

New York State Methods of Administration Plan

The 2020 compliance program to prevent, identify, and remedy race, color, national origin, sex, and disability discrimination in its subrecipients' CTE programs

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New York State Methods of Administration Plan: 2020

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PART I: SECONDARY PROGRAMS METHODS OF ADMINISTRATION PLAN

SECTION 1: SECONDARY INTRODUCTORY INFORMATION

New York State Methods of Administration and Procedures for Compliance with the Civil Rights
Authorities in Career and Technical Education are carried out by two separate offices
overseeing CTE civil rights activities within the New York State Education Department (NYSED).
The P-12 Office of Career and Technical Education monitors secondary programs, and the Ofmd(a)10 (re)-1 (00)

NYSED 2020 Career & Technical Education Methods of Administration Plan

5. publishing materials that encourage all students to participate (e.g., materials available in multiple languages.). ²

Measuring the degree to which subrecipients operationalize these principles has been siloed work done by the MOA coordinator under the old Methods of Administration Plan. The 2020 MOA plan proposes a more decentralized model that integrates these benchmarks into the work carried out by all CTE associates at NYSED. In a decentralized model, all CTE associates become agents of change in efforts to detect activities that signal possible non-compliance.

There are a number of state and federal reviews done by other NYSED offices to monitor for potential discriminatory acts. The NYSED Office of Special Education works to promote educational equity and excellence for students with disabilities through its roles and responsibilities to:

- oversee the implementation of federal and State laws and policy for students with disabilities:
- provide general supervision and monitoring of all public and private schools serving
 New York State preschool and school-age students with disabilities

SECTION 2: PLAN FOR PERFORMING OVERSIGHT OF SECONDARY PROGRAMS

Oversight of CTE programs involves multiple levels of accountability. The MOA plan builds on existing program review procedures and widens our view of issues concerning access to CTE. The plan connects civil rights monitoring to other oversight work done in the Office of CTE. In this connection we begin to build a culture where all staff have a part to play in ensuring equity in CTE opportunities.

This secondary-program MOA plan will focus on infusing equity and access monitoring into existing review activities carried out by the Office of Career and Technical Education. The use of ESSA and DASA data will support CTE subrecipient monitoring. On-site review activities will be replaced by remote and virtual monitoring. This decision stems from our recognition that the most impactful findings concern procedural and cultural domains of program admissions and operation.

DEFINING THE UNIVERSE

Secondary CTE civil rights monitoring will be based on a universe of school districts and BOCES that apply directly for Perkins funding. New York requires that Perkins funds be used only for NYSED-approved programs. The decision to fund only approved programs creates a closer connection between the two main review activities done by the CTE office (i.e., CTE program reapproval process and the yearly review of Perkins grant applications). This decision also has created common metrics for quality to assess equity and access by all sub-groups.

Other reviews done by the CTE office may inform decisions about which subrecipients require comprehensive monitoring. These include:

- biennial reviews carried out by the CTE office of nurse aide training programs in secondary agencies required by the Nursing Home Reform Law of the Omnibus Budget Reconciliation Act of 1987 (OBRA, PL 100-203); and
- 2. initial operational approvals of appearance enhancement license areas (in coordination with the New York State Department of Health).

CRITERIA USED TO DEFINE CTE

The selection of NYSED-approved programs is also based on its status as a graduation pathway. Successful completion of an approved program has provided students with graduation pathway option since 2015. Since NYSED-approved programs can be used to fulfill graduation requirements, access to approved programs has become a broader equity concern. As stated in our Perkins V state plan, the concept of access in this context includes both the ability to enroll and to succeed in approved CTE programs. Students have successfully completed the program when they achieve the academic and technical standards, pass all courses, and pass a three-part technical assessment (student project, performance/clinical, and written components).

As of the 2019-20 school year, New York State has been collecting data based solely on a universe of students in NYSED-approved CTE programs. This change was made to create a data collection approach that standardized program criteria that met the requirements of Perkins V. The new data definitions limit reporting to NYSED-approved programs. This will improve performance comparisons regionally and statewide as NYSED-approved programs share a similar structure and have met state-standards.

