AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 210, 215, 305, 309 and 3713

1. Section 100.18 of the Regulations of the Commissioner of Education is added, effective November 28, 2012, as follows:

§100.18 ESEA accountability system.

(a) Applicability. Notwithstanding the provisions of paragraphs (1) through (11) and paragraphs (14) through (16) of subdivision (p) of section 100.2 of this Part, this section shall apply to school districts and charter schools in lieu of such provisions during the period of the Elementary and Secondary Education Act (ESEA) waiver, and any revisions and extensions thereof, except as otherwise provided in this section. If a provision of subdivision 100.2(p) conflicts with this section, the provisions of this section shall prevail and the provision of subdivision 100.2(p) shall not apply.

(b) Definitions. As used in this section:

(1) ESEA means the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. section 6301 et seq.

(2) Elementary and Secondary Education Act (ESEA) waiver shall mean waivers from specified provisions of the Elementary and Secondary Education Act of 1965, as amended, that have been granted for a specified time period to New York State on May 29, 2012 by the Secretary of the U.S. Department of Education pursuant to section 9401 of the ESEA for purposes of ESEA flexibility, and any revisions to and/or extensions of such waivers.

(3) Title I means Title I, part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. sections 6301-6327.

(4) Accountability groups shall mean, for each public school, school district and charter school, those groups of students for each grade level or annual high school cohort, as described in paragraph (j)(2) of this section comprised of: all students; students from major racial and ethnic groups, as set forth in subparagraph (bb)(2)(v) of this section; students with disabilities, as defined in section 200.1 of this Title, including,

beginning with the 2009-2010 school year, students no longer identified as students with disabilities but who had been so identified during the preceding one or two school years; students with limited English proficiency, as defined in Part 154 of this Title, including, beginning with the 2006-2007 school year, a student previously identified as a limited English proficient student during the preceding one or two school years; and economically disadvantaged students, as identified pursuant to section 1113(a)(5) of the NCLB, 20 U.S.C. section 6316(a)(5) (Public Law, section 107-110, section 1113[a][5], 115 STAT. 1469; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234). The school district accountability groups for each grade level will include all students enrolled in a public school in the district or placed out of the district for educational services by the district committee on special education or a district official.

(5) School district shall mean a common, union free, central, central high school or city school district, provided that, in the case of the city school district of the City of New York, such term shall mean a community school district or New York City superintendency to the extent that such entity is the local educational agency for purposes of Title I.

(6) Special act school district shall mean a school district as defined in subdivision 8 of section 4001 of the Education Law.

(7) Board of education shall mean the trustees or board of education of a school district; provided that in the case of the city school district of the City of New York, such term shall mean the chancellor of the city school district acting in lieu of the board of education of such city school district to the extent authorized by article 52-A of the Education Law and, with respect community school districts and New York City superintendencies, such term shall mean the community superintendent or other

superintendent of schools acting in lieu of the board of education to the extent authorized by article 52-A of the Education Law.

(8) Alternate assessment means a State alternate assessment recommended by the committee on special education, for use by students with disabilities as defined in section 100.1(t)(2)(iv) of this Part in lieu of a required State assessment.

(9) Continuously enrolled means, for grades 3-8, students whose latest date of enrollment occurred after the date prescribed by the commissioner on which BEDS forms are required to be completed and, for grades 9-12, students in the high school cohort, as defined in paragraph (j)(2) of this section.

(10) Significant medical emergency means an excused absence from school during both the regular and makeup examination period for which a district has documentation from a medical practitioner that a student is so incapacitated as to be unable to participate in the State assessment given during that examination period.

(11) For elementary and middle-level students, participation rate means the percentage of students enrolled on all days of test administration who did not have a significant medical emergency who received valid scores on the State assessments for elementary and middle-level grades, as set forth in paragraph (14) of this subdivision. Beginning with the 2006-2007 school year, a limited English proficient student enrolled in school in the United States (excluding Puerto Rico) for less than one year as of a date determined by the commissioner and who received a valid score on the NYSESLAT may be counted as participating in an elementary or middle level English language arts assessment.

(12) For high school students, participation rate means the percentage of designated students in at least their fourth year of high school, as designated by the

commissioner, who received a valid score on the required assessments for high schools, as set forth in paragraph (14) of this subdivision.

(13) Performance criteria shall mean the performance criteria set forth in subdivision (j) of this section.

(14) Performance levels shall mean:

(i) for elementary and middle grades:

(a) Level 1 (Below Standards)

(1) not on track to be proficient: a score of level 1 on State assessments in English language arts and mathematics provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile does not meet or exceed his or her growth percentile target; or the student does not have a growth percentile target; or a score of level 1 on a State alternate assessment.

(2) on track to be proficient: a score of level 1 on State assessments in English language arts and mathematics, provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile meets or exceeds his or her growth percentile target;

(3) for science: a score of level 1 on State assessments in science or other State assessments, or a score of level 1 on a State alternate assessment;

(b) Level 2 (Meets Basic Standards)

(1) not on track to be proficient: a score of level 2 on State assessments in English language arts and mathematics provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile does not meet or exceed his or her growth percentile target; or the student does not have a growth percentile target; or a score of level 2 on a State alternate assessment;

(2) on track to be proficient: a score of level 2 on State assessments in English language arts and mathematics, provided that using the student's three-year percentile growth targets as established by the commissioner, the student's growth percentile meets or exceeds his or her growth percentile target;

(3) for science: a score of level 2 on State assessments in science or other State assessments, or a score of level 2 on a State alternate assessment;

(c) Level 3 (Meets Proficiency Standards)

(1) a score of level 3 on State assessments in English language arts, mathematics and science or a score of level 3 on a State alternate assessment;

(2) a score of 65 or higher on a Regents Examination in science for students in grade eight pursuant to subdivision 100.4(d) of this Part;

(d) Level 4 (Exceeds Standards): a score of level 4 on State assessments in English language arts, mathematics and science or a score of level 4 on a State alternate assessment;

(ii) for high school:

(a) Level 1 (Below Standards)

(1) a score of 64 or less on the Regents Comprehensive Examination in English or a Regents mathematics examination;

(2) a failing score on a State-approved alternative examination for those Regents examinations.

(3) a score of level 1 on a State alternate assessment;

(4) a cohort member who has not been tested on the Regents Comprehensive Examination in English or a Regents mathematics examination or State-approved alternative examination for these Regents examinations;

(b) Level 2 (Meets Basic Standards)

(1) a score between 65 and 74 on the Regents Comprehensive Examination in English or between 65 and 79 on a Regents examination in mathematics.

(2) a score of level 2 on a State alternate assessment;

(c) Level 3 (Meets Proficiency Standards)

(1) a score between 75 and 89 on the Regents Comprehensive Examination in English or between 80 and 89 on a Regents examination in mathematics; or passes a State-approved alternative to those Regents examinations;

(2) a score of level 3 on a State alternate assessment;

(d) Level 4 (Exceeds Standards)

(1) a score of 90 or higher on the Regents Comprehensive Examination in English or a Regents mathematics examination;

(2) a score of level 4 on a State alternate assessment;

(14) Performance index shall be calculated based on the student performance levels as follows:

(i) For elementary and middle grades, each student scoring at level 1 who is not on track to be proficient will be credited with 0 points, each student scoring at level 2 who is not on track to be proficient with 100 points, and each student scoring at level 1 or 2 who is on track to be proficient or at level 3 or 4 with 200 points. The performance index for each accountability group will be calculated by summing the points and dividing by the number of students in the group.

(ii) For high school, each student scoring at level 1 will be credited with 0 points, each student scoring at level 2 with 100 points, and each student scoring at level 3 or 4 with 200 points. The performance index for each accountability group will be calculated by summing the points and dividing by the number of students in the group.

(15) Student growth means the change in student achievement for an individual student between two or more points in time.

(16) Student growth percentile means the result of a statistical model that calculates each student's change in achievement between two or more points in time on

a State assessment and compares each student's performance to that of similarly achieving students.

(17) Median student growth percentile means the result of rank-ordering the student growth percentile results for an accountability group at the school, district, or state level.

(18) The student growth percentile target means the rate of annual growth necessary in English language arts and mathematics for a student to meet proficiency standards in three years, or by 8th grade, whichever is earlier.

(19) A transfer high school means a high school in which the majority of students upon their first enrollment in the high school had previously attended grade nine or higher in another high school or a school in which more than 50 percent of currently enrolled students are English language learners who were born outside of the United States and have attended school in the United States for less than three years.

(20) School Improvement Grant means a grant awarded by the U.S. Department of Education to the New York State Education Department, as a State Education Agency (SEA), pursuant to section 1003(g) of the Elementary and Secondary Education Act of 1965, as amended, and awarded by the Department to a local education agency (LEA) as a subgrant.

(21) A whole school reform model means the turnaround model, restart model, transformation model or closure model as set forth in subparagraph 100.2(p)(10)(iv) of this Part; or a three year plan that provides for the redesign of a school by implementation of all of the following turnaround elements:

(i) Providing strong leadership by:

(a) reviewing the performance of the current principal;

(b) either replacing the principal if such a change is necessary to ensure strong and effective leadership, or demonstrating to the commissioner that the current principal

has a track record in improving achievement and has the ability to lead the turnaround effort; and

(c) providing the principal with operational flexibility in the areas of scheduling, staff, curricula, and budget.

