



TO: The Honorable Members of the Board of Regents

FROM: Angelique Johnson-Dingle *Angelique Johnson-Dingle*

SUBJECT: Proposed Amendment of Section 100.5(b) of the Regulations of the Commissioner of Education Relating to Posthumous High School Diplomas

DATE: August 29, 2024

AUTHORIZATION(S): *Dom N. A. Bellotti*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment to section 100.5(b) of the Regulations of the Commissioner of Education related to posthumous high school diplomas?

Reason(s) for Consideration

Review of policy.

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the September 2024 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the P-12 Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at its May 2024 meeting, effective May 7, 2024. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on May 22, 2024, for a 60-day public comment period. Because the May 2024 emergency action was set to expire on August 4, 2024, a second emergency action was necessary at the July 2024 Regents meeting, effective August 5, 2024, to ensure that the emergency rule remained continuously in effect until it could be permanently adopted and take effect as a permanent rule. A Notice of Emergency Adoption was published in the State Register on August 21, 2024.

Following publication in the State Register, the Department received one comment on the proposed amendment. An Assessment of Public Comment (Attachment B) is

attached. No changes to the proposed amendment are recommended at this time. If adopted at the September 2024 meeting, a Notice of Adoption will be published in the State Register on September 25, 2024. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

In November 2023, the Blue Ribbon Commission on Graduation Measures presented its recommendations to the Board of Regents. This was an unprecedented effort that brought together student voices along with a diverse range of stakeholders, including parents, educators, administrators, school support staff, representatives of higher education, and the business community. The Blue Ribbon Commission created a roadmap for learning-centered education that best meets the needs of every student in New York State and incorporates a competency-based approach to teach the practical skills needed for the dynamic demands of tomorrow's workforce.

As leaders in education, the Blue Ribbon Commission members were mindful of individual student circumstances and needs. As such, one of the Commission's recommendations was to pursue regulatory changes to allow discretion for local New York State schools and districts in posthumously conferring high school diplomas. Based on this recommendation, the Department now proposes to amend the Regulations of the Commissioner of Education to provide such discretion.

Proposed Amendment

The Department proposes to amend section 100.5(b)(7) of the Regulations of the Commissioner of Education to allow school districts, registered nonpublic schools, and charter schools, at the request of the student's parent or person in parental relation, the ability to confer a high school diploma on a deceased student if the student was enrolled in the school or district at the time of death.

Related Regents Items

[May 2024: Proposed Amendment of Section 100.5\(b\) of the Regulations of the Commissioner of Education Relating to Posthumous High School Diplomas](https://www.regents.nysed.gov/sites/regents/files/524p12a1revised.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/524p12a1revised.pdf>)

[November 2023: New York State Graduation Measures Initiative: Recommendations from the Blue Ribbon Commission](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative.pdf)
([https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York %20State%20Graduation%20Measures%20Initiative.pdf](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative.pdf))

Recommendation

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

VOTED: That section 100.5(b) of the Regulations of the Commissioner of Education be amended, as submitted, effective September 25, 2024.

Timetable for Implementation

If adopted at the September 2024 meeting, the proposed amendment will become effective as a permanent rule on September 25, 2024.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended by adding a new subparagraph (xii) to read as follows:

(xii) Posthumous high school diplomas.

(a) A school district, registered nonpublic school, or charter school may issue a high school diploma for a deceased student if a request is made by the student's parent or person in parental relation, or where the student's parent or person in parental relation is deceased, the student's next of kin, and such student was enrolled in such school or district at the time of death.

(b) Nothing in this subparagraph shall:

(1) obligate school districts, registered nonpublic schools, or charter schools to issue a posthumous diploma at the same ceremony or event as other graduating students; or

(2) limit school districts, registered nonpublic schools, or charter schools from issuing high school diplomas to students who died before the effective date of this subparagraph, provided that the requirements of this subparagraph have been met.

(c) Diplomas issued under this subparagraph shall not be applied toward student graduation counts or for any other purpose of federal and state accountability data collection.

ASSESSMENT OF PUBLIC COMMENT

Following publication of the Notice of Proposed Rule Making in the State Register on May 22, 2024, the Department received the following comment on the proposed amendment:

COMMENT:

One commenter suggested that the proposed amendment requires every school district, registered nonpublic school, and charter school to enact their own policies with respect to the issuance of posthumous high school diplomas. Specifically, the commenter opined that families should be offered guidance as well as parameters and expectations when making a request to obtain a posthumous diploma. By including this as a requirement, the commenter believes that it would reduce the risk of families being re-traumatized by the events that led to their request for a posthumous diploma.

DEPARTMENT RESPONSE:

While the Department appreciates the commenters' concerns, the Department believes that the regulation as currently drafted provides school districts, registered nonpublic schools, and charter schools with local discretion to develop their own policies as necessary. Therefore, no change to the proposed rule is needed.