

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305, 4402 and 4403.

1. Paragraphs (6), (7), and (8) of subdivision (zz) of section 200.1 of the Regulations of the Commissioner of Education are amended, effective March 30, 2011, as follows:

(6) Learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, as determined in accordance with section 200.4(j) of this Part. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing or motor disabilities, of [mental retardation] an intellectual disability, of emotional disturbance, or of environmental, cultural or economic disadvantage.

(7) [Mental retardation] Intellectual disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

(8) Multiple disabilities means concomitant impairments (such as [mental retardation] intellectual disability-blindness, [mental retardation] intellectual disability-orthopedic impairment, etc.), the combination of which cause such severe educational needs that they cannot be accommodated in a special education program solely for one of the impairments. The term does not include deaf-blindness.

2. Clause (b) of subparagraph (ii) of paragraph (2) of subdivision (i) of section 200.4 of the Regulations of the Commissioner of Education is amended, effective March 30, 2011, as follows:

(b) the committee on special education or multidisciplinary team, upon receipt of consent, shall forward the student's name and other relevant information in a report to the Commissioner of Mental Health, Commissioner of [Mental Retardation and Developmental Disabilities] the Office for People With Developmental Disabilities, Commissioner of Social Services or Commissioner of Education or their designees. The committee on special education or multidisciplinary team shall determine which commissioner shall receive the report; and

3. Paragraph (4) of subdivision (i) of section 200.4 of the Regulations of the Commissioner of Education is amended, effective March 30, 2011, as follows:

(4) The committee on special education or the multidisciplinary team shall forward additional and updated relevant information to the Commissioner of Mental Health, Commissioner of [Mental Retardation and Developmental Disabilities] the Office for People With Developmental Disabilities, Commissioner of the Office of Children and Family Services or Commissioner of Education, or their designees, upon the request for such information by such commissioner or designee, and upon obtaining appropriate consent.

4. Subparagraph (ii) of paragraph (3) of subdivision (j) of section 200.4 of the Regulations of the Commissioner of Education is amended, effective March 30, 2011, as follows:

(ii) The CSE determines that its findings under this paragraph are not primarily the result of a visual, hearing, or motor disability; [mental retardation] an intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency.

5. Clause (f) of subparagraph (i) of paragraph (5) of subdivision (j) of section 200.4 of the Regulations of the Commissioner of Education is amended, effective March 30, 2011, as follows:

(f) the determination of the CSE concerning the effects of a visual, hearing, or motor disability; [mental retardation] an intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the student's achievement level; and