





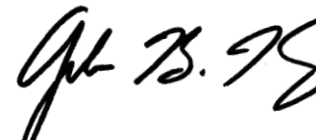
THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

TO: The Honorable the Members of the Board of Regents

FROM: Ken Wagner 

SUBJECT: Proposed amendment of §§100.5 and 100.18 of the Commissioner's Regulations, relating to miscellaneous Common Core transition issues

DATE: February 3, 2014

AUTHORIZATION(S):  

SUMMARY

Issues for Decision (Consent Agenda)

Should the Board of Regents amend the Commissioner's Regulations to make technical, conforming changes relating to the transition to the Common Core, as follows?

- To reflect transition to the Common Core English Language Arts and mathematics examinations in the following areas: (1) Local diplomas for students with disabilities; (2) Regents diploma with advanced designation; (3) credit by examination; and (4) transfer credit;
- To provide at local discretion an additional opportunity, at the January 2014 examination administration, for students enrolled in Common Core ELA courses to meet diploma requirements by passing either the Regents Comprehensive Examination in English or the Regents Examination in English Language Arts (Common Core); and
- To update the names of the 3-8 performance level descriptors, consistent with the presentations to the Board at the March 11, 2013 and July 22, 2013 Regents meetings.

Reason(s) for Consideration

Implementation of Policy

Proposed Handling

The proposed amendment will be presented to the Full Board for adoption as a permanent rule at the February Regents meeting. In addition, a second emergency adoption is necessary to ensure the emergency rule adopted at the November Regents meeting remains continuously in effect until the effective date of its adoption as a permanent rule. A statement of the facts and circumstances which necessitate emergency action is attached.

Procedural History

The proposed amendment was adopted as an emergency action at the November 2013 Regents meeting, effective November 19, 2013. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on December 4, 2013. A copy of the proposed amendment is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

At the July 2013 meeting the Board of Regents adopted by emergency action, effective July 30, 2013, a new Commissioner's Regulation §100.5(g) to allow students to meet diploma requirements by passing Regents Examinations in English Language Arts and mathematics that are aligned to the New York State P-12 Common Core Learning Standards. §100.5(g) was permanently adopted at the October 2013 Regents meeting. In order to address issues arising from that adoption, and allow students to continue to meet the requirements for all diploma types, (local, Regents and Regents with Advanced Designation) further revisions are necessary as the new Common Core Regents examinations are being phased in and the Regents Examinations aligned to the 2005 Core are phased out. These technical amendments do not result in any substantive policy changes, but rather serve only to reconcile existing regulations with newly adopted Common Core assessment regulations.

Commissioner's Regulations Part 100.5 – Diploma Requirements

The proposed amendment makes provisions for the new Regents Examinations in ELA and Mathematics aligned to the Common Core to meet various diploma requirements. In each section below, the Common Core ELA and Mathematics Regents Examinations (indicated in bold) have been included as assessments allowable to meet diploma requirements. Also included is an amendment to §100.5(g)(1)(ii) to provide at the local school district's discretion an additional opportunity, at the January 2014 examination administration, for students enrolled in Common Core English Language Arts courses to meet diploma requirements by passing either the Regents Comprehensive Examination in English (2005) or the Regents Examination in English Language Arts (Common Core). The regulation

currently provides for this opportunity only during the June and August 2014 administrations.

(1) Students with disabilities.

The proposed amendment establishes English and Mathematics requirements for students with disabilities to obtain a local diploma, as follows:

English requirements:

- students with disabilities who first enter grade nine prior to September 2011 and who fail the Regents comprehensive examination in English, may meet the English requirements for a local diploma by passing the Regents competency test in reading and the Regents competency test in writing or their equivalents;
- students with disabilities who first enter grade nine in September 2005 and thereafter may also meet the English requirements for a local diploma by passing the Regents comprehensive examination in English with a score of 55-64 or by earning a score within a comparable range, as approved by the Board of Regents, on the **Regents Examination in English Language Arts (Common Core)**.

Mathematics requirements:

- Students with disabilities who first enter grade nine in or after September 1997 and prior to September 2011 and who fail a Regents examination in mathematics may meet the mathematics requirements for a local diploma by passing the Regents competency test in mathematics or its equivalent.
- Students with disabilities who first enter grade nine in September 2005 and thereafter may meet the mathematics requirements for a local diploma by passing a Regents examination in mathematics with a score of 55-64 or such other minimum passing score as approved by the Board of Regents on a commencement level **Regents examination in mathematics that measures the Common Core Learning Standards**.

