

160-1-3-.09 WAIVERS AND VARIANCES OF HIGH SCHOOL GRADUATION ASSESSMENTS.

(1) DEFINITIONS.

(a) **Georgia Department of Education (GaDOE)** – the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation of federal and state mandates. Such management is subject to supervision and oversight by the State Board of Education.

(b) **High school graduation assessment** – a test or tests that students must pass in order to receive a Georgia high school diploma as defined and established in State Board of Education rule 160-3-1-.07 Testing Programs – Student Assessment.

(c) **Local Educational Agency (LEA)** – local school system pursuant to local board of education control and management.

(d) **State Board of Education (SBOE)** – the constitutional authority which defines education policy for public K-12 education agencies in Georgia.

(e) **Substantial hardship** - a significant, unique, and demonstrable economic, technological, legal, or other type of deprivation to the individual requesting a waiver.

(f) **Variance** – a decision to grant a modification to all or part of the literal requirements of a rule in lieu of the standard application of the rule.

(g) **Waiver** – a decision not to apply all or part of a rule to a person who is subject.

(2) REQUIREMENTS.

(a) Each LEA shall develop a process for notifying students and parents or guardians of the procedures related to the application and granting of waivers and variances. In addition, information regarding waivers, variances and specific remedial opportunities available for students shall be included with all high school graduation assessment score reports. Other modes of communicating information to students and parents or guardians shall be specified in guidelines or guidance issued by the GaDOE. Students and their parents or guardians shall also be notified that meeting the eligibility criteria does not ensure that a waiver or variance will be granted.

(b) Requests for a waiver or variance of a high school graduation assessment(s) shall be filed with the local school superintendent, or his or her designee, by the student and parent/guardian or by the student if such student is at least 18 years of age or older.

(c) The request submitted to the LEA by the student and parent/guardian or by the student if such student is at least 18 years of age or older, shall contain the information as established by the GaDOE. Requests for a waiver or variance submitted to an LEA and found to be missing substantial information, as established by the GaDOE, may be returned to the requestor.

(d) Waivers.

1. Upon receipt of a request for a waiver, the local school superintendent, or his or her designee, shall certify that the student has a substantial hardship that meets one or both of the following minimum eligibility criteria:

(i) Disability Waiver - A student's disability is directly related to his or her ability to pass a particular section of the high school graduation assessment; or

(ii) Hardship Waiver - The student did not have a reasonable opportunity to pass a particular section of the high school graduation assessment due to a substantial hardship beyond the student's control.

2. For those students who meet the minimum eligibility criteria for applying for a waiver, the local school superintendent shall submit a waiver application form within 15 business days of receiving the waiver request to the state superintendent of schools on the application form authorized by the GaDOE.

3. Submitted waiver application forms judged to be substantially incomplete by the GaDOE may be returned to the local school system to provide additional information. Application forms returned under these conditions shall interrupt the time requirements set forth by the provisions of O.C.G.A. § 50-13-9.1 (e). Resubmissions of corrected waiver application forms shall be treated as an original request regarding time requirements.

4. The SBOE may, by a majority vote, grant a waiver that meets the minimum eligibility requirements.

(e) Variances.

1. Upon receipt of a request for a variance, the local school superintendent shall certify that a student has met the following minimum eligibility criteria:

(i) The student has attempted the relevant section(s) of the high school graduation assessment four or more times without passing; and

(ii) The student has successfully completed a structured remedial class(es) after each attempt to pass the relevant section(s) of the high school graduation assessment; and

(iii) The student has passed any three of the five high school graduation assessments; and

(iv) The student has obtained a scale score that falls within one standard error of measurement (SEM) for passing the relevant section of the high school graduation assessment. The SEM shall be applied to the student's highest score achieved over multiple administrations; and

(v) The student has met the attendance requirements as described in State Board of Education Rule 160-5-1-.10 STUDENT ATTENDANCE.; and

(vi) The student has a 90% or better attendance record, excluding excused absences, while enrolled in grades 9-12; and

(vii) The student has met the course unit requirements for graduation as described in the applicable SBOE high school graduation requirements rule; and

(viii) The student must meet one of the following requirements:

(I) Where applicable, the student has successfully passed each of the End-of-Course Tests (EOCT) related to the sections of the high school graduation assessment in which the variance is being sought, or

(II) Where applicable, attain the minimum required score on another qualified academic achievement test to demonstrate comparable performance on a section of the high school graduation assessment through a variance. Specific other qualified academic achievement tests, minimum scores, and portions of the high school graduation assessment established for a variance under this subsection shall be defined in the document entitled, "Guidelines Defining Other Academic Achievement Tests and Associated Minimum Passing Scores Qualifying for a Variance of High School Graduation Assessments."

2. For those students who meet the minimum eligibility criteria for applying for a variance, the local school superintendent shall submit a variance application form within 15 business days of receiving the variance request to the state superintendent of schools on the application form authorized by the GaDOE.

3. Submitted variance application forms judged to be substantially incomplete by the GaDOE may be returned to the local school system for additional information. Application forms returned under these conditions shall interrupt the time requirements set forth by the provisions of O.C.G.A. § 50-13-9.1 (e). Resubmissions of corrected variance application forms shall be treated as an original request regarding time requirements.

4. The SBOE may, by a majority vote, grant a variance that meets the minimum eligibility criteria.

Authority: O.C.G.A. § 20-2-240; 50-13-9.1.

Adopted: July 8, 2010 **Effective:** July 29, 2010