

# New Hampshire Department of Education



## 2009 Adequate Yearly Progress (AYP) Appeal Process

### School Appeals Instructions and Guidance

**\*\*Note\*\***

Forms and Worksheets necessary for completing an AYP appeal are in a separate "*School Appeals Forms and Worksheets*" document .

**Lyonel B. Tracy, Commissioner  
NH Department of Education  
101 Pleasant Street  
Concord, NH 03301**

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## Introduction

In accordance with the No Child Left Behind Act<sup>1</sup>, federal regulations<sup>2</sup>, and New Hampshire school accountability law,<sup>3</sup> school appeals of the preliminary AYP determination are allowable under certain circumstances.

This document contains an *Intent to Appeal* form and the necessary procedural guidance for local officials completing an appeal of a school's 2009 AYP determination. A second document contains all other forms. Both documents are available on the Department's website at [www.ed.state.nh.us/education/AYP](http://www.ed.state.nh.us/education/AYP)

- Select "2009 AYP Results"
- In the "AYP Appeals Materials" section, select both of the following documents:
  - *School Appeals Instructions and Guidance*
  - *School Appeals Forms and Worksheets*

**Appeals must follow all instructions and adhere to all deadlines in the appeals process timetable on Page 3.**

Inquiries regarding the appeals process may be directed to either:

Deborah Wiswell, Administrator  
Bureau of Accountability  
NH Department of Education  
Tel. 271-3828  
[dwiswell@ed.state.nh.us](mailto:dwiswell@ed.state.nh.us)

or

Merry Fortier, Consultant  
Bureau of Accountability  
NH Department of Education  
Tel. 271-7382  
[mfortier@ed.state.nh.us](mailto:mfortier@ed.state.nh.us)

Inquiries regarding the AYP data files may be directed to either:

Deborah Wiswell, Administrator  
Bureau of Accountability  
NH Department of Education  
Tel. 271-3828  
[dwiswell@ed.state.nh.us](mailto:dwiswell@ed.state.nh.us)

or

Tim Kurtz, Assessment Director  
Bureau of Accountability  
NH Department of Education  
Tel. 271-3846  
[tkurtz@ed.state.nh.us](mailto:tkurtz@ed.state.nh.us)

<sup>1</sup> 20 USC 6316 §1116(b)(2) (2001).

<sup>2</sup> 34 C.F.R. §200.31

<sup>3</sup> NH RSA 193-H:3, II (2003).

## Timetable and Deadlines

The appeals submission and review process is extremely time sensitive and must be completed, by statute, within 30 calendar days of the release of 2009 AYP determinations. Please refer to the specific deadlines listed below. As stated, the Commissioner of Education must receive completed appeals, comprised of all completed forms and accompanying documentation, by the close of business **Friday, May 1, 2009**. Note that receipt date differs from a postmark date. Appeals received after the May 1 deadline will not be considered.

<b>Monday</b> <b>4-6-09</b>	NH Department of Education releases 2009 AYP reports to the public and to local school district officials. AYP determinations are preliminary.
<b>Tuesday</b> <b>4-7-09</b>	First day for school principals to submit an appeal to district officials. (Day 1 of the 30-day appeals process).
<b>Friday</b> <b>4-17-09</b>	<i>Intent to Appeal</i> form filing deadline. Last day for school district officials to submit an <i>Intent to Appeal</i> form indicating the area(s) of the AYP report the school intends to appeal.
<b>Friday</b> <b>5-1-09</b> (close of business 4:30 p.m.)	Deadline for Commissioner of Education to receive an <u>original and 3 copies</u> of the completed appeal packet approved and certified by school district officials.
<b>Friday</b> <b>5-8-09</b>	Deadline for Commissioner to notify district officials of decisions regarding submitted appeals. Preliminary AYP determinations and school in need of improvement designations become official.
<b>Friday</b> <b>5-22-09</b> (close of business 4:30 p.m.)	Deadline to submit an appeal of the Commissioner's ruling to the New Hampshire State Board of Education.

### **Appeal Process: School-to-District; District-to-Commissioner**

- If, after a thorough review of the data upon which the AYP report was based, school officials believe the school's AYP determination is in error, then the school principal may file an appeal with local district officials within 15 calendar days from the first business day after the public release of AYP. The appeal must include statistical and/ or substantive evidence of an error.
- An ***"Intent to Appeal"*** notice must be submitted to the NH Department of Education no later than **4:30 PM on Friday, April 17, 2009**. **A blank form is included in this document**. This notifies the Commissioner as to which area(s) of the AYP report the school intends to appeal. While this notice is required, it is also nonbinding. Therefore, district officials reserve the right to either not submit an appeal, or withdraw an appeal after one has been submitted.
- Upon receipt of the school's appeal, district officials review all submitted evidence and approve or deny the appeal. If denied, district officials must provide the school with an explanation of why the appeal was denied.
- For appeals approved by district officials, submit to the NH Department of Education **one original and three photocopies** of the entire AYP appeal packet, including ALL appeal materials and supporting documentation. As stated in the timetable on Page 3, the Commissioner of Education must receive the appeal packet no later than **4:30 p.m., Friday May 1, 2009**.

