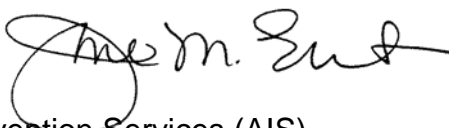





TO: P-12 Education Committee
FROM: Jhone M. Ebert 
SUBJECT: Academic Intervention Services (AIS)
DATE: February 16, 2016
AUTHORIZATION(S): 

SUMMARY

Issue for Discussion

Based on feedback from school districts and key stakeholder groups, should the Board of Regents direct Department staff to propose amendments to Commissioner's Regulations to reexamine how to best support students in Grade 3-8 English Language Arts (ELA) and mathematics?

Reason(s) for Consideration

Review of Policy.

Proposed Handling

This item will come before the P-12 Education Committee for discussion at the February 2016 Regents meeting.

Background Information

Section 100.2(ee) of the Commissioner's Regulations requires school districts to provide Academic Intervention Services (AIS) to students who:

- are determined to lack reading readiness based on an appraisal of the student, including his/her knowledge of sounds and letters or to be at risk of not achieving the State designated performance level in ELA and/or mathematics in Kindergarten to Grade 2;

- score below the State designated performance level on grades 3–8 State assessments for ELA and mathematics and/or who are at risk of not achieving the State learning standards;
- score below the State designated performance level on one or more of the State examinations in ELA, mathematics, social studies or science that are required for graduation in grades 9 – 12.

These requirements have been in place for more than 20 years.

The State assessments for grades 3-8 in ELA and mathematics have four designated performance levels:

Level 1: Students performing at this level are well below proficient in standards for their grade.

Level 2: Students performing at this level are partially proficient in standards for their grade.

Level 3: Students performing at this level are proficient in standards for their grade.

Level 4: Students performing at this level excel in standards for their grade.

In the past, all students who scored at Levels 1 and/or 2 on the grades 3-8 ELA or mathematics assessments had been eligible to receive AIS. In 2013, the State Education Department, for the first time, administered assessments in grades 3-8 that were based on the NYS P-12 Common Core Learning Standards (CCLS), a set of standards that articulate the knowledge and skills students need to be college and career ready.

In September 2013, the Board of Regents adopted regulations through approved emergency action that were designed to ensure that districts would not be required to significantly increase the percentage of students to whom they would be required to provide AIS as a result of the implementation of the more rigorous CCLS standards. Pursuant to the regulations, the Department established cut scores for grades 3-8 ELA and math that resulted in the percentage of students statewide in grades 3-8 to whom districts would be required to provide AIS being approximately the same in the 2013-14 school year as the percentage of students statewide who received AIS in the 2012-13 school year. This was analogous to the action taken by the Regents in July 2010 to address the raising of the cut scores on the 2010 Grades 3-8 ELA and mathematics assessments.

In the 2013-14 school year, under the approved Commissioner's Regulation §100.2(ee), districts were required to establish a policy to determine what services, if any, to provide to students who scored at or above the transitional cut scores established by SED, but below proficiency levels on the 2013 assessments.

Specifically, section 100.2(ee) provided the following for the 2013-14 school year:

- Students who scored below the specified cut scores for Grades 3-8 English Language Arts and mathematics must receive AIS;
- Students who scored at or above the specified cut scores, but below the 2013 Level 3/proficient cut scores, would not be required to receive AIS and/or student support services unless the school district deemed it necessary;
- Each school district must develop and maintain on file a uniform process by which the district determined whether to offer AIS to students who scored at or above the specified cut scores but below Level 3/proficient on grades 3-8 ELA or mathematics NYS assessments; and
- By November 1, 2013, each school was required to either post a description of this process to its website or distribute a written description of such process to parents.

In September 2014, the Regents took action to extend these provisions through the 2014-15 school year to continue flexibility in the provisions of AIS. In September 2015, the Regents took the same action to continue flexibility in the provisions of AIS through the 2015-16 school year. However, at this meeting, there was much discussion about whether students who were not performing at the proficiency level were receiving the necessary supports to become proficient. After much deliberation, the Board directed the Department to establish a committee to examine the effectiveness of AIS and to make recommendations to the Board, in early 2016, about amending the AIS regulations for 2016-17.

Feedback from Key Stakeholders on Implementation of AIS

As directed, the Department hosted four separate face-to-face meetings and many conference calls that were attended by the NYS Council on School Superintendents and the School Administrators Association of New York State as well as Superintendents, Assistant Superintendents, AIS instructors, Curriculum Directors and teachers trained in the Response to Intervention framework from 13 school districts¹ over the past few months. The agenda for each of these meetings provided districts with the opportunity to inform the Department on how AIS is implemented in their respective districts, and how decisions are made on the types of services a student would receive who did not perform at the proficiency level in grades 3–8 in ELA and mathematics assessments. One of the themes repeatedly stated by both school districts and key stakeholders is the importance and effectiveness of Response to Intervention (RTI), given that it is research-based, and provides high-quality instruction and intervention matched to individual student needs. RTI represents an important educational strategy to close achievement gaps for all students,

¹ School Districts include: New York City Department of Education, Buffalo City School District, Syracuse City School District, Yonkers City School District, Rochester City School District, Corinth Central School District, Schalmont Central School District, Penfield Central School District, Chenango Forks Central School District, Elmira Central School District, Liverpool Central School District, Wappinger Falls Central School District, and Arlington Central School District

including students at risk, students with disabilities, and English language learners, by preventing smaller learning problems from becoming insurmountable gaps.

