



TO: The Honorable Members of the Board of Regents

FROM: Angelique Johnson-Dingle *Angelique Johnson-Dingle*

SUBJECT: Proposed Amendment of Section 100.3 of the Regulations of the Commissioner of Education Relating to Evidence-based and Scientifically Based Reading Instruction

DATE: March 27, 2025

AUTHORIZATION(S): *Dom N. B.* *Betty M.*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed amendment of Section 100.3 of the Regulations of the Commissioner of Education relating to evidence-based and scientifically based reading instruction?

Reason for Consideration

Required by State Statute (Education Law §818, as added by Part B of Chapter 56 of the Laws of 2024).

Proposed Handling

The proposed amendment is submitted to the Full Board for adoption as a permanent rule at the April 2025 Regents meeting. A copy of the proposed rule (Attachment A) is attached.

Procedural History

The proposed amendment was presented to the P-12 Education Committee for discussion and recommendation to the Full Board for adoption as an emergency rule at its December 2024 meeting, effective December 10, 2024. A Notice of Emergency Adoption and Proposed Rule Making was published in the State Register on December 24, 2024 for a 60-day public comment period. Because the December 2024 emergency action was set to expire on March 9, 2025, a second emergency action was necessary at the February 2025 Regents meeting, effective March 10, 2025, to ensure that the emergency rule remained continuously in effect until it could be permanently adopted.

Following publication in the State Register, the Department received comments on the proposed amendment. An Assessment of Public Comment (Attachment B) is attached. No changes to the proposed amendment are recommended at this time. If adopted at the April 2025 meeting, a Notice of Adoption will be published in the State Register on April 23, 2025. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

The Enacted State Budget for the 2024-25 fiscal year (Part B of chapter 56 of the Laws of 2024) added a new section 818 to the Education Law, effective April 1, 2024, which requires that, on or before January 1, 2025, the Commissioner provide school districts with evidence-based and scientifically based instructional best practices for the teaching of reading to students in prekindergarten through grade three. Education Law §818 requires that instructional best practices focus on reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, and comprehension, and that instructional best practices align with the Department's culturally responsive-sustaining education framework. This section also requires that the Commissioner define certain terms in regulation.

Education Law §818 requires that, on or before September 1, 2025, all school districts must verify to the Commissioner that their curriculum and instructional practices in reading for prekindergarten through grade three align with all elements of instructional best practices provided by the Commissioner. Districts will be able to submit this verification to the Department through the Department's Business Portal. School districts must also annually review their curriculum and instructional practices to ensure continued alignment with the reading instructional best practices.

Consistent with Education Law §818, the Department proposes to add a new subdivision (c) to section 100.3 of the Commissioner's regulations to implement this new legislation as described above.

Related Regents Items

[February 2025: Proposed Amendment of Section 100.3 of the Regulations of the Commissioner of Education Relating to Evidence-based and Scientifically Based Reading Instruction](https://www.regents.nysed.gov/sites/regents/files/225brca3.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/225brca3.pdf>)

[December 2024: Proposed Amendment of Section 100.3 of the Regulations of the Commissioner of Education Relating to Evidence-based and Scientifically Based Reading Instruction](https://www.regents.nysed.gov/sites/regents/files/1224p12a2.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/1224p12a2.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 100.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective April 23, 2025.

Timetable for Implementation

If adopted at the April 2025 meeting, the proposed amendment will become effective as a permanent rule on April 23, 2025.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 305, and 818 of the Education Law, and Part B of Chapter 56 of the Laws of 2024.

1. Section 100.3 of the Regulations of the Commissioner of Education is amended by adding a new subdivision (c) to read as follows:

(c) Additional program requirements for prekindergarten through grade three.

(1) On or before September 1, 2025, all school districts shall verify to the commissioner that their curriculum and instructional practices in reading for students in prekindergarten through grade three align with all elements of instructional best practices provided by the commissioner pursuant to Education Law §818. Such instructional best practices for the teaching of reading shall be evidence-based and scientifically based, focusing on reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, comprehension, including background knowledge, oral language and writing, oral skill development, and align with the department's culturally responsive-sustaining education (CRSE) framework.

(2) Every school district shall annually review their curriculum and instructional practices in the subject of reading to ensure that they align with instructional best practices provided by the commissioner, and to ensure that all early reading instructional practices and interventions are part of an aligned plan designed to improve student reading outcomes in prekindergarten through grade three.

