

THE STATE EDUCATION DEPARTMENT



Procedural History

At its December 2011 meeting, the Board of Regents initiated a three-year process by which Department staff engaged with the field to develop recommendations for consideration by the Board of Regents regarding how Commissioner's Regulations Part 154 should be revised or enhanced to better serve the needs of ELL students and to ensure stronger outcomes for this student population.

At the September 2014 Regents meeting, the Board of Regents amended Part 154 of the Commissioner's Regulations as a result of this three

- x Score 62-64 on two Regents exams.

In addition, this proposal would create the following additional ELL-specific pathway to graduation for qualifying students. ELL students would remain eligible for the current appeals process as well.

Summary of Proposed Amendments

Under the proposed amendment, ELLs who entered the United States in 9th grade or above in the 2010-11 school year and thereafter, and who score between 55-61 on the Regents Exam in English after two attempts at attaining a score of 65 or above,¹ are also eligible to receive the Local Diploma via appeal if they:

- x Successfully appeal the Regents Exam in English AND score at least 65 on each of the four remaining required Regents exams; OR
- x Successfully appeal the Regents Exam in English AND score at least 65 on three other required Regents exams AND score between 62 to 64 on one other required Regents exam and successfully appeal that exam.

To be eligible to appeal a score on the Regents Exam in English, ELLs would also have to meet these conditions:

- x The student has received academic intervention services in English language arts; AND
- x The student has an attendance rate of at least 95 percent for the school

Regulations of the Commissioner of Education be amended as submitted, effective October 21, 2014

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

(5) 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.

[(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.

[(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 examination in English language arts 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 examination in English language arts 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

8 NYCRR §100.5(d)(7)

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE EMERGENCY ACTION

The proposed amendment would create an additional English Language Learner (ELL) specific pathway to graduation for qualifying ELL students who are otherwise eligible to graduate but for their score on the English Language Arts (ELA) Regents examination. Under the proposed amendment, ELLs who entered the United States in 9th grade or above in the 2010-11 school year and thereafter, and who score between 55-61 on the Regents Exam in English after two attempts at attaining a score of 65 or above, are also eligible to receive a local diploma via an appeal process if they:

- x Successfully appeal the Regents Exam in English AND score at least 65 on each of the four remaining required Regents exams; OR
- x Successfully appeal the Regents Exam in English AND score at least 65 on three other required Regents exams AND score between 62 to 64 on one other required Regents exam and successfully appeal that exam.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register and expiration of the 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(1) and (5), is the January 12-13, 2015 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the January meeting, would be January 28, 2015, the date a Notice of Adoption would be published

