

# Coalition for Multiple Pathways to a Diploma

Coordinator: Ashley Grant • [agrant@advocatesforchildren.org](mailto:agrant@advocatesforchildren.org) • 212-822-9548

February 2, 2018

## BY EMAIL

Christopher Suriano  
Assistant Commissioner of Special Education  
New York State Education Department  
89 Washington Avenue, Room 309 EB  
Albany, NY, 12234

### **Re: Comments on Superintendent Determination Amendment of 8 NYCRR § 100.5(d)(12)**

Dear Mr. Suriano:

The Coalition for Multiple Pathways to a Diploma submits these comments on the amendment of 8 NYCRR § 100.5(d)(12) to establish a new Superintendent Determination pathway to a local diploma for students with disabilities. We are a state-wide coalition with more than 65 members, including advocates, teachers, administrators, parents and youth, representing a broad cross-section of students, including students with disabilities, multilingual learners, and economically disadvantaged students. Our Coalition is united by the concern that high-stakes standardized exit exams are a barrier to high school graduation for students who have otherwise mastered New York State standards and are college or career ready. For the past several years, we have urged New York State to create multiple instructional and assessment pathways to a high school diploma, each of which holds all students to high expectations, provides them with quality instruction, and opens doors to career and post-secondary education opportunities.

The Coalition strongly supports providing more flexibility to students who have mastered State standards, but struggle to demonstrate their knowledge and skills on the Regents exams. We were very pleased that the emergency measure approved in December acknowledges this need and removes Regents exams as a barrier to graduation for young people with disabilities who have passed Regents-level courses and demonstrated mastery of State Standards.

This change will have a real and immediate impact on the lives of students. We think of students like Kayla, who passed all of her Regents-level courses, far exceeding the credits she needs to graduate, but cannot seem to top a 51 on the ELA Regents exam; or Dante, the 21-year-old who will age out in June after attending summer school, evening classes, and working for six years of high school to pass all of his courses and earn a CDOS Credential, but who “freezes up” each time he re-takes the Algebra and Global History Regents exams. We are thrilled that this emergency measure opens the door for students like Kayla and Dante to pursue their post-secondary goals.

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At the same time, we think about the ninth grader with a disability in foster care who dreams of being a nurse, and we worry that she may be pushed into less rigorous classes that do not prepare her for the Regents exams, or pushed out of high school with a local diploma, although she has the ability to earn a Regents diploma. We are concerned that limiting this new pathway to students with Individualized Education Programs (IEPs), could lead to discrimination, stigma, and devaluation of both the CDOS Commencement Credential and the local diploma. Without clear standards for implementation, we also worry about the burden this new pathway puts on families to ensure that schools do not push students with disabilities into less rigorous courses than their non-disabled peers and what that means for students who do not have parents able to advocate for their interests. Finally, we are concerned that the new pathway is another piecemeal adjustment to a system that relies on high-stakes exams rather than a rethinking of the diploma requirements, based on input from diverse stakeholders, to ensure that all students have the opportunity to demonstrate that they are college and career ready using meaningful assessments. We strongly urge NYSED to make the following changes before this new pathway is permanently adopted:

## **I. Make the Superintendent Determination Pathway Available to All Students**

The Coalition was pleased when, in June 2016, the Board of Regents made the CDOS Commencement Credential available to all students as one of the “4+1” pathways to a high school diploma. This change was a critical step for increasing access to career development programming for all students; for ensuring that the CDOS Commencement Credential did not stigmatize the students who received the credential, leading to its devaluation; and for making sure that a CDOS credential was not a *de facto* disclosure of disability status.

However, by limiting this new CDOS pathway to a Superintendent Determination to students with IEPs, we are once again concerned about stigma, devaluation of the Commencement Credential and local diploma, and forced disclosure of disability. Moreover, we worry that this pathway may revive some of the abuses we saw in the IEP context, including tracking students with disabilities away from rigorous courses, when they should be given a meaningful opportunity to earn a Regents diploma, and limiting the number of times students with disabilities are allowed to attempt Regents exams. In addition, restricting this pathway to students with IEPs gives schools an incentive to classify as disabled students who cannot pass Regents exams, labeling students unfairly and swelling special education rolls.

