



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** P-12 Education Committee

**FROM:** Ken Slentz 

**SUBJECT:** Proposed Amendment to Section 100.5 of the Regulations of the Commissioner of Education Relating to the Safety Net for Students with Disabilities to Graduate with a Local High School Diploma

**DATE:** June 4, 2012

**AUTHORIZATION(S):** 

#### SUMMARY

#### Issue for Discussion

Should the Board of Regents amend section 100.5 of the Regulations of the Commissioner of Education to expand options for students with disabilities to graduate with a local high school diploma?

#### Reason(s) for Consideration

Review of policy.

#### Proposed Handling

The proposed amendment is before the P-12 Education Committee for discussion at the June 2012 meeting.

#### Procedural History

The Regents Competency Test (RCT) policy was first adopted by the Regents over a decade ago as a temporary measure to provide students with disabilities increased opportunities to earn a diploma at a time when many had never had full access to general education learning standards and course completion diploma requirements that could lead to a Regents diploma. Access to the RCTs was meant to

terminate once districts had revised their instructional programs to provide full access to the general education standards both in elementary school and when students reached secondary level classes. To provide adequate time for the transition, the Board of Regents delayed the phase out of the RCT<sup>1</sup> and decided to apply the phase out to the entering cohort of September 2011. Therefore, under current regulations, only the 55-64 pass score Safety Net option to earn a local diploma will continue to remain available to cohorts of students with disabilities who enter ninth grade in September 2011 and thereafter.

### **Background Information**

In January 2012, the Regents discussed the need to consider additional options for students with disabilities to earn a local diploma. Discussions around the Safety Net are intended to address the group of students with disabilities who, with appropriate accommodations, supports and services, can reach the State's learning standards at the Commencement Level.

At the April 2012 Regents Meeting, the Department recommended that the Board expand the safety net options for students with disabilities to earn a local diploma beyond the current option of the 55-64 pass score on the five required Regents exams. Current high school ninth graders must have advance notification to fully understand their options and to plan their future academic programs (i.e., courses of study) in the context of their post-school goals and individualized education program (IEP) transition plans. Upon consideration of public comment, the Regents directed staff to propose regulations to allow students with disabilities, who first enter grade nine in September 2005 or thereafter, to earn a local high school diploma through a compensatory option.

The proposed amendment would expand the safety net options to also authorize a school district to award a local diploma to a student with a disability if the student:

1. scores between 45-54 on one or more of the five required Regents exams, other than the English or mathematics exam, but scores higher than 65 on one or more of the required Regents exams, in which case the lower score(s) can be compensated by the higher score(s); and
2. obtains a passing score in the subject area of the Regents examination in which he or she received a score of 45-54;

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<sup>1</sup> July 1999 - established new diploma requirements and provided for safety net for students with disabilities entering prior to September 2001; June 2001 - extended safety net for students with disabilities entering prior to September 2005; February 2004 - extended safety net for students entering prior to September 2010; December 2009 - extended safety net for students with disabilities entering prior to September 2011

3. has an attendance rate of at least 95 percent for the school year during which the student took the Regents examination in which he or she received a score of 45-54, exclusive of excused absences; provided that
4. a student may not use the compensatory score option if the student is using a passing score on one or more RCTs to graduate with a local diploma.

A copy of the proposed amendment is attached. Supporting materials for the proposed amendment are available upon request from the Secretary to the Board of Regents.

### **Recommendation**

It is recommended that the P-12 Education Committee reach consensus on the intent of the proposed rule prior to taking action at the October 2012 Regents meeting.

### **Timetable for Implementation**

The proposed amendment is before the P-12 Education Committee for discussion in June 2012. A Notice of Proposed Rule Making will be published in the State Register no later than July 3, 2012. Public comment on the proposed amendment will be accepted for 45 days from the date of the publication in the State Register.

Following the receipt of public comment, it is anticipated that the proposed amendment will be submitted for action at the October 2012 meeting with a proposed effective date of October 31, 2012.

Attachment

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308 and 309

Section 100.5 of the Regulations of the Commissioner of Education is amended, effective October 3, 2012, as follows:

§100.5 Diploma requirements.

