

January 2000

TO: District Superintendents of Schools
Superintendents of Public and Nonpublic Schools
Principals of Public and Nonpublic Schools
Guidance Counselors
Other Interested Parties

FROM: James A. Kadamus

SUBJECT: **Guidelines for Implementing Academic Intervention Services**

In July 1999, the Board of Regents adopted revisions to Part 100 of the Commissioner's Regulations to align the regulations with new policy relating to standards, assessments, and graduation requirements. Section 100.2(ee) requires school districts to provide academic intervention services to students who score below the State designated performance level on State assessments and/or who are at risk of not achieving the State learning standards. School districts are required to complete a description of academic intervention services by July 1, 2000 and, beginning September 1, 2000, commence these services no later than the beginning of the semester following a determination that a student needs such services.

On January 7, 2000, the Department will sponsor a statewide video workshop and regional meetings at 12 sites across the State to review requirements and draft guidelines for providing academic intervention services to students. A parallel workshop is scheduled on January 6 in New York City. Attached is a draft question-and-answer document which reflects the Department's current thinking in implementing academic intervention services. The document was developed in response to numerous suggestions received from the field of areas in which further guidance is needed. There may be additional areas requiring clarification identified during the regional meetings. Therefore, we reserve the right to make revisions to the draft and redistribute a final document by April 1, 2000.

The question-and-answer document is organized by the following topics:

- Definition of academic intervention services, as described in Section 100.1(g);
- Eligibility for academic intervention services;
- District description of academic intervention services;
- Provision of academic intervention services;
- Parental notification and involvement;
- Relationship of academic intervention services to ERSS, PCEN and Title I;
- Academic intervention services: Regulations; and
- Index of topics.

Questions relating to policy issues should be directed to the Office for Compensatory Education at (518) 473-0295; inquiries concerning technical assistance in implementing academic intervention services should be directed to the Office of New York City School Improvement at (718) 722-2636 or the Office of Regional School Improvement at (518) 474-5923.

Attachment

**ACADEMIC INTERVENTION SERVICES:
QUESTIONS AND ANSWERS**

Draft – (January 7, 2000)

The University of the State of New York
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Definition of Academic Intervention Services [100.1(g)]

1. What are academic intervention services?

Academic intervention services (AIS) are services designed to help students achieve the learning standards in English language arts and mathematics in grades K-12 and social studies and science in grades 4-12. These services include two components:

- additional instruction that supplements the general curriculum (regular classroom instruction); and/or
- student support services needed to address barriers to improved academic performance.

The intensity of such services may vary, but must be designed to respond to student needs as indicated through State assessments results and/or the district-adopted or district-approved procedure that is consistent throughout the district at each grade level.

When AIS Is Not Required

Academic intervention services are not required in standards areas where there are no State assessments, even though students must earn one or more units of credit for graduation. They are only required in English language arts, mathematics, social studies, and science.

2. What is meant by “additional” instruction?

Additional instruction means the provision of extra time for focused instruction and/or increased student-teacher instructional contact time designed to help students achieve the learning standards in the standards areas requiring AIS.

3. How are student support services defined under AIS?

Student support services means interventions that address barriers to student progress in State learning standards areas requiring AIS and may include, as needed, school guidance and counseling, services to improve attendance, coordination of services provided by other agencies, and study skills. Support services do not include direct academic instruction.

Examples of Barriers to Student Academic Progress

Barriers to academic progress that student support services might address include, but are not limited to:

Attendance problems
Discipline problems

Family-related issues
Health-related issues

Nutrition-related issues
Mobility/transfer issues

4. ***How does diagnostic screening under Part 117 and Sections 901-914 of the Education Law relate to support services under AIS?***

Section 100.2 (ee) of the Commissioner's Regulations allows diagnostic screening for any student at risk of not meeting State learning standards to determine whether vision, hearing, or physical disability is impeding academic progress. Part 117 applies to new entrants into the school system. Sections 901-914 of Education Law apply to all students.

Relationship of AIS to Programs Under CR Part 154 for LEP/ELL Students

Academic intervention services for limited English proficient (LEP)/English language learners (ELL) must be supplementary and "in addition to" and must not replace the bilingual and free-standing ESL instructional program requirements under CR Part 154 services. AIS must be planned and implemented in coordination with the LEP student's general education program.

5. ***Must academic intervention services be provided to students with disabilities?***

Yes. Academic intervention services must be provided to students with disabilities on the same basis as non-disabled students. Students with disabilities are determined to need such services in the same manner as students without disabilities, i.e., by scoring below the designated performance level on State assessments or through the district-adopted or district-approved procedure.

Relationship of AIS to Special Education Programs Under Education Law, Sections 4401 (1) (2)

Academic intervention services are additional general education instructional and/or support services that assist students in meeting State learning standards. AIS are provided in addition to, and must not supplant, special education services. Because AIS are general education services, they should not be indicated on the individualized education program (IEP).

Special education services are specially designed individualized or group instruction or special services or programs designed to meet the student's unique needs that result from his/her disability and enable the student to participate and progress in the general education curriculum. The Committee on Special Education (CSE), with parental input, makes recommendations for special education and related services that are listed on the student's individualized education program. Examples of special education services include consultant teacher services, resource room, or related services. The CSE cannot recommend that a student with a disability receive AIS.

Meaning of the Phrase "To the Extent Consistent with the Individualized Education Program"

"To the extent consistent with the individualized education program (IEP)" means appropriate accommodations and supports must be provided when AIS is implemented for students with disabilities to assure that these students benefit from AIS. For example, if a student's IEP indicates that a specific adaptive material, assistive technology device, or curriculum modification is to be provided, then these same accommodations or supports must be provided when AIS are delivered.

Eligibility for Academic Intervention Services [100.2 (ee)(1), (2), and (3)]

6. *How does a district determine which students are eligible for academic intervention services?*

Students eligible for AIS, including those with disabilities and/or limited English proficiency, are:

- those who score below the designated performance levels on elementary, intermediate, and commencement-level State assessments in English language arts, mathematics, social studies, and science;
- those at risk of not meeting State standards as indicated through the district-adopted or district-approved procedure, including those K-3 students who lack reading readiness; and
- LEP/ELL students who do not achieve the annual designated CR Part 154 performance standards as stipulated in the evaluation design of the CR Part 154 application packets.

