

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 112, 207, 210, 215, 305, 309, and 3713 of the Education Law and 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).

1. Paragraph of subdivision (a) of section 100.21 of the Regulations of the Commissioner of Education is amended to read as follows:

(3) Notwithstanding any other provisions of this section, the Commissioner shall not conduct a review of school and district performance for the 2021-2022 school year using 2019-2020 or 2020-2021 school year results, the accountability status of public schools and districts for the 2020-2021 school year shall be the same as for the 2019-2020 school year and the accountability status of public schools and districts for the 2021-2022 school year shall be the same as for the 2020-2021 school year.

(4) Notwithstanding any other provision of this section, the Commissioner may, upon a finding of good cause, modify for the 2019-2020 through [2021-2022] 2022-2023 school years any timelines pertaining to notifications, plans, reports, or implementation of activities required by this section.

2. Subparagraphs (i) and (ii) of paragraph (3) of subdivision (b) of section 100.21 of the Regulations of the Commissioner of Education are amended to read as follows:

(i) Comprehensive support and improvement (CSI) schools (elementary and middle schools). The State shall designate elementary/middle schools as CSI schools using the following criteria:

(a) beginning with the 2018-2019 school year, using 2017-2018 school year results, and the [2022-2023] 2023-2024 school year using [2021-2022] 2022-2023 school year results, the State shall identify a minimum five percent of the lowest performing schools as CSI schools and shall identify CSI schools based upon the results from the all students group once every three years thereafter, based on the accountability measures described in subdivision (f) of this section. Provided that, if the accountability measures used to identify CSI schools in subdivision (f) of this section result in the identification of fewer than five percent of Title I public elementary/middle schools in the State, the commissioner shall identify the lowest performing five percent of Title I public elementary/middle schools using the rank ordered list for the combined composite performance and growth index; and

(b) ...

(ii) CSI (high schools). The State shall designate high schools as CSI schools using the following criteria:

(a) beginning with the 2018-2019 school year, using 2017-2018 school year results, and the [2022-2023] 2023-2024 school year using [2021-2022] 2022-2023 school year results, the State will identify a minimum five percent of the lowest-performing schools as CSI schools based upon the results from the all students group once every three years based on the accountability measures described in subdivision (f) of this section. Provided that, if the methodology pursuant to subparagraph (f)(1)(i) of this section for elementary/middle schools and subparagraph (f)(2)(i) of this section for high schools results in the identification of fewer than five percent of Title I public high schools in the State, the commissioner shall identify the lowest performing five percent

of Title I public high schools using the rank ordered list for the combined composite performance and graduation rate index; and

(b)...

(c)...

3. Subparagraphs (xi) of paragraph (2) of subdivision (b) of section 100.21 of the Regulations of the Commissioner of Education are amended to read as follows:

(xi) The out-of-school suspension rate shall mean the number of students who were suspended from school (not including in-school suspensions) for one full day or longer anytime during the school year divided by the number of students enrolled on BEDS day of that school year commencing with data collected for the [2018-2019] 2022-2023 school year. A student is counted only once, regardless of whether the student was suspended one or more times during the school year. For the [2020-2021] 2023-2024 school year results, the Commissioner shall report for each accountability group for which a school or district is accountable a Level from 1-4 based on the out-of-school suspension rate. For the [2020-2021] 2023-2024 school year results, districts must implement the provisions of 100.21(i)(4) for any schools that have an accountability group that performs at Level 1 on the out-of-school suspension indicator. Beginning with the [2023-2024] 2024-2025 school year results, the out-of-school suspension indicator shall be incorporated into the methodology used to determine the accountability status of schools and districts under this section.

4. Subparagraphs (ii), (iii), (iv), (v), and (vi) of paragraph (5) of subdivision (i) of section 100.21 of the Regulations of the Commissioner of Education are amended to read as follows:

