

## SECTION 100.3

100.3 Program requirements for students in grades prekindergarten through six.

(a) *Prekindergarten and kindergarten programs in public schools and in voluntarily registered nonpublic schools.*

- (1) Each such school operating a prekindergarten or kindergarten program shall establish and provide an educational program based on and adapted to the ages, interests and needs of the children. Learning activities in such programs shall include:
  - (i) development of communication skills and exposure to literature;
  - (ii) dramatic play, creative art and music activities;
  - (iii) participation in group projects, discussion and games;
  - (iv) science and mathematical experiences;
  - (v) large muscle activities in prekindergarten and instruction in physical education in kindergarten pursuant to section 135.4(c)(2)(i) of this Title; and
  - (vi) instruction in health education for students in kindergarten pursuant to section 135.3(b) of this Title.
- (2) Each such school operating a prekindergarten and/or kindergarten program shall establish and provide an early literacy program based on and adapted to the needs, ages and interests of the students. Elements of early literacy programs shall include, but not be limited to:
  - (i) use of reading to obtain meaning from print;
  - (ii) frequent and intensive opportunities to read for learning and for pleasure;
  - (iii) activities that teach regular spelling-sound relationships;
  - (iv) learning about the nature of the alphabetic writing system; and
  - (v) understanding the structure of spoken words.
- (3) Each such school operating a prekindergarten or kindergarten program shall develop procedures to actively involve each child's parents or guardians in such programs.

(b) *Program requirements in grades one through six.*

- (1) Required subjects. During grades one through six, all students shall receive instruction that is designed to facilitate their attainment of the relevant State learning standards in:
  - (i) mathematics, including arithmetic, science, and technology;
  - (ii) English language arts, including reading, writing, listening and speaking for purposes of information and understanding, literary response and expression, critical analysis and evaluation, and social interaction, with attention given to comprehension, vocabulary, word study, spelling, grammar, usage and punctuation;

- (iii) social studies, including geography and United States history;
  - (iv) languages other than English, pursuant to section 100.2(d) of this Part;
  - (v) the arts, including visual arts, music, dance and theatre;
  - (vi) career development and occupational studies;
  - (vii) where student need is established, bilingual education and/or English as a second language; and
  - (viii) health education, physical education and family and consumer sciences.
    - (a) Instruction in health education shall be pursuant to section 135.3(b) of this Title.
    - (b) Instruction in physical education shall be pursuant to section 135.4(c)(2)(i) of this Title.
- (2) Required academic tests.
- (i) Except as otherwise provided in subparagraph (ii) of this paragraph, at the specified grade level, all students shall take the following tests, provided that alternative testing procedures may be used as provided for in section 100.2(g) of this Part:
    - (a) the pupil evaluation program tests in reading and mathematics in grade three through June 1998. Beginning in January 1999, the English language arts elementary assessment and the mathematics elementary assessment shall be administered in grade four;
    - (b) the pupil evaluation program test in writing in grade five through June 1999;
    - (c) Beginning in November 2001, the social studies elementary assessment shall be administered in grade five; and
    - (d) 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) Beginning September 1, 2000, 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 4 shall receive at least one semester of academic intervention services and be retested no later than the completion of grade 5. 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 subdivision (ee) of section 100.2 of this Part.

## SECTION 100.4

### 100.4 Program requirements for grades seven and eight.

(a) *Definitions.*

- (1) *Technology education* means a program of instruction designed to assist all students in meeting State intermediate standards for technology. Technology education uses concepts of science, mathematics, social science, and language arts in a hands-on, systems-based approach to problem solving that guides students in the understanding, design and development of systems, devices and products to serve human needs and wants.
- (2) *Home and career skills* means a program of instruction designed to assist all students in meeting State intermediate learning standards for family and consumer sciences and to assist all students to develop strategies to manage multiple individual, family, career, and community roles and responsibilities through instructional activities which incorporate concepts of science, mathematics, social science and language arts.

(b) *Units of study in grades seven and eight.*

- (1) Except as otherwise provided herein, all students shall be provided instruction designed to enable them to achieve, by the end of grade eight, State intermediate learning standards through:
  - (i) English language arts, two units of study;
  - (ii) social studies, two units of study;
  - (iii) science, two units of study;
  - (iv) mathematics, two units of study;
  - (v) technology education, one unit of study;
  - (vi) home and career skills, three quarters of a unit of study;
  - (vii) physical education, as required by section 135.4(c)(ii) of this Title;
  - (viii) health education, one half unit of study, as required by section 135.3(c) of this Title;
  - (ix) the arts, including one half unit of study in the visual arts, and one half unit of study in music;
  - (x) library and information skills, the equivalent of one period per week in grade seven and eight;
  - (xi) languages other than English pursuant to section 100.2 (d) of this Part; and
  - (xii) career development and occupational studies.
- (2) The requirements for technology education, home and career skills, and library and information skills may be met by the integration of the State learning standards of such subjects into other courses in accordance with the following criteria:
  - (i) In public schools, the unit of study requirements specified in subparagraphs (1)(v), (vi) and/or (xii) of this subdivision are met.

- (ii) In public schools, the subjects of technology education and home and career skills shall be taught by persons certified to teach those subjects.
  - (iii) In public schools, library and information skills shall be taught by library media specialists and classroom teachers to ensure coordination and integration of library instruction with classroom instruction.
  - (iv) In nonpublic schools, the unit of study requirements specified in subparagraphs (1)(v), (vi) and/or (xii) of this subdivision may be met, or their equivalents may be met, by the incorporation of the State learning standards of such subjects into the syllabi for other courses and/or by appropriate results on examinations which demonstrate student mastery of the learning standards of such subjects. The chief administrative officer of a nonpublic school shall document the manner in which such nonpublic school has implemented the provisions of this subparagraph. Such documentation shall be in writing and available for review upon request by the commissioner.
- (3) The unit of study requirements for technology education and/or home and career skills included in paragraph (1) of this subdivision may be initiated in grade six, provided that in public schools such subjects shall be taught by teachers certified in those areas.
  - (4) Students who have been determined to need academic intervention services as set forth in section 100.2(ee)(2)(i) of this Part may have the unit of study requirements for one or more of their subjects reduced, provided that:
    - (i) academic intervention services shall be coordinated with and supplement instruction in the general curriculum;
    - (ii) requirements for subjects set forth in paragraph (1) of this subdivision and for languages other than English instruction set forth in section 100.2(d) of this Part may be reduced but not eliminated. Academic intervention services shall be provided in a manner that does not diminish instructional time to a degree that may prevent a student from achieving the State learning standards in any area required for graduation or from meeting local standards for promotion. A principal shall consider a student's abilities, skills and interests in determining the subjects for which the unit of study requirements may be reduced;
    - (iii) a student's parent or guardian shall be notified in writing, by the principal, of a school's intention to implement the provisions of this paragraph; and
    - (iv) the reduction of unit of study requirements shall remain in effect only to the extent that the provisions of subparagraph (i) of this paragraph are being met.
  - (5) A student may meet the required half unit of study in music specified in subparagraph (1) (ix) of this subdivision by participation in a school's band, chorus or orchestra, provided that such participation is consistent with the goals and objectives of the school's music program for grades seven and eight.
  - (6) The half unit of study requirement for health education specified in subparagraph (1) (viii) of this subdivision may be provided in grade six, provided that in public schools such subject shall be taught by teachers certified in health education.
- (c) *Grade eight acceleration for diploma credit.*
- (1) Public school students in grade eight shall have the opportunity to take high school courses in mathematics and in at least one of the following areas: English, social studies, languages other than English, art, music, career and technical education subjects or science courses.

