
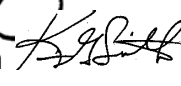





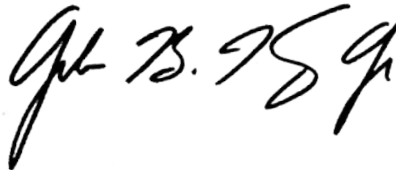
THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**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 amendment will be presented at a joint meeting of the P-12 Education Committee and ACCES Committee for recommendation and to the Full Board for adoption as an emergency action at the April Regents meeting. A statement of the facts and circumstances which necessitate emergency action is attached.

## **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**

Over the past two years, the Regents have taken several actions to provide students with disabilities opportunities to exit high school with diplomas and other meaningful credentials that represent high standards based on the State's learning standards:

- Recognizing that the standards for a regular high school diploma in this State must be rigorous and represent readiness for employment or postsecondary education, the Board determined that the use of the Regents Competency Tests (RCT) option for a student with a disability to graduate with a local diploma would no longer be available beginning with the entering cohort of September 2011.
- In October 2012, the Regents adopted new regulations to add a compensatory option whereby a student with a disability could graduate with a local diploma. This option is in addition to the safety net option that allows a student with a disability to graduate with a local diploma if he/she earns a 55-64 score on one or more of the required Regents examinations.
- In January 2012, the Regulations of the Commissioner were amended to repeal the IEP diploma and, effective July 1, 2013, to establish a Skills and Achievement Commencement Credential for students with severe disabilities who are eligible to take the New York State Alternate Assessment (NYSAA). This credential is not a regular high school diploma but rather a certificate of a

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

- At the August 2012 meeting, the Regents discussed the need for development of an additional graduation certificate, as a replacement to the IEP diploma, for other students with disabilities who, because of their disability, are unable to earn a regular diploma.
- At the December 2012 Regents meeting, proposed regulations were discussed to establish a nondiploma credential signifying entry-level work readiness that could be earned by students with disabilities, other than those with severe disabilities, and awarded upon graduation.
- At the March 2013 Regents meeting, a summary of public comment and draft revised regulations on the above proposed credential were discussed.

### **Guiding Principles**

The revised proposed amendment was developed consistent with the guiding principles established by the Regents.

- (1) In addition to academic preparation, students need to be able to demonstrate knowledge and skills relating to career development, integrated learning and universal foundation skills essential for success in the workplace (CDOS learning standards).
- (2) Students need to be actively engaged in career planning and preparation and their participation in career awareness, exploration and preparation activities should be valued, encouraged and recognized.
- (3) Students should participate in meaningful career development opportunities that are developmentally and individually appropriate, in consideration of the students' strengths, preferences and interests and that provide real world work experiences.

Under the proposed amendment, a credential denoting entry-level work readiness could be awarded to a student with a disability as a supplement to a regular high school diploma or, for a student with a disability who is unable to earn a regular diploma because of his/her disability, as the student's exiting credential.

The credential would not be considered a regular high school diploma in accordance with State standards or for federal accountability purposes and a student with a disability who exited school with this credential would continue to be eligible for a free appropriate public education (FAPE) until the end of the school year in which the student turns age 21 or until the receipt of a regular high school diploma, whichever shall occur first.

## Revisions Made to the Proposed Rule

Since publication of the proposed amendment in the State Register on December 26, 2012, the following revisions have been made to address public comment:

- Sections 100.5(b)(7)(i)(g), 100.6(b), 100.6(b)(1), 100.6(b)(5) and 200.5(a)(5)(iii) were revised to replace the proposed name of the credential, “Regents certificate of work readiness” with “New York State Career Development and Occupational Studies Commencement Credential.”
- Section 100.6(b)(1)(i) was revised to add that, as appropriate, a school must assist a student to develop his/her career plan and that the students’ preferences and interests as identified in his/her career plan must be reviewed annually and considered in the development of the student’s IEP.
- Section 100.6(b)(1)(ii) was revised to add that the student must demonstrate his/her knowledge and skills relating to the CDOS learning standards at the commencement level; to replace the term “secondary level” with “in grades 9-12” and to define, for purposes of this subdivision, career and technical education (CTE) courses to mean a grade 9 to12 course or courses in career and technical education that consists of specialized and integrated courses that are approved by the local board of education or by the State Education Department (SED); and to add to the definition of work-based learning experiences, that they must be provided consistent with Department guidelines and under the supervision of the district.
- Section 100.6(b)(1)(iii) was revised to add that *at least one* work skills employability profile for the student must be completed and that the employability profile must, as appropriate, also document 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.
- Section 100.6(b)(2) was revised to add that a board of education or trustees of the school district, or the governing body of the nonpublic school, may, in lieu of the career plan, instruction and employability profile completion requirements, award the credential to a student who has met the requirements for a nationally-recognized work-readiness credential.
- Section 100.6(b)(4) was revised to add that the certificate must indicate that it has been endorsed by the New York State (NYS) Board of Regents as a certificate of readiness for entry level employment.
- Section 100.6(b)(5) was revised to provide that, for students with disabilities who exit from high school prior to July 1, 2015, the district or nonpublic school may award the credential to a student who has not met all of the requirements in section 100.6(b)(1)(ii), 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.

