

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 305, 308, 309 and 3204

Paragraph (7) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective October 21, 2014, 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:

[(a)] (1) has scored within three 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;

[(b)] (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;

[(c)] (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;

[(d)] (4) 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

[(e)] (5) 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 nine, ten, eleven or twelve in September 2010 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 Regents comprehensive examination in English or the Regents examination in English language arts (common core), as required by this section 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) has scored between 55 and 61 on the required Regents comprehensive examination in English or Regents examination in English language arts (common core) under appeal;

(2) provides evidence that he or she has received academic intervention services by the school in English language arts;

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

(4) has attained a course average in English language arts 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) is recommended for an exemption to the passing score on the required Regents comprehensive examination in English or Regents examination in English language arts (common core) by his or her teacher or department chairperson in English language arts.

[(ii)] (c) An appeal may be initiated by the student, the student's parent or guardian, or the student's teacher, and shall be submitted in a form prescribed by the commissioner to the student's school principal.

[(iii)] (d) The school principal shall chair a standing committee comprised of three teachers (not to include the student's teacher in the subject area of the Regents examination under appeal) and two school administrators (one of whom shall be the school principal). The standing committee shall review an appeal within 10 school days of its receipt and make a recommendation to the school superintendent or, in the City School District of the City of New York, to the chancellor of the city school district or his/her designee, to accept or deny the appeal. The standing committee may interview the teacher or department chairperson who recommended the appeal, and may also interview the student making the appeal to determine that he or she has demonstrated the knowledge and skills required under the State learning standards in the subject area in question.

[(iv)] (e) The school superintendent or, in the City School District of the City of New York, the chancellor of the city school district or his/her designee, shall make a

final determination to accept or deny the appeal. The school superintendent or chancellor or chancellor's designee may interview the student making the appeal to determine that the student has demonstrated the knowledge and skills required under the State learning standards in the subject area in question.

[(v)] (f) Diplomas.

(1) A student whose appeal is accepted for one required Regents examination pursuant to clause (a) of subparagraph (i) of this paragraph, and who has attained a passing score of 65 or above on each of the four remaining required Regents examinations, shall earn a Regents diploma.

(2) A student whose appeal is accepted for two required Regents examinations pursuant to clause (a) of subparagraph (i) of this paragraph, and who has attained a passing score of 65 or above on each of the three remaining required Regent examinations, shall earn a local diploma.

(3) A student whose appeal is accepted for the required Regents comprehensive examination in English or Regents examination in English language arts (common core) pursuant to clause (b) of subparagraph (i) of this paragraph, and who has attained a passing score of 65 or above on each of the four remaining required Regents examinations, shall earn a local diploma.

(4) A student whose appeal is accepted for the required Regents comprehensive examination in English or Regents examination in English language arts (common core) pursuant to clause (b) of subparagraph (i) of this paragraph and for one other required Regents examination pursuant to clause (a) of subparagraph (i) of this paragraph, and who has attained a passing score of 65 or above on each of the three remaining

required Regents examinations shall earn a local diploma.

[(vi)] (g) Each school shall keep a record of all appeals received and granted and report this information to the State Education Department on a form prescribed by the commissioner. All school records relating to appeals of scores on required Regents examinations shall be made available for inspection by the State Education Department.