



Advocates for Children of New York

Protecting every child's right to learn

December 3, 2018

VIA EMAIL

Christopher Suriano
New York State Education Department
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**Re: Public Comment on Amendment of 8 NYCRR Section 100.2
Graduation Participation for Students with Disabilities Receiving Non-Diploma Credentials**

Dear Assistant Commissioner Suriano:

Advocates for Children of New York (AFC) appreciates the opportunity to submit comments regarding the New York State Education Department (NYSED) proposal to amend section 100.2 of the Regulations of the Commissioner to add subdivision (oo), requiring school districts to allow students with disabilities receiving non-diploma exit credentials to participate in the graduation ceremony and all related activities with their cohort.

For more than 45 years, AFC has worked to ensure a high-quality education for New York students facing barriers to academic success, with a focus on students from low-income backgrounds. Every year, we help thousands of New York City parents of students with disabilities navigate the education system. AFC provides a range of direct services, including know-your-rights trainings for professionals, parents, and students about special education and transition issues and free individual case advocacy when families need assistance accessing appropriate educational programs for their students. In the last year alone, AFC worked on more than 3,700 matters involving students with disabilities. As such, we are well positioned to comment on the proposed amendment.

Graduation ceremonies and senior activities are important rites of passage for students and families. It is critical that students with disabilities, particularly those with the most significant disabilities working to meet New York State Alternate



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Assessment (NYSAA) learning standards, are not excluded from participating in these important milestones because they are earning an exit credential rather than a diploma. Therefore, we are pleased that the proposed amendment clarifies school districts' obligation to include these students in graduation ceremonies and related activities with their cohort.

Recommendation for Proposed Change

While we support the proposed addition of subdivision (oo) to 8 NYCRR 100.2, we recommend one addition to strengthen this amendment. We are pleased that the proposed amendment requires districts to provide annual written notice of the policies and procedures regarding participation in graduation ceremonies and related activities for students receiving non-diploma exit credentials; this is an important step in ensuring that students with disabilities and their families are aware of and can exercise these rights. However, even after earning an exit credential, many students with disabilities will need to remain in school to continue working toward a diploma or to receive academic and transition supports to prepare them for adulthood. State and federal law guarantees these students the right to remain in school until they earn a diploma or through age 21. We are concerned that without clarification, some parents may mistakenly believe that by allowing their child to participate in graduation ceremonies and activities, they are giving up the right to continue receiving a free, appropriate public education. We are concerned that some schools may be confused as well, and that such confusion could lead to school staff providing families with incorrect information.

To ensure that this amendment does not have the unintended consequence of pushing students with disabilities out of school prematurely, we encourage you to amend the proposed regulations to add the following language at the end of proposed subsection (oo)(1):

“Such annual written notice must indicate that irrespective of the student’s participation in the graduation ceremonies, 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 Regents or local high school diploma.”

Section 200.5(a)(5)(iii) of 8 NYCRR contains similar language and already requires this notice to be given to parents when their child with a disability *earns* either of the non-diploma exit credentials. However, we are concerned that when parents receive notice in the spring that their child may participate in graduation ceremonies to



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receive a Skills and Achievement Commencement Credential (SACC) or Career Development and Occupational Skills (CDOS) credential, they will not yet have the notice required by section 200.5(a)(5)(iii) and may mistakenly believe that opting into graduation ceremonies will end their right to FAPE. Therefore, it is important that the right to remain in school be included in any communication about the right to participate in graduation ceremonies for students with disabilities receiving non-diploma exit credentials.

Thank you for considering our comments. If you have any questions or would like to discuss our comments, I can be reached at agrant@advocatesforchildren.org or 212-822-9548.

Sincerely,

Ashley Grant
Supervising Staff Attorney