

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 208, 315, 305, 2117, 2854(1)(b), and 3204.

1. Subdivision (i) of section 154-2.3 of the Regulations of the Commissioner of Education is amended, to read as follows:

(i) *Grade Span*.

(1) The maximum allowable grade span for grouping instruction in grades 1-12 English as a new language or bilingual education classes is two contiguous grades, except for English language learners in a special class, as defined by section 200.1(uu) of this Title. Provided, however, that beginning with the 2018-2019 school year the Commissioner may waive such requirement for school districts with enrollment of fewer than thirty English language learner students and permit such districts to utilize a maximum allowable grade span for instruction in grades 1-12 English as a new language or bilingual education classes of three contiguous grades, except for English language learners in a special class, as defined by section 200.1(uu) of this Title. A district seeking permission for such a waiver shall annually submit to the commissioner for approval an application on a form prescribed by the commissioner which must include:

(i) data regarding the number and percentages of English language learners enrolled in the district, along with data regarding the number of certified bilingual education and English to speakers of other languages teachers in the district;

(ii) evidence that the district will ensure that all English language learners receive grade and age appropriate instructional support if the waiver is granted; and

(iii) evidence regarding the district's efforts to meet the two grade span requirement of this subparagraph prior to seeking a waiver.

