

8 NYCRR §§ 100.2(ff),100.2(m),100.18,100.19 and Part 120

REGULATORY IMPACT STATEMENT

1.STATUTORY AUTHORITY:

Ed.L.§101 continues existence of Education Department, with Board of Regents as its head, and authorizes Regents to appoint Commissioner of Education as Department's Chief Administrative Officer, which is charged with general management and supervision of all public schools and educational work of State.

Ed.L.§112(1) authorizes Commissioner to require schools and school districts to facilitate the prompt enrollment of children who are released or conditionally released from residential facilities.

Ed.L.§207 empowers Regents and Commissioner to adopt rules and regulations to carry out State education laws and functions and duties conferred on the Department.

Ed.L.§210 authorizes Regents to register domestic and foreign institutions in terms of State standards, and fix the value of degrees, diplomas and certificates issued by institutions of other states or countries and presented for entrance to schools, colleges and professions in the State.

Ed.L.§215 authorizes Commissioner to require schools and school districts to submit reports containing such information as Commissioner shall prescribe.

Ed.L.§305(1) and (2) provide Commissioner, as chief executive officer of the State's education system, with general supervision over all schools and institutions subject to the Education Law, or any statute relating to education, and responsibility for executing all educational policies of the Regents.

Ed.L.§305(20) provides Commissioner shall have such further powers and duties as charged by the Regents.

Ed.L.§309 charges Commissioner with general supervision of boards of education and their management and conduct of all departments of instruction.

Ed.L.§3713(1) and (2) authorize State and school districts to accept federal law making appropriations for educational purposes and authorize Commissioner to cooperate with federal agencies to implement such law.

The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C. sections 6301 et seq.(Public Law 114-95, 129 STAT.1802).

2. LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the above statutory authority and is necessary to implement New York's approved ESSA plan and to comply with the provisions of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C. sections 6301 et seq. (Public Law 114-95, 129 STAT. 1802).

3. NEEDS AND BENEFITS:

On December 10, 2015, ESSA was signed into law by President Obama. This bipartisan measure reauthorized the 50-year-old ESEA, which provides federal funds to improve elementary and secondary education in the nation's public schools and requires states and school districts, as a condition of funding, to take a variety of actions to ensure all children, regardless of race, income, background, or where they live, receive the education they need to prepare them for success in postsecondary education, careers, and citizenship. New York State receives approximately \$1.6 billion annually in funding through ESSA.

After an extensive, 18-month long public engagement process, the Department, with Board approval, submitted New York State's ESSA plan to the USDE for review on September 17, 2018. On January 17, 2018, the USDE approved the State's plan. In April 2018, the Department provided the Board of Regents with a description of the draft regulatory terms and the Board directed the Department to finalize the draft regulatory terms for publication in the State Register.

The rule will ensure a seamless transition to the revised accountability plan as authorized under the approved ESSA plan, and provide school districts with the opportunity to demonstrate improvements by creating improvement plans that address the needs and resource issues found in identified schools.

Summary of New or Revised Key Concepts within Draft Regulations

New Categories of School and District Identification

- Comprehensive Support and Improvement schools (CSI)
 - Beginning with 2017-2018 school year results, the Commissioner will identify a minimum of five percent of the lowest performing Title I elementary and middle schools and five percent of the lowest performing Title I high schools as CSI as measured by the performance of a school's "all students" group. The Commissioner will also identify as CSI any high school with a four-year graduation rate for the "all students" group below 67% and a five-year or six-year graduation rate that is not at or above 67% that do not successfully appeal such designation. CSI schools will first be identified for the performance of the "all students" group in the 2018-19 school year, based on 2017-18 school year results, and every three years thereafter. Schools that have been identified for targeted support and improvement (TSI) based on the performance of one or more accountability subgroups and that after having been further identified for additional targeted support remain identified as TSI after three years for one or more of accountability subgroup(s) for which the school was provided additional targeted support also will be identified as CSI, if such schools do not successfully appeal their designation.
- Targeted Support and Improvement schools (TSI) – Schools with one or more consistently underperforming accountability subgroups will be identified annually beginning with the 2019-2020 school year, except that a school identified as a Priority or Focus school during the 2017-2018 school year may be identified (using 2017-2018 school year data only), if such school meets the criteria for identification as a TSI school, based on 2017-18 school year results. A "consistently

underperforming” accountability subgroup is one that meets the criteria for identification for two consecutive years.

