



Assistant Commissioner
Office of Assessment, Standards and Curriculum

April 20, 2016

TO: District Superintendents
Superintendents of Public and Nonpublic Schools
Principals of Public, Charter and Nonpublic Schools

FROM: Peter Swerdzewski
Assistant Commissioner, Assessment, Standards and Curriculum

SUBJECT: Changes to the Commissioner's Regulations Part 100.5(d)(7) Governing the Appeal to Graduate with a Lower Score on a Regents Examination

At the March meeting of the Board of Regents the Board approved an emergency rule that took effect on March 22, 2016. The rule impacts the provisions that allow students to appeal to graduate with a lower score on a Regents examination. It is anticipated that the proposed amendment will be presented for permanent adoption at the June 2016 Regents meeting, after publication of a Notice of Emergency Adoption and Proposed Rule Making in the State Register on April 6, 2016 and expiration of a 45-day public comment period. Until that time however the rule can be applied to students otherwise eligible to graduate beginning June 2016 and thereafter. A copy of the complete Regents item including the language of the new regulation can be found at <http://www.regents.nysed.gov/common/regents/files/316p12a3.pdf>

Existing diploma requirements allow students to appeal scores of 62-64 on up to two required Regents examinations. The appeal provision calls for a student to meet the following criteria in order to be granted an appeal by their local school district:

Students must:

1. Have taken the Regents examination under appeal at least two times;
2. Present evidence that the student has taken advantage of academic help provided by the school in the subject tested by the Regents Examination under appeal;
3. Have an attendance rate of 95 percent (except for excused absences) for the school year during which the student last took the Regents examination under appeal;
4. Have a course average in the subject under appeal (as evidenced in the official transcript that records grades achieved by the student in each quarter of the school year) that meets or exceeds the required passing grade by the school; and

5. Be recommended for an exemption to the graduation requirement by the student's teacher or Department chairperson in the subject of the Regents examination under appeal.

In January 2015, the Board of Regents extended the appeal process to include a provision to allow eligible English language learners to appeal scores of 55-61 on the English Language Arts Regents Examination and in December 2015 the Board approved regulations to extend the appeal provision to students with disabilities who were seeking the local diploma through the existing safety net options. These students are able to appeal scores of between 52 and 54 on up to two Regents examinations and earn the local diploma.

The Revised Rule

Under the revised rule adopted this month, students can now appeal scores of 60-64 (expanded from 62-64) on up to two Regents examinations. Students who are granted one appeal by their local superintendent would earn a Regents diploma. Students who are granted two appeals would earn a local diploma. The provisions for English language learners and students with disabilities described above are still in place.

In addition the revised rule eliminates the requirement that students meet a minimum attendance requirement of 95% in the year they last took the examination under appeal (#3 above). The elimination of the attendance requirement is applicable to all appeals, whether for students with disabilities, English language learners or general education students.

The revised Appeal to Graduate with a Lower Score on a Regents Exam form can be found at <http://www.p12.nysed.gov/ciai/gradreq/CurrentAppealForm.pdf>. Questions related to the appeals process can be forwarded to the graduation requirement information e-mail box at EMSCGRADREQ@nysed.gov.