



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

TO: P-12 Education Committee
ACCES Committee

FROM: Angélica Infante-Green *A. Infante - Green*
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SUBJECT: Proposed Amendment of §100.7 of the Regulations of the Commissioner of Education Relating to a New Pathway to a New York State High School Equivalency Diploma

DATE: January 16, 2018

AUTHORIZATION(s):  

SUMMARY

Issue for Discussion

Should the Board of Regents amend §100.7 of the Regulations of the Commissioner of Education relating to the establishment of a new pathway to a New York State high school equivalency (HSE) diploma?

Proposed Handling

A revised proposed amendment is being presented to the P-12 Education and ACCES Committees for discussion at the January 2018 Regents meeting (Attachment A is a copy of the proposed amendment).

Procedural History

A Notice of Proposed Rule Making was published in the State Register on November 1, 2017. Supporting materials are available upon request from the Secretary to the Board of Regents. Following the 60-day public comment period, the Department received several comments in support of the proposed amendment, and one comment expressing concern (Attachment B is a copy of the Assessment of Public Comment).

After further review of the proposed regulation and in an effort to address the feedback received during the public comment period, additional revisions are being proposed. A Notice of Revised Rule Making will be published in the State Register on February 7, 2018. In accordance with the State Administrative Procedure Act, there is a 30-day public comment period for the revised rulemaking which will expire on March 9, 2018.

Background Information

Currently, in New York State (NYS), there are three pathways toward earning a high school equivalency diploma:

- TASC™ testing (Test Assessing Secondary Completion)
- Approved 24-College-Credit Program
- National External Diploma Program (NEDP)
(see Attachment 1 for more detailed explanation)

Various constituents have raised concerns that the current pathways to a NYS HSE diploma adopted by the Board of Regents to date are limited in scope and do not provide individuals who have passed required Regents examinations with the ability to utilize those passing scores towards earning a NYS HSE diploma after they have exited secondary school.

Background Information

The New York State Education Department (NYSED) has discussed the feasibility of offering individuals pursuing an HSE diploma the option of being able to utilize passing Regents examination scores in core subjects in place of corresponding TASC™ subtests. These conversations have been influenced by factors including the following:

- The long-standing practice that passing HSE examination scores from a given GED® test or TASC™ test series can be used indefinitely while that series is still being administered.
- The practice of “grandfathering” implemented by NYSED, which permits the use of passing scores from the 2002 GED® series, in conjunction with new TASC™ scores, to determine eligibility to earn a HSE diploma.
- The use of passing scores on certain Regents examinations as a requirement for high school graduation.
- The policy of allowing school-aged students to use any Regents examination score toward high school graduation purposes, regardless of the age of the score.

Currently, students who do not earn 22 credits and pass at least 5 assessments (Regents examinations, Department-approved alternatives or pathway examinations) are unable to earn a high school diploma, and get no credit or value for the classes and examinations they may have passed. Those who leave secondary school prior to acquiring a high school diploma often do not reengage in any educational program until 21 years of age or older. While it is anticipated that post-compulsory aged youth (17-21)

would be most likely to be positively impacted by this pathway, it would be an incentive and advantage also to those older adults seeking their HSE diploma.

The purpose of allowing students to utilize passing Regents examination scores toward earning an HSE diploma after they have exited secondary school would be to encourage engagement in educational programs, improve and increase high school completion rates, and work toward a strategy to better connect students to Adult Education programming with the goal of achieving an HSE diploma.

Table 1 illustrates the number of students who started grade 9 in 2011 and 2012, passed Regents examinations, and did not receive a Regents, Advanced Regents, or Local diploma by the expected time of graduation in 2015 or 2016.

Table 1. ^{1,2}

Students who passed Regents Examinations without earning Diploma¹

Regents Subjects Passed	Dropped Out
0	20658
1	5767
2	3831
3	3178
4	3043
TOTAL	36477

¹ Regents examinations are ELA, Math, Science, and Social Studies. Credit was given for 1 exam in each area. Passing grade is 65.

² 2011 and 2012 cohorts were used; data are as of 8/28/17.