- In addition, in the year that the Commissioner identifies schools as CSI for the performance of the “all students” group, the Commissioner will determine if any TSI school should be identified for “additional targeted support.” A TSI school will be identified for additional targeted support if the school has been identified as TSI in both the current and prior school year and one or more subgroups in the school for which the school has been identified are performing at a level that would have caused the school to be identified as CSI if such performance had been attributed to the “all students” group.
- Target Districts – The Department will identify any school district with one or more CSI or TSI schools as a Target District, if the district does not successfully appeal such designation. A district can also be identified as Target District if the district-wide performance levels are the same or lower than those that would cause a school to be identified as CSI or TSI.
- Schools Performing at Level 1 - In addition to the above categories, any school that is not identified as CSI or TSI but has an accountability group that performed at Level 1 on an indicator must participate in a needs assessment, in a format as may be prescribed by the Commissioner, to determine the additional support that the school needs to improve performance. Such needs assessment must identify the academic achievement gaps between accountability subgroups within the school, identify the root causes for the gaps, and delineate the resources and strategies that the district will use to support the school to address such gaps.

New Indicators used for Identification of Schools and Districts beginning with 2017-2018 school year results, for the purposes of ranking schools and identifying CSI and TSI schools, and Target Districts

Note: For each indicator listed below, each subgroup for which a school or district is accountable will be assigned a Level 1-4, if the subgroup has a minimum of 30 student results for which the school or district is accountable.

Indicator	Description
Composite Performance	For all schools , based on the Composite Performance Level, which measures achievement on State assessments in English language arts (ELA), mathematics and science. For high schools , also measures achievement on State assessments in social studies. For elementary and middle schools, the Composite Performance Level combines the results from the Core Subject Performance Level, which are ELA, mathematics and science results computed using only the results from continuously enrolled students with valid test scores, and the Weighted Academic Achievement

Indicator	Description
	Level, which are ELA, mathematics and science results computed using as the denominator the greater of the percentage of continuously enrolled students with valid test scores or 95% of continuously enrolled students. The Weighted Academic Achievement and Core Subject Performance Levels are derived from Performance Indices that give “partial credit” (1 point) to students who score at Level 2, “full credit” to students who score at Level 3 (2 points), and “extra credit” to students who score at Level 4 (2.5 points).
Student Growth	For elementary and middle schools , measures student growth on statewide assessments in ELA and mathematics for students in grades 4-8 by comparing the scores of students in the current year to the scores of students with similar scores in prior years. Three years of Student Growth Percentiles are used to compute this measure.
Academic Progress	For all schools , measures a school’s Weighted Academic Achievement Index in ELA and mathematics (see Composite Performance above) against State long-term goals and State and school or district measures of interim progress (MIPs).
Graduation Rates	For high schools , measures four-, five-, and six-year cohort graduation rates against State long-term goals and State and school or district MIPs. Data is lagged a year.
English Language Proficiency (ELP)	For all schools , measures the progress of English Language Learners in meeting their individual progress targets on the New York State English as a Second Language Achievement Test (NYSESLAT).
Chronic Absenteeism	For all schools , measures the percentage of students who miss 10% or more of the school year against State long-term goals and State and school or district MIPs. Students must be enrolled for a minimum of ten days and have attended school for at least one day to be included in the computation.
College, Career, and Civic Readiness (CCCR)	For high schools , measures the percentage of students who are leaving school prepared for college, career and civic readiness as measured by diplomas, credentials, advanced course credits and enrollment, career and technical education certifications, high school equivalency diplomas and other similar indicators against State long-term goals and State, school and district MIPs.