(ii) Ensuring that teachers are able to improve instruction by:

(a) reviewing the quality of all staff and retaining only those who have the ability to be successful in the turnaround effort;

(b) preventing ineffective teachers from transferring to these schools; and

(c) providing job-embedded, ongoing professional development informed by the teacher evaluation and support systems and tied to teacher and student needs.

(iii) Redesigning the school day, week, or year to include additional time for student learning and teacher collaboration, provided that such redesigning shall be consistent with any applicable collective bargaining agreement.

(iv) Strengthening the school's instructional program based on student needs and ensuring that the instructional program is research-based, rigorous, and aligned with Common Core Learning Standards.

(v) Using data to inform instruction and for continual improvement, including the provision of time for collaboration on the use of data.

(vi) Establishing a school environment that improves school safety and discipline and addressing other non-academic factors that have an impact on student achievement, such as students' social, emotional, and health needs.

(vii) Providing ongoing mechanisms for family and community engagement.

(22) Integrated Intervention Team means a School Quality Review Team or Joint Intervention Team appointed by the commissioner, that may include a distinguished educator appointed by the commissioner, to conduct a diagnostic review of a Priority or Focus School or Focus District or a School Under Registration Review.

(c) Procedure for registration of public schools.

(1) A school district that seeks to register a public elementary, intermediate, middle, junior high school or high school shall submit a petition for registration to the Board of Regents, in a form prescribed by the commissioner and containing such information as the commissioner may require, no later than March 1st for schools opening in September of the next successive school year or, for those schools opening during a current school year, at least 90 days prior to the opening of such school, except that the commissioner may waive this timeline for good cause.

(2) The commissioner shall review the petition and shall recommend its approval to the Board of Regents if it is satisfactorily demonstrated that the school district has provided an assurance that the school will be operated in an educationally sound manner; is in compliance with applicable statutes, rules and regulations relating to public schools; and will operate in accordance with applicable building codes and pursuant to a certificate of occupancy. No new public school will be recommended for registration by the commissioner if, in the commissioner's judgment, the establishment of such school would conflict with an approved plan for school district reorganization, except where it can be established to the satisfaction of the commissioner that such school is essential to the educational welfare of the students.

(3) Where a school registered pursuant to this paragraph is in a Focus District, the commissioner shall determine the accountability status of the newly registered school based upon his review of the proposed educational program, including but not limited to such factors as: school mission, school administration and staff, grade configurations and groupings of students, zoning patterns, curricula and instruction and facilities.

(4) In the event that a school district merges two or more schools or transfers organizational responsibility for one or more grades from one school to another, the school district shall inform the commissioner, in a form prescribed by the commissioner and containing such information as the commissioner may require, no later than March

1st for schools opening in September of the next successive school year or, for those schools opening during a current school year, at least 90 days prior to the opening of such school, except that the commissioner may waive this timeline for good cause. As a result of such changes, the commissioner may adjust the accountability status of the affected schools to reflect such organizational changes.

(d) All registrations approved by the Board of Regents pursuant to this subdivision shall continue in effect unless revoked by the Board of Regents upon recommendation of the commissioner after review of the registration, or the school district closes the school. In the event that a school district closes a registered school, the school district shall inform the commissioner, in a form prescribed by the commissioner and containing such information as the commissioner may require, no later than March 1st for schools that will not enroll students in September of the next successive school year, except that the commissioner may waive this timeline for good cause.

(e) System of accountability for student success. Each year, commencing with the 2011-2012 school year test administration results, the commissioner shall review the performance of all public schools, charter schools and school districts in the State. For each performance criterion specified in subdivision (j) of this section, the commissioner shall determine whether each accountability group within a public school, charter school and school district has achieved adequate yearly progress as set forth in subdivision (f) of this section.

(f) Adequate yearly progress.

(1) An accountability group within a public school, charter school or school district shall be deemed to have made adequate yearly progress if the accountability group achieved the performance criterion set forth in subdivision (j) of this section.

(2) For an accountability group within public schools, charter schools or school districts with fewer than 30 students subject to a performance criterion set forth in

subdivision (j) of this section, the commissioner shall use the weighted average of the current and prior school year's performance data for that criterion in order to make a determination of adequate yearly progress. No accountability group within a public school, charter school or school district will be held accountable if it consists of fewer than 30 students as long as the "all students" accountability group includes at least 30 students for that school year.

(3) For purposes of determining adequate yearly progress, only the performance of continuously enrolled students in grades 3-8 shall be included for consideration.

(4) An accountability group shall be deemed to have made adequate yearly progress on a performance criterion specified in paragraph (1) of subdivision (j) of this section if:

(i) the superintendent of the school district or the principal of the charter school has submitted the required student data files to the commissioner pursuant to paragraph (bb)(2) of section 100.2 of this Part or section 119.3(b) of this Title in the timeframe and format specified by the commissioner; and

(ii) for accountability groups consisting of 40 or more students, either:

(a) the participation rate for the current year equals or exceeds 95 percent; or

(b) the weighted average of the current year and prior year participation rates equals or exceeds 95 percent;

(iii) for accountability groups consisting of 30 or more students:

(a) the accountability group met or exceeded, or did not differ significantly as determined by the commissioner, from the annual measurable objective for that criterion; or

(b) the accountability group met or exceeded, or did not differ significantly as determined by the commissioner, from an annual performance target established by the commissioner.

(5) An accountability group within a public school, charter school or school district shall be deemed to have made adequate yearly progress on a performance criterion specified in paragraphs (2) and (3) of subdivision (j) of this section if:

(i) the superintendent of the school district or the principal of the charter school has submitted the required student data files to the commissioner pursuant to paragraph (bb)(2) of section 100.2 of this Part or section 119.3(b) of this Title in the timeframe and format specified by the commissioner; and

(ii) for elementary and middle levels, 80 percent of students enrolled on all days of the science test administration, who did not have a significant medical emergency, received valid scores; and

(iii) the accountability group within the school or school district, or charter school at the applicable grade levels met or exceeded the performance criteria; or

(iv) the high school cohort met or exceeded the performance criteria.

(6) For each school year, public schools, school districts, and charter schools in which no students or, pursuant to paragraph (f)(2) of this section fewer than 30 students, participate in the State assessments for English language arts or mathematics, or in which the majority of students are not continuously enrolled, shall conduct a self-assessment of their academic program and the school learning environment, in such format and using such criteria as may be prescribed by the commissioner. Such self-assessment shall not be required of those schools and school districts for which the commissioner shall conduct a review of the performance of the school or school district in accordance with paragraph (7) of this subdivision. The superintendent of the school district or principal of the charter school shall review the self-assessment(s) and make a recommendation to the commissioner, in such format and according to such timeframe as the commissioner may prescribe, as to whether the accountability group within the school or school district has made adequate yearly progress. The commissioner shall consider the self-assessment, board

recommendation and any other relevant information in determining whether the accountability group within the school or school district made adequate yearly progress.

(7) The accountability status of public schools, school districts, and charter schools serving grades 1 and/or 2, but not grade 3 or higher, (hereafter referred to as "feeder schools") will be determined using backmapping. In school districts with such feeder schools and in school districts that accept grade 3 students from feeder schools by contract, the grade 3 State assessment results for each feeder school student will be attributed to the feeder school as well as to the school or charter school in which the student took the assessment. The student's results will be attributed to a feeder school only if the student was continuously enrolled in the feeder school from the date prescribed by the commissioner on which the BEDS forms are required to be completed until the end of the school year in the highest grade served by the feeder school. In a district, if all schools serving grade 3 make adequate yearly progress for the accountability groups, in a given year, all feeder schools served by the school district will be deemed to have made adequate yearly progress. If one or more schools enrolling students from a feeder school fail to make adequate yearly progress for one or more accountability groups on a performance criterion set forth in subdivision (j) of this section, the commissioner will aggregate the school district's grade 3 results on that criterion by feeder school and determine whether each feeder school made adequate yearly progress on that criterion.

(8) A registered school that has no continuously enrolled students because all students are students with disabilities who attend the school and who have been placed outside of their district of residence (in New York City, outside of their community school district of residence) for educational services by the district committee on special education or a school district official shall participate in a self-assessment based on the students who are enrolled in the school.

(g) Differentiated accountability for schools and districts. Prior to the commencement of the 2012-2013 school year, the commissioner, based on the 2010-2011 school year results, shall designate Focus Districts, Priority Schools and Focus Charter Schools. Prior to the commencement of the 2013-2014 school year, based on the 2011-2012 school year results, and each year thereafter based on the subsequent school year results, the commissioner shall designate public schools requiring a Local Assistance Plan.