Proposed Amendment: The Fourth Pathway: Utilizing Both Regents Examinations and TASC™ Subtests to Meet the High School Equivalency Diploma Requirements

At the September 2017 Regents meeting, the Board of Regents directed Department staff to develop a regulation to establish a fourth pathway to an HSE diploma. The proposed amendment allows students who have passed Regents examinations in Mathematics, English Language Arts (ELA), Social Studies, and/or Science, the opportunity to substitute those passing scores on a maximum of four of the five corresponding TASC™ subtests (Mathematics, Reading, Writing, Social Studies, and Science)

Regents Exam	Recommendation¹
Any Mathematics Regents Examination	Receive credit for TASC™ Mathematics
ELA Regents Examination	Acceptable for <u>both</u> TASC™ Reading and Writing subtests
Any Regents Social Studies Examination	Receive credit for TASC™ Social Studies
Any Regents Science Examination	Receive credit for TASC™ Science

Given that Regents examinations are valid measures of the knowledge, skills, and abilities required for high school graduation, valid passing scores on Regents examinations should count for the associated TASC™ subtest.

Conditions:

- Candidates must continue to meet the existing eligibility criteria as prescribed by Commissioner’s regulation §100.7(a)(1). As a result, students will not be allowed to utilize previously passed Regents examination scores towards an HSE diploma until they have met such conditions.
- A passing score on a Regents examination shall mean a 65, and for students with disabilities, a 55-64. It also includes an appeal score of 52-54 for students with disabilities pursuant to §100.5(d)(7)(i)(c) of the Commissioner’s regulations. English Language Learners who enter the United States in grades 9 or higher, and do not score 65 or higher on the ELA Regents Examination after at least 2 attempts, may utilize a score of 55-64, pursuant to the appeal option specified in §100.5(d)(7)(i)(b) of the Commissioner’s regulations, to substitute for the TASC™ Reading and Writing subtests. A passing score shall also include any appeal option set forth in §100.5(d)(7)(i)(a).
- Students may utilize up to four passing Regents examination scores to substitute for a maximum of four of the five corresponding TASC™ subtests.

This new pathway to an HSE diploma will provide equitable access points and a diverse means by which New Yorkers can earn an HSE diploma. The ability to use passing Regents examination scores toward earning an HSE diploma will expand the opportunity for high school students at risk of dropping out as well as students with disabilities to stay engaged with their education and offer an incentive for meeting graduation requirements to those whose circumstances may not allow for completion of high school.

Related Regents Item(s)

October 2017:

<http://www.regents.nysed.gov/common/regents/files/1017p12accesd1revised.pdf>

¹ Note: An HSE diploma will not be issued based solely on passing Regents examination scores. For candidates that have passed all four core Regents exams, as shown above, one TASC subtest, of the candidate’s choosing, will need to be passed in order to receive an HSE diploma.

September 2017:

<http://www.regents.nysed.gov/common/regents/files/917p12accesd1.pdf>

Timetable for Implementation

Following the 30-day public comment period required under the State Administrative Procedure Act for revised rulemakings, it is anticipated that the proposed amendment will be presented to the Board of Regents for permanent adoption at the April 2018 meeting, and the proposed amendment will become effective as a permanent rule on April 25, 2018.

The Department will collect data regarding the implementation of the proposed amendment and will provide the Board of Regents with a review of the proposed amendment and its implementation in one year.

There are currently three pathways to a High School Equivalency diploma in NYS.

