



## Competency Testing

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### Background

Testing students for academic achievement or competency is not new. As early as the 1970s, some states were making adequate performance on "exit examinations" a prerequisite for high school graduation. This was done in an effort to enhance teacher quality as well as student achievement during an era when many questions were raised by parents, educators, and the public at large about the seeming lack of basic skills in high school graduates.

While varying and inconsistent approaches have been taken to measure student performance at the elementary school level, there is more unison in setting certain minimum criteria for graduation from high school. The vast majority of states require an overall accumulation of "Carnegie units" (reflecting the number of classroom hours spent learning) in addition to passing grades in certain core subjects. But by 2002, nearly half of all states required (or were planning to require within the next two years) "exit exams" in addition to accumulated credit hours in order for students to receive diplomas evidencing high school graduation.

### "Exit Examinations" for High School Graduates

Following years of complaints from both employers and academic institutions of higher learning (that many high school graduates lacked basic educational skills in reading, writing, and math), both legislators and educators agreed to work toward raising educational standards nationwide. This has resulted in renewed focus on learning rather than remediation and more accountability for teachers and school systems.

Educational standards (and correlative exams) for gauging performance have been criticized in the past for being local or parochial in substance, making grades and class standing a "relative" achievement based only upon how well others in the same school system or state performed. The Education Reform Act helped standardize student performance on a national level, but new questions were raised as to whether teachers were actually enhancing learning skills or merely "teaching to the test," (i.e., merely teaching those things they knew students would be tested on, in order to make the school and/or the teacher appear favorably on [ASSESSMENT](#) reviews).

However, questions remain as to which system is the best to assess the academic competency of graduating students. By far the most often used tool of assessment is the multiple-choice [EXAMINATION](#), in many cases combined with a writing sample. This, in combination with passing grades in key subjects and a

minimum number of credit units, seems to be a growing method of choice for ensuring minimum competency levels of high school graduates in the United States. Because graduation from high school may be dependent upon passing an "exit exam," the process has been dubbed "high stakes testing."

## Legal Authority for Setting Educational Standards

Most education reform since the 1980s has focused on "performance-based standards" which ostensibly indicate a minimum level of academic achievement that all graduating students should have mastered. Some important laws concerning standards-based school reform include:

- The No Child Left Behind Act, signed into law by President George W. Bush in January 2002, refines and makes major amendment to Title I (see below). Among other factors (like substantial flexibility for states in the use of federal funds), the new law requires states to assess reading and math skills in students from grades three to eight on an annual basis.
- The Educate America Act (20 USC 5801 et seq.) is only binding upon states that accept its grant funding (nearly all) but sets as its primary goal the development of strategies for setting statewide student performance standards and for assessing achievement of those standards.
- Title I of the Improving America's Schools Act of 1994 (20 USC 6301 et seq.) contains an explicit set of requirements for states to submit plans for challenging content and performance standards and assessing student mastery of the requirements in order to receive Title I funds (the largest federal school aid program).
- The Individuals with Disabilities Education Act (IDEA), (20 USC 1400 et seq.) was substantially amended in 1997. The Act requires that states which receive grant funds under its auspices must develop IEPs (individual education plans) for students with disabilities or who are deemed in need of special services. The 1997 amendments required states to develop policies and procedures to allow students with disabilities to participate in state and district-wide testing programs, with necessary accommodations.

## Legal Challenges to Educational Testing

Courts have had numerous opportunities over the decades to pass on the validity of education testing in conjunction with high school graduation and promotion (e.g., to the next level grade). Most legal challenges have been grounded in the Due Process Clause and the **EQUAL PROTECTION** Clause of the Fourteenth Amendment to the U.S. Constitution. Challenges to testing of special education students have invoked IDEA and Section 504 of the Rehabilitation Act of 1973.

### ***Due Process Claims***

The Due Process Clause of the Fourteenth Amendment prohibits a state from depriving "any person of life, liberty or property without due process of law." Over the years, it has been held by several courts that the receipt of a high school diploma was a "property interest" which a state could not deprive an individual of without [DUE PROCESS OF LAW](#). Additionally, some courts have found that students have a constitutionally protected "liberty" interest in avoiding the stigma or impaired career advancement that accompanies the failure to achieve high school graduation. (See, e.g., the *Goss* case, 419 U.S. at 574.)

The key to "due process" is the requirement of substantial notice to a person of the manner in which he or she may be denied or deprived of such an interest (graduation from high school) or, alternatively stated, substantial notice of what will be required of the student in order to graduate. With respect to testing, some

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courts have held that two years' advance notice that graduation was conditioned upon the passing of an exit exam in addition to credit hour completion was adequate; other courts have demanded more time.

