



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK STATE / ALBANY, NY 12234

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March 11, 2025

Ms. Nadine Morrell
Audit Director
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Dear Ms. Morrell:

Pursuant to Section 170 of the Executive Law, the Commissioner of the New York State Education Department (NYSED) respectfully submits an overview of the steps that were taken to implement the recommendations contained within the Office of State Comptroller's (OSC) report "English Language Learners Programs, Report 2022-S-30" ("the Audit report"). OSC recommendations as found in the report are in italics.

1. *Enhance monitoring activities and guidance to ensure school districts:*
 - a. *Comply with Part 154.*
 - b. *Provide required services.*
 - c. *Retain necessary documentation.*

Every year NYSED requires all districts to attest to their compliance with Commissioner's Regulations Part 154 through completion of the Comprehensive English Language Learner (ELL) Education Plan ("CEEP"). In 2024-2025, the CEEP was updated significantly to require evidence to accompany districts' attestation of compliance. This updated survey was released to districts on October 16, 2024, with a deadline to return to NYSED by December 20, 2024. Evidence required in the updated CEEP includes:

- Standard operating procedure for ELL Identification [CR154-2.3(b)]
- Names and titles of personnel serving on Language Proficiency Teams that support the identification of students with IEPs [CR 154-3]
- Sample NYSESLAT test schedule for one of the district's school buildings and description of how the district uses NYSESLAT data to inform teaching [CR 154-2.3(l)]
- Examples of parental notification and communication [CR 154.3(k)(1), (2), (3) and (f)(1), (4)]
- Sample of building-wide schedules to show that students are receiving appropriate hours in ENL [CR 154-2.3(h)(1), (2)] or Bilingual Education [CR 154-2.3(h)(3)], including students who exited ELL status within past 2 years [CR Part 154-2.3(h)(1)(v)]
- Explanation of instructional supports provided to Students with Interrupted/Inconsistent Formal Education (SIFE) [CR 154-2.2(y)], supports for ELL students with disabilities [CR 154-2.4(b)], and bilingual counseling services [CR 154-2.3(j)(2)]
- A copy of the district's professional learning plan [CR Part 154-2.3(k)(1)]

The CEEP is tier 1 of NYSED monitoring and enforcement protocol. Districts that are found to be out of compliance based upon CEEP will be further engaged by the Office of Bilingual Education and World Languages (OBEWL) and/or Regional Bilingual Education Resource Network (RBERN) staff. Through this engagement, NYSED will determine if districts require additional support that may include, but is not limited to, desk audits of district records, in-person monitoring, and participation in targeted professional learning. For districts whose non-compliance persists, NYSED may engage in a Compliance Assurance Plan that would involve a quarterly review of district policy documents and student records, frequent in-school visits from OBEWL and RBERN staff, and other investigatory actions.

2. Continue to work with the Board of Regents to increase the number of certified instructors.

Beginning in 2023-2024, the Board of Regents created flexibility for supplementary certification in English to Speakers of Other Languages (ESOL) or Bilingual Education Programs (BE). This [flexibility](#) allows currently certified teachers to qualify for additional certification by passing the ESOL content specialty test (CST) or the Bilingual Education Assessment; previous rules required that teachers complete 9-12 credits in a graduate-level educator preparation program in addition to the test. The flexibility also allows for current ESOL, TESOL, and Bilingual Education teachers to seek additional certification by passing the appropriate CST. Based on continuing need within the field, this flexibility was extended through the 2024-2025 school year and OBEWL is considering a further extension through 2025-2026.

Since 2015, OBEWL has partnered with institutes of higher education (IHE) to operate Clinically-Rich Intensive Teacher Institutes (CR-ITI) which provide the instruction needed for teachers to earn additional certification in ESOL or a Bilingual Extension. Since 2019, OBEWL has supported 84 CR-ITI programs with over 22 different IHEs, providing the opportunity for 1,680 students to pursue their certification.

Additionally, the CEEP changes include specific new items designed to provide more detailed information than districts were previously required including several teachers teaching ELLs without the required certification. OBEWL will use this information to identify districts that require additional support in recruiting certified instructors.

The below samples of questions from the 2023-2024 CEEP and the 2024-2025 CEEP are representative of the changes that have been made for all items:

2023-2024 CEEP

Bilingual Education Programming: A bilingual education program is implemented if there are 20 or more ELLs in the same grade level who speak the same home language, which is other than English, within the district. [CR 154-2.3(h)(3)].

- Yes
 No
 Not Applicable

b.a. If you answered no to the above question, please provide details as to what immediate measures the district will take to ensure compliance with the regulatory requirement indicated.

2024-2025 CEEP

Bilingual Education Programming: Does the school district have 20 or more students in the same grade level who speak the same language? For school districts in New York City only (due to the 1974 ASPIRA Consent Decree in New York City) Does the school district have 15 or more ELLs in the same grade level or in two continuous grades who speak the same home language in grades K-8?

- Yes
 No

If yes, has the school district implemented a bilingual program as required by [CR 154-2.3(h)(3)]?

- Yes
 No

If yes, for what language(s)?

If yes, what grade(s)?

If no, then the district has not implemented a bilingual program for those 20 or more students despite the requirement, has the district submitted the *One Year Exemption from Providing BE Programs in Language other than Spanish and Chinese?*

- Yes
 No

If no, please describe why the school district has not implemented a bilingual education program despite reaching the requirement as required by [CR 154-2.3(h)(3)].

