



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

**TO:** Full Board

**FROM:** Ken Slentz

**SUBJECT:** Amendment of section 100.5(b)(7)(i) of the Commissioner's Regulations, Relating to the Appeals Process for Local Diplomas

**DATE:** October 7, 2011

**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issue for Decision (Consent Agenda)**

Should the Regents make a technical amendment to Commissioner's Regulations section 100.5(b)(7)(i) to clarify that the appeals process for general education students remains in effect?

#### **Proposed Handling**

This item will come before the Full Board for adoption at the October 2011 Regents meeting.

#### **Procedural History**

The proposed amendment was discussed at the July 2011 Regents meeting. A Notice of Proposed Rule Making was published in the State Register on August 3, 2011. The public comment period for the revised rule closed on September 19, 2011. No public comments were received. A copy of the proposed amendment is attached. Supporting materials are available upon request from the Secretary to the Board of Regents.

#### **Background Information**

In July 2005, the Board of Regents amended Commissioner's Regulations section 100.5(b)(7) to eliminate the local diploma for general education students,

beginning with students who entered grade 9 in 2008. At the same time, the Board of Regents also added a new section 100.5(d)(7) to permit general education students, who meet certain criteria and who enter grade 9 in September 2005 or thereafter, to receive a local diploma through an appeals process. This provision contains no sunset date.

Specifically, section 100.5(d)(7) allows a general education student who fails to attain a score of 65 or above on a required Regents examination for graduation to appeal his or her score if the student:

- has scored within three points of 65 on a required Regents exam for graduation and has a course average of at least 65 in the subject area of the examination;
- has received academic intervention services by the school in the subject area of the examination;
- has an attendance rate of at least 95 percent for the school year during which the student last took the examination;
- has attained a course average in the subject area of the examination that meets or exceeds the required passing grade by the school; and,
- is recommended for an exemption to the passing score by his or her teacher or department chairperson in the subject area of the examination.

Students who successfully appeal one Regents Exam receive a Regents diploma, and students who successfully appeal two Regents Exams receive a local diploma.

At present, section 100.5(b)(7) and 100.5(d)(7) are inconsistent. Staff recommend that the Board of Regents resolve this inconsistency by approving a technical amendment to section 100.5(b)(7) to clarify that the local diploma option continues to be available under the appeals process for general education students, for the following reasons:

- Under local scoring procedures that were in effect until this school year, students were from two to six times more likely to earn a score of 65 than to earn a score between 62 and 64 on those Regents examinations most typically used to meet graduation requirements. Starting with the exams administered in June 2011, the Department revised its rescoring policies in light of this research. The Department anticipates having larger numbers of students scoring from 62-64 on Regents Exams in the future. As a result, SED recommends having a formal appeals process to address this situation.

- Maintaining the option of a local diploma for general education students would allow SED to continue to define the local diploma as a "standard diploma" for computing graduation rates for No Child Left Behind (NCLB) accountability purposes since it can be earned by both general education students and students with disabilities.

Attachment A outlines the various diploma types available to New York State students in addition to which student populations have access to the diploma type.

### Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That subparagraph (i) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education be amended, as submitted, effective November 9, 2011.

### Timetable for Implementation

If adopted at the October 2011 Regents meeting, the proposed amendment will become effective on November 9, 2011.

Attachment

## New York State High School Diploma Requirements

**Background** – Commissioner’s regulations require very few specified courses but rather call for students to earn diploma credit in various disciplines and meet specific assessment requirements. The unit of credit requirements are separate and distinct from the assessment requirements. For example, students must earn three credits in Mathematics and pass one Regents examination but the regulations do not specify which courses a student must take, or which exam the student must pass. A student might take the traditional track of Algebra, Geometry and Algebra 2/Trigonometry (3 credits), and pass one or more Regents exams to meet the assessment requirement. Another student may simply take a two-year Algebra course with the corresponding Regents exam and one other commencement level math course such as Statistics or Applied Mathematics. Both of these students followed two different courses of study in mathematics and both met the mathematics requirement for graduation with a Regents diploma.

Because the assessment requirements and the unit of credit requirements are separate and distinct, there are various ways for students to meet the requirements below. These options are dependent upon course availability at the local district.

The chart below outlines the various diploma types available to New York State students in addition to which student populations have access to the diploma type.

