

**STATE BOARD OF EDUCATION  
ADMINISTRATIVE CODE  
COMMENT/RESPONSE FORM**

This comment and response form contains comments from the February 10, 2016, meeting of the State Board of Education when the draft regulations were considered at Second Discussion Level.

<b>Topic:</b> Standards and Assessments	<b>Meeting Date:</b>	April 6, 2016
<b>Code Citation:</b> N.J.A.C. 6A:8	<b>Level:</b>	Proposal
<b>Division:</b> Legal & External Affairs	<b>Completed by:</b>	Deputy Chief Legal Officer

**Summary of Comments and Agency Responses:**

The following is a summary of the comments received from State Board of Education members and members of the public and the Department's responses. Each commenter is identified at the end of the comment by a letter or number that corresponds to the following list:

- A. Mark Biedron  
President, State Board of Education
- 1. Julie Borst
- 2. Christine McGoey
- 3. Susan Schutt
- 4. Bill Michaelson
- 5. Elizabeth Franks, Advocacy Rep., NJ Teachers -English to Speakers of Other Languages
- 6. Anne Clark
- 7. Jennifer Keyes-Maloney, Asst. Dir. Govt. Relations, NJ Principal & Supervisors Assoc.
- 8. Jennifer Korn
- 9. Dawn Tapp
- 10. NJ School Boards Association
- 11. Amy Galarowicz
- 12. Sarah Blaine
- 13. Beth O'Donnell-Fischer
- 14. Tova Felder
- 15. Kathleen Dalessio

16. Bonnie Gabizon
17. Dr. William Olson
18. Marlene Burton
19. Antonina Penna
20. Lorraine Miller
21. Darcie Cimarusti, President, Highland Park Board of Education
22. Barbara Eames
23. Julia Sass Rubin, Professor, Public Policy, Rutgers University
24. Liz Mulholland
25. Raisa Rubin-Stankiewicz
26. Marie Corfield
27. Rosie Grant
28. Carolee Adams, State President, Eagle Forum of New Jersey
29. Stan Karp, Director of Secondary Reform, Education Law Center
30. Sean Spiller, Secretary-Treasurer, New Jersey Education Association
31. Jean McTavish
32. Daniel Masi
33. Veronica Mehno
34. Virginia Manzari
35. Kathleen Laczynski
36. Dr. Eric Milou, Professor of Mathematics, Rowan University
37. Dr. Monica Taylor
38. Nancy McCarthy Helbourg
39. Corey Teague
40. Justin Alpert
41. Christina Moreira

42. Carolyn Schultz

1. **COMMENT:** The commenter asked for details on the current graduation requirements and how they differ from the proposed changes. (A)

**RESPONSE:** Under the former graduation requirements, a student had three opportunities to demonstrate graduation competencies under the High School Proficiency Assessment (HSPA). If a student was unable to pass all portions of the HSPA, he or she then would take targeted portions of the Alternative High School Assessment (AHSA). Finally, a student who was unable to demonstrate graduation proficiencies through both the HSPA and the AHSA could use the portfolio appeals process. Although the Department is proposing to transition from the HSPA to end-of-course PARCC assessments, and the AHSA to substitute competency tests, the statutory requirement to demonstrate graduation competency through a standardized assessment is maintained, along with the provision of an alternative way to demonstrate proficiency.

2. **COMMENT:** The commenter stated the proposed regulations increase the number of assessments required to graduate and eliminate the alternative high school assessment. (1)

**RESPONSE:** In recognition of the change in graduation assessments, the Department has proposed a lengthy transition plan that includes the ability for students to demonstrate graduation proficiency through alternative means, including substitute competency tests (e.g., SAT, ACT, Accuplacer, etc.). The Department will continue to review the plan's implementation as it progresses. Although the proposed regulations eliminate, the Alternative High School Assessment(AHSA), the portfolio appeal process will remain as an alternative means for students to satisfy the assessment graduation requirement.

3. **COMMENT:** The commenters expressed concerns about the validity of the Partnership for Assessment of Readiness for College and Career (PARCC) testing and its use for high-stakes decisions regarding students and teachers prior to the test being validated. (1, 4, 9, 17, 20, 30, 34, 37)

**RESPONSE:** The Department is mindful of the use of a new assessment system as a graduation requirement and, as a result, has proposed a lengthy transition plan to ensure students have sufficient time to get accustomed to the new assessment system prior to making the end-of-course tests in English language arts (ELA) 10 and Algebra I graduation requirements. However, the Department will continue to review the plan's implementation as it progresses.

4. **COMMENT:** The commenters stated the proposed amendments appear to eliminate parental rights to refuse or opt out of PARCC testing and expressed concerns it violates parents' ability to direct their child's education, citing two United States Supreme Court cases, Pierce v. Society of Sisters and Meyer v. State of Nebraska. The commenters also stated the "refuse" option and whether students take assessments should be decided by parents. The commenters stated the 14th Amendment to the United States Constitution and subsequent court decisions maintain that parents have a right to direct their children's education. (1, 2, 8, 11, 23, 33, 34, 37)

**RESPONSE:** The Department disagrees the administration of PARCC as the Statewide graduation requirement infringes upon a parent's right to direct his or her child's

education as the regulations do not address or prohibit a parent’s decision-making with regard to their child’s education.

5. **COMMENT:** The commenters stated PARCC should not be used as a high school exit exam since the new Federal law, the Every Student Succeed Act (ESSA), does not require a high school exit exam. (1, 2)

**RESPONSE:** The Department disagrees with the commenters’ suggestion to eliminate the high school assessment as a graduation requirement because it is not required by Federal law. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a Statewide standardized assessment for graduation is a statutory requirement, the Department cannot do away with the requirement.

6. **COMMENT:** The commenters expressed concern with the PARCC assessment, specifically stating the assessment is not a formative test, is not educationally appropriate, does not assess grade-level skills or accurately gauge student achievement, and is inadequate for assisting parents and teachers in improving instruction for individual students. (2, 4, 9, 26, 29, 30, 32, 36, 37, 38, 40)

**RESPONSE:** The PARCC assessment, which is developed, reviewed, and approved by educators, includes formative tools and a summative assessment. The development process is lengthy and content-level experts and grade-level teachers spend many hours constructing the test items to ensure the assessment is aligned with and measures academic standards in the most appropriate way. PARCC provides school districts and parents with student-level reports. PARCC also provides school districts with more tools (i.e., 850 released test items from the 2015 assessment, free diagnostic assessments, and evidence statement reports) than ever produced by the New Jersey Assessment of Skills and Knowledge (NJASK) or HSPA; and more tools will be available soon.

7. **COMMENT:** The commenters opposed the use of PARCC as a high school graduation requirement, or “exit exam,” and the administration of PARCC in grades three through 11, because it is contrary to emerging education policy and the assessments are not an indicator of college readiness. (2, 26, 37)

**RESPONSE:** The Department disagrees with the commenters’ suggestion to eliminate the high school assessment as a graduation requirement. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a Statewide standardized assessment for graduation is a statutory requirement, the Department cannot do away with this requirement.

8. **COMMENT:** The commenters stated the PARCC assessments are not clearly aligned to the mission of college and standardized testing, even computer-based assessments, does not provide students the opportunity to demonstrate their ability to engage in any of the skills recognized under the Common Core State Standards (CCSS). (3, 31, 33, 34)

**RESPONSE:** The Department disagrees. All passages, items, and tasks on PARCC assessments are reviewed by educators, including current classroom teachers, to ensure alignment with the standards. Students are provided with multiple opportunities to demonstrate their knowledge via evidence-based questions, writing tasks, research tasks, and technology-enhanced items.

9. **COMMENT:** The commenters expressed concerns the proposed graduation requirements are linked to student assessment. The commenters recommended that students be allowed to graduate based on other measures of performance, such as grade point average, a robust transcript, earned credits that meet local requirements or a performance-based assessment system. The commenters stated a student’s performance level is best assessed with measures directly linked to the lessons taught and the materials used by teachers, not through standardized assessments. (3, 9, 23, 26, 30, 32, 37, 41)

**RESPONSE:** The Department disagrees that standardized assessments should not be a graduation requirement. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a Statewide standardized assessment for graduation is a statutory requirement, the Department cannot do away with this requirement. Students who are unable to demonstrate graduation proficiency through the Statewide standardized assessment can utilize the portfolio appeals process, which includes a review of student coursework and performance-based assessments.

10. **COMMENT:** The commenters said the State disregarded parents’ and teachers’ concerns about standards and assessments, including PARCC, and did not seek public input. (4, 40, 16, 22, 25, 27))

**RESPONSE:** The Department disagrees. The Study Commission on the Use of Student Assessments in New Jersey (Study Commission) held multiple public testimony sessions throughout the State. The concerns and opinions expressed at the sessions were considered when drafting the proposed amendments. The State Board of Education also accepted testimony and written comments from members of the public regarding the proposed amendments, and the comments will be considered by the Department during the rulemaking process.

11. **COMMENT:** The commenters expressed confusion as to how the proposed graduation requirements have been promulgated given the vocal opposition to PARCC by parents and teachers. (16, 22, 25, 27)

**RESPONSE:** The Department is mindful of and has taken into account all comments and opinions regarding PARCC, both positive and negative. However, the State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. The Department has selected PARCC as the requisite Statewide assessment.

12. **COMMENT:** The commenter expressed appreciation for the Department’s efforts to ensure stakeholder input and for the gradual migration to the new graduation

requirements, which will allow for an ample transition period for students, school leaders, and teachers. (7)

**RESPONSE:** The Department appreciates the commenter's support.

13. **COMMENT:** The commenter expressed concern about the impending graduation requirements and their impact on English language learners (ELLs). The commenter expressed fear the proposed amendments will increase the number of dropouts in the vulnerable ELLs subgroup population unless the second language acquisition process is taken into consideration. Additionally, the commenter requested the Department consider allowing ELLs to take the ESL Accuplacer as an alternate assessment to demonstrate college and career readiness. (5)

**RESPONSE:** The Department appreciates the commenter's concerns and recognizes the importance of valid and appropriate graduation requirements for ELLs. The Department is working with stakeholders to research and identify valid assessment measures that consider ELLs' English language proficiency, including current substitute competency assessments and the Accuplacer Write Placer ESL.

14. **COMMENT:** The commenter opposed asking school districts to spend time and money on making the minor recommended changes to the mathematics standards. The commenter recommended that New Jersey adopt the Massachusetts mathematics standards. (6)

**RESPONSE:** This comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State's high school graduation requirements for assessments and not the proposed revisions to the State's academic standards.

15. **COMMENT:** The commenter asked the Department to reconsider use of PARCC as the sole high school graduation requirement, especially with the number of students who refused to take the test during the last administration and the number of taxpayers who voiced opposition to use of PARCC. (8)

**RESPONSE:** Department is mindful of the use of a new assessment system as a graduation requirement and has proposed a lengthy transition plan to ensure students have sufficient time to get accustomed to the new assessment system prior to making the end-of-course PARCC in ELA 10 and Algebra I graduation requirements. The Department will continue to review implementation of the transition plan as it progresses.

