



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

**TO:** P-12 Education Committee

**FROM:** John B. King, Jr.

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

**DATE:** July 1, 2011

**AUTHORIZATION(S):**

### **SUMMARY**

#### **Issue for Discussion**

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 P-12 Education Committee for discussion at the July 2011 meeting.

#### **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 9<sup>th</sup> grade 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. Consequently, 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.

A copy of the proposed amendment is attached. A Notice of Proposed Rule Making will be published in the State Register on August 3, 2011. Supporting materials are available upon request from the Secretary to the Board of Regents.

### Recommendation

It is recommended that the Regents P-12 Education Committee reach consensus on the intent of the proposed amendment prior to taking action at the October 2011 Regents meeting.

### Timetable for Implementation

It is anticipated that the proposed amendment will be presented for adoption at the October 2011 Regents meeting, with a November 9, 2011 effective date.

Attachment

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) . . .
- (e) . . .

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