

Attachment

NYSABE Recommendations on the Revision of CR Part 154

Overall, NYSABE supports many of the forty three proposed items. However, we do not support several key items as written; therefore, proposed modifications for those particular items are included in this review.

We believe that any changes made to CR Part 154 must be founded upon research and best practices. However, several items refer to a “Freestanding ESL program” while other items refer to an “ESL program”. This terminology creates confusion and is not aligned with the work on the Bilingual Common Core which emphasizes the need for integration of academic language and content **in all the languages** students use. Therefore, to align CR Part 154 with the current state reforms and cutting-edge research on language development, we strongly recommend replacing “Freestanding English as a Second Language program” with “**Language Development Program**” which is defined as a research-based program that integrates two key components:

- Content instruction (Language Arts, math, science, social studies) taught in English **with home language supports** and appropriate scaffolds; and
- English as an additional language pedagogy.

The following are important areas that have not been addressed but must be included in this revision:

- New York State should take the lead nationally in advocating for the elimination of deficit-based terminology, such as “Limited English Proficient (LEP),” and be replaced with the use of cutting-edge terminology such as ELLs/Bilingual Learners or ELLs/Emergent Bilinguals.
- CR Part 154 must be broadened to include Early Childhood/Preschoolers.
- In defining eligibility for ELL/bilingual learner status, Caribbean students from homes where Creole or non-Creole based languages other than English are spoken must be included under CR Part 154 in the definition of ELLs/bilingual learners. Due to their historic exclusion from services and programs under CR Part 154, we strongly recommend that NYSED partner with researchers and practitioners working with these populations prior to designing appropriate programs that validate students’ home languages and English varieties.
- Non-verbal students whose home language is not English must be included under CR Part 154 in the definition of ELLs/bilingual learners.

NYSED Survey

The following are sub-sections where additional consideration/revision is required.

Identification and Placement

- 2. Require the qualified professionals responsible for making the determination of whether a student is an English Language Learner to engage in appropriate consultation with the Committee on Special Education (CSE) for students who have or are suspected of having a disability. Students with disabilities who take the regular New York State assessments will also take the statewide language proficiency identification assessment. The CSE must determine individually whether a student with a severe disability who is eligible to take the New York State Alternate Assessment (NYSAA) will participate in the regular statewide language proficiency identification assessment. If not, the CSE must identify appropriate alternate assessment measures to be used to determine the student's language proficiency.**

Recommended Modification: *Require the qualified professionals responsible for determining whether a student is an English Language Learner to consult/collaborate with qualified members of the Committee on Special Education (CSE) for students who have or are suspected of having a disability. CSEs must be required to include a bilingual teacher (bilingual in the language of the student), and/or ESL teacher, bilingual support personnel (bilingual in the language of the student), such as school psychologists, school counselors, school social workers or guidance, in making this determination.*

For a student suspected of having a disability or for a student with a severe disability who is eligible to take the New York State Alternative Assessment (NYSAA), the CSE will determine, on an individual basis, whether the student should take the statewide language proficiency identification assessment or not. If not, the CSE must identify and administer appropriate alternate assessment measures to determine the student's language proficiency in both, the home language and English. Students with disabilities who take the general New York State assessments will be required to take the statewide language identification assessment.

NYSED must develop guidelines for the appropriate identification, placement, instructional and support services, and assessment for ELL/bilingual learners with disabilities.

- 3. Use the identification process to determine if a student has Interrupted Formal Education Skills, so that schools and districts can provide targeted interventions to such students and track their needs. Students with Interrupted Formal Education Skills shall mean English Language Learners who upon initial enrollment in school have been in the United States for one year or less and are two or more years below grade level in literacy in their home language and/or two or more years below grade level in Math.**

Recommended Modification: *SIFEs should be identified more narrowly as students who have experienced serious interruptions in their education. Defining SIFEs solely on the basis of a two-year-below-grade-level bar could result in an inappropriately large percentage of the ELL/bilingual learner student population being classified as SIFEs. SIFE students are ELLs/bilingual learners who upon initial enrollment in school have been in the United States for one year or less and who are more than two years below grade level in literacy in their home language and/or more than two years below grade level in Math, as evidenced by assessments in his /her home language. In addition, the trajectory of a student’s education must be considered when making the proper identification. Students identified on the basis of having serious interruptions in their education must have access to additional supports and services as appropriate and to rigorous instructional and assessment programs that allow the tracking of their progress.*

7. Consider seeking authority to develop a process to identify ELLs in preschool and to develop separate regulations regarding the identification, placement, and programming requirements for ELLs in preschool. (Note: development of these regulations would begin following adoption by the Regents of revised Part 154 regulations).

