

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 210, 215, 305, 308, 309 and 3204

1. Subdivision (II) of section 100.2 of the Regulations of the Commissioner is added, effective April 29, 2014, as follows:

(II) Grade promotion and placement policy. Each school district shall adopt a grade promotion and placement policy that is consistent with sections 100.3(b)(2)(iv), 100.4(b)(2)(v) and 100.4(e)(6) of this Part, and annually notify the parents and persons in parental relation to the students attending such district of such policy along with an explanation of how the policy was developed. Such notification may be provided on the school district's website, if one exists, or as part of an existing informational document that is provided to parents and persons in parental relation.

2. Paragraph (2) of subdivision (b) of section 100.3 of the Regulations of the Commissioner is amended, effective April 29, 2014, as follows:

(2) Required assessments.

(i) Except as otherwise provided in subparagraphs (ii) and (iii) of this paragraph, at the specified grade level, all students shall take the following tests, provided that testing accommodations may be used as provided for in section 100.2(g) of this Part in accordance with department policy:

(a) beginning in January 1999, the English language arts elementary assessment and the mathematics elementary assessment shall be administered in

grade four and, beginning in the 2005-2006 school year, the English language arts elementary assessments and the mathematics elementary assessment shall be administered in grades three and four; and

(b) beginning in January 2000, the elementary science assessment shall be administered in grade four.

(ii) Students receiving home instruction pursuant to section 100.10 of this Part may take, but shall not be required to take, the State assessments required of public school students.

(iii) In accordance with their individualized education programs, students with disabilities instructed in the alternate academic achievement standards defined in section 100.1(t)(2)(iv) of this Part shall be administered a State alternate assessment to measure their achievement.

(iv) Notwithstanding the provisions of this section, no school district shall make any student promotion or placement decisions based solely or primarily on student performance on the English language arts elementary assessments and the mathematics elementary assessments administered in grades three and four. However, a school district may consider student performance on such assessments provided the school district uses multiple measures in addition to such assessments and that such assessments do not constitute the major factor in such determinations.

3. Paragraph (2) of subdivision (b) of section 100.4 of the Regulations of the Commissioner is amended, effective April 29, 2014, as follows:

(2) Required assessments.

(i) Except as otherwise provided in subparagraphs (iv) and (v) of this paragraph, all students shall take the following assessments, provided that testing accommodations may be used as provided for in section 100.2(g) of this Part in accordance with department policy:

(ii) beginning with the 2005-06 school year, English language arts and mathematics assessments shall be administered in grades five and six;

(iii) for school years prior to July 1st of the 2010-2011 school year, all students in grade five shall take the social studies elementary assessment;

(iv) students receiving a program of home instruction pursuant to section 100.10 of this Part may take, but shall not be required to take, the State assessments required of public school students;

(v) in accordance with their individualized education programs, students with disabilities instructed in the alternate academic achievement standards defined in section 100.1(t)(2)(iv) of this Part shall be administered a State alternate assessment to measure their achievement;

(vi) beginning September 1, 2000 and continuing up to and including the 2004-2005 school year, fifth grade students who scored at Level 1 of the State designated performance levels on the English language arts elementary assessment and/or the mathematics elementary assessment administered in grade four shall receive at least one semester of academic intervention services and be retested no later than the

completion of grade five. Multiple sources of evaluation, including, but not limited to, a commercial test or other external test of demonstrated technical quality determined by the school district to be a valid and reliable means of evaluating a student's progress in achieving the elementary level State learning standards in English language arts and mathematics, shall be used to retest students in accordance with the district-adopted or district-approved procedure established pursuant to section 100.2(ee) of this Part;

(vii) Notwithstanding the provisions of this section, no school district shall make any student promotion or placement decisions based solely or primarily on student performance on the English language arts assessments and the mathematics assessments administered in grades five and six. However, a school district may consider student performance on such assessments provided the school district uses multiple measures in addition to such assessments and that such assessments do not constitute the major factor in such determinations.

4. Subdivision (e) of section 100.4 of the Regulations of the Commissioner of Education is amended, effective April 29, 2014, as follows:

(e) Required assessments in grades seven and eight. Except as otherwise provided in subdivisions (f) and (g) of this section, and except for students who have been admitted to a higher grade without completing the grade at which the assessment is administered, all students shall take the following assessments, provided that testing accommodations may be used as provided for in section 100.2(g) of this Part in accordance with department policy.

(1) Beginning with school year 1998-99, the English language arts intermediate assessment shall be administered in grade eight. Beginning with the 2005-2006 school year, English language arts assessments shall be administered in grades seven and eight.

(2) Beginning with the 1998-99 school year, the mathematics intermediate assessment shall be administered in grade eight. Beginning with the 2005-2006 school year, mathematics assessments shall be administered in grades seven and eight, provided that, for the 2013-2014 school year, students who attend grade seven or eight may take a Regents examination in mathematics in lieu of or in addition to the grade seven or eight mathematics assessment, in accordance with section 100.18(b)(14) of this Part.

(3) The program evaluation test in social studies in grade eight, beginning in May 1989. Beginning with the school year 2000-2001 through the 2009-2010 school year, the social studies intermediate assessment shall replace the program evaluation test and shall be administered in grade eight.

(4) Beginning with the school year 2000-2001, the science intermediate assessment shall be administered in grade eight; provided that students who attend grade eight may take a Regents examination in science in lieu of or in addition to the grade eight science intermediate assessment, in accordance with this section and section 100.18(b)(14) of this Part, and provided further that the science intermediate assessment shall not be administered in grade eight to students who take such assessment in grade seven and are being considered for placement in an accelerated

high school-level science course when they are in grade eight pursuant to subdivision (d) of this section.

(5) Such other assessments as the commissioner determines appropriate.

(6) Notwithstanding the provisions of this section, no school district shall make any student promotion or placement decisions based solely or primarily on student performance on the English language arts assessments and the mathematics assessments administered in grades seven and eight. However, a school district may consider student performance on such assessments provided the school district uses multiple measures in addition to such assessments and that such assessments do not constitute the major factor in such determinations.

5. Section 104.3 of the Regulations of the Commissioner of Education is added, effective April 29, 2014, as follows:

§ 104.3 Prohibition on inclusion of individual student scores on State administered standardized English language arts or mathematics assessments for grades three through eight. During the period commencing on April 1, 2014 and expiring on December 31, 2018:

(a) no school district or board of cooperative educational services may place or include on a student's official transcript or maintain in a student's permanent record any individual student score on a State administered standardized English language arts or mathematics assessment for grades three through eight, provided that nothing herein shall be construed to interfere with required State or federal reporting or to excuse a school district from maintaining or transferring records of such test scores separately

from a student's permanent record, including for purposes of required State or federal reporting; and

(b) any test results on a State administered standardized English language arts or mathematics assessment for grades three through eight sent to parents or persons in parental relation to a student shall include a clear and conspicuous notice that such results will not be included on the student's official transcript or in the student's permanent record and are being provided to the student and parents for diagnostic purposes.