- 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 students with disabilities have appropriate access to participate and progress in the general education curriculum necessary to earn a regular high school diploma.

**Summary of the Revised Proposed Rule:**

Consistent with the guiding principles supported by the Board of Regents, the revised proposed amendment conditions award of the credential on documentation that:

- (1) the student has developed, annually reviewed and as appropriate revised a career plan, which is a student-developed plan that documents his/her self-identified career interests, career-related strengths and needs; career goals and coursework and work-based learning experiences the student plans to engage in to achieve those goals; and
- (2) the student has demonstrated knowledge and skills at the commencement level of the CDOS learning standards and successful completion at the secondary level of not less than the equivalent of two units of study<sup>1</sup> in career-related courses and/or work-based learning experiences. Hours of work-based learning experiences may, but would not be required to, be completed in conjunction with career and technical courses; and
- (3) at least one employability profile has been completed which documents the student's attainment of the commencement level of the CDOS learning standards, including career development, integrated learning and universal foundation skills, and work-related skills and experiences.

**OR**

- (4) In lieu of the above requirements, a district could award the credential to a student with a disability who has met the requirements for one of the nationally-recognized work-readiness credentials, 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. Information on each of these national credentials was provided in the

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<sup>1</sup> One unit of study is equivalent to 108 hours.

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.
<p><b>Transition Needs and Goals:</b></p> <ul style="list-style-type: none"> <li>• A statement of the student’s needs, taking into account the student’s strengths, preferences and interests as they relate to transition from school to post-school activities.</li> <li>• Appropriate measurable post-secondary goals and measurable annual goals relating to training, education, employment and, where appropriate, independent living skills.</li> </ul>	<p><b>Career Plan:</b></p> <ul style="list-style-type: none"> <li>• Ensures the student is actively engaged in career exploration.</li> <li>• Includes a statement of the student’s self-identified career interests; career-related strengths and needs; career goals; and CTE coursework and work-based learning experiences that the student plans to engage in to achieve those goals.</li> </ul>
The IEP must include a statement of a student’s <b>course of study</b> to address transition needs.	<p>Student demonstrates commencement level knowledge and skills relating to the <b>CDOS learning standards:</b></p> <ul style="list-style-type: none"> <li>• career development</li> <li>• integrated learning</li> <li>• universal foundation skills</li> <li>• CTE majors (optional)</li> </ul> <p>Student may complete <b>CTE courses</b> toward the minimum instructional hours required for the credential.</p>
<b>Needed activities</b> to facilitate the student’s movement from school to post-school activities, including instruction; related	<p>Student has successfully completed not less than the equivalent of two units of study in:</p> <ul style="list-style-type: none"> <li>• <b>CTE courses</b> (SED or locally approved);</li> </ul>

IEP	Proposed Credential Requirements
services; community experiences; development of employment and other post-adult living objectives; and as appropriate acquisition of daily living skills and functional vocational evaluation	and/or <ul style="list-style-type: none"> <li>• <b>Work-based learning experiences</b></li> </ul>
<p><b>Requirement to Develop an Exit Summary:</b>  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:</p> <ul style="list-style-type: none"> <li>• a summary of the student's academic achievement and functional performance, and</li> <li>• recommendations on how to assist the student in meeting his or her post-secondary goals.</li> </ul>	<p><b>Employability Profile(s):</b>  Within one year prior to a student's exit from high school, at least one work skills employability profile for the student that documents:</p> <ul style="list-style-type: none"> <li>• student's employability skills and experiences,</li> <li>• attainment of each of the commencement level CDOS learning standards, and</li> <li>• attainment of technical knowledge and work-related skills, work experiences, performance on industry-based assessments and other work-related and academic achievements.</li> </ul>

## Instructional Requirements

### I. CDOS Learning Standards:

The CDOS Learning Standards<sup>2</sup> provide a progression of learning standards from career exploration, applied academics, soft skill development and technical skill development. SED has a [Resource Guide with Core Curriculum](#) that further develops the core content for each learning standard and career major. The document is also rich with teacher-developed classroom activities that help students achieve the CDOS learning standards. Attachment 5 describes the commencement level CDOS learning standards.

### II. Work-Based Learning:

Work-based learning should be an integral aspect of a student with a disability's educational experience to prepare him/her for the school-to-career transition. Many students complete school with inadequate academic skills and few real-world workplace skills, thus limiting their understanding of how they fit into the adult work world. Secondary level work-based learning experiences:

- help prepare students for college and careers;
- add relevance to the curriculum by showing how classroom learning is applied to real work situations;
- expose students to various career options;
- address students' diverse learning styles;
- provide the opportunity for employers to reinforce academic skills; and