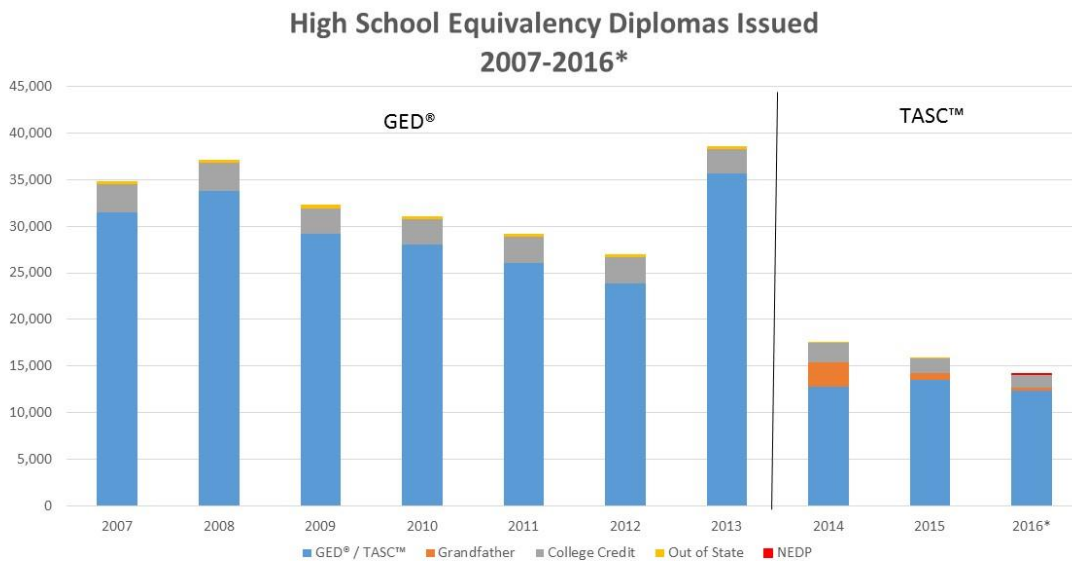
High School Equivalency Exam

Taking and passing the NYS HSE exam is the primary pathway for adults and out-of-school youth to obtain an HSE diploma. Last year, through 2017, over 16,000 New Yorkers passed the TASC™ test and were issued their NYS HSE diplomas (approximately 94% were in English, and 6% were in Spanish.)

New York State also allows eligible residents who lived outside of NYS and who passed GED® subtests prior to 2014, and TASC™ test subtests since 2014, to apply those passing scores to earn a NYS HSE Diploma. This practice is referred to as “Out-of-State” testers. In 2016 there were 31 Out-of-State HSE diploma recipients.

Figure 1 shows the number of diplomas issued via the three pathways since 2007.

Figure 1.



The number of High School Equivalency diplomas earned has declined as the number of P-12 graduates increases.
 *Data are as of 12/7/2016

24 College Credits

The HSE diploma earned through college credit has been available in accordance with CR 100.7 since the 1960’s. The last regulatory change regarding this program became effective in September 2004, when language was added to CR 100.7 to ensure that college credits were from an approved institution and followed the

prescribed course and credit distribution. In 2016, 1,417 New Yorkers received HSE diplomas by successfully completing the 24 college credit hour requirements.

National External Diploma Program

The authorization of the National External Diploma Program (NEDP) as a local HSE diploma was first adopted at the November 1984 Regents meeting, which added §100.8 as part of a new Part 100. The regulation allowed boards of education to award a local HSE diploma based upon experimental programs approved by the Commissioner, and became effective September 1, 1985. In May 2016, an amendment was made to CR 100.7 and CR 100.8 to discontinue the NEDP as means to attain a local diploma and establish it as the third pathway to a state-issued HSE diploma. NYSED began the issuance of these diplomas on September 1, 2016. Since its inception, 175 individuals have received their NYS HSE diplomas as a result of meeting the NEDP requirements.

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 206, 207, 210, 214, 215 and 305 of the Education Law.

1. Clauses (a) and (b) of subparagraph (i) of paragraph (2) of subdivision (a) of section 100.7 of the Regulations of the Commissioner of Education are amended to read as follows:

(i) In order to receive a high school equivalency diploma, candidates shall:

(a) take a general comprehensive examination prescribed for the program, in English, and achieve a standing designated as satisfactory by the Commissioner of Education, except that a passing score or scores, on any mathematics Regents examination, ELA Regents examination, Social Studies Regents examination and/or Science Regents examination or any other examination approved by the commissioner pursuant to section 100.2(f) or (mm) of this Part, may be accepted as a passing score on the corresponding sub-test or sub-tests of any general comprehensive examination prescribed for the program and administered on or after April 25, 2018. Provided, however, that for purposes of this clause, a candidate must take at least one sub-test and may only substitute a passing score or scores on Regents examinations for any remaining sub-test(s). For purposes of this clause, passing score or scores on any Mathematics Regents examination, English Regents examination, Social Studies Regents examination and/or Science Regents examination shall mean a passing score as defined in section 100.5(a)(5)(i)(a)(2) and (3); (a)(5)(i)(b)(2) and (3) and 100.5(g) [English]; (a)(5)(i)(c)(3) and (4) and 100.5(g) [Mathematics]; (a)(5)(i)(d)(2) and (3) [Science]; (a)(5)(i)(e)(4) and (5) [Global History and geography]; and/or 100.5(d)(7)(i)(a),(b) and (c) of this Part, as applicable for such examination; or