### **Appeal Process: Commissioner's Review and Decisions**

- NHDOE personnel will review all appeals received by the deadline for completeness and accuracy.
- At the request of the Commissioner of Education, review teams comprised of district and NHDOE personnel review all appeals and present their recommendations to the Commissioner.
- If the Commissioner, upon review of the recommendations made by the review teams and the evidence provided in the appeal, determines that the AYP determination was in error due to allowable statistical or additional substantive reasons, then the Commissioner shall grant the appeal and communicate this decision in writing to the principal and superintendent. The letter will also state the changes, if any, to the school's AYP determination resulting from the successful appeal.
- If the Commissioner determines that the appeal provides insufficient statistical or substantive evidence, then the Commissioner shall deny the appeal and communicate this decision in writing to the principal and superintendent. The preliminary AYP determination remains unchanged and becomes final.

### **Appeal Process: School-to-State Board of Education**

- New Hampshire state statute allows a second appeal process to the State Board of Education. This appeal must be filed within 30 days of the Commissioner's decision to deny an appeal.
- Appeals to the State Board must contain additional or amended information or data not previously contained in the appeal to the Commissioner. The NHDOE will forward to the State Board the school's original appeal materials as well as the Commissioner's decision and rationale for denying the appeal. The school must submit any new or amended information to the NHDOE by the deadline stated on Page 3.
- The school will be notified of a hearing date and present its appeal at a regularly-scheduled meeting of the State Board. The burden of proof that the decision of the Commissioner was in error rests with the school officials. Presentations to the State Board must be limited to the statistical or substantive reasons permitted by the *No Child Left Behind Act* (20 USC 6316 §1116(b)(2)(B) 2001)).

## Allowable Reasons for an Appeal

In accordance with the No Child Left Behind Act, a school appeal challenging the preliminary AYP determination is allowable for statistical reasons (Data Error), substantive reasons (Special Circumstances), or for both statistical and substantive reasons.

### Data Error Appeal

An appeal challenging the data upon which the preliminary AYP determination was based must provide evidence of specific statistical errors or data inaccuracies since the time the data was certified by the Superintendent of Schools on or before February 6, 2009. A data error appeal for student participation or student performance calculations, student demographic information, attendance and/or graduation rates, must describe the data being disputed, the rationale as to how such errors occurred, and then provide the recalculated AYP determination using the revised data.

### Special Circumstances Appeal

Special Circumstances appeals must explain unusual or extraordinary circumstances, such as a major natural disaster, community crisis, or other extraordinary or unforeseen event, that occurred during the time of testing and had a detrimental effect on student performance and/or student participation. The appeal must demonstrate why the student performance and/or student participation results are atypical, and show how, in the absence of such extenuating circumstances, the AYP determination would have been different. Additionally, the appeal must describe the action taken to avoid the occurrence of similar events in the future. If the event was beyond the school's control, the measures taken to reduce the likelihood of such circumstances having a similar impact in the future should be noted.

### **Clarification Regarding AYP Status**

It is important to note that a successful AYP appeal will not necessarily result in a change in a school's AYP "status" for the following school year, as illustrated in the example below:

*Example: The AYP report shows that a school has not made AYP in Reading performance for two student subgroups -- White students and students with Educational Disabilities. All other subgroups made AYP in Reading for performance, and all subgroups made AYP in Reading for participation. The school's preliminary AYP status on the Department's School AYP list therefore shows a "No" for Reading. The school decides to appeal, contending that an error exists in the calculation for the White student subgroup's performance. Upon review of the documentation presented by the school, the Commissioner grants the appeal.*

*As the appeal addressed the performance of only the White students and did not address the performance of students with Educational Disabilities, the school's 2009-2010 AYP status of "did not make AYP in Reading" remains unchanged, even though the appeal was granted.*

## Required Components of the Completed Appeal Packet

A complete appeal packet consists of the following components. Please use the sequence below to organize your materials and label any page with the school and district name where it does not already appear.