16. **COMMENT:** The commenters expressed concern the proposed amendments threaten the graduation prospects of thousands of students graduating in the class of 2016 by discontinuing the administration of the HSPA and the AHSA. The commenters urged the State to wait for more PARCC testing data results before considering amendments that require passage of PARCC tests as part of graduation requirements. (8, 29, 30, 32, 37, 38)

**RESPONSE:** Due to pending litigation over the subject matter of this comment, the Department is unable to respond as this time.

17. **COMMENT:** The commenters referenced a recent study that found the previous State academic standards provided more opportunities to engage in creative and strategic thinking than the CCSS for the same subjects and grade levels. (8, 26, 31, 33, 34)

**RESPONSE:** This comment is outside the scope of the proposed rulemaking which concerns proposed amendments to the State’s high school graduation requirements for assessments and not proposed revisions to the State’s academic standards.

18. **COMMENT:** The commenter questioned the State’s reliance on PARCC testing given that only six states will continue to participate in PARCC testing. (8, 26)

**RESPONSE:** The Department disagrees with the commenter’s concerns related to the number of other states that will continue to participate in PARCC testing. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a Statewide standardized assessment for graduation is a statutory requirement, the Department cannot do away with this requirement.

19. **COMMENT:** The commenters expressed concern that New Jersey is assessing students three times as much as the Federal requirements. The commenters stated New Jersey should follow the Federal ESSA , i.e., one test in ELA and one in mathematics in high school. (8, 9, 20, 23, 25, 33, 37)

**RESPONSE:** The Department disagrees with the commenters’ concerns regarding the frequency of testing in New Jersey compared to the requirements under Federal law. Although federal law requires a minimum assessment requirement, it does not prohibit states from administering additional assessments. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation.

20. **COMMENT:** The commenter expressed concern about the amount of time her school district spent on test preparation versus instructional time. (9)

**RESPONSE:** This comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments and not classroom instruction.

21. **COMMENT:** The commenter expressed concerns that requiring PARCC passage for graduation can result in increased high school dropouts. (9)

**RESPONSE:** The Department disagrees. The Department has proposed a lengthy transition plan that includes the ability for students to demonstrate graduation proficiency through substitute competency tests, as well as portfolio appeals process. Although the Department does not anticipate an increase in students who do not graduate high school as a result of the switch to PARCC as the graduation proficiency test, the Department will continue to review implementation of the transition plan as it progresses.

22. **COMMENT:** The commenters noted the PARCC scores were higher for students who took it with paper and pencil. The commenters also stated not all student had access to computers on which to take the assessment, which raises questions about fairness and appropriateness. The commenters also indicated the test appears differently on the

computer based on the type of computer used and asked if the Department researched whether the computer type impacts scores. (9, 20, 26)

**RESPONSE:** More than 99 percent of all students in New Jersey who took the PARCC assessment during the 2014-2015 school year did so on the computer. The Department utilized the NJTrax database before the assessment was administered to gauge the technological readiness of school districts. School districts were required to update the database every few months for a number of years before PARCC to ensure all students would be able to test electronically. Furthermore, the Department had two grant opportunities for school districts that were not prepared in terms of devices to reimburse grantees for devices bought for testing and digital learning.

23. **COMMENT:** The commenter expressed support for school districts to set local graduation requirements. (10)

**RESPONSE:** Current State law at N.J.S.A. 18A:7C-2 requires district boards of education to establish graduation standards that are consistent with guidelines established by the Commissioner of Education.

24. **COMMENT:** The commenter indicated a uniform Statewide test or an alternative method of measurement should be used as the basic method of assessing whether students have met State and Federal standards. The commenter stated assessments should: 1) serve as a reliable measure of a student's mastery of State standards; 2) measure skills considered essential for functioning as an adult; 3) provide a school district with information that can be used to identify the need for remedial intervention for students; and 4) assure all students have the opportunity and assistance to meet the State's academic standards. (10)

**RESPONSE:** The Department agrees with the commenter's statements on the value of uniformed Statewide assessments, as well as the benefits of requiring students to take annual assessments that measure a student's performance in accordance with State standards.

25. **COMMENT:** The commenter expressed concern that not only is standardized testing unhealthy, but the increased frequency of standardized testing will turn kids off from learning and disagrees with the proposal for the students in the class of 2020 (current 8<sup>th</sup> graders) to have to take every PARCC exam prior to accessing the alternative methods to demonstrating graduation proficiency. (11)

**RESPONSE:** The Department disagrees with the commenter that standardized assessments should not be required prior to accessing alternative methods to demonstrate graduation proficiency. The applicable statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires "the development of a Statewide assessment test in reading, writing and computational skills," as well as levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a standardized assessment for graduation is a statutory requirement, the Department cannot do away with this requirement.

26. **COMMENT:** The commenters expressed concern that standardized test preparation becomes the curriculum. (12, 13, 16, 20, 25, 27)

**RESPONSE:** This comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments and not classroom instruction.

27. **COMMENT:** The commenter stated there is more room for teachers to use their professional judgment to meet their students’ needs when the State Board of Education dictates less what happens in public schools. (12)

**RESPONSE:** The Department disagrees with the commenter’s suggestion the State Board of Education should not be involved with what is happening in New Jersey public schools. State law grants the State Board of Education with the general supervision and control of public education in New Jersey. Specifically, N.J.S.A. 18A:4-10 grants the State Board the authority to formulate plans and make recommendations for the unified, continuous, and efficient development of public education in the State.

28. **COMMENT:** The commenter expressed concern about elementary students spending months with no science or social studies because of preparation for PARCC tests. (13)

**RESPONSE:** This comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments and not classroom instruction.

29. **COMMENT:** The commenters expressed concern about special education students, ELLs, and urban students who are required to sit for the PARCC tests even if it is not in the students’ best interest. (10, 13, 20, 42)

**RESPONSE:** The Department appreciates the commenters’ concerns. However, it is important for all students to be included in Statewide assessments to ensure schools and school districts are accountable for the performance of all students. Assessment results are used to make educational decisions at the school, school district, State, and Federal level. It is important for assessment results of *all* students to be considered when education policy decisions are made. Federal and State laws and regulations allow some students to take alternate State assessments to meet the students’ needs. The Individuals with Disabilities Education Act and implementing State regulations permit individualized educational plan (IEP) teams, which include parents, to make collaborative, individualized determinations, based on the nature and severity of a student’s disability, as to whether a student with an IEP should participate in the PARCC or the State alternate assessment (Dynamic Learning Maps). ELLs who are recent arrivals to United States schools can take an English language proficiency test instead of the PARCC assessment. To ensure equity for all students, Federal and State laws require students who are not eligible for the alternate assessment options to take the PARCC assessment. The assessments, whether the PARCC or an alternate assessment, serve to provide important information about how all students, including students with more severe disabilities, are achieving. The information provides school districts invaluable information to assess their work with students, determine areas in need of improvement, and drive instruction on a school district and individual student basis.

30. **COMMENT:** The commenters stated the PARCC graduation requirements are misguided and will have catastrophic effects for New Jersey graduation rates. (14, 21)

**RESPONSE:** The Department disagrees the proposed graduation requirements will have catastrophic effects on graduation rates. In recognition of the new requirements, and to

ensure students in the classes of 2016 through 2019 have several pathways to demonstrate graduation proficiency, the Department has proposed a lengthy transition plan, that includes the ability for students to demonstrate graduation proficiency through substitute competency tests and through the portfolio appeals process. The Department will continue to review the plan's implementation.

- 31. COMMENT:** The commenters expressed concern that standardized tests do not teach creativity even though being a flexible thinker is essential to many courses of study and lines of work. The commenters also stated standardized tests do not teach students the value of hard work or skills students need to succeed. **(14, 15, 25)**

**RESPONSE:** The Department disagrees. Hard work and the ability to think creatively are values and abilities that underlie a student's entire curriculum, regardless of the subject matter. PARCC measures a student's ability to utilize these skills and abilities across disciplines.

- 32. COMMENT:** The commenters expressed concerns about the profitability of test preparation companies and test centers associated with the PARCC testing administration. The commenters said the only people benefitting from the CCSS were corporations that write tests, develop educational software, and make computers. **(15, 17, 18, 19)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State's high school graduation requirements for assessments.

- 33. COMMENT:** The commenters stated the State's educational problems are related to equity and opportunity. The commenters also said the State will continue to be disappointed with the educational outcomes in New Jersey if the funding disparities for urban school districts continue. The commenters also expressed concern the majority of urban school districts have accepted PARCC because people in urban school districts lack the proper knowledge and understanding of the facts and figures surrounding PARCC and the CCSS. **(15, 17, 31, 39)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State's high school graduation requirements for assessments.

- 34. COMMENT:** The commenters expressed concern about their school districts' policies of implementing lessons that attempt to teach second graders how to manage stress, based on computerized surveys given to assess their level of anxiety. **(16, 20)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking which concerns proposed amendments to the State's high school graduation requirements for assessments and not classroom lessons.

- 35. COMMENT:** The commenters stated the money spent on CCSS and PARCC could have been better spent on reducing class size, hiring librarians and school nurses, and teaching foreign languages. **(18, 25, 27)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments and not academic standards or funds spent on public education.

36. **COMMENT:** The commenter expressed concern about New Jersey’s bypassing the traditional bidding process when it awarded a contract to Pearson. (19)

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments and not the Department’s assessment contract.

37. **COMMENT:** The commenters questioned why the Department is using a test that most states have abandoned and while the majority of states have stopped using any kind of high school exit exam and urged the Department to reconsider this position. (21, 23, 27, 37, 42)

**RESPONSE:** The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a Statewide standardized assessment for graduation is a statutory requirement, the Department cannot do away with the requirement.

38. **COMMENT:** The commenters expressed concern that thousands of students will need to use the portfolio appeals process to graduate in 2016 and asked how the Department would handle the increased number of appeals. (8, 21 29, 30, 37)

**RESPONSE:** The Department is aware there may be a significant number of students who utilize the portfolio appeals process to demonstrate graduation proficiency during the first year of implementation. However, the Department is working closely with school districts on the submissions and will ensure all portfolios are reviewed within a timely manner.

39. **COMMENT:** The commenter expressed concern about reports of Pearson affiliates tracking students’ comments on social media about PARCC tests. (22)

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments.

40. **COMMENT:** The commenters stated using standardized tests as a graduation requirement has been discredited by research that consistently finds high school exit exams do not improve college participation rates or job prospects, but increase dropout and incarceration rates and push low-income students and minority students into the school-to-prison pipeline. (23, 41)

**RESPONSE:** The Department appreciates the commenters’ concerns; however, The Department is unable to eliminate the high school graduation assessment. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a Statewide

standardized assessment for graduation is a statutory requirement, the Department cannot do away with the requirement.

- 41. COMMENT:** The commenter expressed concern about high instances of scoring errors by testing companies on standardized tests, including an instance with the 1999 administration of the SAT and similar scoring errors from the United Kingdom on the school information technology exam. **(24)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments.