- (2) Credit may be awarded for an accelerated course only when at least one of the following conditions has been met:
  - (i) Accelerated students attend classes in a high school with high school students and pass the course on the same basis as the high school students. Credit is awarded by the high school; or
  - (ii) The student passes the course and the associated State proficiency examination or Regents examination, where available. The credit must be accepted as a transfer credit by all registered New York State high schools; or
  - (iii) In cases where no State proficiency examination or other appropriate state assessment is available, the student passes a course in the middle, junior high or intermediate school which has been approved for high school credit by the public school district superintendent(s), or his or her designee(s), of the district(s) where the middle, junior high or intermediate school and the high school are located.
- (3) Such opportunity shall be provided subject to the following conditions:
  - (i) The superintendent, or his or her designee, shall determine whether a student has demonstrated readiness in each subject in which he or she asks to begin high school courses in the eighth grade leading to a diploma.
  - (ii) A student shall be awarded high school credit for such courses only if such student passes a Regents examination, a second language proficiency examination, or a career and technical education proficiency examination, or, if no such examinations are available, a locally developed examination which establishes student performance at a high school level as determined by the principal.
- (4) Courses taken pursuant to this subdivision may be substituted for the appropriate requirements set forth in subdivision (b) of this section.

(d) *Required assessments.* Except as otherwise provided in subdivision (e) 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 alternative procedures may be used as provided for in section 100.2(g) of this Part:

- (1) Beginning with the 1998-99 school year, the Regents preliminary competency test in reading and the Regents preliminary competency test in writing shall no longer be required. Beginning with school year 1998-99, the English language arts intermediate assessment shall be administered in grade eight.
- (2) Beginning with the 1998-99 school year, the mathematics intermediate assessment shall be administered in grade eight.
- (3) The program evaluation test in social studies in grade eight, beginning May 1989. Beginning with the school year 2000-2001, 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.
- (5) Such other assessments as the commissioner determines appropriate.

(e) Students instructed through home schooling may take, but shall not be required to take, the State intermediate assessments required of public school students.

## SECTION 100.5

### 100.5 Diploma requirements.

(a) *General requirements for a Regents or a local high school diploma.* Requirements for a diploma apply to students depending upon the year in which they first enter grade nine. A student who takes more than four years to earn a diploma is subject to the requirements that apply to the year that student first entered grade nine. Students who take less than four years to complete their diploma requirements are subject to the provisions of subdivision (e) of this section relating to accelerated graduation.

- (1) Students first entering grade nine in 1984 or before shall earn at least sixteen units of credit or their equivalent, as determined by the commissioner, to receive a local high school diploma, and eighteen units of credit or their equivalent, as determined by the commissioner, to receive a Regents high school diploma. Such units of credit shall include:
  - (i) English, four units;
  - (ii) social studies, including a year of American history, three units;
  - (iii) mathematics, one unit, provided that students first entering grade nine in 1984 shall earn at least two units of credit in mathematics as set forth in paragraph (7) of this subdivision;
  - (iv) science, one unit, provided that students first entering grade nine in 1984 shall earn at least two units of credit in science as set forth in paragraph (8) of this subdivision; and
  - (v) health, one half unit.
- (2) Students first entering grade nine in 1985 and thereafter, but prior to the 2001-2002 school year, shall have earned at least eighteen and one-half units of credit or their equivalent, as determined by the commissioner, in order to receive either a Regents or local high school diploma. Such units of credit shall include:
  - (i) English, four units;
  - (ii) social studies, four units of credit as set forth in paragraph (6) of this subdivision;
  - (iii) mathematics, two units of credit, as set forth in paragraph (7) of this subdivision;
  - (iv) science, two units of credit as set forth in paragraph (8) of this subdivision;
  - (v) art and or/music, one unit of credit; and
  - (vi) health education, one half unit of credit in accordance with the requirements set forth in section 135.3(c) of this Title.
- (3) Students first entering grade nine in the 2001-2002 school year and thereafter shall have earned at least twenty-two units of credit including two credits in physical education to receive a Regents diploma. Such units of credit shall incorporate the commencement level of the State learning standards in: English language arts; social studies; mathematics, science, technology; the arts (including visual arts, music, dance and theatre); languages other than English; health, physical education, family and consumer sciences; and career development and occupational studies. Such units of credit shall include:

- (i) English, four units of credit;
  - (ii) social studies, four units of credit as set forth in paragraph (6) of this subdivision;
  - (iii) science, three units of credit of commencement level science, at least one course shall be life sciences and at least one in the physical sciences, the third may be either life sciences or physical sciences;
  - (iv) mathematics, three units of mathematics, the second and third units of mathematics shall be at a more advanced level than grade eight and shall meet commencement-level learning standards as determined by the commissioner;
  - (v) visual arts and/or music, dance, or theatre, one unit of credit; and
  - (vi) health education, one half unit of credit in accordance with the requirements set forth in section 135.3(c) of this Title. Learning standards in the area of parenting shall be attained through either the health or family and consumer sciences programs or a separate course.
- (4) All students shall have earned the equivalent of two units of credit in physical education in accordance with the requirements set forth in section 135.4(c)(2)(ii) of this Title. Such units of credit shall not count towards the required units of credit set forth in paragraphs (1) and (2) of this subdivision for those students who enter grade nine before the 2001-2002 school year. Beginning with the 2001-2002 school year and thereafter, such units of credit in physical education shall count toward the required total. A student who has completed the diploma requirements as set forth in paragraphs (1) and (2) of this subdivision in fewer than eight semesters, and who is otherwise eligible to receive a diploma, shall not be required to continue enrollment in high school for the sole purpose of completing the physical education requirements as set forth in this paragraph.
- (5) State assessment system
- (i) Except as otherwise provided in subparagraphs (ii), (iii), and (iv) of the New York State learning standards:
    - (a) English.
      - (1) for students who first enter grade nine prior to September 1996, by passing either the Regents Competency Test in Reading and the Regents Competency Test in Writing, or the Regents Comprehensive Examination in English; or
      - (2) for students who first enter grade nine in or after September 1996 and prior to September 2000, by passing the Regents Comprehensive Examination in English. For purposes of a Regents endorsed diploma a score of 65 shall be considered passing. For a local diploma a score of 55-64, as determined by the school, also may be considered passing; or
      - (3) for students who first enter grade nine in September 2000 or thereafter, by achieving a score of 65 or above on the Regents Comprehensive Examination in English; or

- (4) for students with disabilities who first enter grade nine in or after September 1996 and prior to September 2001 and who fail the Regents Comprehensive Examination in English, the requirements for a local diploma may be met by passing the Regents Competency Test in Reading and the Regents Competency Test in Writing or their equivalents. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law sections 3202 or 4402(5).
- (5) The transcripts and permanent record cards of students shall indicate the assessment the student has passed to meet diploma requirements, and the score achieved.

(b) Mathematics.

- (1) for students who first enter grade nine prior to September 1997, by passing either the Regents Competency Test in Mathematics, or a Regents examination in mathematics; or
- (2) for students who first enter grade nine in or after September 1997 and prior to September 2001, by passing a Regents examination in mathematics. For purposes of a Regents endorsed diploma a score of 65 shall be considered passing. For a local diploma a score of 55-64, as determined by the school, also may be considered passing; or
- (3) for students who first enter grade nine in September 2001 or thereafter, by achieving a score of 65 or above on a Regents examination in mathematics; or
- (4) for students with disabilities who first enter grade nine in or after September 1997 and prior to September 2001 and who fail a Regents examination in mathematics, the requirements for a local diploma may be met by passing the Regents Competency Test in Mathematics or its equivalent. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law sections 3202 or 4402(5).
- (5) The transcripts and permanent record cards of students shall indicate the assessment the student has passed to meet diploma requirements, and the score achieved.

(c) United States History and Government.

- (1) for students who first enter grade nine prior to September 1998, by passing either the Regents Competency Test in United States history and government, or the Regents examination in United States history and government; or
- (2) for students who first enter grade nine in or after September 1998 and prior to September 2000, by passing the Regents examination in United States history and government. For purposes of a Regents endorsed diploma a score of 65 shall be considered passing. For a local diploma a score of 55-64, as determined by the school, also may be considered passing; or

- (3) for students who first enter grade nine in September 2000 or thereafter, by achieving a score of 65 or above on a Regents examination in United States history and government; or
- (4) for students with disabilities who first enter grade nine in or after September 1998 and prior to September 2001 and who fail the Regents examination in United States history and government, the United States history and government requirements for a local diploma may be met by passing the Regents Competency Test in United States history and government. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law sections 3202 or 4402(5).
- (5) The transcripts and permanent record cards of students shall indicate the assessment the student has passed to meet diploma requirements, and the score achieved.

(d) Science.

- (1) for students who first enter grade nine prior to September 1999, by passing either the Regents Competency Test in science or a Regents examination in science; or
- (2) for students who first enter grade nine in or after September 1999 and prior to September 2001, by passing a Regents examination in science. For purposes of a Regents endorsed diploma a score of 65 shall be considered passing. For a local diploma a score of 55-64, as determined by the school, also may be considered passing; or
- (3) for students who first enter grade nine in September 2001 or thereafter, by achieving a score of 65 or above on a Regents examination in science; or
- (4) for students with disabilities who first enter grade nine in or after September 1999 and prior to September 2001 and who fail a Regents examination in science, the science requirements for a local diploma may be met by passing the Regents competency test in science. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law sections 3202 or 4402(5).
- (5) The transcripts and permanent record cards of students shall indicate the assessment the student has passed to meet diploma requirements, and the score achieved.

(e) Global History and Geography.

- (1) for students who first enter grade nine prior to September 1998, by passing either the Regents Competency Test in global studies or the Regents examination in global studies; or
- (2) for students who first enter grade nine in or after September 1998 and prior to September 2000, by pass-

ing the Regents examination in global studies. For purposes of a Regents endorsed diploma a score of 65 shall be considered passing. For a local diploma a score of 55-64, as determined by the school, also may be considered passing; or

- (3) for students who first enter grade nine in September 2000 or thereafter, by achieving a score of 65 or above on the global history and geography Regents examination; or
  - (4) for students with disabilities who first enter grade nine in or after September 1998 and prior to September 2001 and who fail the Regents examination in global history and geography, the global history and geography requirements for a local diploma may be met by passing the Regents Competency Test in global studies. This provision shall apply only to students with disabilities who are entitled to attend school pursuant to Education Law sections 3202 or 4402(5).
  - (5) The transcripts and permanent record cards of students shall indicate the name of the assessment the student has passed to meet diploma requirements, and the score achieved.
- (ii) Alternative assessments, approved by the commissioner pursuant to section 100.2(f) of this Part, may be used in place of the State assessments.
  - (iii) For students first entering grade nine in the 2000-2001 school year and before, the principal shall review the transcript of each student first entering a New York State school after the beginning of grade seven to determine whether or not the student has adequate preparation in science to take the Regents Competency Test in science. The principal may exempt from the Regents Competency Test requirement in science set forth in clause (i) (d) of this paragraph any such student determined to lack adequate preparation in science. This shall not apply to students entering grade nine in the 2001-2002 school year and thereafter.
  - (iv) For students entering grade nine in the 2000-2001 school year and before, the principal shall review the transcript of each student first entering a New York State school during grades nine or ten to determine whether or not the student has adequate preparation in social studies to take the Regents Competency Test in global studies. The principal may exempt from the Regents Competency Test in global studies set forth in subclause (i)(e) of this paragraph any such student determined to lack adequate preparation in social studies. This provision shall not apply to students first entering grade nine in the 2001-2002 school year and thereafter.
  - (v) Pursuant to section 100.1(b) of this Title, passing the Regents assessment in any given subject shall not be construed as having earned a unit of credit in that subject unless the student also passes the course as offered in a registered high school or the student meets the requirements for credit by examination pursuant to section 100.5(d)(1) of this Title.
- (6) All students first entering grade nine in 1985 and thereafter shall earn four units of credit in social studies in accordance with the following:
    - (i) Such requirement shall include one unit of credit in American history;

