



Our Students. Their Moment.

Ensuring Equal Educational Opportunities for English Language Learners

Amended Commissioner's Regulations Part 154

Adopted 9/15/2014



COMMISSIONER'S REGULATION PART 154

- **Commissioner's Regulation Part 154** establishes the legal requirements for the education of English Language Learners (ELLs) in New York State.
- On September 15th, 2014, NYSED's Board of Regents amended CR Part 154 into Subparts:
 - ❖ **SUBPART 154-1**: Describes the requirements for the 2014-2015 school year. Essentially, the requirements are the same as in CR Part 154 (2007), but include changes in terminology.
 - **SUBPART 154-2**: Describes the new and expanded requirements of schools and school districts that are to be fully in effect as of the 2015-2016 school year.
 - **PROPOSED SUBPART 154-3**: If adopted by the Board of Regents, will establish:
 - 1) ELL Identification criteria for Students with a Disability; and
 - 2) ELL Exit process and criteria for eligible Students with a Disability.

AREAS OF CR PART 154 REGULATION

- **ELL Identification**
- **Parent Notification and Information**
- **Retention of Records**
- **ELL Program Placement**
- **Program Requirements**
- **Provision of Programs**
- **Grade Span**
- **Program Continuity**
- **Students with Disabilities**
- **ELL Exit Criteria**
- **Intervention Support for ELLs**
- **Former ELL Services**
- **Graduation Requirements**
- **Professional Development**
- **Certification**
- **School District Planning and Reporting Requirements**

ELL IDENTIFICATION

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
<p>A three step ELL identification process by school staff, including:</p> <ol style="list-style-type: none"> (1) administration of the Home Language Questionnaire; (2) an informal individual interview with the student; and (3) the administration of a statewide English language proficiency identification assessment. <p>Current regulations do not define the qualifications of staff required to administer the identification process.</p>	<p>Implement a three step ELL identification process to ensure holistic and individualized decisions can be made by qualified personnel, including:</p> <ol style="list-style-type: none"> (1) administration of the Home Language Questionnaire; (2) individual interview with the student; (3) administration of a statewide English language proficiency identification assessment. <p>Qualified personnel is defined as a Bilingual Education or ESOL teacher, or a teacher trained in cultural competency, language development and the needs of English Language Learners.</p>	<div data-bbox="1671 535 1903 721" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>

ELL IDENTIFICATION Cont'd

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
<p>Guidance documents define Students with Interrupted Formal Education, but do not clearly indicate that they should be identified as part of the identification process.</p>	<p>School districts are required to identify ELLs as Students with Interrupted/Inconsistent Formal Education (SIFE) as an additional part of the interview during the identification process. It includes a review of academic history and student work samples to determine level in home language and math. [154-2.3(a)(6)]</p>	<p>2015-2016</p> <p>Full Implementation</p>
<p>Current regulations do not provide the opportunity for a review process addressing possible ELL misidentification.</p>	<p>Upon receiving a written request within an ELL's first 45 days of enrollment, school districts are required to implement a review process by qualified personnel to determine if a student may have been misidentified.</p> <p>A review of ELL identification determination would commence upon written request by a parent, a teacher with the consent of the parent, or a student, if the student is 18 years old or older.</p> <p>Before a change in ELL determination is final, parental consent, student consent if the student is 18 years or older, and principal and superintendent approval are required. [154-2.3(b)]</p>	<p>2015-2016</p> <p>Full Implementation</p>

RETENTION OF RECORDS

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
<p>Current regulations do not require school districts to maintain records of a parent's preferred language or mode of communication, or records of notices and forms generated during the identification and placement process in ELL student's cumulative record.</p>	<p>School districts are required to collect and maintain:</p> <ul style="list-style-type: none">• Records indicating parent's preferred language or mode of communication; and• Records of notices and forms generated during the identification and placement process in ELL student's cumulative record.	<p>2015-2016</p> <p>Full Implementation</p>

PARENT NOTIFICATION AND INFORMATION

<p>Current regulations require school districts to make an effort to meet with parents or persons in parental relation at least twice a year to help them understand the goals of the program and how they might help their children.</p>	<p>Parent notification and communication is required to be in the language best understood by the parents as indicated and on file in each ELL student's cumulative record.</p> <p>School personnel is required to meet with parents or persons in parental relation at least once a year, in addition to other generally required meetings with parents, to discuss with parents their child's academic content and language development progress and needs.</p>	<p>2015-2016</p> <p>Full Implementation</p>
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ELL PROGRAM PLACEMENT