<sup>2</sup> <http://www.p12.nysed.gov/cte/cdlearn/>

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

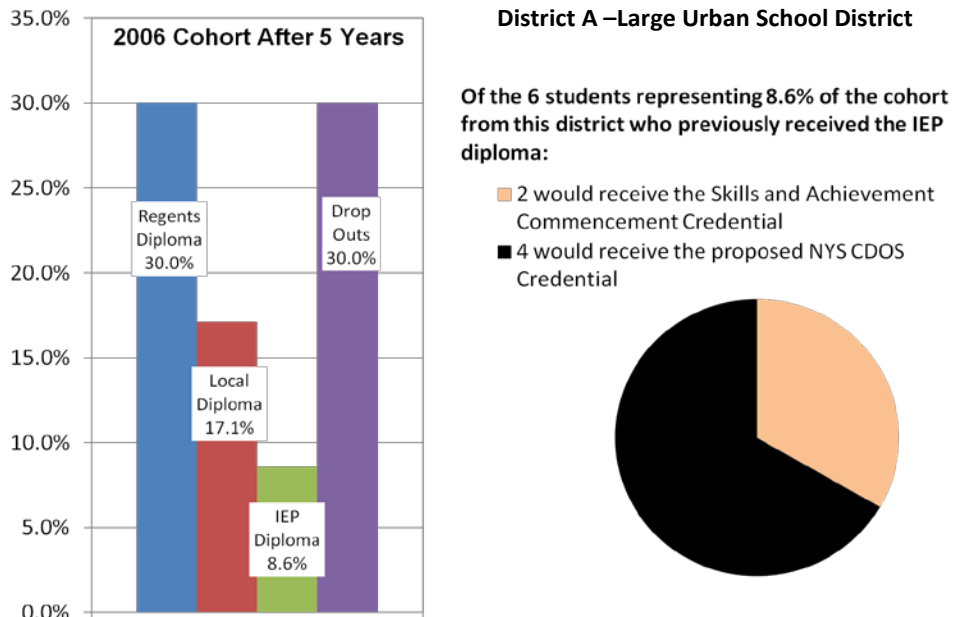
Examples and descriptions of work-based learning experiences, which include registered work-based learning programs (both paid and unpaid) and other work-based learning options, are provided in Attachment 5.

**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. Also depicted is a projection of the percentages of such students who previously earned an IEP diploma that would be expected to graduate with the new Skills and Achievement Commencement Credential and the new proposed credential. The projections do not, however, reflect the expected decrease in the drop-out rate that is anticipated when districts engage students in appropriate and relevant career and work-based learning experiences.

***District A: Large Urban School District***

Data for Students with Disabilities Only

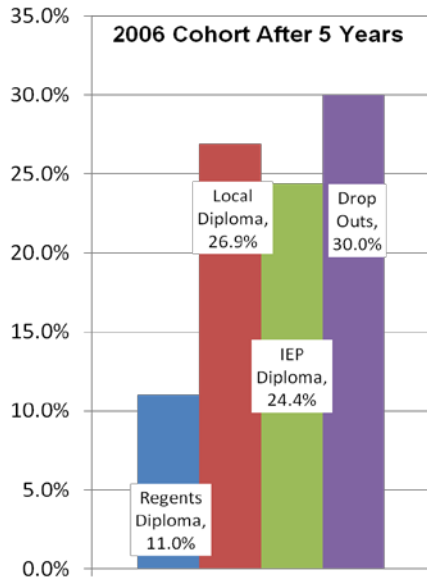


In this district, approximately 47.1 percent of students with disabilities could exit with the proposed NYS CDOS Commencement Credential as a supplement to a regular high school diploma.



**District B: Big City District**

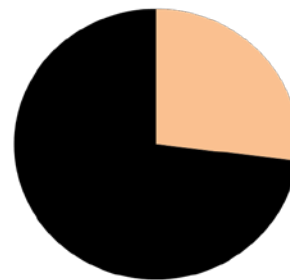
Data for Students with Disabilities Only



**District B - Big City School District**

Of the 78 students representing 24.4% of the cohort from this district who previously received the IEP diploma:

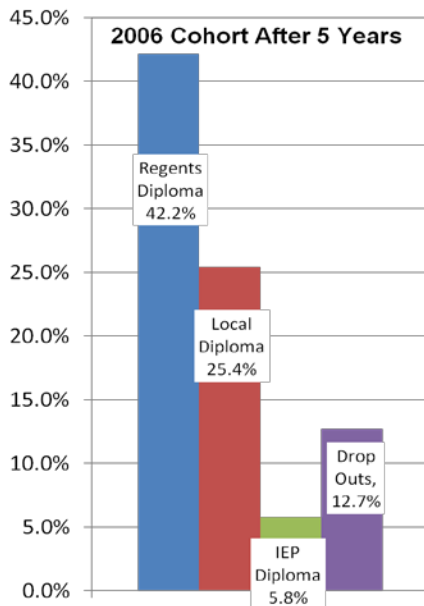
- 21 would receive the Skills and Achievement Commencement Credential
- 57 would receive the proposed NYS CDOS Credential



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.