7. *What is the “State designated performance level” on State assessments for the purpose of including students in the academic intervention services program?*

Each year the elementary and intermediate State assessments will have four designated performance levels on each assessment. All students who score below level 3 (in levels 1 and 2) are eligible to receive academic intervention services. At the high school level, students who score below the approved local passing grade on State assessments required for graduation are eligible to receive academic intervention services.

Verification of Student Performance With Multiple Measures

The services for particular students should vary in intensity based on their needs. Scoring at level 1 or 2 on State assessments does not automatically determine the intensity of service.

To determine the level of intensity needed by any student who scores below the designated State performance level, districts are advised to review other measures and sources of evidence to determine if a particular score on a State assessment is indicative of that student’s overall level of performance and to determine AIS accordingly. (See Question 8 regarding multiple measures and Questions 37, 38 and 39 regarding intensity of services.)

8. ***What is meant by a “uniformly applied, district-adopted or district-approved procedure?”***

Districts must adopt or approve a written procedure for identifying students for academic intervention services in those grades K-12 where there are no State assessments in English language arts or mathematics and in those grades 4-12 where there are no State assessments in social studies or science. This procedure shall apply across the district to all schools and students at the same grade level.

Districts should assure that multiple assessments/sources of evidence are used and that criteria are in place that determine:

- The identification of performance on those measures/sources of evidence that would place a student at risk of not meeting State learning standards and in need of academic intervention services; and
- Performance that indicates that a student is meeting, or is likely to meet, State learning standards and no longer in need of academic intervention services.

The multiple assessments/sources of evidence should measure student accomplishment of core curricula for the elementary, middle, and high school levels in those standards areas requiring AIS. Such assessments are not limited to, but may include:

1. Developmentally-appropriate measures such as:

- Diagnostic assessments;
- Early reading assessments/literacy profiles;
- Assessment portfolios;
- Performances/demonstrations; and/or
- Assessments of content skills, concepts, and knowledge.

2. Tests of demonstrated technical quality such as:

- Standardized, norm-referenced tests (above grade three);
- Standardized, criterion-referenced tests;
- Other commercially-prepared assessments; and/or
- Other measures that meet the standards contained in *Standards for Educational and Psychological Testing* (American Psychological Association).

Sources of evidence are not limited to, but may include:

3. Review of:

- classroom performance (i.e., participation, student work/portfolios, homework completion);
- report card grades; and/or
- student records.

4. Recommendations from teachers, administrators, counselors, other school staff, and parents.

Districts may also adopt or approve the procedure in grades where there are State assessments, particularly to assist in determining the level of intensity needed for services.

9. How should a district determine the need for academic intervention services in grades 4 and 5 for social studies and science?

Elements should be incorporated into the district procedure to assess student progress tied to the core curricula in these standards areas.

10. How should a district identify students for academic intervention services at the high school level?

Any student who scores below the State designated performance level on one or more of the State's intermediate assessments, or any LEP/ELL student who does not meet the annual CR Part 154 performance standard, is eligible to receive academic intervention services. Any student who scores below the district-approved passing grade on any Regents examination required for graduation in English language arts, mathematics, social studies, or science is eligible to receive academic intervention services.

Districts must also identify students at-risk of not meeting State standards. Therefore, the district must adopt or approve a uniform procedure that applies to all high schools across the district for identifying students in need of academic intervention services. (See Question 8.)

11. How should a district use the district procedure to determine which students in grades 1-3 "lack reading readiness" and are therefore in need of AIS?

The New York State Reading Initiative includes several resources to assist districts in identifying early literacy/reading readiness and in determining which students lack such readiness. The following, and other comparable sources, should be used as the basis of such determination. Among these resources are:

- The Essential Elements of Reading*
- The Early Literacy Profile*
- The English Language Arts Resource Guide/Core Curriculum*
- Final Report: New York State Reading Symposium (February 11, 1998)

Districts that have created a system, based on research and best practice in literacy learning, for monitoring student progress may continue to use that system. However, assessments of reading, writing, speaking, and listening across the English language arts standards must be included. (See Question 8 for additional assessment procedures.) Reading readiness assessments are also available from several publishers and other states.

*These resources can be obtained from the New York State Education Department, Publication Sales Desk, Third Floor, Education Building, Albany, NY 12234. Please call (518) 474-3806 for the price of publications, postage, and handling charges.

Assessing Reading Readiness for LEP/ELL Students

The CR Part 154 program evaluation design has identified standardized instruments in English and Spanish that assess the reading readiness of a LEP student. The New York City Board of Education has developed a reading test in Chinese for grades 3-12. Technical assistance in the identification of other commercially available procedures can be requested from the regional Bilingual/ESL Technical Assistance Centers (BETACs).

12. ***How should the district use the district procedure to determine which students in grades 1-3 are in need of AIS for mathematics?***

In addition to the multiple assessments and sources of evidence outlined in Question 8, the district might also develop exemplars and rubrics keyed to State learning standards, as outlined in the Mathematics Resource Guide with Core Curriculum.

Use the District Procedure When

A student is absent for all or part of a State assessment ...

If a student is absent for all or part of a State assessment, no score is provided to the district. In such cases where a student has no State assessment score, the district should, as soon as possible, follow the district-adopted or district-approved procedure for identifying students at risk of not meeting State learning standards.

When a student transfers from out-of-state or the country ...

When a student transfers from out-of-state or out of the country, Section 100.2(r) provides three ways to determine the need for AIS:

- Administering a State-developed or State-approved assessment;
- Reviewing a student's transcript, if available; and
- Following the district-wide screening procedure applied uniformly across each grade.

Determining Eligibility of LEP/ELL Students Through the District Procedure

The identification/assessment procedures in the approved CR Part 154 Comprehensive Plan must be followed to ensure fair and uniform assessments when determining AIS for LEP/ELL students.

For LEP/ELL students in bilingual programs who receive instruction in the native language, the identification procedures/assessments for AIS must be conducted in the native language and in English.

For those LEP/ELL students in free-standing English as second language programs (ESL), the identification/assessment procedures for AIS must be conducted in English.

Eligibility for AIS and Referral for Special Education Services

There is not an automatic link between the need for AIS and a referral to special education. If a student is determined to need academic intervention services, the district should provide those services. Additionally, districts are required to consider the provision of additional general education support services (i.e., academic intervention services) to students prior to referral to special education.