(1) Preliminary Identification of Priority Schools

(i) The commissioner shall preliminarily designate a school as Priority if:

(a) the school implemented a Transformation, Turnaround or Restart Model in the 2011-2012 school year pursuant to a School Improvement Grant pursuant to clause 100.2(p)(10)(iv)(a) of this Part; or

(b) the school is a high school that has a four year cohort graduation rate for the "all students" group that is less than 60 percent for the 2004, 2005 and 2006 high school graduation cohorts; or

(c) the school is an elementary or middle school that:

(1) had a combined Performance Index of 111 or below in English language arts and mathematics for the all students group in 2010-2011; and

(2) made a ten point gain or less in its 2010-2011 combined Performance Index for the all students group compared to its 2009-2010 combined Performance Index; and

(3) was identified as in improvement, corrective action, or restructuring during the 2011-2012 school year; and

(4) had a combined median student growth percentile in English language arts and math for the 2009-2010 and 2010-2011 school years combined for the all students group of 50 percent or below; and

(5) had less than 50 percent of the accountability groups in the school have 2010-2011 median student growth percentiles that exceeded the statewide median student growth percentile for that accountability group; or

(d) the school is a high school that:

(1) had a combined Performance Index of 106 or below in English language arts and mathematics for the all students group; and

(2) was identified as in improvement, corrective action, or restructuring during 2011-2012 school year; and

(3) made a four point gain or less in its 2010-2011 combined English language arts and mathematics Performance Index for the all students group compared to its 2009-2010 Performance Index.

(ii) The commissioner shall not preliminarily identify a school in a special act school district as a Priority School unless the school meets the conditions specified in this subdivision and also has been identified by the commissioner as a school under registration review because of a poor learning environment, pursuant to paragraph (3) of subdivision (k) of this section.

(2) Preliminary Identification of Focus Districts and Schools.

(i) The commissioner will preliminarily designate a district or a charter school as Focus using the following methodology:

(a) Preliminary identification as Focus District or Focus Charter School based on combined English language arts and mathematics Performance Index:

(1) For each district and charter school, the combined 2010-11 Performance Index (PI) of ELA and Math for the elementary-middle and secondary levels for each accountability group, except the all students group, is determined.

(2) For each accountability group, except the all students group, the combined 2009-10 and 2010-11 ELA and Math median student growth percentile is determined. If the accountability group's median student growth percentile is above the combined

2009-10 and 2010-11 statewide average for that accountability group then the Performance Index of the accountability group is removed from those for which the school district or charter school can be identified as a Focus District or Focus Charter School.

(3) If an accountability group's 2006 four year graduation cohort rate exceeds the statewide average for the accountability group, then the Performance Index of the accountability group is removed from those for which the school district or charter school can be identified as a Focus District or Focus Charter School.

(4) If a remaining accountability group is among the lowest five percent in the State for combined ELA and math Performance Index for the 2010-2011 school year, as determined by the commissioner, the district or charter school will be preliminarily identified as a Focus District or Focus Charter School.

(b) Preliminary identification of Focus District or Focus Charter School based on Graduation Rate.

(1) For each school district and charter school, the 2006 four year graduation cohort rate for each accountability group, except the all students group, is determined. Each such accountability group for which the graduation rate exceeds the statewide rate for that accountability group is removed from consideration as an accountability group for graduation rate for which the school district or charter school can be identified as a Focus District or Focus Charter School.

(2) For each remaining accountability group for which the 2005 five year graduation cohort rate is above the state average for that accountability group, the accountability group is removed from consideration as an accountability group for graduation rate for which the school district or charter school can be identified as a Focus District or Focus Charter School.

(3) For each remaining accountability group, if the accountability group's 2006 four year graduation cohort rate exceeds the 2004 four year graduation cohort rate by at

least ten percent, then the accountability group is removed from consideration as an accountability group for graduation rate for which the school district or charter school can be identified as a Focus District or Focus Charter School.

(4) If any of the remaining accountability groups are among the lowest five percent in the State for graduation rate, as determined by the commissioner, the school district or charter school will be preliminarily identified as a Focus District or Focus Charter School.

(ii) The commissioner shall not preliminarily identify a special act school district as a Focus District unless at least one school in the school district has been preliminarily identified as a Priority School.

(iii) A school district in which a school has been preliminarily identified as a Priority School shall be preliminarily identified as a Focus District.

(3) Notification of Preliminary Identification of a Priority School, Focus District or Focus Charter School

(i) For each preliminarily identified Priority School, Focus District or Focus Charter School, the school district or charter school shall be given the opportunity to present to the commissioner additional data and relevant information concerning extenuating or extraordinary circumstances faced by the school district or school that should be cause for the commissioner to not identify a district as a Focus District, a public school as a Priority School, or a charter school as a Priority or Focus School. The commissioner shall remove from preliminary Priority School identification any school identified pursuant to subclauses (1)(i)(b) of this subdivision where the school district or charter school provides evidence that the school's 2007 four year graduation cohort rate for the "all students" group equals or exceeds 60 percent.

(ii) Charter schools and school districts will be informed of the preliminary status of the school district and schools, and will be provided the opportunity to appeal such

preliminarily identification, in a format and according to such time line as prescribed by the commissioner.

(iii) If a charter school or school district appeals the designation of a transfer high school as a Priority School, the commissioner shall give careful consideration to the mission of the school, student performance, and the school's ability to effectively serve its students in a turnaround environment. The commissioner will take into account student performance factors including the age and number of credits that members of the cohort have upon admission to the school and the success of the school in graduating students up to the age of 21.

(4) Determination of Priority School, Focus District or Focus Charter School Status. The commissioner shall review the additional information provided by the school district or charter school and make a determination regarding the designation of the school as a Priority School or the school district as a Focus District or the charter school as a Focus Charter School and provide notice to the school district or charter school of the determination.

(5) Identification of Focus Schools.

(i) Upon identification as a Focus District, the commissioner will require the school district to identify a specified minimum number of schools upon which it will focus its support and intervention efforts.

(ii) If the school district has been identified as a Focus District solely because it has one or more Priority Schools in the school district, then the commissioner will provide the school district with the list of schools that are identified as Focus Schools, which shall consist of those schools whose ELA and math combined Performance Index for 2010-2011 school year or whose graduation rate for the 2006 graduation rate cohort for an accountability group is at or below cut points established by the commissioner and which are not making progress for that accountability group as determined by the commissioner. The district may petition the commissioner, using such format as the

commissioner may prescribe, to substitute for good cause one or more schools on the list with school(s) selected by the district.

(iii) If a school district has been identified as a Focus District pursuant to subparagraph (f)(2)(i) of this section, then all of the schools within the school district shall be preliminarily identified as Focus Schools. The commissioner shall assign the school district a minimum number of schools, as provided in subparagraph (viii) of this paragraph, that must be designated as Focus Schools based upon the number of non-proficient student results in English language arts and math on 2010-2011 school year assessments and non-graduation results for the 2006 graduation rate cohort for the accountability groups for which the school district has been identified as a proportion of the number of non-proficient results and non-graduate results for all Focus Districts in the State.

(iv) If a school has fewer than a total of 15 non-proficient student results in the accountability group(s) for which it could be potentially identified, then the school will not be identified for non-proficient student results. If the school has fewer than 15 non-graduation results in the accountability group(s) for which it could be potentially identified, then the school will not be identified for non-graduation results.

(v) If a school has more than 60 percent of its students meeting or exceeding the proficiency standard in ELA and math for all accountability group(s) for which the school could be identified, then the school will not be identified for non-proficient student results. If the school has a graduation rate of 60 percent or more for all accountability group(s) for which the school could be identified, then the school will not be identified for non-graduation results.

(vi) A Priority School shall not be identified as a Focus School.

(vii) The commissioner will provide each Focus District identified pursuant to paragraph (4) of this subdivision with two rank-ordered list of schools as follows:

(a) A list rank-ordered based on the percentage of non-proficient and/or non-graduation results for each accountability performance criterion for each accountability group for which the school district has been identified as a Focus District.

(b) A list rank-ordered based on the number of non-proficient and/or non-graduation results for each accountability performance criterion for each accountability group for which the school district has been identified as a Focus District.

(viii) The minimum number of schools that a Focus District must identify as Focus Schools shall not exceed 85 percent of the elementary and middle schools and 85 percent of the high schools in the school district that have not been identified as Priority Schools. In the event that all schools in the school district meet the conditions specified in subparagraphs (iv), (v) or (vi) of this paragraph, then the school district shall not receive rank-ordered lists but will be required to identify at a minimum any one school in the school district as a Focus School.

(ix) A Focus District may choose to:

(a) provide support to all of its schools to address the performance of accountability group(s) on the accountability measure(s) that caused the school district to be identified; or

(b) identify a subset of schools as Focus Schools from the rank-order lists provided by the commissioner based on:

(1) the number of students in a school who are not proficient in ELA or mathematics or non-graduates in the accountability groups for which the school district was identified;

(2) the percent of students who are not proficient in ELA or mathematics or non-graduates in the accountability groups for which the school district was identified.

(c) The school district must use the selected rank-ordered list to identify at least the minimum, required number of Focus Schools.

(d) The Focus District may petition the commissioner, using such format as he may prescribe, to substitute for good cause one or more lower ranked schools on the list selected by the school district for higher ranked schools. In the case of the city school district of the City of New York, if the chancellor identifies more than the minimum number of schools in a community school district, the Chancellor may request that such additional schools be credited towards meeting the minimum number of school requirement in other community school districts within the same county.

(e) A Focus District shall provide the commissioner with its proposed list of Focus Schools according to such timeline as prescribed by the commissioner. The commissioner shall review and approve the proposed list and provide notification to the school district of which schools have been designated as Focus Schools.

(f) Prior to the start of each school year, the commissioner shall provide each Focus District with the opportunity to revise its approved list of Focus Schools.