**District C: Average Need District**

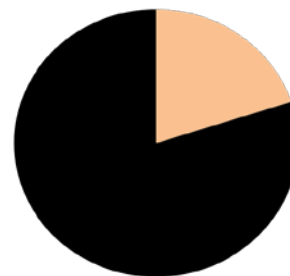
Data for Students with Disabilities Only



**District C – Average Need School District**

Of the 10 students representing 5.8% of the cohort from this district who previously received the IEP diploma:

- 2 would receive the Skills and Achievement Commencement Credential
- 8 would receive the proposed NYS CDOS Credential



In this district, approximately 77.6 percent of students with disabilities could exit with the proposed NYS CDOS Commencement Credential as a supplement to a regular high school diploma.

### **Benchmarking with Other States**

The practice of offering a certificate and/or diploma that is specific to students with disabilities is consistent with practices of other states. Information on their graduation certificates and other work-readiness options from other states is summarized in Attachment 6.

### **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 April 23, 2013, as an emergency action upon a finding by the Board of Regents that such action is 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.

### **Timetable for Implementation**

If adopted at the April Regents meeting, the emergency rule will take effect for ninety days beginning on April 23, 2013. It is anticipated that the revised proposed amendment will be presented for adoption as a permanent rule at the June Regents meeting, after publication of a Notice of Revised Rule Making in the State Register and expiration of a 30-day public comment period.

To support successful implementation, the P-12 and ACCES-VR offices will convene a series of meetings with the BOCES superintendents and each of the Big 5 school districts.

Monitoring of district implementation will be incorporated in the Department's monitoring of transition planning.

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:

(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 April 23, 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 April 23, 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 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

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

The proposed amendment authorizes school districts and nonpublic schools, beginning July 1, 2013 and thereafter, to award a student with a disability, upon graduation from high school, with a New York State Career Development and Occupational Studies Commencement Credential that recognizes the student's achievement of career development and occupational studies learning standards at the commencement level. The regulations repealing a school's authority to award an individualized education program (IEP) diploma goes into effect on June 30, 2013. Emergency action is therefore necessary for the preservation of the general welfare to ensure that students with disabilities exiting high school in the 2013-14 school year have an alternate graduation credential available to them.

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 A Notice of Revised Rule Making will be published in the State Register for a 30-day public comment period.

Because the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be presented for regular adoption is the June 17-18, 2013 Regents meeting. Furthermore, pursuant to the State Administrative Procedure Act (SAPA), the

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 planning, work readiness activities and transition. Certificate is powerful document and is worthy credential for students who worked to the best of their abilities. Recognizes students are unique individuals and that some are unable to pass exams; provides achievable option, fostering more positive self esteem; ensures segment of school community is not disenfranchised; addresses gap in current graduation options; focuses on what students need most; provides opportunity for career exploration, soft skills training and work experience; specifies skills in more meaningful ways than IEP diploma; builds on transition in meaningful way; will provide meaningful educational options for students; gives students something to strive towards and will keep them in school; strengthens linkages to entry level employment; will help students become knowledgeable about themselves and requirements of work world; reinforces that

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 manageable for districts; provides minimum requirements while permitting expansion of coursework and work experiences; allows flexibility in delivery of required activities; and provides framework to identify appropriate work experiences. Support certificate being additional extension to a regular diploma.

DEPARTMENT RESPONSE:

Comments are supportive and no response is necessary.

COMMENT:

SED's approach to credential/diploma policies is fragmented, reactive and disorganized; focus on developing comprehensive diploma framework. Develop diploma options and multiple pathways to diploma for all students and alternate forms of assessment for student unable to demonstrate knowledge on standard tests. Create rigorous curriculum for grey area students that allows them to achieve a diploma but with different emphasis than Regents diploma. Bring back vocational track diploma or reinstate local diploma for all students. Regents Competency Tests were best option for students as it showed basic abilities in five subjects.

DEPARTMENT RESPONSE:

We do not agree that SED's approach to graduation policies is fragmented. Over the past two years, the Regents have concurrently discussed graduation policy and multiple pathways in consideration of students with disabilities. The standards for a regular high school diploma in this State must be rigorous and represent readiness for employment or postsecondary education. There will be students who, because of their

disabilities, cannot reach those standards and earn a local or Regents diploma, regardless of the other diploma pathways that may be endorsed by the Regents.

COMMENT:

The elimination of the IEP diploma before both phrases are operational leads to unacceptable consequences. Not an improvement over IEP diploma and is essentially “IEP diploma 2.” It is confusing to have one option for New York State Alternate Assessment (NYSAA) students and another for other students with disabilities.

DEPARTMENT RESPONSE:

The IEP diploma will no longer be available to students with disabilities effective July 1, 2013. The Skills and Achievement Commencement Credential for students with severe disabilities and the proposed certificate will both be available beginning July 1, 2013. Therefore, all students will have the opportunity to earn a graduation credential in accordance with his/her abilities. Because of the range of abilities of students with disabilities, public comment strongly supported the development of two distinct credentials.

COMMENT:

Students will be tracked into certificate versus diploma path. Proposal gives educators “out” for not doing work they should to prepare students to graduate with a regular diploma. Certificate establishes significantly more substantial requirements and is additional burden for districts during period of diminished fiscal and human resources and districts trying to meet demands of public education.