If it is suspected that the difficulties a student is having are due to a disability, districts and schools should follow procedures for referral for special education services pursuant to Section 200.4 of the Commissioner's Regulations. Such referral for special education services must describe the attempts to address the student's performance prior to referral, including any supplementary aids or support services, such as academic intervention services.

13. *What is the requirement for retesting fifth grade students who scored below State standards on grade 4 English language arts and/or mathematics assessments?*

The district-adopted or district-approved procedure must include provisions for retesting all fifth grade students who scored at level 1 on the elementary State assessments in English language arts and/or mathematics in grade 4. Districts are encouraged to also retest those students who scored at level 2 on these assessments in grade 4.

14. *When must districts retest fifth grade students who scored at level 1 on the elementary level English language arts and/or mathematics State assessments in grade 4?*

Students in grade 5 who scored at level 1 on the elementary level State assessments in English language arts and/or mathematics in grade 4 must be retested following a minimum of one semester, preferably one year, of academic intervention services. Such services, for the 1999-00 school year, can be those provided under Part H, Section 3602 of Education Law, Part 149 of Commissioner's Regulations and/or federal ESEA, Title I legislation.

15. *What tests should be used to retest fifth grade students who scored below level 2 on elementary level State assessments in grade 4?*

Students who have been promoted to grade 5 should be retested using multiple sources of evidence, including a commercial test or other test of demonstrated technical quality in reading/English language arts and/or mathematics selected by the district. The elementary level English language arts and mathematics State assessments given in grade 4 cannot be used for this purpose. For LEP/ELL students, retesting in mathematics may be done in English and, where appropriate, in the native language.

If the external reading/English language arts assessment does not contain a writing component, the district must provide local evidence of student progress in writing using State rubrics. Such local evidence must be determined uniformly across all fifth grades in the district.

16. *Must fourth grade students who were retained be retested?*

Yes. All fourth grade students, including those retained and new entrants to the school system, must take all elementary level State assessments during the regularly scheduled administration of those tests.

17. *Do students who scored below level 2 in grade 8 on intermediate level State assessments need to be retested?*

No. Those students who were promoted to grade 9 should be tested through the regular high school State testing program and/or the district procedure. All eighth grade students, including those retained and new entrants, must take all intermediate level State assessments during the regularly scheduled administration of those tests.

18. ***While the regulations stipulate that districts must provide academic intervention services, are students required to participate?***

A school district has the authority and responsibility to place students in appropriate academic programs during the regular school day. Thus, a district may place students in academic intervention services as part of their academic program. A district may, by board resolution, extend the school day. Hours of compulsory attendance are district-determined and should not be confused with the hours for maximum State Aid which are 5.0 for elementary and 5.5 for secondary.

Attendance in summer school programs are voluntary and not compulsory. However, opportunities for academic intervention services in the summer are encouraged.

19. ***How should a district determine that a student no longer requires academic intervention services?***

The district should use the multiple measures criteria established in the district-adopted or district-approved procedure for identifying performance that indicates a student has met, or is likely to meet, State learning standards, and no longer in need of academic intervention services. (See Question 8.)

District Description of Academic Intervention Services [100.2 (ee) (4)]

20. ***Must all districts develop a description of the academic intervention services to be offered in the district?***

Yes. All districts in New York State must develop a description of the academic intervention services that will be offered throughout the district in grades K-12 to students in need of such services, including services for LEP/ELL students and students with disabilities.

21. ***When must the first description (plan) of academic intervention services be adopted by local district Boards of Education?***

Local Boards of Education must approve the district's description of academic intervention services by July 1, 2000.

In New York City, the Board of Education may determine that plans will be approved by the Chancellor or his designee or by community school boards for schools under their jurisdiction by July 1, 2000.

22. ***How often must the description be reviewed?***

The description must be reviewed and revised, based on student performance results, every two years beginning on July 1, 2002.

23. *Do descriptions of academic intervention services have to be submitted to the New York State Education Department for approval?*

In general, local school districts will not be required to submit descriptions of academic intervention services to the Department. However, based on performance criteria established by the Commissioner, certain school districts may be required to submit the district description of academic intervention services for specific schools for review and approval.

24. *What are the responsibilities of districts that have completed, or will be preparing, Comprehensive District Education Plans (CDEPs)? Must the local Board of Education still approve the description of academic intervention services?*

Districts that have completed, or will be preparing CDEPs, may incorporate the description of academic intervention services into these plans provided all elements of the description are included, as required by Section 100.2 of the Commissioner's Regulations. The Board of Education must still approve the description. However, the approval date would coincide with the preparation date of the CDEP.

What to Consider When Developing the Description

Districts may want to consider the following factors when developing the description of academic intervention services:

- Inclusion of administrators, classroom teachers, special area teachers, counselors/pupil personnel staff, parents, community members, and students, if appropriate, in the development of the description;
- Development of a work plan and timeframe for timely completion;
- Procedures for oversight and monitoring of services;
- Data-driven procedures for reviewing and adjusting services; and
- Identification of roles and responsibilities for description developers as well as for those charged with oversight, monitoring, and review of services.

25. *What elements must be incorporated into the district's description of academic intervention services?*

The description (plan) must include the following:

- The procedure used to determine the need for academic intervention services (See Question 8);
- The academic and support services to be provided, including when these are to be provided; and
- The criteria for ending services, including the performance levels students must attain on district-selected assessments. (See Question 8.)

26. *How should a district design a program of academic intervention services that meets the range of student needs for all schools?*

The district, in consultation with the schools, is responsible for developing the description of services for all schools and presenting it to the Board of Education for approval. Any variations to the general plan that apply to specific schools must be included in the district description. In order for the district to develop variations to the general description, each school should analyze its population of students eligible for AIS and give the district relevant information for development of the district description. Such information may include, but is not limited to, the following:

- The number of eligible students at each grade level and standards area;
- The range of performance levels of eligible students as determined through State assessment results and/or measures included in the district-adopted or district-approved procedure;
- Suggested staffing, instructional approaches, and scheduling options needed to meet the range of intensity needs of students needing AIS.

The district description of academic intervention services should then include sufficient services and scheduling options to meet the range of intensity needs of students across all school buildings as determined by results on State assessments and through the district procedure.