New methodology for identification of Schools and Districts, using Decision Tables

Each school's data for each of the indicators, for each subgroup, will be calculated and then assigned a level, 1-4. Level 1 represents the lowest level of achievement for that indicator, and Level 4 represents the highest level of achievement for the indicator.

Using the levels given to each school and district for each of the indicators, for the "all students" subgroup and for each accountability subgroup, which in New York are the major racial/ethnic groups, English language learners, low-income students, and students with disabilities, the Department will use decision tables to identify CSI and TSI schools. Below are the scenarios under which schools will be identified as CSI or TSI.

1. Decision Table for Identification of Elementary/Middle Schools

Composite Performance Level	Student Growth Level	Combined Composite Performance & Growth Level	ELP Level	Academic Progress Level	Chronic Absenteeism Level
<u>Both Level 1</u>		<u>Level 1</u>	<u>Any Level</u>	<u>Any Level</u>	
<u>Either Level 1</u>		<u>Level 1</u>	<u>None*</u>	<u>Any One of the Two is Level 1</u>	
<u>Either Level 1</u>		<u>Level 1</u>	<u>Level 1</u>	<u>Any Level</u>	
<u>Either Level 1</u>		<u>Level 1</u>	<u>Level 2</u>	<u>Any Level 1</u>	
<u>Either Level 1</u>		<u>Level 1</u>	<u>Level 3 or 4</u>	<u>Both Level 1</u>	

2. Decision Table for Identification of High Schools

Composite Performance Level	Grad Rate Level	Combined Composite Performance & Grad Rate Level	ELP Level	Progress Level	Chronic Absenteeism Level	CCCR Level
<u>Both Level 1</u>		<u>Level 1</u>	<u>Any Level</u>	<u>Any Level</u>		
<u>Either Level 1</u>		<u>Level 1</u>	<u>None*</u>	<u>Any One of the Three is Level 1</u>		
<u>Either Level 1</u>		<u>Level 1</u>	<u>Level 1</u>	<u>Any Level</u>		
<u>Either Level 1</u>		<u>Level 1</u>	<u>Level 2</u>	<u>Any Level 1</u>		
<u>Either Level 1</u>		<u>Level 1</u>	<u>Level 3 or 4</u>	<u>Any Two Level 1</u>		

Note: In the above tables, "None" means the subgroup in a school or district for which a determination is being made has not been assigned an ELP level because there are fewer than 30 student results for this measure.

An elementary, middle, or high school will be identified as a CSI school if the school's all students group matches the pattern of performance in any one of the rows in the above tables. An elementary, middle, or high school will be identified as a TSI school if for two consecutive years any of the school's subgroups match the pattern of performance in any one of the rows in the above tables, except that, using 2017-18 school year results, a Priority or Focus School can be identified for TSI if it matches a pattern of performance in any one of the rows in the above tables based on 2017-18 school year results only. A district may be identified as a Target District if it has any schools

identified as either TSI or CSI. In addition, if a district has no schools identified as TSI or CSI, the district may still be identified as a Target District if the district for two consecutive years matches a pattern of performance in any of the rows in the above tables.

New and Revised Supports and Interventions for Schools and Districts

Schools and districts are first identified in the 2018-19 school year using 2017-18 school year data. Schools and districts will use the 2018-19 school year to develop their comprehensive education plans, which will be implemented in the next school year. However, any school that has been identified as a Priority or Focus School during the 2017-18 school year must continue to implement its School Comprehensive Education Plan during the 2018-19 school year, regardless of whether the school is identified as a CSI or a TSI.

CSI school requirements and supports are differentiated, based on the amount of time a school or district has been identified and progress made during the years of identification.

