



STATE OF SOUTH CAROLINA DEPARTMENT OF EDUCATION

Mick Zais
Superintendent

1429 Senate Street
Columbia, South Carolina 29201

MEMORANDUM

TO: District Special Education Directors and Coordinators

FROM: John R. Payne, Director
Office of Special Education Services

DATE: May 22, 2014

RE: Act 155 and Graduation Requirements for Students with Disabilities

This memorandum is in response to Act 155 (House Bill 3919) and questions the South Carolina Department of Education (SCDE), Office of Special Education Services (OSSES), has received regarding how this legislation affects students with individualized education programs (IEPs). This Act eliminates the requirement for students to successfully pass the exit exam to earn a South Carolina high school diploma. For more information about this Act, please also consult the joint memorandum from the SCDE, dated April 28, 2014 (<http://ed.sc.gov/agency/ac/documents/HSAP-JointMemo4-28-14.pdf>). In addition, the Act may be found in its entirety at http://www.scstatehouse.gov/sess120_2013-2014/bills/3919.htm.

On July 1, 2014, Act 155 becomes effective beginning with the graduating class of 2015. This Act also provides former, qualified students (i.e., students who are no longer enrolled who met all requirements for graduation except successfully passing the exit exam) the ability to petition the local school board to obtain a high school diploma. It is important that school districts have procedures to facilitate these petitions, particularly for students whose enrollment in a college or university in fall 2014 is at stake. The OSSES is recommending that school districts take a meaningful approach to create local procedures for qualified students with disabilities to petition the local school board for a South Carolina high school diploma. To ensure that a qualified student continues to receive, and the district provides, a free appropriate public education (FAPE) to each student with an IEP, please note the following.

1. Students with disabilities **who are not currently enrolled** in school and who previously failed to receive a high school diploma or who were denied graduation solely for failing to meet the exit exam requirements pursuant to S.C. Code Ann. § 59-18-310(B) (Supp. 2013) and State Regulation 43-234 (hereafter "qualified student") may petition the local school board to determine the student's eligibility to receive a high school diploma.
2. Qualified students with disabilities **who are currently enrolled** and considered in the graduating class of 2014 (or previous years) may opt to retake the High School

Assessment Program (HSAP) examination during summer 2014. If a qualified student passes the summer 2014 administration of the HSAP, the district would award a South Carolina high school diploma according to state and local procedures. In this instance, IEP teams are reminded to provide a summary of performance and a prior written notice to the student or guardian as the district's obligation to provide a FAPE will cease, pursuant to the Individuals with Disabilities Education Act (IDEA) Regulation 34 C.F.R. § 300.102.

3. Qualified students with disabilities **who are currently enrolled** and do not pass HSAP, or elect not to participate in the summer 2014 HSAP administration, may receive a state certificate and petition the local school board for a South Carolina high school diploma on or after July 1, 2014. The student, however, must initiate the petition to a local school board. If a student elects not to petition the local school board, the student may return to school for the 2014–15 school year, and the district retains its obligation to provide a FAPE. In each of these instances, it is important to note that IEP teams should conduct annual reviews and have IEPs prepared in case any student returns for the 2014–15 school year. At any point during the 2014–15 school year, if the qualified student becomes unenrolled in school, he or she may petition the local school board to receive a high school diploma pursuant to Act 155. Again, the requirement to provide prior written notice and a summary of performance must be completed when the student receives a South Carolina high school diploma. Once the student receives the South Carolina high school diploma, the district's obligation to provide a FAPE will cease.
4. Qualified students with disabilities **who are currently enrolled** and elect **not** to petition the local school board for a high school diploma during the 2014–15 school year may return to school for the school year and receive a high school diploma with the graduating class of 2015, pursuant to Act 155. For these students, the district is obliged to prepare a summary of performance consistent with 34 C.F.R. § 300.102 upon graduation, along with providing prior written notice. Once the student receives the South Carolina high school diploma, the district's obligation to provide a FAPE will cease.

Please ensure that qualified students with disabilities who are currently enrolled are clearly advised as to whether or not they meet all requirements for graduation **except** the successful passage of the exit exam. If a student does not meet other requirements for a South Carolina high school diploma, the district's obligation to provide a FAPE to the student continues until he or she reaches the maximum age for coverage under the IDEA, specifically the age of 21 on or before September 1st of each school year.

Also please note that all petitions for high school diplomas must be submitted to the local school board by December 31, 2015. If you have any additional questions about how this legislation affects students with IEPs, please contact me at (803) 734-8224 or by e-mail at jrpayne@ed.sc.gov.