27. *Must individual schools develop descriptions for academic intervention services? Do students need an individual plan for academic intervention services?*

No. State regulations do not require schools to develop separate descriptions for academic intervention services, nor are individual academic intervention services plans required for students. Students should receive services according to the district description, taking into account the intensity of services needed. However, Title I schoolwide schools must continue to develop and review schoolwide plans that incorporate AIS for students. (See Questions 38 and 39.)

28. *What is the relationship of the district's description of academic intervention services to the district's written guidance plan? [CR 100.2(j)]?*

Section 100.2(j) of the Commissioner's Regulations calls for a district plan for guidance for grades K-12 which, in part, describes support services (guidance, counseling, etc.) to help students who "exhibit any attendance, academic, behavioral, or adjustment problems." These support services can be provided by school counselors, school psychologists, school social workers and attendance teachers, and can be included in the district's description of academic intervention services.

In addition, for grades 7-12, an annual review of each student's educational progress is required. This activity can be included in the description of AIS as a strategy to monitor and communicate information concerning individual student performance in relation to attainment of State standards.

29. *What funding sources can a district use to support the academic instruction and student support service components included in academic intervention services?*

In addition to local funds, school districts are encouraged to use the following sources, in accordance with the regulations attached to each, to partially fund academic intervention services:

- Federal
- ESEA Title I
 - ESEA Title IV
 - ESEA Title VI
 - Emergency Immigrant Education Program (EIEP)

 - ESEA Title VII grant
 - Youth-At-Risk grant

 - Extended Day/School Violence Prevention grant

- State
- PCEN Set-aside
 - Extraordinary Needs Aid
 - Operating Standards Aid*
 - Educationally-Related Support Services Aid
 - Limited English Proficiency Aid
 - Bilingual EXCEL grant
 - Attendance Improvement/Dropout Prevention Set-aside (AIDP)

- Big Five Cities
- Categorical Reading Aid
 - Improving Pupil Performance Aid

* Operating Standards Aid may include academic intervention services if such services are included in the Operating Standards Aid plan.

Provision of Academic Intervention Services [100.2 (ee) (5)]

30. *When must a district implement academic intervention services?*

Beginning September 1, 2000 academic intervention instructional and/or student support services must commence no later than the beginning of the semester following a determination that a student needs such services.

31. *When should a student be scheduled to start academic intervention services?*

Services may start at any time, but must commence no later than the semester following a determination that such services are needed. At the high school level, AIS cannot be postponed until students are scheduled for a course in which AIS is needed.

32. *When must academic intervention services in social studies and science commence?*

Academic intervention services in social studies and science must commence in grade 4 no later than the semester following a determination of the need for such services. It is recommended that students be assessed for being at risk of not meeting State learning standards in these areas no later than the end of the first semester of grade 4 using the district-adopted or district-approved procedure. In subsequent grades, services should commence following a determination of need using State assessment results and/or the district procedure. (See Question 8.)

Requirements for Providing Academic Intervention Services for the 1999-00 School Year

Many school districts are currently required under Part H, Section 3602 of Education Law (PCEN), Part 149 of Commissioner's Regulations (PCEN), and federal ESEA, Title I legislation, to provide remedial and/or academic support services to students who fall below State standards, or who are at risk of not meeting State standards. It is expected that these services will continue to be implemented during the 1999-00 school year as districts develop the description of academic intervention services. However, all districts are encouraged to implement the provisions of academic intervention services as soon as possible.

33. *Who are considered "qualified, appropriately certified staff" required to provide academic intervention services?*

Districts must use staff to provide academic intervention services who are appropriately certified under Part 80 of the Commissioner's Regulations for the area(s) of their instructional assignment, i.e., reading, English language arts, mathematics, social studies, or science, or for the area of their student support service assignment, i.e., pupil personnel services. The following are examples for teachers who currently hold valid New York State teaching certificates:

- At the elementary level, appropriate certifications for instructional assignments in mathematics, social studies, and science include Common Branch, PreK-6, and N-6 as defined in Section 80.15 of Commissioner's Regulations. For the provision of AIS in reading, however, reading certification (Section 80.7 of Commissioner's Regulations) is strongly recommended.
- At the secondary level (grades 7-12) approvable certifications for AIS instructional assignments include certification in reading (80.7) and content certifications in English, mathematics, science, and social studies as specified in Section 80.16 of Commissioner's Regulations. Grade 5-6 annotations to these content certificates are also appropriate at the elementary level.
- At both elementary and secondary levels, appropriate certifications for providing AIS include those for bilingual education (Section 80.9) and teaching English to speakers of other languages (Section 80.10) of Commissioner's Regulations.
- At both elementary and secondary levels, appropriate certifications for providing AIS include those for special education as defined in Section 80.6 of Commissioner's Regulations. However, if a special education teacher provides AIS to a student, it is not a special education service.
- Appropriate certifications for the provision of student support services include those pupil personnel certifications defined under Section 80.3 of Commissioner's Regulations.

In addition to certification requirements, school districts should consider other factors such as experience, unique training, etc., to determine the qualifications of staff hired to provide AIS.

34. *Who are considered "qualified, appropriately certified staff" required to provide academic intervention services in the area of early literacy (K-3) intervention?*

Teachers are considered to be qualified to provide AIS in the area of early literacy intervention if they:

- hold a valid New York State Common Branch or reading certification; and

- have had additional training in the area of early literacy as outlined in the National Research Council's *Preventing Reading Difficulties in Young Children*. (National Academy Press, Washington, D.C., 1998)

Beginning in September 2004, revisions to Commissioner's Regulations will introduce additional certificate titles. For general information regarding certification, log on to the Department's web site at: www.highered.nysed.gov:9220/tcert/, contact your local BOCES, or write to the Office of Teacher Certification at tcert@mail.nysed.gov.

35. *Can a district use appropriately certified teaching assistants to provide academic intervention services?*

Teaching assistants cannot be the primary provider of academic intervention services. They can provide support for certified teachers who are the primary providers of AIS. They must work under the supervision of these certified teachers and perform only those duties as outlined in Section 80.33 (b) of Commissioner's Regulations.

Use of Teacher Aides

Teacher aides may only be assigned to assist teachers in non-teaching duties as specified in Section 80.33 (a) of Commissioner's Regulations. Therefore they cannot be used to provide AIS.

