



# **NEW YORK STATE EDUCATION DEPARTMENT POLICIES, MANDATES AND INITIATIVES ON THE EDUCATION OF ENGLISH LANGUAGE LEARNERS**

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## Foreword

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To support the education of emergent/English Language learners in New York State, it is important to analyze the history of the efforts taken by the New York State Department of Education on behalf of this population. This report fills a gap, documenting the policies and initiatives taken by NYSED since 1965 to improve the educational opportunities of emergent bilingual learners in the state. In addition, this report, based on an analysis of policy documents and interviews with key actors, makes evident the important role that the New York State Education Department has played in supporting bilingual education policies. In many ways, New York State serves as an example of an engaged educational authority trying to make sense of federal mandates which at times have been progressive, and at times reactionary, in relation to local realities and community expectations, especially from the Latino community.

In the past two years, CUNY-NYSIEB has been engaged in supporting 43 schools not meeting Adequate Yearly Progress (AYP) with an over average number of emergent bilinguals. Although we have been working with principals and teachers to promote new understandings of dynamic bilingualism and translanguaging as a pedagogical theory in teaching emergent bilinguals (see [www.cuny-nysieb.org](http://www.cuny-nysieb.org)), we have been mindful of effective current and old policies and practices. Our work in CUNY-NYSIEB does not operate in a vacuum. Rather, it rests on past achievements and the shoulders of giants, such as Dr. Carmen Pérez Hogan, whose work has been so influential in the past. Thus, we believe that a thorough report of past policies

and practices in New York State makes our work today more informed and useful. It enables us to place our current work within a historical framework, and as continuation of past efforts taken by the New York State Education Department.

We are grateful that Dr. Ángela Carrasquillo, Distinguished Professor Emerita at Fordham University, took on the task of coordinating the Historical Documentation part of CUNY-NYSIEB. With her team, composed of Dr. Diane Rodríguez, Associate professor at Fordham University, and Ms. Laura Kaplan, doctoral student at the Graduate Center, CUNY, Dr. Carrasquillo has composed a report that brings together the policies carried out by the State, with the voices of advocates. The result is a carefully orchestrated narrative that weaves federal and state policies, as well as the historical memory of those who have been very involved in the education of emergent bilinguals.

Starting from the early past, this report focuses on the years from 1965 to 2000. The steps taken by New York State prior to No Child Left Behind were bold and creative. Since then, the State has struggled with federal mandates that seem unfair for those educating emergent bilinguals, especially the policy to test and record emergent bilingual test scores after being in the US for only a year. But as this report makes evident, New York State has creatively managed, paying attention to federal mandates while continuing to advocate for emergent bilinguals.

Lately, and in the wake of the adoption of the Common Core State Standards, New York State has launched a Bilingual Common Core Initiative, paying attention to both the development of English, as well as home languages. In this effort, New York State is unique and should be recognized for its efforts. This, in addition to its commitment to the New York State

Seal of Biliteracy, puts New York State in a class of its own, an enlightened state with a vision of bilingualism and biliteracy as a much needed resource.

This report also makes evident the important role that the Puerto Rican community has played in reminding all of us of the importance of bilingualism. As U.S. citizens, the Puerto Rican community has had a long history of struggle for a better future, one that New York State has supported, especially through its bilingual education efforts. As the population of emergent bilinguals has shifted in the state, giving voice to the languages of many others besides Spanish-speakers (see [www.cuny-nysieb.org](http://www.cuny-nysieb.org) in the Resources tab for The Languages of New York State guide), the efforts of the Puerto Rican community have taken hold. The other languages of New York State -- Arabic, Bengali, Chinese, French, Haitian Creole, Hindi/Urdu, Karen, Korean, and Russian -- are stronger today because of the efforts of the early efforts of the Puerto Rican community.

Emergent/English language learners are not all the same. Not only do they speak different languages, they come with different experiences and histories, different involvement in schooling, and various abilities. This report pays specific attention to the history of bilingual special education, the sub-group that is most vulnerable and that continues to grapple with the higher standards of today's education.

The history given here is one of increase -- increase in academic standards and increase in numbers of ELLs. The New York State Department of Education has met this challenge head on, negotiating policies and practices to ensure that emergent bilinguals meet higher standards, and not ever forgetting the importance of the home language in doing this. Although, as the report points out, there have been periods of more or less support for home language instruction,

New York State has never abandoned, in the ways in which other states have, its commitment to bilingualism and biliteracy as resources of New York State students.

The historical documentation offered here serves as a beacon to others that New York State understands bilingualism and biliteracy as resource, and that it is prepared to develop this capacity in its citizens. The steps have always been in the right direction, although at times, we seem to have lost our way. But the last two policies implemented -- namely the Seal of Biliteracy, as well as the Bilingual Common Core Initiative -- give us hope that the road, though it has been long and hard, will finally bring New York State home as it embraces its increasing emergent bilingual population, encouraging bilingualism and biliteracy for all. May it continue along this path because, as we have seen, *se hace camino al andar*.

## Acknowledgments

We would like to acknowledge the following individuals who have made contributions to the development and preparation of this document. We thank the eleven individuals who volunteered to be interviewed, providing their own perspectives and insights into the content and analysis of this document.

We thank Carmen Pérez-Hogan who took the time to read and make recommendations to the manuscript. We also acknowledge and thank Peter Byron and Alexia Rodríguez-Thompson for reading the chapter on special education shared responsibility. We value the contributions of these three bilingual educators, and thank them for their time, commitment and work on behalf of the thousands of English language learners, their teachers and parents.

We acknowledge the work of Alejandro Carrión who was part of the first stage of this research, who spent a great deal of time searching for documentation and who participated in most of the interviews.

The Team expresses gratitude to Dr. Kenneth Luterbach, a professor at East Carolina University, who we involved in this project for his editing expertise. His recommendations made this document a better piece of writing.



## Introduction

No State shall deny equal educational opportunities to an individual on account of his or her race, color, sex or national origin, by the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by students in its instructional programs (Equal Educational Opportunity and Transportation of Students Act, 1974).

New York State has been a state of immigrants and for immigrants, with a population defined by a long history of international immigration, resulting in ethnic and linguistic diversity. New York State was, and continues to be, the leading gateway for legal immigrants admitted into the United States. With as many as 800 languages spoken, it is the most linguistically diverse state in the nation, providing a positive educational climate to serve linguistically and culturally diverse students, especially English language learners.

Back in 1972, the New York State Education Department (NYSED) Board of Regents, under Commissioner of Education Ewald B. Nyquist, passed, published and disseminated the first position paper on Bilingual Education, called Bilingual education: A statement of policy and proposed action by the Regents of the University of the State of New York (thereafter referred as 1972 Regents' Position Paper on Bilingual Education) (University of the State of New York, 1972). In the introduction of the document, it is stated:

A fundamental tenet of bilingual education is that a person living in a society whose language and culture differ from his own must be equipped to participate meaningfully in the mainstream of that society. It should not be necessary for him to sacrifice his rich native language and culture to achieve such participation. Rather, we should utilize available language skills and thought processes to foster intellectual development while developing English language proficiency (University of the State of New York, 1972 p. 5).

The NYSED philosophy on Bilingual Education from four decades ago has been an inspiration and motivation to educational leaders, legislators, advocates and administrators of

bilingual education programs throughout the state, and it has served as a motivational force throughout the years. Although linguistic and cultural diversity have been a natural phenomenon in New York State for several centuries, it was not until the late 1960s and early 1970s, that bilingual education became a recognized and comprehensive instructional tool in New York State schools, as well as an educational field of study.

Federal policies on bilingual education, civil rights movements, and court decisions have influenced the planning, development, and implementation of bilingual education throughout the state of New York. Bilingual Education, as a field, received a big push with the passage of the Bilingual Education Act of 1968 (United States Department of Education, 1968), an amendment of the Elementary and Secondary Education Act (ESEA). The ESEA legislation was designed to help mother tongue student speakers of languages other than English (e.g., Spanish, Chinese, and Haitian Creole) who were seen as failing in the school system. The Bilingual Education Act of 1968 indicated that bilingual education programs were to be seen as part of federal educational policy, and it authorized the use of federal funds for the education of speakers of languages other than English. The funds provided to states, districts and schools encouraged the establishment and operation of educational programs utilizing bilingual educational practices, approaches and methodologies. For the first time, it allowed the use of students' home languages in the school curriculum. In addition, the lawsuit *Lau vs. Nichols* (1974), a court case brought on behalf of Chinese students against the San Francisco School District in 1970, indicated that non-English speaking students were not provided with equal educational opportunities when they were instructed in a language they could not understand. It affirmed that merely providing the same facilities, textbooks, teachers and curriculum to students who do not understand English does not constitute equality of treatment. This court case was instrumental in forcing school districts to

provide English as a Second Language, English tutoring, and some form of bilingual education to students for whom English was not their first language.

The federal legislation and the *Lau vs. Nichols* judgment encouraged schools across the United States to apply for federal funding to implement bilingual education programs and English as a Second Language (ESL) programs. As a result of these federal policies and incentives, bilingual education in New York State received the recognition of educators, advocates and policy makers. Advocates, policy makers, legislators, Regents and administrators started to work together to develop and implement policies and mandates to meet the instructional needs of students who were speakers of languages other than English. The Board of Regents passed and approved policies that encouraged or required school districts to provide bilingual instruction to students whom at the time were identified as ‘limited English proficient’ or LEP (the label ‘English language learners’, ELLs, was added much later than the LEP one). The NYSED provided funds to school districts for the implementation of innovative programs that provided equal educational programs and learning opportunities to limited proficient/English language students. The New York State Legislature assigned “categorical funds” for the provision of additional services to emergent bilingual students and their teachers. Bilingual education flourished and was recognized as a viable program to meet the instructional and learning needs of immigrant students as well as those who were born in the United States and raised in non-English speaking homes.

This document discusses educational laws, policies, mandates and describes the initiatives that reverberated and took shape in the state of New York. Accordingly, this document serves to:

- Trace the history of the efforts made by the New York State Education Department in the education of emergent bilinguals;

- Identify State educational leaders, especially the Board of Regents and commissioners of education who have been key contributors in the conceptualization, development and implementation of educational policies and initiatives for emergent bilinguals;
- Describe the influences and perspectives of educational leaders and advocates of NYSED educational policies and initiatives for emergent bilinguals, as well as describe the socio-political climate for the implementation of such language policies;
- Analyze a collection of educational documents (e.g., Regents policies, publications, memoranda, resource guides) in the area of bilingual education, which were developed throughout the years, as part of the NYSED initiatives, covering a historical period from the 1960s to the year 2012; and
- Provide recommendations to the NYSED Board of Regents and administrators, State educational leaders, advocates and policies makers on the future of bilingual education in the state of New York.

We use the term “English language learners” throughout the document to refer to the students who are the focus of these policies due to the fact that this is the current and official term used by the New York State Education Department. Occasionally we use “Limited English Proficient” when citing NYSED documents that used the federal label. At times, we also use the term “emergent bilingual,” an evolving term that better describes students who are in the process of developing English language proficiency and bilingualism.

### **Project Implementation**

The following steps were completed in the planning, development and publication of this document.

1. The first part of this research project was to identify the Research Team (Dr. Ángela Carrasquillo, Alejandro Carrión (who resigned in February 2013) and Laura Kaplan. Dr. Diane Rodríguez joined the Research Team at a later date.
2. A proposal to conduct the research, including personal interviews, was submitted and approved by the CUNY Institutional Review Board.

3. The Research Team with the feedback of one of the principal investigators (Dr. Ofelia García), and the Interim Director of the project (Dr. Nelson Flores) identified a list of key individuals who are/were main contributors to the development and implementation of Bilingual Education in NYSED, representing different areas, levels of involvement, and expertise.
4. The Research Team developed the *Interview Protocol*, and field tested it for validity purposes. The *Interview Protocol* was modified to address the four groups of individuals to be interviewed, resulting in four versions (Regents, legislators, Bilingual Education administrators, and Advisory Council members/advocate). Each of the protocols included the following components: a) Biographical information, b) Involvement with policies and initiatives, c) Long-term contributions, d) View on Bilingual Education today and tomorrow, e) Recommendations for other people to be interviewed, and f) Other relevant information.
5. Main contributors were contacted, and invited to share their knowledge, involvement and anecdotal experiences with the Research Team. A request for a minimum of a two-hour interview was enthusiastically embraced by the 11 individuals who accepted our invitation.
6. The Research Team identified, located, collected, summarized and analyzed NYSED documents that provided information on the initiatives and policies developed during 1965 to 2013.

### **The Interview Process**

The Research Team interviewed contributors representing different areas: members of the Board of Regents, former members of the Commissioner's Advisory Council on Bilingual Education, Bilingual education administrators, and a legislator. The following individuals were interviewed: Carmen Arroyo (legislator), Peter Byron (administrator), Carmen Dinos (advocate/member of Commissioners' Advisory Council on Bilingual Education ), Carmen Pérez-Hogan (administrator), Ricardo Oquendo (Former Regent), Luis O. Reyes (advocate/member of the Commissioner's Advisory Council on Bilingual Education), Betty Rosa (Regent), Alexia Rodríguez Thomson (administrator), Pedro Ruiz (administrator), Nancy

Villarreal de Adler (administrator and advocate), and Ron Woo (administrator, member of the Commissioner's Advisory Council on Bilingual Education).

The information provided by these 11 individuals represents their own points of view on bilingual education and on the New York State policies on bilingual education. We recognize that their insights critically contributed to the objective analysis of the information provided in this document.

### **Archive Documentation**

The Research Team identified, located and analyzed documents that contain information pertaining to NYSED bilingual education initiatives and policies developed from 1965 to 2013. A list was generated, and divided into four main categories: (a) Policies and mandates; (b) Publications/Resource guides; (c) Position papers/memoranda; and (d) Other programmatic initiatives. This was a time consuming task and on occasions, a very frustrating one because some of the documentation is not organized or labeled in past commissioners of education archives, which are located at the Albany public library. In addition, NYSED did not keep copies of those documents.

### **Limitations**

This document reflects an analysis of the NYSED documentation found; however, it is possible that there are missing documents that were not available. In addition to searching boxes of documents made available by past commissioners of education, the Research Team searched for and identified documents at public libraries, websites, and asked individual educators to share documents still in their work place or homes.

Another limitation of this study is that some NYSED documents were not dated, making the task of identifying the exact date of the publication and dissemination of the documents a

difficult one. Sometimes, the only available copy was a reprint, with no information of the original publication date. The Research Team worked with the available documentation.

Collecting, analyzing and writing this document was an enormous task, requiring many hours of research, analysis and interpretation for a team of only three individuals. For this reason, this effort has to be seen as a work in progress, requiring further research documentation and analysis. We leave that task to other Bilingual Education researchers.

## Chapter 1: The New York State Cultural and Linguistic Context

Immigration is not a phenomenon of the past. In fact, the experience of immigration is still fresh in the minds of a great many people in our country. It is an experience that begins anew everyday that planes land, ships reach shores, and people make their way on foot to our borders. Many of the students in our schools, even if they themselves are not immigrants, have parents or grandparents who were. The United States is thus not only a nation of immigrants as seen in some idealized and romanticized past; it is also a living nation of immigrants even today (Nieto, 1992, p. XXIV).

