



NEW YORK STATE ASSOCIATION FOR BILINGUAL EDUCATION

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August 20th, 2014

**2013-2014
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Mr. Cosimo Tangorra
State Education Department
Office of P-12 Education
State Education Building, 2M West
89 Washington Ave., Albany, NY 12234

Dear Mr. Tangorra,

DELEGATE ASSEMBLY

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On behalf of the New York State Association for Bilingual Education's (NYSABE) Executive Board, Delegate Assembly, Executive Director, and members, I present to you our organization's recommendations for the Proposed Revisions of Commissioner's Regulations Part 154.

One of NYSABE's main goals is to safeguard the educational rights of English language learners (ELLs)/bilingual learners. We are at a pivotal time in education in which we are facing major shifts. For this reason, it is imperative that we ensure that the unique needs of New York's more than 250,000 ELLs/bilingual learners are at the forefront of these shifts. These students and their families must be provided access to the most appropriate, research-based, high quality education designed to ensure their academic success as well as their optimum socio-emotional development.

Region V/Rochester
María Encarnación
Rose Mary Villarrubia-Izzo
Region VI/Western New York
Evelyn Arent

In accordance with this goal, we submit NYSABE's comments on the Proposed Revisions to the Commissioner's Regulations Part 154. Thank you for this opportunity to share our views and recommendations.

Delegates-at-Large
Md. Abul Kalam Azad
Dr. Flor Calero
Dr. Marguerite Lukes
Dr. Claire Sylvan
Melodie Valenciano

In closing, NYSABE applauds the work of the Board of Regents and NYSED's staff which reflects their commitment to ensure that ELLs/bilingual learners have equal access to all educational opportunities. We are also grateful for their unfailing support to the work of educators, parents, and community members whom NYSABE represents.

Parent-at-Large
Nelly Y. García

Sincerely,

Language Delegates
Dr. Immaculee Harushimana,
African Languages
Jahanara B. Azad, Bengali
Monalisa Jean-Ferrari, Haitian
Dr. Ved Malhotra, Hindi
Eva García, Spanish
Dr. G. Bahar Otcu-Grillman,
Turkish

Yazmín Torres
Yazmín Torres
NYSABE President, 2013-2014

COMMENTS ON THE PROPOSED AMENDMENTS TO PART 154 OF COMMISSIONER'S REGULATIONS

The New York State Association for Bilingual Education (NYSABE) appreciates the commitment, dedication and focus that the New York State Education Department (NYSED) and the Board of Regents have demonstrated in their deliberative, extensive and thorough review of Commissioner's Regulations Part 154. We appreciate the opportunity to review the Proposed Amendments to CR Part 154 as New York State seeks to update their regulations to reflect best practices for the education of ELLs/bilingual learners in their preparation for the 21st century.

NYSABE applauds the work done to promote the integration of language and content and support the proposed amendment that requires districts to provide integrated ESL instruction, in which ESL methodologies are integrated into content area instruction, in addition to stand-alone ESL. Research has demonstrated the effectiveness of instructional practices that allow students to develop language skills in context, rather than in isolation.

NYSABE believes that all administrators, teachers, clinical/support staff (e.g., guidance counselors, school psychologists, etc.) and teacher assistants should receive meaningful and relevant professional development specific to the needs of ELLs. As the population of ELLs continues to increase across the state, it is likely that the vast majority of district leaders, school building administrators and supervisors, teachers and clinical/support staff can expect to be involved in the education of these students at some point in their careers. Therefore it is imperative that all district leaders, school building administrators and supervisors, teachers, clinical/support staff, and teacher assistants in the New York State are prepared to meet their unique needs. Similarly, we support the proposal for regulatory amendments to section 52.21 regarding the requirement that all prospective teachers complete coursework on ELL instructional needs, language development, and cultural competency. However, these regulatory amendments must be extended to include this requirement to all prospective district leaders, school building administrators and supervisors, teachers, clinical/support staff (e.g., guidance counselors, school psychologists, etc.) and teacher assistants as well.

