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To: District Superintendents, Superintendents of Public Schools, and Principals of Charter Schools

From: Ira Schwartz, Assistant Commissioner

Date: February 2014 – (UPDATED—See highlighted text)

Subject: Submission of Request to the United States Department of Education (USDE) for a Waiver of the Requirement in the Elementary and Secondary Education Act (ESEA) that Students in Grades 7 and 8 who take a Regents Examination in mathematics also take the New York State (NYS) Common Core Mathematics Test for Their Grade

The purpose of this memo is to inform the field that the New York State Education Department (“SED” or “the Department”) has received a waiver from provisions of the federal Elementary and Secondary Education Act (ESEA) that require students who take Regents Examinations in mathematics when they are in seventh or eighth grade to also take the NYS Common Core Mathematics Test for the grade in which they are enrolled.

At their October 2013 meeting, the Board of Regents directed the Department to submit a request to the United States Department of Education (USDE) to waive provisions of the ESEA [Sections 1111(b)(1)(B) and 1111(b)(3)(C)(i)] that require states to measure the achievement of standards in mathematics using the same assessments for all students. On December 20, 2013, USDE granted SED a one-year waiver (for the 2013-14 school year) from ESEA 1111(b)(1)(B) and 1111(b)(3)(C)(i). The approved waiver request relieves students, teachers, and schools from having to prepare students in seventh and eighth grade who are receiving instruction in Algebra I for multiple end of year assessments. Currently, seventh and eighth grade students who are receiving instruction in Algebra I and who take the Regents Examination in Algebra I (Common Core) are also required to take the NYS Common Core Mathematics Test for the grade in which they are enrolled. Local Educational Agencies (LEAs) are now allowed to administer only the Regents Examination in Algebra I (Common Core) to these students, eliminating the need for ‘double-testing’ in grades 7 and 8. This provision would also apply to students in grades 7 and 8 who receive instruction in Geometry and who take the Regents Examination in Geometry.

Included with this memo are a set of frequently asked questions that will provide additional information about how this waiver will be implemented and what steps districts and schools should take in preparation for the spring 2014 assessments.

Additional information about New York’s approved ESEA Flexibility Waiver can be found at:
<http://www.p12.nysed.gov/accountability/waivers/home.html>.

The Board of Regents item that directed the Department to submit a waiver request can be found at:
<http://www.regents.nysed.gov/meetings/2013Meetings/October2013/1013p12d6.pdf>.

The Board of Regents item that adopted emergency amendments to sections 100.4(e)(2) and 100.18(b)(14) of the Commissioner’s Regulations can be found at:
<http://www.regents.nysed.gov/meetings/2014/February2014/214brca3.pdf>

Questions concerning the information contained in this memo may be directed to:
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Frequently Asked Questions

1) What action did the Board of Regents take?

At its October 2013 meeting, the Board of Regents directed the Department to seek a waiver from USDE of certain provisions of the Elementary and Secondary Education Act (ESEA) in order to eliminate the requirement that middle level students who are instructed in Algebra I (Common Core) and who take the Regents Exam in Algebra I (Common Core) also take the NYS Common Core Mathematics Test for the grade in which they are enrolled. At its February 2014 meeting, the Board of Regents adopted as emergency action to revise sections 100.4(e)(2) and 100.18(b)(14) of the Commissioner's Regulations to eliminate the need for "double-testing" so that schools may administer only the Regents Examinations in Mathematics to grade 7 and 8 students without also having to administer the grade level mathematics assessment in the 2013-14 school year.

2) When does NYSED expect to know whether USDE will approve the waiver and when are the Regents expected to amend regulations?

On December 20, 2013, USDE granted SED a one-year waiver (for the 2013-14 school year) from ESEA 1111(b)(1)(B) and 111(b)(3)(C)(i).

3) If the waiver is granted, when will it take effect?

The waiver takes effect beginning with the 2013-14 school year.

4) Why does USDE require that eighth grade students take the NYS Grade 8 Common Core Mathematics Test if they are also taking the Regents Examination in Algebra I (Common Core)?