Diploma Type	Available to	Requirements
Regents	All Student Populations	<ul style="list-style-type: none"> <li>• Credit: 22 units of credit distributed as follows: 4 ELA, 4 Social Studies, 3 Science, 3 Mathematics, ½ Health, 1 Arts, 1 Language other than English (LOTE), 2 Physical Education, 3 ½ Electives</li> <li>• Assessment: 5 required Regents exams with a score of <b>65 or better</b> as follows: 1 Math, 1 Science, ELA, Global History and Geography, US History and Government</li> </ul>
Regents with Honors	All Student Populations	<ul style="list-style-type: none"> <li>• Credit: 22 units of credit distributed as follows: 4 ELA, 4 Social Studies, 3 Science, 3 Mathematics, ½ Health, 1 Arts, 1 Language other than English (LOTE), 2 Physical Education, 3 ½ Electives</li> <li>• Assessment: 5 required Regents exams with a computed average score of <b>90 or better</b> as follows: 1 Math, 1 Science, ELA, Global History and Geography, US History and Government</li> </ul>

Regents with Advanced Designation	All Student Populations	<ul style="list-style-type: none"> <li>• Credit: 22 units of credit distributed as follows: 4 ELA, 4 Social Studies, 3 Science, 3 Mathematics, ½ Health, 1 Arts, 1 LOTE, 2 Physical Education, 3 ½ Electives. ***In addition, a student must earn an additional 2 units of credit in LOTE or a 5 unit sequence in the Arts or CTE. These credits can be included in the 22 required credits.</li> <li>• Assessment: 8 required Regents exams with a score of <b>65 or better</b> as follows: 3 Math, 2 Science, ELA, Global History and Geography, US History and Government; and either a locally developed Checkpoint B LOTE examination or a 5 unit sequence in the Arts or CTE</li> </ul>
Regents with Advanced Designation with Honors	All Student Populations	<ul style="list-style-type: none"> <li>• Credit: 22 units of credit distributed as follows: 4 ELA, 4 Social Studies, 3 Science, 3 Mathematics, ½ Health, 1 Arts, 1 LOTE, 2 Physical Education, 3 ½ Electives. In addition, a student must earn an additional 2 units of credit in LOTE <b>or</b> a 5 unit sequence in the Arts or CTE. These credits can be included in the 22 required credits.</li> <li>• Assessment: 8 required Regents exams with a computed average score of <b>90 or better</b> as follows: 3 Math, 2 Science, ELA, Global History and Geography, US History and Government; and <b>either</b> a locally developed Checkpoint B LOTE examination with a score of 65 <b>or</b> a 5 unit sequence in the Arts or CTE</li> </ul>
Local <sup>1,2</sup>	Students with a Disability or who have a 504 Plan	<ul style="list-style-type: none"> <li>• Credit: 22 units of credit distributed as follows: 4 ELA, 4 Social Studies, 3 Science, 3 Mathematics, ½ Health, 1 Arts, 1 LOTE, 2 Physical Education, 3 ½ Electives.</li> <li>• Assessment: 5 required Regents exams with a score of <b>55 or better</b> as follows: 1 Math, 1 Science, ELA, Global History and Geography, US History and Government</li> </ul>
Local Diploma with Appeal	All Student Populations	<ul style="list-style-type: none"> <li>• Credit: 22 units of credit distributed as follows: 4 ELA, 4 Social Studies, 3 Science, 3 Mathematics, ½ Health, 1 Arts, 1 LOTE, 2 Physical Education, 3 ½ Electives.</li> <li>• Assessment: <b>3 required Regents exams</b> with a score of <b>65 or better</b> and <b>2 Regents exams</b> with a score of <b>62-64</b> for which an appeal is granted by the local district per Commissioner's Regulation <a href="#">100.5(d)(7)</a> as follows: 1 Math, 1 Science, ELA, Global History and Geography, US History and Government</li> </ul>

IEP	Students with a Disability	Determined by the student's achievement of the educational goals based upon the appropriate level of learning standards as specified in the Student's Individualized Education Plan (IEP)
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<sup>1</sup>Note: the low pass (55-64) option for general education students to earn a local diploma has been phased out and students who entered high school in 2008 and thereafter no longer have access to this option. There are still students in our K-12 system who entered grade 9 in 2007 or earlier and still have access to this option.

<sup>2</sup>Note: Students with a Disability who entered grade 9 in 2010 or prior, continue to have access to Regents Competency Tests (RCT's) which can be substituted for the corresponding Regents exam leading to a local diploma.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 208, 209, 210, 215, 305 and 309

Subparagraph (i) of paragraph (7) of subdivision (b) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective November 9, 2011, as follows:

(i) Except as provided in subparagraphs (vi), (vii) and (viii) of this paragraph, and paragraph (7) of subdivision (d) of this section, for students first entering grade nine in the 2001-2002 school year and thereafter, there shall be no diplomas or certificates other than the following:

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) . . .