

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

Subdivision (g) of section 100.18 of the Regulations of the Commissioner of Education is amended, effective July 1, 2017, as follows:

(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 up through and including the 2016-2017 school year, based on the subsequent school year results, the commissioner shall designate public schools requiring a local assistance plan.

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(9) [Identification of local assistance plan schools as focus schools.

(i) Commencing with 2015-2016 school year results, a school that has been identified as a local assistance plan school based on 2013-2014, 2014-2015 and 2015-2016 school year results and based on each three consecutive school years of results thereafter will be preliminary identified as a focus school.

(ii) School districts and charter schools will be informed of the preliminary status of the school district and schools, and will be provided the opportunity to appeal such preliminary identification, in a format and according to such timeline as prescribed by the commissioner. If the commissioner identifies a local assistance plan school as a focus school in a district in which in the prior school year there were no schools identified as focus or priority, the district shall also be identified as a focus district.

(iii) If a school district or charter school appeals the designation of a transfer high school as a focus 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.

(10) School requiring a local assistance plan.

(i) [Beginning with] For the 2015-2016 and 2016-2017 school years, using the 2013-2014 and 2014-2015 school year results respectively [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; provided that such school shall not be designated as a local assistance plan school if the school has met other measures of progress as determined by the commissioner pursuant to subparagraph (ii) of this paragraph; 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, or meeting other measures of progress as determined by the commissioner pursuant to subparagraph (ii) of this paragraph, between students who are members and students who are not members of that accountability group; or

(c) for determinations based on 2013-2014 school year results, 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 (7)(ii) of this subdivision, and such other measures of progress as determined by the commissioner pursuant to subparagraph (ii) of this paragraph and for determinations based on 2014-2015 school year results and each school year's results thereafter the school meets the criteria for identification pursuant to paragraph (8) of this subdivision.

(ii) Notwithstanding the provisions of clauses (i)(a) through (c) of this paragraph, the commissioner may consider other measures of progress in determining whether to identify a school as a local assistance plan school using the 2013-2014 school year results and/or the 2014-2015 school year results, including but not limited to:

(a) whether a subgroup has made two consecutive years of AYP;

(b) the subgroup's Student Growth Percentile (SGP) is above State average;

(c) the percentile rank of the Performance Index (PI)/graduation rate of a subgroup on an accountability measure as compared to the percentile rank of the PI/graduation rate of the subgroup in other schools in the State;

(d) whether the graduation rate of the subgroup is above State average; and/or

(e) if the subgroup's performance on an accountability measure has changed from year to year.

(iii) The commissioner shall consider the 2015-2016 school year results in determining whether a school designated as a local assistance plan school pursuant to this paragraph shall retain such designation in the 2017-2018 school year.