- (ii) Such requirement shall include one half unit of credit in participation in government and one half unit of credit in economics or their equivalent.
- (7) All students first entering grade nine in 1984 and thereafter through the 2000-2001 school year shall earn two units of credit in mathematics in accordance with the following criteria: The second unit of credit in mathematics shall deepen the understanding or broaden the application of a student's mathematical concepts beyond the general high school mathematics program and in accordance with criteria established by the commissioner.
  - (8) All students first entering grade nine in 1984 and thereafter through the 2000-2001 school year shall earn two units of credit in science in accordance with the following criteria: The second unit of credit in science shall deepen the understanding or broaden a student's application of life, physical and/or earth sciences beyond the level in the State science syllabi for grades seven, eight and nine and in accordance with criteria established by the commissioner.
- (b) *Additional requirements for the Regents diploma.*
- (1) In order to obtain a Regents diploma, students first entering grade nine in 1984 or before shall successfully complete a sequence of three units of credit in one of the following areas: science, mathematics, a language other than English, music, art or career and technical education subjects. Such units of credit shall be included in the eighteen units of credit required pursuant to paragraph (a)(1) of this section.
  - (2) In order to obtain a Regents diploma, students first entering grade nine in 1985 and thereafter through the 2000-2001 school year shall successfully complete:
    - (i) either:
      - (a) a sequence of three units of credit in each of two career and technical education subjects, or in each of two languages other than English, or in each of two of the following areas: mathematics, science, a language other than English, career and technical education, art or music, provided that, for students first entering grade nine in 1988 and thereafter through the 2000-2001 school year, three-unit sequences in each of two career and technical education subjects may not be used to meet the requirements of this clause and each three-unit sequence in career and technical education shall meet the requirements of section 100.2(h)(3) of this Part; or
      - (b) a sequence of three units of credit in mathematics, science, a language other than English, a career and technical education subject, art or music, and a sequence of five units of credit in either English or social studies, provided that, for students first entering grade nine in 1988 and thereafter through the 2000-2001 school year, such three-unit sequence in career and technical education meets the requirements of section 100.2(h)(3) of this Part; or
      - (c) a sequence of five units of credit in mathematics, science, a language other than English, a career and technical education subject, art or music, provided that a student selecting a sequence of five units of credit in a language other than English may use such sequence to meet the requirements set forth in subparagraph (ii) of this paragraph, and further provided that for students first entering grade nine in 1988 and thereafter through the 2000-2001 school year, such a sequence of five units of credit in a career and technical education subject shall meet the requirements of section 100.2(h)(4) of this Part; and

- (ii) a sequence of three units of credit in a language other than English, except that:
  - (a) for students first entering grade nine in 1985 or thereafter through the 2000-2001 school year who take a sequence of not less than five units of credit in career and technical education subjects, art or music, the three-unit sequence required by this subparagraph may be in a language other than English or in any other subject area; and
  - (b) a student identified as having a disability which adversely affects the ability to learn a language may be excused from the language other than English requirement set forth in this subparagraph if such student's individualized education program indicates that such requirement is not appropriate to the student's special educational needs. Such a student need not have a sequence in a language other than English but must meet the requirements for the total number of credits required for a diploma.
- (3) Any three or five units of credit sequence in a language other than English shall consist of courses in a single language.
- (4) Units of credit received by a student pursuant to paragraph (2) of this subdivision shall be included in the eighteen and one-half units of credit required pursuant to paragraph (a)(2) of this section, provided that a sequence in career and technical education may be applied toward a Regents diploma only if such sequence has been approved by the department.
- (5) In order to obtain a Regents diploma, a student shall pass the required Regents examinations as follows:
  - (i) For students first entering grade nine in 1984 and before:
    - (a) the Regents comprehensive examination in English;
    - (b) the Regents comprehensive examination in social studies; and
    - (c) the Regents examinations, or their equivalents, in the courses comprising the student's required sequence.
  - (ii) For students first entering grade nine in 1985 and thereafter through the 2000-2001 school year:
    - (a) the Regents comprehensive examination in English;
    - (b) the Regents comprehensive examination in a language other than English, except that students identified in clause (2)(ii)(a) of this subdivision or excused from the language other than English requirement pursuant to clause (2)(ii)(b) of this subdivision shall not be required to pass such examination;
    - (c) the Regents examination in American history and government;
    - (d) Regents examinations for the courses in mathematics required pursuant to subparagraph (a)(2)(iv) and paragraph (a)(7) of this section;
    - (e) Regents examinations for the courses in science required pursuant to subparagraph (a)(2)(iii) and paragraph (a)(8) of this section; and

- (f) Regents examinations, as required by the commissioner, for the courses in any sequence followed pursuant to paragraph (2) of this subdivision.
- (iii) For students first entering grade nine in 1987 and thereafter through the 2000-2001 school year:
  - (a) the Regents examination in global studies; and
  - (b) career and technical education proficiency examinations, as defined in section 100.1(k) of this Part, for any career and technical education sequence for which such tests are available.
- (6) For students first entering grade nine in 1985 and thereafter through the 2000-2001 school year, a unit of credit towards a Regents diploma, in courses where no Regents or State test exists, other than courses in mathematics or science, shall be awarded only if:
  - (i) the unit of study is taught in accordance with a State syllabus approved by the department for use in a commencement-level course; or
  - (ii) if no State syllabus for the course is available, the unit of study is taught in accordance with a locally developed syllabus approved by the department for use in a commencement-level course.
- (7) Types of diplomas.
  - (i) For students first entering grade nine in the 2001-2002 school year and thereafter, there shall be no diplomas or certificates other than the following:
    - (a) Regents diploma; or
    - (b) Regents diploma with an advanced designation; or
    - (c) State high school equivalency diploma as provided in section 100.7 of this Part; or
    - (d) High School Individualized Education Program Diploma as provided in section 100.9 of this Part.
  - (ii) A local school district may award a student a Regents diploma with honors or a Regents diploma with advanced designation with honors. To earn honors, a student shall achieve an average of 90 per cent in all Regents examinations, or their equivalent pursuant to section 100.2(p) of this Part, required for the diploma. Each Regents examination score carries a weight of one and such score shall not be multiplied by the number of units of study being examined. Averages below 90.0 per cent shall not be rounded upward to 90 per cent.
  - (iii) Earning a Regents or local high school diploma shall be deemed to be equivalent to receipt of a high school diploma pursuant to Education Law section 3202(1) and shall terminate a student's entitlement to a free public education pursuant to such statute. Earning a high school equivalency diploma or an Individualized Education Program Diploma shall not be deemed to be equivalent to receipt of a high school diploma pursuant to Education Law section 3202(1) and shall not terminate a student's entitlement to a free public education pursuant to such statute.
  - (iv) Earning a Regents diploma. Students first entering grade nine in 2001 and thereafter shall meet the commencement level New York State learning

