

ACADEMIC INTERVENTION SERVICES AND STUDENTS WITH DISABILITIES



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As of September 1, 2000, school districts are required to provide academic intervention services (AIS) 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. Students with disabilities must be afforded access to academic intervention services on the same basis as nondisabled students.

This bulletin provides information, in a question and answer format, on the provision of AIS services as it relates to students with disabilities. The information is designed to clarify and enhance guidance provided by the State Education Department in its January 2000 memorandum entitled “Guidelines for Implementing Academic Intervention Services.”

Academic Intervention Services

Academic intervention services 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 for students 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.

INTRODUCTION

New York State is focused on improving educational achievement and ensuring the success of students with disabilities in the general education curriculum. The State Education Department has determined that the majority of students with disabilities have the ability to achieve the requirements for a high school diploma, based on the learning standards, if they are afforded access to general education curriculum and provided the necessary supports. NYSUT believes that it is very important that, at all levels of schooling, students with disabilities receive instruction aligned with the general education curriculum and participate in district and state-wide assessments.

Over the past few years the performance of students with disabilities on state-wide tests has been improving. In fact, more students are participating in the state-wide testing program and greater numbers of these students are achieving at desired levels. However, a significant percentage of students with disabilities continue to achieve at levels below state standards when compared to their nondisabled peers. Academic Intervention Services will provide the necessary support for many students with disabilities who do not demonstrate a full understanding of the state’s learning standards.

The January 2000 memorandum from the State Education Department describes Academic Intervention Services as a supplemental service provided to eligible students who are struggling to meet learning standards. For students with disabilities it is important to distinguish this general education service from a special education service or program. Special education means “specially designed individual or group instruction or special services or programs to meet the unique needs of students with disabilities”. The Individuals with Disabilities Education Act (IDEA) final regulations

(34 CFR 300.39) defines “specially designed instruction” as – adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction:

- (i) to address the unique needs of the child that result from the child’s disability; and
- (ii) to ensure access of the child to the general curriculum so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.”

Academic Intervention Services are additional general education instructional and/or support services that must be made available to eligible students and should not be considered special education when provided to a student with a disability. Consistent with the State Education Department’s January 2000 memorandum, *AIS are provided in addition to, and must not supplant, special education services.*

However, according to Section 200.4 of the Regulations, Committees on Special Education (CSE) must indicate on the student’s individualized education program (IEP) how the student’s disability affects the involvement and progress in the general education curriculum. For some students with disabilities, involvement and progress in the general curriculum may take place in general education classes with or without support services whereas for other students, a special education program may be necessary to enable a student to achieve the learning standards and satisfactorily pass assessments that have been established for all students.

In planning for implementing AIS, it is critical that CSEs, AIS providers and building principals coordinate their efforts to ensure that these services are accessible to and appropriately provided to eligible students with disabilities. Each school district’s plan for implementing AIS should include procedures reflecting this coordination.

The following information is designed to assist NYSUT members in carrying out their responsibilities related to the provision of AIS.

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

Yes. Section 100.1 (g) of the Regulations of the Commissioner of Education states that *academic intervention services must be made available to students with disabilities on the same basis as nondisabled students, provided, however, that such services are provided to the extent consistent with the student’s individualized education program.* Like all students, students with disabilities must have access to additional instruction which supplements the instruction provided in the general education curriculum and assists students in meeting the state learning standards and/or student support services including guidance counseling, attendance and study skills which are needed to help improve a student’s academic performance. (Support services do not include services provided to students with limited English proficiency or special education services and programs).

2. What is the role of the Committee on Special Education in regard to AIS?

Prior to the development of a recommendation, the CSE must ensure that the appropriateness of the resources of the general education program, including educationally related support services, and AIS, has been considered. (Section 200.4 of the Regulations)

When developing the IEP for eligible students, the CSE must examine the student’s needs related to the disability and to recommend programs and services to enable the student to be

involved in and progress in the general education curriculum and to participate with non-disabled students.

The IEP of each student must be reviewed and, if appropriate, revised at least annually. Specifically, the Committee must revise the IEP as appropriate to address any lack of expected progress toward annual goals and in the general curriculum. Based on the student's disability and its impact on learning, the CSE must determine if the needs of the student could be addressed through the resources of the general education program, including AIS, or through special education programs and services. The school district plan relating to AIS should include procedures to ensure the coordination among AIS providers, the building principal and the Committee on Special Education in making determinations about eligibility for such services.

3. Does the Committee on Special Education actually determine whether a student with a disability is eligible for AIS?

According to Part 100 of the Regulations, eligibility for AIS academic intervention services is determined through a district-developed or district-adopted procedure that meets the state criteria and is applied uniformly at each grade level. A CSE is not specifically authorized by Part 100 of the Regulations to determine that a student maybe eligible for AIS. However, only the Committee may legally determine if a student's disability is related to the lack of progress in the general curriculum and whether the student needs general education or special education services or programs. Based upon a student's progress in attaining the learning standards, some students may require AIS (supplemental support) while other students may require more developmental instruction in a subject area(s).