This chapter provides a short descriptive overview of the history of immigration to New York State. This history shaped the unique cultural and linguistic context in which policies and mandates related to the education of English language learners have been planned, developed and implemented. Knowledge of this history is fundamental to understanding New York State's unique role as a pioneer in language policies for its diverse PreK- 12 population, which we will be discussing in subsequent chapters.

### **Immigration in New York State**

The original inhabitants of New York State include the Abenaki, Cayuga Erie, Laurentian, Mohawk, Mohican, Mohegan, Munsee Delaware, Oneida, Onondaga, Poospatuck, Unkechaug and Seneca tribes (Native Languages of the Americas Website, 2013). Of those tribes, the following federally recognized Indian tribes survive: the Cayuga Nation, the Oneida Indian nation, the Onondaga Nation, the St. Regis Band of Mohawk Indians, three branches of the Seneca Nation, the Tonawanda Band of Senecas and the Tuscarora Nation (Native Languages of the Americas Website, 2013). Figure 1 shows the current geographical location of Native American tribes within what is now known as New York State.



Figure 1.1 Geographical Location of Native Tribes in what is now known as the State of New York.



Source: Native Languages of the Americas Website (2013). Section: American Indians in New York.

Since the first European settlers arrived on the island of what we now call Manhattan in 1624, New York State has been notable as a destination of immigrants, especially settlers from southern Netherlands (now Belgium), Dutch, French, Scandinavian, Germans and English (Bean, Horne, Lobo, & Salvo, 2005). And, since 1664, when the English took possession of the colonies, large groups of English and Scottish families formed settlements in several areas of what is now New York, including Ulster, Orange, and Washington counties. The first Germans arrived in the early 18<sup>th</sup> century forming colonies in what is now Ulster County, and then moved to the Schoharie Valley and the central and western Mohawk Valley (Bean, Horne, Lobo, & Salvo, 2005). In addition, immigrant Jews arrived from Recife, Brazil to New York City, marking the first arrival of Jews to North America (Bean, Horne, Lobo, & Salvo, 2005).

Africans were involuntary immigrants to New York State throughout the colonial period, settling in New York City and Albany counties. Most slaves in New York came from the Congo (in what is now Angola) and the Gold Coast (in what is now Ghana), and other parts of West and

West Central Africa. Some African slaves were also brought from the Caribbean and Latin America. At the turn of the eighteenth century, the Haitian Revolution brought about 4,000 slaveholders, slaves and free blacks to New York State. The free black population was very small until after the revolution, and was more common in New York City. By 1820, Blacks (free or slaves) constituted 20% of New York's population (Bean, Horne, Lobo, Salvo, 2005).

Other ethnic groups followed. For example, a Northern European influx to New York State began in 1815 and continued until the outbreak of the First World War in 1914. The Great Famine in Ireland from 1845-49, as well as plagues in Europe, and movements against Jews in Russia in the 1880's all prompted emigration, especially of German-speaking Jews (Bean, Horne, Lobo, Salvo, 2005).

In addition to the Irish, Chinese immigrants began arriving in New York as early as the 1850s, and New York City's Chinatown made its first appearance in Lower Manhattan in the 1870s (Bean, Horne, Lobo, Salvo 2005). Although the Chinese Exclusion Act of 1882 and the Gentlemen's Agreement of 1907 put severe restriction on Asian immigration to America, by 1910 there were 12,578 Asians living in New York State, and most of them lived in New York City. Other non-European immigrants including Turks, Syrians, Lebanese and Armenians came to New York State at the turn of the 20<sup>th</sup> century. And although immigration dropped in the 1930s, Jews kept coming after fleeing the Nazis (Bean, Horne, Lobo, Salvo 2005).

The Immigration and Nationality Act of 1965 abolished quotas based on national origin, and allowed family reunification. As a result, new immigrants arrived in the 1960's. Ron Woo indicated that the increase in the number of Asian immigrants created stress in the services for Asians and created an overnight need for new programs and service providers (Ron Woo, personal communication, May 7, 2012). While immigrants settled throughout the United States,

approximately one-tenth settled in the state of New York during the first decade of the 21<sup>st</sup> Century (Dinnerstein & Reimers, 2012).

People from the same countries tend to settle in the same areas. Outside of New York City, there have been concentrations of Dominicans in Yonkers; Mexicans in New Rochelle, Yonkers, Newburgh and Mount Kisco; and Salvadorans, as well as other Central Americans, in Hempstead, Freeport, and Brentwood. Central Americans began arriving to escape the civil wars in their countries in the 1980's and mainly settled in Long Island. The increase in the Mexican population in New York State has been vast, rising from approximately 40,000 in 1980 to somewhere over 500,000 living in the greater metropolitan area alone by 2000 (Smith, 2001). They have a large presence in New York City, Newburgh, and Poughkeepsie. There are clusters of Cubans in Rochester and Dominicans in Albany. Outside of New York City, the largest Caribbean presence is the concentration of Jamaicans in Rochester and Poughkeepsie. Indians and Filipinos were the major Asian groups in Yonkers, while Jamaicans and Haitians were the largest groups from the Caribbean in Mount Vernon and Yonkers.

Smaller cities such as Binghamton, Rochester, Buffalo, Syracuse, and Albany have received a number of refugees from the former Soviet Union and Vietnam. Utica has received refugees from the former Yugoslav Republic of Bosnia and Herzegovina. Whereas in 1960 whites accounted for 90% of the population of New York State's smaller cities, by 2000, whites comprised 48% of Rochester's population, 54% of Buffalo's, 63% of Albany's and 64% of Syracuse's (Pessar & Graham, 2001).

Reimers (2005) has said that immigration to New York State is likely to continue to diversify due to legislation passed in 1986 and made permanent in the Immigration Act of 1990 known as the "diversity visa" legislation. This program provided visas to people from nations

that have been underrepresented in terms of immigration numbers to the United States. In the 1990's, Bangladeshis, Ghanians, Nigerians and others established residency in New York State (Groneman & Reimers, 1995). As this report appears in 2013, Congress is considering federal immigration law reform. We can expect that New York's rich diversity will continue to flourish in the future.

### **Immigration to New York City**

Prior to its incarnation as New York City, this area was populated by groups of Native Americans called Lenape. They called the island Manahatta. In 1524, Giovanni de Verrazzano visited the region and named the area of present-day New York City Nouvelle-Angouleme in honor of the King of France and Count of Angouleme, Francis I (Morison, 1971). In 1624-25, the area was settled and incorporated by the Dutch who named the area New Amsterdam. In 1664, the English conquered the area and renamed it New York in honor of the Duke of York (Hombberger, 2005).

New York City is the major city for immigration to the United States, and it surpasses all other cities in the United States for the heterogeneity of its immigrants. In 1970, 18% of New York City's residents were born outside the United States. By 1998, immigrants comprised more than a third of the city's population. By 2007, 37% of New Yorkers were born in another country (Dinnerstein & Reimers, 2012). Although at the beginning of the twentieth century the majority of immigrants were European, most new immigrants today come from Latin America, the Caribbean and Asia.

Since the seventeenth century, New York City has been the premier immigrant city in North America. Juan Rodríguez, a black or mulatto from Santo Domingo, is known to be the

first non-native Dominican person to have settled in the Hudson Bay area, even before the founding of New York City. He was born on the colony of La Española, now the Dominican Republic, and came to the Manhattan Island in 1613 aboard a Dutch trading vessel en route from the Caribbean. He decided to stay and live among the natives when the ship returned to Holland (CUNY Dominican Studies Institute, 2012). New York City was later settled as an Anglo-Dutch colony and then transformed by the arrival of millions of Irish, Germans, Italians, Jews and others in the nineteenth and early twentieth century and then again after World War II by immigrants from the Caribbean, Latin America, and Asia.

As New York City grew as a port and center for manufacturing, there arose a subsequent need for labor. Thirty three million people from all over the world immigrated to the United States, and three quarters of them came through the port of New York City (Freeman, 2000). By the middle of the nineteenth century, New York City became the largest city in the western hemisphere and counted among its residents immigrants from most countries in the world. Most moved to the area south of 14<sup>th</sup> Street to be near the docks and factories. Thus, ethnic neighborhoods began to grow: the southeastern tip of Manhattan was mainly Irish, the area between 14<sup>th</sup> Street and Grand Street along the East River was primarily German, and other enclaves of Scots, Welsh, English, French, Dutch, Italians, Jews, Scandinavians and Latin Americans sprung up (Freeman, 2000).

By the turn of the twentieth century, New York City's population was becoming increasingly diverse. The number of immigrants doubled from 1882 to 1907, and by 1920 the proportion of immigrants continued to be nearly 40%, with Russian-born Jews comprising the largest group. Italians formed the next largest group of immigrants, and their numbers equaled that of Irish and German-born immigrants together. Between 1920 and 1940, new ethnic

neighborhoods formed: Jews settled the Grand Concourse in the Bronx, immigrants from the West Indies, including Jamaica and Barbados, also came to New York City. In the 1920s, West Indians accounted for one-fourth of the population of Harlem.

New York was the recipient of a mass native migration from Puerto Rico after the Second World War. As a result of the Jones–Shafroth Act of 1917, Puerto Ricans became U.S. citizens, and after 1945 they became the largest group of Caribbean/Latin Americans in New York City. During the 1950's, the number of Puerto Ricans in New York City, born in Puerto Rico, increased. Although the peak of the Puerto Rican migration occurred in the 1960's, by 1964 Puerto Ricans comprised 9.3% of the total New York City population (Bean, Horne, Peter & Salvo, 2005).

In addition to Puerto Ricans, other groups kept arriving in New York State, especially in New York City. The Displaced Persons Act of 1948 and 1950 brought people displaced by the war including Italians and Greeks as well as Jewish survivors of the Holocaust to the United States — one-quarter of whom remained in New York City (Groneman & Reimers, 1995). After 1959, many Cubans arrived, and in the 1960's, Dominicans, Guatemalans and Salvadorans, as well as Arabs and Israelis also moved to New York City (Groneman & Reimers, 1995). Due to escalating violence in Colombia, many Colombian professionals fled to the United States during the 1960s and settled in New York, becoming the largest group of South Americans.

Immigrants from South and East Asia and the Middle East also began arriving to the city after 1965, the greatest number of whom came from China, but there were also professionals from India, the Philippines, and Korea. Twenty thousand Indochinese refugees settled in New York City, as well as many Pakistanis (Groneman & Reimers, 1995).

During 1930-1961, emigration from the Dominican Republic was severely restricted. Once the Dominican government allowed Dominicans to leave, emigration into the US increased, especially during the 1980s and 1990s. The majority of Dominicans settled in the Northern Manhattan neighborhoods of Washington Heights and Inwood, as well as in the neighboring Bronx.

Mexicans, who have settled mainly in the South and West of the U.S., have also come to New York State. The first phase of their migration to New York lasted from the mid-1940s to the mid-1960s, and involved individuals from only a few families and towns in southern Puebla who came to join their relatives. In the second phase, which lasted from the mid-1960s to the mid-1980s, women were among those who migrated. The third phase lasted from the late 1980's to the mid 1990s and brought an "explosion" of immigrants from Mexico. The factors that spurred this third phase consisted of a severe economic crisis in Mexico, as well as the amnesty program of the 1986 Immigration Reform and Control Act (IRCA) (Smith, 2001).

By 1980, the immigrant population of New York City was constituted by people from Asia, the Caribbean, and Latin America. Of these, Dominicans were the largest group, followed by Jamaicans, Chinese, Haitians, Mexicans, Italians, Trinidadians, Colombians, Ecuadorans, Soviet Jews and Guyanese.

Of the Asian immigrants in New York City in the 1980's, over half were Chinese. By the 1990s the Chinese population in New York City reached 300,000 and was concentrated in three "Chinatowns:" the traditional Chinatown around Canal Street in Manhattan, another in Flushing, Queens and the third in Sunset Park, Brooklyn (Zhou, 2001).

In the mid 1990s it was estimated that foreign-born residents accounted for approximately one-third of the city's population. By the mid 1990's, there were immigrants from over a hundred nations who spoke 121 different languages in New York City.

Most New Yorkers in the 1940s and 1950s lived in ethnic neighborhoods. For example, in Brooklyn, Scandinavians lived in Sunset Park, Jews lived in Williamsburg, Brownsville, and Borough Park, African Americans lived in West Harlem, and Puerto Ricans and Italians lived in East Harlem, at the same time as Chinatown was developing as the center of Asian immigration in the city. The Germans, Irish, and Hungarians settled in Manhattan's Upper East Side (Freeman, 2000). Each neighborhood had its own flavor, with ethnic groups providing services for their own. Jews, Italians, Greeks, Irish, and African Americans danced together with Cubans and Puerto Ricans at dance halls that featured the best Latin musicians (Freeman, 2000).

### **Languages of New York State**

New York's multilingualism predates the arrival of the first European settlers, as hundreds of Native American languages were spoken by the different tribes inhabiting the geographical region now defined by New York State (Native Languages of the Americas, 2013). As immigrants were arriving, more languages were spoken. For example, in 1643, there were 20 languages commonly spoken in New York State (Eisenstadt & Moss, 2005) and by 2000, 29% of New Yorkers spoke languages that spanned the whole world (Shin & Kominski, 2010). As shown in Table 1.1, the 2010 Census data (reported in 2013) shows that the largest group of individuals speaking languages other than English in New York State is comprised of Spanish speakers, followed by speakers of Chinese (e.g., speakers of Cantonese, Mandarin, and other Chinese dialects), Italian, and Russian.



Table 1. 1. Top Number of Speakers of Non-English Languages in New York State, 2010.

<b>Top Five Languages</b>	<b>Number of Speakers</b>
Spanish	2,577,033
Chinese	454,479
Russian	230,989
Italian	235,045
French	143,762

Source: Adapted from a detailed language table from U.S. Census Bureau (January, 2013).

Immigration to New York State has greatly influenced the languages, the ethnic backgrounds, and the cultural structures of its people. The education system recognizes these influences, and to some extent respects and values the linguistic and cultural diversity of the people it serves.

### **Conclusion**

The many immigrants who settled in New York State brought the richness of many languages and cultures, enriching cities or villages where they settled. This linguistic and cultural diversity has increased over the years, and it is expected to continue. One positive result of this diversity is that many New Yorkers are bilingual, proficient in more than one language, representing an increased inherent value as the world moves toward a more global society. This diversity is also reflected in the New York school population, challenging educators to provide linguistically and culturally diverse students with educational opportunities that consider their language strengths and biculturalism.

## **Chapter 2: Roles and Functions of the New York State Education Department**

The Regents recognize that New York State and the nation have a practical as well as a moral stake in achieving equal educational opportunity for limited English proficient and language minority students. In the interest of all New Yorkers, we commit ourselves to this goal (M. C. Barell, Chancellor, in University of the State of New York, 1988b, p.vi).