(2) Regents diploma with advanced designation

Beginning with the 2011-12 school year and thereafter, to earn a Regents diploma with an advanced designation, students must pass two or three commencement level Regents examinations in mathematics through one of the following combinations:

- Two examination combination. A student must pass (1) Mathematics A and Mathematics B, or (2) Mathematics A and Algebra 2/Trigonometry, or (3) Mathematics B and Integrated Algebra;
- Three examination combination. A student must pass (1) Mathematics A or Integrated Algebra **or Algebra I (Common Core)**; and (2) Geometry or **Geometry (Common Core)**; and (3) Mathematics B or Algebra 2/Trigonometry or **Algebra II (Common Core)**.

(3) Credit by examination

A student may earn a maximum of 6 1/2 units of credit for either a Regents or local diploma without completing units of study for such units of credit, if: (1) based on the student's past academic performance, the superintendent of a school district or the chief administrative officer of a registered nonpublic high school, or his or her designee, determines that the student will benefit academically by exercising this alternative; (2) the student achieves a score of at least 85, or its equivalent as determined by the commissioner, on a State-developed or State-approved assessment; (3) the student passes an oral examination or successfully completes a special project to demonstrate proficiency, in such knowledge, skills and abilities normally developed in the course of but not measured by the relevant Regents examination or State-approved examination if used, as determined by the principal; and (4) the student attends school, or received substantially equivalent instruction elsewhere until the age of 16.

- A student who earns a score of at least 85, or a comparable score as approved by the Regents, on a **Regents examination in mathematics** and meets the requirements in (1), (3) and (4) above shall receive one unit of credit.
- A student who first entered grade nine prior to September 2013 and who earns a score of at least 85 on the Regents comprehensive examination in English or a comparable score, as approved by the Board of Regents, on the **Regents Examination in English Language Arts (Common Core)** and meets the requirements in (1), (3) and (4) above shall receive one unit of credit. A student who first entered grade nine in September 2013 or thereafter and who earns a score of at least 85, or a comparable score as approved by the Board of Regents, on the **Regents Examination in English Language Arts (Common Core)** and meets the requirements in (1), (3) and (4) above shall receive one unit of credit.

(4) Transfer credit

- Students who enter a registered high school for the first time in grade 11 in the 2002-2003 school year and thereafter, other than those students who have received home instruction or who have been enrolled in a registered or non-registered public or nonpublic high school, in order to receive a high school diploma must pass the Regents Comprehensive Examination in English or the **Regents Examination in English Language Arts (Common Core)**, a Regents examination in mathematics, a Regents examination in United States history and government, and a Regents examination in science, or approved alternatives.
- Students who enter a registered high school for the first time in grade 12 in the 2004-2005 school year and thereafter, other than those students who have received home instruction or who have been enrolled in a registered or non-registered public or nonpublic high school, in order to receive a high school diploma must pass the Regents comprehensive examination in English or the **Regents Examination in English Language Arts (Common Core)**, a Regents examination in mathematics, a Regents examination in United States history and government, or approved alternatives.

(5) Additional opportunity for Students enrolled in Common Core ELA to meet diploma requirements by passing the Regents Comprehensive Examination in ELA (2005)

- For the **January 2014**, June 2014 and August 2014 administrations only, students enrolled in English Language Arts (Common Core) courses may, at the discretion of the applicable school district, take the Regents Comprehensive Examination in English (2005) in addition to the Regents Examination in English Language Arts (Common Core), and may meet such English requirement by passing either examination.

Commissioner's Regulation part 100.18 – ESEA Accountability System

In addition to the above proposed revisions, the proposed amendment also amends §100.18 of the Commissioner's Regulations to reflect the change in name of the performance level descriptors (PLD) as follows. The proposed changes in the PLD names were included in presentations to the Board on Common Core Assessments at the March 11, 2013 and July 22, 2013 Regents meetings.

Level 1: Change from "below standards" to "well below proficient"

Level 2: Change from "meets basic standards" to "below proficient"

Level 3: Change from "meets proficiency standards" to "proficient"

Level 4: Change from "exceeds in standards" to "excels in standards"

Recommendation

Staff recommends that the Regents take the following action

VOTED: That subdivision (g) of section 100.5 and subdivision (b) of section 100.18 of Commissioner's Regulations be amended as submitted, effective February 26, 2013, and it is further

VOTED: That subdivision (g) of section 100.5 and subdivision (b) of section 100.18 of Commissioner's Regulations be amended as submitted, effective February 17, 2014, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare in order to ensure that the emergency rule adopted at the November 18-19, 2013 Regents meeting remains continuously in effect until the effective date of the rule's permanent adoption.