(b) take a general comprehensive examination prescribed for the program in a language other than English, where available, and achieve a standing designated as satisfactory by the commissioner on such examination, except [that such] a passing score or scores on any mathematics Regents examination, ELA Regents examination, Social Studies Regents examination and/or Science Regents examination or any other examination approved by the commissioner pursuant to section 100.2(f) or (mm) of this Part may be accepted as a passing score on the corresponding sub-test or sub-tests of any general comprehensive examination prescribed for the program and administered on or after April 25, 2018, except that such candidates shall receive a high school equivalency diploma with a transcript that bears an inscription indicating the language in which the general comprehensive examination was taken. Provided, however, that for purposes of this clause, a candidate must take at least one sub-test and may only substitute a passing score or scores on Regents examinations for any remaining sub-test(s). For purposes of this clause, passing score or scores on a mathematics Regents examination, ELA Regents examination, Social Studies Regents examination and/or Science Regents examination shall mean a passing score as defined in 100.5(a)(5)(i)(a)(2) and (3); (a)(5)(i)(b)(2) and (3) and 100.5(g) [English]; (a)(5)(i)(c)(3) and (4) and 100.5(g) [Mathematics]; (a)(5)(i)(d)(2) and (3) [Science]; (a)(5)(i)(e)(4) and (5) [Global History and geography]; and/or 100.5(d)(7)(i)(a), (b) and (c) of this Part, as applicable for such examination. Such candidates shall receive a high school equivalency diploma with a transcript that bears an inscription indicating the language in which the general comprehensive examination was taken, and may exchange such diploma with a transcript for a diploma with a transcript not containing such inscription

upon achievement of a satisfactory standing on the Reading and Writing subtest of the general comprehensive exam subsequently taken in the English language; or

ASSESSMENT OF PUBLIC COMMENT

Since publication of the Notice of Proposed Rule Making in the State Register on November 1, 2017 the State Education Department (SED) received the following comments on the proposed amendment:

1.COMMENT:

Many commenters expressed support for the proposed amendments and indicated that a wide variety of students would benefit from the amendments. Students who have passed any high school Regents exam in math, ELA, social studies or science should have the opportunity to use these scores in place of the corresponding TASC™ subtests. Many students have worked hard to earn credits and pass Regents exams towards graduation. Currently, if a student leaves high school prior to graduation, all of his or her successful work is disregarded. The student must begin again, to prepare for and pass each subject on the TASC™, as if they had never attended high school.

The amendments will expand the opportunities for students at risk of dropping out, as well as students with disabilities, to earn a diploma and continue their education and/or secure meaningful employment. It will also save time and money. It is essential, in our current time, that a student is able to obtain a high school diploma or high school equivalency diploma to be competitive in college and career opportunities. Allowing students to use their completed exams in place of the corresponding TASC™ subtests gives youth a better chance at success.

DEPARTMENT RESPONSE:

No response necessary as the comment is supportive.

2.COMMENT:

Can a student replace the TASC™ with passing scores on all 5 Regents exams?

DEPARTMENT RESPONSE:

No. The proposed amendment allows students who have passed any Regents high school examination in Mathematics, English Language Arts (ELA), Social Studies or Science, the opportunity to use passing scores in place of the corresponding TASC™ sub-tests. However, passing Regents scores in all subject areas cannot be used for credit towards all five TASC™ subtests; individuals may substitute passing scores for all but one of the five sub-tests and must pass at least one TASC™ subtest (of their choice) to earn a New York State High School Equivalency diploma.

Regents Exam	Recommendation ²
Any Mathematics Regents Examination	Receive credit for TASC™ Mathematics.
ELA Regents Examination	Acceptable for <u>both</u> TASC™ Reading and Writing subtests
Any Regents Social Studies Examination	Receive credit for TASC™ Social Studies
Any Regents Science Examination	Receive credit for TASC™ Science

3.COMMENT:

The Lehman College Adult Learning Center has been providing free educational opportunities to low-income and immigrant Bronx residents age 18 and up since 1986.

² Note: An HSE diploma will not be issued based solely on passing Regents examination scores. For candidates that have passed all four core Regents exams, as shown above, one TASC subtest, of the candidate's choosing, will need to be passed in order to receive an HSE diploma.

We provide classes for approximately 800 students a year in English for Speakers of Other Languages, Basic Literacy, and High School Equivalency preparation. This proposal will save NYS money and enhance its economy, and improve the lives of adults and their families.

DEPARTMENT RESPONSE:

No response necessary as the comment is supportive.