DEPARTMENT RESPONSE:

The proposed rule requires that students be 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. 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

diploma, may be required to use a portion of its federal Individuals with Disabilities Education Act (IDEA) funds to ensure they are providing such students with access to participate and progress in coursework leading to a regular diploma.

COMMENT:

No evidence that credential provides value for employability in or outside New York. Because certificate will only be available to students with disabilities, concerned employers will see it as inferior and there will be no change in employment rates. It is premature to move forward with certificate until questions are addressed and there is adequate research to determine the value of a credential available only to students with disabilities and until outcomes of students exiting with just credential is assessed.

DEPARTMENT RESPONSE:

We do not agree that the credential will not have potential value for students. A student who earns this credential has worked to demonstrate he/she has met the commencement level learning standards for career development and occupational studies. He/she will have taken an active role in developing a Career Plan, which is an important mechanism to add relevance and meaning to learning experiences across subject areas. He/should will have successfully completed courses and/or work-based learning activities to learn to apply academic knowledge and skills in the workplace and other settings. For some students, they will choose a career major that will acquire the career-specific technical knowledge/skills necessary to progress toward gainful employment, career advancement, and success in postsecondary programs. Employers from across the State have indicated to SED that these are the knowledge and skills that they look for in determining whether to offer an individual an employment opportunity. We believe that, to the extent that school districts ensure such standards



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 prohibit students unable to pass exams from earning a diploma. Proposal acknowledges there are students who are unable to meet Regents requirements, but does not provide an alternative diploma. In lieu of the proposed certificate, alternative pathways to a diploma, not based on high-stakes tests, should be developed. Vocational skills need to be recognized with diploma; certificate will not help students in future. "Diploma" holds meaning; recognizes completion of students' educational program; signifies readiness to join workforce; is basic level of achievement required for most competitive employment; and is recognized by other states. Students are more likely to stay in school for a diploma. Concerned employers will not consider these

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 associated with term "diploma." All students with disabilities must be provided opportunities and appropriate supports and services to earn a regular high school diploma. The credential is intended to document student attainment of the CDOS learning standards and preparation for entry level employment, and may be earned by students with disabilities as a supplement to a high school diploma or as a high school exiting credential for those students with disabilities, who because of their disability are unable to earn a high school diploma. Although the proposed credential will not be considered a diploma for purposes of admission to the military or for certain jobs, many entry level positions do not require a high school diploma.

**COMMENT:**

Use of "Regents" in title of the certificate is misleading; most associate "Regents" with Regents diploma/exams, not the State's policy-making Board of Regents, and it may mislead students and parents to believe the certificate is equivalent to Regents diploma, similar to the confusion the term IEP diploma caused. Title does not meaningfully identify competencies achieved or demonstration of specific skills. National certificates

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

disabilities, Regents uphold segregation and stigma associated with IEP diploma. Certificate will automatically identify a student as having a disability and takes disclosure to employers out of students' hands, with no protection from discrimination. Certificate is discriminatory, prejudicial and stigmatizing, and violates Family Educational Rights and Privacy Act, the Americans with Disabilities Act and NYS Human Rights Law, and Health Insurance Portability and Accountability Act. Documenting certificate on student's transcript is possible violation of student's rights.

**DEPARTMENT RESPONSE:**

There are many states that offer a certificate and/or diploma specific to students with disabilities. We believe that all students with disabilities who remain in school for at least 12 years, excluding Kindergarten, and who work to their best ability to reach the State's learning standards and deserve to be recognized at graduation with a credential that has the potential to lead to post-school learning or work opportunities. Each student can decide whether to disclose to potential employers or others that he or she has earned this credential.

**COMMENT:**

All diplomas and certificates should be available to all students. Unfair to require students with disabilities to have certificate to prove they have work-readiness skills but not to have the same option for nondisabled students. Work readiness skills are essential for everyone entering 21<sup>st</sup> Century work force and all students going from high school to employment could benefit. Districts will develop "special education responses" to meet new requirements instead of whole school opportunities aligned with shifts in common core. Establishing program for all students would be easier to "sell" to school boards and administrators, implement instructionally, and market to

employers. Do not need another separate pathway to confound general education's confidence that it can provide an education to all students.

DEPARTMENT RESPONSE:

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.

COMMENT:

Clarify how students will earn 216 hours and if this is in addition to regular hours of instruction. Clarify required coursework; if it can be integrated into general education curriculum (e.g., resume writing in English class); and if classes in technology, computers, home and careers count as career instruction.

DEPARTMENT RESPONSE:

Instruction to meet the CDOS learning standards can be taught in the student's academic classes. While there are specific CDOS standards, there are unlimited ways to teach those standards. Teaching of CDOS standards should, for all students, begin at the elementary school level. However to earn this credential a student must have successfully completed in grades 9-12, a minimum of 216 hours of CTE courses and/or work-based learning activities. Fifty-four (54) of the 216 hours must include 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). The home and careers course is typically completed in middle school and would therefore not meet the minimum equivalent units of study requirement.

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



expertise on the certificate. Consider programming for students who receive certificate for whom Regents exams are not appropriate and how this impacts participation rate.