- All CSI schools must:
 - Participate in a needs assessment that includes a review of school quality, a review of select State-reported and State-supported data indicators and survey results, and a resource audit that examines the effectiveness of professional development and how schools and districts use their time (e.g., instructional time, length of school day and/or school year), space (facilities), staff, and funds in relation to best practices. In the first year of identification, the review of school quality will look at practices related to the tenets of the Diagnostic Tool for School and District Effectiveness. In subsequent years, the review of school quality may focus on providing feedback about the implementation of the school's comprehensive education plan.
 - Develop and implement, in consultation with parents, school staff, and other stakeholders, a school comprehensive education plan based on the results of the needs assessment that is submitted for approval to the school district and the New York State Education Department (NYSED or "the Department"). The Commissioner has the authority to reject any plan that does not provide sufficient evidence that parents and pedagogical staff and in high schools, students, meaningfully participated in the development of the plan.
 - Describe in detail within the school comprehensive education plan the initiatives that will be implemented to positively affect student learning and to address the accountability measures for which the school has been identified, including the implementation of school-level evidence-based interventions and job-embedded professional development.
 - School-level evidence-based intervention means an activity, strategy, or intervention that has met the criteria outlined in section 8101(21)(A) of ESSA by demonstrating either a statistically

significant effect on improving student outcomes or other relevant outcomes, or a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes and includes ongoing efforts to examine the effects of such activity, strategy, or intervention; provided that such intervention must be implemented so as to affect such percentage of a school's enrollment or such percentage of classrooms as may be prescribed by the Commissioner for the school.

- Job-embedded professional development means professional development for teachers and leaders that is informed by the results of the comprehensive needs assessment or progress needs assessment of the school and by the teacher or leader evaluation system and any applicable supports, and addresses identified teacher and student needs.
- Limit incoming teacher transfers to teachers rated effective or highly effective pursuant to Education Law §3012-d by a school district in the previous school year, subject to collective bargaining as required under article 14 of the Civil Service Law. Districts shall be required to include this provision in any successor collective bargaining agreement unless otherwise prohibited by law.
- Establish a participatory budgeting process, which means a process by which CSI schools, beginning with the 2019-2020 school year, must annually set aside and spend a designated amount of allowable funds in such school year, in an amount specified by the Commissioner and not to be less than \$2,000, for the purpose of funding projects that are proposed by and voted on by the students and families of the school as determined by the Commissioner. The project proposal period and subsequent final vote must occur annually within each CSI school and be organized in such manner as may be specified by the Commissioner, which shall include, at a minimum, guidance that the final vote to determine the projects that are funded is open to all students and that the families of each student shall have a minimum of one vote per family.
- Conduct parent, teacher and student surveys.
- Provide notification to parents of the accountability status of the school prior to the first day of school following the identification of the school.
- Obtain approval of the school comprehensive education plan from the local board of education (or the Chancellor in New York City) and post the plan on its website.
- Requirements for CSI schools after the first year of identification are determined based on whether the school has met or exceeded its Annual Achievement Progression targets, which are based on the “all students” group’s performance on the Core Subject Performance Index and Mean Student Growth Percentiles for elementary and middle schools and the Composite Performance Index and Graduation Rate Index for high schools.
 - In the second school year of identification, CSI schools must continue the annual required actions identified above and the principal must submit quarterly reports to the district.

