



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

DEC 20 2013

The Honorable John B. King, Jr.  
Commissioner of Education  
New York State Education Department  
89 Washington Avenue  
Albany, New York 12234

Dear Commissioner King:

I am writing in response to the New York State Education Department's (NYSED's) request for waivers of certain requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. In particular, NYSED requested waivers of (1) ESEA section 1111(b)(1)(B) and the corresponding regulatory provisions that require each State to apply the same academic content and academic achievement standards to all public schools and public school children in the State; and (2) ESEA section 1111(b)(3)(C)(i) and the corresponding regulatory provisions that require each State's assessments to be the same academic assessment used to measure the achievement of all public school children.

NYSED requested these waivers so that it does not have to assess, on the grade-level statewide assessments, a seventh- or eighth-grade student who takes mathematics coursework and the corresponding Algebra I or Geometry Regents Examination, as appropriate, prior to entering high school. Rather, NYSED will use the results of the Regents Examination that such a student takes for federal accountability purposes at the school in which the student is enrolled in lieu of the grade-level statewide assessment. NYSED will use the results of either the Geometry or Algebra II Regents Examination or an approved alternative in mathematics (*e.g.*, AP, IB) that such a student takes in high school for federal accountability purposes, rather than "banking" the scores of the Regents Examination that the student took prior to entering high school.

After reviewing NYSED's request, I am granting, pursuant to my authority under ESEA section 9401, the following waivers:

A one-year waiver (for school year 2013–2014) of ESEA sections 1111(b)(1)(B) and 1111(b)(3)(C)(i) and the corresponding regulatory provisions so that NYSED may use, with respect to a student who is not yet enrolled in high school but who takes mathematics coursework and the corresponding Algebra I or Geometry Regents Examination, the student's score on that assessment for federal accountability purposes for the grade in which the student is enrolled.

[www.ed.gov](http://www.ed.gov)

400 MARYLAND AVE., SW, WASHINGTON, DC 20202

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

I will work with NYSED in the future should it wish to pursue this waiver beyond 2013–2014 school year.

Thank you for providing documentation to confirm that the New York State Commissioner's regulations require all local educational agencies to ensure that all students in grade 8 have the opportunity to take Algebra I prior to entering high school (Part 100.4(d)). In addition, please note that New York must ensure that not less than 95 percent of the students in the "all students" group and each ESEA subgroup enrolled at the time of testing participate in the statewide assessments. If you have any questions, please contact Victoria Hammer via email or phone at [Victoria.Hammer@ed.gov](mailto:Victoria.Hammer@ed.gov) or 202-260-1438.

Sincerely,

A black rectangular redaction box covers the signature of Deborah S. Delisle. A small handwritten mark is visible to the left of the box.

Deborah S. Delisle  
Assistant Secretary