



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

January 16, 2018

The Honorable MaryEllen Elia
Commissioner of Education
New York State Education Department
89 Washington Avenue, Room 111
Albany, NY 12234

Dear Commissioner Elia:

I am writing in response to the New York State Education Department's (NYSED) request to the U.S. Department of Education (the Department) for a waiver of the requirements in sections 1111(b)(1)(B) and (b)(2)(B)(i) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), which require a State to hold all students to the same academic standards and administer the same aligned assessments to all students. NYSED requested this waiver to permit students enrolled in grade 7 (or other grades, with the permission of the Commissioner) who complete advanced mathematics coursework and students enrolled in grade 8 (or other grades, with the permission of the Commissioner) who complete advanced science coursework to take the high school level Regents examinations in lieu of the grade-level assessments.

I have reviewed NYSED's request and, pursuant to my authority under ESEA section 8401(b), I am pleased to approve NYSED's request, to grant a waiver of section 1111(b)(2)(B)(i)(I) of the ESEA as well as the corresponding regulation 34 C.F.R 200.2(b)(1)(i) to allow NYSED, for middle school students who take a high school level Regents examination in mathematics or science, to use the results of that examination in lieu of the State's grade-level assessments. This approval will be in effect for four years (from the 2017-2018 school year through the 2020-2021 school year). By granting this waiver, the Department and NYSED have mutually agreed that:

- NYSED will apply the rules established in section 1111(b)(2)(C)(i) through (iii) of the ESEA, as amended by ESSA, and 34 C.F.R 200.5 (b)(1) through (3) to any middle school student who takes a high school level Regents mathematics or science assessment.
- If a middle school student does not take the mathematics or science assessment typically administered in the grade in which he or she is enrolled:
 - The student will take the end-of-course mathematics or science assessment, respectively, the State administers to high school students to comply with the requirements established in sections 1111(b)(1)(B) and 1111(b)(2)(B)(v) of the ESEA, as amended by ESSA;

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- The student’s performance and participation on the high school assessment will be used in the year in which the student takes the assessment for the purposes of State’s school-based accountability system required under the ESEA, as amended by ESSA; and
- In high school, the student will take a more advanced, State-administered end-of-course mathematics or science assessment, respectively and the student’s performance on and participation in that assessment will be used in the State’s school-based accountability system required under the ESEA.

I appreciate the work that you and your staff are doing to provide a high-quality education for all students in New York’s schools. If you have any questions, please contact Denise M. Joseph of my staff at: OSS.NewYork@ed.gov.

Sincerely,

/s/

Jason Botel
Principal Deputy Assistant Secretary,
Delegated the authority to Perform the
Functions and Duties of the Assistant
Secretary of Elementary and Secondary
Education

cc: Ira Schwartz, Associate Commissioner
Jhone Ebert, Senior Deputy Commissioner for Education Policy
Angelica Infante, P-12 Instructional Support Deputy Commissioner