In 2010, Commissioner's Regulations were amended to allow a school district to provide a supplemental support service through their Response to Intervention (RTI) program in lieu of providing academic intervention services (AIS) to eligible students, provided that:

- the RTI program is provided in a manner consistent with § 100.2(ii) of the Commissioner's Regulations which defines the minimum components of an RTI program;
- the RTI program is made available at the grade levels and subject areas (reading/math) for which students are identified as eligible for AIS; and
- all students who are otherwise eligible for AIS are provided other AIS services if they are not enrolled in the RTI program.

For school districts opting for this change, a statement of assurance signed by the school superintendent is required.

Throughout the discussions with districts and key stakeholders, four main areas of concern were raised about the current AIS regulations:

- AIS determinations should not be based upon a single measure;
- In some districts the single measure over identified the number of students needing AIS services;
- Many districts would prefer an RTI approach rather than an AIS one but need additional resources and/or training to make this transition; and
- Many districts question the utility of having to provide AIS in science or social studies or to certain students such as those English Language Learners (ELL) students in ELA or students with severe disabilities or students who are overage and/or undercredited and need as many periods of their schedule as possible to be dedicated to taking credit-bearing high school courses in order to graduate. These students would be better served by more supports within the classroom.

Many school districts and stakeholders have argued that the provision of AIS should be based on multiple measures and not entirely based on the results of the State assessments. This view is consistent with Recommendation #19 of the Governor's Common Core Task Force Report released in December 2015 that specifically states, "Prevent students from being mandated into Academic Intervention Services based on a single test."

Given the Task Force's recommendation on AIS and the feedback that the Department has received over the past few months on the importance of multiple measures in the decision-making process, the Department has asked districts to share their recommendations on how to incorporate multiple measures into the decision-making

process, including parent input, on whether or not a student should receive AIS. Examples of multiple measures that could be used in conjunction with State ELA and math assessments in grades 3-8 include, but are not limited to:

- Developmental reading assessments for grades K-6;
- NYS English as a Second Language Achievement Test (NYSESLAT);
- Regents Examinations in grades 9-12;
- Benchmark and lesson-embedded assessments for reading and mathematics in grades K-6, based on teacher- designed or selected assessments;
- Common formative assessments that provide formative assessment information about students' skills;
- Unit and lesson assessments for ELA, mathematics, science, social studies and Language Other Than English (LOTE) for grades 7-12; and
- Results of psychological evaluations based on a variety of assessments and inventories.

To help guide the Board discussion, there will also be a panel presentation by two school districts:

- Maureen Patterson, Assistant Superintendent for Curriculum, Instruction and Assessment, Liverpool Central School District; and
- Dr. Esther Friedman, Executive Director for Literacy and Academic Intervention Services, New York City Department of Education.

Options for the Board to Consider in the 2016-17 School Year and Beyond

Based upon discussions with school district superintendents, principals, AIS instructors, teachers trained in RTI, other key stakeholders, and Department staff, the Department is recommending that, for the 2016-17 school year, the Board select a methodology to establish a cut score option that best determines when a student should be considered for AIS. If a student scores below this cut score, districts would then apply additional measures to determine whether a student should receive AIS.

Several options were deemed viable to put forth to the Board for discussion purposes at the February meeting to help guide the Department on amending §100.2(ee) of the Commissioner's Regulations that would require school districts in the 2016-17 school year to provide AIS to students who score below the Level 3 proficiency level. The Department will present, for the Board to consider, data on the potential impact of each of the following options as the Board makes decisions for the 2016-17 school year on requirements for the provision of AIS.

The Department recommends, at the advice of key stakeholders that for those students who do not score at the Level 3 proficiency level, multiple measures be included in determining whether a student should receive AIS. Below are the following options for Board consideration in determining Level 3 proficiency level on grades 3 – 8 ELA and mathematics:

1. All students performing below Level 3 in grade 3-8 ELA and mathematics will receive AIS services. This is a return to the pre- NYS P-12 Common Core Learning Standards approach (i.e., prior to the implementation of new Grade 3-8 ELA and mathematics Assessments in the 2012-13 school year). Without Board actions, this will be the standard that districts must use to determine which students receive AIS in 2016-17.
2. All students scoring below the cut points currently in regulation will be required to receive AIS. In current regulations, this standard sunsets at the end of the 2015-16 school year.
3. All students scoring below a cut point created so that the same percentage of students statewide are receiving AIS as previously received AIS prior to implementation of NYS P-12 Common Core Learning Standards.
4. All students performing below a "mid-Level 2" cut point, which would be decided and agreed upon using the same methodology as used to determine cut score levels.
5. The Department conducts a Standard Setting process in which a group of teachers led by the Department's Office of Assessment recommend a cut score that is based upon a "book marking process" that allows teachers to select from the list of test questions arranged in order of difficulty the items the teachers believe distinguish students who should be considered for AIS services from those who the teachers believe do not need such consideration.

Next Steps

1. Develop recommendations to amend Section 100.2(ee) of Commissioner's Regulations for consideration at the March meeting for implementation beginning in the 2016-17 school year which include, but are not limited to:
 - a) A more in-depth review of how the requirements for provisions of services to students who have been identified as students with disabilities and/or English language learners interacts with the requirements for the provision of AIS as well as the provision of AIS to high school students who are under credited and/or overage; and
 - b) Meeting with districts and key stakeholder groups to further discuss options to strengthen AIS services and to promote the use of RTI programs as an effective research-based way to provide AIS to students.
2. Provide recommendations to the Board at a later date regarding the provision of AIS in grades other than 3-8 and in subjects other than ELA and mathematics, including social studies and science in grades 9-12.