



Code: BDH(2)

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

(1) **PURPOSE.** This rule sets forth the eligibility criteria and procedures for requesting and granting either a waiver or variance to the requirement of students to pass all sections of the Georgia High School Graduation Tests (GHS GT) and the Georgia High School Writing Test (GHS WT). For the purposes of this rule, a waiver may be granted to a student who, due to a disability, is rendered incapable of passing a section of the GHS GT or the GHS WT as documented in the student's individualized education plan or to a student who has not had a reasonable opportunity to pass a section of the GHS GT or the GHS WT due to a substantial hardship beyond the student's control.

When a student is not rendered incapable of passing a section of the GHS GT or the GHS WT due to a disability or substantial hardship, a variance may be granted to allow the student to use alternative means of demonstrating academic proficiency in lieu of passing each section of the GHS GT or the GHS WT.

(2) **DEFINITIONS.**

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

(b) **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.

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

(3) **REQUIREMENTS.**

(a) Each local school system shall develop a process for notifying students and parents or guardians of the procedures related to the application and granting of waivers and variances. This information shall be communicated to students and parents or guardians as specified in guidelines issued by the department. Students and their parents or guardians shall 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 test shall be filed with the local school superintendent by the student and parent or guardian. The request shall specify the following:

1. The rule(s) and requirement(s) that are to be waived or varied, including the specific provisions and wording,

2. The specific facts which would justify a variance or waiver for the student,

3. The reason why the variance or waiver requested would serve the purpose of the underlying requirement, and

4. Permission for Department staff to receive all records – including special education – pertinent to the request.

(c) WAIVERS.

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

(i) The student is incapable of passing a particular section of the GHSGT or the GHSWT as documented in the student's individualized education program (IEP); or

(ii) The Student has provided documented evidence of a substantial hardship(s).

2. For those students who meet the minimum eligibility criteria for applying for a waiver, the local school superintendent shall submit; within 15 business days of receiving the waiver request the following information to the state superintendent of schools:

(i) School records, including official student transcript, current schedule/status of the student, the student's program of study, high school attendance records, and high school graduation test reports:

(ii) Plans of accommodations made for the student in the instructional program, including minutes of student support team meeting(s) and other action plans if any;

(iii) If applicable, accommodations made with regard to the assessment(s) in question;

(iv) Special education records (where applicable), including evaluation reports, eligibility reports, legible individualized education program, classroom modifications that have been implemented, test administration addenda and strategies.

(v) A statement setting forth the superintendent's or local board of education's position with respect to the request; and

(vi) Any other information, including a copy of the request from the student, parent(s), or legal guardian.

3. The State Board of Education may by a majority vote grant a waiver if:

(i) A student's disability is directly related to his ability to pass a particular section of the GHSGT or the GHSWT; or

(ii) The student did not have a reasonable opportunity to pass a particular section of the GHSGT or the GHSWT due to a substantial hardship beyond the student's control.

(d) 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 GHSGT or the GHSWT 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 GHSGT or the GHSWT.

2. For those students who meet the minimum eligibility criteria for applying for a variance, the local school superintendent shall submit within 15 business days of receiving the variance request, the following information to the state superintendent of schools:

- (i) School records, including official student transcript, current schedule/status of the student, the student's program of study, high school attendance records, and high school graduation test reports;
- (ii) Plans of accommodations made for the student in the instructional program, including minutes of student support team meeting(s) and other action plans, if any;
- (iii) If applicable, accommodations made with regard to the assessment(s) in question;
- (iv) Special education records (where applicable), including evaluation reports, eligibility reports, legible individual education plans, classroom modifications that have been implemented, test administration addenda and strategies;
- (v) A statement giving the number of attempts the student has made to pass the test(s) for which the variance is requested, including an explanation of extenuating circumstances known to the school if the student did not take advantage of each testing opportunity;
- (vi) A statement describing opportunities provided by the school to assist the student in preparing for the test(s), including remediation classes, tutoring sessions, etc., and the participation of the student in such activities (student or parent may have additional information);
- (vii) A statement setting forth the superintendent's or local board of education's position with respect to the request; and
- (viii) Any other information, including a copy of the request from the student, parent(s), or legal guardian.

3. The State Board of Education may by a majority vote grant a variance to students who satisfy all of the following requirements:

- (i) The student has passed any three of the five graduation tests (four content sections of the GHSGT and the GHSWT);
- (ii) The student has met the attendance and course unit requirements for graduation as described in the applicable State Board of Education High School Graduation Requirements Rule;
- (iii) The student has a 90% or better attendance record, excluding excused absences, while enrolled in grades 9-12;
- (iv) The student has obtained a scale score that falls within one standard error of measurement (SEM) for passing the relevant section of the GHSGT or GHSWT. The SEM shall be applied to the student's highest score achieved over multiple administration; and
- (v) Where applicable, the student has successfully passed each of the End-of-Course Tests (EOCT) related to the sections of the GHSGT or the GHSWT in which the variance is being sought.

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

Adopted: December 7, 2005 Effective: December 28, 2005