standards by successfully completing twenty-two units of credit and five New York State assessments distributed as specified in (a) through (k) below. After passing the required New York State assessment or approved alternative in mathematics, science, and English language arts, the remaining units of credit required in that discipline may be in specialized courses. A specialized course is a course that meets the requirements of a unit of credit as defined in section 100.1(a) of this Part and the New York State commencement learning standards as established by the commissioner. A specialized course develops the subject in greater depth and/or breadth and/or may be interdisciplinary. Successful completion of one unit of study in an interdisciplinary specialized course may be awarded only one unit of credit but may be used to meet the distribution requirements in more than one subject. In a public high school, an interdisciplinary specialized course shall be taught by a teacher certified in at least one of the subjects.

- (a) English, four units of credit and the Regents comprehensive examination in English or an approved alternative pursuant to section 100.2(f) of this Part.
- (b) Social studies, four units of credit including one unit of credit in American history, the Regents examination in United States history and government or an approved alternative pursuant to section 100.2(f) of this Part, the Regents examination in global history and geography or an approved alternative pursuant to section 100.2(f) of this Part, and a half unit of credit in Economics and a half unit of credit in Participation in Government or their equivalent as approved by the local public school superintendent or his or her designee or by the chief administrative officer of a registered non-public high school.
- (c) Mathematics, three units of credit and the Regents examinations in mathematics designated by the commissioner or an approved alternative pursuant to section 100.2(f) of this Part. Students must pass either the Regents examination titled Math A, or until January 2002, both Regents examinations titled Course I and Course II or both Course I and Math A.
- (d) Science, three units of credit and one of the Regents examinations in science or an approved alternative pursuant to section 100.2(f) of this Part. In order to qualify to take a Regents examination in any of the sciences a student must complete 1200 minutes of actual hands-on (not simulated) laboratory experience with satisfactory documented laboratory reports. The 1200 minutes of laboratory experience must be in addition to the required classroom instruction associated with earning a unit of credit.
- (e) The Arts (including visual arts, music, dance and theatre), one unit of credit, which may be a specialized course that meets the arts standards at the commencement level as established by the commissioner. Any arts course for which credit will be awarded to meet the one unit of credit requirement for graduation must be taught by a certified teacher and must follow a State-developed or State-adopted syllabus or a locally-developed or locally-adopted syllabus approved by the commissioner.
- (f) Health, one half unit of credit which may be a specialized course which meets the health standards at the commencement level as established by the commissioner. Any health course for which credit will be awarded to meet the one half unit of credit require-

ment for graduation must be taught by a certified teacher and must follow a State-developed or State-adopted syllabus or a locally-developed or locally-adopted syllabus approved by the commissioner.

- (g) Languages other than English, one unit of commencement-level credit which can be earned by passing the State second language proficiency examination pursuant to section 100.2(d) of this Title. A student identified as having a disability which adversely affects the ability to learn a language may be excused from the language other than English requirement set forth in this subparagraph if such student's individualized education program indicates that such requirement is not appropriate to the student's special educational needs. Such a student need not have a sequence in a language other than English but must meet the requirements for the total number of credits required for a diploma.
- (h) Physical Education, two units of credit, except that a student who has completed the diploma requirements in fewer than eight semesters shall not be required to continue enrollment in high school for the sole purpose of completing the physical education requirements.
- (i) Additional units in English language arts, mathematics, social studies, science, the arts, languages other than English, career and technical education, or any other subject area approved by the commissioner to a total of twenty-two units of credit.
- (j) The State learning standards in technology may be met either through a course in technology education or through an integrated course combining technology with mathematics and/or science. A commencement-level course in technology education may be used as the third unit of credit in science or mathematics but not both.
- (k) The learning standards for parenting may be met either through a separate course in parenting or through integration in a course in health or family and consumer sciences.
- (v) Earning a Regents diploma with advanced designation. To earn a Regents diploma with an advanced designation a student must complete, in addition to the requirements for a Regents diploma:
  - (a) Additional Regents examinations in mathematics as determined by the commissioner or approved alternatives pursuant to section 100.2(f) of this Part. Students must pass either the two Regents examinations titled Math A and Math B or, until January 2003, the three Regents examinations titled Course I, Course II and Course III.
  - (b) One additional Regents examination in science, for a total of two Regents examinations, with at least one in life science and at least one in physical science, and
  - (c) Two additional units in a language other than English for a total of three units and the Regents comprehensive assessment in that language. A student identified as having a disability which adversely affects the ability to learn a language may be excused from the language other than English requirement set forth in this subparagraph if such student's individualized education program

indicates that such requirement is not appropriate to the student's special educational needs. Such a student need not have a sequence in a language other than English but must meet the requirements for the total number of credits required for a diploma. Students completing a five-unit sequence in career and technical education or the arts (visual arts, music, dance, and theatre) are not required to complete the additional two units of the language other than English requirement for the Regents diploma with advanced designation but must still meet the requirements for the total number of units of credit.