Timetable for Implementation

The proposed amendment was adopted as an emergency rule at the November 2013 Regents meeting, effective November 19, 2013 and will expire on February 16,

2014. If adopted at the February Regents meeting, the permanent rule will take effect on February 26, 2014 and the emergency rule will take effect on February 17, 2014.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

1. Subdivision (g) of section 100.5 of the Regulations of the Commissioner is amended, effective February 26, 2014, as follows:

(g) Common Core transition.

(1) Notwithstanding the provisions of this section, the following provisions shall apply to the specified student cohorts for purposes of meeting the English and Mathematics requirements for a Regents or local diploma:

[(1)] (i) English.

[(i)] (a) Students who first enter grade 9 in September 2013 and thereafter shall meet the English requirement for graduation in clause 100.5(a)(5)(i)(a) of this section by passing the Regents Examination in English Language Arts (Common Core) or an approved alternative pursuant to section 100.2(f) of this Part.

[(ii)] (b) Students who first enter grade 9 prior to September 2013 shall meet the English requirement for graduation in clause 100.5(a)(5)(i)(a) of this section by (a) successfully completing a course in English Language Arts (Common Core) and passing the Regents Examination in English Language Arts (Common Core) or an approved alternative pursuant to section 100.2(f) of this Part; or (b) successfully completing a course in English aligned to the 2005 Learning Standards and passing the Regents Comprehensive Examination in English or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the January 2014, June 2014 and August 2014 administrations only, students enrolled in English Language Arts (Common Core) courses may, at the discretion of the applicable school district, take the Regents

Comprehensive Examination in English in addition to the Regents Examination in English Language Arts (Common Core), and may meet such English requirement by passing either examination.

(c) For students with disabilities who first enter grade nine in or after September 1996 and prior to September 2011 and who fail the Regents comprehensive examination in English, the English requirements for a local diploma may be met by passing the Regents competency test in reading and the Regents competency test in writing or their equivalents. For students with disabilities who first enter grade nine in September 2005 and thereafter, the English requirements for a local diploma may also be met by passing the Regents comprehensive examination in English with a score of 55-64 or by earning a score within a comparable range, as approved by the Board of Regents, on the Regents Examination in English Language Arts (Common Core). This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5);

[(2)] (ii) Mathematics.

[(i)] (a) Students who first begin instruction in a commencement level mathematics course aligned to the Common Core Learning Standards in September 2013 and thereafter shall meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing a commencement level Regents Examination in mathematics that measures the Common Core Learning Standards, or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the June 2014, August 2014 and January 2015 administrations only, students receiving Algebra I (Common Core) instruction may, at the discretion of the applicable school district, take

the Regents Examination in Integrated Algebra in addition to the Regents Examination in Algebra I (Common Core), and may meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing either examination.

[(ii)] (b) Students who first began or will complete an Integrated Algebra, Geometry, or Algebra 2/Trigonometry course prior to September 2013 shall meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing the corresponding commencement level Regents Examinations in mathematics or an approved alternative pursuant to section 100.2(f) of this Part.

(c) For students with disabilities who first enter grade nine in or after September 1997 and prior to September 2011 and who fail a Regents examination in mathematics, the mathematics requirements for a local diploma may be met by passing the Regents competency test in mathematics or its equivalent. For students with disabilities who first enter grade nine in September 2005 and thereafter, the mathematics requirements for a local diploma may also be met by passing a Regents examination in mathematics with a score of 55-64 or such other minimum passing score as approved by the Board of Regents on a commencement level Regents examination in mathematics that measures the Common Core Learning Standards. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5).

