



Thank you for the opportunity to testify on behalf of Education Law Center (ELC) about the proposed readoption and amendments to N.J.A.C. 6A:8. My name is Nicole Ciullo, and I am the Associate Director of Policy & Development at ELC.

This testimony highlights our concerns with the readoption of the regulations as they pertain to New Jersey's high school graduation rules, including the state's 45-year-old exit exam requirement.

Elimination of Exit Testing

With full understanding that the State Board of Education (State Board) does not have the legal authority to alter a statutory requirement, ELC nonetheless urges the State Board to use its influence and expertise to seek an end to exit testing as a state graduation requirement. These exams are a relic of a failed, test-driven approach to school improvement and accountability that has been rejected by the overwhelming majority of states. In the early 2000s, 27 states mandated high school exit tests for graduation. Today just 6—including New Jersey—do. Recently, two of the largest remaining states with exit testing, Massachusetts¹ and New York,² adopted plans to end it. New Jersey should do the same. There is no federal mandate for exit testing; it is a state decision.

Research has shown conclusively that these exams do not improve academic achievement³ or economic outcomes for graduates, and multiple studies have linked them to increased dropout rates for students of color and students from low-income families.⁴

ELC encourages the State Board to endorse A4121/S1562, legislation currently pending that would eliminate the exit testing requirement. This practice costs the state millions of dollars each year, and given significant financial concerns due to state revenue losses and potential threats to federal funding for education, these funds would be better spent on programs and services that have been shown to improve student achievement, rather than on tests which do not help the students who pass them and impose significant harm on the students who do not. Even if New Jersey eliminated exit testing tomorrow, there would be no shortage of data about school and student performance at both the district and state levels. The National Assessment of Educational Progress and the New

¹ Hadley Barndollar, *What happens now that Mass. voted to end MCAS as a grad requirement?* Mass Live, Nov. 6, 2024, <https://www.masslive.com/news/2024/11/what-happens-now-that-mass-voted-to-end-mcas-as-a-grad-requirement.html>.

² Alex Zimmerman, *New York to ditch Regents exam graduation requirement by fall 2027*, Chalkbeat, Nov. 4, 2025, <https://www.chalkbeat.org/newyork/2024/11/04/new-york-plans-to-end-regents-exam-requirement-by-2027-2028-school-year/>.

³ Sean F. Reardon & Michal Kurlaender, *Effects of the California High School Exit Exam on Student Persistence, Achievement, and Graduation*, Policy Brief 09-3, Aug. 2009, <https://eric.ed.gov/?id=ED510168>.

⁴ Jennifer Jellison Holme, Meredith P. Richards, Jo Beth Jimerson, & Rebecca W. Cohen, *Assessing the Effects of High School Exit Examinations*, Review of Educational Research, Volume 80, Issue 4, <https://journals.sagepub.com/doi/abs/10.3102/0034654310383147>.

Jersey Student Learning Assessments—which exceed federal requirements—and multiple school and district assessments would all remain in place.

As long as New Jersey continues the practice of exit testing for high school diplomas, however, ELC believes a number of changes in the proposed regulations are needed to ensure equity and transparency.

Address Gap in State Data

The proposed regulations at N.J.A.C. 6A:8-5.2 continue to require annual reporting by districts on the impact of the exit testing policy. All districts and charter schools - and now renaissance schools if the proposed regulations are adopted (p. 52) - are required to report “at a public meeting not later than September 30, and to the Commissioner” the following data:

1. The total number of students graduated;
2. The number of students graduated under the substitute competency test process;
3. The number of students graduated under the portfolio appeals process;
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;
5. The total number of students denied graduation from the 12th grade class; and
6. The number of students denied graduation from the 12th grade class solely because of failure to pass [the high school end-of-course PARCC assessments,] the State graduation proficiency test, substitute competency tests, or portfolio appeals process based on the provisions of this chapter.

Taken together, this data — and especially items 5 and 6 — provides a picture of how New Jersey’s students are affected by the exit testing policy. Yet after many years of tracking this data, ELC has found that items 5 and 6 are virtually never reported or made public. Each April, the New Jersey Department of Education (NJDOE) reports statewide graduation data to the State Board as part of its presentation on New Jersey’s Performance Reports. But while items 1 through 4 are readily available in this annual presentation, items 5 and 6—which are designed to document the significant impact of exit testing on the most vulnerable students— are invariably missing. To address this gap, we urge the State Board to add a requirement to the proposed regulations that explicitly directs NJDOE to aggregate the mandated district reports and publish statewide totals for items 5 and 6 as part of its annual Performance Reports presentation.

Provide Equitable Access to Substitute Competency Assessments

For some years now, the standards and assessment regulations have allowed for the use of “substitute competency assessments” to meet the graduation requirement, including “third-party assessments approved by the Commissioner that may include, but are not limited to, the SAT, PSAT, ACT, ACT-Aspire, [Armed Services Vocational Aptitude Battery-Armed Forces Qualifying Test (ASVAB-AFQT),] or Accuplacer” (p. 15). However, several of these tests are fee-based exams (SAT,

PAT, ACT), and others require special institutional access (Accuplacer, PSAT, ASVAB-AFQT). This creates issues with equity and access, especially for students from lower-income households that may not have the resources to pay for these exams.