The Elementary and Secondary Education Act (ESEA) requires that states measure the achievement of students against the state's content and student achievement standards in each of grades three through eight in mathematics, and that the same assessments be used to measure achievement in each grade level. In the past, USDE has interpreted this requirement to mean that even if an 8th grade student takes a course in mathematics to earn high school credit, that student must also be administered the same mathematics assessment taken by all other students in his/her grade.

5) What options do schools have in the 2013-14 school year with respect to the mathematics examinations that an accelerated 8th grade student can take now that the waiver has been granted?

Under the approved waiver, schools may have accelerated 8th grade students do the following in meeting the mathematics examination requirement:

- *Take the Regents Examination in Algebra I (Common Core) only.*
- *Take the Regents Examination in Algebra I (Common Core) and the NYS Grade 8 Common Core Mathematics Test.*
- *Take the Regents Examination in Algebra I (Common Core) and the Regents Exam in Integrated Algebra in June 2014, August 2014, and/or January 2015.*
- *Take the Regents Examination in Algebra I (Common Core) and the Regents Exam in Integrated Algebra in June 2014, August 2014, and/or January 2015, and the NYS Grade 8 Common Core Mathematics Test in spring 2014.*
- *Take the Regents Examination in Geometry Only.*

- Take the Regents Examination in Geometry and the NYS Grade 8 Common Core Mathematics Test.

6) Does this waiver also apply to seventh grade students who take the Regents Examination in Algebra I (Common Core) or eighth grade students who take the Regents Examination in Geometry?

Yes, the Department has requested **and received approval** that for any student in grade 7 or 8 who is receiving instruction that results in the student being administered a Regents Examination in mathematics the district be able to use that student’s result for accountability purposes. These students **will** not be required to be administered the NYS Common Core Mathematics Test for the grade in which the student is enrolled. **If these students take the NYS Common Core Mathematics Test for the grade in which they are enrolled, the results from the NYS Grade 7 or 8 Common Core Mathematics Test will be used for institutional accountability purposes.**

7) How are student results used for institutional accountability purposes if more than one mathematics exam is taken by a student in grade 7 or 8?

If a district opts to have accelerated students take the NYS Grade 7 or 8 Common Core Mathematics Test in addition to one or both Regents Examinations in algebra, the results from the NYS Grade 7 or 8 Common Core Mathematics Test will be used for institutional accountability purposes rather than the results from a Regents Examination in mathematics. (See question M25 of [APPR Guidance](#) for information about the effect on APPR.)

8) How **will students who take the Regents Examination in Algebra I (Common Core) in grade 7 or 8 be counted in determining their school’s participation rate for institutional accountability?**

Students who take the Regents Examination in Algebra I (Common Core) in grade 7 or 8 will be counted as participants when determining the participation rate in mathematics for the school they attend in grade 7 or 8. The result on the Regents Examination in Algebra I (Common Core) taken in grade 7 or 8 **will not** count towards the participation rate in mathematics for the high school in which they later enroll. See the SIRS Manual <http://www.p12.nysed.gov/irs/sirs/home.html> for additional information. The same rule would apply for any students who take the Regents Examination in Geometry.

9) How **will students who take the Regents Examination in Algebra I (Common Core) in grade 7 or 8 be counted in terms of the Grade 3-8 Performance Index for institutional accountability?**

Results for students who take the Regents Examination in Algebra I (Common Core) in grade 7 or 8 will be incorporated into the Performance Index for the school in which the student is enrolled. Grade 7 or 8 students who accelerate and obtain, at a minimum, the score on the Regents Examination in Algebra I (Common Core) necessary to meet Regents Diploma requirements will for the purposes of calculating a school’s or a district’s Performance Index be counted at the ‘full credit’ level. Grade 7 or 8 students **who do not** obtain scores on the Regents Examination in Algebra I (Common Core) necessary to meet Regents Diploma requirements will earn the school or district ‘no credit’ for the student’s performance. The table below shows the difference between how Regents results obtained in Grade 7 or 8 are included in Grade 3-8 Performance Index compared to how Regents results obtained in high school are included in the High School Performance Index:

Performance Index	Score on Regents Exam (or equivalent on new scale)
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	0-64	65-79	80-89	90-100
Grade 3-8	No credit	Full credit	Full credit	Full credit
High School	No credit	Part credit	Full credit	Full credit

The same rule will apply to seventh and eighth grade students who take another Regents Examination in mathematics (e.g., Geometry).