- (c) *Additional requirements for the local diploma.*
- (1) Students entering grade nine in the 2000-2001 school year or before may earn a local diploma. In order to obtain a local diploma, students first entering grade nine in 1984 or before, shall successfully complete a sequence of three units of credit in one of the following areas: science, mathematics, a language other than English, music, art or career and technical education subjects. Such units of credit shall be included in the sixteen units of credit required pursuant to paragraph (a)(1) of this section.
  - (2) In order to obtain a local diploma, students first entering grade nine in 1985 and thereafter through the 2000-2001 school year shall successfully complete:
    - (i) a sequence of three units of credit in each of two career and technical education subjects, or in each of two languages other than English, or in each of two of the following areas: mathematics, science, a language other than English, career and technical education, art or music, provided that, for students first entering grade nine in 1988 and thereafter through 2000, three-unit sequences in each of two career and technical education subjects may not be used to meet the requirements of this clause and each three-unit sequence in career and technical education shall meet the requirements of section 100.2(h)(3) of this Part; or
    - (ii) a sequence of three units of credit in mathematics, science, a language other than English, a career and technical education subject, art or music, and a sequence of five units of credit in either English or social studies, provided that, for students first entering grade nine in 1988 and thereafter through the 2000-2001 school year, each three-unit sequence in career and technical education shall meet the requirements of section 100.2(h)(3) of this Part; or
    - (iii) a sequence of five units of credit in mathematics, science, a language other than English, a career and technical education subject, art or music, provided that for students first entering grade nine in 1988 and thereafter through the 2000-2001 school year, such a sequence of five units of credit in a career and technical education subject shall meet the requirements of section 100.2(h)(4) of this Part.
  - (3) Any three or five units of credit sequence in a language other than English shall consist of courses in a single language.
  - (4) Units of credit received by a student pursuant to paragraph (2) of this subdivision shall be included in the eighteen and one-half units of credit required pursuant to paragraph (a)(2) of this section, provided that a sequence in career and technical education may be applied towards a local diploma if such sequence has been approved by the department.
  - (5) In order to obtain a local diploma, students first entering grade nine in 1987 and thereafter through 2000, and taking an approved career and technical education

sequence, shall pass the appropriate career and technical education proficiency examinations, where available, as defined in section 100.1(k) of this Part.

(d) *Alternatives to specific Regents and local diploma requirements.*

- (1) Credit by examination. A student may earn a maximum of six and one-half units of credit for either a Regents or local diploma without completing units of study for such units of credit if:
  - (i) based on the student's past academic performance, the superintendent of a school district or the chief administrative officer of a registered nonpublic high school, or his or her designee, determines that the student will benefit academically by exercising this alternative;
  - (ii) The student achieves a score of at least 85 percent, or its equivalent as determined by the commissioner, on a State-developed or State-approved assessment pursuant to section 100.2(f) of this Part;
  - (iii) the student passes an oral examination or successfully completes a special project to demonstrate proficiency, in such knowledge, skills and abilities normally developed in the course but not measured by the relevant Regents examination or State-approved examination if used, as determined by the principal; and
  - (iv) The student attends school, or received substantially equivalent instruction elsewhere, in accordance with section 3204(2) of the Education Law, until the age of sixteen, pursuant to sections 3204 and 3205 of the Education Law.
  - (v) Calculation of units of credit based upon credit by examination.
    - (a) A student who earns a score of at least 85 on a Regents examination in mathematics and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
    - (b) A student who earns a score of at least 85 on a Regents examination in science and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
    - (c) A student who earns a score of at least 85 on a State-developed or State-approved assessment in career and technical education and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
    - (d) A student who earns a score of at least 85 on a Regents examination in United States history and government and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
    - (e) A student who earns a score of at least 85 on a Regents examination in global history and geography and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
    - (f) A student who earns a score of at least 85 on the Regents comprehensive examination in English and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.

- (g) A student who earns a score of at least 85 on the State second language proficiency examination in accordance with 100.2(d)(3) and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
  - (h) A student who earns a score of at least 85 on the comprehensive second language Regents examination and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive three units of credit.
  - (i) A student who earns a score of at least 85 on a State-developed or State-approved assessment in the arts (visual arts, music, dance and theatre) and meets the requirements of subparagraphs (i), (iii) and (iv) of paragraph (1) of this subdivision shall receive one unit of credit.
- (2) Visual arts and/or music, dance, or theatre.
- (i) A student may obtain the unit of credit in visual arts and/or music, dance or theatre required pursuant to subparagraph (a)(2)(v) of this section in the following manner:
    - (a) by participating in a school's major performing groups such as band, chorus, dance group or theatre group; or
    - (b) by participating, only in exceptional situations, in an advanced out-of-school art or music activity. Credit for such participation shall be upon recommendation by the student's visual arts, music, dance, or theatre teacher, shall be approved by the visual arts, music, dance, or theatre department chairperson, if there is one, and by the school principal, and shall be consistent with the goals and objectives of the school's visual arts, music, dance, and/or theatre program.
  - (ii) A student may receive a unit of credit for participation in such activities if such participation is equivalent to a unit of study, or a student may receive one-half unit of credit for such activity equivalent to one-half unit of study.
- (3) Occupationally related mathematics and science.
- (i) Regents diploma. Students first entering grade nine in 1984 and thereafter through the 2000-2001 school year may use one unit of credit earned in an occupationally related science or mathematics course, a Regents science or a Regents mathematics course, both towards meeting the science or mathematics requirement for a Regents diploma and towards an approved sequence in career and technical education, only if such courses are approved by the commissioner for such purpose. For occupationally related science and mathematics courses, such approval shall be granted only upon the submission of evidence that such courses are equivalent to Regents courses in science and mathematics. However, the unit of credit earned for such a course shall count as only one unit of credit towards the units of credit required for a Regents diploma.
  - (ii) Local diploma. Students first entering grade nine in 1984 and thereafter through the 2000-2001 school year may use one unit of credit earned in the occupationally related mathematics course or the business mathematics course, and/or one unit of credit earned in the occupationally related science course towards meeting the mathematics and/or science requirements or sequence requirements in mathematics or science for a local diploma, provided that such courses shall be taught in accordance with the appropriate State-developed learning standards.

- (4) Scores obtained on alternative examinations as designated by the commissioner, pursuant to section 100.2(p) of this Part may be used in lieu of the corresponding Regents examination requirements for a high school diploma, required pursuant to paragraphs (a)(1)-(2) and subdivision (b) of this section, and to satisfy the requirements of the Regents competency testing program set forth in paragraph (a)(4) of this section.
- (5) Transfer credit. Transfer credit is awarded for work done outside the registered New York State high school awarding the credit.
- (i) The principal shall evaluate the transcript or other records of a transfer student enrolling in a New York State high school. Based on the student's transcript or other records, the principal shall award the appropriate units of transfer credit towards a high school diploma.
- (a) The principal shall grant transfer credit for all credit awarded by any New York State registered public or nonpublic high schools.
- (b) The principal, after consultation with relevant faculty, may award transfer credit for work done at other educational and cultural institutions and for work done through independent study. The decision as to whether or not to award transfer credit for work done at educational institutions other than New York State registered high schools shall be based on whether the record indicates that the work is consistent with New York State commencement learning standards and is of comparable scope and quality to that which would have been done in the school awarding the credit.
- (ii) A student transferring between high schools in grade eleven or twelve may be exempt from the second language requirements of three units of credit in one second language, for a Regents diploma with advanced designation, as set forth in paragraph (3) and clause (5)(ii)(b) of subdivision (b) of this section, if the language in which the student began a second language sequence in grade nine or ten is not offered in the school to which the student has transferred. In such cases, the student shall complete three units of credit in second languages but not necessarily in a single language.
- (iii) (a) Students who enter a registered New York State high school for the first time in grade eleven in the 2000-2001 school year but prior to the 2002-2003 school year, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a local high school diploma must pass the Regents comprehensive examination in English, a Regents examination in mathematics, a Regents examination in United States history and government, and a Regents examination in science, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.
- (b) Students who enter a registered New York State high school for the first time in grade eleven in the 2002-2003 school year and thereafter, other than those students who have received home instruction pursuant to 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents Comprehensive Examination in English, a Regents examination in mathematics, a Regents examination in United States history and government,