- 42. COMMENT:** The commenter expressed concern that PARCC is creating a stressful environment for teachers. **(25)**

**RESPONSE:** The Department appreciates the commenter’s concerns and is mindful the transition to a new assessment system can be challenging for administrators, teachers and students. However, Statewide assessments are both a State and federal requirement and the Department has taken steps to reduce any negative impact due to administration of the new assessment system. Specifically, the PARCC Consortium reduced the number of testing windows from two to one, has shortened the overall testing by 90 minutes, and reduced the number of testing sessions. In addition, the Department has provided several professional development and training opportunities for school staff on both the PARCC administration of and how to use PARCC score reports to support daily instruction.

- 43. COMMENT:** The commenter supported the adoption of the end-of-course PARCC ELA 10 and Algebra I assessments as the current benchmark for determination of student proficiency, and expressed appreciation for the Department’s willingness to reexamine the benchmarks in the future. Moreover, the commenter expressed support for the opportunity for students to show mastery utilizing alternative options during the transition period. Finally, the commenter expressed support for the portfolio appeals process. **(7)**

**RESPONSE:** The Department appreciates the commenter’s support.

- 44. COMMENT:** The commenters stated the additional testing scheme, especially for the students in the class of 2021, will present increased frustration for students who are currently struggling to meet the high school academic standards. **(26, 27)**

**RESPONSE:** The Department appreciates the commenters’ concerns and is mindful the transition to a new assessment system can be challenging for students. Since PARCC assessments measure the skills developed under the academic standards, which have not been assessed through a high school standardized assessment prior to PARCC, the Department has proposed a lengthy transition plan to ensure students have sufficient time to get accustomed to the new assessment system prior to making the end-of-course PARCC ELA 10 and Algebra I assessments graduation requirements. The Department will continue to review the plan’s implementation.

- 45. COMMENT:** The commenter suggested voters should consider a future effort to elect the Commissioner of Education and State Board of Education members to allow the people a greater voice. **(28)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments and not the appointment of the Commissioner or State Board of Education members.

46. **COMMENT:** The commenter stated the designation of end-of-course PARCC Algebra I and ELA 10 assessments violate the statutory requirement to administer an 11th grade test. The commenter also said there are no opportunities for retaking the tests in 12th grade for students who did not pass in 11th grade, which violates statute. (29, 32)

**RESPONSE:** Due to pending litigation over the subject matter of this comment, the Department is unable to respond at this time.

47. **COMMENT:** The commenter expressed concern there are no criteria in the proposed amendments for the portfolio appeals process. (29)

**RESPONSE:** Including criteria for the portfolio appeals process in the proposed amendments could unintentionally restrict the number of students who could use this alternative pathway to demonstrate proficiency for graduation. The portfolio appeals process allows students to demonstrate graduation proficiency through alternative classroom work aligned to the Common Core State Standards. As the alternative classroom work that may be submitted on behalf of a student varies based on the individual student coursework, creating a uniform standard could be overly restrictive.

48. **COMMENT:** The commenters expressed concerns the proposed graduation requirements are linked to student assessment. The commenters recommended that students be allowed to graduate based on other measures of performance, such as grade point average, a robust transcript, and earned credits that meet local requirements. The commenters stated a student’s level of performance is best assessed with measures directly linked to the lessons taught and the materials used by teachers, not through standardized assessments. (23, 30, 32, 37)

**RESPONSE:** The Department disagrees with that standardized assessments should not be used as a graduation requirement. The State statute governing high school graduation standards, N.J.S.A. 18A:7C-1 et seq., requires “[t]he development of a Statewide assessment test in reading, writing and computational skills,” as well as clear and explicit Statewide levels of proficiency to be demonstrated as a minimum requirement for high school graduation. As the use of a standardized assessment for graduation is a statutory requirement, the Department cannot do away with this requirement. However, students who are unable to demonstrate graduation proficiency through the Statewide standardized assessment can utilize the portfolio appeals process, which includes a review of student coursework and performance-based assessments.

49. **COMMENT:** The commenters stated the use of substantive competency tests that are not aligned with State academic standards are not appropriate for demonstrating graduation proficiency. The commenters also said the use of the SAT and ACT as substitute competency tests may be subject to race and socioeconomic bias since there is a fee to take the exams. (29, 30)

**RESPONSE:** The Department recognizes the substitute competency tests are not aligned with State standards; however, the tests are being proposed as alternative pathways to demonstrate graduation proficiency only during the transitional period and to ensure

students graduating during the transition to PARCC as a graduation requirement have several options by which to demonstrate graduation proficiency. The Department disagrees the substitute competency tests could have a socioeconomic or racial bias since the tests are fee-based as there are opportunities to seek a waiver from the costs of these exams. The Department also has included several no-cost options on the list of accepted substitute competency tests. Finally, students can demonstrate graduation proficiency through the portfolio appeals process if they do not take or pass a substitute competency test.

- 50. COMMENT:** The commenters expressed concerns with the Study Commission’s report and recommendations and with the make-up of the Study Commission’s membership. (26, 32, 33)

**RESPONSE:** The Department disagrees with commenters’ concerns. To ensure thorough and meaningful deliberations went in to the report and recommendations, the Study Commission conducted 21 meetings from November 2014 through November 2015, (exclusive of the public testimony sessions) during which presentations were received and discussions were held. In addition, a user-friendly website was created to serve as a convenient communication tool both to inform the citizens of New Jersey about the work of the Study Commission and to provide a mechanism for public input and feedback. The report and recommendations resulted from months of discussion and review and served as a useful tool for the Department in proposing regulations regarding the use of Statewide assessments in New Jersey and in developing a transition plan for the use of the new Statewide assessment system as part of the State’s graduation requirements. In regards to any comments about the representatives appointed to the Commissioner, this comment is outside the scope of the proposed rulemaking.

- 51. COMMENT:** The commenter contended PARCC testing is discriminatory to families who cannot afford private school since private schools are not required to administer PARCC and stated PARCC violates the Equal Protection Clause of the United States Constitution. (34)

**RESPONSE:** The Department disagrees that private schools not being required to administer the Statewide assessment system amounts to discrimination against parents who cannot afford to send their children to private school. Public schools are funded wholly with public funds and, therefore, are held to an different level of oversight and accountability than nonpublic school counterparts. The accountability system includes the requirement to administer the Statewide assessment system, among other measures. The Department does not have the legal authority to apply Statewide testing requirements to nonpublic schools.

- 52. COMMENT:** The commenter expressed concerns that school districts are forced to provide a student’s personal information to a national database, which is shared with Federal agencies and outside marketing firms. (34)

**RESPONSE:** The Department disagrees with the commenter that confidential student information is shared with third-party entities or marketing firms. School districts, as well as the Department, must comply with the Family Educational Right and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99, which prohibits the unauthorized disclosure of confidential student education records without parental consent.

- 53. COMMENT:** The commenter recommended that schools lower class size and invest in quality teacher training specific to the neighborhoods in which they teach to improve student performance. **(35)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments.

- 54. COMMENT:** The commenters questioned whether the class of 2021 will be ready to pass the PARCC test as part of their graduation requirements given the recent curriculum shift. **(38)**

**RESPONSE:** The Department appreciates the commenters’ concerns and is mindful that the transition to a new assessment system tied to graduation will need to take place gradually. In light of the fact that the PARCC assessments measure the skills developed under academic standards that have not been assessed through a high school standardized assessment prior to PARCC, the Department has proposed a lengthy transition plan to ensure students have sufficient time to get accustomed to the new assessment system prior to making the end-of-course tests in English language arts 10 and Algebra I graduation requirements. However, the Department will continue to review implementation of the transition plan as it progresses.

- 55. COMMENT:** The commenter stated the State’s educational system is failing children and it is not due to a lack of standardized tests. The commenter questioned why State officials are not looking at other countries that have fewer standardized testing as a model for the State’s education system. **(41)**

**RESPONSE:** The comment is outside the scope of the proposed rulemaking, which concerns proposed amendments to the State’s high school graduation requirements for assessments.



**State of New Jersey**  
DEPARTMENT OF EDUCATION  
PO Box 500  
TRENTON, NJ 08625-0500

**Proposal**  
**April 6, 2016**

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

DAVID C. HESPE  
*Commissioner*

TO: Members, State Board of Education

FROM: David C. Hespe  
Commissioner

SUBJECT: N.J.A.C. 6A:8, Standards and Assessment

REASON  
FOR ACTION: Amendments

AUTHORIZATION: N.J.S.A. 18A:7A-10 through 14, 18A:7C-1 et seq., 18A:7E-2 through 5,  
18A:35-4.2 and 4.7, and 18A:59-5.

SUNSET DATE: February 7, 2018

### **Summary**

The Department of Education (Department) proposes amendments to N.J.A.C. 6A:8, Standards and Assessment. The chapter, which implements the Core Curriculum Content Standards (CCCS) and the Statewide assessment system, is being revised due to the adoption of the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments.

The chapter requires all providers of publicly funded elementary, secondary, and adult high school education programs to align their curriculum and instruction with the CCCS, which most recently were readopted by the State Board in August and October 2014. The chapter also mandates the implementation of a Statewide assessment system to measure student achievement of the CCCS.

The Department proposes amendments throughout the chapter to transition away from the comprehensive High School Proficiency Assessment (HSPA) to end-of-course assessments in English language arts (ELA) 10 and Algebra I as the Statewide assessment graduation requirement. This transition to end-of-course assessments is based, in part, upon the recommendations of the New Jersey High School Redesign Steering Committee, which began reviewing the Statewide graduation proficiency assessment requirement in 2006, in addition to the recommendations set forth in the final report of the Study Commission on the Use of Student Assessments in New Jersey. End-of-course assessments are designed to be taken as students are taught the course's content, thus allowing students to move through the assessments at their own

pace and permitting schools and school districts to differentiate their programs and course offerings to challenge students appropriately throughout their educational careers.

The end-of-course assessments in ELA 10 and Algebra I were selected as the appropriate assessments for students to demonstrate graduation proficiency as the tests appear to align best with the expectations of the knowledge and skills for graduation established in State statute. However, the selection of ELA 10 and Algebra I is being made to ease the transition to a new assessment system and will be reassessed after a few years of implementation. In addition, the transition of the Statewide assessment graduation requirement to end-of-course assessments will need to take place gradually as some students have already completed content covered by the end-of-course assessments. As such, students graduating in 2016 through 2019 will be able to satisfy the requirement to demonstrate proficiency in English language arts and mathematics through a means other than an end-of-course PARCC assessment, including achieving a passing score on a substitute competency test or meeting the criteria of the Department's portfolio appeal process. Students graduating in the class of 2020 will be permitted to demonstrate graduation proficiency through the same alternative means as those in the classes of 2016 through 2019, provided that students in the class of 2020 take all end-of-course PARCC assessments for which they are eligible as of the effective date of the proposed amendments. Students graduating in 2021 and thereafter who have not demonstrated proficiency on English language arts and mathematics through the end-of-course PARCC assessment by their senior year may demonstrate graduation proficiency by meeting the criteria of the portfolio appeals process. To assist school districts and students in making a smooth transition to the new assessment system and graduation requirements, the criteria used in the Department's portfolio appeals process for the class of 2016 and thereafter will be similar to the criteria used for the Alternative High School Assessment (AHSA) appeals process.