- If a school has met or exceeded its Annual Achievement Progression targets, the school will proceed with the annual required actions identified above; however, the school can conduct a progress review that focuses on delivering feedback regarding the implementation of the school comprehensive education plan as its review of school quality.
- If a school has not met its Annual Achievement Progression targets after the first year of identification, the school will receive additional technical assistance from the Department. The school will either conduct a progress review focused on the implementation of the school comprehensive education plan or a comprehensive review using the Diagnostic Tool for School and District Effectiveness as its review of school quality. In addition, any district with a CSI school that does not meet its Annual Achievement Progression target will submit a Principal Support Report to the Commissioner to outline how the district will support the leadership of the CSI school.
- In the third year of identification, CSI schools that fail to meet their Annual Achievement Progression targets for two consecutive years will receive additional support and oversight. In addition to the annual requirements that all CSI schools must complete, the CSI schools that do not meet their Annual Achievement Progression targets for two consecutive years must:
 - Partner with the local Board of Cooperative Educational Services (BOCES), Regional Bilingual Educational Resource Network, Teacher Center, Regional Technical Assistance Center, or other technical assistance provider as approved by the Commissioner, to support implementation of the school comprehensive plan.
- In the fourth year of identification, CSI schools in which the Annual Achievement Progression results have declined for two consecutive years following identification must offer Public School Choice

In addition, any district with a CSI school that failed to meet its Annual Achievement Progression targets for two consecutive years will have as part of its district-level needs assessment an evaluation of the district's capacity to support its leaders in CSI schools.

Support and oversight for **TSI schools** will be the responsibility of the district, which will lead the needs assessment process and approve the school comprehensive education plan for the TSI school.

- All TSI schools must:
 - Participate in an annual needs assessment that includes a review of school quality, a review of select State-reported and State-supported data indicators and survey results, and a resource audit that examines the effectiveness of professional development and how schools and districts use their time (e.g., instructional time, length of school day and/or school year), space (facilities), staff, and funds in relation to best practices. In the first year of identification, the review of school quality will look at practices related to the tenets of the Diagnostic Tool for School and District Effectiveness to consider how the organization of the school may be impacting subgroup performance. In subsequent years the review of

school quality may focus on providing feedback about the implementation of the school's comprehensive education plan.

- Use the results of the needs assessment and other data concerning subgroup performance to create a school comprehensive education plan in collaboration and consultation with parents, teachers, and students, as required by Part 100.11.
 - Describe in detail within the school comprehensive education plan the implementation of evidence-based interventions and job-embedded professional development.
 - Provide notification to parents of the accountability status of the school prior to the first day of school following the identification of the school.
 - Obtain approval of the school comprehensive education plan from the local board of education (or the Chancellor in New York City), and post the plan on its website.
- TSI schools submit their plans annually to the district for review and approval.

- **Schools that perform at Level 1 for one or more accountability groups on one or more accountability measures but are not CSI or TSI schools**

Based on a needs assessment, the district, in consultation with parents, school staff, and other stakeholders at the school, consistent with the district plan pursuant to section 100.11, shall identify additional resources that the district will provide to the school to assist it to increase performance on the accountability measure for the identified group(s). The district in its consolidated application must also identify the additional resources and professional development that the district will provide the school to improve performance.

Target Districts will be required to develop plans that address the needs of the identified schools within their district and/or address the areas for which the district has been identified.

- All Target Districts must:
 - Participate in a comprehensive needs assessment.
 - Develop a district comprehensive improvement plan that describes in detail the implementation of interventions and professional development that address the needs identified by the school and district needs assessments and in consultation and collaboration with parents, teachers, and students consistent with 100.11.
 - Provide notification to parents of the accountability status of the district prior to the first day of school following the identification of the school.
 - Obtain approval of the district comprehensive improvement plan from the local board of education (or the Chancellor in New York City) and post the plan on its website.

Public School Choice

- Public school choice means the option for students enrolled in a CSI school to transfer to a public school in good standing at the appropriate grade level within the district.

- Districts are required to offer public school choice when a CSI school does not make its Annual Achievement Progression targets for two consecutive years. In that instance, parents at the school must be notified of their right to public school choice, and the district must conduct a school choice enrollment process. To the extent that the district currently provides transportation, the district must continue pay for such costs for any student who takes advantage of public school choice.
- Any student who is currently enrolled in a school as a result of a public school choice plan must be allowed to remain enrolled in that school until completing the highest grade level at that school and must continue to receive transportation to such school.
- Districts that are required to offer Public School Choice, but cannot do so (e.g., the only high school in the district has been identified), must increase the amount they expend on participatory budgeting.