(x) Before placing a transfer high school on the rank-ordered lists of potential Focus Schools, the commissioner shall review the performance of the school on a case-by-case basis, giving careful consideration to the mission of a particular school, student performance, and the school's ability to effectively serve its students in a turnaround environment. The commissioner will take into account the graduation cohort data, the age and number of credits that members of the cohort have upon admission to the school; and the success of the school in graduating students up to the age of 21.

(6) School Requiring a Local Assistance Plan

(i) Beginning with the 2011-2012 school year results and annually thereafter, a school that has not been designated as a Priority or Focus School shall be designated as a Local Assistance Plan school if the school:

(a) Failed to make adequate yearly progress (AYP) for an accountability group for three consecutive years on the same performance criterion in subdivision (j) of this section; or

(b) has gaps in achievement on a performance criterion in subdivision (j) of this section and the school has not shown sufficient progress toward reducing or closing those gaps, as determined by the commissioner, between students who are members and students who are not members of that accountability group; or

(c) the school is located in a district that is not designated as Focus and the school meets the criteria for identification as a Focus School pursuant to subparagraph (g)(5)(ii) of this section.

(ii) For transfer high schools for which a district has submitted alternative high school cohort data, the commissioner shall review such data to determine whether the school shall be designated as requiring a Local Assistance Plan.

(iii) Districts will be informed of the preliminary status of its schools and will be provided the opportunity to appeal the identification of any preliminarily identified school.

(7) Public Notification of Identification as a Priority or Focus School

(i) Upon receipt of an accountability designation of Priority or Focus, the board of education (in New York City, the chancellor or chancellor's designee) or charter school board of trustees shall take appropriate action to notify the general public of the issuance of such designation. Such action shall include, but need not be limited to, direct notification, within 30 days of receipt of the commissioner's designation, in English and translated, when appropriate, into the recipient's native language or mode of communication, to persons in parental relation of children attending the school that it has been designated as Priority or Focus, and disclosure by the school district at the next public meeting of the local board of education or by the charter school board of trustees at the next public meeting of such designation.

(ii) Each school year during which a school remains under the identification as a Priority or Focus School, by June 30th or at the time of a student's initial application or admission to the school, whichever is earliest, the board of education or charter school board of trustees shall provide direct notification to parents or other persons in parental

relation to children attending the school that the school remains a Priority or Focus School. Such notification shall include a summary of the actions that the school district and school are taking to improve student results and an explanation of any district programs of choice, magnet programs, transfer policies, or other options that a parent or a person in parental relation may have to place the child in a different public school within the school district. Such notification shall include the timelines and process for parents exercising their rights to school choice.

(h) Interventions.

(1) District Diagnostic Review For Focus Districts. Commencing in the 2012-2013 school year, each Focus District shall participate annually in a diagnostic review using a diagnostic tool of quality indicators as prescribed by the commissioner that shall focus on the accountability group(s) for each accountability performance criterion for which the school district and its schools have been identified as Priority and/or Focus.

(2) School and district diagnostic review.

(i) Commencing in the 2013-2014 school year, the school district will annually use the results of a diagnostic tool of quality indicators, in the form and content prescribed by the commissioner, which may include a visit by an integrated intervention team as appointed by the commissioner, to inform the creation of a District Comprehensive Improvement Plan. For the 2012-2013 school year, school districts shall use School Quality Reviews, External School Curriculum Audits, and Joint Intervention Team Reviews to develop district-wide strategic plans, as well as school-based plans for intervention.

(a) For schools designated as Priority, the commissioner will appoint an integrated intervention team to conduct an on-site diagnostic school review, at least once within the three year period following designation to inform the development of the District Comprehensive Improvement Plan and School Comprehensive Improvement Plan.

(b) For schools designated as Focus and Priority in the years in which an integrated intervention team does not conduct an on-site diagnostic review, the school district will be required to annually use a diagnostic tool, in the form and content prescribed by the commissioner, to inform the development of the District Comprehensive Improvement Plan and the School Comprehensive Education Plan.

(c) For schools designated as requiring a Local Assistance Plan, the school, in collaboration with the school district, will be required to annually use a diagnostic tool, in the form and content prescribed by the commissioner, to inform the development of the Local Assistance Plan.

(d) Any school designated as a school requiring a Local Assistance Plan but located within a Focus District shall be included in the submission of the District Comprehensive Improvement Plan, which will replace the requirements of the Local Assistance Plan.

(ii) District Comprehensive Improvement Plan.

(a) Commencing with the plan for the 2012-2013 school year, each Focus District shall develop a District Comprehensive Improvement Plan, in such format as may be prescribed by the commissioner, to identify the actions that will be taken to improve student performance levels of the accountability group(s) for each accountability performance criterion for which the school district has been identified as a Focus District or one or more schools within the school district have been identified as Priority Schools. The plan shall:

(1) be developed in such format as may be prescribed by the commissioner, and shall be formally approved by the board of education of the school district (in New York City, approved by the chancellor or the chancellor's designee) no later than three months following the designation of the school district as a Focus District, except that the commissioner may waive this timeline for good cause, and shall be subject to the approval of the commissioner, upon request;

(2) specify the supports and interventions, from the list of allowable expenditures and activities approved by the Department, that the school district will provide to each school in the school district that has been identified as Priority or Focus School or a school requiring a Local Assistance Plan and the funding sources that will be used for such supports and interventions;

(3) be implemented no later than the beginning of the 2012-2013 school year or immediately upon approval of the board of education, if such approval occurs after the first day of regular school attendance;

(4) be developed in consultation with parents, school, staff, and others pursuant to section 100.11 of this Part;

(5) be made widely available through public means, such as posting on the Internet, distribution through the media, and distribution through public agencies, according to such timeline as may be established by the commissioner;

(6) be updated annually, including an analysis of achievement of prior year goals, and, as so updated, approved by the board of education (in New York City, approved by the chancellor or the chancellor's designee) and implemented no later than the first day of regular student attendance of each year that the school district remains a Focus District.

(7) include a description of goals, targets, activities and timeline for implementation.

(8) require the prior approval of the commissioner for any significant modification of the school district's approved comprehensive improvement plan.

(b) Commencing with the plan for the 2013-2014 school year, the District Comprehensive Improvement Plan shall be developed based on the diagnostic reviews of the school district and schools within the school district.

(c) In lieu of a District Comprehensive Improvement Plan, each charter school identified as a Focus School or Priority School shall take such actions as are required

by its charter authorizer pursuant to Article 56 of the Education Law, consistent with the charter agreement that each charter school has with its charter authorizer and as determined by the charter school's board of trustees in consultation with the charter school's authorizer.

(iii) Comprehensive Education Plan

(a) Commencing with the plan for the 2012-13 school year, each Priority and Focus School located in a Focus District shall develop and implement a Comprehensive Education Plan.

(b) The plan shall:

(1) be formally approved by the board of education (in New York City, approved by the chancellor or chancellor's designee) no later than three months following the designation of the school as Priority or Focus and shall be subject to the approval of the commissioner, upon request;

(2) be implemented no later than the beginning of the next school year after the school year in which the school was identified or immediately upon approval of the board of education (in New York City, approved by the chancellor or chancellor's designee) if such approval occurs after the first day of regular school attendance;

(3) be updated annually and incorporate the findings of the diagnostic review, and as so updated, be approved by the board of education (in New York City, approved by the chancellor or chancellor's designee) and implemented no later than the first day of regular student attendance of each year that the school remains a Priority or Focus school, except that for a Priority School implementing a whole school reform model the plan shall be annually updated each year of the three year implementation period.

(4) be developed in consultation with parents, school, staff, and others pursuant to section 100.11 of this Part;

(5) be made widely available through public means, such as posting on the Internet, distribution through the media, and distribution through public agencies, according to such timeline as may be established by the commissioner;

(6) include a description of goals, targets, activities and timeline for implementation and, for Priority Schools implementing a whole school reform model, cover the three year period of the model's implementation.

(7) require the prior approval of the commissioner for any significant modification of the school's approved comprehensive improvement plan.

(c) No later than September 30, 2012, except that the commissioner may waive this timeline for good cause, each Focus District with one or more Priority Schools shall submit in such format as prescribed by the commissioner the schedule by which each of the school district's Priority Schools shall implement, as part of the school's Comprehensive Improvement Plan, a whole school reform model. A school implementing a Transformation, Turnaround or Restart Model pursuant to a School Improvement Grant or a School Innovation Fund Grant shall be deemed to be implementing a whole school reform model. Upon approval of the schedule by the commissioner, each Priority School shall implement the whole school reform model according to the timeline specified in the schedule, which shall require that implementation begin no later than the 2014-2015 school year. The schedule for implementation of the whole school reform model may not be modified without prior approval of the commissioner.

(d) Once a Priority School has begun to implement a whole school reform model, the school will be required to complete the three year whole school reform plan even if the school is removed from Priority status subsequent to the school beginning implementation of the plan.

(e) In lieu of a Comprehensive Education Plan, each charter school identified as a Focus School or Priority School shall take such actions as are required by the charter

authorizer pursuant to Article 56 of the Education Law, consistent with the charter agreement that each charter school has with its charter authorizer and as determined by the charter school's board of trustees in consultation with the charter school's authorizer

(iv) Local Assistance Plans. A school district that has not been identified as Focus but in which one or more schools require a Local Assistance Plan shall develop such plan as follows:

(a) the school, with the assistance of the school district, shall conduct a diagnostic review in accordance with clause (2)(i)(c) of this subdivision.

