

## AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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

1. Paragraphs (1), (4), and (6) of subdivision (zz) of section 200.1 of the Regulations of the Commissioner of Education are amended to read as follows:

(1) *Autism* means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a student's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a student's educational performance is adversely affected primarily because the student has an emotional [disturbance] disability as defined in paragraph (4) of this subdivision. A student who manifests the characteristics of autism after age 3 could be diagnosed as having autism if the criteria in this paragraph are otherwise satisfied.

(4) *Emotional [disturbance] disability* means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

(i) an inability to learn that cannot be explained by intellectual, sensory, or health factors;

(ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(iii) inappropriate types of behavior or feelings under normal circumstances;

(iv) a generally pervasive mood of unhappiness or depression; or

(v) a tendency to develop physical symptoms or fears associated with personal or school problems. The term includes schizophrenia. The term does not apply to students who are socially maladjusted, unless it is determined that they have an emotional [disturbance] disability.

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

2. Subparagraph (ii) of paragraph (3) of subdivision (j) of section 200.4 of the Regulations of the Commissioner of Education is amended to read as follows:

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

3. Clause (f) of subparagraph (i) of paragraph (5) of subdivision (j) of section 200.4 of the Regulations of the Commissioner of Education is amended to read as follows:

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