

## AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Paragraph (7) of subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education is amended to read 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 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; and

(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

(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) has scored between 55-59 on the required Regents examination in English language arts under appeal;

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

(3) 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

(4) is recommended for an exemption to the passing score on the required Regents examination in English language arts by his or her teacher or department chairperson in English language arts].

(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) has scored within three points of a score of 55 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; and

(2) has met the criteria specified in subclauses [(a)(2)-(4)] (a)(2)-(3) of this subparagraph.

(d) In considering appeals pursuant to clause (a)-(c) of this subparagraph, superintendents may consider the recommendations of the standing committee, a recommendation from the student's teacher or any other evidence presented or collected related to the student's attainment of the learning standards for the corresponding course of such Regents Exam.

(ii) ...

(iii) ...

(iv) ...

(v) Diplomas.

(a) ...

(b) ...

(c) ...

(d) ...

(vi) 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.

(vii) Special appeal to earn a diploma with a lower score on a Regents Examination taken in the 2021-2022 or 2022-2023 school year.

(a) Any student who meets the following eligibility conditions may appeal to earn a diploma with a lower score on a Regents Exam provided that the student has:

(1) taken the Regents examination during the June 2022, August 2022, January 2023, June 2023 or August 2023 test administration periods;

(2) earned a score of 50-64 on the Regents examination that is the subject of the appeal; and

(3) attained a course average in the corresponding course of such Regents examination 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.

(b) A student need only take the Regents examination under appeal one time during the specific administrations listed above to be eligible to appeal pursuant to this subparagraph.

(c) A student does not need to take advantage of academic assistance provided by the school in the subject tested by the Regents examination under appeal to be eligible to appeal pursuant to this subparagraph.

(d) Such special appeals may be applied towards a local, Regents or Regents with Advanced Designation diploma.

(e) Special appeals granted pursuant to this subparagraph for lower scores earned during these specific administrations shall not count towards the maximum number of appeals that can be applied to a local, Regents, or Regents with Advanced Designation diploma.

(e) In considering such special appeals, superintendents may consider the recommendations of the standing committee, a recommendation from the student's teacher or any other evidence presented or collected related to the student's attainment of the learning standards for the corresponding course of such Regents examination.

(f) A student's parent or person in parental relation may refuse an appeal granted to the student pursuant to this subparagraph if the parent wishes the student to remain in school and receive additional instruction. Such appeal may be considered again at any time before the student graduates.