

## AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Section 100.1 of the Regulations of the Commissioner of Education is amended by adding subdivisions (y), (z), and (aa) to read as follows:

(y) *Virtual instruction* means synchronous, or synchronous and asynchronous, instruction provided by a teacher as prescribed in section 100.2(u)(3) that is designed for delivery in a virtual learning environment where there is regular and substantive interaction between the student and teacher.

(z) *Blended instruction* means instruction provided by a teacher as prescribed in section 100.2(u)(3) that is designed for delivery part of the time as synchronous instruction in an in-person learning environment, and part of the time as synchronous, or synchronous and asynchronous, instruction in a virtual learning environment where there is regular and substantive interaction between the student and teacher.

(aa) *Virtual learning environment* means an instructional and learning environment facilitated through digital video-based technology and/or a combination of an online learning management system and video-conferencing technology, where teacher-to-student, student-to-student, and/or student-to-content interactions occur solely through digital, internet-connected technology.

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

(u) *Virtual instruction and blended instruction.*

(1) *Parents, or persons in parental relation of a student, or a student that is 18 years or older, other than a student with a disability as defined in section 200.1(zz) of*

this Chapter, or a student who is an emancipated minor, who is enrolled in a school district, a board of cooperative educational services (BOCES), charter school, registered nonpublic school, or educational program operated by a state-operated or state-supported school pursuant to Articles 85, 87 and 88 of the Education Law, private residential or non-residential school for the education of students with disabilities approved pursuant to Article 89 of the Education Law or operating under Article 81 of the Education Law, or educational program administered or supervised by a state agency pursuant to Education Law §§112 and 3202(f) and Parts 116 and 118 of this Title may opt-in to receive virtual instruction and/or blended instruction if such instruction is offered.

(2) A school district, BOCES, registered nonpublic school, charter school, or educational program operated by a state-operated, state-supported, or approved private school for the education of students with disabilities, or administered or supervised by a state agency, that offers virtual instruction and/or blended instruction shall ensure that students enrolled in such instruction have the digital, internet-connected technology and internet access necessary to receive and participate in such instruction.

(3) The school district, BOCES, registered nonpublic school, charter school, or the chief administrator of an educational program operated by a state-operated, state-supported, or approved private school for the education of students with disabilities, or administered or supervised by a state agency shall ensure that virtual instruction and blended instruction:

(i) align with the applicable New York State learning standards as prescribed in subdivision (t) of section 100.1 of this Part;

(ii) are provided in accordance with enrolled students' individualized education programs to ensure the continued provision of a free appropriate public education;

(iii) provide for documentation of student mastery of the learning outcomes;  
(iv) are provided in a manner consistent with the definitions of such terms  
pursuant to subdivisions (y) and (z) of section of this Part, as applicable; and  
(v) satisfy the unit of study and unit of credit requirements in subdivisions (a) and  
(b) of section 100.1 of this Part, as applicable.

(4) (i) Virtual instruction and blended instruction must be provided by:

(a) an appropriately certified teacher from the school district in which the student  
is enrolled;

(b) an appropriately certified teacher from a BOCES that has contracted with the  
school district to provide instruction in the subject area where authorized pursuant to  
Education Law section 1950;

(c) an appropriately certified teacher from a school district who provides  
instruction in the subject area under a shared service agreement;

(d) in the case of a registered nonpublic school, a teacher of the subject area  
from a registered nonpublic school;

(e) in the case of a charter school, a teacher of the subject area from a charter  
school;

(f) in the case of an educational program administered by a state agency, a  
teacher of the subject area from such program; or

(g) in the case of an approved private school for school-age students with  
disabilities, state-supported or state-operated school, a teacher of the subject area from  
such school.

(ii) For purposes of this paragraph, appropriately certified teacher means a  
teacher who holds a New York State teaching certificate in the subject area in which  
instruction is provided.

(5) A student with a disability as defined in section 200.1(zz) of this Chapter who is receiving virtual instruction and/or blended instruction shall continue to receive educational services so as to enable the student to receive a free appropriate public education.

3. Item (ii) of subclause (2) of clause (b) of subparagraph (i) of paragraph (5) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education shall be amended to read as follows:

(ii) A principal shall award transfer credit to any student for credit awarded while the student attended an educational program administered or supervised by a State agency pursuant to Education Law sections 112 and 3202 (7) and Parts 116 or 118 of this Title, upon the attestation of the chief administrator of such program, in a format prescribed by the commissioner, of the following:

(A) the student:

(I) ...

(II) ...

(III) ...

(IV) has met the requirements for the award of credit for independent study pursuant paragraph (9) of this subdivision; and[/or

(V) has met the requirements for the award of credit for online and/or blended courses pursuant to paragraph (10) of this subdivision; and]

(B) the student was provided instruction by a teacher certified pursuant to Part 80 of this Title or, where the coursework was for make-up credit[ or in online and/or blended courses], the student was provided instruction in accordance with the requirements of [paragraphs] paragraph (8) [and (10), respectively, ]of this subdivision or where the coursework was provided through virtual instruction and/ or blended

instruction in accordance with the requirements of subdivision (u) of section 100.2 of this Part.

4. Paragraph (10) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is REPEALED and RESERVED.