



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

**TO:** Adult Career and Continuing Education Services (ACCES) Committee

**FROM:** Kevin Smith *K Smith*

**SUBJECT:** Approval of Certain Ability- to-Benefit Tests for Purposes of Eligibility for State Financial Aid

**DATE:** March 12, 2015

**AUTHORIZATION(S):** *Elizabeth B Berlin*

## **SUMMARY**

### **Issue for Decision**

Should the Board of Regents retroactively approve certain federally approved Ability-to-Benefit tests for purposes of eligibility for State Financial Aid?

### **Reason(s) for Consideration**

Review of policy.

### **Proposed Handling**

The proposed approval will be presented for action at the Adult Career and Continuing Education Services Committee at the March 2015 meeting of the Board of Regents.

### **Background Information**

Under Section 661 of the Education Law, as amended by Chapter 57 of the laws of 2007, a student seeking Tuition Assistance Program (TAP) aid and other State financial aid for the first time, beginning with the 2007-2008 academic year, must pass a federally approved Ability-To-Benefit (ATB) test identified by the Board of Regents if the student does not possess a U.S. high school diploma or its recognized equivalent.

One of the requirements of Education Law 661 is that the Board of Regents identify which of the numerous federally approved ATB tests will satisfy eligibility requirements for any New York State institution of Higher Education (including non-

degree granting schools) seeking TAP assistance for its students. A 2007 memorandum issued by then Senior Deputy Commissioner of Education of P-16 Johanna Duncan-Poitier (CEO 07-03) and a subsequent update memo issued by then Deputy Commissioner of Higher Education Joseph P. Frey (CEO 10-02) specifically identified the ATB tests approved for use by the Board of Regents for Institutions of Higher Education. These memoranda were not transmitted to non-degree granting schools and did not apply to these schools.

For non-degree granting schools, of which there are only a few that seek TAP assistance, the Bureau of Proprietary School Supervision (BPSS) listed which ATB tests were acceptable for use on its website. These tests were different than the tests approved in the 2007 and 2010 memoranda. Although not specifically approved by the Board of Regents, all of these tests were federally approved and were reviewed and determined to be appropriate by BPSS staff including the Deputy Commissioner.

A preliminary TAP audit by the Office of the State Comptroller of a licensed private career school seeks an extremely high disallowance of TAP funding, thereby threatening the existence of the school and potentially subjecting the Department to liability for the findings because the school was relying on guidance issued by the Department. Specifically, it is the Office of State Comptroller's position that only those tests listed in the 2007 and 2010 memoranda discussed above, were authorized to be used by *any* institution of higher education including non-degree granting schools. However, the tests in these memoranda do not include the tests listed on BPSS's website for non-degree granting schools, thus the Office of State Comptroller seeks to have the school's TAP award disallowed. In order to correct the administrative oversight of not having a list of ATB tests for non-degree granting schools approved by the Board of Regents, BPSS now seeks retroactive approval to September 2007 of these tests.

### **Recommendation**

It is recommended that the Board of Regents take the following actions:

VOTED: That the Board of Regents approve, retroactively to September 1, 2007, the use of the federally approved ATB tests listed in attachment A for the timeframes identified therein by non-degree granting postsecondary schools for purposes of the TAP program.

### **Timetable for Implementation**

The Regents action for retroactive and continuing approval of the use of certain ATB tests is effective immediately.

## **Attachment A**

### ATB TESTS USED BY BPSS SCHOOLS FOR TAP

#### PAST USE:

CPAT with federal scores of Language Usage 42 Reading 43 Numerical 41 2007-2011

CELSA for combined ESL/Vocational Programs, with the math part of CPAT (federal scores) taken after the ESL component, 2007-2011

#### CURRENT USE:

WONDERLIC BASIC SKILLS TEST with federal scores 200 verbal/210 quantitative for holders of verified high school diplomas 2007-current

WONDERLIC BASIC SKILLS TEST with scores of 248 verbal/254 for students without high school diploma 2011-current

CELSA for combined ESL/Vocational Programs, with the math part of Wonderlic Basic Skills Test taken after the ESL component, 2011-current

ASSET, 2007 to current and

COMPASS, 2007 to current