7.a. Does the district's administrative practices ensure programming for bilingual education as follows?

- The Bilingual Education program(s) are administered in accordance with all applicable NYSED statutes, regulations, program plans, and applications.
- A bilingual education program is implemented if there are 20 or more ELLs in the same grade level who speak the same home language, which is other than English, within the district. [CR 154-2.3(h)(3)].
- All bilingual education programs are implementing both one English language arts unit of study, one home language arts unit of study, and a minimum of one to 2 bilingual content area subjects. [CR 154-2.3(h)(3)(i)].
- All Bilingual Education programs in grades K-12 shall provide: English as a New Language (ENL) instruction, as prescribed in section 154-2.3(h)(1) and (2) of this Subpart [CR Part 154-2.3(h)(3)(iii)].

- Yes
 No

If yes, please provide a brief explanation of the following:

- Description of bilingual program type
- Example(s) of student schedules in bilingual education with their current proficiency level

If no, please describe the district's plan to implement administrative practices for programming for bilingual education as identified in the bullets above.

- 3. Reinforce waiver requirements for schools not offering BE programs for all applicable home languages and grade levels.*

As noted, the CEEP has been updated to provide more specific information and evidence of compliance. Previously, districts were asked to provide a “yes or no” response to the question of whether a bilingual education program is implemented if there are 20 or more ELLs in the same grade level who speak the same home language, other than English. As a result, reviewers would not be aware that a district was out of compliance, such as providing a program in only one grade level even though there was sufficient enrollment requiring programs in multiple grade levels. The updated report now requires districts to provide specific information on every language and grade level that meets this qualification.

Additionally, the Office of Bilingual Education and World Languages has updated its review protocol to ensure the accuracy of district responses by comparing the information provided in the CEEP against the list of currently approved BE waivers and officially reported 2023-2024 data for each of the districts. OBEWL has used this data to determine which languages and grades require Bilingual Education Programs (or waivers) for each district.

- 4. Work with school districts to help them obtain and retain required documentation regarding ELL identification and provision of services.*

As indicated above, OBEWL and RBERN staff will be assigned to support all school districts found to be out of compliance with any aspect of Commissioner’s Regulations Part 154. This determination may be based on a review of the CEEP, a response to a complaint submitted to the department, a continuation of previous investigations, or other means. This support will include direct technical assistance delivered on-site and available to all district staff involved in enrollment and scheduling/placement. Districts that fail to make progress toward compliance may be subject to a NYSED Compliance Assurance Plan.

- 5. Resume Building Reviews at school districts in order to monitor compliance with Part 154 in a way that doesn’t rely on self-reported information.*

NYSED conducts multiple on-site reviews per year for all districts that receive Compliance Assurance Plans. OBEWL will resume on-site visits to review compliance with elements of CR Part 154 as part of coordinated monitoring in cooperation with the Office of ESSA Funded Programs. Additional school visits and reviews are scheduled and conducted in cooperation with other NYSED offices—including the Office of Special Education, the Office of Innovation and School Reform, and the Office of Accountability. Staff from these programs are given guidance on what observations may indicate non-compliance with CR Part 154 so that they can inform OBEWL for further investigation if merited.

- 6. Work with school districts to improve the reliability of program and participation data.*

The updated CEEP provides clear guidelines on what records must be maintained in student records. For example, the item related to initial ELL identification explicitly lists the five types of documents that must be maintained in comprehensive student files; these include evidence of:

- A Home Language Questionnaire (HLQ),

- Individual interviews,
- Language Proficiency Team,
- New York State Identification Test for English Language Learners (NYSITELL), and
- Screening tools administered for students identified during the interview as potential Students with Interrupted/Inconsistent Formal Education (SIFE).

As indicated above, the Office of Bilingual Education and World Languages has updated its review protocol to ensure the accuracy of district responses by comparing the information provided in the CEEP against the list of currently approved BE waivers and district data provided in the NYSED Student Informational Reporting System (SIRS). SIRS is updated daily, ensuring that the data being used for reviews represents the current state of the district. OBEWL staff will provide direction to districts on items that need correction, clarification, or additional information to ensure the accuracy of the data they provide. OBEWL meets regularly with the Office of Information Reporting Services to ensure that districts are informed of the importance of maintaining accurate data throughout the year to address the concerns noted by OSC.

7. Provide guidance to school districts to enable efficient sharing of information.

Every year, RBERNs offer professional learning for new administrators to ensure that they understand their responsibility for supporting the English Language Learners within their districts and schools. OBEWL has directed the RBERNs to these trainings to include guidance related to sharing information for students who transfer from one NYS school to another.

Additionally, by clarifying the documentation that must be maintained in student records, as described in question 6 above, OBEWL seeks to ensure that receiving schools will gain access to these documents upon receipt of new student records.

Conclusion

The NYSED OBEWL has enhanced our school monitoring to increase district and school compliance, and improved access to enhanced teacher licensing, and will continue to leverage both internal and external supports to provide technical assistance and professional development to the field. OBEWL is committed to ensuring all eligible ELL students receive the required services they need to meet their educational goals.

Sincerely,



Jeffrey Matteson
Senior Deputy Commissioner for
Education Policy

cc: Angelique Johnson-Dingle
Jason Harmon
Elisa Alvarez
Ross Garmil
James Kampf
Jeanne Day