

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 112, 112-a, 207, 208, 209, 215, 305, 3204, and 3205 of the Education Law and Chapter 754 of the Laws of 2021 and Chapter 26 of the Laws of 2022.

1. Section 100.2 of the Regulations of the Commissioner of Education is amended by adding a new subdivision (pp) to read as follows:

(pp) District Responsibility for the Issuance of Diplomas.

(1) Definitions. For the purposes of this subdivision:

(i) "Residential facility" means a facility operated or administered by a state department or agency or political subdivision of the state pursuant to Education Law §112 or a correctional facility as defined in Correction Law §2(4) which provides educational programming to youth age 21 or younger who have not received a high school diploma and who are placed, committed, supervised, detained or confined at the facility.

(ii) "District of location" means the school district in which the facility where a youth is placed, committed, supervised, detained, or confined is located.

(iii) "Credit granting school district" means the school district or local education agency providing an educational program and granting diploma credits to students placed in a facility.

(iv) "Diploma issuing district" means the school district that is determined to be responsible for the issuance of the diploma pursuant to this subdivision.

(2) Determination of diploma issuing district. If a student placed, committed, supervised, detained, or confined in a residential facility completes an educational program provided by employees of such facility leading to a Regents (with or without an advanced designation diploma) or local diploma, the district in which the residential facility is located shall be the diploma issuing district. If a student placed, committed, supervised, detained, or confined in/to a residential facility receives credit-bearing educational programming from a school or district other than the district of location of the residential facility, such credit-granting school district providing the educational programming shall be the diploma issuing district.

(3) Residential facility responsibility. When a student who has been placed, committed, supervised, detained, or confined in/to a residential facility completes all diploma requirements in accordance with section 100.5 of this Part, such residential facility shall notify the diploma issuing district to confer such student's diploma. Such notification shall be in writing and shall include the following documentation:

(i) All student records indicating the credits such student has attained at previous New York State schools and schools located in other states.

(ii) Documentation of transfer credits attested to by current or previous residential facilities pursuant to section 100.5(d)(b)(5)(i)(b)(2) of this Part and a summary of all academic credits earned and assessment requirements met which shall be attested to by the chief educational officer at such residential facility

(4) Diploma issuing district responsibility. Upon receipt of written notification and student records from a residential facility located within the district boundary, the diploma issuing district shall:

(i) Conduct a review of the documentation provided and make a determination of such student's eligibility to receive a diploma.

(ii) Notify the residential facility within 10 business days of receipt of such documentation of its findings and determination as to whether such student has met the requirements for a diploma; provided, however, that the findings and determination may be submitted after 10 business days where the facility and diploma issuing district mutually agree to extend such timeline.

(a) A notification that the student has not met the requirements of a diploma shall detail the deficiencies in the student records, clearly listing any requirements that have not been met. Such students are not required to meet local diploma requirements that exceed those indicated in section 100.5 of this Part. Facilities shall be given the opportunity to provide additional records, if available, to address any deficiencies noted by the diploma issuing district.

(b) A notification that the student has met the requirements for a diploma shall indicate when such diploma shall be conferred. Diplomas shall be conferred in January, June, or August, whichever is soonest.

(iii) Enroll such student prior to issuing the diploma, create a student transcript, and assume responsibility to retain all such student records in the district's student management system consistent with section 104.2 of this Chapter.

(iv) Forward such diploma and a copy of the district developed student transcript by registered mail to the facility that made the request on behalf of the student.

(v) Include such student in the district's accountability measures for the purposes of calculating graduation rate, as a graduate from the district of location in the school year in which the diploma is issued.

2. Subdivision (y) of section 100.2 of the Regulations of the Commissioner of Education is amended by adding a new paragraph (7) to read as follows:

(7) Notwithstanding any provision of this subdivision to the contrary, in the case of a student placed, committed, supervised, detained, or confined in a residential facility located in a school district pursuant to subdivision (pp) of this section, such residential facility shall request enrollment of a child who has completed an educational program provided by employees of such facility leading to a Regents (with or without an advanced designation diploma) or local diploma in the diploma issuing district as defined in subparagraph (pp)(1)(iv) of this section. Such child shall be entitled to enroll in such school district solely for purposes of obtaining a Regents (with or without an advanced designation diploma) or local diploma, provided that the residential facility shall provide documentation of age in accordance with subparagraph (ii) of paragraph (9) of this subdivision and documentation of such child's placement, commitment, supervision, detainment, or confinement in/to such residential facility.