Still other courts have held that students had no protected property interest in the expectation that a former, lower standard would continue to be accepted as the threshold for academic promotion to the next grade or graduation. (See, e.g., *Bester v. Tuscaloosa*, 722 F.2d 1514, 11th Circuit).

In determining whether denial of a high school diploma based on a failure to pass a minimum competency exit exam is unconstitutional, courts balance "the private interests of the [students], the risk of an improper deprivation of such interest and the governmental interest involved." (*Mathews v. Eldridge*, 424 U.S. 319) Almost all cases presented on these issues have turned on whether the school system had provided prospective graduates with adequate notice of new diploma requirements.

### ***Equal Protection Claims***

Similarly, the Equal Protection Clause of the Fourteenth Amendment guarantees that no person will be denied the equal protection of the laws in the enjoyment and/or exercise of personal rights as that enjoyed by other persons in like circumstances. In order to ensure equal protection for students, school systems must uniformly apply educational standards and testing procedures across the board (with legal accommodations factored in for learning disabled or special needs students).

Generally, courts are more likely to uphold a testing program if there is a presence of additional factors such as opportunities for retesting, remedial or tutorial programs, and the availability of alternative ways to obtain a diploma.

## **High School Graduation Exit Options**

While no standardized national test has been implemented for use as a criterion in the granting of a high school diploma, states have developed several ways in which students may meet graduation requirements.

### ***Standard Diploma***

Each state offers a standard diploma to students who have met the regular requirements for graduation. These are commonly the completion of a minimum number of Carnegie Units or credits (with passing grades), an attendance requirement, and (in an increasing number of states) a passing score on an exit exam. "Honors" diplomas are variations of standard diplomas in which student achievers may choose elective courses or independent studies in addition to their core studies. Such diplomas may also indicate accelerated or advanced coursework.

### ***Individual Education Plan (IEP) Diploma***

Students with special needs may be offered an alternative way to earn a high school diploma through completion of individual education plans constructed specifically to the needs of the student. Some states allow modified coursework to count as standard coursework and, therefore, award a standard diploma; others offer "certificates of attainment" or "special certificate of completion" to indicate the student's fulfillment of special criteria for graduation.

## ***Occupational Diploma***

Several states offer work/study diplomas, the most effective of which are those offered in conjunction with exit exams, to ensure that elective coursework directed toward occupational interests does not compromise minimum skill levels in core subject areas.

## **State Laws**

**ALABAMA:** Alabama high school graduates must meet minimum credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas, and occupational diplomas.

**ALASKA:** Alaska does not require exit exams for high school graduation. The state does offer standard diplomas, IEP diplomas, and certificates of attendance as exit options.

**ARIZONA:** Graduation from an Arizona high school requires both credit hour completion and an exit exam. Only standard diplomas are granted.

**ARKANSAS:** Arkansas high school students must meet the credit hour criteria for graduation. The state offers exit options of standard diplomas, IEP diplomas, and certificates of attendance only.

**CALIFORNIA:** California has state-mandated credit hour requirements that must be met for graduation. Additionally, local education districts have the authority to require passing scores on some form of exit examinations. The state generally offers standard and honors program diplomas.

**COLORADO:** There are no state-level requirements for high school graduation. Local education associations may establish their own credit hour requirements as well as exit examination criteria. In addition to the standard diploma, a work/study diploma may be granted, as well as IEP diplomas

**CONNECTICUT:** Connecticut high school students must meet the credit hour criteria for graduation. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas, and GED diplomas.

**DELAWARE:** Delaware high school students must meet the credit hour criteria for graduation. The state offers exit options of standard diplomas and certificates of attendance only.

**DISTRICT OF COLUMBIA:** High school students must meet the credit hour criteria only. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only.

**FLORIDA:** Florida high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance, and honors diplomas.

**GEORGIA:** In Georgia, high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, and certificates of attendance.

**HAWAII:** Hawaii students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas.

**IDAHO:** Alabama high school students must meet the credit hour criteria. The state offers exit options of

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standard diplomas only.

**ILLINOIS:** High school students in Illinois must meet the credit hour criteria for graduation. The state offers exit options of standard diplomas or certificates of attendance only.

**INDIANA:** Indiana high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, honors diplomas, or GED diplomas. It awards a certificate of achievement for special education students for whom a diploma track is not appropriate.

**IOWA:** Iowa high school students must meet the credit hour criteria only. However, in addition to state minimum credit requirements, local education boards may establish additional requirements for graduation. The state offers exit options of standard diplomas or IEP diplomas only.

**KANSAS:** In Kansas, high school students must meet the credit hour criteria to be granted a standard diploma. Kansas law also authorizes local school boards to grant diplomas under separate or special criteria.

**KENTUCKY:** Kentucky high school students need only meet the credit hour criteria for graduation, but as of 2002, the state was implementing assessment examinations. The state offers exit options of standard diplomas, IEP diplomas, and honors diplomas.