To understand the policies and mandates related to the education of emergent bilingual students, which are presented in this document, it is necessary to describe the role of the New York State Education Department. It is also necessary to provide a description of the office at the state level responsible for assuring the appropriate instruction for students who have a primary language other than English and are identified as ‘English language Learners.’ The following sections provide a brief overview of the organization and functions of the New York State Education Department, the role of the Board of Regents, the Office of Bilingual Education, and a brief description of the linguistic characteristics of the emergent bilingual school population, as well as the instructional programs available to them.

### **The New York State Department of Education**

The New York State public education system must abide by two levels of authority: (a) the federal government with its federal laws and regulations, and (b) the New York Constitution, laws and regulations, including the policies passed by the Board of Regents, the Regulations of the Commissioners of Education and New York State court decisions. For example, at the federal level, New York State must comply with the Individual with Disabilities Education Act (IDEA) (1990 and 2004), which includes a federal regulation requiring states and public agencies to provide early intervention, special education and related services to children with disabilities.

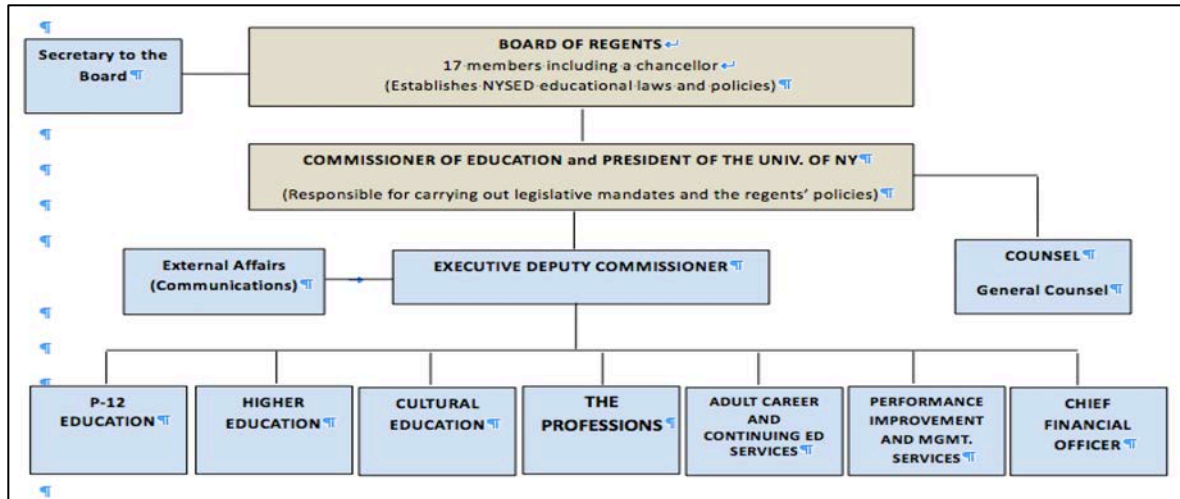
Also, the No Child Left Behind Act of 2001 (a reauthorization of the Elementary and Secondary Education Act) establishes certain federal national standards and testing requirements that states must comply with. New York State must comply with regulations established by federal agencies and at the same time follow its own State regulations to maintain and support a system of free education where all the children of the state may be educated. The Constitution of New York State gives authority to the Governor, the Legislature, and the Board of Regents to provide for the maintenance and support of public schools. School districts are political subdivisions of the state government. In addition, the state provides for charter schools to operate as autonomous public schools, independent of existing school districts.

The New York State Education Department (NYSED) is part of the University of the State of New York, providing an interconnected system of educational services. The two main components of NYSED are: (a) the organizational branches, units or offices, headed by the Commissioner of Education, who is also the president of the University of the State of New York; and (b) the Board of Regents. NYSED is responsible for the supervision of all public schools in New York, higher education, cultural institutions, licensing of the numerous professions related to education, as well as all the standardized testing, the production and administration of state tests, and the Regents examinations. Today, NYSED structure includes all the elementary, secondary, and higher education institutions in the state, the latter including libraries, museums, and other institutions of learning.

The organizational structure of NYSED includes departments, divisions or offices in the areas of prekindergarten to twelfth grade education, higher education, the professions, adult career and continuing educational services, cultural education, and performance improvement and management services, with each office or division having a deputy commissioner as its top

administrator. Presently, in 2013, NYSED has six main branches, each under the direction of the Commissioner of Education. Figure 2.1 provides a visual summary of the current structure of the Department. Although the names and structure of the branches have changed throughout the years, especially since 1965, the main services and roles have not changed.

Figure 2.1. New York State Education Department Organizational Chart (2012).



Source: Taken from New York State Education Department, 2013.

The Commissioner of Education has extraordinary powers including power to issue an order withholding state aid or removing a school district officer or board, when there has been a willful neglect of duty or violation of the law. The Commissioner of Education is also "president" of the University, that is, chief executive officer of the state's education system. However, the Constitution and Education Law make the Regents the "head" of the Department of Education. The Commissioner of Education is charged with carrying out legislative mandates and the Board of Regents' policies. NYSED and the Board of Regents exercise the power and functions delegated to them through Education Law. They establish policy by adopting rules and regulations within the limitations of the state and federal law.

Commissioners of Education mentioned throughout this document include Ewald Nyquist (1969 - 1976), Gordon, M. Ambach (1976- 1987), Thomas Sobol (1987-1995), Richard P. Mills (1995-2009), David Steiner (2009-2011), and John King (2011-present).

### **The Board of Regents**

The New York Board of Regents is the governing body of the University of the State of New York. It was established by the Legislature in 1784 and it is the oldest continuous state educational agency in the United States (Folts, 1996). The Board of Regents has authority over all educational activity at all levels, including private and public, non-profit and for-profit institutions. There are 16 members of the Board of Regents, each elected for a five-year term by the concurrent resolution of two houses of the State Legislature. One Regent is elected from each of the State's 12 judicial districts and four Regents are chosen from the State at large. The Regents elect their own chancellor, who presides over its meetings and appoints its committees. They also elect a vice-chancellor. The Regents appoint the Commissioner, who is "chief administrative officer" of the Department of Education. They also appoint an executive deputy commissioner and approve the Commissioner's appointments of deputy, associate, and assistant commissioners.

The Regents meet monthly, except in August, usually in Albany. They serve without compensation but are reimbursed for travel and other expenses. The Board of Regents has the following functions in the State education system:

- Establishment and enforcement of educational and professional standards,
- Establishment of rules for carrying out the State laws and policies related to education,
- Appointment of the Commissioner of Education who becomes president of the University of the State of New York,

- Supervision of the State licensing of practitioners in major professions, including the certification of teachers and librarians, and
- Sponsorship of a College Examinations program.

The Board of Regents does much of its work through its standing committees, four of which correspond to the major offices of the Department, plus committees on professional practice, administration, law, legislation, and ethics.

The Board of Regents has slowly become more diverse in its composition. The first woman Regent was appointed in 1927, the first Italian-American in 1948, the first African-American in 1966, the first Puerto Rican-American in 1975.

### **The Office of Bilingual Education**

The Office of Bilingual Education (OBE), currently named the Office of Bilingual Education and Foreign Language Studies (OBE-FLS), provides support to school districts in developing and implementing programs for emergent bilinguals. Under the guidance of this office, school districts, charter schools and non-public schools implement educational programs and services for emergent bilingual students enrolled in schools in the state of New York.

In order to understand the establishment of an office of Bilingual Education at the state level, a brief historical description of the conceptualization and role of the term ‘Bilingual Education’ follows. Bilingual education in New York State has its roots in the 1940s and 1950s due to community efforts and the coordinated voices of a significant number of Puerto Rican advocates. As further explained in Chapter 3, these voices were most evident in New York City where a significant number of culturally and linguistically diverse students and their parents lived. For example, due to parents and community organizations’ efforts in voicing the lack of communication and involvement between schools and Puerto Rican children, at the end of the

1950s, the New York City Board of Education created the position of *Auxiliary Teacher*, hiring educators in school districts to bridge communication between the school and the growing number of Puerto Rican parents who were settling in New York City (Santiago Santiago, 1978; J. Vazquez, personal communication, October 20, 2006). Later, in 1968, that position was renamed 'Bilingual Teacher in School and Community Relations,' establishing key educational personnel to foster relationships between schools and families. This New York City initiative impacted state officers to begin to reflect on the population of culturally and linguistically diverse students.

At the State level, bilingual education became a reality in the late 1960s as a comprehensive instructional tool in public schools. It was received with enthusiasm in the wake of the Civil Rights and equal educational opportunity movements. In 1969, the New York State Commissioner of Education, Ewald Nyquist established the *Bilingual Education Unit*. The rationale behind the establishment of the office was described as follows:

In 1969, the State Education Department established the Office of Bilingual Education for the purpose of meeting the educational needs of children who have English language difficulty. The office coordinates the efforts of other instructional units in promoting, developing, and evaluating bilingual and English as a second language materials and programs throughout the State (University of the State of New York, 1972, p. 11).

In 1969, Carlos Pérez, a New York State Education Department employee, was appointed as the supervisor of the bilingual unit. María Ramírez was hired as one of his two associates. In the late sixties Ramírez had been 'Sister María Goretti', the Director of the Catholic Spanish Apostolate in New York. Before coming to NYSED, María Ramírez had been involved in advocacy for Puerto Rican children who were not being served in Long Island's public schools. The work performed on behalf of the Catholic Church led Ramírez to work with national and congressional leaders such as Senator Ted Kennedy to promote the establishment of funds for the

implementation of bilingual education at the federal level. In her advocate role, she also met officers and administrators from the New York State Education Department. In 1971, she was invited to join NYSED; she accepted and became an Associate in Bilingual Education in the Bilingual Unit.

María Ramírez' interest in providing students with quality bilingual education led her to schedule meetings with Puerto Rican legislators to promote the implementation of bilingual education programs. In 1972, María Ramírez became the director of the Bilingual Unit. Because of her leadership, and with the support of Commissioner Ewald Nyquist and a group of bilingual educators, the nation's first state bilingual education policy plan, the 1972 Regents' Position Paper on Bilingual Education (University of the State of New York, 1972) was approved. However, according to María Ramírez: "We had a great policy and no funds to implement it" (Ramírez, 2002). Eventually, some funding for the implementation of the approved Regents Plan for Bilingual Education was made available and was supported by federal funding from competitive grants from Title VII. That money was not sufficient, considering the ambitious plan and the estimated 300,000 students to be served, but it was a start.

María Ramírez' success came about as a result of direct social communication with legislators, such as Armando Montano, who headed the Assembly sub-committee on Bilingual Education, Assemblyman Luis Nine, Senators Bobby Garcia and Jack Bronston. In 1973, with the backing of Len Stravinsky, who chaired the Assembly Education Committee, the New York State Legislature passed the first \$1.5 million (categorical funds) for bilingual education. Under María Ramírez' leadership, the office's name was upgraded from 'Unit' to 'Bureau of Bilingual Education". The Bureau had offices in Albany, Buffalo, Long Island and New York City. (The Buffalo office was closed in 1985 due to lack of funding.)

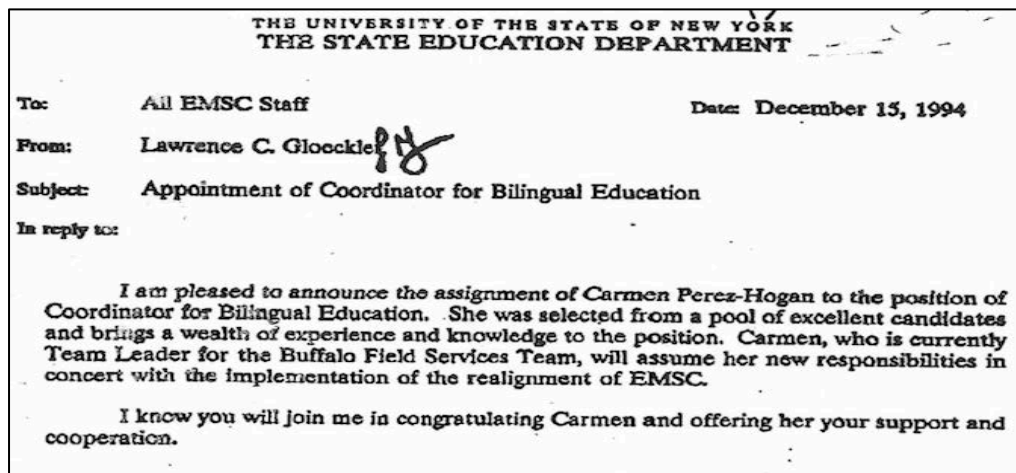


In 1977, María Ramírez was appointed Assistant Commissioner for General Education and Curricular Services, staying in that position until 1985. María had a friend, Carmen Pérez-Hogan, who was working at the State University of New York (SUNY), Albany running a federally funded teacher training program. María Ramírez asked Carmen Pérez-Hogan to apply for the position, and in 1978, Carmen Pérez Hogan was appointed as the third director of the Bureau of Bilingual Education. María said: “Together, we worked with the bilingual staff, school districts, Board of Cooperative Educational Services (BOCES), colleges, and the Commissioner’s Advisory Council for Bilingual Education to keep bilingual education a State priority for the use of Title VII, Title I and what were the PSEN funds” (Ramírez, 2002). Initially, Carmen Pérez-Hogan worked under Commissioner Gordon Ambach, and with his support as well as that of Assistant Commissioner María Ramírez and New York State legislators; Carmen Pérez-Hogan was able to expand the implementation of bilingual programs as well as develop many innovative programs. She developed many resource guides and other supplementary documents, many of which are mentioned throughout this document. Carmen Pérez Hogan worked under Commissioners Ambach, Sobol and Mills. Under Commissioner Ambach, the office was upgraded to the ‘Division of Bilingual Education’ with her as director. Her contributions left a positive mark on the services provided to emergent bilingual students.

Carmen Pérez-Hogan and the Division of Bilingual Education overcame many challenges, one of the most difficult of which was the dismantling of the Office in 1992. Under Commissioner Sobol’s organization plan, the Division of Bilingual education was dismantled and Carmen was sent to Buffalo where she worked for two years. In 1994, after letters to the Commissioner and to the Board of Regents by advocates, school districts, and professional organizations, especially the New York State Association for Bilingual Education (NYSABE)

the office was opened again. Apparently, Carmen Pérez-Hogan had to apply for the position, as it is revealed in the following memo dated December 15, 1994. Figure 2.2 shows the Carmen Pérez-Hogan appointment's letter.

Figure 2.2. Carmen Pérez-Hogan Appointment's Letter.



Source: New York State Education Department archives.

The office was renamed 'Office of Bilingual Education' and the title of the person in charge was downgraded from director/chief to coordinator. The personnel were also reduced. In January 1995, the Albany Office of Bilingual Education was re-established; however, there were no other offices throughout the State (University of the State of New York, 1995). Nevertheless, these challenges did not stop Carmen; she and her staff continued working on initiatives and programs to implement the Regents' Action Plan on Bilingual Education. Even when she was in Buffalo, she sent a list of recommendations to Deputy Commissioner Larry Gloeckler so that emergent bilingual students continued to be served. She continued working for the well-being of these students until her retirement in 2004. She left a strong and powerful Office with many initiatives for the well being of bilingual children and bilingual education.