The following summarizes the proposed amendments:

### **Subchapter 1. General Provisions**

#### **N.J.A.C. 6A:8-1.2 Scope**

This section establishes the chapter's scope.

The Department proposes an amendment to N.J.A.C. 6A:8-1.2(d), which requires progress toward meeting the CCCS to be measured by a Statewide assessment system at grade levels three through eight and 11-12 and at other grades deemed appropriate by the Commissioner, to replace "grade levels three through eight and 11-12" with "grades three through 12." The proposed amendments reflect that the end-of-course PARCC assessments are administered at any time when the student completes the related content, regardless of the grade, whereas the HSPA was administered just in grades 11 and 12.

#### **N.J.A.C. 6A:8-1.3 Definitions**

This section provides definitions for words and terms used in the chapter.

The Department proposes at N.J.A.C. 6A:8-1.3 to delete the definition for "advanced proficient," which is a score that demarks a comprehensive and in-depth understanding of the knowledge and skills measured by a content-area component of any State assessment. The proposed deletion is necessary because this term no longer will be used in the rules.

The Department proposes at N.J.A.C. 6A:8-1.3 to delete the definition for “AHSA,” which is an alternative assessment that measures high school competency in selected areas of the CCCS. The proposed deletion is necessary because the end-of-course PARCC assessments, the substitute competency tests, and the portfolio appeals process have replaced the AHSA.

The Department proposes at N.J.A.C. 6A:8-1.3 to add a definition for “alternative assessment for students with disabilities” to mean the alternative assessment used to determine cumulative student achievement of the knowledge and skills specified by the CCCS for students with disabilities who are unable to participate in the Statewide assessment system. The new definition is necessary because this assessment has replaced the APA as the assessment used to determine students with disabilities’ achievement of the knowledge and skills specified by the CCCS.

The Department proposes at N.J.A.C. 6A:8-1.3 to delete the definition for “APA,” which is the Alternative Proficiency Assessment used to determine cumulative student knowledge and skills specified by the CCCS for students with disabilities for students who are unable to participate in the component of the Statewide assessment for grades three through eight or the HSPA in accordance with N.J.A.C. 6A:14-4.10. The definition is proposed for deletion because the alternative assessment for students with disabilities has replaced the APA.

The Department proposes at N.J.A.C. 6A:8-1.3 to amend the definition for “Core Curriculum Content Standards” to replace “N.J.A.C. 6A:30-1.4” at the end with “N.J.A.C. 6A:30” to correct a typographical error.

The Department proposes at N.J.A.C. 6A:8-1.3 to amend the definition for “cut scores,” which means a score on the assessment scales that demarcates the various performance levels (partially proficient, proficient, and advanced proficient), to delete the three performance levels because these terms are no longer used to define performance..

The Department proposes at N.J.A.C. 6A:8-1.3 to delete the definition for “ESL,” which means as defined in N.J.A.C. 6A:15-1.2, as this term is not used in the chapter.

The Department proposes at N.J.A.C. 6A:8-1.3 to delete the definition for “HSPA,” which is used to determine the student achievement of the knowledge and skills specified by the CCCS. The proposed deletion is necessary because the end-of-course PARCC assessments have replaced the HSPA.

The Department proposes at N.J.A.C. 6A:8-1.3 to add a definition for “PARCC assessment” to mean the set of assessments designed by the Partnership for Assessment of Readiness for College and Careers used to determine student achievement of knowledge and skills specified by the CCCS in English language arts and mathematics. The new definition is necessary because PARCC assessments have replaced the HSPA and N.J. Assessment of Skills and Knowledge (NJASK) as the Statewide assessment system.

The Department proposes at N.J.A.C. 6A:8-1.3 to delete the definition for "partially proficient," which means a student-achieved score below the cut score, which demarks a solid understanding of the content measured by an individual section of any State assessment. The proposed deletion is necessary because the term no longer will be used in the rules.

The Department proposes at N.J.A.C. 6A:8-1.3 to add a definition for “portfolio appeals process” to mean an alternative assessment of proficiency for graduation established by the Commissioner, utilizing techniques and instruments other than PARCC assessments or substitute

competency tests. The new definition is necessary to establish an alternative assessment of proficiency for graduation that, along with substitute competency tests, will replace AHSA.

The Department proposes at N.J.A.C. 6A:8-1.3 to amend the term "proficient" to include "or proficiency," which means a student-achieved score below the cut score demarking a solid understanding of the content measured by an individual section of any State assessment. The proposed amendment is necessary to reflect the proper use of the term in the rules.

The Department proposes at N.J.A.C. 6A:8-1.3 to add a definition for "substitute competency test" to mean an alternative set of third-party assessments approved by the Commissioner, including, but not limited to, the SAT, PSAT, ACT, ACT-Aspire, ASVAB-AFQT, or Accuplacer, that can be used to demonstrate competency in the CCCS for students who have not demonstrated proficiency on PARCC assessments,. The new definition is necessary to establish an alternative assessment of proficiency for graduation that, along with the portfolio appeals process, will replace AHSA.

## **Subchapter 4. Implementation of the Statewide Assessment System**

### **N.J.A.C. 6A:8-4.1 Statewide assessment system**

This section describes the Statewide assessment system linked to the CCCS.

The Department proposes to amend N.J.A.C. 6A:8-4.1(a), which allows the Commissioner to implement assessment of student achievement in the State's public schools in any grade(s) and by the assessments he or she deems appropriate, to replace "N.J.S.A. 18A:7A-10" with "N.J.S.A. 18A:7C-1 and 18A:7E-2 and 3." The proposed amendment will reference the appropriate statutory citations governing the Statewide assessment system and graduation standards.

The Department proposes to amend N.J.A.C. 6A:8-4.1(c), which requires district boards of education to administer the applicable Statewide assessments, including six major components. The Department proposes to replace "the six major components" with "the following major components" because there no longer are six components; a 2013 rulemaking deleted the reference to a sixth component.

The Department further proposes to amend N.J.A.C. 6A:8-4.1(c) by replacing "HSPA, the AHSA and the APA for students with severe cognitive disabilities" with "the high school end-of-course PARCC assessments; and the alternative assessment for students with disabilities and provide notification to each student entering grades three through 12 of the Statewide assessment schedule." The proposed amendment is necessary to reflect the transition to the PARCC assessments to replace the HSPA and from the APA to the alternative assessment for students with disabilities.

The Department proposes to amend N.J.A.C. 6A:8-4.1(c)3, which requires the implementation of a high school assessment program component of the CCCS that assesses, at a minimum, English language arts, mathematics, and science, to add "with the exception of the following:." The Department also proposes N.J.A.C. 6A:8-4.1(c)3i to allow students to receive a waiver from the district board of education from taking the high school end-of-course PARCC assessment in ELA 11 due to the student's participation in another English language/literature college placement assessment during the same school year. The proposed amendment and new rule are required to ensure students participating in college placement classes are not assessed twice during the school year in similar content areas.

The Department proposes to amend N.J.A.C. 6A:8-4.1(d)1i, which allows district boards of education to administer AHSA to English language learners (ELLs) in their native language, when available, and/or English, by replacing “AHSA” with “the Statewide assessments in mathematics.” The proposed amendment is necessary to reflect the transition to the PARCC assessments. The Department also proposes to delete “in conformance with N.J.A.C. 6A:8-5.1(f)” at the end of the rule, as the relevant provisions of the subsection are proposed for deletion.

The Department proposes to amend N.J.A.C. 6A:8-4.1(d)3 and 3i and ii to replace “APA” with “alternative assessment for students with disabilities” to reflect the transition in assessments.

The Department proposes to amend N.J.A.C. 6A:8-4.1(d)4, which requires district boards of education to administer following the 11th grade the AHSA to all students who have not demonstrated proficiency on one or more sections of the HSPA and/or to corresponding adult high school students and requires school districts to use only Commissioner-approved assessment instruments and procedures, to instead require school districts to “implement alternative ways for students to demonstrate graduation proficiency in accordance with N.J.A.C. 6A:8-5.1(f).” The proposed amendments set forth the ways in which a student may demonstrate graduation proficiency with the transition to end-of-course PARCC assessments and reflect replacement of both the HSPA and AHSA with an alternative Statewide assessment system. In addition, since the AHSA is no longer administered, the rule restricting the use of Commissioner-approved assessment instruments and procedures is no longer applicable.

The Department proposes to amend N.J.A.C. 6A:8-4.1(e), which makes district boards of education responsible for ensuring the security of all components of the Statewide assessment system, to add “that are administered within the school district” at the end. The proposed amendment will clarify school districts are responsible for ensuring the security of only the assessment components within the school districts’ control.

### **N.J.A.C. 6A:8-4.2 Documentation of student achievement**

This section describes the required content of student transcripts and requires district boards of education to maintain accurate student records, including performance on Statewide assessments.

The Department proposes to amend N.J.A.C. 6A:8-4.2(c), which requires district boards of education to maintain an accurate record of each student’s performance on Statewide assessments, including AHSA, by deleting “including the AHSA.” The proposed amendment reflects the AHSA no longer will be administered as part of the Statewide assessment system.

The Department proposes to amend N.J.A.C. 6A:8-4.2(d)1, which requires district boards of education to maintain a graduation transcript that includes results of all applicable State assessments, including the AHSA, to replace “the AHSA” with “assessments that satisfy graduation requirements set forth at N.J.A.C. 8-5.1(a)6.” The proposed amendment clarifies that any assessment that satisfies a graduation requirement taken prior to high school are recorded on the students high school transcript.

## **Subchapter 5. Implementation of Graduation Requirements**

### **N.J.A.C. 6A:8-5.1 Graduation requirements**

This section describes the ways in which students can obtain a high school diploma.

The Department proposes to amend N.J.A.C. 6A:8-5.1(a)6, which requires district boards of education to include in their local graduation requirements for a State-endorsed diploma the mandate that all students demonstrate proficiency in all sections of the HSPA or AHSA process applicable to the class graduating in the year they meet all other graduation requirements based on a Commissioner-prescribed schedule, to replace “all sections of the HSPA or AHSA process applicable to the class graduating in the year they meet all other graduation requirements, based on a schedule prescribed by the Commissioner in accordance with N.J.A.C. 6A:8-4.1(b) through (d)” with “the high school end-of-course PARCC assessments in ELA 10 and Algebra I.” The Department also proposes to add “or through the alternative means set forth at N.J.A.C. 6A:8-5.1(f) through (i).” The proposed amendments reflect the gradual transition to the end-of-course PARCC assessments, and the identified alternative means to demonstrate proficiency for graduation in place of the HSPA or AHSA.