(2) Earning a Regents diploma with advanced designation. Notwithstanding the provisions of this section, to earn a Regents diploma with an advanced designation a student must complete, in addition to the requirements for a Regents diploma, additional Regents examinations in mathematics as determined by the commissioner or approved

alternatives pursuant to section 100.2(f) of this Part. Beginning with the 2011-12 school year and thereafter, students must pass two or three commencement level Regents examinations in mathematics through one of the following combinations:

(a) Two examination combination. A student must pass:

(1) Mathematics A and Mathematics B, or

(2) Mathematics A and Algebra 2/Trigonometry, or

(3) Mathematics B and Integrated Algebra;

or

(b) Three examination combination. A student must pass:

(1) Mathematics A or Integrated Algebra or Algebra I (Common Core); and

(2) Geometry or Geometry (Common Core); and

(3) Mathematics B or Algebra 2/Trigonometry or Algebra II (Common Core);

(3) Credit by examination. Notwithstanding the provisions of this section, a student may earn a maximum of 6 1/2 units of credit for either a Regents or local diploma without completing units of study for such units of credit, if:

(i) based on the student's past academic performance, the superintendent of a school district or the chief administrative officer of a registered nonpublic high school, or his or her designee, determines that the student will benefit academically by exercising this alternative;

(ii) the student achieves a score of at least 85, or its equivalent as determined by the commissioner, on a State-developed or State-approved assessment pursuant to section 100.2(f) of this Part;

(iii) the student passes an oral examination or successfully completes a special project to demonstrate proficiency, in such knowledge, skills and abilities normally developed in the course of but not measured by the relevant Regents examination or State-approved examination if used, as determined by the principal; and

(iv) the student attends school, or received substantially equivalent instruction elsewhere, in accordance with section 3204(2) of the Education law, until the age of 16, pursuant to sections 3204 and 3205 of the Education Law.

(v) Calculation of units of credit based upon credit by examination.

(a) A student who earns a score of at least 85, or a comparable score as approved by the Board of Regents, on a Regents examination in mathematics and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(b) A student who earns a score of at least 85 on a Regents examination in science and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(c) A student who earns a score of at least 85 on a State-developed or State-approved assessment in career and technical education and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(d) A student who earns a score of at least 85 on a Regents examination in United States history and government and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(e) A student who earns a score of at least 85 on a Regents examination in global history and geography and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(f) A student who first entered grade nine prior to September 2013 and who earns a score of at least 85 on the Regents comprehensive examination in English or a comparable score, as approved by the Board of Regents, on the Regents Examination in English Language Arts (Common Core) and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit. A student who first entered grade nine in September 2013 or thereafter and who earns a score of at least 85, or a comparable score as approved by the Board of Regents, on the Regents Examination in English Language Arts (Common Core) and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(g) A student who, prior to the commencement of the 2010-2011 school year, earns a score of at least 85 on the State second language proficiency examination in accordance with section 100.2(d)(3) of this Part and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(h) A student who earns a score of at least 85 on the comprehensive second language Regents examination and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive three units of credit.

(i) A student who earns a score of at least 85 on a State-developed or State-approved assessment in the arts (visual arts, music, dance and theatre) and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(4) Transfer credit. Notwithstanding the provisions of this section:

(i) Students who enter a registered New York State high school for the first time in grade 11 in the 2002-2003 school year and thereafter, other than those students who have received home instruction pursuant to 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents Comprehensive Examination in English or the Regents Examination in English Language Arts (Common Core), a Regents examination in mathematics, a Regents examination in United States history and government, and a Regents examination in science, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

(ii) Students who enter a registered New York State high school for the first time in grade 12 in the 2004-2005 school year and thereafter, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents comprehensive examination in English or the Regents Examination in English Language Arts (Common Core), a Regents examination in mathematics, a Regents examination in United States history and government, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in science and the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

2. Subdivision (b) of section 100.18 of the Regulations of the Commissioner of Education is amended, effective February 26, 2014, as follows:

(b) Definitions. As used in this section:

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(8) . . .

(9) . . .

(10) . . .

(11) . . .

(12) . . .

(13) . . .

(14) Performance levels shall mean:

(i) for elementary and middle grades:

(a) level 1 ([below standards] well below proficient)

(1) not on track to be proficient: a score of level 1 on State assessments in English language arts and mathematics provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile does not meet or exceed his or her growth percentile target; or the student does not have a growth percentile target; or a score of level 1 on a State alternate assessment.