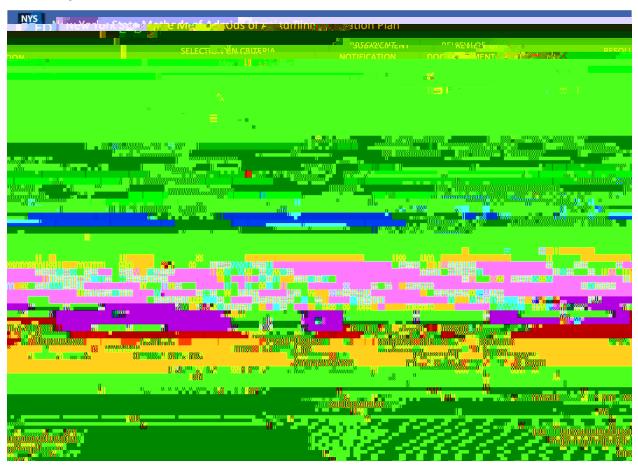
CIVIL RIGHTS-RELATED DATA TO BE USED FOR NEW YORK'S MOA ACTIVITIES

New York's secondary monitoring will maximize the use of data that is already reported to the NYSED to fulfill other requirements. Past use of building-level data for targeting plans (and

processes, materials available only in English, and a lack of adequate counseling can create a selection process that unfairly weeds out certain potential candidates.³

The scope and number of MOA reviews each year will be determined by the content of the program re-approval and Perkins applications. Approximately 250 CTE program re-approval and 52 Perkins applications are reviewed each year by CTE office staff. Multiple programs delivered by the same Perkins subrecipient can be due for reapproval in the same year. Possible issues will be flagged in the review of applications and the number and severity of flags will be assessed. Approximately 10 percent of subrecipients applying for program reapproval will be assessed through a further audit described below.

Secondary Review Process Overview



³ Rachel Rosen and Frieda Molina, "Practitioner Perspectives on Equity In Career and Technical Education," July 2019, accessed 8/12/2020 at https://www.mdrc.org/publication/practitioner-perspectives-equity-career-and-technical-education

Tier 1 data reviews will be completed by CTE content associates and focus on CTE program reapprovals and Perkins subrecipients' local applications. A

associates will integrate a civil rights component. Staff will identify potential problems by monitoring for the following:

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2. Desk audit

Once the CTE office receives the materials, a desk audit will be conducted. Materials that may be requested from subrecipients to be submitted to NYSED to perform a desk audit may include the following:

a. Most reor9 8

3. Interviews and surveys

Interviews will be scheduled with the district or BOCES via phone or on-line; the subrecipients may be asked to distribute surveys electronically. Potential

- describe the remedial steps to be taken to correct the area of non-compliance; and
- include a timetable for remediation or the violation(s) and the personnel responsible for the compliance plan.

Technical assistance will be available to the subrecipient to help address the violation(s) and ensure that violations do not recur. Ongoing civil rights monitoring will take place until the noncompliance issues are corrected.

If noncompliance issues remain unresolved when the subsequent year's Perkins application is being developed, the violation(s) must be addressed in the Perkins application with associated funded action steps and budgets submitted.

If, after 90 days, a subrecipient fails to submit a compliance held to submit a compli

compliance with its assurance. Based on this failure to comply, any federal financial assistance it receives from the United States Department of Education could be terminated.

Subrecipients that are out of compliance with civil rights law but are in good standing with the timely completion of activities in the civil rights process as defined in the civil rights guidance on the NYSED's web page are not subject to sanctions. The following state actions shall be taken if a subrecipient is out of compliance with the civil rights process, including failure to submit required documentation per the guidelines published on the NYSED CTE civil rights web page or failure to submit evidence per the agreed-upon actions in the voluntary compliance plan:

- 1. **Hold on Perkins funding**—Documentation or evidence is missing or more than *30 days* late. Perkins funds will be placed on hold for disbursement until the subrecipient is in compliance with the requests found in the initial and subsequent civil rights review request for information.
- 2. **Hold on career-technical education program approvals and renewals**—Documentation or evidence is missing or more than *60 days* late. New CTE program approval and reapproval of existing programming shall not occur until the subrecipient is actively working on completing their compliance plan.
- 3. Referral to the Office of Civil Rights, United States Department of Education Documentation or evidence is missing or more than 120 days late. The hold on Perkins funding (1) and career-technical education new CTE program approvals and re-approvals (2) will remain in effect until the subrecipient is in compliance. In addition, the Office of Civil Rights will be notified regarding the subrecipient's noncompliance with the civil rights process.

