

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 101, 207, 305, 308, 309 and 3204.

Paragraph (2) of subdivision (ee) of section 100.2 of the Regulations of the Commissioner of Education is amended, as follows:

(2) Requirements for providing academic intervention services in grade three to grade eight.

(i) For the 2016-17, 2017-18, and 2018-2019 school years, schools shall provide academic intervention services following a two-step identification process:

(a) First, students who score below a median scale score between a level 2/partially proficient and a level 3/proficient on a grade 3-8 English language arts or mathematics State assessment as determined by the Commissioner, shall be considered for academic intervention services. Students scoring at or above the median scale score determined by the Commissioner but below a level 3/proficient score shall not be required to receive academic intervention services unless the school district, in its discretion, determines that such services are needed.

(b) Districts shall then use a district-developed procedure, to be applied uniformly at each grade level, for determining which students identified in clause (a) shall receive academic intervention services after it considers a student's scores on multiple measures of student performance, which may include, but need not be limited to, one or more of the following measures, as determined by the district:

(1) developmental reading assessments for grades kindergarten through grade 6;

(2) New York State English as a Second Language Achievement Test (NYSESLAT);

(3) benchmark and lesson-embedded assessments for reading and mathematics in grades kindergarten through grade 6 based on teacher designed and selected assessments;

(4) common formative assessments that provide information about students' skills;

(5) unit and lesson assessments for English language arts, mathematics, science, social studies and languages other than English for grades 7 through 8; and/or

(6) results of psychoeducational evaluations based on a variety of assessments and inventories.

(c) Each school district shall develop and maintain its policies for providing academic intervention services [during the 2016-2017 school year] no later than September 1[, 2016] of each school year and shall either post its policies to its website or distribute to parents in writing a description of such process, including a description of which student performance measures and scores on such measures will be utilized to determine eligibility for academic intervention services.

(d) Schools shall also provide academic intervention services to students who are [limited English proficient (LEP)] English Language Learners and are determined, through a district-developed or district-adopted procedure uniformly applied to [LEP] English Language Learner students, to be at risk of not achieving State learning standards in English language arts, mathematics, social studies and/or science, through English or the student's native language. This district procedure may also include

diagnostic screening for vision, hearing, and physical disabilities pursuant to article 19 of the Education Law, as well as screening for possible disability pursuant to Part 117 of this Title.

(e) Schools shall also provide academic intervention services to students who are determined, through a district-developed or district-adopted procedure uniformly applied, to be at risk of not achieving State standards in English language arts, mathematics, social studies and/or science. This district procedure may also include diagnostic screening for vision, hearing, and physical disabilities pursuant to article 19 of the Education Law, as well as screening for possible [limited English proficiency] identification as an English Language Learner or for possible disability pursuant to Part 117 of this Title.

(ii) Commencing with the [2017-18] 2019-20 school year and each school year thereafter, schools shall provide academic intervention services following a two-step identification process:

(a) First, all students performing at or below a certain scale score, established through a standard setting process conducted by the Department, on one or more of the State elementary assessments in English language arts or mathematics shall be considered for academic intervention services. The standard setting process shall include a panel of educators, including teachers, principals and other school personnel. Students scoring at or above the scale score established by the standard setting panel and approved by the Commissioner shall not be required to receive academic intervention services unless the school district, in its discretion, determines that such services are needed.

(b) Districts shall then use a district-developed procedure, to be applied uniformly at each grade level, for determining which students identified in clause (a) shall receive academic intervention services after it considers a student's scores on multiple measures of student performance, which may include, but need not be limited to, one or more of the following measures, as determined by the district:

(1) developmental reading assessments for grades kindergarten through grade 6;

(2) New York State English as a Second Language Achievement Test (NYSESLAT);

(3) benchmark and lesson-embedded assessments for reading and mathematics in grades kindergarten through grade 6 based on teacher designed and selected assessments;

(4) common formative assessments that provide information about students' skills;

(5) unit and lesson assessments for ELA, mathematics, science, social studies and languages other than English for grades 7 through 8; and/or

(6) results of psychoeducational evaluations based on a variety of assessments and inventories.

(c) Each school district shall develop and maintain its policies for providing academic services during the [2017-2018] 2019-2020 school year and each school year thereafter no later than September 1, [2017] 2019 and each September thereafter and shall either post its policies to its website or distribute to parents in writing a description of such process, including a description of which student performance measures and

scores on such measures will be utilized to determine eligibility for academic intervention services.

(d) Schools shall also provide academic intervention services to students who are [limited English proficient (LEP)] English Language Learners and are determined, through a district-developed or district-adopted procedure uniformly applied to [LEP] English Language Learner students, to be at risk of not achieving State learning standards in English language arts, mathematics, social studies and/or science, through English or the student's native language. This district procedure may also include diagnostic screening for vision, hearing, and physical disabilities pursuant to article 19 of the Education Law, as well as screening for possible [disability] disabilities pursuant to Part 117 of this Title; or

(e) Schools shall also provide academic intervention services to students who are determined, through a district-developed or district-adopted procedure uniformly applied, to be at risk of not achieving State standards in English language arts, mathematics, social studies and/or science. This district procedure may also include diagnostic screening for vision, hearing, and physical disabilities pursuant to article 19 of the Education Law, as well as screening for possible [limited English proficiency] identification as an English Language Learner or for possible disability pursuant to Part 117 of this Title.

