



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 06-03

July 6, 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

The 2006-07 State budget included a new provision regarding Tuition Assistance Program (TAP) awards for students, first receiving aid in 2006-07, who do not have a certificate of graduation from a recognized school providing secondary education within the United States. Since 1995, these students have been required to pass a federally approved ability-to-benefit test in order to be eligible to receive a TAP award. The new statutory provision requires the Commissioner of Education to define the "independent administration" of the ability-to-benefit tests for purposes of TAP awards.

To comply with this new statutory requirement, the State Education Department will develop regulations concerning the independent administration of the ability-to-benefit test which will go into effect for the winter 2007 semester. **For the fall 2006 semester, all colleges and non-degree granting registered business schools, where students are eligible for TAP awards, must continue to follow the Federal regulations for the independent administration of ability-to-benefit examinations that qualify students for Federal student financial aid under Title IV of the Higher Education Act.**

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.

The Department will be pleased to receive comments and recommendations concerning how the independent administration of the ability-to-benefit test should be developed. Comments may be sent to Joseph Frey by July 26, 2006 at the following address:

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