The position of the Coordinator of the Office of Bilingual Education was vacant for almost a year. In December 2005, Dr. Pedro Ruiz, who was the director of Bilingual/ESL

programs in Mount Vernon School District was appointed as Coordinator of the NYSED Office of Bilingual Education. In 2010, under the directorship of Dr. Ruiz, the Office of Foreign Languages was merged with the Office of Bilingual Education, becoming the Office of Bilingual Education and Foreign Language Studies (OBE-FLS). Dr. Ruiz worked under three commissioners (Mills, Steiner, and King), and worked on the many challenges NYSED confronted related to federal regulations, assessment, and accountability policies. Dr. Ruiz continued many of the curriculum and programmatic initiatives started by Carmen Pérez Hogan (CR Part 154, Bilingual Education Training Assistance Centers (BETACs), Intensive Teacher Institute in Bilingual and ESL (ITI-BE/ESL), Bilingual Education and English as a Second Language Teacher Leadership Academy (BETLA), and Two-Way Bilingual Education Programs) and brought new ones to the Office such as the Regional Bilingual Educational Resource Network (BERNs). Dr. Ruiz left his position on May 9, 2013. Ms. Angelica Infante was appointed in July 2013 as the new NYSED administrative bilingual education leader.

The continuation of ‘categorical funds’ has made possible the continuation of programs for the preparation of bilingual/ESL educators and direct technical assistance to schools in need of improvement. However, implementation of federal regulations has moved the OBE-FLS to focus mainly on assessment, compliance, and accountability functions.

### **English Language Learners in New York State**

Emergent bilingual students are part of the language minority population in the state of New York, but not all language minority students are learning English. Some are already bilingual. Language minority pupils are “students who come from diverse ethnic and cultural ancestries with a range of linguistic backgrounds. Some language minority students understand

and speak little or no English, while others may be fully bilingual, and still others are monolingual in English (Office of Bilingual Education, 1996, p. 3). English language learners (called Limited English Proficient Students by the federal government) are language minority students who understand, speak, read, and write limited or no English. They may have come from a different country or live in a home environment where English is not spoken.

Different names or labels have been given to students for whom English is not their primary language. In early NYSED documentation, the term used is *Limited English Proficient* (LEP). This is the federal government's official identification label and NYSED used it in all official documentation. In the 1990s, the Bilingual Education Advisory Council on Bilingual Education struggled with the terminology of 'Limited English Proficient' considering it negative and connoting a sense of a 'deficiency.' They deliberated in their meetings about a different term that better describes this student population. At that time, authorities in the field of bilingual education were also struggling with the 'LEP' label and also encouraged replacing the term with '*English language learner*,' as a better and more descriptive label indicating the sense of 'learners of English'. Carmen Pérez-Hogan's office agreed with the national group and began to share literature from the field identifying the concept of 'ELLs' as the identification label to use. Regent Oquendo was one of the Regents who supported the idea of changing the label from *LEP* to *ELL* (Personal communication with R. Oquendo, May, 3, 2012). However, since the federal government was still using 'LEP' in their rules and regulations, the state of New York was forced to use both labels in their official communications. Since the 1990s, both terms, *LEP* and *ELL*, have been written in state official documents.

Lately, researchers such as Ofelia García, have added the term *emergent bilingual* to the conversation, indicating that these students are in a process of evolving development of

bilingualism, usually through the school’s instructional provision of English language development and subject matter instruction in English and their native language. García, Kleifgen and Falchi (2008) affirmed the following:

English language learners are in fact emergent bilinguals. That is through school and through acquiring English, these children become bilingual, able to continue to function in their home language as well as in English, their new language and that of school (p. 1).

Individual differences manifest themselves proportionally among the ELL school population. Some are gifted and talented, many are average learners, and some need remediation, especially in the content areas, in the home language or in English. Some have disabilities. In addition, there are others with interrupted schooling (often referred to as ‘Students with Interrupted Formal Education,’ SIFE); others are Long-term ELLs, meaning that they have been classified for multiple years. All of these students benefit from bilingual education instruction.

Estimates of the number of ELLs in the state of New York have been compiled since 1972 by NYSED. Although the actual number of students has not been counted precisely, figures have been collected for the purpose of federal government reporting. Table 2.1 presents the figures reported:

Table 2.1. Number of English Language Learners in New York State.

<b>Year</b>	<b>Number of ELLs</b>
1972-1973	300,000 (estimated)
1980-1981	127,000
1990-1991	161,345
1995-1996	205,246
2000-2001	221,000
2005-2006	208,848
2010-2011	238,792
2011-2012	224,300

Source: Compiled from statistical data sources from NYSED.

The language breakdown of ELLs has remained fairly stable over the decades, although there have been some demographic shifts. Table 2.2 shows the most common home languages spoken by ELLs in New York State over the last four decades.

Table 2.2. Most Common Languages Spoken by ELLs in New York State other than English.

<b>Year</b>	<b>Most Common Languages other than English</b>
1972	Spanish (mainly Puerto Ricans), Chinese, Italian, Arabian, Portuguese
1980	Spanish, Chinese, Japanese, Greek, Arabic, Mohawk/Seneca, Korean, Haitian Creole, Russian, Arabic
1990	Spanish, Chinese, Korean, Haitian Creole, Russian, Arabic, Khmer, Lao, Ukrainian, Vietnamese, Bengali, Yiddish
2000	Spanish, Chinese, Russian, Haitian Creole, Korean, Bengali, Arabic, Urdu, Polish, Vietnamese
2012	Spanish, Chinese, Arabic, Bengali, Russian, Urdu, Haitian Creole

Source: Compiled from statistical data sources from the NYSED.

The cities with the largest number of ELLs are New York City, Buffalo, Yonkers, Brentwood, Rochester, Syracuse, Hempstead, Newburgh, Central Islip, Valley Stream and Utica. Two thirds of emergent bilingual students speak Spanish as their native/primary language. There is a great diversity among their academic achievement, educational and cultural background, schooling opportunities, cognitive development, and experience with language of instruction. Although it is not advisable to cluster all emergent bilinguals as if they shared the same linguistic, academic and instructional characteristics, the majority of these students have had substantive participation in a non-English speaking social environment, including in the home. They also experience difficulty in meeting academic standards and achieving grade level scores on English standardized tests. They require some time to develop their communicative abilities and basic literacy skills in English before they can start using English as a tool for learning subject matter, or before they can begin transferring what they know from their native language into English.

## **Instructional Programs for ELL Students in New York State**

During the last four decades (1968-2013), bilingual education and ESL programs have been established in most school districts, mainly due to federal and state regulations and funding. At the State level, two instructional programs are usually recommended to prepare students to move from beginning transitional levels of English language development toward English language proficiency, which enables students to function successfully in all-English classrooms. These two programs are: (a) *Transitional Bilingual Education Program*, and (b) *Free Standing ESL Program*. In addition to these two programs, the *Two-way/Dual Language Program* has also been endorsed by the New York State Education Department. These programs help students become proficient in understanding, speaking, and reading and writing in English and in a language other than English, as they receive content instruction through the two languages. The recommended program depends on the number of language backgrounds of emergent bilinguals in each school building. For example, a school has the possibility of implementing a transitional bilingual program for one language group and a free-standing ESL program for several language groups. These programs are described in Chapter 5.

### **Conclusion**

Throughout the last 40 years, the New York State Board of Regents and NYSED have developed initiatives to serve English Language Learners. Initiatives include the provision of adequate policies, guidance, and resources to school districts for the provision of bilingual and ESL programs for serving the ELL school population. Since the 1970s, NYSED has allowed and encouraged local school districts to use languages other than English to teach content to

emergent bilinguals; State policies have supported increasingly comprehensive services for these students.

Whereas bilingual/ESL programs in New York State have a common core of objectives at the policy level, in the complex reality of everyday life, programs must be implemented to serve diverse students in a variety of contexts.



## **Chapter 3: 1965-1971: Community, Political and Educational Alliances**

The Regents reaffirm their dedication to the principle that all children, without regard to differences in economic, religious, racial, or national backgrounds, be provided the opportunity for equal education. Our schools must teach what our society must ultimately come to believe: that cultural-linguistic diversity is not to be feared or suspected, but rather valued and enjoyed; that culturally and linguistically different people share the equal rights of freedom and opportunity fundamental to democracy (University of the State of New York, 1972, p. 13).

The 1960s was a decade of community, political and educational alliances. This chapter provides a summary of the major initiatives, actions, events, and strategies carried out by community and not-for profit organizations, individual leaders and college students who, to some extent, created the foundation to move educational leaders, and specifically, the New York State Education Department to critically analyze the type of students arriving in classrooms across New York State. This chapter also considers implementation policies and regulations related to the linguistic and instructional needs of emergent bilinguals.

Specifically, we provide an overview of events that took place from 1965-1972, which set the tone for language policy in New York State, positioning New York State as a national pioneer in bilingual education. The community, political and educational alliances mentioned in this chapter are philosophically connected to the development of policies and mandates to appropriately educate emergent bilingual students in the state of New York.

### **Community and Political Activism**

The 1950s and the 1960s were decades of community unrest and intellectual movements. Practically, community organizations and leaders were embedded in well-planned activism to

fight for the rights of groups they were trying to defend. There were struggles and community unrest, which catalyzed a growing militancy of young students and motivated advocacy leaders. The 1960s were a special period of time in the United States; as Dr. Ron Woo mentioned: “It was a time of finding your roots” (R. Woo, personal communication, May 7, 2012). It was also a time when people took to the streets in support of human rights and social justice for their communities, for their nation, and for the whole world. In describing this period, Regent Betty Rosa said: “There were tremendous powerhouses; you had leaders. You knew the Young Lords were there; Geraldo Rivera was one of them. They stimulated the discussion and fanned the fires. Bilingual education had tremendous support” (B. Rosa, personal communication, May 7, 2012). Next, we briefly describe groups and individuals who made an impact during those years.

### **The Puerto Rican Community**

In New York City, the Puerto Rican community fought for educational equity and access at all levels, from elementary to higher education. Their activism and leadership in New York City in the 1960s left a lasting legacy on educational institutions and language policy in New York State. During the decades of the 1950s and 1960s, Puerto Rican children represented a significant group of New York public school students, (especially in New York City), the majority of whom spoke Spanish. The peak of the Puerto Rican migration occurred in the 1950s and 1960's. In 1960, the number of Puerto Ricans in New York City totaled 612,574, and by 1964 Puerto Ricans comprised 9.3% of the total New York City population (Fitzpatrick, 1996; Santiago Santiago, 1978). Puerto Ricans living in the barrios of New York, during the 1960's and 1970's were a part of the massive migration from Puerto Rico to the U.S. between 1948 and 1958; they came to the U.S. as citizens in search of stable jobs and decent housing. Many

migrated to New York City where there were enclaves of Puerto Ricans and Cubans who had previously migrated to the U.S. Some also migrated to upstate New York in search of jobs in agriculture. It was at that time, with growth in the Hispanic population, specifically Puerto Ricans, that a shift from a Black/White paradigm began in New York State and New York City. Importantly, the New York City Board of Education became interested in finding ways to better serve the Puerto Rican students.

*The Puerto Rican Study: 1953-1957*, funded by the Ford Foundation, and implemented under the auspices of the New York City Board of Education, provided a framework for the education of Puerto Rican children in New York City schools (Morrison, 1958). The study investigated the different approaches used for teaching English, finding that no approach was effective. The study emphasized the need for continuing inquiry into the experience of Puerto Ricans and an evaluation of their progress so that difficulties could be corrected where they existed. Twenty-three recommendations were generated for the successful education of Puerto Rican students in New York City. This community groundwork influenced future Puerto Rican advocates such as Dr. Luis O. Reyes and Dr. Diana Caballero in forming educational and community groups to advocate for bilingual education programs and appropriate education and services for culturally and linguistically diverse students.

### **The Young Lords**

Another group that made an impact in New York, especially in New York City, was the Young Lords Organization (later the Young Lords Party), which was founded by a group of mostly Puerto Rican students from SUNY-Old Westbury, CUNY Queens College and Columbia University, who felt that something needed to be done to connect them with their communities.

Many of the original Young Lords had been involved in the student and anti-war movements in their respective college campuses and wanted to apply their skills to connect with their communities by creating a community-based revolutionary organization. Their initial focus was on the communities of the Lower East Side and East Harlem, where the majority of residents were of Puerto Rican descent. The Young Lords organized on campuses and in their communities. They built a strong student movement led by student community organizers. Their goal was to empower and mobilize these communities against oppressive institutions at the time. With the ideological philosophies of Marx and Mao Zedong fueling the movement, they sought to uplift their community through revolutionary practice and organizing. They fought for many issues in these communities, such as clean streets, lead poison testing, a free breakfast program, clothing programs, health services, a day-care center, community dinners, the inclusion of the Puerto Rican community in support of bilingual schooling, and better communication between schools, Puerto Rican parents, and their communities.

### **Aspira and the Aspira Consent Decree**

Aspira, a Puerto Rican civil rights organization, was influential in moving schools and educational institutions to provide services for students for whom English was not their primary language. In 1972, Aspira, led by the Puerto Rican Legal Defense, brought a lawsuit on behalf of Latino LEP students and their parents in order to force the New York City Board of Education to provide “compensatory programs” for Puerto Ricans and other Spanish-speaking children who spoke English poorly or not at all. The plaintiffs claimed that the defendants (NYC Board of Education) had failed to recognize deficiencies in designing and implementing educational services for Latinos (*Aspira of New York Inc. V. Board of Education of the City of New York*,

1975; Santiago Santiago, 1978). The consent suit agreement, *Aspira of New York vs. New York City Board of Education* (1975) became known as the Aspira Consent Decree. All children entering New York City schools who were of Latino background were tested in English, and if found to have limited English proficiency, were subsequently tested in Spanish. All children who scored higher on the Spanish test were then put into bilingual education programs (Aspira of New York, 1975). Dr. Luis O. Reyes, referring to how his involvement with the Consent Decree led him to become an advocate for bilingual education, and be part of the NYSED Commissioner's Advisory Council on Bilingual Education, said: "So my involvement with bilingual education started with being assigned by the director of Aspira of America in New York to work with Aspira of New York. I was representing Aspira. I would've been at those meetings up in Albany or going to the Black and Puerto Rican Caucus to talk about our issues or later, to SOMOS UNO Conference" (L. O. Reyes, personal communication, May 7, 2013).

The reference to the Aspira case on behalf of primarily Puerto Rican children in New York City has a direct link with the genesis of the institution of Hostos Community College, which occurred in the same period as the Aspira Consent Decree. However, unlike the Aspira Consent Decree, which opened up bilingual education programs through a court case, Hostos Community College won its bilingual mission and indeed, its very survival through mass mobilization of faculty, staff, students and community leaders and residents of the South Bronx.