An extension of deadlines or other requirements may be granted in extenuating circumstances. Examples of extenuat c j0 -4 (e)26 c j0 -4 (e)(ac)4 lm1 (s)2.1 (o)8 (f)-4 (s)2.1 (6 (c)2 (e)-3 (s.)1 d(d[te)]J0 (e)-lu

SECTION 3: SECONDARY TECHNICAL ASSISTANCE

NYSED is developing resources for subrecipients to share promising practices in equity in CTE delivery. Technical assistance and tools designed to encourage on-going self-assessment will provide subrecipients the chance to evaluate their own programs for possible noncompliance with the civil rights authorities. NYSED will provide technical assistance via phone calls, emails, webinars, and informational materials and resources to subrecipients to assist with information and services regarding achieving compliance with civil rights requirements (e.g., establishment of listsery, providing yearly reminders about continuing notice). NYSED seeks to develop stronger support and guidance to assist school counselors in particular so that they can provide students accurate information about CTE and refer students to programs in an equitable manner.

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PART II: POSTSECONDARY PROGRAMS METHODS OF ADMINISTRATION PLAN

SECTION 1: POSTSECONDARY INTRODUCTORY INFORMATION

Purpose

The purpose of New York State Education Department (NYSED) postsecondary Methods of Administration (MOA) Plan is to document the State's civil rights MOA program required by 34 C.F.R. Part 100, Appendix B Sec. II.B. and in particular Section II.B. of those Guidelines outlining the necessary elements of a State agency program to prevent, identify and remedy discrimination on the basis of race, color, national origin, sex or disability.

Mission

The mission of NYSED's postsecondary MOA prAAy ()10 (o)-2 it-A7(re)-1 ((c)o)-2 i2 (s)6 (tT(e)-1 ()1541.44t (

Authority

NYSED's OPASS/OACES under the Office of Higher Education of NYSED will administer the postsecondary MOA program in New York State. Responsibilities under the MOA program are set out in the Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs (Guidelines)

of standard interview questions for visitations, interviews with staff and students, virtual interviews, and on-site facilities accessibility reviews.

Selection Plan

The MOA Coordinator will select postsecondary institutions offering career and technical education programs and receiving federal financial assistance from the U.S. Department of Education for on-site reviews to determine compliance under federal civil rights statues, regulations, and guidelines, using the criteria and procedures below for the first two years starting in 2021. The criteria and procedures will be reviewed every two years, and updated as need be, based on data and evidence.

h. Last On-site Review Date.

Points based on the number of years since each subrecipient has been subject to an on-site CRCR will be assigned as follows:

- subrecipient has never been reviewed: 25 points
- subrecipient has been reviewed in or before 1996: 20 points
- subrecipient has been reviewed between 1996 and 2000: 10 points
- subrecipient has been reviewed between 2001 and 2005: 5 points
- subrecipient has been reviewed between 2006 and 2010: 3 points
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Those two institutions with the most points ("highest score") after the second ranking will be then selected for review.

In addition, the New York State Education Department reg0 (tdCiT01 Te)-rv -1.4reg0 (n)-424 Td[l)3 (n)-4 (ad)6

ATTACHMENTS

ATTACHMENT 1

Programs applying for approval must convene a planning group represented by a number of stakeholders that must include, but not necessarily be limited to, representatives of each of the following:

- 1. persons familiar with the CTE needs and problems of management and labor in the service area:
- 2. persons familiar with programs of CTE at the secondary, postsecondary and adult levels:
- 3. persons familiar with the workforce needs and requirements of the community to be served;
- 4. persons familiar with the special educational needs of individuals with disabilities;
- 5. persons representative of community interests, including persons familiar with the special needs of the population to be served; and
- 6. persons enrolled as CTE students at the agency.

This group determines which programs will be developed for the district or BOCES. Once the program is developed, the district or BOCES will forward the program to a self-study team for review.