Recommended Modification: *Given the critical opportunities and long-term benefits presented by early identification of ELLs/bilingual learners in Early Childhood/preschool, this recommendation should be strengthened by changing “Consider seeking authority” to “Seek authority”*

Exit Criteria

10. As is done in almost all other states, subject to the approval of the United States Department of Education through its accountability workbook amendment process, create additional paths to determine that a student is proficient, including:
 - a. scoring proficient on the NYSESLAT or scoring advanced (the level below proficient) in all sections of the NYSESLAT while also scoring proficient on a 3-8 ELA assessment for two consecutive years or scoring advanced in all sections of the NYSESLAT while also scoring 75 or higher on the ELA Regents.
 - b. In the case of an ELL with disabilities, create a process for the CSE to consider whether a student should continue to be designated as an ELL and make recommendations for a final determination of ELL status to be made by the superintendent or his or her designee. The district must include in the CSE meeting an individual with knowledge or special expertise regarding the student’s language development needs, such as a regular or special education teacher or related service provider who is appropriately qualified to provide ESL or bilingual instruction or related services.

Clarification Requested: *Please clarify whether this change (the removal of the proficient students from this subgroup) will have a negative impact on schools with large populations of*

ELLs/bilingual learners in terms of schools meeting their AYP/AMO requirements for the ELL/bilingual learner subgroup and on evaluations for teachers with large ELL/bilingual student populations. Please share data showing how you have modeled the impact of this change. If in fact this change will negatively impact the ELL subgroup performance and teacher evaluations of teachers of ELLs/bilingual learners in large ELL population schools. This is an area of grave concern.

Parent Information and Choice

15. Require that *in addition* to parent-teacher conferences, quarterly progress meetings or other such scheduled meetings provided to all students, school staff meet with parents or persons in parental relation to ELLs at least once a year to discuss their child's language development progress and needs and NYSESLAT results. The district must take whatever action is necessary to ensure that the parent or person in parental relation understands the proceedings of the meeting, including using a qualified interpreter (oral) /translator (written) for the language and mode of communication the parent or person in parental relation best understands.

Recommended Modification: All parent/family-teacher conferences must be held at least twice a year and must include the student's report on the instructional/assessment program and its alignment with current regulations and initiatives. Reports on student progress must include academic achievement in all areas in connection to language development

Types of Programs and Instruction

16. Define a Freestanding English as a Second Language program as a research-based program comprised of two components: a content area instructional component in English with appropriate scaffolds and supports (including all core content, such as English language arts, math, science, social studies), and an explicit English language development component (Stand-alone and/or Integrated English as a Second Language instruction).

Recommended Modification: Replace "Freestanding English as a Second Language program" with "Language Development Program" which is defined as a research-based program that integrates two key components:

- *Content instruction (Language Arts, math, science, social studies) taught in English **with home language supports** and appropriate scaffolds, and*
- *English as an Additional Language pedagogy,*

17. Define Stand-alone English as a Second Language as a unit of study or its equivalent in which pupils receive instruction in order to acquire the English language needed for success in academic content courses. Stand-alone ESL may be provided through self-contained or pull-out instruction, except as required by a student's individualized

education program (IEP); however pupils shall not be pulled out of core content area courses in order to receive a Stand-alone English as a Second Language unit of study.

Recommended Modification: Define “Stand-alone English as a Second language” as a unit of study or its equivalent in which pupils receive instruction in order to acquire the English language needed for success in academic content courses. Stand-alone ESL may be provided through self-contained classes, **or collaborative team teaching** or pull out instruction **where all other options are not feasible or inappropriate**, except as required by a student’s individualized education program (IEP); however, pupils shall not be pulled out of core content area courses in order to receive a Stand-alone English as a Second Language unit of study.

26/27. Free Standing ESL K-8 and -12 Charts for 2014-15 and 2015-16
CHART

26. Require units of study for students in ESL programs be as follows for the 2014-15 school year:

Free Standing ESL K-8 (2014-15)¹

	Required Units of Stand Alone ESL	Required Units of Integrated ESL	Required Units that May Be <i>Either</i> Stand Alone or Integrated ESL
Beginner	1	1 (with ELA)	
Intermediate		1 (with ELA)	1
Advanced		1 (with ELA or another content area)	
Proficient (i.e., one year following exit from ELL status)		1 (with ELA or another content area) (or other transition services)	

Free Standing ESL 9-12 (2014-15)

	Required Units of Stand Alone ESL	Required Units of Integrated ESL	Required Units that May Be <i>Either</i> Stand
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¹ In the event that the Regents adopt the Bilingual Common Core Progressions (BCCP), which are based on five levels of language development, reference to Beginning shall mean Entering, Intermediate shall mean Emerging, Transitioning is a new level that shall have the same ESL unit requirements as the former Intermediate, Advanced shall mean Expanding and Proficient shall mean Commanding.