As in our August 2016 letter regarding the first Superintendent Determination, we continue to urge NYSED to avoid “disability only” pathways and extend this pathway to all students. Students with disabilities are not the only student population that struggles with Regents exams. No student should be penalized for not being able to demonstrate mastery of State standards on high-stakes standardized tests. All students who have completed Regents-level courses and demonstrated mastery of State standards on the basis of valid assessments should have the opportunity to graduate with a meaningful high school diploma.

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## II. Develop and Expand Resources for Schools to Meaningfully Implement the CDOS

We are concerned that the new discretion given to principals over the next two school years, allowing them to award the CDOS Commencement Credential to students who have not met the requirement of Section 100.6(b)(3)(iii), does little to encourage the much-needed development of meaningful programming to support students in meeting CDOS standards and could make the Credential less meaningful to employers.

Although NYSED's notice in the State Register acknowledges that there may be costs associated with extending the population of students seeking a CDOS Commencement Credential, these changes come without additional funding and assumes that the cost of expanding CDOS programming will be "absorbed by districts using existing staff and resources." We urge NYSED to develop training for districts, provide tools for expanding experiential learning opportunities, and showcase models of successful implementation of CDOS curricula.

## III. Develop Superintendent Determination Procedures to Prevent Pushout

Even if the new pathway is expanded to all students, but particularly if it remains limited to students with disabilities, it is critical that NYSED develop implementation procedures to ensure that students continue to be held to high standards and are not pushed out of school under this measure.

We appreciate that the new pathway maintains safeguards requiring a parent request to initiate a Superintendent Determination and mandating that schools discuss graduation requirements and options, including safety nets and appeals, with families. However, because this pathway entirely eliminates requirements to pass any exams, without providing clear guidance as to how students will demonstrate mastery of standards, the new pathway puts significant pressure on families to advocate that their children with disabilities continue to have access to rigorous, Regents-level courses and benefit from high expectations of their teachers. For many families, including those with children in foster care, those experiencing housing instability, and those from multilingual households, this burden may be too great. To reduce the burden on families and to help ensure that eligible students are not directed away from more rigorous courses or denied the supports and services they need to meet standards, we urge NYSED to make the following changes:

- **Revise 100.5(d)(12) to require that students demonstrate attainment of State standards.**

New York State must maintain high expectations for all students. In its present form, the revised regulation allows schools to award local diplomas to students with disabilities without explicitly requiring a determination that students have met State standards. Although we strongly support the use of multiple measures to demonstrate attainment of standards, the State should explicitly hold all graduating students, including students with disabilities, to New York State learning standards. We recommend revising the language of 100.5(d)(12), subsections (iii) and (v)(b) from "conduct a review to determine whether the student has

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otherwise demonstrated *proficiency in the knowledge, skills and abilities in* the subject areas in which they were not able to pass Regents exams to “conduct a review to determine whether the student has otherwise demonstrated *attainment of New York state learning standards in*” these areas. This change mirrors the language of 100.5(a)(4), describing graduation requirements for all students.

- **Create simple, family-facing materials explaining all graduation options and parents’ rights in the process.**

This change further complicates an already opaque web of exit exam requirements applicable to students with disabilities. Already, members of our Coalition have participated in IEP meetings in which neither the school-based team nor the family was aware of this new pathway. To inform parents of their options, and to empower parents to advocate for their children, it is critical that NYSED develop simple, family-facing materials to explain all graduation pathways, including options for students with disabilities and multilingual Learners. These materials must explain the difference between high school diplomas and commencement credentials and must clarify which options are available to students who are assessed using New York State Alternate Assessments.

- **Revise the State’s Individualized Education Program (IEP) forms.**

To make it more likely that schools will present all appropriate graduation options to families, we urge NYSED to revise the IEP forms currently in use so that the transition section of the IEP indicates which diploma pathways were discussed at the IEP meeting, which type of diploma and/or commencement credential the student is working toward, the student’s progress toward each pathway, and the steps that will be taken to help the student work toward a diploma.