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
Current guidance calls for placement in a Bilingual Education / ESL program within 10 school days after initiating the identification process.	ELL identification, parent notification, signed consent, and placement in a Bilingual Education or ENL/ESL program is required to take place within 10 school days after initiating the identification process. [154-2.3(g)(1)]	<div data-bbox="1671 349 1903 521" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>
Current regulations do not require school districts to complete the identification process before an ELL student receives a final school placement.	School districts are required to complete the identification process before an ELL student receives a final school placement. A student is to be provisionally placed in a school until the identification process is completed. [154-2.3(a)(8)]	

PROGRAM REQUIREMENTS & PROVISION OF PROGRAMS

Current regulations require school districts to provide English as a Second Language instruction through a Stand-Alone model only.	<p>English as a New Language instruction is required to be offered through two settings:</p> <p>(1) Integrated ENL/ESL (ESL methodologies in content area instruction co-taught or individually taught by a dually certified teacher);</p> <p style="text-align: center;"><i>and</i></p> <p>(2) Stand-Alone ENL/ESL (ESL instruction with an ESOL teacher to develop the English language needed for academic success). [152.2(m)and(x)]</p>	<div data-bbox="1671 978 1903 1163" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>
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PROGRAM REQUIREMENTS & PROVISION OF PROGRAMS

Cont'd

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
<p>Current regulations require each school with 20 or more ELL students of the same grade who speak the same home language to provide a Bilingual Education program.</p>	<p>Each school with 20 or more ELL students of the same grade who speak the same home language continues to be required to provide a Bilingual Education program. [154-2.3(d)(4)]</p>	<p>2015-2016</p> <p>Full Implementation</p>
<p>Current regulations do not require districts to conduct an annual estimate of ELL enrollment, nor create a sufficient number of Bilingual Education programs in the district, if there are 20 or more ELLs of the same grade level who speak the same home language district wide.</p>	<p>School districts are required to annually estimate ELL enrollment before the end of each school year, and create a sufficient number of Bilingual Education programs in the district, if there are 20 or more ELLs <i>district wide</i> of the same grade level who speak the same home language. [154-2.3(d)(1)]</p> <p>New Bilingual Education programs are not to be placed in a school identified as a School Under Registration Review or as a Focus or Priority School. [154-2.3(d)(3)]</p> <p>A school district will be allowed to apply for a one-year waiver for languages that represent less than 5% of the statewide ELL population, if the district can demonstrate it meets established criteria and provides alternate home language supports. [154-2.3(d)(6)]</p>	<p>2015-2016</p> <p>Full Implementation</p>

GRADE SPAN

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
Current regulations do not address grade span or program continuity.	The maximum allowable grade span is two contiguous grades for grouping instruction in ENL/ESL and Bilingual Education programs. [154-2.3(i)]	2015-2016 Full Implementation

PROGRAM CONTINUITY

Current regulations do not address program continuity.	Districts are required to provide program continuity so that ELLs can continue to receive the program type (Bilingual Education or ENL/ESL) in which they were initially enrolled. [154-2.3(e)] In order to ensure program continuity, schools are required to continue providing a Bilingual Education program if at least 15 students who speak the same home language were enrolled in such a program in the previous school year. [154-2.3(e)]	2015-2016 Full Implementation
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ELL EXIT CRITERIA

<p>CR PART 154 EXISTING REGULATION</p>	<p>SUBPARTS 154-1 & 154-2 ADOPTED REGULATION</p>	<p>TIMELINE</p>
<p>Current regulations only allow students to exit ELL status through one criterion:</p> <p>(1) scoring proficient on the statewide English language proficiency assessment.</p>	<p>Exit criteria has expanded to allow qualified students to exit ELL status by:</p> <p>OPTION 1) Scoring at the Proficient/Commanding level on the NYSESLAT [154-2.3(m)(1)(i)]</p> <p>OPTION 2) Scoring at the Advanced/Expanding level on the NYSESLAT, -and- ➤ 3+ on a grade 3-8 ELA Assessment, -or- ➤ 65 + on the Regents Exam in English [154-2.3(m)(1)(ii)]</p> <p>OPTION 3) Please see Areas of Pending Regulation: Students with Disabilities. [154-2.3(m)(2)]</p>	<p>2015-2016</p> <p>Full Implementation</p>

