

**Questions and Answers – Compensatory Option Safety Net
December 2012 (Updated January 2017)**

1. What safety net options are available so that students with disabilities may graduate with a local diploma? (Revised January 2017)

Students with disabilities have the following safety net options available to meet testing requirements for a local high school diploma: the Regents Competency Test (RCT) and the 55-64 low pass option, the 55-64 low pass option with appeal, the compensatory option and the Superintendent Determination option.

- The **RCT safety net** has allowed those students with disabilities who fail one or more of the required Regents examinations (i.e., English, Mathematics, Science, Global History and U.S. History) to meet the testing requirements for the local diploma by passing the corresponding RCT(s) or its equivalent. The existing RCT safety net is, by regulation, only available to students with disabilities entering grade 9 prior to September 2011. The RCTs are available to these students until they graduate or until the end of the school year in which they turn 21.
- The **55-64 low pass option** provides an additional safety net for all students with disabilities. Under this safety net, a score of 55-64 on required Regents examinations meets testing requirements for a local diploma. Although the 55-64 local diploma option was phased out for general education students entering Grade 9 in 2008 and thereafter, the 55-64 passing score option continues to be available to students with disabilities.
- The **55-64 low pass option with appeal** allows a student with a disability who has taken and passed a course in preparation to take a Regents examination, has a 65 course average, and scores between 52-54 on up to two Regents examinations, to appeal to graduate with a local diploma using this lower score.
- The **compensatory option** provides an additional option for a student with a disability who entered grade nine in 2005 and thereafter if the student:
 - scores between 45-54 on one or more of the five required Regents exams, other than the English language arts (ELA) or mathematics exam¹, but scores 65 or higher on one or more of the required Regents exams, in which case the lower score(s) can be compensated by the higher score(s)²; and
 - obtains a passing grade, that meets or exceeds the required passing grade by the school, for the course in the subject area of the Regents examination in which he or she received a score of 45-54; and
 - has a satisfactory attendance rate, in accordance with the district's or school's

¹ A score of at least 55 must be earned, or a successful appeal of a score between 52 and 54, on both the ELA and mathematics exams.

² A score of 65 or higher on a single examination may not be used to compensate for more than one examination for which a score of 45-54 is earned

attendance policy, for the school year during which the student took the examination in which he or she received a score of 45-54, exclusive of excused absences; and

- is not already using a passing score on one or more RCTs to graduate with a local diploma. (A student may not use the compensatory score option if he or she is using a passing score on one or more RCTs to graduate with a local diploma.)
- The **Superintendent Determination option** allows a superintendent (or the principal/head of school of a registered nonpublic school or charter school, as applicable) to make a local determination that a student with a disability has otherwise met the standards for graduation with a local high school diploma when such student has not been successful, because of his/her disability, at demonstrating his/her proficiency on one or more of the Regents exams required for graduation (excluding the ELA or math Regents exams).

2. When can students begin using the compensatory option to graduate with a local diploma?

Effective October 31, 2012, students may use the compensatory option to graduate with a local diploma.

3. Are students who are no longer eligible for the RCT safety net (those entering grade nine in September 2011 and thereafter) eligible for the compensatory safety net option if they entered grade nine between September 2011 and October 31, 2012 (the effective date of the compensatory safety net regulations)?

Yes.

4. Can students use the compensatory safety net option if they are using the RCT safety net option?

No. Students may not use both options to graduate with a local diploma. They may use either the RCT safety net option (provided they entered grade nine before September 2011) OR the compensatory safety net option to graduate with a local diploma.

5. Can students use the 55-64 low pass safety net option if they are using the compensatory safety net option?

Yes. Students may combine both the 55-64 low pass, or successful appeal of a score between 52-54, and compensatory safety net options to graduate with a local diploma.

6. Can students earning a score of 65 or higher on any one of the required Regents examinations use that score to compensate for a score between 45 and 54 on any one of the required Regents examinations?

A student may not use a score of 65 or higher on one of the required Regents examinations to compensate for a score of 45-54 on either the math or the English required Regents examinations. However, students can use a score of 65 or higher on any of the required Regents examinations, including English and/or math, to compensate for a score between 45 and 54 on another required Regents examination.

7. What is the maximum number of required Regents examinations for which students can use the compensatory safety net option?

For purposes of receiving a local diploma, under the current Regents examination requirements, students earning between a 45 and 54 on up to two required Regents examinations (except for English and math) may compensate for those scores with scores of 65 or higher on two other required Regents examinations.