(2) on track to be proficient: a score of level 1 on State assessments in English language arts and mathematics, provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile meets or exceeds his or her growth percentile target;

(3) for science: a score of level 1 on State assessments in science or other State assessments, or a score of level 1 on a State alternate assessment;

(b) level 2 ([meets basic standards] below proficient)

(1) not on track to be proficient: a score of level 2 on State assessments in English language arts and mathematics provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile does not meet or exceed his or her growth percentile target; or the student does not have a growth percentile target; or a score of level 2 on a State alternate assessment;

(2) on track to be proficient: a score of level 2 on State assessments in English language arts and mathematics, provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile meets or exceeds his or her growth percentile target;

(3) for science: a score of level 2 on State assessments in science or other State assessments, or a score of level 2 on a State alternate assessment;

(c) level 3 ([meets proficiency standards] proficient)

(1) a score of level 3 on State assessments in English language arts, mathematics and science or a score of level 3 on a State alternate assessment;

(2) a score of 65 or higher on a Regents Examination in science for students in grade eight pursuant to subdivision 100.4(d) of this Part;

(d) level 4 ([exceeds standards] excels in standards): a score of level 4 on State assessments in English language arts, mathematics and science or a score of level 4 on a State alternate assessment;

(ii) for high school:

(a) level 1 ([below standards] well below proficient)

(1) a score of 64 or less on the Regents comprehensive examination in English or a Regents mathematics examination;

(2) a failing score on a State-approved alternative examination for those Regents examinations.

(3) a score of level 1 on a State alternate assessment;

(4) a cohort member who has not been tested on the Regents comprehensive examination in English or a Regents mathematics examination or State-approved alternative examination for these Regents examinations;

(b) level 2 ([meets basic standards] below proficient)

(1) a score between 65 and 74 on the Regents comprehensive examination in English or between 65 and 79 on a Regents examination in mathematics.

(2) a score of level 2 on a State alternate assessment;

(c) level 3 ([meets proficiency standards] proficient)

(1) a score between 75 and 89 on the Regents comprehensive examination in English or between 80 and 89 on a Regents examination in mathematics; or passes a State-approved alternative to those Regents examinations;

(2) a score of level 3 on a State alternate assessment;

(d) level 4 ([exceeds standards] excels in standards)

(1) a score of 90 or higher on the Regents comprehensive examination in English or a Regents mathematics examination;

(2) a score of level 4 on a State alternate assessment;

[(14)] (15) Performance index shall be calculated based on the student performance levels as follows:

(i) . . .

(ii) . . .

[(15)] (16) Student growth means the change in student achievement for an individual student between two or more points in time.

[(16)] (17) Student growth percentile means the result of a statistical model that calculates each student's change in achievement between two or more points in time on a State assessment and compares each student's performance to that of similarly achieving students.

[(17)] (18) Median student growth percentile means the result of rank-ordering the student growth percentile results for an accountability group at the school, district, or State level.

[(18)] (19) The student growth percentile target means the rate of annual growth necessary in English language arts and mathematics for a student to meet proficiency standards in three years, or by 8th grade, whichever is earlier.

[(19)] (20) A transfer high school means a high school in which the majority of students upon their first enrollment in the high school had previously attended grade nine or higher in another high school or a school in which more than 50 percent of currently enrolled students are English language learners who were born outside of the United States and have attended school in the United States for less than three years.

[(20)] (21) School improvement grant means a grant awarded by the U.S. Department of Education to the New York State Education Department, as a State Education Agency (SEA), pursuant to section 1003(g) of the Elementary and Secondary Education Act of 1965, as amended, and awarded by the department to a local education agency (LEA) as a subgrant.

[(21)] (22) A whole school reform model means the turnaround model, restart model, transformation model or closure model as set forth in section 100.2(p)(10)(iv) of this Part; or a three year plan that provides for the redesign of a school by implementation of all of the following turnaround elements:

- (i) . . .
- (ii) . . .
- (iii) . . .
- (iv) . . .
- (v) . . .
- (vi) . . .
- (vii) . . .

[(22)] (23) Integrated intervention team means a school quality review team or joint intervention team appointed by the commissioner, that may include a distinguished educator appointed by the commissioner, to conduct a diagnostic review of a priority or focus school or focus district or a school under registration review.

8 NYCRR §§100.5 and 100.18

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment is necessary to address miscellaneous Common Core Transition issues by providing for transition to the Common Core English Language Arts and mathematics examinations in the following areas: (1) students with disabilities local diplomas; (2) Regents diploma with advanced designation; (3) credit by examination; and (4) transfer credit; by providing at the local school district's discretion an additional opportunity, at the January 2014 examination administration, for students enrolled in Common Core English Language Arts courses to meet diploma requirements by passing either the Regents Comprehensive Examination in English in addition to the Regents Examination in English Language Arts (Common Core); and to reflect the change in name of the performance level descriptors.