(b) The school shall specify the actions that will be taken to improve the student performance levels of the accountability group(s) for each accountability performance criterion for which the school district has been identified. The local assistance plan shall:

(1) identify the process by which the local assistance plan was developed pursuant to section 100.11 of this Part;

(2) identify the resources that will be provided to each school to implement the plan;

(3) identify the professional development activities that will be taken to support implementation of the plan;

(4) identify the timeline for implementation of the plan; and

(5) be developed in such format as may be prescribed by the commissioner, and formally approved by the board of education of the school district (in New York City, approved by the chancellor or chancellor's designee) no later than three months following the designation of a school as requiring a Local Assistance Plan;

(6) The Local Assistance Plan shall be made widely available through public means, such as posting on the Internet, distribution through the media, and distribution through public agencies, according to such timeline as may be established by the commissioner.

(7) In lieu of a Local Assistance Plan, each charter identified as requiring a Local Assistance Plan shall take such actions as are required by its charter authorizer pursuant to Article 56 of the Education Law, consistent with the charter agreement that each charter school has with its charter authorizer and as determined by the charter school's board of trustees in consultation with the charter school's authorizer.

(v) Distinguished educator. In addition to, and notwithstanding the provisions of subparagraphs (i) through (iv) of this paragraph, a school district designated as Focus or a school designated as Priority or Focus may be required to cooperate with a distinguished educator appointed by the commissioner, pursuant to subparagraph 100.17(c)(3)(i) of this Part. The distinguished educator shall also provide oversight of the District Comprehensive Improvement Plan or School Comprehensive Improvement Plan and shall serve as an ex-officio member of the board of education. All plans are subject to review by the distinguished educator, who shall make recommendations to the board of education. The board of education shall implement such recommendations, unless it obtains the commissioner's approval to implement an alternate approach.

(vi) Supplemental educational services. Each local educational agency that receives title I funds may make supplemental educational services available to eligible students who attend a school designated Priority or Focus pursuant to this paragraph, consistent with section 120.4 of this Title.

(vii) Public school choice. Each school district that receives title I funds that has a school designated as Priority or Focus pursuant to this paragraph, shall provide public school choice consistent with section 120.3 of this Title.

(i) Removal from accountability designation.

(1) Removal of Priority School Designation. Based upon 2011-2012 and 2012-2013 school year results, and each two consecutive school year period thereafter, a

school district or charter school may petition for a school to be removed from Priority status if the school meets performance targets established by the commissioner, which will at a minimum require that the school have a combined Performance Index in ELA and mathematics for the all students group that exceeds the thresholds for identification as a Priority School for two consecutive years by at least ten index points. For high schools, the four year cohort graduation rate must equal at least 70 percent for two consecutive years, except for transfer high schools, for which the commissioner will establish a graduation rate goal and progress targets based on the specific conditions and circumstances present at each transfer high school. The school must also meet the participation rate requirement in ELA and mathematics for all groups for which it is accountable in the most current school year results that are being used as the basis for the petition.

(i) A school that begins to fully implement a whole-school reform model must complete implementation of the model even after removal from Priority designation.

(ii) Schools that are removed from Priority status before they begin implementation of a model will not be required to implement the model.

(2) Removal of Focus District and Focus School Designation.

(i) Commencing with 2011-2012 and 2012-2013 school year results, and each consecutive two year period thereafter, a school district may petition to have its Focus designation revised if the school district meets the participation requirement in ELA and math for all accountability groups and the performance targets established by the commissioner, which will at a minimum require that the school district have a combined Performance Index in ELA and mathematics for each group for which the school district was identified that exceeds the thresholds for identification for two consecutive years by at least ten index points and by at least ten percent for all groups for which the school district was identified for graduation rate. The school district may petition for the removal

of Focus designation for any Focus School in the school district that meets these same performance targets and participation rate requirements for ELA and mathematics.

(ii) Upon receipt of a petition for revision of status by a Focus District, the commissioner will review the status of the school district and each Priority and Focus School in the school district. If the school district and each Priority School and Focus School within the school district meet the criteria for removal, the commissioner shall remove the Focus designation from the school district and the Focus and Priority designation from all schools within the school district.

(iii) If the school district meets the criteria for removal, but not every Priority or Focus school within the school district meets the criteria for removal, the commissioner shall only remove the Focus or Priority designation from schools that meet the criteria for removal. The school district will remain a Focus District and those schools that do not meet the criteria for removal will remain designated as Focus or Priority schools as applicable. The minimum number of schools that must be designated as Focus shall be reduced to reflect this removal.

(iv) Removal of Focus Charter School Designation.

(a) Commencing with 2011-2012 and 2012-13 school year results and for each consecutive two year period thereafter, a charter school may petition for the charter school to be removed from Focus status if the charter school meets the participation requirement in ELA and math for all accountability groups and the performance targets established by the commissioner, which will at a minimum require that the charter school have a combined Performance Index in ELA and mathematics for each group for which the charter school was identified that exceeds the thresholds for identification for two consecutive years by at least ten index points and by at least ten percent for all accountability groups for which the school district was identified for graduation rate.

(b) Upon receipt of a petition for removal by a charter school, the commissioner will review the status of the charter school, and if the charter school meets the criteria

for removal, the commissioner shall remove the Focus designation from the charter school.

(j) Public school, school district and charter school performance criteria. Each school district and school accountability group shall be subject to the performance criteria specified below:

(1) Elementary/middle-level English language arts and mathematics, and high school English language arts and mathematics requirements. An Annual Measurable Objective is a Performance Index set by the commissioner for 2010-11 school year results for each accountability group and that increases annually in equal increments so as to reduce by half the gap between the Performance Index for each accountability group in the 2010-11 school year and reach a goal of a Performance Index of 200 by the 2016-17 school year.

(2) Annual high school or high school alternative cohort.

(i) except as provided in subparagraphs (ii) and (iii) of this paragraph, the annual high school cohort for purposes of computing the high school Performance Index for English language arts and mathematics for any given school year shall consist of those students who first enrolled in ninth grade three years previously anywhere and who were enrolled in the school on the first Wednesday in October of the current school year. The annual school district high school cohort for purposes of determining the high school Performance Index for ELA and math for any given school year shall consist of those students who first enrolled in ninth grade three years previously anywhere and who were enrolled in the school district or placed by the school district committee on special education or by school district officials in educational programs outside the school district on the first Wednesday in October of the current school year. Students with disabilities in ungraded programs shall be included in the annual school district and high school cohort in the third school year following the one in which they attained the age of 17.

(ii) The following students shall not be included in the annual high school cohort: students who transferred to another high school or approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, or criminal justice facility, who left the United States or its territories, or who are deceased; except that, beginning with students who first entered grade 9 in the 2007-2008 school year, the following students will be included in the high school cohort of the school they attended before transferring:

(a) students who transfer to an approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, but leave that program before the end of the third school year after the school year in which they first entered grade 9 without having earned a high school equivalency diploma or without entering a program leading to a high school diploma; and

(b) students who transfer to any high school equivalency preparation program other than those approved pursuant to section 100.7 of this Part.

(iii) The following students shall not be included in the annual school district high school cohort: students who transferred to a high school that is not a component of the school district or to an approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, or criminal justice facility, who left the United States or its territories, or who are deceased; except that, beginning with students who first entered grade 9 in the 2007-2008 school year, the following students will be included in the high school cohort of the school district they attended before transferring:

(a) students who transfer to an approved alternative high school equivalency preparation program or high school equivalency preparation program approved pursuant to section 100.7 of this Part, but leave that program before the end of the third school year after the school year in which they first entered grade 9 without having

earned a high school equivalency diploma or without entering a program leading to a high school diploma; and

(b) students who transfer to any high school equivalency preparation program other than those approved pursuant to section 100.7 of this Part.

(iv) The high school alternative cohort in any given year shall consist of those students enrolled in the high school on the first Wednesday of October three years previously who were still enrolled in the school on the first Wednesday of October two years previously. Transfer high school may voluntarily submit to the commissioner information on the performance of an alternative high school cohort.

(3) Elementary/middle-level science requirements. An Annual Measurable Objective is a Performance Index set by the commissioner for 2010-11 school year results for each accountability group that increases annually in equal increments so as to reduce by half the gap between the Performance Index for each accountability group in the 2010-11 school year and reach a goal of a Performance Index of 200 by the 2016-17 school year.

(4) A high school cohort graduation rate goal established annually by the commissioner, or progress in relation to the previous school year's graduation rate as measured by the four year graduation rate cohort and the five year graduation rate cohort.

(i) The four year graduation rate cohort for each public school and charter school shall consist of those students (including an ungraded student with a disability) whose first date of entry into grade 9 (anywhere) was four years previously and whose last enrollment in the school did not end because of transfer to another school, death, or leaving the United States. The graduation rate is computed as the number of cohort members who earn a local diploma or Regents diploma by August 31st following the fourth school year after the school year in which the cohort first entered grade 9 divided by the total four year annual graduation rate cohort membership.

