

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 208, 209, 305, 308, 309 and 3204 of the Education Law.

Paragraph (8) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is added, effective May 12, 2010, as follows:

(8) Making Up Incomplete or Failed Course Credit. Commencing July 1, 2010 and thereafter, a school district, registered nonpublic school, or charter school may provide a student, who had the opportunity to complete a unit of study in a given high school subject but who failed to demonstrate mastery of the learning outcomes for such subject, with an opportunity to make up a unit of credit for such subject toward either a Regents or local diploma, pursuant to the following:

(i) To receive credit, the student shall successfully complete a make-up credit program and demonstrate mastery of the learning outcomes for the subject, including passing the Regents examination in the subject or other assessment required for graduation, if applicable.

(ii) The make-up credit program shall:

(1) be aligned with the applicable New York State learning standards for such subject;

(2) satisfactorily address the student's course completion deficiencies and individual needs; and

(3) ensure that the student receives equivalent, intensive instruction in the subject matter area provided, as applicable, under the direction and/or supervision of:

(a) a school district teacher who is certified in the subject matter area; or

(b) a teacher from a board of cooperative educational services (BOCES) that contracts with the school district to provide instruction in the subject matter area pursuant to Education Law §1950, and who is certified in such area; or

(c) a teacher of the subject matter area in the registered nonpublic school or charter school.

(iii) In the case of a school district or registered nonpublic school, the student's participation in the make-up credit program shall be approved by a school-based panel consisting of, at a minimum, the principal, a teacher in the subject area for which the student must make up credit, and a guidance director or other administrator.

(iv) For purposes of this paragraph, a make-up credit program may include, but is not limited to:

(a) repeating an entire course;

(b) taking the course again as part of a summer school program;

(c) receiving intensive instruction in the deficiency areas of the course; or

(d) digital learning (online study) that:

(1) is comparable in scope and quality to regular classroom instruction;

(2) provides for documentation of satisfactory student achievement; and

(3) includes regular and substantive interaction between the student and the teacher providing direction and/or supervision pursuant to clause (3) of subparagraph

(ii) of this paragraph.