



**TO:** P-12 Education Committee

**FROM:** Angelique Johnson-Dingle *Angelique Johnson-Dingle*  
Jason Harmon *Jason Harmon*

**SUBJECT:** Proposed Amendment of Sections 100.5(a) and (b) and 100.4(d) of the Regulations of the Commissioner of Education Relating to Exemptions from Diploma Assessment Requirements for Major Life Events

**DATE:** February 27, 2025

**AUTHORIZATION(S):** *Betty M...*

#### SUMMARY

#### Issue for Decision

Should the Board of Regents adopt the proposed amendment of sections 100.5(a) and (b) and 100.4(d) of the Regulations of the Commissioner of Education relating to exemptions from diploma assessment requirements for major life events?

#### Reason for Consideration

Review of Policy.

#### Proposed Handling

The proposed amendment is presented to the P-12 Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at its March 2025 meeting. A copy of the proposed rule (Attachment A) and a statement of facts and circumstances justifying emergency action (Attachment B) are attached.

#### Procedural History

If adopted as an emergency rule at the March 2025 meeting, a Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on March 26, 2025, for a 60-day public comment period. Supporting materials are available upon request to the Secretary of the Board of Regents.

## **Background Information**

In November 2023, the Blue Ribbon Commission on Graduation Measures presented their [recommendations](#) to the Board of Regents. The Graduation Measures Initiative was an unprecedented effort that brought together student voices along with a diverse range of stakeholders—including parents, educators, administrators, school support staff, representatives of higher education, and the business community. The Blue Ribbon Commission created a roadmap for learning-centered education that best meets the needs of every student in New York State and incorporates competency imperatives that provide them with the practical skills needed for the dynamic demands of tomorrow’s workforce.

As leaders in education, the Blue Ribbon Commission members were mindful of individual student circumstance and needs. As such, one of the Commission’s recommendations was to pursue regulatory changes to provide exemptions from diploma assessment requirements for major life events (such as medical conditions, death of a family member, or other trauma as further defined by the Blue Ribbon Commission).

Based on this recommendation, the Department now proposes to amend the Regulations of the Commissioner of Education to allow a superintendent, principal, or head of school (as applicable to a registered nonpublic school or charter school) to make a local determination to grant an exemption from the diploma assessment requirements for students who experienced a major life event prior to the planned administration of a required diploma assessment (i.e., Regents Examination, NYSED-Approved Regents Examination Alternative, or a NYSED-Approved Pathway Assessment).

Additional guidance will be available once the regulatory amendment is effective.

## **Related Regents Items**

[November 2024: NY Inspires: A Plan to Transform Education in New York State](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20Graduation%20Measures%20Update.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20Graduation%20Measures%20Update.pdf>)

[June 2024: New York State Graduation Measures Initiative: A Transformational Vision](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative%20-%20.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative%20-%20.pdf>)

[May 2024: New York State Graduation Measures Initiative: Board of Regents Update](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative_0.pdf)  
([https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative\\_0.pdf](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative_0.pdf))

[May 2024: Proposed Amendment of Section 100.5\(b\) of the Regulations of the Commissioner of Education Relating to Posthumous High School Diplomas](https://www.regents.nysed.gov/sites/regents/files/524p12a1revised.pdf)  
(<https://www.regents.nysed.gov/sites/regents/files/524p12a1revised.pdf>)

[November 2023: New York State Graduation Measures Initiative: Recommendations from the Blue Ribbon Commission](https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/FB%20Monday%20-%20New%20York%20State%20Graduation%20Measures%20Initiative.pdf>)

**Recommendation**

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

VOTED: That sections 100.5(a) and (b) and 100.4(d) of the Regulations of the Commissioner of Education be amended, as submitted, effective March 11, 2025, as an emergency action upon a finding of the Board of Regents that such action is necessary for the preservation of the general welfare to provide regulatory flexibility so that eligible students may be granted exemptions from diploma assessment requirements for major life events.

**Timetable for Implementation**

If adopted as an emergency rule at the March 2025 Board of Regents meeting, the emergency rule will become effective March 11, 2025. It is anticipated that the proposed amendment will be presented for permanent adoption at the July 2025 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. Because the emergency action will expire before the July 2025 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the May 2025 meeting. If adopted at the July 2025 meeting, the proposed amendment will become effective as a permanent rule on July 30, 2025.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 208, 209, 305, 309, and 3204 of the Education Law.

1. Paragraph (5) of subdivision (a) of section 100.5 of the Regulations of the Commissioner of Education is amended by adding a new subparagraph (ix) to read as follows:

(ix) Exemptions from diploma assessment requirements for major life events.

(a) For the purposes of this subparagraph, superintendent shall mean the superintendent of a school district or the principal, head of school, or their equivalent, of a charter school or registered nonpublic school, as applicable.

