

Proposed New Way to Receive Local Diploma Impacts Rights of Students with Disabilities

******* Public Comment Due August 22, 2016 *******

In June, the New York State Department of Education (NYSED) passed emergency regulations creating a new pathway for students with Individualized Education Programs (IEPs) to obtain a high school diploma even when the student has failed to pass all required Regents exams.

NYSED has proposed that the emergency regulation establishing this Superintendent's Determination pathway to a local diploma become permanent. NYSED must consider public comments submitted on or before August 22, 2016.

The Superintendent's Determination allows students with disabilities who have mastered the content of Regents courses but, because of disability, are unable to demonstrate that mastery on high stakes tests to obtain a high school diploma. This diploma option only applies to students with disabilities who receive special education services. The NYSED's proposal gives total discretion to the superintendent to award this diploma. The superintendent is not required to consult with the student, parents, or the Committee on Special Education, nor is the superintendent required to review a student's IEP and transition needs. Once the decision is made to award a local diploma, the student is no longer eligible to remain in school to earn a Regents diploma or receive special education services. The proposed regulations do not permit anyone the option to object to the decision or to decline the diploma and remain in school.

For a full description of the proposed permanent regulation and questions and answers from NYSED, [click here](#).

BENEFITS OF THE PROPOSAL

- Creates a pathway to a high school diploma for students who have demonstrated mastery of high school content but who have been unable to pass certain regents exams.
- An individualized assessment of the student's mastery of content is completed because superintendents must consider specific criteria when making the determination.
- Data is collected by NYSED because superintendents must submit determinations to NYSED.
- NYSED will monitor the forms submitted by superintendents to ensure compliance the process for awarding diplomas.

CONCERNS

- The superintendent is not required to consult with the student, parents or Committee on Special Education when making this determination.
- The superintendent is not required to review the student's IEP or transition needs and goals.
- Award of diploma means student is no longer eligible to continue in school. Thus, the student cannot remain in school to try to earn a Regents diploma or CDOS Skills credential.
- Award of diploma means the student is no longer eligible for special education services, including services directed at skills needed for transition to employment, college and independent living.
- Parent and student have no right to decline or object to the diploma award.

- Endorses lower standards and expectations for students with disabilities.
- Only available to students with disabilities.
- NYSED has provided very minimal notice to the public.

POTENTIAL MODIFICATIONS TO ADDRESS CONCERNS

- Require CSE to meet and make a recommendation to the superintendent which the superintendent must consider when making a determination.
- Require the superintendent to review the student's IEP and consider the student's transition needs and goals.
- Permit the student to decline a local diploma based on a superintendent determination and remain in school to earn a Regents or local diploma through other pathways or a CDOS skills credential in addition to diploma.
- Permit the student to refuse the local diploma based on superintendent's determination and remain in school to continue to receive education and special education transition services.
- Permit the student to defer the award of a local diploma until the student reaches the age of 21 and is no longer eligible for special education services.
- Make ALL pathways to a local diploma available to all students, regardless of disability.

LET YOUR VOICE BE HEARD! PLEASE COMMENT

Send comments by email to:

nysedp12@nysed.gov

or mail to:

Angelica Infante-Greene, Deputy Commissioner for Instructional
Support,
NYSED, 2M West
89 Washington Avenue, Albany, NY 12234
(518) 474-5510

Tips for Submitting Comments:

- Identify yourself or your agency and include contact information.
- State why you are a stakeholder (e.g. "I am a parent of a student with disabilities" or "I am a student with an IEP").
- State that you agree or disagree with the proposal. If you agree with some parts, but not others, state what you agree with and what you disagree with.
- If you believe NYSED should modify the regulation, state how it should be modified (e.g. " I agree that a superintendent should be able to award a local diploma through the determination process, but only if the student has a right to object to the determination and remain eligible in school.").
- Submit your comment **ON OR BEFORE THE AUGUST 22, 2016 DEADLINE.**