**LOUISIANA:** High school students in Louisiana must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas and certificates of attendance only.

**MAINE:** Maine high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or IEP diplomas.

**MARYLAND:** In Maryland, high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, or GED diplomas.

**MASSACHUSETTS:** Massachusetts high school students must meet the credit hour criteria. The state offers standard diplomas only, except that IEP diplomas may be authorized by local school boards. In addition, part of the credit requirements for standard diplomas and the distribution of credits are left to the discretion of local authorities.

**MICHIGAN:** Michigan high school students must meet locally established criteria for graduation. They receive local high school diplomas with or without state endorsements. If local criteria require exit exams, depending on the performance level on an exit exam, state endorsements will appear on the transcripts. Generally, Michigan schools also offer IEP diplomas and certificates of attendance.

**MINNESOTA:** In Minnesota, high school students must pass an exit examination and demonstrate mastery of 24 standards. In return, they are granted a state endorsed standard diploma.

**MISSISSIPPI:** Mississippi high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, or certificates of attendance only.

**MISSOURI:** Missouri requires that high school students meet the credit hour criteria for receiving a diploma. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas.

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**MONTANA:** In Montana, high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or IEP diplomas.

**NEBRASKA:** Nebraska high school students must meet the credit hour criteria, but part of the credit requirements and/or the distribution of credits are left to the discretion of local education authorities. The state offers exit options of standard diplomas, certificates of attendance only, or a locally determined modified diploma for special needs.

**NEVADA:** High school students in Nevada must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, certificates of attendance only, or adult diplomas.

**NEW HAMPSHIRE:** In New Hampshire, high school students must meet the credit hour criteria. The state offers exit options of standard diplomas, IEP diplomas, and certificates of attendance only.

**NEW JERSEY:** New Jersey high school students must meet the credit hour criteria plus pass an exit examination. The state offers standard diplomas only.

**NEW MEXICO:** New Mexico high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, or "career readiness" diplomas.

**NEW YORK:** In New York, high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas, or an annotated local diploma.

**NORTH CAROLINA:** North Carolina high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, and honors diplomas.

**NORTH DAKOTA:** In North Dakota, high school students must meet the credit hour criteria. The state offers exit options of standard diplomas, IEP diplomas, or certificates of attendance only.

**OHIO:** Ohio high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, honors diplomas, or a diploma of adult education.

**OKLAHOMA:** Oklahoma high school students must meet the credit hour criteria. The state offers standard diplomas only.

**OREGON:** In Oregon, high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or certificates of attendance only.

**PENNSYLVANIA:** Pennsylvania high school students must meet locally established criteria for graduation. The state offers standard diplomas or GED diplomas only.

**RHODE ISLAND:** In Rhode Island, high school students must meet the credit hour criteria. The state offers standard diplomas only.

**SOUTH CAROLINA:** South Carolina high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas or certificates of attendance only.

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**SOUTH DAKOTA:** South Dakota high school students must meet the credit hour criteria. The state offers exit options of standard diplomas only.

**TENNESSEE:** In Tennessee, high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas.

**TEXAS:** Texas high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas or certificates of attendance only.

**UTAH:** Utah high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or certificates of attendance only.

**VERMONT:** In Vermont high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or certificates of attendance only.

**VIRGINIA:** Virginia high school students must meet the credit hour criteria plus pass an exit examination. The state offers exit options of standard diplomas, IEP diplomas, certificates of attendance only, honors diplomas, GED diplomas, and special diplomas.

**WASHINGTON:** In Washington, high school students must meet the credit hour criteria only. The state offers standard diplomas only.

**WEST VIRGINIA:** West Virginia high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or IEP diplomas only.

**WISCONSIN:** In Wisconsin, high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or certificates of attendance only.

**WYOMING:** Wyoming high school students must meet the credit hour criteria. The state offers exit options of standard diplomas or certificates of attendance only.

### **Additional Resources**

"Analysis: How Standardized Testing Changes Teaching and Learning." Conan, Neal, *Talk of the Nation (NPR)*, March 21, 2002.

"Fact Sheet: No Child Left Behind Act" January 2002. Available at <http://www.whitehouse.gov/news/releases/2002/01/20020101.ht...> .

"Special Education and High Stakes Testing: An Analysis of Current Law and Policy" O'Neill, Paul T., *Journal of Law & Education*, April 2001.

"State Graduation Requirements for Students With and Without Disabilities" Guy, B., H. Shin, S. Y. Lee, and M. L. Thurlow. University of Minnesota, National Center on Educational Outcomes, 1999. Available (March 30, 2002) at <http://education.umn.edu/NCEO/OnlinePUBs>.

"Testing." Lawton, Millicent, *Education Week*, April 23, 1997.

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