

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 3204 and 3205

Section 100.7 of the Regulations of the Commissioner of Education is amended, effective December 2, 2015, as follows:

100.7 State high school equivalency diploma.

(a) Requirements.

(1) Each candidate shall have lived within the State of New York for at least one month prior to the examination and:

(i) shall be 19 years of age or over; or

(ii) shall be at least 17 years of age, and:

(a) [shall not have] has not attended a regular, full-time high school program of instruction within the preceding 12 months; or

(b) [shall be] is a member of a high school [which] who has graduated; or

(c) has been accepted into the U.S. armed forces; or

(d) has been accepted into college or post-secondary institution; or

(e) [shall be a resident of a narcotic addiction control center, or an adjudicated youth under the direction of a prison, jail, detention center, Office of Children and Family Services facility, parole or probation officer, or other correction facility, or a patient in a hospital in the State of New York,] is a resident of a narcotic addiction control center, a rehabilitation facility, county jail, prison, detention center or hospital, or is an adjudicated youth under the direction of a court or a parole, probation or other law enforcement agency and the head of such institution, the court, or the parole officer or probation

officer having oversight over such individual, as applicable, certifies that the high school equivalency diploma constitutes an essential element of the rehabilitational program; or

[(iii)] (f) [shall be] is enrolled in an alternative high school equivalency preparation program in accordance with subdivision (h) of this section; or

(g) is home schooled pursuant to section 100.10 of this Part; or

(h) is foreign born and never attended K-12 schools in the United States;

(iii) shall be at least 16 years of age and has reached maximum compulsory school attendance age; and

(a) has been accepted into the U.S. armed forces; or

(b) has been accepted into college or post-secondary institution; or

(c) is enrolled in an alternative high school equivalency preparation program in accordance with subdivision (h) of this section; or

(d) is home schooled pursuant to section 100.10 of this Part.

(2) (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; or

(b) take a general comprehensive examination prescribed for the program in a language other than English, where available, [and for those taking the examination on or after July 1, 1986, an English language proficiency examination designed by the commissioner,] and achieve a standing designated as satisfactory by the commissioner [in each] on such examination, except that such candidates [who achieve a satisfactory standing only on a general comprehensive examination may] 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 [a designated English language proficiency examination] the Reading and Writing subtest of the general comprehensive exam subsequently taken in the English Language; or

(c) . . .

(ii) Notwithstanding the provisions of clauses (i)(a) and (b) of this paragraph and subdivision (d) of this section, a passing score or scores on at least one but not more than four of the sub-tests of such examination or examinations taken in calendar years 2002 through 2013 for the English version of the [exam] examination and 2003 through 2013 for the Spanish version of the examination 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 January 1, 2014 [and before January 1, 2016].

[(3) The following persons who have been present within the State of New York for at least one month prior to the examination but do not meet fully the requirement under paragraph (1) of this subdivision may, upon proper application, be admitted to the examination:

(i) persons who are required to provide scores on the examination for enlistment in the Armed Forces of the United States; and

(ii) candidates for admission to a program of postsecondary education for which high school graduation is the normal prerequisite. A transcript of the scores for such

persons will be mailed to the agency or institution requesting it, but a diploma will not be issued until such time as the person becomes fully qualified.]

(b) Time and place of examination. The examinations for the high school equivalency diploma shall be held at such times and places as designated by the commissioner [of Education].

(c) Application [and fee]. Candidates shall submit an individual application in the form and manner prescribed by the commissioner. [Each application for an examination to be conducted on or after September 1, 1991, and on or before June 30, 1994, shall be accompanied by a fee of \$25.]

(d) Retesting. A candidate may take the examination for the high school equivalency diploma more than once. A period of at least [two months] 60 days shall elapse between testing periods. A different form of the examination shall be used for each retesting. The application procedures for each retesting shall be the same as for the original testing. On each retesting, a candidate shall have the option of retaking any or all of the five tests in the battery. Candidates who do not qualify for the diploma on the basis of retest scores shall have their eligibility for the diploma reevaluated on the basis of the highest score obtained on each test previously taken in the current administration series, or under the conditions as outlined by subparagraph (ii) of paragraph (2) of subdivision (a) of this section.

(e) Reporting of test scores. All candidates shall be entitled to one reporting of test scores without charge [, except that candidates who take the examination during the month of August 1991 shall be charged a fee of \$25 for the initial reporting of their test scores]. Requests for additional reporting of test scores must be accompanied by a

nonrefundable fee as determined by the commissioner for each reporting requested and must be signed by the candidate.

(f) . . .

(g) . . .

(h) Alternative high school equivalency preparation programs operated by school districts, boards of cooperative educational services, and facilities operated by the Office of Children and Family Services for students at least 16 years of age and under the age of [19] 21.

(1) Students who are at least 16 years of age, or such older maximum age as the board of education of the school district may designate for required school attendance pursuant to section 3205(3) of the Education Law, and who have completed the school year during which they reached 16 years of age, and who are under the age of [19] 21, may be enrolled in alternative high school equivalency programs. Students who do not meet the age requirements above, but who are at least 16 years of age, may be enrolled in an approved full-time alternative transition program. Such alternative transition programs may include components of the alternative high school equivalency preparation program but shall provide sufficient instruction to meet the full-time day instruction requirements of section 3205(1)(c) of the Education Law and section 175.5 of this Title. Such pupils may transfer directly from a regular high school program or enroll after having left secondary school.