8. Can students use the RCT safety net option if they are using the 55-64 low pass safety net option? (Revised January 2017)

Yes. Students may combine both the RCT safety net option and 55-64 low pass option, or the successful appeal of a score between 52-54, to graduate with a local diploma.

9. Can students use higher scores on a required RCT examination to compensate for lower scores on another required RCT examination?

No. The compensatory option is not available for RCT examinations.

10. For students who successfully appealed to earn a diploma with a required Regents examination score between 60 and 64, in accordance with section 100.5(d)(7) of the Regulations of the Commissioner of Education, can the score of the appeal be used to compensate for a lower score on another required Regents examinations? (Revised January 2017)

No. In a successful appeal, the score of 60, 61, 62, 63 or 64 remains the same but the student may graduate with that score. Therefore the score of the appeal may not be used to compensate for a score between 45-54 on another required Regents examination because the appealed score is not 65 or higher.

11. Is the safety net option available to students with disabilities who are declassified?

Yes. Students with disabilities requiring special education who are declassified in grade eight or thereafter may be eligible for the same safety net options as if they were continuing as a student with a disability. The committee on special education should discuss the student's need for continuing eligibility for the safety net in their declassification recommendation.

12. Is the safety net option available to students with disabilities who have a section 504 plan?

Yes. Students with written section 504 accommodation plans are students with disabilities under 504 of the Rehabilitation Act. However, for 504 students, the 504 plan must specify, as appropriate, that the student is recommended for the safety net.

13. How is it determined which safety net options are available to specific students?

Decisions regarding the availability of the different safety net options depend upon when the student entered grade nine, as follows:

- Students who entered grade nine in 2005 and thereafter may use the 55 low pass and/or the compensatory safety net options to graduate with a local diploma.
- Students who entered grade nine prior to September 2011 may use the RCT safety net option to graduate with a local diploma.
- Students may not use the compensatory safety net option if they are using the RCT safety net option to graduate with a local diploma.

14. Are safety net options applicable to Regents examinations a student has taken prior to being classified as having a disability?

Yes.

15. Is the local diploma available to general education students? (Revised January 2017)

In July 2005, the Board of Regents amended section 100.5(b)(7) of the Regulations of the Commissioner of Education to eliminate the local diploma (55-64 pass score option) for general education students, beginning with students who entered grade 9 in 2008. To the extent that there are general education students remaining in school who entered grade 9 prior to 2008, these students may graduate with a local diploma.

In addition, a student who falls within five points of attaining a score of 65 on a Regents examination required for graduation may appeal his or her score. Students who successfully appeal one required Regents examination score may graduate with a Regents diploma. Those successfully appealing two required Regents examination scores may graduate with a local diploma. This appeals process is available to students with and without disabilities.

16. If a student with a disability scores 65 or higher on two Regents examinations in the same subject area (e.g., math), may each of these scores be used to compensate for scores of 45 to 54 on two other required Regents

examinations? (Revised January 2017)

If the student scores 65 or higher on two of the Regents examinations needed to fulfill the assessment graduation requirements under the 4+1 option, either of these examinations may be used to compensate for a score of 45 to 54 on another required Regents examination. However, a score of 55 or higher or the successful appeal of a score between 52 and 54, is required for one mathematics Regents examination and the ELA Regents examination.

17. May scores earned on a required Regents examination taken prior to October 31, 2012 be used to meet graduation requirements using the compensatory safety net option?

Yes, provided the student is eligible for the option at the time of graduation from high school.

18. Is the compensatory safety net option available to students with disabilities entering grade nine in 2005 and thereafter who are no longer enrolled in school?

Yes, provided the student is still eligible to attend school. Pursuant to Education Law sections 3202 and 4402.5 a student continues to be eligible for a free appropriate public education (FAPE) until the end of the school year in which the student turns age 21 or until the receipt of a regular (local or Regents) high school diploma, whichever is earlier.

19. If a student already exited school and now meets the requirements to earn a local diploma through the compensatory option (e.g., prior to leaving school, the student received a score of 66 on one required Regents examination and 47 on another required Regents examination), must the student re-enroll in school to be awarded a diploma?

Yes, in accordance with Education Law section 3202 an eligible student would be required to re-enroll in school. However, once enrolled, a student may not need to take additional courses if he/she meets all of the graduation requirements.