			Alone or Integrated ESL
Beginner	1	1 (with ELA or another content area)	1
Intermediate		1 (with ELA or another content area)	1
Advanced		1 (with ELA or another content area)	
Proficient (i.e. one year following exit from ELL status)		1 (with ELA or another content area) (or other transition services)	

27. Require that units of study in ESL programs for the 2015-16 school year and beyond be as follows²:

Free Standing ESL K-8 (2015-16)³

	Required Units of Stand Alone ESL	Required Units of Integrated ESL
Beginner	1	1 (with ELA)
Intermediate		2 (with ELA)
Advanced		1 (with ELA or another content area)
Proficient (i.e. one year following exit from ELL status)		1 (with ELA or another content area)(or other transition services)

² Such approach is aligned to the Theoretical Foundations of the Bilingual Common Core Initiative (available at <http://engageny.org/sites/default/files/resource/attachments/nysbccci-theoretical-foundations.pdf>) and would be done in conjunction with recommendations 38, 39 and 40, which would require additional training for prospective teachers and professional development for current teachers, with a focus on best practices for co-teacher strategies an integrating language and content instruction.

³ In the event that the Regents adopt the Bilingual Common Core Progressions (BCCP), which are based on five levels of language development, reference to Beginning shall mean Entering, Intermediate shall mean Emerging, Transitioning is a new level that shall have the same ESL unit requirements as the former Intermediate, Advanced shall mean Expanding, and Proficient shall mean Commanding.

Free Standing ESL 9-12 (2015-16)

	Required Units of Stand Alone ESL	Required Units of Integrated ESL
Beginner	1	2 (with ELA and with another content area)
Intermediate		2 (with ELA and with another content area)
Advanced		1 (with ELA or another content area)
Proficient (i.e., one year following exit from ELL status)		1 (with ELA or another content area)(or other transition services)

For 26/27

Recommended Modification: In each table, column two heading “Required Units of Stand-Alone ESL” and box in this column in Beginner row with number 1 should both include an asterisk. The asterisk should note that required units of Stand-Alone ESL are only required when fewer than 50% of a class are English-language learners. Otherwise, students should receive content area integrated ESL support/instruction.

For 26 only:

Recommended Modification: In each table, column four heading “Required Units that may be Either Stand Alone or Integrated ESL” should include an asterisk after the words “Stand Alone”. The asterisk should note that Stand-Alone ESL is only required when fewer than 50% of a class are ELLs/bilingual learners.

30. Allow English as a Second Language instruction to be provided in both Stand-alone and Integrated settings. In the case of Integrated ESL, require that such courses be taught by either a dually certified (ESL *and* content area) teacher or co-taught by an ESL and a content area teacher.

Recommended Modification: Add at the end of the paragraph, “In the case of self-contained bilingual classes, PK-6, bilingually certified teachers can offer ESL instruction.”

Graduation Requirements

35. Change graduation requirements to allow multiple pathways, only for ELLs who enter the United States as new arrivals in 9th grade or above, including:

- **Scoring 65 or higher on all Regents except the ELA, and passing a rigorous exam of English proficiency such as the TOEFL, that has been approved as an alternative to the Regents examination, to receive a Regents diploma.**

Recommended Modification: NYSABE strongly supports the creation of multiple pathways to graduation, post-secondary education, and career. NYSABE is aware that unless carefully crafted, there is a danger that the creation of multiple pathways to graduation could lower standards and/or legitimize a double-standard, and track student into less rigorous courses—all of which have had a disproportionate and negative impact on immigrant, and ELLs/bilingual learners. But if properly constructed and cognizant of the full range of students’ competencies, such pathways can offer a meaningful road to the American Dream.

While graduation programs should include multiple pathways, those listed in #35 are too narrow. TOEFL is too costly to be a realistic option. NYSED should review multiple pathway options in existence in other states and provide opportunities for ELLs/bilingual learners to demonstrate readiness for graduation on appropriate measures, including performance assessments, course pass, teacher recommendation, etc.

Certification and In-Service Professional Development

36. Create certification areas for bilingual teaching assistants and tenure areas for bilingual teaching assistants and bilingual teachers.

Recommended Modification: Certification pathways for languages groups with low levels/high shortages of bilingual teachers should also be created (i.e. Bengali).

37. Require all prospective teachers to complete coursework on ELL instructional needs, cultural competency, and language acquisition processes in order to receive initial certification.

Recommended Modification: Require all teacher candidates to complete coursework on ELL/bilingual learners instructional needs, cultural competency, and language acquisition processes to be eligible for initial certification. Require the same for all teachers applying for professional certification if the coursework was not included in their initial certification.

Require all leadership (school building leader and school district leader) candidates to complete coursework in the administration, development and supervision of programs for ELLs/bilingual learners, including related laws and regulations, to be eligible for initial certification. Require the same for leaders seeking professional certification if the coursework was not included in their initial certification.

District Planning and Reporting Requirements

41. Require districts to provide additional information in reports and plans regarding programs for subpopulations of ELLs (i.e., Long-Term ELLs, new immigrant students, ELLs with disabilities and Students with Interrupted Formal Education Skills), including program information by subpopulations and the home languages spoken in the district.

Recommended Modification: In addition to program information, provide disaggregated data on ELL/bilingual learner subgroups outcomes.