(ii) The four year graduation rate cohort for each school district shall consist of those students (including an ungraded student with a disability) whose first date of entry into grade 9 was four years previously (anywhere) and whose last enrollment in the school district did not end because of transfer to another school district, death, or leaving the United States. The graduation rate is computed as the number of cohort members who earn a local diploma or Regents diploma by August 31st following the fourth school year after the school year in which the cohort first entered grade 9 divided by the total four year annual graduation rate cohort membership.

(iii) The five year graduation rate cohort for each public school and charter school shall consist of those students (including an ungraded student with a disability) whose first date of entry into grade 9 (anywhere) was five years previously and whose last enrollment in the school did not end because of transfer to another school, death, or leaving the United States. The graduation rate is computed as the number of cohort members who earn a local diploma or Regents diploma by August 31st following the fifth school year after the school year in which the cohort first entered grade 9 divided by the total five year annual graduation rate cohort membership.

(iv) The five year graduation rate cohort for each school district shall consist of those students (including an ungraded student with a disability) whose first date of entry into grade 9 (anywhere) was five years previously and whose last enrollment in the school district did not end because of transfer to another school district, death, or leaving the United States. The graduation rate is computed as the number of cohort members who earn a local diploma or Regents diploma by August 31st following the fifth school year after the school year in which the cohort first entered grade 9 divided by the total five year annual graduation rate cohort membership.

(v) Students with disabilities in ungraded programs shall be included in the four year annual school district and high school cohort in the fourth school year following the one in which they are assigned a first date of entry into ninth grade.

(vi) Students with disabilities in ungraded programs shall be included in the five year annual school district and high school cohort in the fifth school year following the one in which they are assigned a first date of entry into ninth grade.

(k) Identification of schools for public school registration review.

(1) Beginning with 2014-2015 school year results and thereafter, the commissioner shall place under preliminary registration review those schools identified as Focus or Priority for at least three consecutive years that are determined to have made insufficient progress towards the implementation of their comprehensive improvement plan or have failed to demonstrate progress since identification as a Focus or Priority School in improving student results on the performance criteria specified in paragraphs (1) and (4) of subdivision (j) of this section, except that the commissioner may upon a finding of extenuating circumstances extend the period during which the school must demonstrate progress.

(2) Beginning with the 2013-14 school year results, the commissioner shall place under preliminary registration review a Local Assistance Plan school, that was not otherwise eligible to be identified as a Priority School that meets the performance criteria in subdivision (j) of this section to be identified as a Priority School:

(3) Beginning with 2012-13 school year, the commissioner may also place under preliminary registration review any school that has conditions that threaten the health, safety and/or educational welfare of students or has been the subject of persistent complaints to the department by parents or persons in parental relation to the student, and has been identified by the commissioner as a poor learning environment based upon a combination of factors affecting student learning, including but not limited to: high rates of student absenteeism, high levels of school violence, excessive rates of student suspensions, violation of applicable building health and safety standards, high rates of teacher and administrator turnover, excessive rates of referral of students to or participation in special education or excessive rates of participation of students with

disabilities in the alternate assessment, excessive transfers of students to alternative high school and high school equivalency programs and excessive use of uncertified teachers or teachers in subject areas other than those for which they possess certification.

(4) The commissioner may also place under registration review any school for which a school district fails to provide in a timely manner the student performance data required by the commissioner to conduct the annual assessment of the school's performance or any school in which excessive percentages of students fail to fully participate in the State assessment program.

(5) For each school identified for preliminary registration review pursuant to paragraphs (1) or (2) of this subdivision, the school district shall be given the opportunity to present to the commissioner additional data and relevant information concerning extenuating or extraordinary circumstances faced by the school that should be cause for the commissioner to not identify the school for registration review.

(6) For each school identified as a poor learning environment and placed under preliminary registration review pursuant to paragraph (3) of this subdivision, the school district shall be given the opportunity to present evidence to the commissioner that the conditions in the school do not threaten the health or safety or educational welfare of students and do not adversely affect student performance.

(7) The commissioner shall review the additional information provided by the school district and determine which of the schools identified for preliminary registration review pursuant to paragraphs (1) or (2) of this subdivision, or identified as poor learning environments pursuant to paragraph (3) of this subdivision, shall be placed under registration review.

(l) Public school registration review.

(1) Upon placing the registration of a school under review, the commissioner shall warn the board of education (in New York City, the chancellor) that the school has

been placed under registration review, and that the school is at risk of having its registration revoked. The commissioner shall include in any warning issued pursuant to this paragraph the actions that must be taken and/or the progress that must be demonstrated in order for a school to be removed from consideration for revocation of registration.

(i) Upon receipt of such warning, the board of education (in New York City, the chancellor or chancellor's designee) shall take appropriate action to notify the general public of the issuance of such warning. Such action shall include, but need not be limited to, direct notification, within 30 days of receipt of the commissioner's warning, in English and translated, when appropriate, into the recipient's native language or mode of communication, to persons in parental relation of children attending the school that it has been placed under registration review and is at risk of having its registration revoked, and disclosure by the school district at the next public meeting of the local board of education of such warning.

(ii) Each school year during which a school remains under registration review, by June 30th or at the time of a student's initial application or admission to the school, whichever is earliest, the board of education shall provide direct notification to parents or other persons in parental relation to children attending the school that the school remains under registration review and is at risk of having its registration revoked. Such notification shall include a summary of the actions that the school district and school are taking to improve student results and an explanation of any school district programs of choice, magnet programs, transfer policies, or other options that a parent or a person in parental relation may have to place the child in a different public school within the school district. Such notification shall include the timelines and process for parents exercising their rights to school choice.

(2) Following the placement of a school under registration review, an integrated intervention team, which may include a distinguished educator, as appointed by the

commissioner, pursuant to subparagraph 100.17(c)(3)(i) of this Part , shall conduct a diagnostic review of the school and recommend to the commissioner whether the school should:

(i) continue to implement its current improvement plan, as modified by recommendations of the integrated intervention team;

(ii) implement a new Comprehensive Improvement Plan, which may contain a new whole school reform model; or

(iii) be phased out or closed.

(3) The commissioner shall review the recommendations of the integrated intervention team and may approve, or modify and approve as so modified, such recommendations. Upon such approval, the commissioner shall direct that the school district submit in a format and according to a timeline prescribed by the commissioner a revised improvement plan, a new comprehensive improvement plan, or a plan for phase out or closure that implements the recommendations of the integrated intervention team. Upon approval of the plan by the commissioner, the school shall be required to implement such plan. If the school district fails to submit an approvable plan, the commissioner may recommend to the Board of Regents that the registration be revoked and the school be declared an unsound educational environment pursuant to paragraph (7) of this section.

(4) The commissioner may require a school district to submit such reports and data as the commissioner deems necessary to monitor the implementation of the improvement plan, comprehensive education plan, or closure or phase out plan and to determine the degree to which the school has achieved the progress required by the commissioner. Such reports shall be in a format and in accordance with such timeframe as are prescribed by the commissioner. The commissioner may upon a finding of good cause extend the deadline for submission of a required plan.

(5) Unless it is determined by the commissioner that a school identified for registration review should be phased out or closed, or that a shorter period of time shall be granted, a school placed under registration review shall be given three full academic years to show implement its plan and/or show required progress. The commissioner may establish interim required benchmarks for plan implementation and/or demonstration of required progress. If the school has not taken the required actions and/or demonstrated progress as delineated by the commissioner, the commissioner shall recommend to the Board of Regents that the registration be revoked and the school be declared an unsound educational environment, except that the commissioner may upon a finding of extenuating circumstances extend the period during which the school must demonstrate progress. The board of education of the school district which operates the school (in New York City, the chancellor) shall be afforded notice of such recommendation and an opportunity to be heard in accordance with paragraph (7) of this section.

(6) Upon approval of revocation of registration by the Board of Regents, the commissioner will develop a plan to ensure that the educational welfare of the pupils of the school is protected. Such plan shall specify the instructional program into which pupils who had attended the school will be placed, how their participation in the specified programs will be funded, and the measures that will be taken to ensure that the selected placements appropriately meet the educational needs of the pupils. The commissioner shall require the board of education to implement such plan.

(7) Decisions to revoke the registration of a public school shall be made in accordance with the following procedures:

(i) The commissioner shall provide written notice of his recommendation and the reasons therefore to the board of education, which operates the school (in New York City, both the chancellor and any community school board having jurisdiction over the school). Such notice shall also set forth:

(a) the board of education's right to submit a response to the recommendation and request oral argument pursuant to subparagraph (ii) of this paragraph;

(b) the place, date and time the matter will be reviewed, and if requested, an oral argument heard by a three-member panel of the Board of Regents for recommendation to the full Board of Regents; and

(c) notification that failure to submit a response will result in the commissioner's recommendation being submitted to the Board of Regents for determination.

(ii) Within 15 days of receiving notice of the recommendation to revoke registration, the board of education (in New York City, both the chancellor and any community school board having jurisdiction over the school) may submit a written response to the commissioner's recommendation. The response shall be in the form of a written statement which presents the board of education's position, all evidence and information which the board of education believes is pertinent to the case, and legal argument. If the board of education desires, it may include in its response a request for oral argument. Such response must be filed with the Office of Counsel, New York State Education Department, State Education Building, Albany, NY 12234.

(iii) Within 30 days of the date of notice of the commissioner's recommendation, a panel comprised of three members of the Board of Regents, appointed by the chancellor, shall convene to consider the commissioner's recommendation, review any written response submitted by the board of education and, if timely requested by the board of education, hear the oral argument.

