



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER  
Office of Higher Education  
Office of the Professions

CEO 06-06

October 3, 2006

To: Chief Executive Officers/Presidents of Institutions of Higher Education and  
Registered Business Schools in New York State

From: Johanna Duncan-Poitier *Johanna Duncan-Poitier*

Subject: Guidance Concerning Administration of Ability-to-Benefit Tests to Determine  
Eligibility for TAP Awards

On July 6, 2006, I sent you a memorandum regarding the enactment of new State budgetary language concerning the independent administration of ability-to-benefit examinations to determine eligibility for TAP awards for students without high school diplomas (CEO 06-03 enclosed).

In that memorandum, I indicated that, for the winter 2007 semester, the State Education Department would develop regulations defining the requirements for the independent administration of ability-to-benefit examinations and that colleges and registered business schools should follow the federal requirements for the independent administration of these examinations for the fall 2006 semester.

This new requirement was enacted as part of the 2006-07 State appropriation bill (S.6453-6/A.9553-C) rather than in Education Law. Therefore, this requirement, unless renewed, will end in six months, on March 31, 2007. The Department is working with the Governor and Legislature on the continuation of this provision after March 31, 2007. Until a final decision on the long term continuation of this requirement is made, please continue to follow the federal requirements for the independent administration of the ability-to-benefit examination.

The Federal regulations on the independent administration of the ability-to-benefit test can be found in the Code of Federal Regulations, Part 668 - Student Assistance General Provisions, Subpart J - Approval of Independently Administered Tests; Specification of Passing Score; Approval of State Process. These regulations can be found at: <http://ecfr.gpoaccess.gov>, Title 34 Education, VI 600-699, Office of Postsecondary Education.

If you have any questions, please contact Assistant Commissioner Joseph Frey at the following address:

Joseph P. Frey, Assistant Commissioner  
Office of Quality Assurance  
New York State Education Department  
Room 977, Education Building Annex  
Albany, New York 12234  
Fax: (518) 486-2254  
Email: [jfrey@mail.nysed.gov](mailto:jfrey@mail.nysed.gov)

Enclosure