- 10) How will grade 7 or 8 students who take both the Regents Examination in Algebra I (Common Core) and the Regents Examination in Integrated Algebra be counted in terms of the Grade 7 and 8 Performance Index for institutional accountability?**

If a student who takes both the Regents Examination in Algebra I (Common Core) and the Regents Examination in Integrated Algebra in grade 7 or 8 has a score that equates to Level 3 on one of these Regents Examinations and Level 1 on the other exam, the higher score that equates to a Level 3 score would be used for accountability purposes for the student.

- 11) How will the waiver effect the graduation requirements for students who pass a Regents Examination before entering high school?**

The waiver pertains to institutional accountability requirements, not to the requirements that individual students must meet in order to graduate from high school. The waiver does not change (i.e., the waiver neither increases nor decreases) the requirements students must currently meet in order to obtain a diploma.

- 12) How will high school participation requirements for institutional accountability change for students who take the Regents Examination in Algebra I (Common Core) in grade 7 or 8?**

Currently, a student who takes a Regents Examination in grade 7 or 8 has his/her Regents Examination results counted towards the participation and accountability requirements for the high school in which the student ultimately enrolls. Thus, the future high school of the grade 7 or 8 student currently earns 'credit' for the student's performance on the Regents Examination. However, under the waiver, a grade 7 or 8 student who passes the Regents Examination in Algebra I (Common Core) must take a second Regents Exam in Mathematics (Geometry or Algebra II) or an approved alternative to these exams in high school in order for the school to get credit for meeting the high school participation and accountability requirements. Similarly, a grade 7 or 8 student who takes the Regents Examination in Geometry must take a second Regents Exam in Mathematics (Algebra I or Algebra II) or an approved alternative to these examinations in high school in order for the school to get credit for meeting the high school participation and accountability requirements.

- 13) How will the high school mathematics Performance Index change for students who take a Regents Examination in mathematics in grade 7 or 8?**

Currently, a student who takes a Regents Examination in grade 7 or 8 has his/her Regents Examination results counted towards the Performance Index for the high school in which the student later enrolls. Thus, the future high school of the grade 7 or 8 student earns 'credit' for the student's performance on the Regents Examination. However, under the waiver, a grade 7 or 8 student who passes the Regents Examination in Algebra I (Common Core) or another Regents Examination in mathematics must take a second Regents Exam in Mathematics or an approved alternative to these exams in high school and score at least a 65 on the exam to be incorporated into the high school's Performance Index at Level 3 and earn the school or district 'full credit.'

14) What are the implications for high school accountability for a student who takes and fails a Regents Examination in grade 8?

For institutional accountability purposes, if a student fails a Regents Examination in mathematics in Grade 8 and subsequently takes that same examination in high school, the high school and district will get credit towards meeting the high school participation rate requirement in mathematics. The student's performance on the examination will be incorporated into the High School Performance Index in the same way as other high school students (i.e., a score (or equivalent on the new scale) of 65 to 79 will be considered Level 2 performance and a score of 80 to 89 will be considered Level 3 performance). This same rule would apply to a student who takes and fails a Regents Examination in mathematics in Grade 7 and does not take a Regents Examination in mathematics in Grade 8.

15) With the waiver of the 'double-testing' requirement having been approved by USDE for use in the 2013-14 school year, what are the implications on annual professional performance reviews ("APPRs") conducted for teachers of eighth grade students who are taking the Regents Examination in Algebra I (Common Core) instead of the NYS Grade 7 or 8 Common Core Mathematics Test?