4.COMMENT:

How would a student who passed all Regents exams obtain their equivalency diploma if they don't need to sit for a TASC™ sub-test? Do they need seat time in a program? Are they going to receive a general diploma from the state?

DEPARTMENT RESPONSE:

See response to Comment #2. Students who utilize this pathway will receive an NYS High School Equivalency Diploma. Seat time is not required.

5.COMMENT:

Commenter expressed support for the proposed amendment because it would enable him to earn a high school equivalency diploma by replacing his passing score on the Regents mathematics exam for the TASC™ Mathematics sub-test.

DEPARTMENT RESPONSE:

No response necessary as the comment is supportive.

6.COMMENT:

Does passing the ELA Regents count for both the Writing and Reading TASC™ sub-tests? If both, what prevents a student who has passed all 5 Regents exams by the end of 11th grade from claiming all 5 Regents toward the TASC™ and be awarded an HSE diploma without testing and completion of 12th grade?

DEPARTMENT RESPONSE:

A passing score on the ELA Regents examination may be substituted for both the TASC™ Writing sub-test and the TASC™ Reading sub-test. However, students who seek to utilize this pathway to obtain an HSE diploma are not eligible for the pathway until they meet the existing eligibility criteria in §100.7(a)(1). See also Comment#2.

7.COMMENT:

Commenter expressed support for the amendment and seeks the inclusion of students who use the Regents pathway for a TASC™ sub-test to be counted as “high school completers.” Commenter also seeks an amendment to the regulation to allow students to use this pathway before their cohort has graduated, indicating that many students will drop out before waiting for their peers to graduate.

DEPARTMENT RESPONSE:

Students who receive a high school equivalency diploma are not counted as graduates in the adjusted cohort graduation rate. However, students who complete an HSE diploma within two years of exiting high school to an HSE program will be included in the College, Career, and Civic Readiness Index.

The proposed amendments do not permit students to utilize previously passed Regents examination scores towards a HSE diploma until they meet the existing

eligibility requirements in §100.7(a)(1). The purpose of this new pathway is to expand the opportunity for high school students at risk of dropping out, as well as students with disabilities, to stay engaged with their education and offer an incentive for meeting graduation requirements to those whose circumstances may not allow for completion of high school. Therefore, the Department does not believe amendments are necessary at this time.

8.COMMENT:

Commenter expressed support for the amendments, but urged the Board of Regents to consider redefining the CDOS credential as a diploma. This would allow students who are unable to obtain a Regents diploma, thus finding themselves with limited options, to graduate from high school with a credential that is more appealing to potential employers. A CDOS diploma would still require these students to meet rigorous standards, but would provide the necessary flexibility in completing credit requirements.

DEPARTMENT RESPONSE:

The proposed amendments are limited in scope to expanding the pathway to achieving a high school equivalency diploma. However, at the December 2017 Regents meeting, the Board approved by emergency action amendments that would enable students with disabilities to seek a superintendent determination for a local diploma when those students have met the requirements for the CDOS credential and certain other conditions. See

<http://www.regents.nysed.gov/common/regents/files/1217p12a1.pdf>

9.COMMENT:

The New York State Coalition of 853 Schools supports the proposed amendments and requests the expansion of those who can offer an Alternative High School Equivalency Program to include 853 schools.

DEPARTMENT RESPONSE

To the extent that the comment is supportive, no response is necessary. To the extent that the comment seeks a review of the criteria for entities which may offer an HSE program, the Department will review the request.

10.COMMENT:

The Coalition for Multiple Pathways to a Diploma supports the proposed amendments but seeks amendments to also allow students to substitute approved alternatives to the Regents examinations for the TASC™ sub-tests and compensatory passing scores. The Coalition also recommends that the Department issue guidance to schools and families to ensure that students who remain eligible to attend high school are fully informed of their right to remain in school and are not pushed out of high school programs to pursue high school equivalency diplomas using this or any other HSE pathway.

DEPARTMENT RESPONSE:

See response to Comment #14. The proposed amendments do permit the substitution of a passing score on examinations approved by the Department pursuant to §§100.2(f) or 100.2(mm). Additionally, the Department anticipates issuing updated guidance in relation to the HSE pathways. HSE diploma recipients will continue to be

eligible to receive educational services provided by their local school district until reaching the age of twenty-one.

11.COMMENT:

Are AHSEP students considered as having “exited from high school for this purpose”? They typically cannot attend an AHSEP program unless enrolled by their high school in an AHSEP program if through a BOCES or it is a local program offered through the school?

