

Information on a Superintendent Determination Option for Graduation with a Local Diploma

General Information

All students with disabilities must be held to high expectations and be provided meaningful opportunities to participate and progress in the general education curriculum to prepare them to graduate with a regular high school diploma. The majority of students with disabilities can meet the State's learning standards for graduation. However, there are some students who, because of their disabilities, are unable to demonstrate their proficiency on standard State assessments, even with testing accommodations. For these students, there is the superintendent determination option for eligible students to graduate with a local diploma.

For students with disabilities otherwise eligible to graduate in June 2016 and thereafter, upon receipt of a written request from an eligible student's parent, a school superintendent (or the principal, head of school, or their equivalent, of a charter school or nonpublic school, as applicable) may make a local determination that a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating proficiency on the Regents examinations required for graduation. The conditions of the review are as follows:

Applicability

This option is available to students with disabilities with a current individualized education program (IEP) only. It does not apply to students with section 504 accommodation plans or students who have been declassified from special education.

Superintendent Review

The superintendent may only consider an eligible student for a local diploma through the superintendent determination option upon receipt of a written request from the student's parent or guardian. Such request must be submitted in writing to the student's school principal or chairperson of the district's committee on special education (CSE) (See attached ***Parent Request for Superintendent Determination Option for Graduation with a Local Diploma (Sample Form)***). A written request received by the school principal, chairperson of the CSE, or any other employee of the school, must be forwarded to the school superintendent immediately upon its receipt.

Eligibility Conditions

1. The student must have a current IEP and be receiving special education programs and/or related services.
2. The student did not meet the graduation requirements through the low pass (55-64) or the compensatory safety net options.
3. The student must have earned the required course credits and have passed, in accordance with district policy, all courses required for graduation, including the Regents courses to prepare for the corresponding required Regents examination areas (English language arts (ELA), mathematics, social studies and science).
4. The student must have taken and received a minimum score of 55 on both the ELA and Mathematics Regents examinations or a successfully appealed score between 52 and 54, except that on or after December 12, 2017, a student who was unable to achieve a minimum score of 55 or did not initiate an appeal of a score between 52 and 54 on the

English and/or Mathematics Regents examinations may be considered an eligible student for the Superintendent determination option, provided that the student has completed the requirements for the New York State (NYS) Career Development and Occupational Studies (CDOS) Commencement Credential.

5. There must be evidence that the student participated in all Regents examinations required for graduation but has not passed one or more of these examinations.
6. In a subject area where the student was not able to demonstrate his/her proficiency of the State's learning standards through the Regents examinations required for graduation (including ELA and/or mathematics if using the CDOS Commencement Credential to meet the eligibility condition(s) in #4), there must be evidence that the student has otherwise demonstrated graduation-level proficiency in the subject area(s).

Review and Documentation

Upon receipt of a written request from an eligible student's parent or guardian, the superintendent must, in consultation with the school principal, review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. In conducting a review to ensure the student has met the academic standards, the superintendent must consider evidence that demonstrates that the student:

- Passed the course(s) culminating in the examination(s) required for graduation, in accordance with the grading policies of the district. Such evidence may include student work completed throughout the school year and/or interim grades on homework, projects, class work, quizzes, tests, etc., that demonstrate that the student has met the learning standards for the course; and
- Actively participated in the Regents examination(s) required for graduation.

The superintendent must sign the form prescribed by the Commissioner of Education (See [Superintendent Determination of Graduation with a Local Diploma \(Updated January 2018\)](http://www.p12.nysed.gov/specialed/gradrequirements/home.html) (<http://www.p12.nysed.gov/specialed/gradrequirements/home.html>)), which documents the evidence reviewed, certifies that the information is accurate and indicates that the superintendent has determined that the student has either met or has not met the requirements for a local diploma. The student and the parent of the student must receive written notice of the superintendent's determination with the copy of the completed superintendent's determination form and, where the superintendent determines that the student has met the requirements for graduation, the district must provide prior written notice that the student is not eligible to receive a free appropriate public education (FAPE) after graduation with a local diploma. Where the superintendent determines that the student has not met the requirements for graduation, the written notice shall inform the student and his/her parent that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.* A copy of the form must be placed in the student's record. In addition, a copy of the form must be submitted to the Department **no later than August 31**.