36. *How can a school use the district's description of AIS to implement services that meet the needs of students in a particular building?*

Each school should analyze its population of students eligible for AIS and select scheduling and intensity of service options from the district description to implement services in that school that best meet the needs of its students. Factors to consider include, but are not limited to, the following:

- The number of eligible students at each grade level and standards area;
- The range of performance levels of eligible students as determined through State assessment results and/or measures included in the district-adopted or district-approved procedure; and
- Staff and instructional approaches to implement services at the level of intensity needed by all students in the school requiring AIS.

37. *What is meant by intensity of service?*

Intensity of service means the provision of services for students based on the level of their needs as determined through multiple measures and sources of evidence. Students with the most intense needs would receive more scheduled services, for a longer duration, and with more individualization. Students with the least intensive needs might only receive progress monitoring as a student support service.

38. *What scheduling options might the district/schools include in varying the intensity of service?*

The district and schools should include as many scheduling options as are necessary to meet the range of student needs in the district. Such options include, but are not limited to, the following:

- Extra period(s)/time during the regular school day;
- Within-class staffing that reduces student-teacher ratios (e.g., co-teaching, team-teaching);
- Extended school day;
- Before-school sessions;
- After-school sessions;
- Evening sessions;
- Weekend sessions; and/or
- Summer school.

Caution should be exercised in scheduling extra periods so students are not taken out of regular instruction. Some schools use study halls, activity or enrichment periods.

39. *How else can the district/schools vary the intensity of services for students?*

The district/schools can also vary the intensity of academic intervention services for students by varying the duration and degree of individualization.

Duration

Number of times per week - (Once - Twice - Three or Four - Daily)

Amount of time per session - (Few minutes - Half hour - Entire period - Double period)

Degree of individualization

In class -- Large Group (10-15) -- Small Group (5-8) -- Mini Group (2 – 4) -- One-on-one

For example, some students with more intensive needs could be scheduled for an additional 40-minute period during the day for five days, a small group 30-minute after-school session for three days, plus summer school. Another group of students with the least intensive needs might only be in an in-class model.

40. *What is meant by progress monitoring? When is this an appropriate student support service?*

Indicators on other multiple measures for some students who score below the State designated performance level on State assessments (especially in the upper range of level 2) show relatively little risk of not meeting State learning standards. These students might not need additional instruction. However, they must receive some form of AIS.

In those cases, monitoring of a student’s performance by school staff would be an appropriate student support service. This could include such activities as regular progress checks, further assessments, and meetings with the classroom teacher to adjust instruction, if necessary.

Records of this service should be kept, as for all AIS services.

41. *What general criteria must be met for an approach to count as academic intervention services?*

In order for additional instruction and/or student support services to count as academic intervention services, these general criteria should be met:

- Student needs should be assessed by a trained staff member;
- Specific interventions should be provided beyond general instruction in the course;

- Student progress should be assessed regularly;
- Records should be kept of the services provided; and
- Certified teachers/professional staff/teaching assistants should be appropriately assigned.

42. *Can “stretch” courses (example: a one-year course extended over three semesters or more) or double period blocked courses count as academic intervention services?*

“Stretch” courses and/or double-blocked periods by themselves do not constitute academic intervention services. In order for an extended time course to count as academic intervention services, the district must provide additional help to assist those students requiring AIS to be successful in the course. For those students requiring more intensive service, districts should also consider additional supports such as co-teaching models that reduce class size, additional periods, summer school, etc.

AIS Not Credit-Bearing

Academic intervention services are not credit-bearing. However, when students are in “stretch” courses where AIS are being provided, they would receive credit for the course the same as students who are in the course who do not require AIS. The amount of credit depends on the amount of time for which the course is scheduled.

43. *Can academic intervention services at the high school level include having a student repeat a course?*

A school may determine that a student needs to repeat a course. However, repeating a course alone is not an acceptable way to provide academic intervention services. In order to count as academic intervention services, the district must provide additional help to assist those students requiring AIS to be successful in the repeated course. All minimum AIS criteria outlined in Question 40 apply in this situation as well.

44. *Can computer-assisted instruction (CAI), distance learning, and tutoring (one-on-one instruction) be considered appropriate approaches to provide academic intervention services?*

Yes. Computer-assisted instruction, distance learning, and tutoring can be included in the mix of approaches to deliver academic intervention services provided that all minimum AIS criteria outlined in Question 40 are implemented.

45. *When might it be appropriate to provide student support services alone without an instructional component?*

When a student who is already meeting State standards exhibits behaviors that put him/her at risk of not meeting State learning standards in the future, student support services are warranted. For example, a student who had not exhibited such behavior in the past begins to have excessive absences. In this case, the services of a school counselor or social worker would be appropriate.

46. *When is it not appropriate for a student to be given student support services under Section 100.2 (ee) of the Commissioner's Regulations?*

Student support services under Section 100.2(ee) would not be appropriate when a student exhibits disciplinary or social problems that do not put him/her at risk of not meeting State learning standards. This student would receive regular guidance or counseling services.

Providing AIS for Students in More Than One Standards Area

Academic instructional services in more than one standards area can be combined where appropriate. For example, lack of reading/literacy development may be preventing progress in social studies. In such cases, reading/literacy with a content focus could be the primary vehicle for academic intervention services with secondary support in social studies content/skills.

47. *What documentation of student progress is required?*

A school should record the information necessary, including State assessment data and the measures/sources of evidence used in the district procedure, to document progress of students and to determine when that progress warrants a student being discontinued from academic intervention services. In addition, quarterly progress reports are required to be given to parent(s). These reports must be provided to parent(s) in English and translated, where appropriate, into their native language.

Considerations for AIS Instruction for LEP/ELL Students

For LEP/ELL students who are in Bilingual Education programs, academic intervention services in the standards areas of mathematics, science, social studies, and language arts must be provided in English, or the native language, depending on the specific needs of the students. Language arts incorporates English as a second language (ESL), native language arts (NLA), and English language arts (ELA) instruction. For LEP/ELL students in special education, academic intervention services must be provided in the language of instruction stipulated in their IEP.

Role of the Committee on Special Education in Relation To AIS

The CSE must ensure that staff providing AIS are informed of their responsibilities related to the specific accommodations, modifications and supports that must be provided for the student in accordance with the IEP. In addition, staff must have access to the student's IEP. This ensures that supports and accommodations listed on the IEP are consistently applied with the provision of AIS. This does not require a meeting of the CSE.