The Department proposes to amend N.J.A.C. 6A:8-5.1(a)7, which requires students graduating from an adult high school to demonstrate proficiency in all sections of the HSPA or designated AHSA process for any subject(s) not yet passed on a previously approved Statewide assessment required for graduation, to replace “all sections of the HSPA or designated AHSA process for any subject(s) not yet passed on a previously approved Statewide assessment required for graduation” with “the high school end-of-course PARCC assessments in ELA 10 and Algebra I.” The Department also proposes to add at the end of the sentence “or through N.J.A.C. 6A:8-5.1(f) through (i).” The proposed amendments reflect the transition to the end-of-course PARCC assessments, the substitute competency tests, and the portfolio appeals process to demonstrate proficiency in place of the HSPA or AHSA for all students graduating from an adult high school.

The Department proposes to amend N.J.A.C. 6A:8-5.1(f), which requires district boards of education to provide students who have not demonstrated proficiency on one or more sections of the HSPA following the 11th grade with the opportunity to demonstrate competence through both repeated administrations of the HSPA and AHSA process, to insert “[t]o ensure adequate transition to the new Statewide assessment system” at the beginning of the rule. The Department also proposes to replace “one or more sections of the HSPA following the 11th grade” with “the high school end-of-course PARCC assessments in ELA 10 and Algebra I.” The Department also proposes to replace “both repeated administrations of the HSPA and the AHSA process” with “one of the alternative means set forth below.” The proposed amendments reflect the transition to the end-of-course PARCC assessments, the substitute competency tests, and portfolio appeals process to demonstrate proficiency in place of the HSPA or the AHSA for all students graduating in 2016, 2017, 2018, 2019, or 2020, and the portfolio appeals process for the class of 2021 and thereafter.

The Department proposes N.J.A.C. 6A:8-5.1(f)1 to allow the graduating classes of 2016, 2017, 2018, and 2019 to satisfy the State requirement to demonstrate proficiency in English language arts and mathematics by alternative methods. Proposed N.J.A.C. 6A:8-5.1(f)1i would allow students who do not take the ELA 10 or Algebra I high school end-of-course PARCC assessment, or who take but do not achieve a passing score, to meet the requirement by achieving a passing score, as determined by the Commissioner, on either a corresponding substitute competency test in English language arts and/or mathematics or substitute a passing score on another end-of-course PARCC assessment, including ELA 9, ELA 11, Geometry, or Algebra II. Proposed N.J.A.C. 6A:8-5.1(f)1ii would allow students to demonstrate proficiency by meeting

the criteria of the portfolio appeals process. The proposed rules set forth the various ways in which students graduating in the classes of 2016, 2017, 2018, and 2019 will be able to satisfy the State graduation requirement to demonstrate proficiency in English language arts and mathematics.

The Department proposes N.J.A.C. 6A:8-5.1(f)2 and 2i and ii to establish the same ways for demonstrating proficiency in English language arts and mathematics for the graduating class of 2020, except that students graduating in 2020 must take all eligible end-of-course PARCC assessments for courses in which they are enrolled as of the effective date of the proposed amendments and moving forward prior to demonstrating proficiency through a corresponding substitute competency test, another end-of-course PARCC assessment, or through the portfolio appeals process, including those students who received a waiver from taking the ELA 11 end-of-course PARCC assessment. The proposed rules set forth the various ways in which students graduating in the class of 2020 who take all PARCC assessments for classes in which they are enrolled will be able to satisfy the State graduation requirement to demonstrate proficiency in English language arts and mathematics.

The Department proposes N.J.A.C. 6A:8-5.1(g) to establish an alternative for demonstrating proficiency in English language arts and mathematics for the graduating class of 2021 and thereafter. Beginning with the graduating class of 2021, students who take all applicable high school end-of-course PARCC assessments for courses in which they are enrolled as of the effective date of these amendments and moving forward, including those students who received a waiver from taking the ELA 11 end-of-course PARCC assessment, but do not achieve a passing score on the ELA 10 and Algebra I end-of-course PARCC assessment by the conclusion of their senior year after multiple opportunities to take the assessments, may demonstrate proficiency in English language arts and mathematics through the portfolio appeals process. The proposed rules set forth an alternative way students graduating in the class of 2021 and thereafter and who take all PARCC assessments for which they are enrolled will be able to satisfy the State graduation requirement to demonstrate proficiency in English language arts and mathematics.

The Department proposes to recodify current N.J.A.C. 6A:8-5.1(f)1, which requires ELLs to satisfy all high school graduation requirements but allows ELLs to demonstrate attainment of the State minimum levels of proficiency through two methods, as new N.J.A.C. 6A:8-5.1(h). The Department proposes to combine recodified N.J.A.C. 6A:8-5.1(h) and (h)1, which allow ELLs to demonstrate proficiency through passage of the AHSA process in their native language, when available, and passage of a Department-approved English fluency assessment. The Department proposes to replace “AHSA” with “portfolio appeals” and to delete recodified N.J.A.C. 6A:8-5.1(h)ii, which allows ELLs to demonstrate proficiency through passage of the AHSA process in English with the appropriate accommodations. The proposed amendments and deletion are necessary as AHSA no longer is administered as part of the Statewide assessment system and the portfolio appeals process may be used for ELLs to demonstrate proficiency for high school graduation.

The Department proposes to recodify current N.J.A.C. 6A:8-5.1(f)2, which exempts students with disabilities or those who are eligible under Section 504 of the Rehabilitation Act and who participate in the AHSA process from participating in repeated administrations of the HSPA, as N.J.A.C. 6A:8-5.1(i). The Department also proposes an amendment at recodified N.J.A.C. 6A:8-5.1(i) to delete “and” after “Rehabilitation Act” to clarify the rule applies to both students with disabilities and students eligible under Section 504. The Department also proposes to replace “AHSA process” with “alternative assessment for students with disabilities” and to replace “the HSPA” with “high school end-of-course PARCC assessments.” The proposed

amendments reflect the transition to the end-of-course PARCC assessments in place of the HSPA and to the alternative assessment for students with disabilities in place of the AHSA for demonstrating proficiency for graduation.

### **N.J.A.C. 6A:8-5.2 High school diplomas**

This section provides that district boards of education award State-endorsed high school diplomas. The section provides paths by which New Jersey students can earn a diploma.

The Department proposes to amend N.J.A.C. 6A:8-5.2(b)2, which requires district boards of education to allow an out-of-school individual up to age 20 who otherwise has met all State and local graduation requirements but has failed to pass the HSPA to return to school at scheduled times to take the necessary test and to grant a State-endorsed diploma if the student passes the test applicable to his or her class, by replacing “the HSPA” with “high school end-of-course PARCC assessments.” The Department also proposes to replace “return to school at scheduled times for the purpose of taking the necessary test” with “demonstrate proficiency as set forth in N.J.A.C. 6A:8-5.1(f) pursuant to the standards applicable to the student’s graduating class. Students in graduating classes prior to 2016 shall demonstrate proficiency as set forth in N.J.A.C. 6A:8-5.1(f)1.” The proposed amendments reflect the transition to the end-of-course PARCC assessment in place of the HSPA, and will allow out-of-school students up to age 20 to demonstrate graduation proficiency in the same means as those in the student’s graduating class, which may include through a substitute competency test or portfolio appeals process, as applicable, without requiring the students to return to school to take an end-of-course PARCC assessment. For those students in classes graduating prior to 2016, they must demonstrate graduation proficiency consistent with students graduating in the classes of 2016 through 2019.

The Department proposes to amend N.J.A.C. 6A:8-5.2(e), which requires district boards of education to award a State-endorsed high school diploma to any currently enrolled student, to add “regardless of grade level” at the end. The proposed amendment will clarify that district boards of education may issue a diploma to students who satisfy the stated criteria prior to the conclusion of their grade 12 year.

The Department proposes to amend N.J.A.C. 6A:8-5.2(e)1, which requires district boards of education to award a State-endorsed high school diploma to any currently enrolled student who has performed at a proficient or advanced proficient level of achievement in all sections of the HSPA or applicable High School Competency Assessments, to replace “performed at a proficient or advanced proficient level of achievement” with “demonstrated proficiency in the high school end-of-course PARCC assessments in ELA 10 and Algebra I, or as set forth in N.J.A.C. 6A:8-5.1(f).” The proposed amendments reflect the transition from the HSPA and AHSA to the end-of-course PARCC assessments, which do not use the performance categories of “proficient” or “advanced proficient” when describing proficiency levels.

The Department proposes to amend N.J.A.C. 6A:8-5.2(f)2, which requires chief school administrators and charter school lead persons to report annually by September 30 to the district board of education or charter school board of trustees at a public meeting and to the Commissioner the number of students graduated under the AHSA process, to replace “AHSA” with “substitute competency test.” The proposed amendment reflects the replacement of AHSA with a substitute competency test as an alternative method to demonstrate graduation proficiency.

The Department proposes new N.J.A.C. 6A:8-5.2(f)3 to require chief school administrators and charter school lead persons also to report the number of students graduated

under the portfolio appeals process. The proposed rule reflects the replacement of AHSA with the portfolio appeals process as an alternative method to demonstrate graduation proficiency.

The Department proposes to recodify current N.J.A.C. 6A:8-5.2(f)3 through 5 as new N.J.A.C. 6A:8-5.2(f)4 through 6, respectively.

The Department proposes to amend recodified N.J.A.C. 6A:8-5.2(f)6, which requires chief school administrators and charter school lead persons also to report the number of students denied graduation from the 12th grade class solely because of failure to pass the HSPA or AHSA, to replace “HSPA or AHSA” with “high school end-of-course PARCC assessments, substitute competency tests, or portfolio appeals process.” The proposed amendment reflects the transition to the end-of-course PARCC assessments to replace the HSPA and the substitute competency tests and portfolio appeals process to replace the AHSA as the alternative ways to demonstrate graduation proficiency.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is exempt from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The proposed amendments apply to all providers of publicly funded elementary, secondary, and adult high school education programs. The proposed amendments will affect individuals who administer and provide educational services, as well as students who receive the services.

The social impact of the proposed amendments on New Jersey's diverse student population will be positive, because the proposed amendments will ensure all students are prepared both for postsecondary education and for the demands of the 21st century workplace.

The social impact of the proposed amendments on individuals who administer educational services will also be positive, as a result of the ability to more accurately assess student progress and provide continual improvements of educational programs.

### **Economic Impact**

The economic impact of the proposed amendments will be positive. The proposed amendments will reduce the necessity for many of New Jersey's high school graduates to spend their time and financial resources on remedial courses at the college level. By better preparing graduates for college and career readiness, the proposed amendments have the potential to make a positive economic impact on all stakeholders.

While the proposed amendments undoubtedly will have an impact on the content of instructional programs for some students, there is no reason to anticipate that the curricular modifications will involve increased expenditures for school districts. The review and revision process of curriculum and materials, including technology required to take PARCC assessments, is already conducted on a regular basis by all providers of publically funded elementary, secondary, and adult high school education programs so the economic impact will be negligible.

### **Federal Standards Statement**

The Department assures the proposed amendments are in compliance with both Federal requirements and State statutes. The proposed amendments are in compliance with Federal education requirements included in the 2002 ESEA reauthorization and in the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1412). The proposed amendments will not exceed the Federal requirements of ESEA and IDEA. There are no other Federal requirements that impact the proposed amendments.