Audit

* A student with a disability who has not yet earned a diploma may reenroll in school until the end of the school year in which the student turns age 21 and graduate through this option, provided the student has a current IEP, is receiving special education programs and services and is participating in the required coursework.

The Commissioner will periodically audit the determinations granted by superintendents to ensure that conditions described above are being met.

Transition Planning

To ensure appropriate transition planning for the student, the development of transition goals and services must include a discussion with the student's parents of:

- the graduation requirements that apply to the student depending upon the year in which he or she first enters grade nine;
- how the student is progressing toward receipt of a diploma including:
 - the courses the student has passed and the number of credits the student has earned as required for graduation;
 - the examinations required for graduation that the student has taken and passed; and
- the appeal, safety net, and superintendent determination options that may be available to the student to allow the student to meet the graduation examination requirements.

At the CSE meeting in which transition services will be discussed, the student's parents must be provided with written information explaining the graduation requirements. Such information must include the eligibility criteria and processes for seeking an appeal to graduate with a lower score on a Regents examination and for requesting that a student be considered for a local diploma through the superintendent determination option. Parents must also be informed that graduation from high school with a local diploma or Regents diploma will terminate their child's entitlement to FAPE and their eligibility for special education services.

General information regarding graduation requirements, including a *Summary Diploma/Credential Requirements* is available at the Office of Curriculum and Instruction's **General Education & Diploma Requirements webpage** (<http://www.p12.nysed.gov/ciai/gradreq/intro.html>). A chart of the *Safety Net Options Available to Students With Disabilities to Graduate With A Local Diploma*, including the superintendent determination option, can be found at the Office of Special Education's **Information Related to Graduation Requirements for Students with Disabilities webpage** (<http://www.p12.nysed.gov/specialed/gradrequirements/home.html>).

Exception to the Minimum Requirements for an Award of a NYS CDOS Commencement Credential through Option 1[†] for Purposes of the Superintendent Determination Option

For students with disabilities who are otherwise eligible to graduate in either the 2017-18 school year or the 2018-19 school year only, a district, registered nonpublic high school, or charter school may award the CDOS Commencement Credential to a student who has not met all of the requirements in section 100.6(b)(3)(ii) of the Regulations of the Commissioner of Education (i.e., **Option 1** (<http://www.p12.nysed.gov/ciai/multiple-pathways/memos/cdos-graduation-pathway-option.html>)), for purposes of eligibility for the superintendent determination option, provided that the school principal, in consultation with relevant faculty, has determined that the student has otherwise demonstrated knowledge and skills relating to the commencement level **CDOS learning standards** (<http://www.p12.nysed.gov/cte/cdlearn/documents/cdoslea.pdf>) 1, 2 and 3a. The principal must have evidence that the student has successfully completed relevant instructional and work-based learning activities during the student's secondary school years that demonstrate the student has readiness

[†] The CDOS Commencement Credential requirements under Option 1 can be found in NYSED's June 2016 field memorandum **Career Development and Occupational Studies Graduation Pathway Option** (<http://www.p12.nysed.gov/ciai/multiple-pathways/docs/cdos-field-memo-june-2016.pdf>).

skills for entry-level employment; however, for students with disabilities otherwise eligible to graduate in either the 2017-18 or 2018-19 school year, the total hours of the career and technical education coursework and/or work-based learning activities may be less than the required equivalent of two units of study (216 hours).

Students who are awarded the CDOS Commencement Credential through this exception may not use such credential to meet the requirements for the **CDOS pathway** (<http://www.p12.nysed.gov/ciai/multiple-pathways/memos/cdos-graduation-pathway-option.html>) to a local or Regents diploma.