DEPARTMENT RESPONSE

Students enrolled in Alternative High School Equivalency Programs (AHSEP) are eligible to take the TASC™ test to earn a HSE diploma. Students enrolled in AHSEPs will be eligible to benefit from the Regents HSE Pathway.

12.COMMENT:

How will certified transcripts be provided to TASC™ testing centers for consideration for exemption of sub-test to which the student has met the requirement via the passing of a corresponding Regents exam?

DEPARTMENT RESPONSE:

Applicants will receive an official NYSED HSE transcript via US Mail, listing which Regents examination scores, or scores on other Department-approved examinations, may be substituted for any TASC™ sub-test(s). Eligible candidates may then apply for and take the remaining necessary TASC™ subtest(s) at an official TASC™ testing center. High School Equivalency testing centers will have no role in evaluating High School or HSE transcripts. It will remain the responsibility of the

examinee to register for the appropriate TASC™ subtest(s). Guidance will be available from the NYSED HSE Unit available by e-mail at hse@nysed.gov or (518) 474-5906.

13.COMMENT:

Commenter expressed concern with proposed amendment fearing that students will be able to bypass key subject areas/units of study. The proposal would allow an individual to pass the Global History Regents exam in 10th grade, drop out of high school and then eventually use that "credit" to avoid having to take the social studies portion of the TASC™ exam (which also includes US History, civics and economics). There is value in ALL social studies subjects- particularly US History and civics given the current state of affairs and discourse in this country! A similar argument could be made for the sciences.

DEPARTMENT RESPONSE

The Department agrees that there is value in all subject areas. However, this new pathway will provide equitable access points and a diverse means by which New Yorkers can earn an HSE diploma. Given that Regents examinations are valid measures of the knowledge, skills and abilities required for high school graduation, valid passing scores on Regents examinations should count for the associated TASC™ subtest. The ability to use passing Regents examination scores toward an HSE diploma will expand the opportunity for at-risk high school students and students with disabilities to stay engaged with their education and incentivize meeting graduation requirements to those whose circumstances may not allow for completion of high school. Therefore, no amendments are necessary at this time.

14.COMMENT:

A few commenters sought clarification on the criteria for a “passing score” on the Regents exams. Specifically, will students with disabilities who achieve a 55-64, or successfully appeal the score be permitting to substitute those Regents exams for the TASC™ sub-tests?

DEPARTMENT RESPONSE:

A passing score on a Regents examination shall mean a 65, and for students with disabilities, a 55-64. It also includes an appeal score of 52-54 for students with disabilities pursuant to §100.5(d)(7)(i)(c). English Language Learners who enter the United States in grades 9 or higher, and do not score 65 or higher on the ELA Regents Examination after at least 2 attempts, may utilize a score of 55-64, pursuant to the appeal option specified in §100.5(d)(7)(i)(b), to substitute for the TASC™ Reading and Writing subtests. A passing score shall also include the appeal option set forth in §100.5(d)(7)(i)(a).

15.COMMENT:

Do the amendments start with a certain cohort, will they be retroactive?

DEPARTMENT RESPONSE:

If adopted, the amendments become effective on April 25, 2018 and will apply to any sub-test or sub-tests of any general comprehensive examination prescribed for the HSE program administered on or after April 25, 2018. However, passing Regents exam scores from any time in the past will qualify for Regents HSE pathway credit.

16.COMMENT:

Commenter expressed support for the amendments. Students who have passed Regents exams in their high school settings are often demoralized when they learn that they will not carry their credits or Regents exams forward as degree progress for the HSE. After hearing that they will be “starting over,” students express great regret about their decision to leave high school, when often these choices were necessary for their well-being. These students deserve to move forward with their hard-earned passing scores on Regents exams taking the place of corresponding TASC™ subtests. The amendments will remove barriers for students who have already overcome many barriers in life. Honoring student accomplishments will reduce their time in programs and move them more swiftly towards their goals, increasing well-being for that individual and all in their network.

DEPARTMENT RESPONSE

No response necessary as the comment is supportive.

17.COMMENT:

The Intergenerational Change Initiative supports the amendments. Through our research and data analysis, we see the need to continuously provide multiple ways for young people to empower themselves through education and understand the many circumstances and experiences that may threaten a young person’s ability to achieve this goal.

DEPARTMENT RESPONSE

No response necessary as the comment is supportive.