NYSABE supports the proposal for regulatory amendments to Part 100.5 that would allow for additional graduation requirement options for ELLs who enter the United States in 9th grade or above, particularly the expansion of the appeals process for such students scoring 55-64 on the ELA exam. NYSABE believes that the proposed changes reflect a positive step toward creating such additional graduation pathways for ELLs. However, as New York State continues to raise the rigor of its content standards and increase its graduation assessment requirements, NYSED must also continue to ensure that appropriate assessments that allow ELLs to demonstrate what they know and various pathways to graduation are available.

NYSABE supports extending the regulation for serving ELLs to Pre-K programs that are established by local school districts with public funds. Given the nature of language development in early childhood, the NYSITELL should be administered no earlier than Kindergarten, as is done currently. The state should develop/identify and utilize an age-appropriate identification protocol to identify pre-K students who may be ELLs requiring bilingual or ESL instructional services. Further, all teacher certifications that include pre-kindergarten grades (e.g., Pre-K to Grade 6, Birth to Grade 6, etc.) must include preparation regarding home and new language development as well as incorporating students' culture(s), as required of K-12 teachers in the amended certification requirements. Finally, in districts with pre-K (UPK) programs, bilingual instruction should be made available once there are 15 (not 20) children who speak a common language -- since the UPK class size is set at 18.

NYSABE appreciates the work done to address the needs of students with disabilities who are also ELLs/bilingual learners. In accordance with the guidelines submitted by the US Department of Education on July 18, 2014, a Language Proficiency Team (LPT) or a Committee on Special Education (CSE)/IEP Team **cannot** make the determination that a student with disabilities should not participate in a State English Language Proficiency (ELP) assessment. All students with disabilities must “be included in all general State assessment programs, including assessments described under section 1111 of the ESEA, with **appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs** (section 612(a)(16)(A) of the IDEA, 34 CFR §300.160(a), and section 1111(b) of the ESEA).”

The IDEA, Titles I and III of the ESEA, and Federal civil rights laws require that all students, including those with disabilities, take statewide assessments that are valid and reliable for the purpose for which they are being used, and these include the English Language Proficiency assessment. In accordance with these regulations, the CSE/IEP Team will determine whether the students will participate in the statewide standardized assessment program, with or without accommodations. In New York State the standardized assessment program includes the NYSITELL, for initial identification, and the NYSESLAT for continued classification of the student as an ELL. The CSE/IEP Team will also determine if a student is unable to participate in the State’s standardized assessment program; therefore, alternate assessments must be provided, in accordance with Federal laws and regulations. In both cases, the determination of the CSE/IEP Team must be included in the student’s Individualized Education Program (IEP).

In summary, NYSABE, in accordance with Federal laws and regulations, recommends that:

1. The proposed initial identification process of using a Language Proficiency Team (LPT) for the year 2015-2016 for a newly enrolling or re-entering student who has a disability and the possibility of being an English language learner **be eliminated**.
2. The CSE/IEP Team will determine if the student identified with a disability is able to participate in the statewide standardized assessment programs, which include the NYSITELL and the NYSESLAT, with or without accommodations;
3. The CSE/IEP Team will determine if a student identified with a disability is unable to participate in standardized assessment programs; therefore, alternate assessments for English language proficiency must be provided;
4. The determination made by the CSE/IEP Team be included in the student’s IEP, specifying any accommodations to be provided;
5. NYSED must develop alternate assessments for the NYSITELL and NYSESLAT for those students who are unable to participate in statewide standardized assessments.

As we continue to serve the students, families, educators, members of community-based and private entities whom NYSABE represents, we reaffirm our commitment to ensure equitable access to high quality bilingual education programs for all ELLs/bilingual learners in New York State by submitting these comments on the Proposed Amendments to C.R. Part 154.

Respectfully,

Yazmín Torres

Yazmín Torres

NYSABE President 2013-2014