### **Jobs Impact**

The proposed amendments are not likely to have an effect on the number of professionals employed in public school districts. In some individual school districts, a redistribution of professional assignments may result from school or school district realignment of priorities. The Department anticipates no job generation or loss in other sectors of the economy as a result of the proposed amendments.

### **Agriculture Industry Impact**

The proposed amendments will have no impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

The proposed amendments apply to all providers of publicly funded elementary, secondary, and adult high school education programs, including approved private schools for the disabled. “Approved private schools for the disabled” means incorporated entities approved by the Department according to N.J.A.C. 6A:14-7.2 or 7.3 to provide special education and related services to students with disabilities placed by a district board of education responsible for providing their education. Most approved private schools could be considered small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules included in this chapter are largely programmatic, based on achieving the CCCS, and must be in place for all students. The proposed amendments should not negatively affect approved private schools for the disabled as they are already required, as are all local education agencies, to administer the Statewide assessment system to assess student progress toward meeting the CCCS. Therefore, there are no additional requirements being placed on private schools.

### **Housing Affordability Impact Analysis**

There is no anticipated impact on the cost of housing as a result of the proposed amendments, which relate to assessments and high school graduation requirements. The proposed amendments are intended to ensure all students are prepared both for college and 21st century careers.

### **Smart Growth Development Impact Analysis**

There is no anticipated impact from the proposed amendments on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The proposed amendments relate to assessments and high school graduation requirements, and are intended to ensure all students are prepared both for college and 21st century careers.

**Full text** of the proposed amendments follows (additions indicated in bold **thus**; deletions indicated in brackets [thus]):

# **N.J.A.C. 6A:8, STANDARDS AND ASSESSMENT**

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## CHAPTER 8. STANDARDS AND ASSESSMENT

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 6A:8-1.2 Scope

- (a) The Core Curriculum Content Standards apply to all students enrolled in public elementary, secondary, and adult high school education programs within the State of New Jersey.
- (b) Unless otherwise noted, “district boards of education” shall be interpreted throughout this chapter to include the governing authorities of all providers of publicly funded elementary, secondary, and adult high school education programs, including county vocational school districts; educational services commissions; jointure commissions; charter schools; alternative schools; regional day schools; adult high schools; county special services school districts; the Marie H. Katzenbach School for the Deaf; the Department of Human Services; the Department of Children and Families; the Department of Corrections; the Juvenile Justice Commission; public college-operated programs; and approved private schools for the disabled.
- (c) District boards of education shall align their curriculum and instructional methodologies to assist all students in achieving the Core Curriculum Content Standards and to prepare all students for college and career.
- (d) Progress toward meeting the Core Curriculum Content Standards shall be measured by the Statewide assessment system at [grade levels] **grades** three through [eight and 11-]12, or if ungraded at equivalent ages, and at other grade(s) deemed appropriate by the Commissioner.

### **6A:8-1.3 Definitions**

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

“Accommodations or modifications to the Statewide assessment system” means changes in testing procedures or formats that provide students with disabilities and English language learners (ELLs) an equitable opportunity to participate in assessment and demonstrate their knowledge and skills in the areas assessed.

“ACTFL” means the American Council on the Teaching of Foreign Languages.

“Adult education assessment test” means a test approved by the United States Department of Education that is used to award a State-issued high school diploma.

“Advanced Placement courses” means courses aligned with course descriptions provided by the College Board and intended to provide students with the opportunity to complete college-level studies during secondary school.

[“Advanced proficient” means a student-achieved score at or above the cut score, which demarks a comprehensive and in-depth understanding of the knowledge and skills measured by a content-area component of any State assessment.]

“All students” means every student enrolled in public elementary, secondary, and adult high school education programs within the State of New Jersey, including general education students, students with disabilities, and English language learners (ELLs).

[“AHSA” means the Alternative High School Assessment, which is an alternative assessment that measures high school competency in selected areas of the Core Curriculum Content Standards.]

**“Alternative assessment for students with disabilities” means the alternative assessment used to determine cumulative student achievement of the knowledge and skills specified by the Core Curriculum Content Standards for students with disabilities who are unable to participate in the Statewide assessment system.**

“Annual measurable objectives” or “AMOs” means the performance targets set by New Jersey in the Elementary and Secondary Education Act (ESEA) flexibility waiver approved by the United States Department of Education.

[“APA” means the Alternate Proficiency Assessment used to determine cumulative student achievement of the knowledge and skills specified by the Core Curriculum Content Standards for students with disabilities who are unable to participate in the component of the Statewide assessment for grades three through eight or the HSPA in accordance with N.J.A.C. 6A:14-4.10.]

“Approved private schools for the disabled” means incorporated entities approved by the Department according to N.J.A.C. 6A:14-7.2 or 7.3 to provide special education and related services to students with disabilities who have been placed by the district board of education or charter school responsible for providing their education.

"Assessment" means a State-developed or State-approved standardized instrument or process that measures student performance levels on the Core Curriculum Content Standards.

“Career awareness, exploration, and preparation” means instruction and programs that assist students to clarify career goals; explore career possibilities; develop employability skills; develop foundational knowledge necessary for success in the workplace; and make the transition from school to careers, including college, training, and employment.

“Career and technical education” means as defined in N.J.A.C. 6A:19-1.2.

“Charter school” means as defined in N.J.A.C. 6A:11-1.2.

“Chief school administrator” means the superintendent of schools or the administrative principal who works directly with the district board of education if there is no superintendent in the school district.

“CLEP” means College-Level Examination Program, which enables students to receive college credit by earning qualifying scores on examinations that are offered by the College Board and cover material taught in courses most students take as requirements in the first two years of college. A college usually grants the same amount of credit to students earning satisfactory scores on the CLEP examination as it grants to students successfully completing the course.

“Content equivalent” means courses or activities that include the same or equivalent knowledge and skills as found in traditionally titled courses that are required for high school graduation and are aligned with the Core Curriculum Content Standards. The content must be taught by certified teachers, may be integrated in one or more courses, may be titled differently, or may present material in an interdisciplinary or spiral format.

“Core Curriculum Content Standards” or “CCCS” means standards adopted by the State Board of Education on May 1, 1996, and as thereafter revised by the State Board, and the Common Core State Standards adopted by the State Board on June 16, 2010, and as thereafter revised by the State Board, that describe the knowledge and skills all New Jersey students are expected to acquire by benchmark grades in the following areas: English language arts; mathematics; science; social studies; visual and performing arts; comprehensive health and physical education; world languages; technology; and 21<sup>st</sup> career life and careers. The standards are established for the provision of a thorough and efficient education pursuant to N.J.S.A. 18A:7F-46 and as a basis for the evaluation of school districts in accordance with N.J.A.C. 6A:30[-1.4].

“Credit” means the award for the equivalent of a class period of instruction, which meets for a minimum of 40 minutes, one time per week during the school year or as approved through N.J.A.C. 6A:8-5.1(a)2.

“Cut score” means a score on the assessment scales that demarcates the various performance levels [(partially proficient, proficient, and advanced proficient)].

“ELL” means English language learner, indicating a person who is in the process of acquiring English and has a first language other than English. ELLs sometimes are referred to as limited English proficient (LEP).

“English language development standards” means as defined in N.J.A.C. 6A:15-1.2.

[“ESL” means as defined in N.J.A.C. 6A:15-1.2.]

“Evaluation,” formerly called “monitoring,” means the process by which the Commissioner or his or her designee evaluates the status of each school district or charter school.

"504 plan" means a written educational plan prepared by the 504 team for a 504 student.

“504 student” means a student who has a physical or mental impairment that substantially limits a major life function; has been determined eligible for services, including accommodations and modifications by the school district’s 504 team; and has a 504 plan.

“504 team” means a group of persons that makes program and placement decisions according to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and 34 CFR § 104.35(c).

“GED” means tests of General Educational Development taken in order to qualify for a State-issued high school diploma.

“Gifted and talented students” means students who possess or demonstrate high levels of ability in one or more content areas when compared to their chronological peers in the local school district and who require modifications of their educational program if they are to achieve in accordance with their capabilities.

[“HSPA” means the High School Proficiency Assessment, which is used to determine student achievement of the knowledge and skills specified by the CCCS.]

“IEP” means individualized education program as defined in N.J.A.C. 6A:14-1.3.

“IEP team” means as defined in N.J.A.C. 6A:14-1.3.

“Indicator” means statements that further delineate the CCCS.

“Individualized student learning opportunities” means student experiences based upon specific instructional objectives that meet or exceed the CCCS at the high school level. Such opportunities may occur in all CCCS and may include, but are not limited to, independent study; online learning; study-abroad programs; student exchange programs; and structured learning experiences, including, but not limited to, work-based programs, internships, apprenticeships, and service learning experiences. The opportunities shall be based on student interests and career goals.

“Instructional adaptation” means an adjustment or modification to instruction enabling students with disabilities, ELLs, or students in alternative education programs or who are gifted and talented to participate in, benefit from, and/or demonstrate knowledge and application of the CCCS.

“Interdisciplinary connections” means integrating CCCS and skills from one or more content areas into instruction and assessment of another content area.

“Laboratory/inquiry-based science course” means a course in which students are systematically provided with ongoing opportunities to use data drawn from or to interact directly with the natural and designed/engineered world, using tools, data collection techniques, models, and scientific concepts and principles.

“Magnet program” means a distinctive program designed to:

1. Attract students by offering a specialized curriculum based on a special theme or method of instruction; and
2. Substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable vocational, technological, and professional skills of students attending the program.

“MOPI” means the ACTFL Modified Oral Proficiency Interview, which is a standardized assessment of functional speaking ability often used to test lower proficiency ranges.

“Native language” means the language or mode of communication first learned by the student.

“OPI” means the ACTFL Oral Proficiency Interview, which is a standardized assessment of functional speaking ability currently available in 37 world languages.

"Pacing guide" means a schedule that includes aligned concepts, topics and skills related to a particular curriculum to be addressed over a defined period of time. It is not a prescriptive, lock-step set of lesson plans that impede an educator's ability to exercise flexibility in meeting students' learning needs.

**“PARCC assessment” means the set of assessments designed by the Partnership for Assessment of Readiness for College and Careers used to determine student achievement of knowledge and skills specified by the CCCS in English language arts and mathematics.**

[“Partially proficient” means a student-achieved score below the cut score, which demarks a solid understanding of the content measured by an individual section of any State assessment.]

“Performance level” means one of several categories describing student proficiency with regard to the achievement of the CCCS.

“Personalization” means enabling students to build and strengthen relationships with peers, teachers, other staff members, families, and the community at large through multiple strategies that promote engagement and high expectations based on individual interests and aptitudes, and that are conducive to successful teaching and learning experiences.

“Personalized Student Learning Plan” means a formalized plan and process that involves students setting learning goals based on personal, academic, and career interests, beginning in the middle school grades and continuing throughout high school with the close support of adult mentors, including teachers, counselors, and parents.

**“Portfolio appeals process” means an alternative assessment of proficiency for graduation established by the Commissioner, utilizing techniques and instruments other than PARCC assessments or substitute competency tests.**

“Professional development” means a comprehensive, sustained, and intensive approach to improving the effectiveness of teachers, principals, and other school personnel in raising student achievement.