The proposed amendment was adopted as an emergency action at the November 18-19, 2013 Regents meeting, effective November 19, 2013, and has now been adopted as a permanent rule at the February 10-11, 2014 Regents meeting. Pursuant to SAPA §203(1), the earliest effective date of the permanent rule is February 26, 2014, the date a Notice of Adoption will be published in the State Register. However, the November emergency rule will expire on February 16, 2014, 90 days after its filing with the Department of State on November 19, 2013. A lapse in the rule's effective date could disrupt preparations for transitioning to the new CCLS Regents Examinations in English Language Arts (Common Core) and in Mathematics (Algebra I, Geometry and Algebra II). Emergency action is therefore necessary for the preservation of the general welfare

to ensure that the proposed rule adopted by emergency action at the November 2013 Regents meeting, and adopted as a permanent rule at the February 2014 Regents meeting, remains continuously in effect until the effective date of its permanent adoption.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

1. Subdivision (g) of section 100.5 of the Regulations of the Commissioner is amended, effective February 17, 2014, as follows:

(g) Common Core transition.

(1) Notwithstanding the provisions of this section, the following provisions shall apply to the specified student cohorts for purposes of meeting the English and Mathematics requirements for a Regents or local diploma:

[(1)] (i) English.

[(i)] (a) Students who first enter grade 9 in September 2013 and thereafter shall meet the English requirement for graduation in clause 100.5(a)(5)(i)(a) of this section by passing the Regents Examination in English Language Arts (Common Core) or an approved alternative pursuant to section 100.2(f) of this Part.

[(ii)] (b) Students who first enter grade 9 prior to September 2013 shall meet the English requirement for graduation in clause 100.5(a)(5)(i)(a) of this section by (a) successfully completing a course in English Language Arts (Common Core) and passing the Regents Examination in English Language Arts (Common Core) or an approved alternative pursuant to section 100.2(f) of this Part; or (b) successfully completing a course in English aligned to the 2005 Learning Standards and passing the Regents Comprehensive Examination in English or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the January 2014, June 2014 and August 2014 administrations only, students enrolled in English Language Arts (Common Core) courses may, at the discretion of the applicable school district, take the Regents

Comprehensive Examination in English in addition to the Regents Examination in English Language Arts (Common Core), and may meet such English requirement by passing either examination.

(c) For students with disabilities who first enter grade nine in or after September 1996 and prior to September 2011 and who fail the Regents comprehensive examination in English, the English requirements for a local diploma may be met by passing the Regents competency test in reading and the Regents competency test in writing or their equivalents. For students with disabilities who first enter grade nine in September 2005 and thereafter, the English requirements for a local diploma may also be met by passing the Regents comprehensive examination in English with a score of 55-64 or by earning a score within a comparable range, as approved by the Board of Regents, on the Regents Examination in English Language Arts (Common Core). This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5);

[(2)] (ii) Mathematics.

[(i)] (a) Students who first begin instruction in a commencement level mathematics course aligned to the Common Core Learning Standards in September 2013 and thereafter shall meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing a commencement level Regents Examination in mathematics that measures the Common Core Learning Standards, or an approved alternative pursuant to section 100.2(f) of this Part; provided that for the June 2014, August 2014 and January 2015 administrations only, students receiving Algebra I (Common Core) instruction may, at the discretion of the applicable school district, take

the Regents Examination in Integrated Algebra in addition to the Regents Examination in Algebra I (Common Core), and may meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing either examination.

[(ii)] (b) Students who first began or will complete an Integrated Algebra, Geometry, or Algebra 2/Trigonometry course prior to September 2013 shall meet the mathematics requirement for graduation in clause 100.5(a)(5)(i)(b) of this section by passing the corresponding commencement level Regents Examinations in mathematics or an approved alternative pursuant to section 100.2(f) of this Part.

(c) For students with disabilities who first enter grade nine in or after September 1997 and prior to September 2011 and who fail a Regents examination in mathematics, the mathematics requirements for a local diploma may be met by passing the Regents competency test in mathematics or its equivalent. For students with disabilities who first enter grade nine in September 2005 and thereafter, the mathematics requirements for a local diploma may also be met by passing a Regents examination in mathematics with a score of 55-64 or such other minimum passing score as approved by the Board of Regents on a commencement level Regents examination in mathematics that measures the Common Core Learning Standards. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law, section 3202 or 4402(5).