and a Regents examination in science, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

(iv) (a) Students who enter a registered New York State high school for the first time in grade twelve in the 2002-2003 school year but prior to the 2004-2005 school year, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a local high school diploma must pass the Regents Comprehensive Examination in English, a Regents examination in mathematics, and a Regents examination in United States history and government, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in science and the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

(b) Students who enter a registered New York State high school for the first time in grade twelve in the 2004-2005 school year and thereafter, other than those students who have received home instruction pursuant to section 100.10 of this Part in New York State or who have been enrolled in a registered or non-registered public or nonpublic New York State high school, in order to receive a high school diploma must pass the Regents Comprehensive Examination in English, a Regents examination in mathematics, and a Regents examination in United States history and government, or approved alternatives. The principal may exempt a student from the requirement for the Regents examination in science and the Regents examination in global history and geography ordinarily taken and passed before the date of the student's entry.

(v) Transfer students who are exempted from taking specific State assessments shall have their transcript and permanent records so annotated.

(e) *Accelerated graduation.* Notwithstanding any other provisions of this section, students seeking to complete the diploma requirements prescribed by this section in less than four years shall be subject to the diploma requirements applicable to a student who first entered grade nine four years prior to the school year in which the diploma is to be awarded, provided that a student graduating at the end of the fall semester shall be subject to the graduation requirements in effect for the preceding school year. The diploma shall be awarded at the end of the semester in which all requirements are completed. Diplomas shall not be awarded in anticipation that requirements will be met.

(f) *Students studying abroad.*

(1) For students pursuing a local diploma and spending a period of time studying in another country, the principal shall evaluate the course work and assign the appropriate units of credit towards a local diploma. A student shall complete all required Regents competency tests, even if such tests would normally be taken during the period of time when the student was studying in another country, provided that the student may take such Regents competency tests upon return to the home school.

(2) For students pursuing a Regents diploma and spending a period of time studying in another country, the principal shall evaluate the course work and assign the appropriate units of credit towards a Regents diploma only after such student has passed the required Regents examinations upon return to his or her home school. Appropriate units of credit may be assigned towards the fulfillment of the requirements for a Regents diploma, for courses where no Regents examination exists.

## SECTION 100.6

### 100.6 Local certificates.

Except as provided in subdivision (f) below, a school district or the principal of a nonpublic school may award a certificate to a student with a disability, as defined in section 200.1(cc) of this Title, in accordance with the following provisions:

(a) Prior to awarding such a certificate, the governing body of a school district or nonpublic school shall adopt written policies and procedures ensuring that students with disabilities are provided appropriate opportunities to earn a high school diploma in accordance with the provisions of section 100.5 of this Part.

(b) A student with a disability may be awarded a local certificate, provided that:

- (1) such student has achieved the educational goals specified in such student's individualized education program in effect during the school year in which such a certificate is awarded; and
- (2) unless identified as meeting all the criteria of section 200.1(cc)(4) of this Title, such student has attended school for at least 13 years, excluding kindergarten, or has received a substantially equivalent education in accordance with section 3204(2) of the Education Law for such period of time.

(c) Each such certificate shall be accompanied by a written statement of assurance that the student named as its recipient shall continue to be eligible to attend the public schools of the school district in which the student resides until the student has earned a high school diploma or until the end of the school year of such student's 21st birthday, whichever is earlier.

(d) Each superintendent of a school district or principal of a nonpublic school shall report to the State Education Department, within 15 days after the June graduation, the total number and the names of the students awarded certificates by each high school in that school year. A copy of the school district's or nonpublic school's policies and procedures adopted pursuant to subdivision (a) of this section shall be on file in the district office and available for review by the commissioner.

(e) No other certificates shall be awarded except for certificates recognizing achievement beyond the high school diploma.

(f) No certificate shall be awarded pursuant to this section on or after February 1, 2005.

## SECTION 100.7

### 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 nineteen years of age or over, or
  - (ii) shall be at least seventeen years of age, and:
    - (a) shall not have attended a regular, full-time high school program of instruction within the preceding twelve months; or
    - (b) shall be a member of a high school which has graduated; or
    - (c) shall be a resident of a narcotic addiction control center, or an adjudicated youth under the director 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, and the head of such institution certifies that the high school equivalency diploma constitutes an essential element of the rehabilitational program; or
  - (iii) shall be enrolled in an alternative high school equivalency preparation program in accordance with subdivision (i) of this section.
- (2) In order to receive a high school equivalency diploma, candidates shall:
  - (i) take the general comprehensive examination prescribed for the program, in English, and achieve a standing designated as satisfactory by the Commissioner of Education; or
  - (ii) take the general comprehensive examination prescribed for the program in a language other than English 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 examination, except that candidates who achieve a satisfactory standing only on the general comprehensive examination may receive a high school equivalency diploma that bears an inscription indicating the language in which the general comprehensive examination was taken, and may exchange such diploma for a diploma not containing such inscription upon achievement of a satisfactory standing on the designated English language proficiency examination, or
  - (iii) provide satisfactory evidence that they have successfully completed twenty-four credits (semester hours) or the equivalent as a recognized candidate for a college-level degree or certificate at an approved institution. Beginning with applications made on or after September 1, 2000, the twenty-four credits shall be distributed as follows: six credits in English language arts including writing, speaking and reading (literature); six credits in mathematics; three credits in natural science; three credits in social science; three credits in humanities; and three credits in career and technical education and/or foreign languages.
- (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 twenty-five dollars.

(d) *Retesting.* A candidate may take the examination for the high school equivalency diploma more than once. A period of at least two months 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.