At meetings to determine initial eligibility or continuing eligibility for special education, the CSE must ensure that the appropriateness of the resources of the general education program, including AIS has been considered. The Committee would provide its recommendation concerning the appropriateness of general education resources to the building administrator or other administrator consistent with district procedures.

4. In the State Education Department's guidelines, AIS is described as a supplemental service. Part 200 of the Regulations requires that the IEP indicate supplementary aids and services. Should AIS be indicated on the IEP?

No. Supplemental services include a broad range of services either to assist a general education student with learning and behavior difficulties or to enable a student with a disability to meet IEP goals as well as to be educated with nondisabled students to the maximum extent appropriate. In regard to students with disabilities, supplementary aids and services have generally been understood to be modifications to the general education program made to ensure the satisfactory participation of these students. Examples of supplementary aids and services frequently made available to students with disabilities include curriculum adaptations, special seating arrangements, support services provided by special education personnel and assistive technology devices and services.

In determining the student's need for supplementary aids and services to be indicated on the IEP, the CSE must consider the necessity of the modifications and/or support as it relates to the student's disability. Supplementary aids and services may also be provided "on behalf of the child" which includes services that are provided the teachers(s) of the student with a disability to help the teacher to more effectively work with the student.

Some students with disabilities may require specific general education support services, including academic intervention services or Title I remedial programs, to assist them in attaining the learning standards. While these general education support services address a learning need, such services should not be indicated on the student's IEP.

5. Can AIS providers access the IEP of a student with a disability enrolled in their class?

Yes. Each school district must ensure that general education teachers, special education teachers, and other service providers have access to the IEP for each student with a disability in their classes or assigned to their caseload. If AIS providers have students with disabilities in their classes or assigned to their caseloads, then such individuals have the right to review the IEPs of these students. In addition, consistent with federal and State requirements each teacher/service provider must be informed of his or her responsibilities related to implementing the student's IEP and the specific accommodations, modifications and supports that must be provided for the student according to the IEP.

Based on the individual needs of the student, the CSE may determine those special education services and/or programs may be necessary to ensure that the student with a disability benefits from AIS. For example, a student could receive the direct and/or indirect services of a consultant teacher to enable the student to benefit from academic intervention services. A student with a behavior problem may require a paraprofessional to address the student's management needs. These support services must be considered, and if appropriate, recommended by the CSE. As previously stressed, consideration of these issues require a coordinated approach involving the CSE, the general education teacher(s) of the student and appropriate school personnel associated with AIS.

6. Should students who are eligible for AIS also be referred to the Committee on Special Education?

Most general education students with learning difficulties, needing AIS, should not be referred to the Committee on Special Education, unless a professional member of the school district suspects that the student has a disability.

If a teacher, school psychologist, building administrator or other professional member of the district suspect that the student's learning difficulties are due to a disability, such individuals should follow procedures for referral for special education services pursuant to Section 200.4 of the Commissioner's Regulations. Among other information, the written referral for special education evaluation services must describe the intervention services, programs or instructional methodologies used to remediate the student's performance prior to referral, including any supplementary aids or support services or describe why no attempts have been made. **Each school district must have a plan and policies for implementing school wide preferal interventions. A school district may not establish policies or procedures that would prohibit an eligible individual to make a direct referral to the Committee on Special Education when such individual suspects that a student has a disability.**

7. What is meant by the phase "to the extent consistent with the individualized education program?"

This phase has two meanings; one relating to the appropriateness of AIS for the student, and the other relating to accommodations and supports that enable the student to benefit from AIS.

The CSE must consider how the student's disability affects involvement and progress in the general curriculum. Based on the student's present levels of performance as determined by the results of the initial or most recent evaluation, and results of the student's performance on any general state or district wide assessment programs, and other factors, the CSE first considers the appropriateness of general education programs and services, including academic intervention services. For some students, the Committee may determine that the use of general education supplemental support such as AIS, Educationally Related Support Services (ERSS) and Title I programs would not enable the student to benefit from general education class instruction. Therefore, a determination would be made that special education programs and services should be provided to the student consistent with the IEP.

The second meaning refers to the provision of appropriate accommodations and supports to 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.

8. Are students with disabilities who fail Regents Competency Tests eligible for Academic Intervention Services?

Yes.

9. What are some examples of special education teachers providing Academic Intervention Services?

Certified special education teachers at both elementary and secondary levels may provide academic intervention services. However, if a special education teacher provides AIS to students with or without disabilities, it is not a special education service. For example, a special education teacher could provide:

- After-school tutorials for students needing additional assistance;
- Support services such as those described in the definition of Educationally Related Support Services, including curriculum and instructional modification;
- Supplemental instruction in a general education resource room program that may include students with and without disabilities; and
- Direct support to students enrolled in a general education class who are at risk of not gaining the knowledge and skills needed to meet or exceed designated performance levels on state tests. (This model is similar to the special education consultant teacher model).