



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

Office of Instructional Support  
Deputy Commissioner

To: District Superintendents  
Superintendents of Schools  
Public School Administrators  
Nonpublic School Administrators  
Charter School Administrators

From: Jason Harmon 

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Subject Special Determination to Graduate with a Local Diploma in June 2022

Date June 21, 2022

All students must be held to high expectations and be provided equitable opportunities to participate and progress in the educational program to prepare them to graduate with a high school diploma. The State Education Department (“Department”) recognizes there may be some students who, because of a disruption to their educational program due to COVID, or for other medical reasons, are unable to demonstrate their proficiency on one or more required Regents Examinations.

In May 2022, the Board of Regents expanded the existing appeal provision related to Regents Examinations to provide one measure of flexibility for such students. This [Special Appeal](#) provision allows any student who scores between 50 and 64 on a required Regents Examination in the 2021-22 or 2022-23 school year to appeal that score and earn a Regents diploma.

For students who are scheduled to graduate in June 2022, and either do not qualify for a Special Appeal or who are unable to participate in one or more Regents Examinations required for graduation because of illness, including isolation restrictions due to COVID, the Department is providing additional flexibility.

All students who are unable to graduate in June 2022 due to the above reasons can request a Special Determination to Graduate with a Local Diploma (“Special Determination”). This option will ensure that all students who have demonstrated,

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and certify that there is clear and compelling evidence the student has otherwise met the standards for graduation with a local high school diploma.

The Special Determination may only be used to grant a student a local diploma. If the student wishes to pursue a Regents diploma but was either unable to qualify for a Special Appeal (i.e. they score below a 50) or unable to take one or more Regents Examinations required to graduate because of illness or quarantine, the student may retake the Regents Examination(s) during a later administration.

### Eligibility

To be eligible for the Special Determination, the student must otherwise meet all requirements for graduation in June of 2022 and meet one of the following criteria:

- The student was enrolled in a course of study or make up program during the 2021-2022 school year leading to a June 2022 Regents Examination, earned credit in such course of study by the scheduled date of the Regents Examination, participated in such examination but did not achieve a passing score or qualify for a Special Appeal; or
- The student was enrolled in a course of study or make up program during the 2021-2022 school year that was intended to culminate in the student's participation in a June 2022 Regents Examination and the student earned credit in such course of study by the date of such examination but was unable to participate in such examination due to illness, including isolation restrictions due to COVID. Such illness must be documented by the student's physician, or in the case of COVID, in accordance with the Centers for Disease Control and Prevention (CDC) and or local guidelines for quarantine. A student absent due to COVID should follow the locally developed school or district procedures for reporting such absence.

### Criteria

Consistent with local school or district policy, the student must have earned the required course credits and have passed all courses required for graduation, including the Regents courses associated with the required Regents Examination areas (English language arts, math, social studies and science).

### Review

The superintendent, charter school leader, or chief administrative officer of a registered nonpublic school must consider evidence demonstrating that the student:

- o Passed the Regents courses, in accordance with the local grading policies of the school district, charter school, or registered nonpublic high school. In making this determination, the superintendent, charter school leader, or chief administrative officer of a registered nonpublic school must consider the

- student's final course grade as well as student work completed throughout the school year and/or interim grades on homework, class work, quizzes, tests, etc. demonstrating the student has met the learning standards for the course; and
- o Participated in the Regents Examination or was unable to participate due to documented illness including isolation restrictions due to COVID.

The superintendent, charter school leader, or chief administrative officer of a registered nonpublic school must document, on a form prescribed by the Commissioner of Education, the evidence reviewed, and the Special Determination made by the superintendent or charter school leader. The student and the parent or person in parental relation of the student must receive a copy of this documentation and written notification of the determination. Where the superintendent, charter school leader, or chief administrative officer of a registered nonpublic school determines that the student has not met the above requirements, the notice must inform the student and parent or person in parental relation that the student has the right to attend school until receipt of a local or Regent's diploma or until the end of the school year in which the student turns age 21, whichever shall occur first. A student's parent or person in parental relation may refuse a Special Determination that is granted if the parent or person in parental relation wants their child to remain in school and continue their educational program.

The superintendent or charter school leader must sign an assurance on the form that certifies that the information is accurate and the superintendent or charter school leader attests that the student has or has not met the requirements for a Special Determination for a local diploma. A copy of the form must be placed in the student's record and for public and charter schools another copy must be mailed or faxed to the Department by August 31, 2022. The form will be made available on the Office of Standards and Instruction's [Special Determination website](#).

Questions about the Special Determination to Graduate with a Local Diploma can be forwarded to [emscgradreq@nysed.gov](mailto:emscgradreq@nysed.gov).