(2) Earning a Regents diploma with advanced designation. Notwithstanding the provisions of this section, to earn a Regents diploma with an advanced designation a student must complete, in addition to the requirements for a Regents diploma, additional Regents examinations in mathematics as determined by the commissioner or approved

alternatives pursuant to section 100.2(f) of this Part. Beginning with the 2011-12 school year and thereafter, students must pass two or three commencement level Regents examinations in mathematics through one of the following combinations:

(a) Two examination combination. A student must pass:

(1) Mathematics A and Mathematics B, or

(2) Mathematics A and Algebra 2/Trigonometry, or

(3) Mathematics B and Integrated Algebra;

or

(b) Three examination combination. A student must pass:

(1) Mathematics A or Integrated Algebra or Algebra I (Common Core); and

(2) Geometry or Geometry (Common Core); and

(3) Mathematics B or Algebra 2/Trigonometry or Algebra II (Common Core);

(3) Credit by examination. Notwithstanding the provisions of this section, a student may earn a maximum of 6 1/2 units of credit for either a Regents or local diploma without completing units of study for such units of credit, if:

(i) based on the student's past academic performance, the superintendent of a school district or the chief administrative officer of a registered nonpublic high school, or his or her designee, determines that the student will benefit academically by exercising this alternative;

(ii) the student achieves a score of at least 85, or its equivalent as determined by the commissioner, on a State-developed or State-approved assessment pursuant to section 100.2(f) of this Part;

(iii) the student passes an oral examination or successfully completes a special project to demonstrate proficiency, in such knowledge, skills and abilities normally developed in the course of but not measured by the relevant Regents examination or State-approved examination if used, as determined by the principal; and

(iv) the student attends school, or received substantially equivalent instruction elsewhere, in accordance with section 3204(2) of the Education law, until the age of 16, pursuant to sections 3204 and 3205 of the Education Law.

(v) Calculation of units of credit based upon credit by examination.

(a) A student who earns a score of at least 85, or a comparable score as approved by the Board of Regents, on a Regents examination in mathematics and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(b) A student who earns a score of at least 85 on a Regents examination in science and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(c) A student who earns a score of at least 85 on a State-developed or State-approved assessment in career and technical education and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(d) A student who earns a score of at least 85 on a Regents examination in United States history and government and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(e) A student who earns a score of at least 85 on a Regents examination in global history and geography and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(f) A student who first entered grade nine prior to September 2013 and who earns a score of at least 85 on the Regents comprehensive examination in English or a comparable score, as approved by the Board of Regents, on the Regents Examination in English Language Arts (Common Core) and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit. A student who first entered grade nine in September 2013 or thereafter and who earns a score of at least 85, or a comparable score as approved by the Board of Regents, on the Regents Examination in English Language Arts (Common Core) and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(g) A student who, prior to the commencement of the 2010-2011 school year, earns a score of at least 85 on the State second language proficiency examination in accordance with section 100.2(d)(3) of this Part and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(h) A student who earns a score of at least 85 on the comprehensive second language Regents examination and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive three units of credit.

(i) A student who earns a score of at least 85 on a State-developed or State-approved assessment in the arts (visual arts, music, dance and theatre) and meets the requirements of subparagraphs (i), (iii) and (iv) of this paragraph shall receive one unit of credit.

(4) Transfer credit. Notwithstanding the provisions of this section:

(i) Students who enter a registered New York State high school for the first time in grade 11 in the 2002-2003 school year and thereafter, other than those students who have received home instruction pursuant to 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents Comprehensive Examination in English or the Regents Examination in English Language Arts (Common Core), a Regents examination in mathematics, a Regents examination in United States history and government, and a Regents examination in science, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

(ii) Students who enter a registered New York State high school for the first time in grade 12 in the 2004-2005 school year and thereafter, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents comprehensive examination in English or the Regents Examination in English Language Arts (Common Core), a Regents examination in mathematics, a Regents examination in United States history and government, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in science and the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

2. Subdivision (b) of section 100.18 of the Regulations of the Commissioner of Education is amended, effective February 17, 2014, as follows:

(b) Definitions. As used in this section:

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(7) . . .

(8) . . .

(9) . . .

(10) . . .

(11) . . .

(12) . . .

(13) . . .

(14) Performance levels shall mean:

(i) for elementary and middle grades:

(a) level 1 ([below standards] well below proficient)

(1) not on track to be proficient: a score of level 1 on State assessments in English language arts and mathematics provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile does not meet or exceed his or her growth percentile target; or the student does not have a growth percentile target; or a score of level 1 on a State alternate assessment.

