

## AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 309 and 3204

Paragraph (7) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective March 22, 2016, as follows:

(7) Appeals process on Regents examinations passing score to meet Regents diploma requirements.

(i) School districts shall provide unlimited opportunities for all students to retake required Regents examinations to improve their scores.

(a) A student who first enters grade nine in September 2005 or thereafter and who fails, after at least two attempts, to attain a score of 65 or above on a required Regents examination for graduation shall be given an opportunity to appeal such score in accordance with the provisions of this paragraph, provided that no student may appeal his or her score on more than two of the five required Regents examinations and provided further that the student:

(1) has scored within [~~three~~] five points of the 65 passing score on the required Regents examination under appeal and has attained at least a 65 course average in the subject area of the Regents examination under appeal;

(2) provides evidence that he or she has received academic intervention services by the school in the subject area of the Regents examination under appeal;

[(3) has an attendance rate of at least 95 percent for the school year during which the student last took the required Regents examination under appeal;]

[(4)] (3) has attained a course average in the subject area of the Regents examination under appeal that meets or exceeds the required passing grade by the

school and is recorded on the student's official transcript with grades achieved by the student in each quarter of the school year; and

[(5)] (4) is recommended for an exemption to the passing score on the required Regents examination under appeal by his or her teacher or department chairperson in the subject area of such examination.

(b) A student who first enters school in the United States (the 50 States and the District of Columbia) in grade 9, 10, 11 or 12 and is otherwise eligible to graduate in January 2015 or thereafter, is identified as an English Language Learner pursuant to Part 154 of this Title, and fails, after at least two attempts, to attain a score of 65 or above on the required Regents examination in English language arts for graduation, shall be given an opportunity to appeal such score in accordance with the provisions of this paragraph, provided that no such student may appeal his or her score on more than two of the five required Regents examinations and provided further that the student:

(1) . . .

(2) . . .

[(3) has an attendance rate of at least 95 percent for the school year during which the student last took the required Regents examination in English language arts;]

[(4)] (3) . . .

[(5)] (4) . . .

(c) A student who is otherwise eligible to graduate in January 2016 or thereafter, is identified as a student with a disability as defined in section 200.1(zz) of this Title, and fails, after at least two attempts, to attain a score of 55 or above on up to two of the required Regents examinations for graduation shall be given an opportunity to appeal

such score in accordance with the provisions of this paragraph for purposes of graduation with a local diploma, provided that the student:

(1) . . . .

(2) has met the criteria specified in subclauses [(2) - (5)] (2) – (4) of clause (a) of this subparagraph.

Notwithstanding the provisions of this clause, a student with a disability who makes use of the compensatory option in clause (b)(7)(vi)(c) of this section to obtain a local diploma may not also appeal a score below 55 on the English language arts or mathematics Regents examinations pursuant to this clause.

(ii) . . . .

(iii) . . . .

(iv) . . . .

(v) . . . .

(vi) . . . .