## **IV. Engage Stakeholders in Re-Examining the Existing Graduation Framework to Develop Pathways to a Diploma That Are Not Based on High-Stakes Assessments.**

Finally, although we support the opportunity presented by this new pathway, we remain concerned that the Superintendent Determination continues to operate within a complicated and confusing framework that requires students to take high-stakes standardized tests and unfairly penalizes many students who struggle to demonstrate what they know on these types of assessments. Although this most recent Superintendent Determination pathway does not require *passage* of these high-stakes tests, it does force students to take and fail five Regents exams rather than providing other meaningful and rigorous mechanisms by which to demonstrate their competency of Regents-level standards.

Therefore, we continue to urge NYSED and the Board of Regents to appoint a commission to reexamine the State’s existing graduation requirements and recommend a system that is simpler, coherent, and fair. In order to ensure that all students are given a fair opportunity to demonstrate their mastery of State standards, this commission should take the time to hear from parents, students, and other stakeholders from across the State, representing a diversity of perspectives, and should look for ways to reduce the number of required Regents exams, to

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develop and support the expansion of performance-based assessments, and to ensure that all students have access to all graduation pathways.

Thank you for considering our comments. If you have any questions or would like to discuss this further, you can reach me at [agrant@advocatesforchildren.org](mailto:agrant@advocatesforchildren.org) or (212) 822-9548.

Sincerely,



Ashley Grant  
Coalition Coordinator

Advocates for Children of New York • Alliance for Quality Education • Annenberg Institute for School Reform • Asperger Syndrome & High Functioning Autism Association • David C. Bloomfield, Esq., Professor of Educational Leadership, Law & Policy, Brooklyn College and The CUNY Graduate Center • Bronx Independent Living Services • Brooklyn Defender Services • Brooklyn Center for the Disabled • Business Teachers Association of New York State • Campaign for Tomorrow's Workforce • Capital Region Refugee Roundtable • Center for Independence of the Disabled, New York • Citizens' Committee for Children of New York • Lisa Finnerty Coggi, Parent/Advocate • Community Service Society • Council for a Strong America • Council of Family and Child Caring Agencies • Valerie DeClara, Parent • Della DeKay JD, EdD • Max Donatelli, Family Advocate • Irja Estrella, Parent • Families Together in New York State • Ann Marie Fitzpatrick, Parent • Flanbwayan Haitian Literacy Project • Jennifer Ghidui, Big Picture Learning • Michael Godino, Advocate • Good Shepherd Services • Roberta Grogan, Parent/Advocate • Lori Gummanow, Parent/Special Educator • Meghan Healy • Shelley Hubal, Parent • INCLUDEnyc • Muronji Inman-McCraw • Internationals Network for Public Schools • Lawyers for Children, Inc. • Learning Disabilities Association of New York State • Jill Lewis-Flood, Parent/PIP Member • Long Island Advocacy Center • Long Island Communities of Practice • Chris McNell, Special Education Supervisor/Principal • Diana Medina Mendez, Parent • Mark Anthony Mendez • Mental Health Association of New York City • Metropolitan Center for Research on Equity and the Transformation of Schools • Namita Modasra • New York Council of Administrators of Special Education • New York Immigration Coalition • New York Alliance for Inclusion and Innovation • New York Performance Standards Consortium • New York State Association for Bilingual Education • New York State Coalition of 853 Schools • New York State Community of Practice on Family, School and Community Collaboration • New York State Disabilities Advocacy Association and Network • New York State Independent Living Council, Inc. (NYSILC) • New York State Teachers of English to Speakers of Other Languages (NYTESOL) • NY Stop Grad HST • Regina Paleau, Parent • Parent to Parent New York, Inc. • Evelyn Perez, Parent • Catherine Phillips-Russ, Baker Victory Services • Sharon Poole, Education for Everyone Consultant • Queens Community House • Lynn Russo, Parent • SCO Family of Services • Tracey Shannon, Parent • Bruce A. Shields, PhD, Associate Professor of Education, Daemen College • Sinergia Metropolitan Parent Center • Starbridge • United We Stand • Christian Villenas, PhD • Marcia Vogel, Parent/Advocate • YOUTH POWER!

cc: Chancellor Betty Rosa  
Members of the Board of Regents  
Commissioner MaryEllen Elia  
Deputy Commissioner Angelica Infante-Green  
[spedpubliccomment@nysed.gov](mailto:spedpubliccomment@nysed.gov)