(2) In order to obtain the approval of the department for alternative high school equivalency preparation programs, the governing body of the school district, or [boards] board of cooperative educational services, or Office of Children and Family Services

facility shall submit an application annually no later than June 30th, for programs to be operated during the following school year in [the same manner as set forth in paragraph (i)(2) of this section] a form and format as prescribed by the commissioner, and shall assure in such application that:

[(1)](i) the program approval requirements and assurances set forth in [paragraph (i)(2) of this section] paragraph (4) of this subdivision are satisfied;

[(2)](ii) the program offered each student shall consist of not less than [12] 15 hours per week, provided that:

(a) for students with reading and mathematics levels at grade nine or above on tests approved by the commissioner, preparation for the high school equivalency examination shall be no less than nine hours of the minimum 15 hours for the high school equivalency examination as part of the program; and

(b) for students with reading or mathematics levels below grade nine on tests approved by the commissioner, no less than 12 hours of the minimum 15 hours for the high school equivalency examination as part of the program;

[(3)] (iii) subjects or activities are scheduled in addition to preparation for the high school equivalency examination as part of the program of at least [12] 15 hours as follows:

[(i) for students with reading and mathematics levels at grade nine or above on tests approved by the commissioner, preparation for the high school equivalency examination shall be no less than 6 hours of the minimum 12-hour program. Activities other than preparation for the high school equivalency examination shall include counseling and support services related to the instructional program. Such subjects or

activities which are scheduled in addition to preparation for the high school equivalency examination shall be subject to approval by the department;

(ii) for students with reading or mathematics levels below grade nine on tests approved by the commissioner, no less than 9 hours of the minimum 12-hour program shall be instruction in reading, mathematics, oral and written communication, and life skills. Activities other than such instruction shall include counseling and support services related to the instructional program, and shall be subject to approval by the department]

(a) instruction in reading, or mathematics, oral and written communication, instructional supports, enrichment, programs that are aligned with career readiness, counseling, and other related life skills activities shall be subject to approval by the department; and

[(iii)](b) a workforce preparation component shall be provided to all students. The component shall be approved by the department and may include career and technical education, career exploration, internships, work experience or other school-to-work transition activities;

[(4)](iv) written approval by a person in parental relation to the student or by the student, as provided for in Education Law, section 3212(1) and (4), of each student's enrollment shall be obtained;

[(5)](v) documentation of student eligibility shall be maintained by the local school district and be available to the department. In order for students who are at least 16 years of age but under the age of [19] 21 to be eligible to enroll in an alternative high school equivalency preparation program, a student who has not been on the regular day

school register of grade nine for at least one school year shall score below the passing score on a State elementary assessment. In order to be eligible to enroll in an alternative high school equivalency preparation program, other students who are at least 16 years of age but under the age of [19] 21 shall have fewer than 12½ percent of the number of units of credit required by the school district for a diploma multiplied by the number of years the student has been in grades 9 through 12. Approval may be granted for a variance from the eligibility requirements set forth in this paragraph upon a finding by the commissioner that exceptional circumstances warrant such a variance; and

[(6)](vi) documentation setting forth the name of each student transferred into a program approved pursuant to this subdivision from a regular high school program shall be maintained by the local school district and be available to the department. In addition, such documentation shall indicate what academic intervention services, remedial instruction, counseling and support services were provided to the student prior to transferring into the program; whether such student continues in the program, has received a high school equivalency diploma, or has withdrawn from the program; and such other information as may be required by the commissioner. A summary of such documentation shall be submitted to the department on a form prescribed by the commissioner.

(3) The alternative high school preparation program shall be designed for students who will not graduate with their class because of credit deficiency but who are otherwise capable of completing graduation requirements.

[(i) High school equivalency preparation programs operated by school districts and boards of cooperative educational services for students at least 18 years of age and under the age of 21.

(1) In order to meet the requirements for a State high school equivalency diploma, students at least 18 years of age and under the age of 21 who have not received a high school diploma or equivalency diploma, may be enrolled in programs approved in accordance with Part 168 of this Title for employment preparation education, in programs approved pursuant to subdivision (h) of this section.

(2) Application. Each school district or board of cooperative educational services intending to operate a program approved in accordance with subdivision (h) of this section to prepare students to meet the requirements for a State high school equivalency diploma shall submit to the department an application in a form prescribed by the department for approval of such programs. Such application shall be submitted no later than July 1st of each year for programs to be operated during the following school year.

(3)(4) Program approval requirements. In order to obtain the approval of the department for any program to prepare students to meet the requirements of the State high school equivalency diploma, the governing body of the school district, board of cooperative educational services, or Office of Children and Family Services educational program shall provide performance data which shall be reviewed by the commissioner to determine if the program shall be approved. In addition, the governing body of the school district, board of cooperative educational services, or Office of Children and Family Services educational program shall assure in its application that:

(i) [a curriculum developed or approved by the department is to be used] the curriculum to be used satisfactorily addresses the subject matter areas included in a general comprehensive examination prescribed for the program pursuant to subparagraph (i) of paragraph (2) of subdivision (a) of this section and meets the required State standards pertaining to such examination;

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) . . .

(vii) . . .

(viii) . . .

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(x) . . .

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(xiv) . . .

(xv) . . .

(xvi) . . .

(xvii) . . .

(xviii) . . .

(j)(i) Approval may be granted for a variance from the standards and assurances set forth in paragraphs (h)(1) and (2) [and (i)(2)] of this section upon a finding by the commissioner that the requirements of such paragraphs will be substantially met.