



May 27, 2020

TO: District Superintendents
Superintendents of Schools
Principals of Registered Nonpublic High Schools
Leaders of Charter Schools

FROM: Marybeth Casey, Assistant Commissioner
Christopher Suriano, Assistant Commissioner

SUBJECT: Parental Right to Decline Examination Waivers

On April 7, 2020 the New York State Education Department (NYSED or “the Department”) issued a [memorandum cancelling the June 2020 administration of Regents Examinations](#) and subsequently cancelled the [August 2020 administration of Regents Examinations](#) due to the COVID-19 health crisis. Due to the cancellations, the Department announced certain modifications to the assessment requirements that students must meet in order to earn high school diplomas, credentials, and/or endorsements. The modifications apply to all students enrolled in grades 7-12 during the 2019-20 school year.

The purpose of this memorandum is to inform a parent or person in parental relation that they have the option to explicitly decline the exemptions to the assessment requirements for graduation. Specifically, if the parent or person in parental relation explicitly declines the exemption of a Regents Examination, a NYSED Approved Alternative examination, a Pathway examination or a waiver of unfinished Career Development and Occupational Studies (CDOS) Commencement Credential requirements, applied to his or her child, a diploma will not be conferred on such student at this time. If a parent or person in parental relation exercises the option to decline exemptions, such declination will only apply to the assessments or requirements that the parent or person in parental relation has declined on the Regents Examination Exemption Declination form enclosed with this memorandum and where an exemption could be granted due to the COVID-19 crisis. Any exemptions the parent or person in parental relation does not decline will be applied and deemed to be met towards the student’s future graduation requirements.

At a minimum, 10 calendar days prior to the date on which a student shall receive a high school diploma, the superintendent or school principal must send notification by regular mail, as well as email and text, if available, to the parents or persons in parental relation of all students scheduled to graduate in June or August 2020 who have been exempted from a graduation assessment requirement. These notifications must be sent in the parent’s language or mode of communication, to the extent practicable, and the school must maintain a record of the notifications. The notification shall inform the parents and persons in parental relations of their right to decline the exemptions to the graduation requirements identified above, if they do not wish their child to earn a diploma in June or August 2020. The notification must explain that:

- the decision of a parent or person in parental relation to decline the graduation assessment requirement exemption is irrevocable;
- the child will not be eligible to graduate until he or she meets the all the graduation assessment requirements including those that were previously eligible for an exemption and the parent declined such exemption; and
- the child will remain eligible to receive a free public education until the end of the school year in which the child attains age 21 or earns a diploma, whichever shall occur first.

As part of the notification to parents and persons in parental relation, schools shall forward to them the enclosed declination form to indicate their wishes in writing, which may be submitted by mail, email or text. Schools must also accept submissions by parents or persons in parental relation that provide substantially equivalent information about their intent, even if it is not submitted using the enclosed declination form. Schools must make every effort to ensure parents and students are aware that the student will have to meet all assessment requirements for which the exemptions were declined. Schools must make multiple documented attempts via any means available to reach the parent of each student scheduled to graduate as a result of an exemption to a graduation requirement.

Parents and persons in parental relation must submit their written declination on the Regents Examination Exemption Declination form (see enclosure) or substantially equivalent information prior to the conferral of the diploma. Upon receipt of the form, schools must inform the parent or person in parental relation of the status of the request and the remaining diploma assessment requirements that the student must meet in order to graduate. A superintendent or school principal should accept, upon a finding of good cause, a declination request submitted by a parent or person in parental relation that is not timely, so long as the school has not yet conferred a diploma upon the student.

The above guidance clearly requires schools to notify parents whose students are scheduled to graduate in June or August 2020 due to an exemption of an assessment requirement. In cases where a student with a disability has an individualized education program and/or other documentation from the Committee on Special Education indicating that the plan/recommendation for the student was to return to school to continue his or her education, schools may not confer a diploma until a parent or person in parental relation confirms in writing, such child should receive such diploma. For these particular students, schools shall hold such diplomas while continuing to attempt to obtain parent permission to confer the credential. Until such permission is received, the student must remain enrolled in the school and retain his or her eligibility to return to continue his or her educational program.

Enclosed is a question and answer document clarifying this process. Any additional questions related to the above for general education students email emscgradreq@nysed.gov and for students with a disabilities email speced@nysed.gov.

Enclosures

Template for use if parent wishes to decline a Regents Examination exemption

Regents Examination Exemption Declination

Students Name:	Return to: (School to insert mailing address, email address and contact)
Student Date of Birth	Name of High School Student Attends:
Parent or Legal Guardian:	Daytime Phone:
Mailing Address:	Email Address:

List examinations required for graduation for which the parent/legal guardian declines the exemption:

Examination 1: Examination 5:

Examination 2: Examination 6:

Examination 3: Examination 7:

Examination 4: Examination 8:

Unfinished Requirements for Career Development and Occupational Studies

I decline all exemptions that my son/daughter is eligible to receive.