**DEPARTMENT RESPONSE:**

All students with disabilities should be provided with appropriate learning activities and special education supports and services to ensure their meaningful participation and progress in the general education curriculum to reach the State's learning standards. While those supports and services will vary based on individual student needs, data shows that provided the appropriate instruction and supports and services, most students with disabilities can graduate with a regular high school diploma. Therefore, we do not promote any policy that would lower expectations for students with disabilities.

**COMMENT:**

Clarify in §100.6(b)(1)(ii) if work-based learning includes part-time employment secured by student (e.g., farm work, retail, etc. ). Students in rural districts have restrictive opportunities for work experiences. May not be possible for students to obtain required work experiences within local communities. Students will have to travel large distances to obtain these. Clarify if hours can be in school or if they must be community and if they can be part of school-sponsored after school program.

**DEPARTMENT RESPONSE:**

Work-based learning is the “umbrella” term used to identify activities which collaboratively engage employers and schools in providing structured learning experiences for students. These experiences focus on assisting students develop broad, transferable skills for postsecondary education and the workplace. A quality work-based learning program can make school-based learning more relevant by providing students with the opportunity to apply knowledge and skills learned in the

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 from school, in a business or community organization. The minimum 54 hours of work-based learning experiences, which could be provided during or after the school day, in the school or in the community, must be provided under the supervision of the school and therefore, would not otherwise include part-time employment secured by a student.

COMMENT:

Concerned about funding that will be available to ensure adequate staff to create and run programs and how districts will provide work learning experiences with no additional funding. Providing placements, on-site supervision, job coaching and transportation to work sites will be additional burden for schools. Have ACCES VR start working with students in 10<sup>th</sup>, instead of 12<sup>th</sup>, grade to provide job and employable skills. Recommend grants be permitted to support staff increases, additional coursework, transportation and technology. Provide funding for students ages 18-21 to be complete academic work and certificate requirements. Encourage districts to use authorization under Part B to pay for vocational rehabilitation services and job coaching, which is reimbursable under State aid. Partners in community could be rewarded with tax benefits or other inducements and offset costs for districts in implementing the certificate. Recommend "Project Search" type model for student's final year of eligibility. Follow model similar to Rhode Island and create substantive credential reflecting real world standards. Replicate successful model of Troy City School District and Rensselaer ARC Transition Program.

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

document a student's work skills employability profile, or a locally-developed form. As such, SED will provide model forms for the Career Plan and employability profiles. The proposed rule specifies what must be on the actual certificate to award the credential. SED will also provide an example of the certificate form.

COMMENT:

Clarify requirements for assessing CDOS skills, what level students need to attain (i.e., elementary, intermediate or secondary) and if the expectation is for these to be demonstrated consistent with the students' cognitive abilities.

DEPARTMENT RESPONSE:

The revised proposed rule clarifies students are expected to attain the commencement level CDOS standards.

COMMENT:

Recommend transition planning and services, career plan, employability profile and exit summary be one continuing plan that could be put in a data clearing house and accessed by service providers, parents and students. Proposal creates substantial paperwork much of which duplicates paperwork required for transition planning and student exit summary under IDEA. Clarify intersection of career plan with State Performance Plan Indicator 13 and alignment of employability profile and student exit summary. Certificate and documentation should be available online so students can access it after graduation.

DEPARTMENT RESPONSE:

While each of these documents/requirements interrelate and serve to inform the other, combining them into a continuing plan may not be feasible as each has its own specific requirements and serves a specific purpose. Transition services, pursuant to section 200.4(d)(2)(ix) of the Regulations of the Commissioner of Education must be

documented in the student's IEP. While the career plan is a student-developed document, the employability profile and the exit summary are completed by the school or others knowledgeable about the student's skills. While nothing would preclude the documents from being stored in a data clearing house, student confidentiality must be protected and consent to release information obtained.

COMMENT:

Require districts to conduct or subcontract to conduct formalized work readiness assessment prior to awarding credential, including a level three vocational assessment.

DEPARTMENT RESPONSE:

Transition planning for students with disabilities must be based upon age-appropriate transition assessments. Therefore, there is no need to add another assessment requirement for students to earn this credential. Vocational assessments, while important and integral to appropriate transition planning, do not document a student's achievement of commencement level CDOS learning standards.

COMMENT:

Mandate students exit with employment readiness portfolio of work experiences, assessments, career goals, resume, etc. and that this be part of a vocational rehabilitation (VR) referral.

DEPARTMENT RESPONSE:

Students are encouraged to share this information with VR to inform the development of their individual plan for employment. However, documentation required for referral to VR services is established in existing federal law and regulation.

COMMENT:

Students need to actively participate in developing documentation and requirements of the credential for it to be a meaningful and effective document.

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 students complete. Using teachers to coordinate and/or supervise work experience may violate contract agreements.

DEPARTMENT RESPONSE:

Assignment of tasks associated with this credential is the responsibility of the school principal and may vary from student to student. It is always the responsibility of school personnel to ensure that student's learning toward the standards is assessed and documented. The proposed rule has been revised to add that the school must assist the student to develop the career plan if necessary. For some students, this responsibility may be appropriate for guidance counselors, special education teachers, related service providers or others.