If a student is determined to need AIS and has already been identified as a student with a disability, school personnel may determine that a review of the student's IEP by the CSE is needed. For example, a student scores below the designated State performance level in English language arts and is receiving special education service to address his/her need in reading. In this case, a review by the CSE of the student's IEP may be warranted to coordinate the additional reading instruction.

AIS Not On a Student's IEP

It is no longer required for the IEP to indicate the extent to which the student will participate in the general education program. AIS are general education services and should not be indicated on the IEP. However, the scores the student received on the local or State assessments that identified a student with a disability as needing AIS may be indicated on the IEP under present levels of performance.

48. *Can a school district reduce, eliminate, or postpone instruction in any standards area to provide academic intervention services?*

In grades K- 4, and in grades 5-8, all 28 State learning standards must be included in a student's program of instruction. Such instruction must be adequate for preparing students to meet the elementary level standards at the end of grade 4 and the intermediate level standards at the end of grade 8 in each of these 28 areas.

In grades 7-8, academic intervention services must be provided in a manner that does not diminish instructional time to a degree that may prevent a student from achieving the State learning standards in any area required for graduation or from meeting local standards for promotion. This provision, however, applies only to an individual student and not to a whole school reduction of the amount of time devoted to a particular subject. In addition, there are specific conditions in the regulations that govern how the "reduce, but not eliminate" provision is to be implemented for an individual student. [100.4 (b) (4) (ii)]

In grades 9-12, in order to provide required academic intervention services, the school may postpone, but not eliminate, particular courses required for graduation.

Districts are encouraged to keep the total needs of students in mind when scheduling AIS support. In so far as possible, opportunities should be available for students to remain enrolled in areas such as the arts and/or career and technical education while concurrently receiving AIS.

Parental Notification and Involvement [(100.2 (ee) (6)]

49. ***When a student has been identified for academic intervention services, how should the parent(s), or the person(s) in parental relation to the student be notified?***

The parent(s), or the person(s) in parental relation to the student, must be notified in writing by the principal of the school that the student attends that his/her child will be receiving academic intervention services. Such notice must be provided in English and translated, when appropriate, into a parent’s native language.

50. ***What elements must be included in the written notification of commencement of services to parent(s)?***

The commencement of services notification must include the following:

- A summary of the academic intervention services to be provided;
- The reason the student needs such services; and
- Consequences of not achieving expected performance levels.

Mode of Communication of the Parent(s)

In addition to translating the notices into the native language of the parent(s), where appropriate, the district must also make additional accommodations for parent(s) with different modes of communication, such as the visually impaired or those with limited literacy skills in English or their native language.

51. ***When a student no longer needs academic intervention services, how should the school notify the parent(s) that services are being discontinued?***

The parent(s), or the person(s) in parental relation to the student, must be notified in writing by the principal of the school that the student attends that academic intervention services for his/her child will be discontinued. Such notice must:

- include the criteria for ending service;
- include the performance levels obtained on district-selected assessments, if appropriate; and
- be translated, where appropriate, into the native language of the parent(s).

Other forms of communication may be necessary, for example, for parent(s) with limited literacy skills in English or the native language, the visually-impaired, etc.

52. ***What are the requirements for providing on-going communication to the parent(s), or person(s) in parental relation to a student receiving academic intervention services?***

At a minimum, districts/schools must provide parent(s), or person(s) in parental relation to a student receiving academic intervention services, the following:

- Opportunities, once each semester, such as parent conferences, for consultation with the student's regular classroom teacher(s) and other professional staff providing academic intervention services, including those involved with academic support services.
- Quarterly reports during the regular school year on the student's progress. Such reports may be by mail, telephone, telecommunications, or included in the student's report card. Such reports should be translated into the native language of the parent(s), where appropriate. The district must also make additional accommodations for parent(s) with different modes of communication, such as the visually impaired or those with limited literacy skills in English or their native language.
- Information on ways parent(s) can become involved in working with their child, monitoring their child's progress, and working with teachers and other educators providing academic intervention services to improve their child's achievement.

Providing Parent(s) With Information To Foster Support and Involvement

Districts and schools should provide information to parent(s) in a combination of ways in order to foster their support and involvement in helping their child meet State learning standards. Examples of the many ways information can be provided include, but are not limited to, the following:

- Printed materials such as newsletters, brochures, and booklets
- Audio materials such as tapes and CDs
- Electronic means such as telephones, computers, and web sites
- Cable television
- Videos
- Parent liaisons
- Resource centers
- Training sessions
- Home-school exchange folders
- Home and school conferences

53. *What is a district's responsibility if a parent objects to having his/her child receive academic intervention services?*

The district should, in a timely manner, listen to parental concerns, share evidence of the student's need for academic intervention services, and work with the parent(s) to assure the provision of appropriate academic intervention services. Placement in educational programs during the regular school day, however, remains the responsibility of the district and school.

54. *Do parent(s) have the right to advocate for their child to receive academic intervention services or to make changes in academic intervention services already being provided for their child?*

Yes. Parent(s) may advocate for their child to receive academic intervention services. The district should, in a timely manner, listen to parental concerns and review the student's school record and assessment results to determine if the child meets eligibility criteria for AIS. Parent(s) also have the

right to request changes in the program of academic intervention services being provided to their child. District and school staff should work with parent(s) to:

- Determine the possible necessity for changes based on additional information; and
- Review scheduling and delivery options that might better meet the student's needs.

However, the district retains the responsibility for appropriate placement of the student.

55. *Do parent(s) have the option of having their child receive supplemental services given by providers outside the school district? If so, how does that affect the child's participation in the school's program of academic intervention services?*

Parent(s) may provide, at their own expense, additional supplemental services for their children outside of the regular school day. However, that does not negate the obligation of the school district to place the child in appropriate educational programs, including academic intervention services provided by the district, nor does it allow for parent(s) to keep their child out of academic intervention services.

Relationship of AIS to ERSS, PCEN and Title I

56. *What is the relationship of academic intervention services to services provided through Educationally Related Support Services (ERSS)?*

Every school district is eligible to receive Educationally Related Support Services Aid. Sections 100.1(r), 100.1(s), and 100.2(v) of the Commissioner's Regulations outline requirements associated with these funds. These services are provided in the regular education setting for students referred by the building principal or, for students with disabilities, in accordance with the recommendations of the CSE or the 504 team.