Participatory Budgeting

- Beginning with the 2019-2020 school year, CSI schools must set aside and spend no less than \$2,000 annually for the purposes of funding projects that are proposed and voted on by the students and families of the school. All students and their families will have the right to vote on which projects are funded with these funds. Where a CSI school has declined in performance for two consecutive school years on the measures used to make Annual Achievement Progress determinations and the district is unable to provide public school choice for all of the students in the CSI school who request it, the district must ensure that the CSI school expends greater amounts through the participatory budgeting process.

Principal Support Report

- To be completed by any district with at least one CSI school that does not meet its Annual Achievement Progression targets.
- The district identifies any areas in which the district determines it could more effectively support the Principal(s) of CSI schools based upon the specific needs of the school(s).
- The report is intended to provide summary information for the district and the State and must be consistent with Education Law §§3012-c (10) and 3012-d(15) with respect to safeguarding personally identifiable information.

Principal Needs Assessment

- To be completed by any Target District with one or more CSI schools that fail to meet their Annual Achievement Progressions targets for two consecutive years.
- Is an additional component of the District Needs Assessment that assesses the capacity of the district to support its principals.
- The results of the Principal Needs Assessment along with a plan to address the findings must be submitted to the Department.

Requirement for at least 95% Participation Rate in State Annual Assessments

- Identification of schools that fail to meet participation rate requirements

- Beginning with 2017-2018 and 2018-2019 school year results, a school will be identified for participation rate if the school has a participation rate below 95% for the same subgroup, in the same subject (i.e., ELA or mathematics) for two consecutive years, and fails to improve participation rate, as determined by the Commissioner, as compared to the previous year for the same subgroup(s) and subject(s). Such school must develop a participation rate improvement plan as described below.
- Required plan for schools that fail to meet participation rate requirements
 - In the first year of identification, the school will conduct a participation rate self-assessment and develop a participation rate improvement plan:
 - The plan will be developed in collaboration with a committee composed of the school principal or their designee(s); school staff including teachers and student support staff, no more than fifty percent of whom shall be selected by the representative collective bargaining organization(s); and parents selected by school-related parent organizations (not employed by the district or a collective bargaining organization representing teachers or administrators in the district). A district may designate a school based management team or a community engagement team to be the committee for this purpose.
 - The plan must address participation of students from all subgroups, as defined in the regulation, for which the school has failed to meet the required 95% participation rate and failed to improve the participation rate as compared to the previous year.
 - The plan must be adopted by the district Board of Education (in New York City, the chancellor or chancellor's designee), after consultation with the committee.
 - In the second year of identification, if the school fails to improve its participation rates for the subgroup(s) and subject(s) for which the initial plan was required, the district will conduct a participation rate audit and develop an updated participation plan.
 - In the third year of identification, for any school for which a district audit and district participation improvement plan was completed in the previous school year and that fails to improve its participation rates for the subgroup(s) and subject(s) for which the plan was required, the district must work with a Board of Cooperative Educational Services (BOCES) to conduct a participation rate audit and develop an updated participation rate plan.
 - In the fourth year of identification, for any school for which a BOCES audit and BOCES participation improvement plan was completed in the previous school year and that fails to improve its participation rates for the subgroup(s) and subject(s) for which the plan was required, the Department will conduct an audit of the participation rate and the school may be required by the Commissioner to undertake additional activities to raise student participation in State assessments.
 - Beginning with 2017-2018 and 2018-2019 school year results, schools that are identified for participation rate and are among the lowest ten percent of schools within the State for participation rate must submit a

participation rate plan for approval by the Commissioner. The Commissioner may require the district to set aside a portion of its Title I funding to support activities to increase student participation in state assessments.

- Once a school is required to develop a participation improvement plan for a subgroup, the school must continue to update and implement the plan annually until such time as the subgroup meets the 95% participation requirement.

