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MEMORANDUM

TO: District Superintendents

FROM: Cheri Pierson Yecke, Ph.D.

DATE: July 30, 2007

Contact Information:

Joyce Lubbers
(850) 245-0478
Joyce.lubbers@fldoe.org

K12: 2007-125

SUBJECT: POLICY UPDATE: FREE APPROPRIATE PUBLIC EDUCATION

The final federal regulations implementing the Individuals with Disabilities Education Act 2004 (IDEA) took effect on October 13, 2006. One of the regulations addresses the issue of free and appropriate public education (FAPE) and earning a general educational development (GED) credential, requiring a change in policy and district practice as set forth below. Please note the following policy update:

Policy Update

The new federal regulation Title 34, Code of Federal Regulations (CFR) Section, 300.102(iv) now states that:

...the term *regular high school diploma* does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate or a GED.

Based on this change, the Florida Department of Education's interpretation and the application of existing state statute and rules have also changed. Students with disabilities now continue to be **eligible for FAPE through age 21** if they have not earned a standard diploma, **even if they have earned a general educational development (GED) credential.**

Exception: The only exception includes students with disabilities who successfully utilize the GED Exit Option Model.

The GED Exit Option Model is a graduation strategy that permits currently enrolled high school students who are at risk of not graduating with their cohort group to earn a standard diploma through an alternate graduation route. Students enrolled in the GED Exit Option Model are exempted from the requirement to earn a specific number of credits and the requirement to earn a minimum 2.0 grade point average. However, in addition to attaining passing scores on both sections of the Florida Comprehensive Assessment Test® (FCAT), students graduating via the GED Exit Option Model must pass the GED Tests in order to receive a standard diploma.

CHERI PIERSON YECKE, PH.D.
CHANCELLOR, K-12 PUBLIC SCHOOLS

To be eligible to participate in the GED Exit Option Model, students must:

- Be at least 16 years of age and currently enrolled in a Pre-K-12 public school program
- Be enrolled in courses that meet high school graduation requirements
- Be over-age for grade and/or in jeopardy of not graduating with their cohort group due to credit deficiency and low grade point average
- Demonstrate a reading level of seventh grade or higher at time of selection, and ninth grade or higher at the time of testing

These students will not be eligible for a continuation of FAPE because they are required to pass the FCAT and the GED Tests to earn a standard high school diploma, thus making this option one that is aligned to the state's academic standards.

For regular education students in Florida, the GED is still considered a standard diploma according to Section 1003.435(6)(a), Florida Statutes (F.S.). This change in interpretation of the GED and the high school diploma is only for the purposes of continuation of FAPE for eligible exceptional student education (ESE) students.

This policy update will be reflected in upcoming revisions of the Florida State Board of Education rules, the 2007-08 amendment to the *Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students (SP&P)*, and related technical assistance documents. We need your assistance to ensure that necessary changes are addressed in the **2007-08 district's pupil progression plan**. We will be conferring with departmental staff regarding revisions that may be needed to Rule 6A-6.021, Florida Administrative Code (FAC.), "State of Florida High School Diplomas." For further reference we are providing the background information below.

Background

Based on previous federal regulations and State Board of Education rules, Florida's interpretation had been that a student's eligibility for FAPE ended when the student earned a standard diploma (including standard diploma earned through GED Exit Option Model) or the GED. Excerpts of those statutes or rules upon which that decision was based are provided below.

Excerpts from the current Section 1003.435, F.S., High School Equivalency Diploma Program, state as follows:

- (1) The State Board of Education shall adopt rules that prescribe performance standards and provide for comprehensive examinations to be administered to candidates for high school equivalency diplomas. Such rules shall include, but are not limited to, provisions for fees, frequency of examinations, and procedures for retaking an examination upon unsatisfactory performance.
- (2) The department may award high school equivalency diplomas to candidates who meet the performance standards prescribed by the State Board of Education.
- (6)(a) All high school equivalency diplomas issued under the provisions of this section shall have equal status with other high school diplomas for all state purposes, including admission to any state university or community college.
- (b) The State Board of Education shall adopt rules providing for the award of a standard high school diploma to holders of high school equivalency diplomas who are assessed as meeting designated criteria, and the commissioner shall establish procedures for administering the assessment.

Rule 6A-6.021, FAC., State of Florida High School Diplomas, states:

The Commissioner shall award a State of Florida high school diploma to a candidate who meets all of the requirements prescribed herein and has attained a standard score of forty-two (42) or above on each of the five (5) General Educational Development tests ...

The current language of Rule 6A-6.03411, FAC., Policies and Procedures for the Provision of Specially Designed Instruction and Related Services for Exceptional Students, states:

... All students with disabilities aged three (3) through twenty-one (21) residing in the state have the right to a free appropriate public education (FAPE) consistent with the requirements of Title 34, Sections 300.300-300.313, Code of Federal Regulations (CFR). FAPE shall be available to any individual student with a disability who needs special education and related services, even though the student is advancing from grade to grade. The only exceptions to the provision of FAPE are for students who have exited with a standard diploma or the equivalent and certain students who are incarcerated in an adult correctional facility as referenced in 34 CFR 300.122 and 300.311. ...

Information about the GED Exit Option Model is available on the Department of Education's Web site at <http://www.fldoe.org/faq/default.asp?Dept=108&Cat=90>. If you have questions about this memorandum or need assistance regarding ESE and transition planning, please contact Joyce Lubbers, Program Director, Bureau of Exceptional Education and Student Services, by phone at (850) 245-0478 or by electronic mail at Joyce.Lubbers@fldoe.org.

CPY/cbd

cc: Jeanine Blomberg
Deborah Kearney
Pam Smith
Bambi J. Lockman
Lois Tepper
Bonnie Marmor
Bill Palmer
Kim Davis
Assistant Superintendents
Exceptional Student Education Directors
Student Services Directors
Adult General Education Directors
Transition Contact Persons
Division of Vocational Rehabilitation Area Directors