### **Eugenio María de Hostos Community College and Its Bilingual Mission**

The struggle to establish and then to save Eugenio María de Hostos Community College represented the most prolonged and consistently successful community-based movement during the 1970's in New York City. Hostos Community College was created by an act of the Board of

Higher Education on April 22, 1968, in response to the demands of Puerto Rican and other Hispanic leaders who urged the establishment of a college to meet the needs of the residents of the South Bronx. Hostos Community College is a two-year college, which provides general degree programs and degree programs in Allied Health. Further, though not specifically stated in its mission statement, bilingual education is fundamental to Hostos Community College. State Assemblywoman Carmen Arroyo explained how she played a role in the establishment of Hostos: “Herman Badillo called me, as a mother, to come to a meeting. There was an idea to write a proposal to CUNY to start a two-year college. We decided we should make it a proposal for a bilingual college” (C. Arroyo, personal communication, May 18, 2012).

After Hostos was functioning and fulfilling its bilingual mission, the Board of Higher Education decided to merge Hostos with Bronx Community College. From 1973 until 1979, faculty, staff, students and community residents participated in a continuous and strong campaign to keep Hostos Community College’s doors open. Community and student leaders challenged the CUNY leadership to maintain Hostos Community College and its bilingual mission, and indeed its very survival through mass mobilization of faculty, staff, students, and community residents of the South Bronx (Meyer, 2003). Key players in organizing this movement were the Hostos Student Government organization, the Hostos Chapter of the Professional Staff Congress, the union that represents faculty members at CUNY, community leaders such as Carmen Arroyo, Senator Raphael Garcia, Assemblyman Angelo Del Toro, Assemblyman José Serrano, Ramon Velez and Herman Badillo. In 1976, the Board of Higher Education rescinded its decision to merge Hostos with Bronx Community College.

## **Student Activism at other CUNY Colleges**

Activism on the part of Black and Puerto Rican students on CUNY campuses forced the Board of Higher Education to make systemic changes in policies at CUNY. In order for minorities to gain access to higher education without displacing white students, a 100% open admissions policy was approved by the CUNY Board of Higher Education. The policy had been planned to come into effect in 1975. However, the racial disparities in CUNY's admissions became an issue that caused Black and Puerto Rican students to mobilize on the CUNY campuses. In the winter of 1968 a student group demanded an end to the racial disparities in admissions, greater control over the SEEK program (which had facilitated the admissions of economically disadvantaged students, who would not be admitted by the normal admissions criteria), and curricula focused on Black, Puerto Rican and Asian studies (CUNY Office of University Relations, 1970). Frustrated by an unresponsive administration since these original demands had been raised, several hundred Black and Puerto Rican students blocked the gates to the South Campus at The City College of New York (CCNY). Then student and future Regent, Betty Rosa, was part of this takeover (B. Rosa, personal communication, May 7, 2012). Actions happened on most other campuses in the aftermath of the occupation of CCNY. Student mobilizations placed great pressure on the Board of Higher Education for an 'Open Admission proposal' included in the 1968 CUNY Master Plan.

## **Office of Migration of the Commonwealth of Puerto Rico**

The Puerto Rico Department of Labor established an office in New York City known as the Migration Division, to help newly arrived Puerto Ricans make the adjustment to the mainland and to advocate for their rights and best interests. Carmen Dinos, a former

administrator of the Puerto Rico Migration Division, described the work of the office using the following words: “The Puerto Rican Commonwealth’s Office of Migration provided services such as teaching ESL to migrant workers. But mainly it was working with the New York City Board of Education trying to help Puerto Ricans in New York” (C. Dinos, personal communication, May 21, 2012). For example, the Office of Migration established contact with the Department of Education in Puerto Rico to provide information before students came to the U.S. With the cooperation of the Board of Education and the Puerto Rican Migration Office, an ‘operational understanding’ was established. Under its auspices, twelve Puerto Rican teachers went to live and teach for one year in New York and twelve New York teachers went to live and teach for one year in Puerto Rico. Thus began a process of teachers from the island and New York getting to know each other. The Migration Office worked with community organizations and parents in an attempt to inform parents of their rights. In 1966, the Migration Office started a parent/teacher association of Puerto Rican parents. One of the toughest challenges the Migration Office had was to get parents to understand that in New York, they were expected to come in and participate in the schools. In Puerto Rico, teachers were considered second mothers and given full authority over children while they were in schools (C. Dinos, personal communication, May 21, 2012). Dinos said: “Under Mayor Wagner, they began ‘Puerto Rican Discovery Day’ in the New York City public schools on the 19<sup>th</sup> of November. The parents would cook Puerto Rican food and come in to school that day as it was celebrated as a cultural event. Then they often were not seen for the rest of the year” (C. Dinos, personal communication, May 21, 2012). Schools called constantly seeking the Office’s assistance. The Division of Community Organizations of the Migration Office worked with ‘Los Pueblos Clubs,’ for example, *Hijos de Corozal*. Every time they needed to mobilize parents they went to “the



Clubes” (C. Dinos, personal communication, May 21, 2012). All of this initial activity was through the auspices of the Governor of Puerto Rico, Luis Muñoz Marín. Muñoz Marín had a good relationship with politicians in the mainland and maintained contact with the federal government as well as with the Chicano Civil Rights movements. Through the Migration Office’s long-term advocacy work in New York State, ESL and bilingual programs were established, and the Migration Office contributed to bringing about the Office of Bilingual Education in the New York State Education Department (C. Dinos, personal communication, May 21, 2012).

### **The Federal Influence**

Title VI of the Civil Rights Act of 1964 contributed to school policies and mandates on behalf of students who were not speakers of English. The Civil Rights Act states: “no person shall, on the grounds of race, color, or national origin, be excluded from participation in, and be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance” (Office of Civil Rights, 1970). In 1968, the Bilingual Education Act, (Title VII of ESEA) provided \$7.5 million for categorical programs (funds allocated by the NYS Assembly) for children with limited English proficiency that were economically disadvantaged and came from homes where English was not the dominant language. The wording states that:

In recognition of the special educational needs of the large numbers of children of limited English-speaking ability in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out new and imaginative elementary and secondary school programs designed to meet these special educational needs (United States Department of Education, 1968).

A large number of reimbursable bilingual programs were developed under Title VII. The Bilingual Education Act of 1968 was amended throughout the years. For example, the 1974 Bilingual Education Act required schools receiving grants to include teaching in a student's home language and culture, so as to allow the student to progress effectively throughout the educational system.

The *Lau vs. Nichols* court case (1974), which was brought on behalf of Chinese students against the San Francisco School District in 1970, indicated that non-English speaking students were not provided with equal educational opportunities when they were instructed in a language they could not understand. It affirmed that it is not equal treatment merely to provide the same facilities, textbooks, teachers and curriculum to students who do not understand English. This court case was instrumental in forcing school districts to provide English as a Second Language, English tutoring, and some form of bilingual education to students for whom English was not their first language. In addition to the Bilingual Education Act and the U.S. Supreme Court decision in *Lau vs. Nichols*, Title 1 of ESEA provided funding for remedial services for disadvantaged students who came from homes where English was not the dominant language.

### **New York City and New York State Initiatives Contributing to the Development of Bilingual Education in New York State**

We identify below initiatives that were undertaken on behalf of students who needed to develop English and contributed to the development and implementation of bilingual education in New York State.

**1955:** The first allocation for categorical programs for non-English speaking students.

**1956:** The Heald Commission on Educational Finances recommends state aid for educational programs in densely populated districts for students who are non-English speaking, handicapped, or require special programs.

**1957:** The New York City Board of Education (1957) published the document *Our Children from Puerto Rico*, which in essence recognized the need for educators to address the large number of Puerto Rican children and their cultural and learning characteristics; it stated: “Schools and teachers can help to ease the adjustment of these children to New York City both within and outside the school. Understanding the individual child and his particular background in Puerto Rico is a long step in this assistance (New York City Board of Education, 1957, p. 65).

**1958:** Publication of *The Puerto Rican Study: 1953-1957* (Morrison, 1958), funded by the Ford Foundation and published by the New York City Board of Education, provided a framework for the education of Puerto Rican children in New York City schools. The study report provided twenty-three recommendations.

**1968:** Recruitment and training of teachers from Puerto Rico. These teachers had to pass the Board of Examiners’ exam to become licensed teachers in the New York City public school system. At that time, the Board of Examiners’ infamous “Speech Test” was still in place and anyone with a slight accent could not get a job as a teacher (C. Dinos, personal communication, May 21, 2012).

**1968:** The New York City Board of Education (NYCBOE) created the position of “Educational Assistant.” A new title, Bilingual Pupil Professional (BPS), which paid \$5 an hour, was created to accommodate professionals, such as lawyers, that came to work in the schools.

**1968:** The NYCBOE established the position of Bilingual Teacher in School and Community Relations. José Vazquez, Alfredo Mathews, and Beatriz López Pritchard were the first supervisors of this position (J. Vazquez, personal communication, April, 2008).

**1968:** In the South Bronx, thanks to advocacy from parents and politicians, the District 7 Community School Board authorized the establishment of the first bilingual school in New York City, PS 25, with Hernan Lafontaine as the founding principal. The school opened on schedule in spite of a citywide teachers strike by the United Federation of Teachers (UFT). A young Carmen Pérez traveled from Brooklyn to the Bronx to

volunteer to teach at the school (C. Pérez-Hogan, personal communication, April 5, 2012). A well-integrated program of instruction, teacher training, parent participation and curriculum development was organized and implemented to meet the language and instructional needs of ‘limited English proficient students.’ The program started with district funding, and in 1969 received federal funding. PS 25 continues to house bilingual education programs to this day.

**1969:** When in 1969, the U.S. Department of Education allocated funds for the implementation of bilingual education throughout the country, under Title VII of the Elementary and Secondary Education Act, NYCBOE received funds for the implementation of the following bilingual programs (Santiago Santiago, 1978).

- PS 1 (Community school District/CSD 1), Manhattan; served Chinese and Spanish speaking students in pre-kindergarten to first grade.
- PS 211 (CSD 12), Bronx. A converted factory building housed PS 211, (CSD 12), in the northwest part of the Bronx. The school’s ethnic composition was predominantly Hispanic and African American and the bilingual program served both populations. The school was organized into non-graded groups within an open–corridor arrangement. Initially, funding for the implementation of the bilingual school/program came from a combination of local, state, and federal funds.
- PS 25 (CSD 7), Bronx, the first bilingual school; and,
- Project *BEST*, a staff development program located at the Board of Education–Brooklyn Central Office, providing in-service teacher training to NYC school districts.

**1970:** Because of federal funding to school districts for the implementation of bilingual programs under Title VII, school districts around the state began the development and implementation of bilingual education programs. Buffalo, Syracuse, and Rochester established bilingual programs during the 1970s. Brentwood, Long Island, was recognized as the second largest Puerto Rican Community in New York State (University of the State of New York, 1972), and implemented bilingual programs throughout the school district. Hempstead had an “enrichment bilingual program” (D. Fernandez, Personal Communication, October 2012). Yonkers established three bilingual programs in the downtown area: PS 10, PS 18 and Enrico Fermi (J. Torres, personal communication, October 12, 2012). Long Beach established bilingual programs.

**1971:** Chancellor Scribner created a citywide commission on Bilingual Education. This group recommended the creation of a bilingual office. José Vazquez worked on the guidelines for the office.

**1971:** NYCBOE funded a special project with Title VII funds in response to the influx of immigrants from Asia. The immigration reform of 1965 produced an increase in the number of Asians to immigrate to the U.S. from 105 per year to 10,000 per year. A Chinese Language Center for new immigrants from Asia was established in Chinatown (R. Woo, personal communication, May 7, 2012).

**1972:** NYCBOE established the *New York City Center for Bilingual Education*. The office was under the umbrella of the Office of Planning and Support. Hernan Lafontaine became its first director. The Office provided assistance and distributed and monitored funds to schools to implement bilingual education programs for 75,000 students.

**1972:** The Regents urged the establishment of bilingual and TESOL teacher training programs, and recommended the use of the College Proficiency Examination Program to certify course credit attainment for certification of teachers for bilingual education programs (University of the State of New York, 1972).

### **Conclusion**

It was community activism, especially on the part of the Puerto Rican community in New York City in the 1960s and early 1970s, that made it possible to transform the ‘English only’ and ‘sink-or-swim’ language policies that prevailed at that time. The New York State Board of Regents, with the help of the Bilingual Education Office in NYSED and educators from throughout the state, established a progressive language policy promoting cultural and linguistic diversity and recognizing students’ native language as an asset to be cultivated and preserved in New York, the 1972 Regents’ Position Paper on Bilingual Education. This language policy that was established in 1972 has been revised several times. It remains at the foundation of the official policy on bilingual education in New York State. It is one of the best research-based

language policies for emergent bilinguals in the whole nation and serves as a model for other states to emulate.

## **Chapter 4: 1972-1980: The Institutionalization of Bilingual Education at the New York State Education Department**

The Board of Regents is not a policy making body; not the think tank or the initiators of policy. We approve policy. This is an important fact for bilingual educators and advocates' understanding. Policy comes to the Regents from staff, the pedagogues, from best practices in the community and other parts of the country. If there's no staff paying attention to this issue, the Regents would never see a policy (Former Regent R. Oquendo; 1998-2001; personal communication, May 3, 2012).

The purpose of this chapter is to describe the policies, mandates and programmatic initiatives that were developed and implemented by the New York State Education Department to serve English Language Learners during the period of 1972-1980. A brief overview of these policies and initiatives include available funding, the institutionalization of bilingual education and English as a Second Language programs, assessment policies and the establishment of bilingual and TESOL teacher certification.

During the early 1970s, there continued to be a lack of appropriate educational programs for emergent bilingual students. This was found to constitute denial of equal educational opportunity, a right guaranteed by the Fourteenth amendment of the Constitution of U.S., by Title VI of the Civil Rights Act of 1964, and by the Equal Educational Opportunities Act of 1974. There was imminent need to provide language minority students, who lacked English language proficiency, appropriate services, giving them an equal and meaningful education as it was recognized by the Bilingual Education Act of 1968.

## **Education Law s. 3204**

In 1970, the New York State Education Law s. 3204 was amended by the Legislature to allow school districts to provide instruction in languages other than English; that is, bilingual programs, to ensure the mastery of English and another language by students in bilingual programs. Carmen Pérez-Hogan described the importance of this law in a memo (Pérez-Hogan, October 25, 1985) she sent to G. L. Freeborne. She stated:

A new subdivision was added to the Education Law, to clarify the content of bilingual programs while giving full discretion to local boards, without state oversight. Bilingual programs are to accomplish: bilingual education, knowledge of native history and culture, cooperation between home and school, early childhood education, adult education, services for dropouts and potential dropouts, and vocational/technical instruction (Pérez-Hogan, October 25, 1985, p.17).