INTERVENTION SUPPORT FOR ELLS

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
Current regulations do not require school districts to annually identify ELLs not demonstrating adequate performance or provide appropriate support services to achieve and maintain academic success.	Districts are required to annually identify ELLs not demonstrating adequate performance and provide additional support services aligned to district wide intervention plans. [154-2.3(j)]	<div data-bbox="1667 272 1899 448" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>

FORMER ELL SERVICES

Current state and federal guidance calls for school districts to provide one to two years of support services to students who exit out of ELL status (Former ELLs).	<p>School districts are required to provide at least two years of Former ELL services to support students who exit out of ELL status including:</p> <ul style="list-style-type: none"> • A half unit of study of Integrated ENL/ESL in ELA, Math, Science or Social Studies, ~and/or~ • With OBEFLS approval, other services that monitor and support each Former ELL's language development and academic progress. [154-2.3(h)(1)(v)] and [154-2.3(h)(1)(v)] 	<div data-bbox="1667 865 1899 1041" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>
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PROFESSIONAL DEVELOPMENT

CR PART 154 EXISTING REGULATION

Current regulations require in-service training to all personnel providing instruction or other services to ELLs, but do not require specific types of professional development beyond the general requirement of 175 hours of professional development over 5 years.

SUBPARTS 154-1 & 154-2 ADOPTED REGULATION

School districts are required to ensure that a prescribed percentage of Professional Development hours be specific to the needs of ELLs, co-teaching strategies, and integrating language and content instruction:

- 15% total hours ELL-specific PD for All Teachers
- ~and~
- 50% total hours ELL-specific PD for Bilingual Education and ENL/ESL teachers

TIMELINE

2015-2016

Full
Implementation

SCHOOL DISTRICT PLANNING AND REPORTING

CR PART 154 EXISTING REGULATION	SUB-PARTS 154-1 & 154-2 ADOPTED REGULATION	TIMELINE
<p>Current regulations require school districts to provide information in plans regarding programs for ELLs, information provided to parents, methods to annually measure and track ELL progress, and systems to identify, assess, and exit students from ELL status.</p>	<p>School districts are required to provide additional information in comprehensive plans regarding programs for subpopulations of ELLs, information provided to parents in the languages they best understand, methods to annually measure and track ELL progress, and systems to identify, assess, and exit students from ELL status. [154-2.4(b)]</p>	<div data-bbox="1671 349 1903 521" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>
<p>Current regulations do not require school districts to report ELL program information for subpopulations of ELLs or by languages spoken in the school district. Current regulations do require school districts to provide information in reports regarding programs for ELLs, information provided to parents, methods to annually measure and track ELL progress, and systems to identify, assess, and exit students from ELL status</p>	<p>School districts are required to provide additional information in reports regarding programs for subpopulations of ELLs including program information, if offered, by subpopulations and languages spoken in the school district. [154-2.4(c)]</p>	<div data-bbox="1671 935 1903 1106" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>

STUDENTS WITH DISABILITIES

CR PART 154 EXISTING REGULATION

Current regulations do not provide a mechanism for school districts to consider the implications of Students with Disabilities in the ELL identification and exit processes.

SUBPART 154-3 ADOPTED AMENDMENT

Adopted Subpart 154-3 regulations establish:

- 1) Identification criteria to determine whether, and if so, which accommodations. If any, a Student with a Disability uses during administration of the NYSITELL; and
- 2) ELL Exit process and criteria for eligible Students with a Disability.

PROPOSED TIMELINE

2015-2016

Full
Implementation

AREAS OF PENDING REGULATION

- ❑ **Parent Notification and Information**
- ❑ **Professional Development**
- ❑ **Graduation Requirements**
- ❑ **Students with Disabilities**
- ❑ **Prospective Teacher Certification**
- ❑ **Certification and Seniority Protection**

AREA OF PROPOSED REGULATION

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	PROPOSED CHANGE	PROPOSED TIMELINE
<p>Current regulations in effect during the 2014-15 School Year.</p>	<p>Amended regulations adopted by the Board of Regents on 9/15/2014.</p>	<p>Proposed statutory and/or regulatory change in progress that, if adopted, will amend new regulation.</p>	<p>PENDING</p>

