changes will be accepted through Feb. 12, 2018 and can be submitted by email to REGCOMMENTS@nysed.gov.

Following the 45-day public comment period required under the State Administrative Procedure Act, it is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the March 2018 meeting. If adopted during the March 2018 meeting, the proposed amendment will be effective as a permanent rule on March 28, 2018.

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