

PLAN Regulatory Flexibility – Guidance on Federal Requirements

Summary of Key Points:

- NYSED only has the authority to grant exemptions related to diploma requirements. Federal requirements around test participation cannot be waived.
- Under federal ESSA accountability requirements, states must ensure that all students participate in statewide assessments—in New York State, those being the Regents Examinations or NYSED-approved alternative assessments—in English language arts, mathematics, and science.
 - Under New York State’s federally approved ESSA plan, Social Studies is an additional academic indicator and therefore a requirement for federal accountability as well.
- For each of those 4 core subjects, any student who does not participate in a Regents Examination, the New York State Alternate Assessment (NYSAA), or a NYSED-approved alternative assessment is counted as “Level 1” for accountability purposes.
- Piloted performance assessments cannot be added to the list of NYSED-approved alternative assessments for federal accountability purposes.

Applying for exemptions to [Section 100.5 – Diploma Requirements](#)

PLAN Schools may apply for exemptions to the requirements under Section 100.5 but must confirm in their application that they understand NYSED may only grant an exemption as it relates to diploma requirements, and that federal requirements around test participation will not be waived.

- Under federal Every Student Succeeds Act (ESSA) accountability requirements for secondary schools, states must ensure that all students participate in statewide assessments in English language arts (ELA), mathematics, and science. In New York State, this expectation is met through the administration of the Regents Examinations or [NYSED-approved alternative assessments](#) in these subjects. Under New York State’s federally approved ESSA plan, Social Studies was chosen as an additional academic indicator. The Social Studies Regents Examination is therefore a requirement for federal accountability as well, for New York State students. These assessments serve as a critical component of the state’s accountability system, providing consistent measures of student achievement and school performance.
- For each of the 4 core subjects, any student who does not participate in a Regents Examination, the New York State Alternative Assessment (NYSAA), or a NYSED-approved alternative assessment is assigned a performance level of “Level 1” for accountability purposes when calculating the Weighted Average Achievement Index under the NYSED accountability system. Should your school have a request granted for regulatory flexibility under Section 100.5, participating students would not need to achieve a passing score on the Regents Examination for which you’ve been granted an exemption in order to meet high school diploma requirements. However, any performance assessments those students complete to demonstrate their proficiency would not be considered approved alternative assessment for ESSA accountability purposes. To avoid having students counted as “Level 1” for school accountability purposes, the school needs to ensure they participate in a Regents Examination or NYSED-approved alternative assessment at least once in each of the 4 core subjects.

Example Scenario:

NYSED grants an exemption to the requirement that participating students in a PLAN School need to achieve a passing score on the ELA Regents Exam to meet diploma requirements. These students will be demonstrating their ELA proficiency through a PBLA pathway being piloted by the school.

- Does the school still need to ensure that these students take the ELA Regents Exam?
 - **Yes.** They should still take the exam at least once, but they do not need to achieve a passing score to meet diploma requirements.
- The students have already taken the ELA Regents Exam before the flexibility request was approved. Do they have to take it again?
 - **No.** The school has already satisfied the federal test participation requirement by ensuring the student took the Regents Exam once.