(a) General requirements for a Regents or a local high school diploma. Except as provided in paragraph (d)(6) of this section, the following general requirements shall apply with respect to a Regents or local high school diploma. Requirements for a diploma apply to students depending upon the year in which they first enter grade nine. A student who takes more than four years to earn a diploma is subject to the requirements that apply to the year that student first entered grade nine. Students who take less than four years to complete their diploma requirements are subject to the provisions of subdivision (e) of this section relating to accelerated graduation.

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) State assessment system. (i) Except as otherwise provided in subparagraphs (ii), (iii) and (iv) of this paragraph, all students shall demonstrate attainment of the New York State learning standards:

(a) . . .

(b) . . .

(c) United States history and government:

(1) . . .

(2) . . .

(3) for students with disabilities who first enter grade nine in or after September 1998 and prior to September 2011 and who fail the Regents examination in United States history and government, the United States history and government requirements for a local diploma may be met by passing the Regents competency test in United States history and government. For students with disabilities who first enter grade nine in September 2005 and thereafter, the United States history and government requirements for a local diploma may also be met by passing the Regents examination in United States history and government with a score of 55-64 or as provided in subparagraph (b)(7)(vi) of this section. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5);

(4) . . .

(d) Science:

(1) . . .

(2) . . .

(3) for students with disabilities who first enter grade nine in or after September 1999 and prior to September 2011 and who fail a Regents examination in science, the science requirements for a local diploma may be met by passing the Regents competency test in science. For students with disabilities who first enter grade nine in September 2005 and thereafter, the science requirements for a local diploma may also be met by passing a Regents examination in science with a score of 55-64 or as

provided in subparagraph (b)(7)(vi) of this section. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5);

(4) . . .

(e) Global history and geography:

(1) . . .

(2) . . .

(3) for students with disabilities who first enter grade nine in or after September 1998 and prior to September 2011 and who fail the Regents examination in global history and geography, the global history and geography requirements for a local diploma may be met by passing the Regents competency test in global studies. For students with disabilities who first enter grade nine in September 2005 and thereafter, the global history and geography requirements for a local diploma may also be met by passing the Regents examination in global history and geography with a score of 55-64 or as provided in subparagraph (b)(7)(vi) of this section. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5);

(4) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(6) . . .

(7) . . .

(8) . . .

(b) Additional requirements for the Regents diploma. Except as provided in paragraph (d)(6) of this section, the following additional requirements shall apply for a Regents diploma.

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) Types of diplomas.

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) Local diploma options for students with disabilities. The provisions of this subparagraph shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law section 3202 or 4402(5).

(a) For students with disabilities who first enter grade nine in or after September 2001 and prior to September 2011 and who fail required Regents examinations for graduation but pass Regents competency tests in those subjects, as provided for in

paragraph (a)(5) of this section, a local diploma may be issued by the local school district.

(b) For students with disabilities who first enter grade nine in September 2005 and thereafter, a score by such student of 55-64 may be considered as a passing score on any Regents examination required for graduation, and in such event and subject to the requirements of paragraph (c)(6) of this section, the school may issue a local diploma to such student. [This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5).]

(c) Notwithstanding the provisions of clause (b) of this subparagraph, for students with disabilities who first enter grade nine in September 2005 and thereafter, a student's score of 45-54 on a Regents examination required for graduation, other than the English and mathematics examinations, may, for purposes of earning a local diploma, be compensated by a score of 65 or higher on one of the other required Regents examinations; provided that:

(1) each examination for which the student earned a score of 45-54 must be compensated by a score of 65 higher on a separate examination; a score of 65 or higher on a single examination may not be used to compensate more than one examination for which the student earned a score of 45-54; and

(2) the student has attained at least a 65 course average in the subject area of the Regents examination in which he or she received a score of 45-54; and

(3) the student has an attendance rate of at least 95 percent for the school year during which the student took the Regents examination in which he or she received a score of 45-54, exclusive of excused absences; and

(4) a student shall not use the compensatory score option if the student is using a passing score on one or more Regents competency tests (RCT) pursuant to clause (a) of this subparagraph to graduate with a local diploma.

(vii) . . .

(viii) . . .

(ix) . . .

(x) . . .

(c) . . .

(d) . . .

(e) . . .

(f) . . .