## COMMENT:

Schools do not have staff qualified to certify a student's employability or work readiness. Staff do not have skills to provide instruction. Need significant planning and professional development to prepare staff to engage students. Provide training for staff responsible for implementation on coursework and increased documentation and paperwork, including training in CDOS standards. Question how teachers will be trained with no additional funding. Need to prepare guidance counselors to help develop and review career plans. Provide administrative and guidance training to develop related courses related to CDOS standards and career planning. Guidelines are not clearly articulated regarding criteria needed to award credit for this diploma and field will require greater detail prior to implementation. Develop and disseminate field guidance to assist districts in meeting requirements and implementing quality programs in timely fashion. Provide information on evidence used to determine requirements adequately prepare students for entry level employment. Provide guidelines to assist schools in career planning and developing work-related opportunities for students. Model curricula and programs should be made available to schools as exemplars. Provide guidance on impact student participation in CDOS courses and experiences will have on accountability.

## DEPARTMENT RESPONSE:

SED's CTE website <http://www.p12.nysed.gov/cte> provides guidance and information about implementation of the CDOS standards; integrating career and academic learning; requirements for work-based learning; and career planning. SED will provide additional information and training upon adoption of the proposed rule. The Work Experience Coordinators' Association of NYS currently provides training on many related topics.

COMMENT:

Concerned about local and State employers accepting certificate as a minimum requirement for employment. Engage and educate employers to recognize certificate and that it adequately prepares students for entry-level employment. Educate community rehabilitation providers, employers, school boards and school board association and unions about credential. Involve ACCESS-VR in training employers on what certificate means. Send joint letter out with Department of Labor (DOL) informing employers about credential. Pursue endorsement of credential by business sector. Develop task force to develop plan for marketing credential. Other states will also need to learn about and recognize the certificate. Need to have a check box on job applications for this option.

DEPARTMENT RESPONSE:

SED staff have met with a wide range of constituents, including but not limited to employers, DOL, ACCESS-VR, parents, students, community rehabilitation providers, unions, and school personnel in the development of the policy framework and documentation requirements. Upon adoption of the proposed rule, SED staff will work with stakeholders, as appropriate, to provide further public awareness information.

COMMENT:

Schools, parents and students need clear understanding of all graduation options and differences these have on post-secondary options. Educate all parties about certificate and other graduation options in clear and simple format. Parents need accurate and timely information to make informed decisions. Develop tools to help districts communicate with parents about graduation options.



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 learning experiences for the students to the maximum extent appropriate and feasible.

COMMENT:

Clarify if §100.6(b)(5) allows individuals other than the principal to perform evaluation of work-based learning (e.g., CSE chair, vice principal, counselor).

DEPARTMENT RESPONSE:

The proposed rule is revised to clarify that the principal shall, after consultation with relevant faculty, evaluate these experiences to determine if they meet the requirements.

COMMENT:

Clarify if the principals authority in §100.6(b)(5) is different from §100.5(d)(5) regarding awarding transfer credit.

DEPARTMENT RESPONSE:

Requirements regarding the principal's authority are consistent with the authority in §100.5(d)(5).

COMMENT:

Recommend that the proposal include a process to appeal a decision of a principal to not award the certificate to an individual student.

DEPARTMENT RESPONSE:

We do not believe it appropriate or necessary to establish an appeal process. If a student with a disability believes he or she has met the minimum requirements for this

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 eligible to receive a diploma then the districts should not be mandated to also award the regents certificate of work readiness.

DEPARTMENT RESPONSE:

The proposed credential could be awarded as a supplement to a Regents or local high school diploma or, for a student with a disability who is unable to earn a diploma, as the student's exiting credential. SED expects that not more than 20 percent of students with disabilities in a cohort would be exiting with this credential when it is not a supplement to a regular high school diploma.

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

DEPARTMENT RESPONSE:

Decisions as to the information that will be reported on school report cards relating to this proposed credential have not yet been made. The school report card currently identifies the numbers and percentages of students graduating with an IEP diploma.

COMMENT:

Clarify the purpose of providing the certificate at the same time as regular diploma.

DEPARTMENT RESPONSE:

Instruction in the CDOS learning standards and opportunities to participate in career related coursework and work-based learning experiences serve to prepare all students with disabilities for employment, including those who received a diploma. Allowing all students with disabilities to engage in these meaningful work readiness activities will also ensure that a separate track is not created for students to earn this credential; and that students who are working toward a regular diploma, but who in the end cannot, for example, pass the required State assessments, still have the opportunity to exit with this credential.

COMMENT:

Allow students that graduate with another credential to come back and work on the certificate.

**DEPARTMENT RESPONSE:**

Students with disabilities that exited school and continue to be eligible for a free appropriate public education (FAPE), must be provided the opportunity 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. The proposed rule requires that parents receive prior written notice of this information.

**COMMENT:**

Concerned about how Department will ensure that students will have access to this credential as districts are not required to offer it.

**DEPARTMENT RESPONSE:**

Districts would be required to offer all students with disabilities, excluding those eligible for the Skills and Achievement Commencement Credential, the opportunity to earn this credential.