(m) Removal of schools from registration review, school phase-out or closure.

(1) In the event that a school has demonstrated the progress necessary to be removed from registration review, the superintendent may petition the commissioner to remove the school from registration review.

(2) A school shall not be removed from registration review if, in the commissioner's judgment, conditions that may contribute to a poor learning

environment, as identified in paragraph (3) of subdivision (k) of this section, remain present in the school.

(3) In the event that a school placed under registration review prior to the 2012-2013 school year demonstrates that it has met its previously established progress targets pursuant to subdivision 100.2(p) of this Part, but is identified in the 2012-2013 school year as Priority pursuant to subdivision (g) of this section, the school shall remain under registration review and shall follow the intervention requirements pursuant to subdivision (h) of this section and meet the targets for removal as a Priority school pursuant to subdivision (i) of this section, pursuant to a timeline prescribed by the commissioner.

(4) In the event that a school placed under registration review prior to the 2012-2013 school year demonstrates that it has met its previously established progress targets pursuant to subdivision 100.2(p) of this part, and is not identified in the 2012-2013 school year as Priority pursuant to subdivision (g) of this section, the school shall be removed from registration review.

(5) In the event that a board of education either seeks to phase out or close a school under registration review or is required to to close or phase out a school pursuant to paragraph (l)(3) of this section, the board of education (in New York City, the chancellor or chancellor's designee) shall submit for commissioner's approval, a plan identifying the intervention that will be implemented and will result in phase out or closure, in the form and content prescribed by the commissioner. The commissioner will consider the academic impact of such phase out or closure on other schools within the school district and may grant approval of such plan provided that:

(i) official resolutions or other approvals to phase out or close the existing school have been adopted by the local board of education (in New York City, the chancellor or chancellor's designee);

(ii) a formal phase out or closure plan has been developed and approved in accordance with the requirements of the intervention prescribed by the commissioner pursuant to subdivision (h) of this section; and

(iii) parents, teachers, administrators, and community members have been provided an opportunity to participate in the development of the phase out or closure plan.

(6) In the event that a board of education seeks to redesign a school under registration review or a Priority School, the board of education (in New York City, the chancellor or chancellor's designee) shall submit to the commissioner a petition and a redesign plan, in such form or format as prescribed by the commissioner, requesting that the redesigned school be approved.

(i) The commissioner may grant such petition, and the school may be approved as redesigned, provided that:

(a) official resolutions or other approvals to replace the existing school with the redesigned school have been adopted by the local board of education (in New York City, the chancellor or chancellor's designee);

(b) parents, teachers, administrators, and community members have been provided an opportunity to participate in the development of the redesign plan; and

(c) upon examination of factors, the commissioner determines that the redesigned school constitutes a new and satisfactory educational program. Such factors may include, but not be limited to, the school mission; school climate; school administration and staff; grade configurations and groupings of students; zoning patterns; curricula and instruction; professional development programs; facilities; and parent and community involvement in decision making. In making a determination the commissioner will consider the academic impact of such redesign on other schools within the school district.

(ii) At the time that a redesigned school is approved, the commissioner shall delineate the student performance results that the school must demonstrate to be removed from registration review and/or Priority status. For schools under registration review, if, after the designated period of time, the school has not demonstrated such results as delineated by the commissioner, the commissioner shall recommend to the Board of Regents that the registration be revoked pursuant to paragraph (5) of subdivision (l) of this section.

2. Subdivision (m) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective November 28, 2012, as follows:

(m) Public reporting requirements.

(1) The New York State [school report card] Report Card for each public school and school district, except [charter schools and] the New York City school district, shall consist of the following reports prepared by the Education Department:

(i) [overview of school performance and analysis of student subgroup performance] The New York State Report Card;

(ii) [the comprehensive information report] The New York State Accountability Report; and

(iii) [the school accountability report, and] for public school districts, the fiscal supplement.

The chancellor of the New York City School District shall produce a New York City [school] report card, as approved by the commissioner.

(2) The superintendent of each public school district, except the New York City School District, shall present all three parts of the New York State [school report card] Report Card to the board of education of such school district at a public meeting within 30 calendar days of the commissioner's release of each report. In New York City, the

chancellor shall present, in this same time period, the New York City [School] report card to the New York City Board of Education.

(3) Each board of education shall make its report card available by appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, transmitting it to local newspapers of general circulation and making it available to parents.

(4) To satisfy the local report card requirements under section 1111(h)(2) of the No Child Left Behind Act, 20 U.S.C. section 6311(h)(2), each public school principal and each principal of a charter school receiving [Federal] federal funding under [title] Title 1 shall distribute, within 30 calendar days of the commissioner's release of such reports, copies of [the overview of school performance and analysis of student subgroup performance and the school accountability report] The New York State Report Card and The New York State Accountability Report for the school and the district, or, in the New York City School District, the New York City report card to the parent of each student. A district or charter school may add any other appropriate information. Such additional information also must be distributed to the parent of each student and must be made widely available through public means, such as posting on the Internet, distribution through the media, and distribution through public agencies. To the extent practicable, the district or charter school shall provide the reports and additional information in a language that the parents can understand.

(5) The comprehensive assessment report for each nonpublic school will include the following information, for each school building, for the three school years immediately preceding the school year in which the report is issued:

(i) student test data on the elementary and middle level English language arts and mathematics assessments in the New York State Testing Program, the Regents

competency tests, all Regents examinations, the second language proficiency examinations as defined in this Part;

(ii) student enrollment by grade;

(iii) number of students transferred into the alternative high school and high school equivalency preparation programs as set forth in section 100.7 of this Part;

(iv) data, as required by the commissioner, on diplomas and certificates awarded;

(v) any additional information prescribed by the commissioner on educational equity and other issues; and

(vi) any additional information which the chief administrative officer of the nonpublic school believes will reflect the relative assessment of a school building or district.

The chief administrative officer of each nonpublic school shall initiate measures designed to improve student results wherever it is warranted. The chief administrative officer of each nonpublic school shall be responsible for making the comprehensive assessment report accessible to parents.

[(6) In accordance with the district's plan for school-based management and shared decision making developed pursuant to section 100.11 of this Part, each board of education through the superintendent shall initiate measures designed to improve student achievement on the State learning standards. In any district in which a school performs below the benchmark established by the commissioner pursuant to subparagraph (p)(14)(vii) of this section, a local assistance plan shall be developed by the superintendent of the district (in New York City, the community school district superintendent in the case of any school under the jurisdiction of a community school

board) that shall specify the actions that will be taken to raise student results above such benchmark. The local assistance plan shall identify:

(i) the process by which the local assistance plan was developed pursuant to section 100.11 of this Part;

(ii) the resources that will be provided to each school to implement the plan;

(iii) the professional development activities that will be taken to support implementation of the plan;

(iv) the timeline for implementation of the plan; and

(v) such local assistance plan shall be formally approved by the Board of Education (or in New York City both the New York City Board of Education and the community school board for schools under the jurisdiction of a community school board) no later than October 15th of the school year in which such plan is required; and

(vi) in lieu of a separate local assistance plan, a district may incorporate the elements of such plan into a comprehensive district education plan. A school improvement plan, corrective action plan or restructuring plan developed for a school pursuant to subdivision (p) of this section shall serve in lieu of a local assistance plan for such school shall serve in lieu of a local assistance plan for such school.

(7) The local assistance plan shall annually be made widely available through public means, such as posting on the Internet, distribution through the media, and distribution through public agencies, according to such timeline as may be established by the commissioner.]

3. Subparagraph (i) of paragraph (3) of subdivision (c) of section 100.17 of the Regulations of the Commissioner of Education is amended, effective November 28, 2012, as follows:

(i) The commissioner may appoint a distinguished educator as a consultant to a school district or school(s) within such district:

[(a) when such district or a school has failed to make adequate yearly progress for four or more years, pursuant to section 100.2(p)(5) and (6) of this Part;]

[(b)] (a) when such district has one or more schools designated as a Priority School or Focus School pursuant to subdivision 100.18(g) [school in restructuring pursuant to section 100.2(p)(6)(i)(a)(3)] of this Part and/or identified as persistently lowest achieving and placed under registration review pursuant to paragraphs 100.2(p)(9) and (10) of this Part, and are at risk of closure for failure to make satisfactory progress under Federal and State accountability standards; and/or

(c) as a member of a joint intervention team pursuant to Education Law section 211-b(2)(b) and [section 100.2(p)(6)(iv)(c)(1)] as provided in subparagraph 100.18(g)(2)(v) and paragraph 100.18(l)(2) of this Part.

4. Section 120.3 of the Regulations of the Commissioner of Education is amended, effective November 28, 2012, as follows:

Section 120.3. Title I public school choice.