In 1974, and under this law, the period of permissible bilingual education was extended for a period not to exceed six years. The educational climate in New York State as well as in local cities and communities was conducive to the implementation of bilingual and ESL programs; local school districts began to use non-English languages to teach ELL students (New York State Education Law 3204). State policy supported increasingly comprehensive services for language minority students, including the provision of federal and categorical funding, guidelines for state approved programs, and a Regents' action plan for the implementation of programs. There was also support given to the administrative office responsible to serve the ELL school population across the State.

## **The Institutionalization of Bilingual and ESL Programs in New York State**

The increase of the non-English speaking population in New York City and in the rest of the state, pressures from community leaders and organizations, and funding from the federal



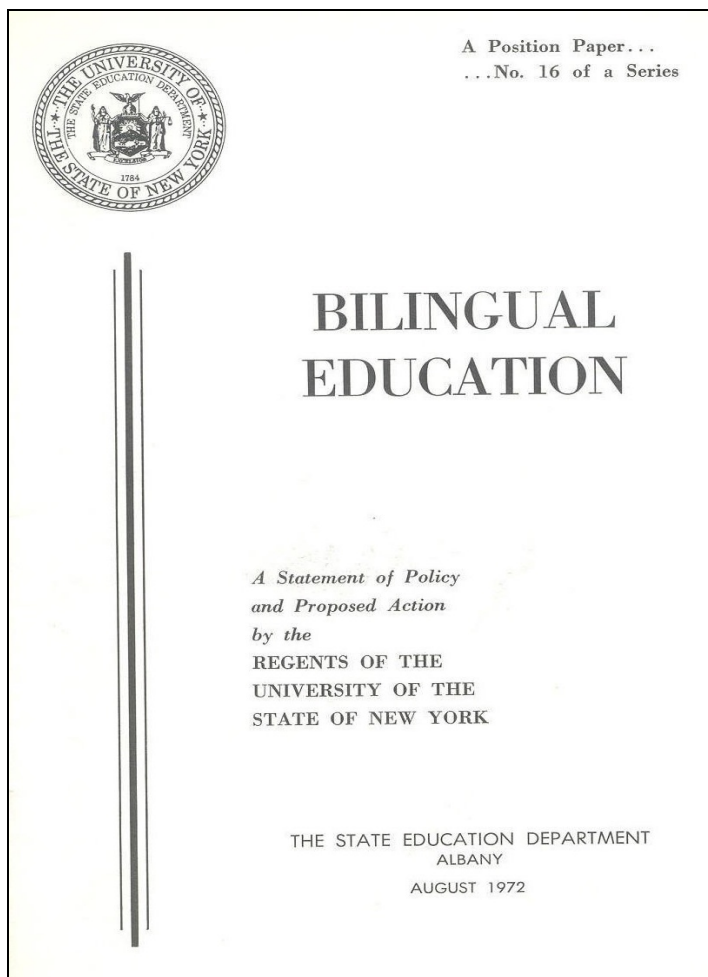
Bilingual Education Act provided the conditions necessary to institutionalize bilingual and English as a Second Language programs in New York State.

The Commissioner of Education of New York State in 1972, Ewald B. Nyquist, expressed concerns that because of the differences in language and culture, 300,000 children would be effectively excluded from meaningful participation in the educational system if not for bilingual and ESL programs. He recognized that “failure of schools to respond to the educational needs of these children results in academic failure, demonstrated by low reading scores, high dropout rate, and barriers to entry into meaningful employment” (University of the State of New York, 1972, p. x). Commissioner Nyquist’s concern was born from the experiences with the school system of many children arriving in New York who spoke languages other than English. Former Regent Oquendo, for example, described circumstances when he arrived in New York City from Puerto Rico in the early 1960s, when schools had no bilingual education: “They (the School) just put me back a year. They forced me to repeat kindergarten, even though I had completed the second grade in Utuado, Puerto Rico. I was almost seven in kindergarten” (R. Oquendo, personal communication, May 3, 2012). The Commissioner’s concern for ELLs was shared by others at the state government level in New York. As we said before, in 1969, the State Education Department established what at that time was called the ‘Bilingual Education Unit’ with Carlos Pérez as the first Bilingual Education Supervisor. Its purpose was to provide assistance to schools and administer State bilingual education funds (C. Pérez-Hogan, personal communication, April 5, 2012). One of the most significant actions taken at the time was the development, publication, and dissemination of the 1972 Regents’ Position Paper on Bilingual Education.

## The 1972 Regents' Position Paper on Bilingual Education

The 1972 Regents' Position Paper on Bilingual Education presents a philosophical statement and plan for bilingual education at the state level. It stated: "The Regents reaffirm their dedication to the principle that all children without regard to differences in economic, religious, racial, or national backgrounds, be provided the opportunity for equal education" (University of the State of New York, 1972, p. 13). See Figure 4.1 for the cover page of this document.

Figure 4.1. Cover Page of 1972 Regents' Position Paper on Bilingual Education.



Source: University of the State of New York, 1972, cover page.

Carlos Pérez invited a group of educators, including María Ramírez, Carmen Pérez-Hogan, Sonia Rivera, Awilda Orta, and Genis Meléndez, to collaborate with the Bilingual

Education Unit to review proposals, recommend policies, as well as to coordinate the efforts of other educational units to develop, evaluate, and promote bilingual and English as a Second Language materials and programs throughout New York State. Together, they drafted a statement of policy for serving the LOTE speaking population of the State of New York. This document was then submitted to the Commissioner of Education and the Board of Regents who approved what is known as the ‘State Board of Regents’ Position Paper on Bilingual Education’, the first such position paper in the whole country (C. Pérez-Hogan, personal communication, April 5, 2012). This paper proposed direct actions that could be taken towards helping students maintain their language and culture at the same time as they developed English language proficiency. They recognized that the language skills and thought processes of their first language could be used as a bridge for intellectual development as well as acquisition of English.

The position paper states:

A fundamental tenet of bilingual education is that a person living in a society whose language and culture differ from his own must be equipped to participate meaningfully in the mainstream of that society. It should not be necessary for him to sacrifice his rich native language and culture to achieve such participation” (University of the State of New York, 1972, p. 5).

At that time, ELL students were identified as ‘children of non-English speaking ability’ or ‘non-English-speaking children.’ In 1970, statewide data showed that there were an estimated 300,000 ‘non-English speaking’ students in New York State. That same year, the New York City school census identified 160,185 ELLs including 117,469 who were Spanish-dominant and 42,716 from other language groups including Chinese, Italian, French, Greek, German, Arabic and Portuguese. There were also large concentrations of emergent bilinguals in other cities in New York State, and not exclusively in the five biggest cities- New York, Buffalo, Rochester, Syracuse, and Yonkers. The town of Brentwood, Long Island was home to the second largest

community of Puerto Ricans in New York State in 1970. In the town of Port Washington, Long Island students spoke 22 different languages. The towns of Amsterdam, Beacon, North Rockland, Lakeside and districts in Westchester and Ulster Counties reported that the numbers of emergent bilingual students in their districts were growing. However, these estimates were considered conservative and the most accurate data in New York State focused on Puerto Rican children in New York City. Table 4.1 shows the ethnicity of students in New York State public schools during the 1970-1971 academic year.

Table 4.1. Ethnicity of Students in New York State, 1970-1971

Ethnicity	New York City			New York State Outside of New York City			New York State Total		
	Pupils	Personnel <sup>a</sup>	Ratio	Pupils <sup>b</sup>	Personnel	Ratio	Pupils	Personnel	Ratio
Spanish-Surnamed Americans	292,664	996	1:293.8	24,547	349	1:70.3	317,211	1,345	1:235.8
Puerto Rican	259,879	876	1:296.8	21,822	314	1:69.5	281,701	1,190	1:236.7
Other SSA	32,785	120	1:271.9	2,725	35	1:77.9	35,510	155	1:229.1
Black	393,516	5,489	1:71.7	149,339	2,816	1:53.0	542,855	8,305	1:65.4
Orientals	17,115	224	1:76.4	9,789	182	1:53.8	26,904	406	1:66.3
American Indians	607	10	1:60.7	4,567	66	1:69.2	5,174	76	1:68.1
Others	436,457	61,038	1:7.2	2,177,165	128,442	1:17.0	2,613,622	185,480	1:13.8
Total	1,140,359	67,757		2,365,407	131,855		3,505,766	195,612	

<sup>a</sup> Number of Puerto Rican staff estimated to be 90 percent of total Spanish-Surnamed Americans.  
<sup>b</sup> Number of Puerto Rican pupils outside New York City estimated at 88.9 percent of total Spanish-Surnamed Americans outside of New York City.  
Source of Data: New York State Education Department, Information Center on Education Ethnic Census, *Public School Students and Staff by School and District, 1970-71*.

Source: University of the State of New York, 1972, p. 19.

Puerto Ricans ranked lowest on many scales including poverty, educational levels, and other social indicators. According to the 1970 United States Census (United States Department of Health, Education, and Welfare, 1970), Puerto Ricans had the lowest average incomes and education levels of any ethnic group in New York City. Moreover, “the language barrier adds a burden almost incomprehensible to those who have never had to bear it” (University of the State of New York, 1972, p. 6). With such a low high school graduation rate, it was not surprising that very few Puerto Ricans entered higher education. According to the Board of Regents: “The

assumption could be made that English language deficiency was the factor which prevented Spanish-surnamed 12<sup>th</sup> grade students from successful entry into college programs” (University of the State of New York, 1972, p. 6).

The 1972 Regents’ Position Paper on Bilingual Education stated that the primary goal of the Regents and NYSED in promoting bilingual education was to provide equal educational opportunity for language minority students by capitalizing on their native language abilities while developing their competence in English, affirming the importance of English and at the same time recognizing the role of the native language and culture: “There is no experiential substitute for the successful learning experiences gained by non-English-speaking children who are permitted and encouraged to learn in their dominant language” (University of the State of New York, 1972, p. 7). The paper also noted that there are two complementary goals inherent in the creation of the bilingual program. First, create bilingual Americans who will serve as a national resource. Second, promote cross cultural awareness and understanding through the appreciation of different ethnic heritages and cultures.

Through the approval and dissemination of the 1972 Regents’ Position Paper on Bilingual Education, the Regents drew on cutting-edge bilingual education research and positioned themselves as pioneering champions of bilingual education. They also demonstrated that they were familiar with child development and educational theories, and used these to make their case for the importance of implementing bilingual education programs. They acknowledged that use of the children’s home language when they enter school lets them know that their strengths and abilities are valued.

The 1972 Regents’ Position Paper on Bilingual Education acknowledged that in those cases where a Bilingual Education program was not feasible, then an English as a Second

Language program should be considered. However, they stated that school communities should be afforded the possibility of bilingual instruction. Thus, the paper stated that in cases where there are ten or more children “of limited English-speaking ability” who speak the same language and are “of approximately the same age and level of educational attainment,” then a bilingual program, as opposed to an English as a Second Language program, was preferable and every possible effort should be made to establish one.

The Board of Regents noted that under the Rules and Regulations that govern their conduct, as well as that of the Commissioner of Education, they were mandated to identify and establish the cause of “children who fail or under-achieve” (see document entitled Rules and Regulations of the Board of Regents and the Commissioner of Education, Part 203) (University of the State of New York, 1965a). Further, “non-English-speaking” students fell under the provisions for handicapped children in Part 200 of the Rules and Regulations regarding requirements for additional evaluation [University of the State of New York, 1965b]. Part 200 stated: “Review and evaluate all relevant information pertinent to each handicapped child, including the results of physical examinations and psychological examinations and other suitable evaluations and examinations as necessary to ascertain the physical, mental, emotional, and cultural educational factors which may contribute to the handicapping condition, and all other school data which bear on the pupil’s progress” (University of the State of New York, 1965b, Section 200.2(b) (1)). Although emergent bilingual learners are clearly not educationally “handicapped,” the designation at the time under the Rules and Regulations was used to mandate additional testing and services, with the objective that these services would help these students to succeed in the long run. One of the authors of the Position Paper, Carmen Pérez-Hogan, admitted that putting emergent bilingual students under the category of “handicapped” had been

a mistake and was the one flaw of the paper (C. Pérez-Hogan, personal communication, April 5, 2012). Yet in spite of the flaws, the 1972 Regents' Position Paper on Bilingual Education was a landmark for bilingual education: For the first time, the Board of Regents confirmed state support for bilingual programs that: (a) capitalize on students' native language ability; (b) recognize the role of the child's native language and culture; and (c) provide instruction to develop competence in English. The Regents publicly acknowledged that substantial changes needed to be made as far as instructional materials, pedagogical approaches, and sensitivity training of personnel so that the English language learners in the state could be educated appropriately and the richness of their cultures understood. They committed to take action on a number of priorities in order to ensure that minority language children would not be excluded from meaningful participation in the State's educational programs.

### **Bilingual Education Initiatives**

During the 1970s, Bilingual Education programs were developed and implemented partly by federal government funding and partly by New York State Education Department funding and regulation initiatives. Local school districts (e.g., New York City, Brentwood, Buffalo, and Yonkers) took advantage of federal Title VII funding, and submitted proposals for funding, started the implementation of bilingual education and ESL programs. Further, while New York State engaged in the planning and development of policies and regulations for the provision of instructional services to emergent bilinguals, the federal government exerted a powerful influence through legislation, funding and law.

## **ESEA Title VII**

Since 1969, Title VII provided funds to local districts primarily for basic projects to establish, operate, or improve programs of bilingual education and projects to demonstrate exemplary approaches. Title VII funds were provided through competitive grants to school districts. In New York City, Title VII funds could be received directly by a Community School District or by the Central Board of Education on behalf of the Division of High Schools, Division of Special Education or the Office of Bilingual Education. The U.S. Office of Education offered funding for bilingual education instructional programs for a period of three years. Referring to the amount of funding received, Ramírez (2002) said that “From 1969-1972, New York received 4.8 million dollars from Title VII” (n.p.). The funding was to help the instruction of economically disadvantaged limited English proficient students from homes where English was not the first language.

Through the 1970s and beginning of the 1980s, Bilingual Education continued to be guided by the 1972 Regents’ Position Paper on Bilingual Education, which was approved in order to “provide equal educational opportunity for non-English speaking children through activities capitalizing on their proficiency in their native language and developing competencies in English” (University of the State of New York, 1972, p. 7). Moreover, as mentioned by Ron Woo, “After they had the policy, they wrestled with implementation and enforcement of the implementation. There were no guidelines. There was no Part 154 yet” (R. Woo, personal communication, May 7, 2012). The *Bilingual Unit* became very active in supporting the initiatives recommended in the 1972 Regents’ Position Paper on Bilingual Education position paper as well as supporting local school districts throughout the state to develop and implement bilingual and ESL programs. Initiatives conducted included: (a) support in the development and



implementation of Title VII projects throughout the State; (b) summer institutes on Puerto Rican history, politics and culture, and on Asian cultures; (c) Special techniques for teaching English as a Second Language to speakers of Asian languages; (d) State University system programs ranging from training of bilingual paraprofessionals to degree programs for the Master of Arts in Bilingual Education; and (e) A Regents examination in mathematics offered in the Spanish language.