“Proficient” or **“proficiency”** means a student-achieved score at or above the cut score, which demarks a solid understanding of the content measured by an individual section of any State assessment.

“QSAC” means the Quality Single Accountability Continuum, which is used pursuant to N.J.A.C. 6A:30 to review and evaluate school district operations.

“Rehabilitation Act” means the Federal Rehabilitation Act of 1973, 29 U.S.C. §§ 701 et seq., as amended in 1992.

“Service learning experience” means a method that allows students or participants to learn and develop through active participation in thoughtfully organized activities that are conducted in and meet the needs of a community, and that help foster civic responsibility. Service learning experiences shall be coordinated with the community and with an elementary or secondary school, institution of higher education, or community-services program; shall be integrated into and enhance the school district’s academic curriculum; and shall provide structured time for students to reflect on the service experience.

“STAMP” means Standards-based Measurement of Proficiency, which is a test that is delivered, graded, and reported online, and that assesses students’ language proficiency from the “Novice-Low” to the “Intermediate-Mid” benchmark levels.

“Standards support materials” means documents published by the Department that include and elaborate on the CCCS for preschool through grade 12 education, and that may assist in the development of local curricula.

“State Board” means the New Jersey State Board of Education.

“State-endorsed diploma” means a locally-issued document awarded to an exiting student indicating successful completion of high school graduation requirements.

“State-issued high school diploma” means a diploma issued by the State of New Jersey.

“Structured learning experience” means as defined in N.J.A.C. 6A:19-1.2.

“Study abroad programs” means programs that enable New Jersey students to attend a high school in another country for a semester or full academic year to acquire academic and cross-cultural skills that will help them live and work in a globally interdependent world.

**“Substitute competency test” means an alternative set of third-party assessments approved by the Commissioner, including, but not limited to the SAT, PSAT, ACT, ACT-Aspire, ASVAB-AFQT, or Accuplacer, that can be used to demonstrate competency in the CCCS for students who have not demonstrated proficiency on PARCC assessments.**

"Technological literacy" means students meeting CCCS 8.1 Educational Technology, obtained through the integration of effective educational technology practices, strategies, and tools throughout all curricular areas.

“Transcript” means a document for all students exiting the public education system that describes a student’s progress toward achievement of the CCCS and other relevant experiences and achievements.

“Twenty-first century careers” means careers and occupations that have been impacted by technological and global forces and are in an ongoing state of reinvention due to technological advances and e-commerce.

“Twenty-first century themes and skills” means themes such as global awareness; financial, economic, business, and entrepreneurial literacy; civic literacy; health literacy; learning and innovation skills, including creativity and innovation, critical thinking and problem solving, and communication and collaboration; information, media, and technology skills; and life and career skills, including flexibility and adaptability, initiative and self-direction, social and cross-cultural skills, productivity and accountability, and leadership and responsibility.

## **SUBCHAPTER 4. IMPLEMENTATION OF THE STATEWIDE ASSESSMENT SYSTEM**

### **6A:8-4.1 Statewide assessment system**

- (a) The Commissioner, in accordance with N.J.S.A. 18A:[7A-10]7C-1 et seq. and 18A:7E-2 and 3, may implement assessment of student achievement in the State’s public schools in any grade(s) and by such assessments as he or she deems appropriate. The Commissioner shall report to the State Board the results of such assessments.
- (b) The Commissioner shall implement a system and related schedule of Statewide assessments to evaluate student achievement of the CCCS.
  - 1. The Commissioner, with the approval of the State Board, shall define the scope and level of student performance on Statewide assessments that demonstrate thorough understanding of the knowledge and skills delineated by the CCCS at grade levels three through 12.
  - 2. After consultation with the Commissioner, the State Board shall establish by resolution uniform Statewide criteria defining adequate school district progress toward meeting the CCCS.
- (c) District boards of education shall, according to a schedule prescribed by the Commissioner, administer the applicable Statewide assessments, including the [six]

**following** major components: the elementary assessment component for grades three through five; the middle school assessment component for grades six through eight[, HSPA,]; the [AHSA] **high school end-of-course PARCC assessments**; and the [APA] **alternative assessment** for students with [severe cognitive] disabilities **and provide notification to each student entering grades three through 12 of the Statewide assessment schedule.**

1. The Department shall implement the elementary component of the Statewide assessment of the CCCS consisting of the following:
    - i. Continued administration of mathematics and English language arts in grades three, four, and five, and of science in grade four.
  2. The Department shall implement the middle school component of the Statewide assessment of the CCCS consisting of the following:
    - i. Continued administration of mathematics and English language arts in grades six, seven, and eight, and of science in grade eight.
  3. The Department shall implement a high school assessment program component of the CCCS that assesses, at a minimum, English language arts, mathematics, and science[.] **with the exception of the following:**
    - i. **Students may receive a waiver from the district board of education from taking the high school end-of-course PARCC assessment in ELA 11 due to the student's participation in another English language/literature college placement assessment during the same school year.**
- (d) Pursuant to (b) and (c) above, all students at grade levels three through 12, and at any other grade(s) designated by the Commissioner pursuant to (a) above, shall take all appropriate Statewide assessments as scheduled.

1. District boards of education shall provide appropriate accommodations or modifications to the Statewide assessment system as specified by the Department for ELLs and students with disabilities as defined in N.J.A.C. 6A:14-1.3 or eligible under Section 504 of the Rehabilitation Act as determined by the IEP or 504 team.
  - i. District boards of education may administer [AHSA] **the Statewide assessments in mathematics** to ELLs in their native language, when available, and/or English[, in conformance with N.J.A.C. 6A:8-5.1(f)].
  - ii. District boards of education shall have the option for a first-year ELL of substituting a Department-approved language proficiency test only for the English language arts section of the elementary or middle school component of the Statewide assessment, when the student has entered the United States after July 1 of the calendar year prior to the test administration.
2. District boards of education shall ensure students with disabilities as defined in N.J.A.C. 6A:14-1.3 participate in Statewide assessments in accordance with N.J.A.C. 6A:14-4.10.
3. At specific times prescribed by the Commissioner, district boards of education shall administer the [APA] **alternative assessment for students with disabilities** to students with severe disabilities who cannot participate in other assessments due to the severity of their disabilities.
  - i. The Department shall implement the [APA] **alternative assessment for students with disabilities** according to the schedules in (c)1, 2, and 3 above.
  - ii. The [APA] **alternative assessment for students with disabilities** measures the progress of students who have been determined eligible for

the [APA] **alternative assessment for students with disabilities** by the IEP team in accordance with N.J.A.C. 6A:14-4.10.

4. District boards of education shall [administer following the 11th grade the AHSA to all students who have not demonstrated proficiency on one or more sections of the HSPA and/or to corresponding adult high school students. In implementing the AHSA process, district boards of education shall use only assessment instruments and procedures approved by the Commissioner] **implement alternative ways for students to demonstrate graduation proficiency in accordance with N.J.A.C. 6A:8-5.1(f).**
- (e) District boards of education shall be responsible for ensuring the security of all components of the Statewide assessment system **that are administered within the school district.**

#### **6A:8-4.2 Documentation of student achievement**

- (a) After each test administration, the Department shall provide to chief school administrators the following:
  1. Rosters of student performance in each content area;
  2. Individual student reports; and
  3. School and school district summary data, including school and school district means, numbers tested, and percent achieving at each performance level. The school district summary data shall be aggregated and disaggregated, and school summary data shall be disaggregated, for students with disabilities as defined by N.J.A.C. 6A:14-1.3 and for ELLs.
- (b) District boards of education shall transmit within 10 business days any official records, including transcripts, of students who transfer to other school districts or institutions.

- (c) District boards of education shall maintain an accurate record of each student's performance on Statewide assessments[, including the AHSA].
- (d) District boards of education shall maintain for every student a ninth-grade-through-graduation transcript that contains the following, as available:
  - 1. Results of all applicable State assessments, including [the AHSA] **assessments that satisfy graduation requirements set forth at N.J.A.C. 6A:8-5.1(a)6;**
  - 2. Results of any English language proficiency assessments according to N.J.A.C. 6A:8-5.1[(f)1i](h);
  - 3. Evidence of instructional experience and performance in the CCCS;
  - 4. Evidence of technological literacy;
  - 5. Evidence of career education instructional experiences and career development activities;
  - 6. Evidence of State-issued occupational licenses and credentials, industry-recognized occupational credentials, and/or technical skill assessments for students enrolled in Department-approved career and technical education programs pursuant to N.J.A.C. 6A:19-3.2; and
  - 7. Any other information deemed appropriate by the district board of education.

## **SUBCHAPTER 5. IMPLEMENTATION OF GRADUATION REQUIREMENTS**

### **6A:8-5.1 Graduation requirements**

- (a) For a State-endorsed diploma, district boards of education shall develop, adopt, and implement local graduation requirements that prepare students for success in post-

secondary degree programs, careers, and civic life in the 21st century, and that include the following:

1. Participation in a local program of study of not fewer than 120 credits in courses designed to meet all of the CCCS, including, but not limited to, the following credits:
  - i. At least 20 credits in English language arts, aligned to grade nine through 12 standards, effective with the 2009-2010 grade nine class;
  - ii. At least 15 credits in mathematics, including algebra I or the content equivalent effective with the 2008-2009 grade nine class; geometry or the content equivalent effective with the 2010-2011 grade nine class; and a third year of mathematics that builds on the concepts and skills of algebra and geometry and that prepares students for college and 21st century careers effective with the 2012-2013 grade nine class;
  - iii. At least 15 credits in science, including at least five credits in laboratory biology/life science or the content equivalent effective with the 2008-2009 grade nine class; one additional laboratory/inquiry-based science course, which shall include chemistry, environmental science, or physics effective with 2010-2011 grade nine class; and one additional laboratory/inquiry-based science course effective with 2012-2013 grade nine class;
  - iv. At least 15 credits in social studies, including satisfaction of N.J.S.A. 18A:35-1 and 2; five credits in world history; and the integration of civics, economics, geography and global content in all course offerings;
  - v. At least 2.5 credits in financial, economic, business, and entrepreneurial literacy, effective with 2010-2011 grade nine class;

- vi. At least 3  $\frac{3}{4}$  credits in health, safety, and physical education during each year of enrollment, distributed as 150 minutes per week, as required by N.J.S.A. 18A:35-5, 7 and 8;
  - vii. At least five credits in visual and performing arts;
  - viii. At least five credits in world languages or student demonstration of proficiency as set forth in (a)2ii(2) below;
  - ix. Technological literacy, consistent with the CCCS, integrated throughout the curriculum; and
  - x. At least five credits in 21st century life and careers, or career-technical education;
2. The 120-credit requirement set forth in (a)1 above may be met in whole or in part through program completion of a range of experiences that enable students to pursue a variety of individualized learning opportunities, as follows:
- i. District boards of education shall establish a process to approve individualized student learning opportunities that meet or exceed the CCCS.
    - (1) Individualized student learning opportunities in all CCCS areas include, but are not limited to, the following:
      - (A) Independent study;
      - (B) Online learning;
      - (C) Study abroad programs;
      - (D) Student exchange programs; and
      - (E) Structured learning experiences, including, but not limited to, work-based programs, internships, apprenticeships, and service learning experiences.