Students are attributed to teachers and courses using the data that districts provide to the Department (See Ken Wagner's memorandum <http://www.p12.nysed.gov/irs/teacher/Reporting-and-VerifyingLinkageInformation-Final2-26-13.pdf> for detailed guidance on teacher-student data linkage.). If a seventh or an eighth grade student does not take the NYS Grade 7 or 8 Common Core Mathematics Test, that student will not have a student growth percentile (SGP) calculated for him or her and therefore will not be included in his or her teacher's State-provided growth results in 2013-14.

If a teacher does not meet the minimum n size requirements and/or less than 50% of a teacher's students are covered by a State-provided growth measure, that teacher will need to have a comparable growth measure (SLOs) for the purposes of APPR. Please see Section D of the APPR Guidance document (<http://www.engageny.org/resource/guidance-on-new-york-s-annual-professional-performance-review-law-and-regulations/>), specifically D1 and D20, for more information; also see the following SLO webinar: <http://www.engageny.org/resource/student-learning-objectives-the-50-rule-for-teachers>.

Districts opting to have seventh or eighth grade students take only the Regents Examination in mathematics will need to make a material change to their approved APPR plan in the State-provided Growth and Other Comparable Measures subcomponent (Task 2), as well as the Locally-Selected Measures subcomponent (Task 3), as applicable. See questions 14 and 15 of this document for additional information about material changes related to principal evaluation. For a detailed memo with updated information about submission of material changes to APPR plans, please see: <http://www.engageny.org/resource/guidance-on-recently-approved-elementary-and-secondary-education-act-waiver>.

16) Now that the waiver of the 'double-testing' requirement has been approved by USDE for use in the 2013-14 school year, what are the implications on annual professional performance reviews ("APPRs") conducted for principals of schools with seventh or eighth grade students who are taking the Regents Examination in Algebra I (Common Core) instead of the NYS Grade 7 or 8 Common Core Mathematics Test?

Students are attributed to principals and courses using the data that districts provide to the Department (See Ken Wagner's memorandum <http://www.p12.nysed.gov/irs/teacher/Reporting-and-VerifyingLinkageInformation-Final2-26-13.pdf> for detailed guidance on teacher-student data linkage.). If a seventh or eighth grade student does not take the NYS Grade 7 or 8 Common

Core Mathematics Test, that student will not have a student growth percentile (SGP) calculated for him or her and therefore will not be included in his or her principal's State-provided growth results for grades 4-8 in 2013-14.

If a principal does not meet the minimum n size requirements and/or less than 30% of a principal's students are covered by a State-provided growth measure, then the principal will need to have a comparable growth measure (SLOs) for the purposes of APPR. Please see Section D of the APPR Guidance document (<http://www.engageny.org/resource/guidance-on-new-york-s-annual-professional-performance-review-law-and-regulations/>) specifically D1 and D17, for more information; also see the following SLO webinar: <http://www.engageny.org/resource/principal-slos-102>.

Districts opting to have eighth grade students take only the Algebra I Regents exam will need to make a material change to their approved APPR plan in the State-provided Growth and Other Comparable Measures subcomponent (Task 7), as well as the Locally-Selected Measures subcomponent (Task 8), as applicable. See questions 13 and 15 of this document for additional information about material changes related to teacher and principal evaluation. For a detailed memo with updated information about submission of material changes to APPR plans, please see: <http://www.engageny.org/resource/guidance-on-recently-approved-elementary-and-secondary-education-act-waiver>.

- 17) With the waiver of the 'double-testing' requirement having been approved by USDE for use in the 2013-14 school year, what are the implications on annual professional performance reviews ("APPRs") conducted for high school principals of seventh or eighth grade students who are taking the Regents Examination in Algebra I (Common Core) instead of the NYS Grade 7 or 8 Common Core Mathematics Test?**

The State-provided growth scores for principals in grades 9-12 take into account the academic history of ninth grade students, including whether those students took Regents Examinations prior to entering ninth grade. Therefore, the change in requirements for seventh or eighth grade students who take a course of study in Algebra I should not have an impact on a grades 9-12 principal State-provided growth score.