(b) Notwithstanding any other provision of this section, a superintendent may grant an exemption from a required diploma assessment, as described in subparagraph (i) of paragraph (5) of subdivision (a) of this section, in response to a request by the student who experienced a major life event, such student's parent or person in parental relation, or school or district staff at which such student is enrolled; provided the student meets the following criteria:

(1) the student was enrolled in a course of study or makeup program leading to a required diploma assessment;

(2) the student met or exceeded the expected learning outcomes for the course of study; and

(3) a major life event has significantly impacted or prevented the student from participating in such assessment.

(c) Prior to granting an exemption, the superintendent must obtain consent to do so from the student's parent or person in parental relation, or from the student if the

student is over the age of majority (age 18) and is not a student with a disability receiving services under the Individuals with Disabilities Education Act (IDEA), or from the student if the student is under the age of majority but is emancipated and acting on their own behalf.

(d) In determining whether to grant an exemption for each eligible student under this paragraph, the superintendent shall consider evidence that the student met or exceeded the expected learning outcomes for the course of study in the subject area under review. Such evidence may include, but need not be limited to, the student's final course grade, student work completed throughout the school year, and/or any interim, portfolio, or performance-based assessment(s) of the student's proficiency in the applicable learning standards.

(e) Following the superintendent's review of evidence, the superintendent shall, as soon as practicable, provide each student and/or parent or person in parental relation to the student with notification of the superintendent's decision to grant or deny an exemption from a required diploma assessment. A form documenting the diploma assessment exemption and the reasons for such exemption must be signed by the superintendent, and the original completed form must be retained in the student's permanent record.

(f) Exemptions from diploma assessment requirements for major life events apply to all diploma types.

(g) The commissioner may conduct audits of compliance with the requirements of this paragraph.

2. Subparagraph (ii) of paragraph (2) of subdivision (d) of section 100.4 of the Regulations of the Commissioner of Education is amended to read as follows:

(ii) the student passes the course and the associated checkpoint A locally developed world language test or Regents examination, when available, provided, however that a student shall be awarded credit for an accelerated course where such student passes the course and has been exempted from the associated Regents examination or checkpoint A locally developed world language exam pursuant to [paragraph (iv)] subparagraphs (v), (vi), and (ix) of paragraph (5) of subdivision (a) of section 100.5 [of this Part or from the associated checkpoint A locally developed world language test pursuant to] and paragraph (5) of subdivision (d) of section 100.2 of this Part [ due to the COVID-19 crisis]. The credit must be accepted as a transfer credit by all registered New York State high schools; or

3. Clause (c) of subparagraph (ii) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(c) Notwithstanding the provisions of clauses (a) and (b) of this subparagraph, Regents examination requirements that have been exempted pursuant to subparagraphs (vi) and (ix) of paragraph (5) of subdivision (a) of this section shall not be considered in the calculation to determine whether such student has achieved an average of 90 for purposes of awarding a Regents diploma with an honors endorsement provided the student has at least three Regents examinations scores. In the event the student has fewer than three Regents exam scores due to being exempted pursuant to subparagraphs (vi) and (ix) of paragraph (5) of subdivision (a) of this section, the student's final course grade for each course in which a Regents examination exemption was granted shall be substituted for the Regents exam score in determining whether such student has achieved an average of 90 for purposes of awarding a Regents diploma with honors endorsement.

4. Subparagraph (x) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended to read as follows:

(x) Students who first enter grade nine in September 2009 and thereafter who complete all coursework and testing requirements for the Regents diploma with advanced designation in mathematics and/or science, and who pass, with a score of 85 or better, three commencement level Regents examinations in mathematics and/or three commencement level Regents examinations in science, will earn a Regents diploma with advanced designation, with an annotation on the diploma that denotes mastery in mathematics and/or science, as applicable, except that students who pass, with a score of 85 or better two commencement level Regents examinations in mathematics and/or science and who have been exempted from a third Regents examination in math and/or science [due to the COVID-19 crisis] pursuant to subparagraphs (vi) and (ix) of paragraph (5) of subdivision (a) of this section, will earn a Regents diploma with advanced designation, with an annotation on the diploma that denotes mastery in mathematics and/or science as applicable. In cases where two exemptions have been granted for a Regents examination in math or science [due to the COVID-19 crisis] pursuant to subparagraphs (vi) and (ix) of paragraph (5) of subdivision (a) of this section, such student will earn a mastery endorsement if such student earns a final course average of 85 or greater for each math or science course for which a Regents examination exemption was granted.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE  
EMERGENCY ACTION

Consistent with recommendations from the Blue Ribbon Commission on Graduation Measures, the Department proposes to amend sections 100.5(a) and (b) and 100.4(d) to allow a superintendent (or the principal/head of school of a registered nonpublic school or charter school, as applicable) to make a local determination to provide exemptions from diploma assessment requirements for students who are unable to participate in a required assessment due to a major life event.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the July 2025 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the July meeting, would be July 30, 2025, the date the Notice of Adoption would be published in the State Register.

Emergency action is necessary at the March 2025 meeting, effective March 11, 2025, for the preservation of the general welfare to provide regulatory flexibility so that eligible students may be granted exemptions from diploma assessment requirements for major life events.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the July 2025 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rulemaking. However, since the emergency action will expire before the



July 2025 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the May 2025 Regents meeting.