**COMMENT:**

Concerned quality of certificate could differ from district to district and that the proposed rule does not provide coherent content. Recommend standardized procedures for completing employability profiles and qualifications for awarding certificate to ensure common terminology, measurement, validity, and conformity across State. Standardized forms would allow seamless transitions when moving between districts.

**DEPARTMENT RESPONSE:**

To ensure that the credential is awarded based on the same standards among districts throughout NYS, the proposed rule has been revised to add that the district must have documentation that the student has minimally achieved the commencement level CDOS learning standards in the areas of career development, integrated learning

and the universal foundation skills. SED will provide a model employability profile form that will further provide standardization to the documentation that accompanies the credential.

COMMENT:

Establish rigorous monitoring procedures to ensure compliance, certificate provides meaningful access to entry level employment, and to convince employers of its value. Need real consequences for districts not in compliance. Track implementation to ensure that students are not tracked or pushed out of school when they receive the certificate. Monitoring requirements are already in place for transition; reason to ensure certificate requirements are embedded in rules for transition services. Proposal does not create meaningful standard for employers to judge qualifications; evaluations are subjective and dependent on who fills them out. As long as students have hours of work-based learning and equivalent of two units of study, they will receive the certificate. Concerned how SED will ensure certificate will not be given to students who have not received required services. If students are not actually work ready this could have negative connotation in business community.

DEPARTMENT RESPONSE:

Each board of education must ensure that it has policies and procedures in effect to ensure compliance with State requirements, including procedures to ensure that diplomas and other credentials are awarded consistent with State regulations. The proposed rule has been revised to address the commenters' concerns about students being 'tracked' to this credential, by adding 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 IDEA grant funds for targeted activities as deemed

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 Regulations provides similar authority and discretion to school principals (e.g., discretion on transfer credits, credit by examination, and approval of independent studies).

COMMENT:

Clarify why the local diploma is not listed as option for graduation.

DEPARTMENT RESPONSE:

Section 100.5 of the Commissioner's Regulations provides the requirements for a student to earn a local diploma.

COMMENT:

Clarify if funding and transportation continues for students in nonpublic schools if they earn this certificate.

DEPARTMENT RESPONSE:

A student with a disability who is parentally placed in a nonpublic school continues to be eligible for special education and transportation, consistent with the requirements of section 3602-c of the Education Law until the end of the school year the student turns age 21 or until he/she receives a local or Regents diploma, whichever occurs first.

COMMENT:

Support the proposed rule to require districts to notify parents and students of the student's right to continuing eligibility for FAPE. Allowing students to stay and benefit from additional supports, education and work experiences will positively impact their lives. Support as long as students are not mandated to stay until 21. Requirement is in line with current process for IEP diploma. Ensure families fully understand difference between certificate and diploma. Parents should be provided document at annual reviews in 10<sup>th</sup> and 11<sup>th</sup> grade indicating diploma/certificate their child is anticipated to receive to ensure they are fully informed. Provide notice when students start working toward certificate and explain benefits of staying to work toward a diploma. Require CSE chairs to go over key information with parents or provide this information on compact disc. One commenter expressed that the notice would not be of value if



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>**

A Progression of Learning Standards from Career Exploration, Applied Academics, Soft Skill Development and Technical Skill Development

**Career Development (1)**

1. Complete a career plan
2. Apply decision-making skills in selection of a career option
3. Analyze skills and abilities in a career option

**Integrated Learning (2)**

1. Demonstrate integration and application
2. Use academic knowledge and skills
3. Research, interpret, analyze, and evaluate information

**Universal Foundation Skills (3a)**

1. Basic Skills
2. Thinking Skills
3. Personal Qualities
4. Interpersonal Skills
5. Technology
6. Managing Information
7. Managing Resources
8. Systems

**Career Clusters (3b)** (optional for the proposed credential)

1. Agricultural Education
2. Business & Marketing Education
3. Family & Consumer Sciences Education
4. Health Occupations Education
5. Technology Education
6. Trade, Technical & Industrial Education

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<sup>3</sup> <http://www.p12.nysed.gov/cte/cdlearn/>

### **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
- Entrepreneurship
- Community-Based Work Programs

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<sup>4</sup> <http://www.p12.nysed.gov/cte/wbl/home.html>

## 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 for employment and leads to a standard diploma for students with an individualized education program (IEP).
- Nine states (Colorado, Florida, Georgia, Mississippi, Nevada, New Mexico, Tennessee, Virginia and West Virginia) and the District of Columbia offer a special education diploma specifically for students with disabilities.
- Fifteen states (Alaska, California, Delaware, Iowa, Kansas, Kentucky, Louisiana, Nebraska, North Carolina, Oregon, Rhode Island, Texas, Virginia, Wisconsin and Wyoming) offer a certificate of achievement for students with disabilities.
- Nineteen states (Alaska, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Missouri, Nebraska, Nevada, New Hampshire, Oregon, Tennessee, Virginia, Wisconsin, and Wyoming) offer a certificate of attendance for students with disabilities.