Schools under Registration Review process

- A school can be identified for Registration Review in three ways:
 1. If the school has been placed into Receivership.
 2. If school has been identified for three consecutive years as a Comprehensive Support and Improvement School.
 3. If the school has been identified as a poor learning environment by the Commissioner.
- Schools under Registration Review that are also identified as schools in Receivership or as CSI schools continue to engage in the activities required by those designations.
- If a school is placed under Registration Review because of being designated a poor learning environment, an integrated intervention team, which may include a Distinguished Educator, will conduct a diagnostic review of the school and make recommendations to the Commissioner regarding whether the school should:
 - Continue to implement its current school comprehensive education plan, with modifications as suggested by the Integrated Intervention Team;
 - Phase-out or close the school; or
 - Create and implement a new school comprehensive education plan.

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 or intervention plan, a new intervention 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 a School Under Registration review that is also a school in Receivership fails to make Demonstrable Improvement, as required pursuant to Section 100.19, for two consecutive years or a School Under Registration Review that is a CSI school or a school identified as poor learning environment fails to make required progress for two consecutive year as determined by the Commissioner, the Commissioner may direct the district to submit a plan to take one of these actions:
 - (a) convert the school to a charter school pursuant to Education Law section 2851(3); or
 - (b) enter into a contract with the State University of New York Board of Trustees, subject to the approval of the Commissioner of Education, pursuant to Education Law section 355(n) for the education of the children of the school; or

- (c) for the city school district of the City of New York, enter into a contract with the City board and the City University of New York pursuant to Education Law section 2590(k) to administer a New York City public high school; or
- (d) close or phase out the school.

In the event that the school district does not submit an acceptable plan in such format and in such timeline as the Commissioner may establish, the Commissioner may direct that the school district close or phase out the school pursuant to a plan approved by the Commissioner. And if the district has not taken the required actions to close or phase out a school, the Commissioner shall recommend that the registration of the school be revoked.

Charter Schools

- Charter schools continue to be identified in the same manner as all other public schools in New York State.
- Each charter school identified as a CSI or TSI school will be required to 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.

Transfer Schools

- Should a transfer school be identified as CSI, the school may petition the Commissioner to be subject to differentiated interventions, which might, for example, include having the school district rather than the Department conduct the required needs assessment.

4. COSTS:

Cost to the State: The proposed rule does not generally impose any new costs beyond those consistent with the provisions of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C. sections 6301 et seq. (Public Law 114-95, 129 STAT. 1802).

Costs to local government: The rule does not generally impose any new costs beyond those consistent with the provisions of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20 U.S.C. sections 6301 et seq. (Public Law 114-95, 129 STAT. 1802), but rather requires, in some instances, that school districts spend a portion of their Title I, Title IIA, and Title

III funds on specific programs and activities, except that a school identified for Comprehensive Support and Improvement may in some cases need to spend an amount that is anticipated to be less than \$10,000 per year in state and/or local funds to meet the participatory budgeting requirements of the regulations. The rule also provides school districts with substantial additional flexibility in how they use program funds compared to current regulations pertaining to schools identified as Priority or Focus.

Based upon the requirements described in the rule to implement certain activities based upon a school or district's accountability status, there may be some associated costs. These activities, include, but are not necessarily limited to, annual notifications of accountability status; participation in comprehensive needs assessments; conduct of parent, staff and student surveys; and development and implementation of improvement plans. For school districts with schools receiving Title I, IIA or III funding, these funds may be used to pay the associated costs. School districts with Title I funded schools that are designated as Comprehensive Support and Improvement (CSI) schools or Targeted Support and Improvement (TSI) schools, will also be required to use their Title I, IIA, III funding to implement programs and services in CSI and TSI schools that address the needs and resource limitations found as a result of the needs assessments conducted at the schools. CSI schools that fail to show progress on their Annual Achievement Progression targets for two consecutive years will be required to enter into a partnership with a BOCES, Regional Bilingual Education Resource Network, Teacher Center or other Regional Technical Assistance Center, or other technical assistance provider as determined by the Commissioner to support the implementation of the Comprehensive Education Plan. Depending on the nature of such partnership, and whether such partnership already exists, a school district may incur costs to implement this provision of the regulations.