As identified above, I am declining the exemptions to the requirements for graduation available in school year 2019-20 as a result of the COVID-19 outbreak in New York State for my son/daughter,

Insert Student Name Above

I understand that this applies to all the Regents Examinations or their equivalents including unfinished requirements to earn the Career Development Commencement Credential or +1 Pathway, that my child was intending to take in June or August 2020 in a course for which my child has earned high school credit. By signing this form, I also understand that my child will remain eligible to receive a free public education until the end of the school year in which the child attains age 21, or until the child receives a high school diploma, whichever occurs first. In order to receive a diploma in the future, my child will no longer be eligible for such exemptions and must pass all applicable graduation assessment requirements.

Parent/Guardian Signature: _____ Date: _____

Information on the NYS diploma requirements as a result of COVID-19 can be found on the [NYS COVID Webpage](#)

Questions Related to School Notification Obligations and Parental Right to Decline Examination Waivers

- 1.) What is the purpose of the “Parent Right to Decline” process?

There may be a situation in which a student wishes to return to school rather than receive an exemption and graduate to finish his or her planned educational program and the parent or person in parental relation would prefer the child to continue to receive educational services for a 5th or 6th year of high school. In such cases the parent has the right to decline the exemptions leading to a diploma and elect to have their child remain enrolled in school for subsequent school years until s/he passes the assessments for which the exemptions were declined, or the school year ends in which s/he turns 21, whichever occurs first. However, parents and persons in parental relation must be fully informed that declining the exemptions shall mean that in the future, their child will need to pass any remaining assessments required for graduation including those previously eligible for exemption.

- 2.) Are there parent notification requirements a school must follow if students will graduate as a result of being exempt from one or more assessment requirements?

Yes. At a minimum, 10 calendar days prior to the date on which a student shall receive a high school diploma, the superintendent or school principal must send notification by regular mail, as well as email and text, if available, to the parents or persons in parental relation of all students scheduled to graduate in June or August 2020 who have been exempted from a graduation assessment requirement. The notification must contain a “Regents Examination Exemption Declination” form parents can return to the school. These notifications must be sent in the parent’s or person in parental relation’s language or mode of communication, to the extent practicable, and the school must maintain a record of the notifications.

- 3.) Do the parents of all graduating students need to be sent a special notification?

No. Only those parents and persons in parental relation to students who are eligible to graduate as a result of an examination exemption are required to receive a notification.

- 4.) How should parents or persons in parental relation indicate to the school that they wish to decline the exemptions and therefore not have a diploma issued to their child?

Parents and persons in parental relation can indicate their wish to decline the exemptions by mail, email or text and should complete the “Regents Examination Exemption Declination” form and return it to the school. Schools must also accept a response from a parent or person in parental relation that contains substantially equivalent information even if the form is not used.

Attachment 2

- 5.) If a student with a disability has an individualized education program (IEP) and/or other Committee on Special Education (CSE) documentation that indicates s/he was planning to return to school to continue his or her education, but could qualify to graduate as a result of an examination exemption, can the school confer the diploma if no declination form has been submitted?

No. There may be a situation in which a student wishes to return to school to finish his or her planned educational program and the parent or person in parental relation would prefer the child to continue to receive educational services for a 5th or 6th year of high school. In all such cases, the school must have confirmed documentation that they successfully contacted the parent or person in parental relation of such student and that person has indicated that he or she wishes the student to receive a diploma. Consistent with Commissioner's Regulation §200.5(a)(5)(ii), prior to the student's graduation, the school must provide prior written notice indicating that the student is not eligible to receive a free appropriate public education after graduating with a local or Regents diploma.

- 6.) What should the district do if the parent or person in parental relation of a student with a disability, with an IEP and/or CSE documentation indicating they were planning to return to school, cannot be contacted in order to express his or her desire to have the child graduate?

The school must delay the conferral of such diploma until the parent is contacted and confirms that the child is to receive the diploma.

- 7.) How long can the school delay the conferral of the diploma?

The school can delay the conferral of the diploma as long as necessary and proceed with plans to continue the student's education in the following school year.

- 8.) Must the conferral of **all** diplomas to students with disabilities be delayed until the parents are successfully contacted?

No. Only those students with an IEP and/or CSE documentation indicating they were planning to return to school in the following school year must be successfully contacted to confirm if the parent or person in parental relation wants the student to graduate or remain enrolled.

Note: All parents and persons in parental relation of students graduating in June or August 2020 as a result of an exemption, regardless of whether the student has an IEP, must be sent written notice that they have the right to decline the exemption. Schools must make multiple documented attempts to contact such parents, and all such parents must be sent the Regents Examination Exemption Declination Form.

Attachment 2

- 9.) Must a parent or person in parental relation decline all exemptions for which their child is eligible or can the parent or person in parental relation designate which examination exemption(s) he or she wishes to decline?

Parents or persons in parental relation may choose which exemptions they wish to decline for their child and must submit to the district the specific declinations on the Regents Examination Exemption Declination form or a correspondence that contains substantially equivalent information.

- 10.) Can a student who is age 18 or older complete the Regents Examination Exemption Declination form on his or her own behalf?

No. In all cases, a parent or person in parental relations must sign the Regents Examination Exemption Declination form.