The governing statute also clearly states that 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.” N.J.S.A. 18A:7C-6.6. It further states that each district must provide detailed “information on any State assessment or commercially-developed standardized assessment that will be administered to the student that school year,” including information about how students and families can access the assessment and the results and the costs. *Id.* The statute directs the Commissioner to “provide to each school district and charter school a model document to provide to parents or guardian the information required” by the statute. *Id.* This provision is especially important when the state mandates the use of commercial assessments as a graduation standard.

However, neither the existing Standards and Assessment regulations nor the pending proposal require districts to guarantee equitable access to these alternative or substitute assessments. This defect should be corrected. The regulations should explicitly make districts responsible for ensuring that every student has free access to one or more of the designated alternative assessments either by providing students with fee waivers or having the district pay the costs of test administrations.

Select Option 8 for ASVAB

The proposed regulations also move the ASVAB from the substitute assessment list to the portfolio pathway and actively incentivize students to take it by making a shortened portfolio process available to those who attain a certain ASVAB score.

However, ASVAB’s main purpose is as a tool for military recruitment. If the NJDOE utilizes the ASVAB as a graduation standard and actively encourages its use, the regulations must require school districts to protect students’ private information by selecting “Option 8” whenever the test is administered. Option 8 allows schools and students to receive test results from the ASVAB, while protecting students’ personal information and ensuring that it is not released to military recruiting services.⁵ Many other states have mandated Option 8 as a way to protect student data, and we encourage New Jersey to implement this policy as well.

Pause Implementation of FAFSA Requirement

ELC also has concerns about the use of the Free Application for Federal Student Aid (FAFSA) as a graduation requirement. N.J.A.C. 6A:8-5.1 proposes to add paragraph (a)(6) requiring that students in the graduating classes of 2025, 2026, and 2027 complete or be exempted from a financial aid application such as the FAFSA or the New Jersey Alternative Financial Aid Application, to comply with a pilot program implemented by a recent state law. Given the myriad of federal issues in the

⁵ See ASVAB Program Release Options, <https://www.asvabprogram.com/general-help>.

past year over the use of FASFA and the ongoing turmoil at the United States Department of Education, we implore the State Board to pause implementation of this law. If this information is to be collected, then the state regulations must clearly establish that the information is part of each student's record, is protected by the Family Educational Rights and Privacy Act, and must not be released by any school district or the State in a manner that violates student privacy absent a valid judicial order.

Prohibit Repeated Administrations of Assessments in Violation of IEPs and 504 Plans

Another student protection that must be added to the Standards and Assessments code is a clear prohibition against subjecting students with disabilities to the repeated administration of high school assessment components in contravention of their IEP or Section 504 plan. Currently, the regulations explicitly exempt only students with disabilities who qualify for the federally mandated alternative assessment for students with significant intellectual disabilities from being subjected to repeated administration of tests. See N.J.A.C. 6A:8-5.1(i). However, participation in graduation assessments for all students with disabilities (i.e., the NJGPA, the substitute assessments and the portfolio) must be governed by the student's IEP or 504 plan, and this must be clarified for all school district personnel. The child study team and the specifics of a student's IEP must determine what assessments are appropriate for students with disabilities.

ELC has received reports of students with disabilities who have been pressured to undergo "repeated administrations" of regular (as opposed to "alternative") assessments even when such excessive testing is inconsistent with a student's IEP. This pressure is reportedly being exerted by school officials in an effort to improve the district's "official" federal graduation rate. The fact that New Jersey has been required to report a separate graduation rate to the federal government as well as the dramatic decline in our state's official graduation rate can be directly linked to our continued reliance on exit testing. ELC sent a letter to the Commissioner on January 14, 2025, which provides additional information about this issue and has received no response.⁶

Ensure Adequate Notice of Changes in Graduation Requirements

Finally, both the regulations and the governing statute (N.J.S.A. 18A:7C-5) require district boards of education to "provide each student entering high school and [his or her] the student's 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" (p. 48). However, over the past ten years, the NJDOE and State Board have frequently changed the state's graduation rules, sometimes on very short timelines. The State has introduced new assessments, changed cut scores on both state and substitute assessments, and modified the portfolio process during students' high school years. Districts, students, and families have been left scrambling to meet shifting graduation requirements well after students have entered high school.

⁶ See ELC's January 14, 2025 letter to Acting Commissioner Dehmer, *Addressing the Impact of NJ's High School Exit Testing Requirement on Students with Disabilities*, <https://edlawcenter.org/wp-content/uploads/2025/01/ELC-Ltr-to-Acting-Commissioner-Dehmer.1.14.25.pdf>.

To avoid this problem, the regulations should explicitly state that the NJDOE and State Board should phase in new graduation standards with the incoming 9th grade class of the year following the adoption of new requirements. This would ensure that students entering 9th grade would have reliable information about graduation requirements throughout their high school careers and that districts and schools would have appropriate lead time for implementation of changes.

Our concerns are heightened given the fact that the contract for the current graduation assessment, the New Jersey Graduation Proficiency Assessment (NJGPA), expires in 2025. The regulations are not clear whether the contract for the NJGPA will be renewed or if a new assessment will be used in future years. Students entering 9th grade must have a clear understanding of their pathway to graduation.

Thank you for your consideration of these comments. For additional information, please do not hesitate to contact me at nciullo@edlawcenter.org.