### **The Commissioners' Advisory Council on Bilingual Education**

Both María Ramírez and Carmen Pérez-Hogan had the vision to involve the educational community in the Office of Bilingual Education agenda, to provide guidance and support in the areas of bilingual education and English as a second language. They also established a collaborative relationship with some members of the Legislature, especially those who believed in the promotion of bilingual education, and who they would call in times of needed support. The creation of the Commissioners' Advisory Council on Bilingual Education was established for the purpose of having two-way communication between the Commissioner of Education Council and stakeholders in the field of bilingual education and ESL, as well as with other influential school administrators and leaders. A group of educators representing a diversity of languages and educational backgrounds and experiences were invited to be part of the Commissioner's Advisory Council on Bilingual Education. Members of the Advisory Council on Bilingual Education included individuals such as Angelo Gimondo, María Guasp, Ron Jones, Herminio Martínez, Eric Nadelstern, Joséph Pacheco, Eli Plotkin, Jean Previllon, Manuel Ramos, Luis Reyes, Katherine Sid, Nilda Soto-Ruiz, and Michael Vega. Ramírez (2002), referred to this council as "our secret weapon to get things done." José Vásquez became the first chairperson of

the Commissioner's Advisory Council on Bilingual Education. Luis O. Reyes was part of the Council representing Aspira (L.O. Reyes, personal communication, May 7, 2013). Figure 4.2 shows some of the members of the Commissioners' Advisory Council on Bilingual Education (the year in which the picture was taken is unknown).

Figure 4.2. Pictures of the Commissioner's Advisory Council on Bilingual Education (date unknown)



Source: Courtesy of Dr. Peter Byron.

### **Other Bilingual Education Supporters**

The Bilingual Education Unit had the support of many ‘bilingual education pioneers,’ among them were Herman LaFontaine, principal of PS 25; Evelina Antonetti, United Bronx Parents Association; Antonia Pantoja, National Executive Director of Aspira; Carmen Arroyo, a community educational leader, who had a passionate commitment to the education of bilingual students. Also in New York City was Gladys Correa, the first Supervisor of the State Education Department’s New York City Bilingual Regional Office. In Buffalo there were Carmen Rodríguez and Ismael González, in Suffolk County there were Nicki Nin-Brash and Noel Bonilla, and at Nassau BOCES was Dan Domenech who became the first president of NYSABE. Carmen Delgado from Rochester, Nancy Villarreal from Syracuse, Jacob Wong and his Chinatown Council, Michelle Auguste and the Haitian community, Angelo Gimondo and the Italian American Teacher’s group, Benedicta Nieves in Beacon were among many others who helped the State Education Department develop bilingual education and ESL policies and programs for emergent bilingual students in New York State (Ramírez, 2002).

### **Role of the Aspira Consent Decree and the Lau remedies in Expanding Bilingual Education in New York City**

The Aspira Consent Decree of 1974 established the right of New York City school students with limited English proficiency to receive bilingual education (Aspira, 1974). The Consent Decree required the Board of Education to establish a major new program to improve the education of all Spanish-speaking pupils whose difficulties with English impeded their learning. Transitional Bilingual Education programs were established as a legal entitlement for

New York City's non-English-speaking Puerto Rican and other Latino students. The agreement included language arts and other core content learning (mathematics, science, and social studies) in Spanish, as well as English as a Second Language (ESL) instruction. As Luis O. Reyes stated, this mandate was a tremendous boost to bilingual education in the entire state of New York (L. O. Reyes, personal communication, May 7, 2013).

In 1977, the NYC Board of Education was required, by the U.S. Office of Civil Rights, to develop a plan for services to limited English proficient students (known as the Lau Remedies) who came from other than Spanish language backgrounds, thus complying with requirements set forth by the Office of Civil Rights' 1975 Guidelines. The combination of the Court Order and the office of Civil Rights' plan for New York required that all ELLs be provided instruction in English as a Second Language, native language arts instruction and subject area instruction in the native language and in English.

### **Funding for ELLs' Instructional Services**

Although ELLs were required by law to receive appropriate instruction and local school districts needed to meet these students' linguistic and instructional needs, funding for the establishment of bilingual programs was provided by available federal funding, especially Title VII and Title I, as well as state aid allocations, and the NY State Legislature's categorical funds.

### **Title VII Funding**

As mentioned previously, New York State law 3204 was amended to allow for instruction of ELLs in all subjects in native language and in English for a period of three years and a maximum of six years. This allowed school districts to become eligible to apply for

federal Title VII grants for bilingual programs. The Title VII funding became an important support for the development and implementation of bilingual programs throughout the state. In 1972, New York received \$4.8 million from Title VII (Ramírez, 2002).

### **New York State Legislature's Bilingual Categorical Funds**

Since 1970, the NY State budget has included funds for categorical grants. The funds were distributed as categorical grants for supplemental services on a competitive basis. In 1973, the NYS Legislature allocated \$1.5 million in categorical funds to provide supplementary services on a competitive basis for the education of English language learners. The New York State Education Department, through the Office of Bilingual Education has continued to manage the funds for supplemental services to schools (e.g., staff development, technical assistance, special programs, Two-way bilingual Education, BETLA, small school projects/programs for ELL students).

### **Chapter I Funding**

Title I of the Elementary and Secondary Education Act (later re-structured as Chapter I) of the Education Consolidation and Improvement Act (ECIA), provided funding for remedial services for the economically disadvantaged, including services for bilingual math, bilingual reading and ESL instruction for emergent bilingual students. School districts serving economically disadvantaged students requiring remediation in basic skills were eligible to apply for aid under Chapter I to fund the above services. These funds could only be used to pay for supplemental services. Thus, unlike Title VII funds, Title I funds could not be used for basic services mandated under State law, the Aspira Consent Decree and the Lau Plan.

### **Pupils for Special Educational Needs (PSEN)**

In 1974, the NYS Legislature initiated funding for Pupils with Special Educational Needs (PSEN) that could be used for ESL services and instructional remediation in either English or students' native language required by the Consent Decree and Lau Plan. PSEN funds were provided as part of general operating aid to cover the additional costs incurred by local districts in order to provide special assistance in basic skills. About 14% of the funding was targeted for emergent bilingual students (Pérez-Hogan, 1985).

### **Assessment Policies**

During the 1970s and 1980s, the assessment of English language acquisition and academic achievement of language minority students was mainly in the hands of local school districts. As stated by the Regents, "The school and community also should design jointly an evaluative instrument for continuing assessment of the bilingual education programs" (University of the State of New York, 1972, p. 12). According to the 1972 Regents' Action Plan on Bilingual Education, NYSED's role in the assessment of ELLs is to "promote the development and implementation of adequate screening, appraisal and assignment of techniques that include the assessment of the behavioral learning strengths and weaknesses of non-English speaking pupils" (University of the State of New York, 1972, p. 12).

School districts and bilingual programs were allowed to select from a range of assessment instruments approved by the NYSED in order to (a) identify LEP/ELLs when first enrolled; and (b) to measure their annual progress in English proficiency (Kadamus, 2004). Title VII programs had to identify their own procedures to measure objectives, including instruments,

data collection procedures, data analysis methods, and data reporting format; those criteria were required in the evaluation of all federally-funded bilingual programs.

### **The Aspira Consent Decree**

Due to the Aspira Consent Decree agreement, by August 1974, New York City required that all Spanish surnamed students be tested to determine English language proficiency. That agreement led the New York City School System to develop the Language Assessment Battery Test (LAB), which included subtests for the entire school age range with English and Spanish subtests. The LAB, an English language proficiency assessment administered to students in grades K through 12, corresponded to the New York City School System's curriculum. It was primarily used for placement purposes to identify non-native speakers whose English proficiency was not advanced enough to allow for English to be used as their primary language of instruction. The test had four levels: Level I for students in K-2; Level II for grades 3-5; Level III for grades 6-8; and Level IV for grades 9-12. Each of these levels contains four sections: speaking, listening, reading, and writing. The Aspira attorneys put the cut off point for eligibility for the Bilingual Education Program at the 20<sup>th</sup> percentile (Santiago Santiago, 1978) and determined that Hispanic-surnamed students that scored below the 20<sup>th</sup> percentile on the LAB had to take the Spanish LAB. Those whose scores on the Spanish LAB exceeded their scores on the English LAB were entitled to bilingual services (*Aspira of New York, Inc. v. Board of Education of the City of New York*, 1975). In the spring of 1975, the LAB was administered for the first time.

## **Bilingual and TESOL Teacher Education Programs**

In the middle of the 1970s, and after the Board of Regents had passed the Policy Paper on Bilingual Education, the Bureau of Bilingual Education was under the strong leadership of María Ramírez and, beginning in 1978, of Carmen Pérez-Hogan. Instructional bilingual and ESL programs flourished; the NY State Legislature provided funding; Title VII and Title I funds continued to increase; and NYSED recognized the need to look at the preparation of teachers of ELLs to fulfill the need to provide qualified, prepared and certified teachers.

## **Programs at Institutions of Higher Education**

By 1977, there were colleges offering programs in Bilingual Education and TESOL. For example, in New York State, Hunter College, New York University, the State University of New York at Albany, and Teachers College, Columbia University offered graduate degrees in the teaching of English to Speakers of other Languages. Queens College offered a baccalaureate degree, and some other institutions offered courses in the field at both undergraduate and graduate levels (University of the State of New York, 1989a p. xx). And, other institutions of higher education were developing bilingual and TESOL programs, including Adelphi University, CUNY City College, CUNY Lehman College, Fordham University, SUNY Buffalo State College, and SUNY Albany.

## **Teacher Certification in Bilingual Education and TESOL**

Teacher certification in Bilingual Education and TESOL were developed through the collaborative efforts of the NYS Bureau of Bilingual Education, the Office of Teacher Education, the New York State Teachers of English to Speakers of other Languages - Bilingual



Education Association (NYSTESOL-BEA; today NYSTESOL), and faculty from institutions of higher education. In the spring of 1976, the NYSTESOL-BEA began the formation of a task force to initiate procedures to request the state to certify teachers of English to speakers of other languages. They put together a paper that was disseminated to members of the organization and to the NYS Bureau of Bilingual Education. In 1977, the NYSED Bureau of Bilingual Education invited a group of TESOL educators (namely John Fanselow, Teachers College/Columbia University; Richard Light and Carmen Perez-Hogan, SUNY Albany; Nancy Frankfort, Hunter College; and Harvey Nadler, New York University) to define what distinguishes TESOL from teaching other areas. Their findings and suggestions were used by the Bureau of Bilingual Education as suggestions for developing registered programs leading to the proposed TESOL certification and to assist in developing a new certification in TESOL.

The members of the Commissioners' Advisory Council on Bilingual Education discussed and identified criteria to be included in the certification of bilingual teachers. The Bureau of Bilingual Education, at that point under the leadership of Carmen Pérez-Hogan, took TESOL and Bilingual Education criteria and recommendations given by the field and worked with Dr. Charles Mackey, Director of the Office of Teaching, on the final drafts. The Bureau of Bilingual Education and the Office of Teaching drafted the certification documents together. Dr. Mackey, considered a strong friend and supporter of bilingual education and ESL, worked with colleagues of his office to develop the appropriate language and format of these certifications. Three teacher certifications were endorsed (University of the State of New York, 1977).

- An extension to bilingual education for common branches and elementary school teachers;
- An extension for special education, and content subject areas; and
- A free standing certificate for teaching English to speakers of other languages

In 1980, the New York State Board of Regents approved Parts 80.9 and 80.10 of the Commissioner of Education Regulations, which established certification requirements for Bilingual Education and English as Second Language teachers. Individuals who wanted to become Bilingual Education teachers or English as Second Language (ESL) teachers in New York State needed to become certified. The document CR Part 80.9 provides the certification requirements for bilingual education teachers, and document CR Part 80.10 provides certification requirements for teachers of English to speakers of other languages (TESOL) (University of the State of New York, 1982a; 1982b).

### **Conclusion**

In the 1970s, several bilingual education policy actions and initiatives occurred for the first time in educational history in New York State. Among those policies and initiatives, the following ones have had considerable impact:

- (a) The Board of Regents for the first time acknowledged the role of bilingual and ESL programs as appropriate instructional programs in New York State;
- (b) The Educational law was amended to provide instruction in a language other than English;
- (c) Federal and state funding was provided for the development and implementation of bilingual programs; and
- (d) NYSED welcomed members, advocates and educators to meet with Department staff to establish effective bilingual and ESL programs and services to ELLs.

The decade was one of enthusiasm, hope, and hard work toward providing necessary services to English language learners. The NYSED Bureau of Bilingual Education, the Commissioner's Advisory Council on Bilingual Education, and representatives from local school

districts worked as partners in planning, developing, and implementing services and programs for emergent bilingual students. It was a 'golden' decade for bilingual education.

## **Chapter 5: 1981-1990: The Origin, Development, and Implementation of Part 154 of the Commissioner’s Regulations for English Language Learners**

When you speak to children of limited English proficiency in our State, you soon realize that they know clearly what their goals are: they want to become proficient in English while retaining the integrity and value of their cultural and linguistic heritage. They want opportunity equal to that of all other Americans - the opportunity as individuals to use their unique gifts and talents to the fullest. And indeed, for American society in an increasingly interconnected world, their gift of fluency in other languages and cultures represents an asset to be cultivated as they gain proficiency in English (University of the State of New York, 1988b, p. v).

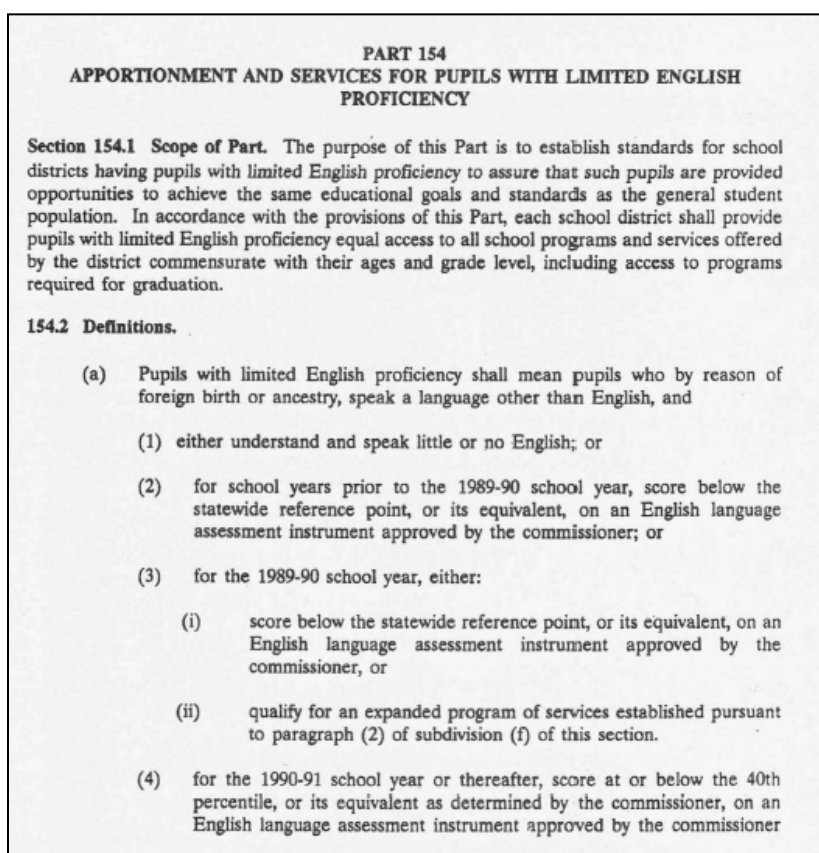
This chapter provides a summary of one of the most important NYSED policies passed by the Board of Regents related to the education of English language learners in New York State: Part 154 of the Commissioner’s Regulations for Pupils with Limited English Proficiency (hereafter called CR Part 154) (University of the State of New York, 1981). This chapter ends by describing additional initiatives that were established during this decade that enhanced the instruction and services provided to English language learners. Although the regulations in CR Part 154 used the term limited-English proficient (LEP) throughout the document, we replaced it with the current term - *English Language Learners* (ELLs).