Districts opting to have seventh or eighth grade students take only the Algebra I Regents exam will need to make a material change to their approved APPR plan in the State-provided Growth and Other Comparable Measures subcomponent (Task 7), as well as the Locally-Selected Measures subcomponent (Task 8), as applicable. See questions 14 and 15 of this document for additional information about material changes related to teacher and principal evaluation. For a detailed memo with updated information about submission of material changes to APPR plans, please see: <http://www.engageny.org/resource/guidance-on-recently-approved-elementary-and-secondary-education-act-waiver>.

- 18) What should schools do in terms of ordering test booklets for 2013-14?**

At this time it is no longer possible for SED to reduce any schools' exam requests. Schools that receive more test booklets than they now need will have to safeguard the unneeded test booklets, as they will the needed test booklets, and return the unused test booklets to our contractor for secure destruction following the administration and scoring period. All materials returned to our destruction contractor will be recycled.

19) If a grade 7 or 8 student takes the NYS Grade 7 or 8 Common Core Mathematics Test and passes the August Regents Examination in Algebra I (Common Core) how would they be counted in terms of the Grade 7 and 8 Performance Index for institutional accountability?

If a student takes their grade level test during the academic year, but does not take the Common Core Regents Exam until August, which falls in the following school year, the results from the NYS Grade 7 or 8 Common Core Mathematics Test will be used for institutional accountability purposes. If the student passes the August Regents Examination, that result will be counted towards the participation and accountability requirements for the high school in which the student ultimately enrolls. The student's performance on the examination will be incorporated into the High School Performance Index in the same way as other high school students (i.e., a score (or equivalent on the new scale) of 65 to 79 will be considered Level 2 performance and a score of 80 to 89 will be considered Level 3 performance).

20) If a grade 7 or 8 student takes the Regents Examination in Algebra I (Common Core) in January, June, and August, which exam would be counted in terms of the Grade 7 and 8 Performance Index for institutional accountability?

If a grade 7 or 8 student does not take the NYS Grade 7 or 8 Common Core Mathematics Test and takes the same Regents Examination in January and June of the same academic year and passes, the higher of the passing scores counts for the Grade 7 and 8 Performance Index. If the student also passes the August Regents Examination, that result will not be counted towards the participation and accountability requirements for the high school in which the student ultimately enrolls (see Question 19 above).

21) If a grade 7 or 8 student takes the Regents Examination in Algebra I (Common Core) in June and fails the examination, and subsequently passes the examination in August or in grade 9, must the student take a second Regents Examination in math to get credit in the Performance Index for their high school?

If a grade 7 or 8 student does not pass the Regents Examination in Algebra I (Common Core) in June and does not take the NYS Grade 7 or 8 Common Core Mathematics Test, that student will earn his/her school 'no credit' in the Performance Index. If the student retakes the examination after completion of grade 8 and passes it, the student's performance on the examination will be incorporated into the High School Performance Index in the same way as other high school students (i.e., a score (or equivalent on the new scale) of 65 to 79 will be considered Level 2 performance and a score of 80 to 89 will be considered Level 3 performance).

22) If a grade 7 or 8 student takes the Regents Examination in Algebra I (Common Core) and fails the examination and also takes the Regents Examination in Integrated Algebra and passes it, can the student take and pass the Regents Examination in Algebra I (Common Core) in high school and subsequently get credit in the Performance Index for their high school?

For the 2013-14 and 2014-15 school year results, the higher of the two scores will be used for institutional accountability calculations, when both examinations are taken in the same year. A grade 7 or 8 student who retakes the Regents Examination in Algebra I (Common Core) after already receiving credit for their school in the Performance Index for the Regents Examination in Integrated Algebra will not receive credit in the high school Performance Index for passing the Regents Examination in Algebra I (Common Core).