In some instances, school districts newly identified as Target Districts with schools that are designated as CSI or TSI that do not receive Title I funding may incur costs. These costs will generally be limited to the cost of site visits and implementation of any elements of District Comprehensive Education Plans and Comprehensive Education Plans that involve activities that are in addition to the district's or the school's regular educational program and that the district chooses not to fund through reallocation of existing resources. However, it is anticipated that non-Title I schools will be eligible to receive federal 1003 School Improvement Grants that can be used to fund these activities.

Districts that have schools that fail to meet the 95% participation rate requirements must develop a participation rate improvement plan, which in some cases beginning in the 2021-22 school year shall include partnering with a BOCES or other technical assistance provider to conduct a participation rate audit and to update the participation rate improvement plan. Because these partnerships will likely vary significantly in cost based on the number of schools for which a plan is required no estimate can be made at this time regarding required costs. Similarly districts that have schools that will be closed or phased out as a consequence of these regulations may incur costs in developing and implementing a closure or phase out plan.

In other instances, school districts and their schools will be designated as in Good Standing, when under the present accountability system these school districts and schools might otherwise have been designated as Priority, Focus or Local Assistance Plan schools. In these cases, school districts may incur cost savings as they will no longer be required to participate in site visits or in the other previously required interventions for districts with such designations. In addition, a number of previous requirements for schools identified as Priority or Focus have been reduced or

eliminated, thereby providing districts with increased flexibility in use of funds. For example, the current requirement for Title I Schools that are designated as Priority and Focus Schools to offer public school choice has been replaced by a substantially more limited public school choice program for a subset of Comprehensive Support and Improvement Schools. Because of the number of school districts and schools involved, and the fact that the allowable services and activities to be provided will vary greatly from district-to-district, as well as school-to-school, depending on the school and district designation, the district's choices, and the needs presented in each school, a complete cost statement cannot be provided. No additional costs have been identified with respect to the implementation of the updated accountability system, given the similarities in current requirements and an inability to determine differences aside from those in respect to depth of focus.

Cost to private regulated parties: None.

Cost to regulating agency for implementation and continued administration of this rule: None.

5. LOCAL GOVERNMENT MANDATES:

The rule is necessary to assist school districts to be able to meet the provisions of New York's approved ESSA plan. The proposed regulation will require districts with schools identified as CSI or TSI to make significant changes to the educational programs. See the response to Question #3, Needs and Benefits.

6.PAPERWORK:

The proposed rule generally contains paperwork requirements consistent with those in existing regulations and does not generally impose any new paperwork requirements beyond those consistent with the above statutory authority and the provisions of the Elementary and Secondary Education Act of 1965, as amended by the

Every Student Succeeds Act of 2015, 20 U.S.C. sections 6301 et seq. (Public Law 114-95, 129 STAT. 1802). For further information please see the above response to Question #3, Needs and Benefits.

7.DUPLICATION:

The rule does not duplicate existing State or federal regulations.

8.ALTERNATIVES:

After an extensive, 18-month long public engagement process, the Department, with Board approval, submitted New York State's ESSA plan to the USDE for review on September 17, 2018 which was approved on January 17, 2018. The proposed rule is necessary conform Commissioner's Regulations to New York's approved ESSA plan.

9.FEDERAL STANDARDS:

The rule is necessary to conform regulations to New York's approved ESSA plan and the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015, 20U.S.C.§6301 et seq. (Public Law 114-95, 129 STAT.1802).

10.COMPLIANCE SCHEDULE:

It is anticipated that parties will be able to timely implement the rule's requirements beginning with its effective date.