- A cover letter on school or district letterhead which indicates the allowable reason for the appeal;
- An AYP Appeals Cover Page;
- A completed "School AYP Appeals Grid" indicating the specific area(s) being appealed;
- A copy of all 3 pages of the 2009 School AYP report;
- A narrative description explaining the basis for the appeal and outlining important facts, logic, or special circumstances;
- A printout of the data from the 2009 AYP Student Participation and/or Student Performance File for each subgroup applicable to the appeal. The printout must include data for the entire subgroup(s), not just the data for individual students your appeal is seeking to revise;
- The completed Worksheets from the *Forms and Worksheets* document that are applicable to the appeal; and
- A revised/recalculated 2009 School AYP report.

**Send the original and 3 copies of the completed appeal packet to:**

Ellie Riel  
Bureau of Accountability  
NH Department of Education  
101 Pleasant Street  
Concord, NH 03301

**DEADLINE FOR RECEIPT:**

**May 1, 2009  
Close of Business 4:30 p.m.**

## Recommended Resources and Reference Materials

The following reference materials are available online at [www.ed.state.nh.us/education/AYP](http://www.ed.state.nh.us/education/AYP) by clicking on “2009 AYP Results”:

- ***Understanding the 2009 AYP and Growth Reports*** (powerpoint)
  - ***Reference Guide to Navigating the 2009 AYP Reports and Files***
  - ***AYP Summary Report Explained*** (detailed explanation of the 3-page report)
  - ***Demographic Data Definitions and Sources***  
(Also known as the 2009 “Blue Sheet” of data sources used for calculating AYP)
  - ***Accountability for Students Placed Out of District*** (policy explained)
  - ***AYP Index Confidence Interval (CI) Look-up Table and Look-up Table Explained***  
(If submitting an appeal for student performance, this table may be needed)
  - ***Preliminary AYP Results and Status for All Schools***
  - ***Preliminary AYP Status for all Schools In Need of Improvement***
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The following AYP student-level data files are available only through the password-protected i4see system:

- [www.ed.state.nh.us/i4see](http://www.ed.state.nh.us/i4see)
  - Choose ESS Workbench
  - Enter User Name and password
  - Choose: “SASID, NECAP, and other i4see Submissions”
  - Choose your district
  - Select: “District Review” and then “General Reports”
- 
- ***April 2009 AYP Performance – Student Level Data File***
  - ***April 2009 AYP Participation – Student Level Data File***

These are district files that will need to be sorted and distributed to schools as needed. They contain all student demographic and performance data except socioeconomic status. If an appeal needs to include socioeconomic data, please see the note below.

**Note:** The U.S. Department of Agriculture restricts access to student-level data for Socio-Economically Disadvantaged students. As the AYP student-level data for this subgroup is a district-level file, and as authorization to access this information is limited by federal law, the Superintendent of Schools must contact the i4see Help Desk by e-mail at [i4seeHelp@ed.state.nh.us](mailto:i4seeHelp@ed.state.nh.us) for instructions on how AYP student-level data for this subgroup may be accessed for the purposes of preparing an AYP appeal.

## Submitting an Appeal for Participation Rate

**Note: In accordance with New Hampshire's approved accountability plan, participation rate is not calculated for subgroups of fewer than 40 students.**

The appeal for Participation Rate must contain sufficient evidence that the data submitted to the NH Department of Education and certified by the Superintendent of Schools on or before February 6, 2009 has now been determined to be in error:

### Step 1

The data source for the appeal is an Excel file named "*April 2009 AYP Participation – Student Level Data File.*" Data from this file must be used as the basis for demonstrating and explaining the error(s) and identifying which students should or should not be included in the Participation calculation. The file is accessible by logging into the password-protected i4see system:

[www.ed.state.nh.us/i4see](http://www.ed.state.nh.us/i4see)

- o Choose ESS Workbench
- o Enter User Name and password
- o Choose: "SASID, NECAP, and other i4see Submissions"
- o Choose your district
- o Select: "District Review" and then "General Reports"

### Step 2

From the data file, select the school, content area and subgroup(s) applicable to your appeal. For each student with a data error, insert a row below the incorrect data, place an asterisk in Column A and retype the SASID to ensure the reviewers are examining data for the correct student.

Next, use the "Hide Column" feature in Excel to remove any student names so that the printed copy of the student level data file accompanying your appeal does not reveal the students' identities. **Print out and submit the data for the entire subgroup(s) being appealed, so that the total number of students in the subgroup may be determined.**

### Step 3

Complete the applicable (Grade 3-8 or High School) *Participation Rate Worksheet* located in the AYP Appeals Forms Packet to calculate a new participation rate based on the data from Step 2.