PARENT NOTIFICATION & INFORMATION

<p>CR PART 154 EXISTING REGULATION</p>	<p>SUBPARTS 154-1 & 154-2 ADOPTED REGULATION</p>	<p>SUBPART 154-2 PROPOSED AMENDMENT</p>	<p>PROPOSED TIMELINE</p>
<p>Current regulations state that an ELL is required to be placed in a program within 10 days, and the parent is required to be notified.</p>	<p>Upon written notification of a parent receiving his/her child's placement in a Bilingual Education or ENL/ESL program, the parent has 5 days to sign and return a statement indicating parental consent. If the signed notification statement is not returned, the student will be placed in a Bilingual Education program, with the parent retaining the right to make the final program placement decision.</p>	<p>Proposed change from 5 to 10 days for parents to return signed notification and consent to Bilingual Education or ENL/ESL program placement.</p>	<div data-bbox="1657 461 1889 639" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>

PROFESSIONAL DEVELOPMENT

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	SUBPART 154-2 PROPOSED AMENDMENT	PROPOSED TIMELINE
<p>Current regulations require in-service training to all personnel providing instruction or other services to ELLs, but do not require specific types of professional development beyond the general requirement of 175 hours of professional development over 5 years.</p>	<p>School districts are required to ensure that at least 15% of professional development hours for all teachers, and 50% for Bilingual Education and ENL/ESL teachers be specific to the needs of ELLs, co-teaching strategies, and integrating language and content instruction for ELLs.</p>	<p>Proposed change to allow for school districts to annually seek permission from the Commissioner for a one year waiver from the 15%~50% PD requirements if ELL enrollment makes up less than 5% of the school district's total student population, and the school district provides evidence that the district's PD plan meets the needs of its ELLs, co-teaching strategies, and integrating language and content instruction for its ELLs.</p>	<div data-bbox="1657 536 1895 718" style="border: 1px solid black; padding: 5px; text-align: center;"> <p>2015-2016</p> <p>Full Implementation</p> </div>

GRADUATION REQUIREMENTS

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	PART 100 PROPOSED AMENDMENT	PROPOSED TIMELINE
<p>Current regulations do not allow for additional graduation requirement options for ELLs who enter the United States in 9th grade or above.</p>	<p>Separate rule making which requires regulatory amendments to Part 100.</p>	<p>Proposed amendments to Part 100 regulations to allow for ELLs who entered the school system in 9th grade or above, to be eligible to appeal to graduate with a Local diploma by:</p> <ol style="list-style-type: none"> 1) Meeting the appeal conditions available to all students, and 2) Scoring between 55-61 on the Regents Exam in English. 	<p>January 2015</p> <p>Proposed Adoption</p>

PROSPECTIVE TEACHER CERTIFICATION

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	PART 80 PROPOSED AMENDMENT	PROPOSED TIMELINE
<p>Current regulations do not require prospective teachers to complete coursework on ELL instructional needs, co-teaching strategies, and integrating language and content instruction for ELLs.</p>	<p>Separate rule making which requires regulatory amendments to Part 80.</p>	<p>Proposed amendments to Part 80 will require all prospective teachers to complete coursework on ELL instructional needs, co-teaching strategies, and integrating language and content instruction for ELLs.</p>	<p>PENDING</p>

CERTIFICATION AND SENIORITY PROTECTION

CR PART 154 EXISTING REGULATION	SUBPARTS 154-1 & 154-2 ADOPTED REGULATION	PROPOSED STATUTORY CHANGE AND PART 80 AMENDMENT	PROPOSED TIMELINE
<p>Current regulations do not provide certification areas for bilingual teaching assistants.</p> <p>Nor do they provide tenure or seniority protection areas for bilingual teaching assistants, bilingual teachers and ESOL teachers.</p>	<p>Separate rule making which requires statutory change and regulatory amendments to Part 80.</p>	<p>Proposed statutory change and amendments to Part 80 will create:</p> <ul style="list-style-type: none"> • certification areas for bilingual teaching assistants; and • tenure and seniority protection areas for bilingual teaching assistants, Bilingual Education teachers and ESOL teachers. 	<div data-bbox="1628 508 1862 665" style="border: 1px solid black; background-color: #f080f0; padding: 10px; text-align: center;"> <p>PENDING</p> </div>