(a) Each [title] Title I LEA that has a Title I school in [school improvement (year 2) status, corrective action status or restructuring status] a Priority or Focus designation shall provide all students enrolled in the school the option to transfer to another public school served by the [title] Title I LEA at the same grade level that is not a school identified as a persistently dangerous school pursuant to section 120.5 of this Part, or that is not a [school in school improvement status, corrective action status or restructuring status] Priority or Focus School pursuant to section [100.2(p)] 100.18 of this Title, regardless of whether or not such school is receiving title I funds, to the extent required by section 1116(b)(1)(E) of the NCLB, 20 U.S.C. section 6316(b)(1)(E) (Public Law, section 107-110, section 1116[b][1][E], 115 STAT. 1479; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002;

available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234). Nothing in this section shall be construed to confer a right to transfer to a magnet school or special focus school having entrance requirements based on academic or other skills without meeting such requirements, or to transfer to a school where such transfer would violate health and safety code requirements or would otherwise be in violation of law. If more than one school served by the [title] Title I LEA meets the requirements of this subdivision, the [title] Title I LEA shall provide the parents or other persons in parental relationship to such students with a choice of more than one such school, and shall take into account the preferences of the parents or other persons in parental relationship among the choices offered by the [title] Title I LEA.

(b) In providing students the option to transfer to another public school served by the [title]Title I LEA, the LEA shall give priority to the lowest achieving students from low-income families as determined by the LEA for purposes of [title] Title I allocations.

(c) Transferring students shall have all the rights of students in the attendance zone of the receiving school, including the right to enroll in classes and participate in activities on the same basis as other students.

(d) Transportation shall be provided to the school the student attends to the extent required by section 100.18 of this Title and the provisions of section 1116(b)(9) and (13), 20 U.S.C. section 6316(b)(9) and (13) or the applicable provisions of the Education Law (Public Law, section 107-110, section 1116[b][9] and [13], 115 STAT. 1486 and 115 STAT. 1487; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234).

(e) A student who transfers to another public school pursuant to this section shall be permitted to remain in that school until the student has completed the highest grade level in the school such student has transferred to.

(f) Upon the transfer of a student with a disability pursuant to this section or a student who is an individual with a disability covered by section 504 of the Rehabilitation Act of 1973 (29 U.S.C. section 794) (section 504), the school district shall ensure that the student continues to receive a free appropriate public education in accordance with the Individuals with Disabilities Education Act (IDEA) or section 504.

(g) In accordance with section 1116(b)(6) of the NCLB, 20 U.S.C. section 6316(b)(6) the [title] Title I LEA shall promptly provide parents or other persons in parental relation to students in Priority or Focus schools [identified for school improvement (year 2), corrective action or restructuring] with notice of the student's option to transfer to another public school pursuant to this section (Public Law, section 107-110, section 1116[b][6], 115 STAT. 1483; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234).

5. Section 120.4 of the Regulations of the Commissioner of Education is amended, effective November 28, 2012, as follows:

Section 120.4. Supplemental educational services.

(a) Definitions. As used in this section:

(1) . . .

(2) eligible applicant shall mean a local educational agency [that is not currently identified for improvement, corrective action or restructuring pursuant to section 1116(b)(1)(A) of the NCLB, 20 U.S.C. section 6316(b)(1)(A), section 1116(b)(7) of the NCLB, 20 U.S.C. section 6316(b)(7) or section 1116(b)(8), 20 U.S.C. section

6316(b)(8), respectively,] or a non-profit entity or a for-profit entity authorized to provide the proposed services in New York State, including, but not limited to, a charter school, nonpublic school, board of cooperative educational services or county vocational education and extension board [(Public Law, section 107- 110, sections 1116[b][1][A] and 1116[b][7], and 1116[b][8], 115 STAT. 1479 and 115 STAT. 1483-1485; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234)];

(3) eligible student shall mean an eligible child, as defined in section 1116(e)(12)(A) of the NCLB, 20 U.S.C. section 6316(e)(12)(A), who is eligible to receive supplemental educational services, subject to the provisions of section 1116(b)(10)(C) of the NCLB, 20 U.S.C. section 6316(b)(10)(C) (Public Law, section 107-110, sections 1116[e][12][A] and 1116[b][10][C], 115 STAT. 1494 and 115 STAT. 1486; Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234), and who <u>attends a Title I Priority or Focus School</u>;

(4) . . .

(5) . . .

(b) A [title] <u>Title</u> I LEA [shall make] <u>may choose to offer</u> supplemental educational services [available] to eligible students who attend a school that is <u>designated as Priority or Focus</u>.

(c) The per pupil spending limit that a local educational agency [must] <u>may</u> provide for supplemental educational services shall be the lesser of the following:

(1) the amount of the LEA's allocation under [title] <u>Title</u> I, part A, subpart 2 of the NCLB, divided by the number of children from families below the poverty level counted under section 1124(c)(1)(A) of the NCLB, 20 U.S.C. 6333(c)(1)(A) (Public Law, section 107-110, section 1124[c][1][A], 115 STAT. 1519; Superintendent of Documents, U.S.

Government Printing Office, Washington, DC 20402-9328; 2002; available at the Office of Counsel, State Education Building, Room 148, Albany, NY 12234); or

(2) the actual cost of the supplemental educational services provided to each eligible student.

(d) Approval of providers.

(1) . . .

(2) The commissioner shall approve an eligible applicant for inclusion on the department's list of approved supplemental educational service providers, upon the commissioner's determination that its application satisfies each of the following criteria:

(i) . . .

(ii) the instruction to be provided and content to be used are aligned with State Common Core learning standards in the areas of English language arts (including reading) and mathematics;

(iii) . . .

(iv) . . .

(v) . . .

(vi) . . .

(vii) . . .

(viii) . . .

(ix) . . .

(x) . . .

(xi)

(xii) . . .

(xiii) the applicant shall provide additional assurances that:

(a) . . .

(b) . . .

(c) . . .

(d) . . .

(e) the applicant will provide parents and teachers of eligible students receiving supplemental educational services and the appropriate [title] Title I LEA with information on the progress of such students in increasing achievement in a format, and to the extent practicable, in a language or other mode of communication that such parents can understand;

(f) . . .

(g) . . .

(3) . . .

(4) Notwithstanding the provisions of this subdivision, each provider on the department's list of approved supplemental educational services providers as of July 1, 2012 shall, no later than a date determined by the commissioner, submit to the department, in a format prescribed by the commissioner, evidence that, commencing with the 2013-2014 school year, the instruction provided and content used by such provider are aligned with the State Common Core learning standards in the areas of English language arts (including reading) and mathematics. Any provider who fails to comply with the requirements of this paragraph shall be subject to termination pursuant to subdivision (e) of this section.

(e) Termination of provider approval.

(1) Approval for inclusion on the department's list of approved supplemental educational services providers shall be withdrawn from a provider for good cause, including, but not limited to, a determination by the commissioner that the provider:

(i) is in noncompliance with one or more of the criteria for approval set forth in subparagraphs (d)(2)(i)-(xiii) of this section; [and/or]

(ii) has failed for two consecutive years to contribute to increasing the academic proficiency of students receiving supplemental educational services from such provider; and/or

(iii) has failed to comply with paragraph (4) of subdivision (d) of this section..

(2) . . .

(3) . . .

(f) Local educational agency responsibilities. A [title] Title I LEA that [is required to arrange for the provision of] chooses to offer supplemental educational services [with an approved provider] shall:

(1) select the approved providers from which parents may choose, except that the LEA must select at least two providers who serve students in the grades enrolled in LEA's Priority and Focus Schools.

(2) notify parents of eligible students annually, in a format and, to the extent practicable, in a language that such parents can understand, of:

(i) the availability of supplemental educational services; and

(ii) the identity of approved providers [of those services that are within the area served by the local educational agency, including any approved providers of technology-based or distance learning supplemental educational services, or are reasonably available in neighboring school districts,] that the LEA has selected, together with a brief description of the services, qualifications and demonstrated effectiveness of each such provider;

[(2)] (3) if requested, assist parents in choosing an approved provider;

[(3)] (4) ensure that [if the amount of funds available pursuant to the NCLB to provide supplemental educational services is insufficient to provide such services to each eligible student whose parents request the services], to the extent the LEA chooses to offer supplemental educational services, priority is given to providing the services to the lowest achieving eligible students;

[(4)] (5) . . .

[(5)] (6) . . .

[(6)] (7) . . .

[(7)] (8) . . .

[(8)] (9) contact providers selected by the parents, from the providers chosen by the district, and enter into a contractual agreement with each such provider that includes:

(i) . . .

(ii) . . .

(iii) . . .

(iv) . . .

(v) . . .

(vi) . . .

(vii) . . .

(viii) . . .

(ix) . . .

(x) . . .

(xi) . . .

(xii) . . .

(xiii) . . .

(xiv) . . .

(xv) . . .

(xvi) a requirement that the provider submit to the [title] Title I LEA, annually on or before September 30th, a final written report in a form prescribed by the commissioner that summarizes the progress of eligible students provided with supplemental educational services during the preceding academic year, pursuant to its agreement(s) with the local educational agency;

(xvii) . . .

[(9)] (10) monitor the following:

(i) . . .

(ii) the responsibilities of each approved provider with which the [title] Title I LEA has contracted with to:

(a) ensure that the instruction provided and content used are consistent with the instruction provided and content used by the appropriate [title] Title I LEA and the State, and are aligned with the State Common Core learning standards in the areas of English language arts (including reading) and mathematics;

(b) provide parents and teachers of all students receiving supplemental educational services, the [title] Title I LEA and the school with information on the progress of the students in increasing achievement, in a format and, to the extent practicable, in a language that such parents can understand;

(c) . . .

(d) . . .

(e) . . .

[(10)] (11) . . .

[(11)] (12) . . .