- (2) Individualized student learning opportunities based upon specific instructional objectives aimed at meeting or exceeding the CCCS shall:
    - (A) Be based on student interest and career goals as reflected in the Personalized Student Learning Plans
    - (B) Include demonstration of student competency;
    - (C) Be certified for completion based on the district process adopted according to (a)2ii below; and
    - (D) Be on file in the school district and subject to review by the Commissioner or his or her designee.
  - (3) Group programs based upon specific instructional objectives aimed at meeting or exceeding the CCCS shall be permitted under this section and shall be approved in the same manner as other approved courses.
- ii. District boards of education shall establish a process for granting of credits through successful completion of assessments that verify student achievement in meeting or exceeding the CCCS at the high school level, including standards achieved by means of the individualized student learning opportunities enumerated at (a)2 above. Such programs or assessments may occur all or in part prior to a student's high school enrollment; no such locally administered assessments shall preclude or exempt student participation in applicable Statewide assessments at grades three through 12.
    - (1) District boards of education shall choose assessments that are aligned with or exceed the CCCS and may include locally designed assessments.

- (2) District boards of education shall choose from among the following assessment options to determine if students have achieved the level of language proficiency designated as Novice-High as defined by the ACTFL and recognized as fulfilling the world languages requirement of the CCCS:
    - (A) The STAMP online assessment;
    - (B) The OPI or MOPI; or
    - (C) Department-approved locally designed competency-based assessments;
  - iii. District boards of education shall establish a process to approve post-secondary learning opportunities that may consist of Advanced Placement (AP) courses, CLEP, or concurrent/dual enrollment at accredited higher education institutions.
    - (1) District boards of education shall award credit for successful completion of an approved, accredited college course that assures achievement of knowledge and skills that meets or exceeds the CCCS.
3. Local student attendance requirements;
4. Any other requirements established by the district board of education;
5. Any statutorily mandated requirements for earning a high school diploma; and
6. The requirement that all students demonstrate proficiency in [all sections of the HSPA or AHSA process applicable to the class graduating in the year they meet all other graduation requirements, based on a schedule prescribed by the Commissioner in accordance with N.J.A.C. 6A:8-4.1(b) through (d)] **the high school end-of-course PARCC assessments in ELA 10 and Algebra I, or through the alternative means set forth at N.J.A.C. 6A:8-5.1(f) through (i);**

7. Students graduating from an adult high school shall demonstrate proficiency in [all sections of the HSPA or designated AHSA process for any subject(s) not yet passed on a previously approved Statewide assessment required for graduation] **the high school end-of-course PARCC assessments in ELA 10 and Algebra I, or through the alternative means set forth at N.J.A.C. 6A:8-5.1(f) through (i).**
- (b) In the development of Personalized Student Learning Plans according to N.J.A.C. 6A:8-3.2(a), district boards of education shall actively encourage all students who have otherwise met the requirements for high school graduation according to (a)1 through 3 above, to include in their programs of study the following additional credits:
1. Five credits in mathematics during each year of enrollment, aimed at preparation for entrance into post-secondary programs or 21st century careers;
  2. Five credits in a laboratory science during each year of enrollment, aimed at preparation for entrance into post-secondary programs or 21st century careers;
  3. Five credits in social studies during each year of enrollment, aimed at preparation for entrance into post-secondary programs or 21st century careers; and
  4. Five credits in world languages during each year of enrollment, aimed at preparation for entrance into post-secondary programs or 21st century careers.
- (c) Through the IEP process and pursuant to N.J.A.C. 6A:14-4.11, district boards of education may specify alternate requirements for a State-endorsed diploma for individual students with disabilities as defined in N.J.A.C. 6A:14-1.3.
1. District boards of education shall specifically address any alternate requirements for graduation in a student's IEP, in accordance with N.J.A.C. 6A:14-4.11.
  2. District boards of education shall develop and implement procedures for assessing whether a student has met the specified alternate requirements for graduation individually determined in an IEP.

- (d) District boards of education shall provide to the executive county superintendent their graduation requirements each year they are evaluated through QSAC and update the filed copy each time their graduation policies are revised.
- (e) District boards of education shall provide each student entering high school and his or her parents or legal guardians with a copy of the district board of education's requirements for a State-endorsed diploma and the programs available to assist students in attaining a State-endorsed diploma, in accordance with N.J.S.A. 18A:7C-5.
- (f) [District] **To ensure adequate transition to the new Statewide assessment system, district** boards of education shall provide students who have not demonstrated proficiency on [one or more sections of] the [HSPA following the 11th grade] **high school end-of-course PARCC assessments in ELA 10 and Algebra I** with the opportunity to demonstrate such competence through [both repeated administrations] **one** of the [HSPA and the AHSA process] **alternative means set forth below:**
- 1. For the graduating classes of 2016, 2017, 2018, and 2019, students who did not take both the ELA 10 and the Algebra I end-of-course PARCC assessment or who take, but do not achieve a passing score on both assessments, as required by N.J.A.C. 6A:8-5.1(a)6, may satisfy the State requirement to demonstrate proficiency in English language arts and mathematics in one of the following ways:**
    - i. Achieve a passing score, as determined by the Commissioner, on a corresponding substitute competency test in English language arts and/or mathematics, as applicable, or substitute a passing score on another end-of-course PARCC assessment, including ELA 9, ELA 11, Geometry, or Algebra II; or**
    - ii. Meet the criteria of the portfolio appeals process.**

- 2. For the graduating class of 2020, students who take all applicable high school end-of-course PARCC assessments for all courses in which they are enrolled, including those students who received a waiver for ELA 11 pursuant to N.J.A.C. 6A:8-4.1(c)3i, as of the effective date of these amendments and thereafter, but do not achieve a passing score on both the ELA 10 and Algebra I end-of-course PARCC assessments pursuant to N.J.A.C. 6A:8-5.1(a)6, may satisfy the State requirement to demonstrate proficiency in English language arts and mathematics in one of the following ways:**
- i. Achieve a passing score, as determined by the Commissioner, on a corresponding substitute competency test in English language arts and/or mathematics, as applicable, or substitute a passing score on another end-of-course PARCC assessment, including ELA 9, ELA 11, Geometry, or Algebra II; or**
  - ii. Meet the criteria of the portfolio appeals process.**
- (g) Beginning with the graduating class of 2021, students who take all applicable high school end-of-course PARCC assessments for all courses in which they are enrolled, including those students who received a waiver for ELA 11 pursuant to N.J.A.C. 6A:8-4.1(c)3i, as of the effective date of these amendments and thereafter, but do not achieve a passing score on both the ELA 10 and Algebra I end-of-course PARCC assessments pursuant to N.J.A.C. 6A:8-5.1(a)6, by the conclusion of their senior year and after multiple opportunities to take the assessments, may satisfy the State requirement to demonstrate proficiency in English language arts and mathematics by meeting the criteria of the portfolio appeals process.**

[1.] **(h)** All ELLs shall satisfy the requirements for high school graduation, except ELLs may demonstrate they have attained State minimum levels of proficiency through[:

- i. Passage] **passage** of the [AHSA] **portfolio appeals** process in their native language, when available, and passage of a Department-approved English fluency assessment[; or].
- [ii. Passage of the AHSA process in English with appropriate accommodations.]

[2.] (i) Students with disabilities as defined in N.J.A.C. 6A:14-1.3 or eligible under Section 504 of the Rehabilitation Act [and] who participate in the [AHSA process] **alternative assessment for students with disabilities** are not required to participate in repeated administrations of [the HSPA] **high school end-of-course PARCC assessments**.

**6A:8-5.2 High school diplomas**

- (a) District boards of education shall award a State-endorsed high school diploma to prospective graduates who have met all of the requirements adopted in accordance with N.J.A.C. 6A:8-5.1(a) or (c), or (d) below.
- (b) District boards of education shall not issue a high school diploma to any student not meeting the criteria specified in the rule provisions referenced in (a) above.
  - 1. District boards of education shall provide students exiting grade 12 without a diploma the opportunity for continued high school enrollment to age 20 or until the requirements for a State-endorsed diploma have been met, whichever comes first.
  - 2. District boards of education shall allow any out-of-school individual to age 20 who has otherwise met all State and local graduation requirements but has failed to pass [the HSPA] **high school end-of-course PARCC assessments** to [return to school at scheduled times for the purpose of taking the necessary test] **demonstrate proficiency as set forth in N.J.A.C. 6A:8-5.1(f) pursuant to the**

**standards applicable to the student’s graduating class. Students in graduating classes prior to 2016 shall demonstrate proficiency as set forth in N.J.A.C. 6A:8-5.1(f)1.** Upon certification of passing the test applicable to the student’s class in [concordance] **accordance** with this chapter, a State-endorsed diploma shall be granted by the high school of record.

- (c) Pursuant to N.J.A.C. 6A:20-1.4, the Commissioner shall award a State-issued high school diploma based on achieving the Statewide standard score on the General Education Development test (GED) or other adult education assessments to individuals age 16 or older who are no longer enrolled in school and have not achieved a high school credential.
- (d) The Commissioner shall award a State-issued high school diploma to individuals age 16 or older and no longer enrolled in high school based on official transcripts showing at least 30 general education credits leading to a degree at an accredited institution of higher education. Included in the 30 general education credits must be a minimum of 15 credits with at least three credits in each of the five general education categories as follows: English; mathematics; science; social science; and the humanities.
- (e) District boards of education shall award a State-endorsed high school diploma to any currently enrolled student, **regardless of grade level**, who:
  - 1. Has [performed at a proficient or advanced proficient level of achievement] **demonstrated proficiency** in [all sections of] the [HSPA] **high school end-of-course PARCC assessments in ELA 10 and Algebra I**, or [applicable High School Competency Assessments] **as set forth in N.J.A.C. 6A:8-5.1(f)**;
  - 2. Has presented official transcripts showing at least 30 general education credits leading to a degree at an accredited institution of higher education; and
  - 3. Has formally requested such early award of a State-endorsed high school diploma.

(f) Pursuant to N.J.S.A. 18A:7C-7 and 18A:7E-3, the chief school administrator or lead person of a charter school shall report annually to the district board of education or the charter school board of trustees at a public meeting not later than September 30, and to the Commissioner:

1. The total number of students graduated;
2. The number of students graduated under the [AHSA] **substitute competency test** process;
3. **The number of students graduated under the portfolio appeals process;**
- [3.] 4. The number of students receiving State-endorsed high school diplomas as a result of meeting any alternate requirements for graduation as specified in their IEPs;
- [4.] 5. The total number of students denied graduation from the 12th grade class; and
- [5.] 6. The number of students denied graduation from the 12th grade class solely because of failure to pass the [HSPA or AHSA] **high school end-of-course PARCC assessments, substitute competency tests, or portfolio appeals process** based on the provisions of this chapter.