(ii) Beginning with [2017-2018] 2021-2022 and [2018-2019] 2022-2023 school year results, any public elementary/middle or high school that has a weighted average achievement level or high school composite performance level of 1 or 2 and that fails to meet the required 95 percent participation rate for the same subgroup(s), in the same subject (*i.e.*, ELA or math) for two consecutive years, and that fails to improve participation rate as compared to the previous year for the same subgroup(s) and subject(s), as determined by the [Commissioner] commissioner, must conduct a participation rate self-assessment and develop a participation rate improvement plan, in such form and according to such timeline as determined by the [Commissioner] commissioner. Such school participation rate self-assessment and improvement plan shall be developed in collaboration with a committee composed of the school principal or his/her designee(s); school staff, including teachers and student support staff selected by the representative collective bargaining organization(s), and parents (not employed by the district or a collective bargaining organization representing teachers or administrators in the district) selected by school-related parent organizations; except that a school district may designate that a school-based management team established pursuant to section 100.11 of this Part or a community engagement team established pursuant to 100.19 of this Part may serve as the committee required by this paragraph. Such school plan must address participation of students from all subgroups for which the school has failed to meet the required 95 percent participation rate and failed to improve the participation rate as compared to the previous year. Such school 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, no later than 60 days

following notification to the district that such a plan is required. The Board of Education (in New York City, the chancellor or chancellor's designee) shall take appropriate action to notify the general public upon adoption of the school plan; such action shall include, but not be limited to, publishing on the district website, if one exists, or direct notification, within 30 days of adoption, in English and translated, when appropriate, into the recipient's native language or mode of communication.

(iii) Beginning with [2018-2019] 2022-2023 and [2020-2021] 2023-2024 school year results, for any school that completed a school participation rate self-assessment and improvement plan in the previous school year and that fails to improve its participation rates for the subgroup(s) and subject(s), as determined by the commissioner, for which the plan was required, the district shall conduct a participation rate audit and develop an updated participation rate improvement plan. Such district participation improvement plan shall be developed in collaboration with a committee composed of the superintendent or his/her designee(s); the school principal or his/her designee(s); school staff, including teachers and student support staff selected by the representative collective bargaining organization(s); and parents (not employed by the district or a collective bargaining organization representing teachers or administrators in the district) selected by district-related and/or school-related parent organizations. Such district plan must be adopted by the district board of education, no later than 60 days following notification to the district that such a plan is required. The board of education (in New York City, the chancellor or chancellor's designee) shall take appropriate action to notify the general public upon adoption of the school plan; such action shall include, but not be limited to, publishing on the district website, if one exists, or direct notification

to the parents, within 30 days of adoption, in English and translated, when appropriate, into the recipient's native language or mode of communication.

(iv) Beginning with [2020-2021] 2023-2024 and [2021-2022] 2024-2025 school year results, for any school for which a district audit and district participation rate improvement plan was completed in the previous school year and that fails to improve its participation rates for the subgroup(s) and subject(s), as determined by the commissioner, for which the plan was required, the district must partner with a Board of Cooperative Educational Services (BOCES) or other technical assistance center to conduct a participation rate audit and develop an updated participation rate plan. Such participation rate improvement plan shall be developed in collaboration with a committee composed of BOCES staff, the superintendent or his/her designee(s); the school principal or his/her designee(s); school staff, including teachers and student support staff, no more than 50 percent of whom shall be selected by the representative collective bargaining organization(s); and parents (not employed by the district or a collective bargaining organization representing teachers or administrators in the district) selected by district-related and/or school-related parent organizations. Such plan must be adopted by the district board of education no later than 60 days following notification to the district that such a plan is required. The board of education (in New York City, the chancellor or chancellor's designee) shall take appropriate action to notify the general public upon adoption of the school plan; such action shall include, but not be limited to, publishing on the district website, if one exists, or direct notification to the parents, within 30 days of adoption, in English and translated, when appropriate, into the recipient's native language or mode of communication.

(v) Beginning with [2021-2022] 2024-2025 and [2022-2023] 2025-2026 school year results, for any school for which an audit and participation rate improvement plan was completed pursuant to subparagraph (iv) of this paragraph in the previous school year and that fails to improve its participation rates for the subgroup(s) and subject(s), as determined by the commissioner, for which the plan was required, the department shall conduct an audit of the participation rate and the school may be required by the commissioner to address recommendations contained in the participation rate audit.

(vi) Beginning with [2017-2018] 2021-2022 and [2018-2019] 2022-2023 school year results, for any public elementary/middle or high school that is required to develop a participation rate improvement plan and is among the lowest 10 percent of schools within the State for participation rate as determined by the commissioner, the district must submit such plan for approval by the commissioner no later than 60 days following notification to the district that such plan is required.