For the calculations:

A = Number of students who participated in testing

B = Number of students who should have been tested and are coded as D/S (District/School) in the *April 2009 AYP Student Participation File*

- Divide A by B
- Multiply the answer by 100 to change the ratio to a percent
- Round to the nearest 1 percent
- The standard is met if the new participation rate is 95 percent or higher

## Submitting an Appeal for Student Performance

**Note: In accordance with New Hampshire's approved accountability plan, performance is not calculated for subgroups of fewer than 11 students.**

### Step 1

The data source for the appeal is an Excel file named "*April 2009 AYP Performance – Student Level Data File.*" Data from this file must be used as the basis for demonstrating and explaining the error(s) and identifying which students should or should not be included in the Performance calculation. The file is accessible by logging into the password-protected i4see system:

[www.ed.state.nh.us/i4see](http://www.ed.state.nh.us/i4see)

- Choose ESS Workbench
- Enter User Name and password
- Choose: "SASID, NECAP, and other i4see Submissions"
- Choose your district
- Select: "District Review" and then "General Reports"

### Step 2

From the data file, select the school, content area and subgroup(s) applicable to your appeal. For each student with a data error, insert a row below the incorrect data, place an asterisk in Column A and retype the SASID to ensure the reviewers are examining data for the correct student.

Next, use the "Hide Column" feature in Excel to remove any student names so that the printed copy of the student level data file accompanying your appeal does not reveal the students' identities. **Print out and submit the data for the entire subgroup(s) being appealed, so that the total number of students in the subgroup may be determined.**

Step 3 (blank pages of the AYP Report are located in the AYP Appeals Forms document)

Recalculate the *School Index Report* (Page 3 of the AYP Report).

- Use the blank form and tally the number of students in each subgroup
- combine all grades together (not applicable for high schools)
- calculate the Index using the formula at the bottom of the Index Report page

### Step 4

Complete the School Data Report (Page 2 of the AYP Report). Record the results from the above Index calculations on a blank *School AYP Data Report* form.

### Step 5

Complete the applicable (Grade 3-8 or High School) *Performance Worksheet* located in the AYP Appeals Forms document:

- Use the results from Steps 3 and 4 to determine if the recalculated Index score meets or exceeds the Annual Measurable Objective (AMO) target listed in the upper right-hand corner of the *Performance Worksheet*.
- If the score does not meet the AMO requirement, the next step is to check the Confidence Interval Lookup Table to see if the minimum index score has been met for that number of students.
- If the score does not meet the Confidence Interval target, calculate Safe Harbor. To meet Safe Harbor, all three conditions described on the *Performance Worksheet* must be met.

## Submitting an Appeal for the “Other” Indicator

### **Attendance Rate (Schools with Grades 3-8)**

Complete an *Attendance Rate Worksheet* located in the AYP Appeals Forms document.

1. Provide the following information from the grades 1-8 that were in your school for the school year 2007-08:
  - number of students
  - total number of  $\frac{1}{2}$  days of attendance
  - total number of  $\frac{1}{2}$  days of enrollment (attendance + absences)
2. Calculate the attendance rate (AR) (rounded to the nearest 0.1%).  
Attendance Rate % =  $\frac{\text{Sum of } \frac{1}{2} \text{ days of attendance}}{\text{Sum of } \frac{1}{2} \text{ days of enrollment}} \times 100$
3. Compare the calculation to the 90% attendance rate requirement.

If  $AR_{2007-2008} \geq 90\%$ , then the standard is met for 2009 AYP Report.

If  $AR_{2007-2008} > AR_{2006-2007}$ , then the standard is met for 2009 AYP Report.

### **Graduation Rate (High Schools)**

To appeal the graduation rate, submit a copy of the 2006-07 and 2007-08 Dropout reporting form produced by the NHDOE Bureau of Data Management, together with a narrative explaining any changes and supporting documentation of those changes.



### School Appeal of the “Other” Indicator

If appealing the “other” indicator, place an “X” in the appropriate non-shaded box below and also enter one of the following codes in the corresponding shaded box to identify the basis upon which the school is considering an appeal.

APPEAL BASIS CODES

DE=Data Error (*statistica*) SC=Special Circumstances (*substantive*) BOTH = Both Reasons

Complete this chart if considering an appeal for the “other” indicator	Attendance Rate Target (90%) Elem/MS		Graduation Rate (75% Target) HS	
	Did not make AYP	Appeal Basis Code	Did not make AYP	Appeal Basis Code

### School Information (please provide all information)

School Intending to Appeal: \_\_\_\_\_

District and SAU: \_\_\_\_\_

School Principal: \_\_\_\_\_

Contact Person and Title (if different from Principal): \_\_\_\_\_

Phone/Fax: \_\_\_\_\_

Email Address: \_\_\_\_\_

### School and District Official Signatures

_____ <b>Signature and Date School Principal</b>	_____ <b>Signature and Date Superintendent of Schools</b>
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**Complete both pages of this form and fax no later than 4:30 p.m. April 17, 2009 to:**

Ellie Riel  
 Bureau of Accountability  
 NH Department of Education

**FAX: 603-271-7381**