(3) For purposes of this subdivision, the following terms shall have the following meanings:

(i) *phonemic awareness* means the ability to notice, think about, and work with phonemes (sounds) in spoken words;

(ii) *phonics* means the relationship between graphemes (letters) and the phonemes they represent;

(iii) *vocabulary development* means the acquisition of knowledge about the meanings, uses, and pronunciation of words;

(iv) *reading fluency* means the ability to read out loud accurately at an appropriate rate, and with appropriate expression (including proper phrasing, intonation, and pausing);

(v) *comprehension* means the understanding of the meaning of texts (in print or other forms) and the context in which words occur;

(vi) *culturally responsive-sustaining education (CRSE) framework* means a view of learning and human development in which multiple expressions of diversity are recognized and regarded as assets for teaching and learning. The CRSE Framework was published by the State Education Department in 2018, and is available at the Office of Counsel, State Education Department, State Education Building, Room 148, 89 Washington Avenue, Albany, NY 12234;

(vii) *evidence-based* means an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on: (1) strong evidence (e.g., experimental studies), (2) moderate evidence (e.g., quasi-experimental studies), or (3) promising evidence (e.g., correlational studies; or (4) a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student

outcomes or other relevant outcomes, and includes ongoing efforts to examine the effects of such activity, strategy, or intervention; and

(viii) scientifically based means that the instructional method or practice is based on research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education.

ASSESSMENT OF PUBLIC COMMENT

Following the publication of a Notice of Proposed Rulemaking in the State Register on December 24, 2024, the State Education Department (Department) received the following public comment on the proposed rule:

1.COMMENT: One commenter stated that there was little applicable research that could be considered research- or evidence-based for English Language Learners (ELL) and students with disabilities (SWD), thus making it difficult for districts to adhere to an evidence-based mandate for these students. The commenter also indicated that the Department should be looking into teacher practices and training in order to improve reading instruction; specifically, the commenter noted that early childhood teachers should be required to undergo similar training received by other reading teachers.

DEPARTMENT RESPONSE: Education Law §818 requires the Department to develop Prekindergarten to Grade 3 (P-3) instructional best practices for all students. When developing the proposed rule, the Department utilized the Institute of Education Studies (IES) Guides, which are developed for all students, and used a rigorous research base. Moreover, the Department issued [guidance](#) on evidence-based and scientifically-based instructional best practices for the teaching of reading to P-3 students in January 2025. This Best Practices guide includes a specific introduction addressing how the P-3 Literacy Instructional Best Practices apply to English Language Learners and Students with Disabilities.

With respect to comments regarding teacher training, districts are responsible for ensuring that teachers are trained in the Science of Reading. To support districts, the Department has released many resources that can be used to train teachers on the

Science of Reading, including the New York State Education Department (NYSED) [Literacy Briefs](#) and the Prekindergarten to Grade 3 Literacy Instructional Best Practices guide. In particular, the Best Practices guide provides educators with a comprehensive framework for discussing and implementing best practices in literacy instruction that leverage principles of the Science of Reading. By using this guide to review the instructional practices of districts and schools, district and literacy leaders can ensure a well-rounded and effective literacy program that supports the development of reading skills in young learners. The guide also functions as a practical tool to ensure that literacy instruction aligns with Education Law §818. Thus, no changes are necessary.

2. COMMENT: Another commenter stated that most teachers lack training in evidence-based and scientifically based reading. They complained that the proposed rule describes basic concepts but does not explain how those concepts will be applied. The commenter also questioned if (and when) teacher licensing requirements would be updated to match the curriculum requirements. Finally, the commenter indicated that the Department should tour a specific school and commented on another specific school's program.

DEPARTMENT RESPONSE: As described in further detail above, districts are responsible for ensuring that teachers are trained in the Science of Reading. To support districts, the Department has released many resources that can be used to train teachers on the Science of Reading, including the NYSED Literacy Briefs and the Prekindergarten to Grade 3 Literacy Instructional Best Practices guide.

With respect to comments concerning teacher licensing requirements, the [NYS Next Generation English Language Arts \(ELA\) Learning Standards](#) are both strongly rooted in, and require direct instruction in, the components of evidence-based reading

instruction (e.g., reading comprehension, phonemic awareness, phonics, fluency, and vocabulary). Teacher preparation program areas that contain an emphasis on literacy instruction (e.g., early childhood education, childhood education) are currently required to ensure that candidates have a knowledge base for teaching to the State learning standards for students, including the ELA Learning Standards.

Moreover, in Fall 2023, New York State joined the third cohort of the Hunt Institute's The Path Forward initiative. This initiative aims to improve literacy instruction in schools by integrating the Science of Reading into teacher preparation program and certification requirements. The New York State team is comprised of education leaders and diverse stakeholders and met regularly during the 2023-2024 school year to develop an action plan. The final [Action Plan](#) includes initiatives to embed the Science of Reading into teacher preparation program and certification requirements, including certification examinations.

Additionally, New York State United Teachers (NYSUT) has recently released "The Science of Reading: A Practical Approach for Educators," a course that is aligned to NYSED literacy instruction guidelines. Upon completion, teachers will receive Continuing Teacher and Leader Education (CTLE) hours that can count toward the registration requirement for Professional/Permanent certification. This course along with other literacy micro-credentialing programs will provide teachers with the skills they need to successfully implement Science of Reading-based instruction in their classrooms.

With respect to the remaining comments, they are unrelated to the proposed rule. For these reasons, no further response or change is necessary.