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SPECIAL EDUCATION FIELD ADVISORY

FROM: James P. DeLorenzo

SUBJECT: 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

The Board of Regents, at their October 2012 meeting, approved the emergency adoption of an amendment to section 100.5 of the Regulations of the Commissioner of Education. These regulations, effective October 31, 2012, provide an additional option for a student with a disability to earn a local diploma through the use of a “compensatory option” if the student:

1. scores between 45-54 on one or more of the five required Regents exams, other than the English language arts (ELA) or mathematics exam¹, but scores 65 or higher on one or more of the required Regents exams, in which case the lower score(s) can be compensated by the higher score(s)²; and
2. obtains a passing grade, that meets or exceeds the required passing grade by the school, for the course in the subject area of the Regents examination in which he or she received a score of 45-54; and
3. has a satisfactory attendance rate, in accordance with the district’s or school’s attendance policy, for the school year during which the student took the examination in which he or she received a score of 45-54, exclusive of excused absences; and
4. is not already using a passing score on one or more Regents Competency Tests (RCTs) to graduate with a local diploma. (A student may not use the compensatory score option if he or she is using a passing score on one or more RCTs to graduate with a local diploma.)

Attached, for additional information, are the amended regulations (Attachment A); a checklist for eligibility for the compensatory safety net option (Attachment B); and examples of possible scoring variations (Attachment C). Questions and answers regarding

¹ A score of at least 55 must be earned on both the ELA and mathematics exams.

² A score of 65 or higher on a single examination may not be used to compensate for more than one examination for which a score of 45-54 is earned.

safety net options have been posted at <http://www.p12.nysed.gov/specialed/assessment.html>. Additional questions should be sent to speced@mail.nysed.gov. Responses to these additional questions will also be posted on that website.

To ensure dissemination to appropriate individuals within a school district, I ask Superintendents to please share this memorandum with individuals such as Directors of Special Education, School Psychologists, Committee on Special Education Chairpersons, Guidance Counselors and Directors of Pupil Personnel and Parent Teacher Associations. Questions regarding this memorandum may be directed to the Special Education Policy Unit at 518-473-2878 or to the Special Education Quality Assurance Office in your region:

Central Regional Office	(315) 428-4556
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(518) 473-1185
Long Island Regional Office	(631) 952-3352
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002
Nondistrict Unit	(518) 473-1185

Attachments

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 31, 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 or higher on a separate examination; a score of 65 or higher on a single examination may not be used to compensate for more than one examination for which the student earned a score of 45-54; and

(2) the student has attained a passing grade, that meets or exceeds the required passing grade by the school, for the course in the subject area of the Regents examination in which he or she received a score of 45-54; and

(3) the student has a satisfactory attendance rate, in accordance with the district's or school's attendance policy established pursuant to subparagraph

104.1(i)(2)(v) of this Title, 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)

Checklist for Eligibility for the Compensatory Safety Net Option

The student is eligible for the compensatory safety net option if he/she meets ALL of the following requirements.

- ✓ The student:
 - is classified as a student with a disability and has an individualized education program; or was declassified in grade eight or later and the committee on special education recommended that the student continue to be eligible to graduate with a local diploma through the safety net options; or
 - has a Section 504 Accommodation Plan and is recommended for the safety net on his/her Section 504 plan.
- ✓ The student earned at least a score of 55 on both the English language arts and math Regents examinations that are required for graduation.
- ✓ The student earned a score of 65 or higher on one or more required Regents examinations¹ to compensate, on a one-to-one basis, for each required Regents examination in which he or she received a score of 45-54.
- ✓ The student earned a passing grade, as determined by the school, in the subject area of the required Regents examinations in which he or she received a score of 45-54.
- ✓ The student has an attendance rate that was deemed to be satisfactory, based on the district's or school's attendance policy, during the school year in which he or she received a score of 45-54 on the required Regents examination.
- ✓ The student is relying only on Regents examination scores, and not the Regents Competency Test , to obtain a local diploma.

¹ Regents examinations required to earn a regular high school diploma include Comprehensive English; Mathematics; Global History and Geography; Science; and U.S. History and Government.

COMPENSATORY SAFETY NET OPTION EXAMPLES

The following are provided only as examples. For each example, it is presumed that the student has achieved a passing grade for the course(s) and has a satisfactory attendance rate, in accordance with the district's or school's attendance policy, for the course in the subject area of the Regents examination in which he or she received a score of 45-54.

Student A:

Required Regents Exam	Score	Rationale
Comprehensive English	55	<ul style="list-style-type: none"> • Student earned a score of at least 55 on both the English and mathematics exams. • Student's score of 68 on U.S. History exam compensates for his score of 46 on Global History exam. • Student may use the compensatory option to graduate with a local diploma.
Mathematics	62	
Global History & Geography	46	
Science	64	
U.S. History & Government	68	

Student B:

Required Regents Exam	Score	Rationale
Comprehensive English	79	<ul style="list-style-type: none"> • Student earned a score of at least 55 on both the English and mathematics exams. • Student's score of 79 on the English exam compensates for his score of 45 on the Global History exam. • Student's score of 86 on the mathematics exam compensates for his score of 49 on the U.S. History exam. • Student may use the compensatory option to graduate with a local diploma.
Mathematics	86	
Global History & Geography	45	
Science	64	
U.S. History & Government	49	

Student C:

Required Regents Exam	Score	Rationale
Comprehensive English	50	<ul style="list-style-type: none"> • Student did not earn a score of at least 55 on both the English and mathematics exams. • Student may not use the compensatory option to graduate with a local diploma.
Mathematics	62	
Global History & Geography	60	
Science	73	
U.S. History & Government	65	

Student D:

Required Regents Exam	Score	Rationale
Comprehensive English	61	<ul style="list-style-type: none"> • Student earned a score of at least 55 on both the English and mathematics exams. • Student's score of 78 on the Science exam can compensate for either his score of 49 on the Global History exam or his score of 52 on the U.S. History exam, but not both. • Student may not use the compensatory option to graduate with a local diploma.
Mathematics	59	
Global History & Geography	49	
Science	78	
U.S. History & Government	52	