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Administrative Criteria

ATTACHMENT 2: NEW YORK STATE POSTSECONDARY MOA PLAN SCOPE

Recruitment Criteria

Recipient has established and implemented a process to ensure that:

- recruitment activities do not exclude or limit opportunities based on sex, race, color, national origin, or disability.
- recruitment materials do not contain biased or stereotypical contents.
- recruitment teams represent diverse populations.
- counselors can communicate with limited English proficiency populations and persons with sensory impairments.
- recruitment materials are available to communities of minority-language speakers in their native languages.

Equity Requirement/Legal Cites

Title IX: 34 CFR § 106.21 (a)(b); 34 CFR § 106.23 (a)(b); 34 CFR § 106.34; 34 CFR §106.36 (a)

Section 504:34 CFR § 104.4 (a); 34 CFR § 104.34

Guidelines V-C

Requested Evidence

Title IX:34 CFR § 106.21(b); 34 CFR § 106.21(c)

Section 504:3 4 CFR § 104.42(b)(1); 34 CFR § 104.42 (b)(4)

Guidelines IV-F Guidelines V-E TITLE II: 28 CFR 35

Requested Evidence

• Student Enrollment data

Accessibility of Facilities Criteria

Recipient has established and implemented a process to ensure that:

- each facility or part of a facility, constructed under standards for construction initiated on or after January 27, 1992 (ADA or UFAS) by, on behalf of, or for the use of a recipient, is readily accessible and usable by persons with disabilities.
- each facility or part of a facility constructed under standards for construction initiated or altered on or after January 18, 1991 (UFAS) by, on behalf of, or for the use of a recipient, is readily accessible and usable by persons with disabilities.
- existing facilities whose construction or alteration initiated before June 4, 1977 (ANSI) when viewed in entirety, are readily accessible to disabled persons, programs or activities, or when each part is viewed in its entirety, are readily accessible to disabled persons.
- each facility or part of a facility, constructed under standards for construction initiated or altered between June 4, 1977 and January 18, 1991 (ANSI) by, on behalf of, or for the use of a recipient, is readily accessible and usable by persons with disabilities.

Equity Requirement/Legal Cites

Title IX:34 CFR § 106.21 (a)(b); 34 CFR § 106.34; 34 CFR §106.36 (a); Section 504:34 CFR § 104.4 (a; CFR § 104.34; 34 CFR § 104.47(b) Guidelines V-B, V-D

Requested Evidence

- Copy of the Americans with Disability Act (ADA) accessibility self-study.
- Facility Checklists one for each building and adjacent parking lot (s)
- Floor plans/maps noting the following:
 - The locations of accessible entrances and accessible restrooms
 - The month and year of the building construction/ alteration
 - Accessibility standards used (e.g. ANSI, UFAS, ADA 1991 or ADA 2010) for each building or portion thereof (floor, wing) if different standards were used for different portions of these.
- Copy of any ADA transition plan.
- Listing or description of facility modifications with dates made to assure accessibility compliance.
- Copy of a notice of facility accessibility for activities/patron request for special requirements.

Financial Assistance Criteria

Recipient has established and implemented a process to ensure that:

- financial assistance in the form of loans, grants, scholarships, special funds, subsidies, compensation for work or prizes to CTE students is not provided on the basis of race, color, national origin, sex or disability, except to overcome the effects of past discrimination.
- sex restricted financial assista.

Comparable Facilities Criteria

Recipient has established and implemented a process to ensure that:

- separate programs or facilities for students with disabilities are comparable to those of students without disabilities.
- changing rooms, showers, and other facilities and equipment for students of one sex or students with disabilities are comparable to those of the other sex and to students without disabilities.

Equity Requirement/Legal Cites

Title IX:34 CFR § 106.21 (a)(b); 34 CFR § 106.34; 34 CFR §106.36 (a); Section 504:34 CFR § 104.4 (a; CFR § 104.34; 34 CFR § 104.47(b) Guidelines V-B, V-D

Requested Evidence

Listing of separate

Employment of Faculty & Staff Criteria

Recipient has established and implemented a process to ensure that:

- employment practices do not result in segregation, exclusion, or other discrimination against faculty and/or staff.
- there are no pre-employment inquiries concerning disability, martial, or parental status.

ATTACHMENT 3: POSTSECONDARY SUBRECIPIENT UNIVERSE

Institution