



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

TO: The Honorable the Members of the Board of Regents

FROM: Kevin G. Smith

SUBJECT: Amendment to Section 100.8 of the Regulations of the Commissioner of Education Relating to Local High School Equivalency Diplomas based upon experimental programs

DATE: April 26, 2011

AUTHORIZATION(S):

Summary

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt the proposed amendment to Section 100.8 of the Regulations of the Commissioner of Education relating to local high school equivalency diplomas based upon experimental programs?

Reason for Consideration

Implementation of Policy

Proposed Handling

The proposed amendment will be presented to the Full Board for action at the May 2011 Regents meeting.

Procedural History

The proposed amendment was discussed by the ACCES Committee at the March 2011 Regents meeting.

The Board of Regents amended Section 100.8 of the Regulations of the Commissioner of Education in January 2008 to extend the authority of school boards to

issue local high school equivalency diplomas based upon experimental programs from January 31, 2008 to June 30, 2011.

Background Information

Section 100.8 of the Regulations of the Commissioner of Education allows school districts to award local high school equivalency diplomas based upon experimental programs approved by the Commissioner. These diplomas differ from local high school diplomas which the Board of Regents has acted to phase out under Section 100.5 of the Commissioner's Regulations.

The proposed amendment would extend, through June 30, 2012, the existing regulation that allows boards of education to award a local high school equivalency diploma based upon experimental programs. The extension will allow the continuance in New York State of the National External Diploma Program (NEDP), which is a complete assessment program that allows adults over age 21 to demonstrate and document the outcomes and transferable skills for which a high school diploma is awarded. The NEDP is a competency based, applied performance assessment system which capitalizes on an adult's life experiences and uses a practical application of learning for assessment through such methods as simulations, authentic demonstration, research projects, hands-on interviews and oral interviews. An NEDP candidate must demonstrate a job skill and the competencies that align with the skills needed to function effectively in the workplace. All competencies require a 100 percent mastery.

This one year extension is recommended to ensure that all current NEDP students in the approximately 20 program sites across the state are provided with an opportunity to complete their programs and earn a local high school equivalency diploma.

Over the next 12 months, depending on policy and direction from the Regents College and Career Readiness Working Group (CCRWG), staff will be developing proposed amendments to Section 100.7(a)(2) of the Regulations of the Commissioner of Education that will provide for the opportunity for adult students to earn a New York State High School Equivalency Diploma upon satisfactory completion of an External Diploma Program as approved by the Commissioner Education. These Equivalency Diplomas will be issued by the Department, as opposed to the local high school equivalency diploma which is issued by local school boards. This will create an additional option and pathway for adult students while phasing out the need and authority for school boards to issue the local high school equivalency diploma.

The proposed amendment is being presented for adoption as an emergency action. A Statement of the Facts and Circumstances Which Necessitate Emergency Action is attached.

A Notice of Proposed Rule Making was published in the State Register on April 6, 2011. Supporting materials are available on request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 100.8 of the Regulations of the Commissioner of Education be amended, as submitted, effective May 24, 2011, as an emergency action upon a finding of the Board of Regents that such action is necessary for the preservation of the general welfare in order to prevent a lapse in the existing provision allowing boards of education to award a local high school equivalency diploma based upon experimental programs approved by the Commissioner of Education, by extending such provision through June 30, 2012, and thereby ensure that students currently enrolled in the National External Diploma Program (NEDP) can complete their programs without disruption.

Timetable for Implementation

If adopted as an emergency rule at the May Regents meeting, the proposed amendment will take effect on May 24, 2011. It is anticipated that the proposed amendment will be presented for adoption as a permanent rule at the June Regents meeting, with an effective date of July 15, 2011.

PROPOSED AMENDMENT TO SECTION 100.8 OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION PURUANT TO SECTIONS 101, 207, 208, 209, 305, 309 AND 3204 OF THE EDUCATION LAW, RELATING TO THE LOCAL HIGH SCHOOL EQUIVALENCY DIPLOMA BASED UPON EXPERIMENTAL PROGRAMS.
STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment is necessary to implement Regents policy to extend for one year the provision in section 100.8 of the Commissioner's Regulations that allows boards of education and BOCES to award local high school equivalency diplomas based upon experimental programs approved by the Commissioner.

The extension will allow the continuance in New York State of the National External Diploma Program (NEDP), which is a complete assessment program that allows adults over age 21 to demonstrate and document the lasting outcomes and transferable skills for which a high school diploma is awarded. The NEDP is a competency based, applied performance assessment system which capitalizes on an adult's life experiences and uses a practical application of learning for assessment through such methods as simulations, authentic demonstration, research projects, hands-on interviews and oral interviews. An NEDP candidate must demonstrate a job skill and the competencies that align with the skills needed to function effectively in the workplace. All competencies require a 100 percent mastery.

The one year extension will ensure that all current NEDP students in the approximately 20 program sites across the State are provided with an opportunity to complete their programs and earn a local high school equivalency diploma.

Because the Board of Regents meets at monthly intervals, the earliest the proposed amendment could be adopted by regular action, after publication of a Notice of Proposed Rule Making and expiration of the 45-day public comment period prescribed in State Administrative Procedure Act (SAPA) section 202, would be the June 20-21, 2011 Regents meeting, and pursuant to SAPA section 202, the earliest the amendment could take effect if adopted at the June Regents meeting is after publication of a Notice of Adoption in the State Register on July 15, 2011. However, the current provision in section 100.8 allowing boards of education and BOCES to award local high school equivalency diplomas based upon experimental programs will expire on June 30, 2011. Emergency action is necessary for the preservation of the general welfare in order to prevent a lapse in this provision and ensure that NEDP students can complete their programs without disruption.

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AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 309 and 3204

Section 100.8 of the Regulations of the Commissioner of Education is amended, effective May 24, 2011, as follows:

100.8 Local high school equivalency diploma.

Boards of education specified by the commissioner may award a local high school equivalency diploma based upon experimental programs approved by the commissioner until [June 30, 2011] June 30, 2012, after which date such boards may no longer award a local high school equivalency diploma.