(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 twenty-five dollars for the initial reporting of their test scores. Requests for additional reporting of test scores must be accompanied by a non-refundable fee as determined by the commissioner for each reporting requested and must be signed by the candidate.

(f) *High school equivalency diplomas for out-of-state test takers and high school equivalency diplomas for college credit.* Requests for diplomas for out-of-state test takers and diplomas for college credit must be accompanied by a non-refundable fee as determined by the commissioner.

(g) *Replacement of a high school equivalency diploma.* A high school equivalency diploma which is lost, stolen or destroyed may be reissued by the department upon a signed request from the holder of the diploma affirming that the diploma is no longer in his or her possession, together with a non-refundable fee determined by the commissioner. Such reissued diplomas shall be clearly marked duplicate, and shall bear the original date of issue, and the original diploma number.

(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.* 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, 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. Such pupils may transfer directly from a regular high school program or enroll after having left secondary school. 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 of cooperative educational services, or Office of Children and Family Services facility shall submit an application in the same manner as set forth in paragraph (i) (2) of this section, and shall assure in such application that:

- (1) the program approval requirements set forth in paragraph (j)(2) of this section are satisfied;
- (2) the program offered each student shall consist of not less than twelve hours per week;
- (3) subjects or activities are scheduled in addition to preparation for the high school equivalency examination as part of the program of at least twelve 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 six 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; and
  - (iii) 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) 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) 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 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 shall have fewer than 12 1/2 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) 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.

(i) *High school equivalency preparation programs operated by school districts and boards of cooperative educational services for students at least eighteen years of age and under the age of twenty one.*

- (1) In order to meet the requirements for a State high school equivalency diploma, students at least eighteen years of age and under the age of twenty one 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 (i) of this section.
- (2) Application. Each school district or board of cooperative educational services intending to operate a program approved in accordance with subdivision (i) 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) 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;
  - (ii) instruction is individually prescribed and paced in each class;
  - (iii) individual student folders are easily accessible to students and teachers and include information concerning registration, attendance, testing and individual program needs;
  - (iv) no class register exceeds twenty students;
  - (v) at least 150 hours per year of total instruction is made available to individual students;
  - (vi) English-speaking students are given entrance tests in reading and mathematics to determine the approximate skill level;
  - (vii) English-speaking students in need of basic education are provided instruction in reading, mathematics, oral and written communication and life skills;
  - (viii) English-speaking students are given standardized achievement tests which report scores in grade equivalents and which have forms for retesting at required intervals or other such instruments approved by the commissioner;
  - (ix) students with limited English proficiency are given placement tests prior to placement in an appropriate level of the instructional program;
  - (x) students with limited English proficiency are provided instruction in listening, reading, mathematics, oral and written communication and life skills;
  - (xi) students with limited English proficiency are given achievement tests specifically designed for such students or other such instruments approved by the commissioner;

- (xii) students preparing for the high school equivalency examination are given diagnostic tests to determine the specific instruction needed to attain the minimum score to qualify for a New York State high school equivalency diploma and are provided such instruction;
- (xiii) students with needs other than basic education, high school equivalency examination preparation, and English as a second language are provided appropriate instruction, such as bilingual instruction, as authorized by the commissioner;
- (xiv) all students are tested at intervals necessary to determine status and progress;
- (xv) individual and group counseling are available to all students enrolled in the program;
- (xvi) professional staff assigned to conduct programs of preparation for a high school equivalency diploma shall be provided with appropriate staff development;
- (xvii) enrolled students shall not begin instruction specifically designed to prepare for the high school equivalency examination, unless they read at a 9.0 grade level on tests approved by the commissioner; and
- (xviii) students preparing to take high school equivalency examination shall not be referred to that test unless they demonstrate readiness as indicated by tests approved by the commissioner.

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

## **SECTION 100.8**

100.8 Local high school equivalency diploma.

Boards of education specified by the commissioner may award a local high school equivalency diploma based upon experimental programs approved by the commissioner until January 31, 2005, after which date such boards may no longer award a local high school equivalency diploma.

## SECTION 100.9

### 100.9 High school individualized education program diplomas.

Notwithstanding the provisions of section 3.45 of this Title, the board of education or trustees of a school district shall, and the principal of a nonpublic school may, issue a high school individualized education program diploma to a pupil with a disability, as defined in section 200.1 (mm) of this Title, in accordance with the following provisions:

(a) Prior to awarding any high school individualized education program diploma, the governing body of the school district or nonpublic school shall adopt written policies and procedures ensuring that students with disabilities are provided appropriate opportunities to earn a high school diploma in accordance with the provisions of section 100.5 of this Part.

(b) A board of education or trustees of a school district shall, and the principal of a nonpublic school may, award a high school individualized education program diploma to a student with a disability at the end of the school year in which the student attains the age of twenty one upon a finding that such student has achieved the educational goals based on the appropriate level of the learning standards, established by the commissioner, as specified in the student's current individualized education program.

(c) A board of education or trustees of a school district or the principal of a nonpublic school may, upon application of a student with a disability, or such student's parent, as defined in section 200.1 (cc) of this Title, award a high school individualized education program diploma at any time after such student has attended school or has received a substantially equivalent education elsewhere for at least twelve years, excluding kindergarten, upon a finding that such student has achieved the educational goals based on the appropriate level of the learning standards, established by the commissioner, as specified in the student's current individualized education program.

(d) Each high school individualized education program diploma shall be identical in form to the diploma issued by the school district or nonpublic school, except that there shall appear on the front of such high school individualized education program diploma a clear annotation to indicate that the diploma is awarded on the basis of the student's successful achievement of the educational goals based on the appropriate level of the learning standards, established by the commissioner, as specified in the student's current individualized education program as recommended by the committee on special education.

(e) If the student receiving a high school individualized education program diploma is less than twenty-one years of age, such diploma shall be accompanied by a written statement of assurance that the student named as its recipient shall continue to be eligible to attend the public schools of the school district in which the student resides without the payment of tuition until the student has earned a high school diploma or until the end of the school year of such student's twenty-first birthday, whichever is earlier.

(f) Each superintendent of a school district or principal of a nonpublic school shall submit to the department, within fifteen days after the June graduation, a report concerning students awarded individualized education program diplomas in that school year. Such report shall be in a form prescribed by the commissioner and shall contain such information as the commissioner may require. A copy of the school district's or nonpublic school's policies and procedures adopted pursuant to subdivision (a) of this section shall be on file in the district office and available for review by the commissioner.