Eligible students display educational, behavioral, personality, social or speech difficulties, which, if not addressed, could adversely affect educational performance and could result in the need for special education services.

ERSS includes curriculum and instructional modification as well as support services (psychological, social work, non-career counseling, speech and language services and direct student support team service). Therefore, appropriate ERSS can be included in the district's description of academic intervention services.

57. *What is the relationship of academic intervention services to services provided under PCEN (Pupils with Compensatory Educational Needs)?*

Section 3602 (12)(g) of the Education Law requires school districts to provide remedial instruction to pupils with compensatory educational needs. This legislation also requires certain school districts to "set aside" (account for separately) funds for this purpose. For other districts, funding is included in the general Operating Aid received from the State. Two sections of the Commissioner's Regulations that provide implementation guidelines are:

- CR Part 149 outlines requirements for school districts receiving “set-aside” funds to provide remedial instruction to pupils with compensatory educational needs, i.e., those who do not meet State standards or who are at-risk of not meeting State standards.
- Recently approved revisions to Commissioner’s Regulations, Section 100.1(g) and 100.2(ee), have replaced the former regulations that outlined compensatory education requirements for school districts that are not required to set aside funds for the provision of remedial instruction to pupils in need of compensatory education.

Part 149 of Commissioner’s Regulations will be revised to correspond to changes in Sections 100.1(g) and 100.2(ee) and to reflect an intervention focus. Until then, however, these regulations remain in effect for districts. PCEN can partially provide academic intervention services in those districts with set-aside funding.

58. *What is the relationship of academic intervention services (AIS) to services provided under federal Title I of ESEA (Elementary and Secondary Education Act of 1994)?*

Eligibility for students to receive services under AIS and Title I compensatory education services is determined in the same way. Both academic intervention services and compensatory education services provided under Title I allow additional instructional services for students who fall below the designated State performance level on State assessments or who are determined to be at-risk of not meeting State learning standards through the district procedure.

While the priority standards areas for Title I programs continue to be English language arts and mathematics, the instructional services under these programs do not have to be different. If districts follow the program of services outlined in the AIS district description to implement Title I services, the programs are one and the same. However, all federal requirements pertaining to Title I programs must also be met.

Among these federal requirements are the following examples:

- | | | |
|--|---|--|
| • Submission of Application and Application Supplement to SED for approval | • Parent Involvement Policy (District and Schools) and School-Parent Compacts | • Inclusion of services for migrant, homeless, neglected/delinquent, nonpublic school students |
| • Poverty Criteria for Allocation of Funds to Schools | • Building plans for schoolwide schools | • Program Reporting |

59. *Can a district presume to already be providing academic intervention services to at-risk and other special needs students if those students are already receiving supplemental services under entitlement programs such as PCEN (Pupils with Compensatory Educational Needs) or Title I ESEA (Elementary and Secondary Education Act of 1994)?*

Academic intervention services must be provided to eligible students according to Commissioner’s Regulations. PCEN programs may meet this requirement in part. Title I programs may also meet this requirement, in part, if “Title I funds supplement the amount of funds that would, in the absence of such federal funds, be made available from non-federal sources for the education of pupils participating in [such] programs and do not supplant such funds.” The district must show that it is not reducing the amount of local, State, or other funds that would otherwise be provided for general

education services, absent Title I funds. However, neither PCEN nor Title I programs may be sufficient to provide all of the services to which students are entitled under Section 100.2(ee) of Commissioner's Regulations.

[See ESEA, Title I, SEC. 1120A and the 1998 ESEA, Title I Amendment (200.63) – Exclusion of Supplemental State and Local Funds from Supplement Not Supplant and Comparability Determinations]

60. *What comparability of service requirements are in effect for districts that use Title I funds to partially fund academic intervention services?*

“Comparability of services” means districts must assure that local funds will be used in schools served with Title I funds to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving Title I funds. In cases where all schools in the district receive Title I funds, the district must assure that, taken as a whole, the services provided are substantially comparable in each school.

This means that State and local funds used for AIS may only be excluded from Title I comparability requirements if the AIS program meets the requirements of the Title I law. Other local and State funds for general education, however, must be included for comparability determinations.

(See the 1994 ESEA Title I reauthorization legislation, “Improving America’s School’s Act” – Section 1120A. and the 1998 Amendment 200.63 to this legislation.)

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Academic Intervention Services: Regulations

Section 100.1(g) [Definitions] of Commissioner's Regulations adopted by the Board of Regents in July 1999.

(g) *Academic intervention services* means additional instruction which supplements the instruction provided in the general curriculum and assists students in meeting the State learning standards as defined in subdivision (t) of this section and/or student support services which may include guidance, counseling, attendance, and study skills which are needed to support improved academic performance; provided that such services shall not include services provided to students with limited English proficiency pursuant to Part 154 of this Title or special education services and programs as defined in Education Law section 4401 (1) and (2). Academic intervention services are intended to assist students who are at risk of not achieving the State learning standards in English language arts, mathematics, social studies and/or science, or who are at risk of not gaining the knowledge and skills needed to meet or exceed designated performance levels on State assessments. Academic intervention services shall be made available to students with disabilities on the same basis as nondisabled students, provided, however, that such services shall be provided to the extent consistent with the individualized education program developed for such student pursuant to section 4402 of the Education Law.

Section 100.2 (ee) of Commissioner's Regulations adopted by the Board of Regents in July 1999.

(ee) Academic intervention services.

(1) Requirements for providing academic intervention services in kindergarten to grade three. Schools shall provide academic intervention services to students in kindergarten to grade three when such students:

(i) are determined, through a district-developed or district-adopted procedure that meets State criteria and is applied uniformly at each grade level, to lack reading readiness based on an appraisal of the student, including his/her knowledge of sounds and letters; or

(ii) are determined, through a district-developed or district-adopted procedure applied uniformly at each grade level, to be at risk of not achieving the State designated performance level in English language arts and/or mathematics. This district procedure may also include diagnostic screening for vision, hearing and physical disabilities pursuant to Article 19 of the Education Law, as well as screening for possible limited English proficiency or possible disability pursuant to Part 117 of this Title.