(2) on track to be proficient: a score of level 1 on State assessments in English language arts and mathematics, provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile meets or exceeds his or her growth percentile target;

(3) for science: a score of level 1 on State assessments in science or other State assessments, or a score of level 1 on a State alternate assessment;

(b) level 2 ([meets basic standards] below proficient)

(1) not on track to be proficient: a score of level 2 on State assessments in English language arts and mathematics provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile does not meet or exceed his or her growth percentile target; or the student does not have a growth percentile target; or a score of level 2 on a State alternate assessment;

(2) on track to be proficient: a score of level 2 on State assessments in English language arts and mathematics, provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile meets or exceeds his or her growth percentile target;

(3) for science: a score of level 2 on State assessments in science or other State assessments, or a score of level 2 on a State alternate assessment;

(c) level 3 ([meets proficiency standards] proficient)

(1) a score of level 3 on State assessments in English language arts, mathematics and science or a score of level 3 on a State alternate assessment;

(2) a score of 65 or higher on a Regents Examination in science for students in grade eight pursuant to subdivision 100.4(d) of this Part;

(d) level 4 ([exceeds standards] excels in standards): a score of level 4 on State assessments in English language arts, mathematics and science or a score of level 4 on a State alternate assessment;

(ii) for high school:

(a) level 1 ([below standards] well below proficient)

(1) a score of 64 or less on the Regents comprehensive examination in English or a Regents mathematics examination;

(2) a failing score on a State-approved alternative examination for those Regents examinations.

(3) a score of level 1 on a State alternate assessment;

(4) a cohort member who has not been tested on the Regents comprehensive examination in English or a Regents mathematics examination or State-approved alternative examination for these Regents examinations;

(b) level 2 ([meets basic standards] below proficient)

(1) a score between 65 and 74 on the Regents comprehensive examination in English or between 65 and 79 on a Regents examination in mathematics.

(2) a score of level 2 on a State alternate assessment;

(c) level 3 ([meets proficiency standards] proficient)

(1) a score between 75 and 89 on the Regents comprehensive examination in English or between 80 and 89 on a Regents examination in mathematics; or passes a State-approved alternative to those Regents examinations;

(2) a score of level 3 on a State alternate assessment;

(d) level 4 ([exceeds standards] excels in standards)

(1) a score of 90 or higher on the Regents comprehensive examination in English or a Regents mathematics examination;

(2) a score of level 4 on a State alternate assessment;

[(14)] (15) Performance index shall be calculated based on the student performance levels as follows:

(i) . . .

(ii) . . .

[(15)] (16) Student growth means the change in student achievement for an individual student between two or more points in time.

[(16)] (17) Student growth percentile means the result of a statistical model that calculates each student's change in achievement between two or more points in time on a State assessment and compares each student's performance to that of similarly achieving students.

[(17)] (18) Median student growth percentile means the result of rank-ordering the student growth percentile results for an accountability group at the school, district, or State level.

[(18)] (19) The student growth percentile target means the rate of annual growth necessary in English language arts and mathematics for a student to meet proficiency standards in three years, or by 8th grade, whichever is earlier.

[(19)] (20) A transfer high school means a high school in which the majority of students upon their first enrollment in the high school had previously attended grade nine or higher in another high school or a school in which more than 50 percent of currently enrolled students are English language learners who were born outside of the United States and have attended school in the United States for less than three years.

[(20)] (21) School improvement grant means a grant awarded by the U.S. Department of Education to the New York State Education Department, as a State Education Agency (SEA), pursuant to section 1003(g) of the Elementary and Secondary Education Act of 1965, as amended, and awarded by the department to a local education agency (LEA) as a subgrant.

[(21)] (22) A whole school reform model means the turnaround model, restart model, transformation model or closure model as set forth in section 100.2(p)(10)(iv) of this Part; or a three year plan that provides for the redesign of a school by implementation of all of the following turnaround elements:

- (i) . . .
- (ii) . . .
- (iii) . . .
- (iv) . . .
- (v) . . .
- (vi) . . .
- (vii) . . .

[(22)] (23) Integrated intervention team means a school quality review team or joint intervention team appointed by the commissioner, that may include a distinguished educator appointed by the commissioner, to conduct a diagnostic review of a priority or focus school or focus district or a school under registration review.