March 12, 2004

MEMORANDUM

TO: City and County Superintendents of Education
    City and County Special Education Coordinators
    High School Principals
    High School Counselors

FROM: Joseph B. Morris
      Interim State Superintendent of Education

RE: Procedures for the Emergency Rule Change for Special Education

The Alabama State Board of Education has adopted emergency rules that are effective immediately. The changes add an alternate route for students with disabilities to receive the Alabama High School Diploma. The specific changes are as follows:

Any student with a disability(s) (defined by the Individuals with Disabilities Education Act) shall take the Alabama High School Graduation Exam (AHSGE) with or without state-approved accommodations (according to the IEP Team) through the 12th grade. If one subject-area test of the AHSGE is not passed, but all other graduation requirements for the Alabama High School Diploma have been met, then alternate documentation (obtained all required course credits, documented the disability(s) in the area where a subject-area test of the AHSGE was not passed, participated in remediation, met attendance requirements, and holds a cumulative C average in grades) will be used to confer the Alabama High School Diploma. The flexibility granted here is retroactive to first-time ninth graders in the 1997-1998 school year (Class of 2001) and applies only to students with disability(s) (defined by the Individuals with Disabilities Education Act) taking the Alabama High School Graduation Exam.

It is anticipated that the following procedural questions may be asked of you.

Question 1: Who qualifies under this special education rule change?

A. The rule change specifies that the student must have been determined to have a disability as defined by the Individuals with Disabilities Education Act (IDEA). This means that the student has been evaluated and determined eligible to receive special education services under 1 of 13
disability categories (autism, deaf-blindness, developmental delay, emotional disturbance, hearing impairment, mental retardation, multiple disabilities, orthopedic impairment, other health impairment, specific learning disabilities, speech and language impairment, traumatic brain injury, and visual impairment) as defined and required under the Alabama Administrative Code, Chapter 290-8-9-.03, Evaluations, pages 491.01-496, and Chapter 290-8-9-.03, Eligibility, pages 496-507.

B. The student shall continue to take the Alabama High School Graduation Exam (AHSGE) through the spring of the twelfth grade. It is required that the student continue to take the exam(s) whenever offered through state assessment programs for any subject-area test(s) not passed. Therefore, the student may have attempted to pass a subject-area test on the AHSGE up to five times before this rule applies. Exceptions, if any, will be determined locally and on a case-by-case basis.

C. The student must pass all but one subject-area test of the AHSGE, meet all other graduation requirements, and obtain alternate documentation (see D.) to confer the Alabama High School Diploma.

D. The required alternate documentation must be verified by the high school principal, school counselor, and special education teacher, and must include all of the following:

1. Completion of all course credits for the Alabama High School Diploma.
2. Documentation of the disability(s) in the area of the one subject-area test of the AHSGE that was not passed (See Question 3.).
3. Participation in remediation activities (extent and nature determined by the local school system) during high school.
4. Met attendance requirements of the local school system.
5. Hold a cumulative "C" grade average for all coursework (Grades 9-12).

E. The flexibility granted under this rule applies only to students with disability(s) (defined by the Individuals with Disabilities Education Act) taking the Alabama High School Graduation Exam. The eligible students are those who were first-time ninth graders in the 1997-1998 school year (Class of 2001) and thereafter.

Question 2: How do you determine that a student has a disability under the Individuals with Disabilities Education Act?

The Alabama Administrative Code, Chapter 290-8-9-.04, pages 508-510, describes the required procedures for determining eligibility in 1 of the 13 areas described in Chapter 290-8-9-.03, pages 496-507. In addition, Chapter 290-8-9-.02, pages 491.01-496, describes the required procedures for evaluations. After all required evaluations have been completed, a team of qualified professionals, including the parent, must meet to discuss the evaluations and determine if a child has a disability and needs specially designed instruction (special education services). The team must also complete the Notice and Eligibility Decision Regarding Special Education Services form. This form includes a complete description of all required assessments with scores and results as well as the team's decision regarding eligibility. This process is done for initial eligibility for special education services as well as every three years (at a minimum) to determine continued eligibility.
Question 3: What documentation is required to document the disability(ies) in the area where one subject-area test of the ASISGE was not passed?

Documentation must include, at a minimum, the student’s Notice and Eligibility Decision Regarding Special Education Services form. This form outlines assessment results used to determine the area(s) of disability (according to the criteria identified in the Alabama Administrative Code, Chapter 20A-8-9-.04, pages 508-510) and the impact of these assessment results on the student’s academic functioning. The Notice and Eligibility Decision Regarding Special Education Services form is also completed at initial eligibility and at each successive reevaluation to determine continued eligibility. Therefore, it will contain the most complete and updated assessment results that document the disability.

Question 4: How do we locate students who may benefit from this rule change?

Please distribute the rule change to all of your special education teachers, school counselors, and principals. This group of school personnel should know of any students (beginning with the Class of 2001) who could now receive the Alabama High School Diploma and would be the appropriate personnel to contact the student(s) with a disability and/or his/her family.

Question 5: Does the high school need to request a waiver from the State Department of Education before the diploma is awarded?

No. The awarding of the Alabama High School Diploma is conferred at the local education agency level. The high school principal, school counselor, and special education teacher must verify that the student with a disability qualifies for the diploma under this rule. For students with disabilities (first-time ninth graders in the 1997-1998 school year) who could have graduated beginning with the Class of 2001, the Alabama High School Diploma should be promptly awarded upon determination by school personnel that the student qualifies. Students with disabilities who are currently seniors may receive the diploma, (if they qualify) during this year’s commencement ceremony.

Question 6: Does this rule change lower the expectations and standards for students with disabilities?

No. As explained in the State Board of Education meeting on March 11, 2004, “This is not a lowering of the standards for anyone. This is a legitimate addressing of the needs of a specific group of students with disabilities.” This rule ensures that the student has demonstrated that he/she has mastered the academic requirements necessary to receive a general diploma. In addition to passing all required coursework for the Alabama High School Diploma, he/she must have participated in school remediation, have met attendance requirements of the local school system, and have held a cumulative C average in all coursework (Grades 9-12). Students must also have passed all but one test (in their documented area of disability) of the Alabama High School Graduation Exam. The students impacted by this rule are very capable of succeeding in postsecondary education and in life at a high level of attainment. This rule allows each student the opportunity to succeed.
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Question 7: May a student with a disability working toward an Alabama Occupational Diploma (AOD) who has passed all but one part of the Alabama High School Graduation Exam qualify for the general diploma under this new rule?

No. Students working toward an Alabama Occupational Diploma are not covered under this rule change. The new rule applies to students with disabilities working toward the Alabama High School Diploma. The rule change has been added to the Alabama Administrative Code under the sections for student assessment required for the Alabama High School Diploma and the section for public school governance. An Alabama High School Diploma exception for students working toward the Alabama Occupational Diploma currently exists (See Alabama Administrative Code, Chapter 290-8-9.10(9)(g), page 562).

Questions 8: What about students identified as 504 students?

Students who currently have a plan under Section 504 of the Rehabilitation Act of 1973 and who are not IDEA-eligible, do not qualify to participate under this rule change.

Question 9: Who should be identified as the point of contact for students and/or parents seeking information concerning this rule?

The high school principal and school counselor should be designated as the points of contact.

Please contact the Special Education Services Section of the Alabama Department of Education at (334) 242-8114 if you have any questions.

JIM/MWN/L
cc: State Board of Education Members
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