(2) Requirements for providing academic intervention services in grade four to grade eight. Schools shall provide academic intervention services when students:

(i) score below the State designated performance level on one or more of the State elementary assessments in English language arts, mathematics, social studies or science;

(ii) are limited English proficient (LEP) and are determined, through a district-developed or district-adopted procedure uniformly applied to LEP students, to be at risk of not achieving State learning standards in English language arts, mathematics, social studies and/or science, through English or the student's native language. This district procedure may also include diagnostic

screening for vision, hearing, and physical disabilities pursuant to Article 19 of the Education Law, as well as screening for possible disability pursuant to Part 117 of this Title; or

(iii) are determined, through a district-developed or district-adopted procedure uniformly applied, to be at risk of not achieving State standards in English language arts, mathematics, social studies and/or science. This district procedure may also include diagnostic screening for vision, hearing, and physical disabilities pursuant to Article 19 of the Education Law, as well as screening for possible limited English proficiency or possible disability pursuant to Part 117 of this Title.

(3) Requirements for providing academic intervention services in grade nine to grade twelve. Schools shall provide academic intervention services when students:

(i) score below the State designated performance level on one or more of the State intermediate assessments in English language arts, mathematics, social studies or science, or score below the State designated performance level on any one of the State examinations required for graduation; or

(ii) are limited English proficient (LEP) and are determined, through a district-developed or district-adopted procedure uniformly applied to LEP students, to be at risk of not achieving State learning standards in English language arts, mathematics, social studies and/or science, through English or the student's native language. This district procedure may also include diagnostic screening for vision, hearing, and physical disabilities pursuant to Article 19 of the Education Law, as well as screening for possible disability pursuant to Part 117 of this Title; or

(iii) are determined, through a district-developed or district-adopted procedure uniformly applied, to be at risk of not achieving State learning standards in English language arts, mathematics, social studies and/or science. This district procedure may also include diagnostic screening for vision, hearing, and physical disabilities pursuant to Article 19 of the Education Law, as well as screening for possible limited English proficiency or possible disability pursuant to Part 117 of this Title.

(4) Description of academic intervention services.

(i) By July 1, 2000, a school district shall develop a description of academic intervention instructional and/or student support services to be provided in schools to students in need of such services pursuant to paragraphs (2), (3) and (4) of subdivision (ee) of this section. The description shall include any variations in services in schools within the district, and shall specifically describe:

(a) the district-wide procedure(s) used to determine the need for academic intervention services;

(b) academic intervention instructional and/or student support services to be provided pursuant to paragraph (5) of subdivision (ee) of this section;

(c) whether instructional services and/or student support services are offered during the regular school day or during an extended school day or year; and

(d) the criteria for ending services, including, if appropriate, performance levels that students must obtain on district-selected assessments.

(ii) The description of academic intervention services shall be approved by each local board of education by July 1, 2000. In the New York City School District, the New York City Board

of Education may designate that the plans be approved by the Chancellor or his designee or by community school boards for those schools under their jurisdiction. Beginning July 1, 2002 and every two years thereafter, each school district shall review and revise its description of academic intervention services based on student performance results.

(iii) In lieu of a separate description of academic intervention services, the district may incorporate the description of academic intervention services into a comprehensive district education plan. In this instance, the preparation date for the description of academic intervention services shall conform to the date of the preparation of the comprehensive district education plan.

(iv) Based on performance criteria established by the Commissioner, certain school districts may be required to submit their description of academic intervention services for specific schools to the Department for review and approval.

(5) Provision of academic intervention services.

(i) School districts may use time available for academic intervention instructional and/or student support services during the regular school day.

(ii) School districts may provide students with extended academic time beyond the regular school day and school year.

(iii) In public schools, academic intervention instructional and/or support services shall be provided by qualified staff who are appropriately certified pursuant to Part 80 of this Title.

(iv) Beginning September 1, 2000, academic intervention instructional and/or student support services shall commence no later than the beginning of the semester following a determination that a student needs such services. Services shall continue until a student's performance:

(a) meets or exceeds the State designated performance level on the next State assessment; or

(b) is shown to be likely to meet or exceed the State designated performance level on the next State assessment through achievement on the district-selected assessments of the levels specified in the district description of academic intervention services pursuant to paragraph (4) of subdivision (ee) of this section.

(6) Parental notification and involvement.

(i) Notification of commencement of services. The parent or person in parental relation to a student who has been determined to need academic intervention services shall be notified in writing by the principal. Such notice shall be provided in English and translated, when appropriate, into the native language or mode of communication of the parent. The notice shall include a summary of the academic intervention services to be provided to the student, the reason the student needs such services and the consequences of not achieving expected performance levels.

(ii) Notification of the ending of academic intervention services. Parents or persons in parental relation shall be notified in writing when academic intervention services are no longer needed. Such notice shall be provided in English and translated, when appropriate, into the native language or mode of communication of the parent.

(iii) Ongoing communication with parents or persons in parental relation. Parents or persons in parental relation to students receiving academic intervention services shall be provided with:

(a) an opportunity to consult with the student's regular classroom teacher(s), and other professional staff providing academic intervention services, at least once per semester during the regular school year;

(b) reports on the student's progress at least once each quarter during the regular school year by mail, telephone, telecommunications or other means, in a language or mode of communication understood by the parents or person in parental relation; and

(c) information on ways to work with their child to improve achievement; monitor their child's progress; and work with educators to improve their child's achievement.

Section 100.4(b) (4) [Program requirements for grades seven and eight] of the Commissioner's Regulations adopted by the Board of Regents in July 1999

(4) Students who have been determined to need academic intervention services as set forth in section 100.2(ee)(2)(i) of this Part may have the unit of study requirements for one or more of their subjects reduced, provided that:

(i) academic intervention services shall be coordinated with and supplement instruction in the general curriculum;

(ii) requirements for subjects set forth in paragraph (1) of this subdivision and for languages other than English instruction set forth in section 100.2(d) of this Part may be reduced but not eliminated. Academic intervention services shall be provided in a manner that does not diminish instructional time to a degree that may prevent a student from achieving the State learning standards in any area required for graduation or from meeting local standards for promotion. A principal shall consider a student's abilities, skills and interests in determining the subjects for which the unit of study requirements may be reduced;

(iii) a student's parent or guardian shall be notified in writing, by the principal, of a school's intention to implement the provisions of this paragraph; and

(iv) the reduction of unit of study requirements shall remain in effect only to the extent that the provisions of subparagraph (i) of this paragraph are being met.