### **An overview of the Commissioner’s Regulations Part 154**

The Division of Bilingual Education, along with the members of the Commissioner’s Advisory Council on Bilingual Education and support from the New York State Assembly Education Committee and Commissioner Gordon Ambach, sought comprehensive legislation “to enhance the quality of instruction for children of limited English proficiency who resided in New York State” (Ambach, 1980; Stravinsky, 1980). In 1981, the Board of Regents approved CR Part

154, which identified requirements for school districts pertaining to the education of students with limited English proficiency. As indicated in the CR Part 154 document LEP/ELLs are those who, due to foreign birth or ancestry, speak a language other than English. They must either understand and speak little to no English or score below a state designated level of proficiency. The main purpose of the standards/regulations were to assist school districts in developing and implementing programs for emergent bilingual students that were consistent with Education Law 3204 and CR Parts 117 and CR Part 154 (University of the State of New York, 1981). See Figure 5.1 for CR Part 154 definition of ELLs.

Figure 5.1. CR Part 154 Definition of ELLs.



Source: University of the State of New York, 1981, p. 3.

In 1981, the State Legislature amended State Education Law to provide Limited English Proficiency Aid (LEP Aid) to districts beginning with the 1981-1982 school year, which was

accompanied by a move to establish state standards for bilingual programs. For the first time, LEP Aid was available to districts meeting State standards as outlined in Part 154 of the Commissioner's Regulations.

Education Law 3204 (29) Chapter 827 of the Laws stated that districts receiving State funds for the education of pupils with limited English proficiency had to comply with state law and the standards set forth in Part 154 of the Commissioner's Regulations. The purpose of CR Part 154 was, and continues to be, the establishment of standards for school districts with English Language Learners to assure that these students are provided with opportunities to achieve the same educational goals and standards as the general student population. The policy demands that school districts provide English language learners equal access to all school programs and services offered by the district, commensurate with their age and grade level, including access to programs required for graduation. The policy addresses the following main components:

- Defines pupils of limited English proficiency as those who by reason of foreign birth or ancestry speak a language other than English, either understand and speak little or no English, and score below the statewide reference point on an English assessment instrument, and qualified for an expanded program of services;
- Requires school districts to establish an initial identification process to determine if the student is limited English proficient the first time enrolled in the New York State public school system;
- Requires an annual English language assessment to determine if the student continues to be limited in English proficiency;
- Identifies the two recommended programs for placement and instruction: a) Free-Standing English as a Second Language, and b) Bilingual Education;
- Puts the responsibility of educating emergent bilinguals on the local school district, whose duty is to provide appropriate services to all students.

It was required that districts assess students' eligibility through the use of an English language assessment instrument approved by the Commissioner. The LAB (Language Assessment Battery) has been used in NYC since 1975 to identify ELLs for bilingual education services, as well as used by many school districts in NYS to identify eligible ELLs. (In 1989, the LAB identification criterion was raised to the 40<sup>th</sup> percentile). If students scored below the 40<sup>th</sup> percentile, school districts needed to identify these students as ELLs and provide them with appropriate bilingual or ESL instructional services. It also supported additional services for emergent bilingual students once they entered "mainstream" English programs (e.g., tutoring and guidance).

CR Part 154 indicated that eligible ELLs had to be placed in one of the following two instructional program models: (a) Free Standing English as a Second Language program (ESL); or (b) Transitional Bilingual Education Program. These two programs are defined by CR Part 154 (University of the State of New York, 1981) as follows:

English as a second Language program shall mean a free-standing program of instruction, composed of English as second language component, and content area instruction in English supported by English as a second language methodology. Such instruction shall take into account the first language and culture of such pupils (p. 4).

Bilingual education shall mean a transitional program of instruction which includes English as a Second Language component, content area instruction in the native language and English and a native language arts component. Such instruction shall take into account the first language and culture of such pupils (p. 4).

### **Transitional Bilingual Education Programs**

Schools that have an enrollment of 20 or more students identified as English language learners in the same grade level, all of whom have the same home language other than English, should provide students with a bilingual education program that includes instruction in English

as a Second Language. Such a program is designed to help students acquire English proficiency while continuing to learn the subject areas appropriate to their grade level in the home language. The program is planned to transition from home language instruction into instruction in English. The goal of a transitional bilingual education program is proficiency in English language so that the student can make a prompt transition to learning only in English. CR Part 154 specifically calls for a transitional bilingual education program which includes an ESL component, a content area instructional component, and a native language arts component (University of the State of New York, 1990a, p. 14).

### **Free-standing English as a Second Language Program**

Schools that have eligible students with limited English proficiency of the same grade level assigned to a building, but which do not have 20 such students with the same home language, must provide an English as a Second Language program. English as a Second Language program is a specific discipline, which facilitates the learning of English systematically and cumulatively, moving from concrete to abstract levels of language. It is sensitive to the home languages and cultures of the students, and facilitates the students' integration into the culturally pluralistic mainstream. CR Part 154 calls for a Free-standing ESL program of instruction, which includes an ESL component and a content area instructional component in English, supported by ESL methodologies (University of the State of New York, 1981).

When referring to the bilingual program, CR Part 154 clearly stated the role of the native language:

The native language arts component shall provide instruction in a language other than English, designed to develop communication skills, including those of listening,



speaking, reading and writing, in a student’s home language as well as an appreciation of the history and culture of the United States and the country of origin, through the study of literature. Such component shall be provided for a minimum of one unit of study (University of the State of New York, 1981, p. 5).

Table 5.1 compares the two programs and shows the various components of each program.

Table 5.1. Bilingual and ESL Programs According to CR Part 154.

<b>Transition Bilingual Education Program</b>	<b>Free Standing English as a Second Language Program</b>
English as a Second Language	English as a Second Language
Content area instruction through English and native language	Content area instruction through English using ESL methodologies
Native Language Arts	Native Language Arts Not Applicable

Source: University of the State of New York, 1981.

### **School Districts’ Responsibility**

The policy also provided districts with criteria that determined when to place a student in a Free Standing English as a Second Language program or in a Bilingual Education program. It required (and still requires) districts to offer a bilingual education program when 20 or more students who speak the same home language and are in the same grade are assigned to the same building. As stated by CR Part 154:

Each school district which has an enrollment of 20 or more eligible pupils with limited English proficiency of the same grade level assigned to a building, all of whom have the same native language which is other than English, shall provide such pupils with bilingual education programs, including instruction in English as a Second Language (University of the State of New York, 1981, p. 6).

Districts were also required to offer Free Standing English as a Second Language program when the number of ELLs in the same grade level was less than 20. CR Part 154 stated:

Each school district which has any eligible pupils with limited English proficiency of the same grade level assigned to a building, but which does not have 20 of such pupils with the same native language which is other than English, shall provide a program of English

as a Second Language, and may also provide a program of bilingual education to such pupils (University of the State of New York, 1981, p. 6).

During the 1970s and early 1980s, school districts were required to offer bilingual and ESL instruction to ELL students for up to three years, with the option of asking for an extension to meet the linguistic needs of those students not passing the English language proficiency assessment. ELL students could continue to receive bilingual education and ESL instruction for up to six years (Education Law 3204).

According to CR Part 154 policy, parents/guardians of emergent bilingual students had to be notified of their children's eligibility for, and placement in an instructional bilingual or ESL program and/or provided other instructional options. CR Part 154 also provides requirements regarding support services, transitional services and in-service training. CR Part 154 guided the assessment and instruction of ELLs up until 1990 when the policy was revised and it became more specific and prescriptive.

In 1988, the Board of Regents revised and issued a new Regents Policy Paper for Bilingual Education (thereafter referred as 1988 Regents' Position Paper on Bilingual Education) (University of the State of New York, 1988b). As a result, CR Part 154 was revised and amended to reflect the new policy, which includes holding all school districts accountable for identifying and serving ELL students; requiring school districts to: (a) adopt a policy on the education of ELL students; (b) plan and provide appropriate services for those students; (c) evaluate and report their achievement in English and mathematics; and (e) provide assurance that all provisions of CR Part 154 were met. Accordingly, guidelines were issued to help districts implement the new regulations.

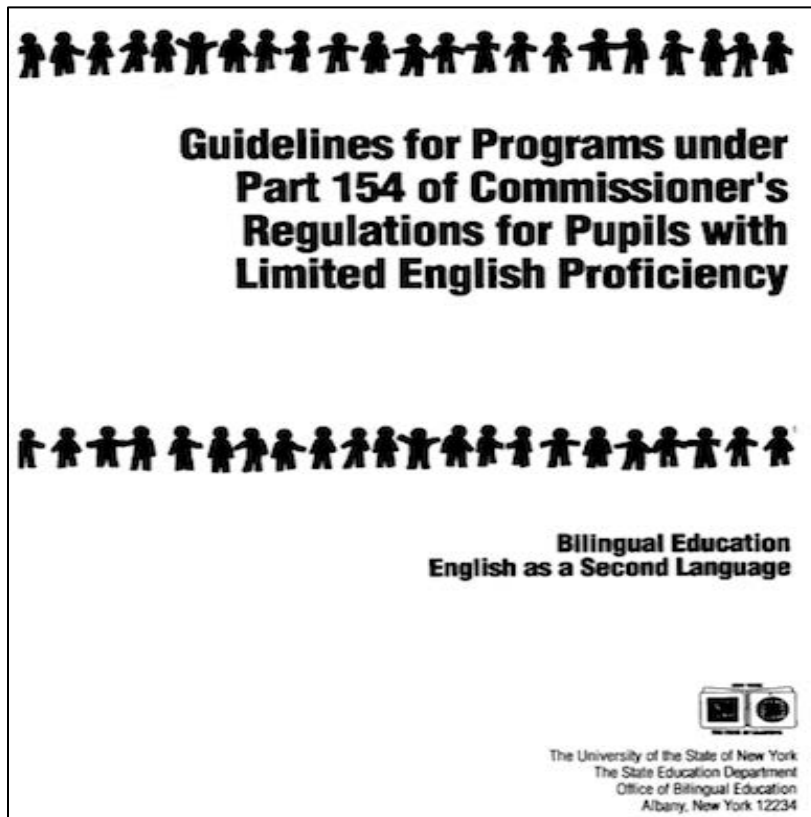
## **Guidelines for Implementation**

After the approval and implementation of CR Part 154, the Division of Bilingual Education, under Carmen Pérez-Hogan's leadership and guided by the Commissioner's Advisory Council on Bilingual Education, developed the Guidelines for Programs under CR Part 154 (see Figure 5.2 for a copy of the cover page). According to Woo, "the Commissioner's Advisory Council on Bilingual Education worked very hard to put together the guidelines on how to implement CR Part 154. They considered the spirit and intent of the regulations" (R. Woo, personal communication, May 7, 2012). These guidelines were useful to school districts in the implementation of CR Part 154. The guidelines required school districts to follow certain steps or rules, such as:

- Having specific written procedures to be followed in the screening, identification, and assessment of ELLs;
- School districts with identified ELLs had to develop, adopt and implement a written policy for the education of pupils with limited English proficiency;
- The New York City Board of Education required that each of the NYC community school districts adopt and implement a written policy for the education of pupils with limited English proficiency;
- A number of reports had to be submitted to NYSED with information on the implementation of programs, the implemented assessment, the teachers' qualifications, and the type of curriculum implemented by the school district;
- The use of an annual English language assessment to determine if a pupil with limited English proficiency continued to be an ELL;
- Rationale for placement of ELLs in a bilingual or in an ESL instructional program;
- Explicit list of components to be included in Transitional Bilingual Education programs and Free Standing English as a Second Language Program;
- Identification and description of testing requirements;

- Evaluation design and objectives for measuring the effectiveness of the Bilingual Education or the Free Standing ESL programs; and
- Specific written recommendations to increase the involvement of the parents or guardians of emergent bilinguals.

Figure 5.2. Cover page of CR Part 154 Guidelines.



Source: University of the State of New York, 1990a, cover page.

The Guidelines provided examples of schedules appropriate to elementary, middle school, and high school levels. Each schedule reflected all the requirements in the recommended State Core curriculum, and it allowed for the gradual increase in the use of English instruction and mainstreamed ELL students. Figure 5.3 provides an example of elementary level schedule for ELLs recommended by CR Part 154.

Figure 5.3. CR Part 154 Example of Elementary Level Instructional Schedule for ELLs.

**Chart III**  
**1st to 23rd Percentile**

<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">Beginning Level</td></tr> <tr><td style="text-align: center;">Native Language Arts (36 min. Native Language)</td></tr> <tr><td style="text-align: center;">Mathematics (20 min. N.L./10 min. English)</td></tr> <tr><td style="text-align: center;">Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)</td></tr> <tr><td style="text-align: center;">Social Studies (20 min. N.L./10 min. English)</td></tr> <tr><td style="text-align: center;">English as a Second Language (30 min Oral Lang./30 min Reading/Writing)</td></tr> <tr><td style="text-align: center;">Science/Health &amp; Safety (15 min. N.L.)</td></tr> </table>	Beginning Level	Native Language Arts (36 min. Native Language)	Mathematics (20 min. N.L./10 min. English)	Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)	Social Studies (20 min. N.L./10 min. English)	English as a Second Language (30 min Oral Lang./30 min Reading/Writing)	Science/Health & Safety (15 min. N.L.)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">Intermediate Level</td></tr> <tr><td style="text-align: center;">Native Language Arts (36 min. Native Language)</td></tr> <tr><td style="text-align: center;">Mathematics (15 min. N.L./15 min. English)</td></tr> <tr><td style="text-align: center;">Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)</td></tr> <tr><td style="text-align: center;">Social Studies (15 min. N.L./15 min. English)</td></tr> <tr><td style="text-align: center;">English as a Second Language (15 min Oral Lang./45 min Reading/Writing)</td></tr> <tr><td style="text-align: center;">Science/Health &amp; Safety (5 min. N.L./ 10 min. English)</td></tr> </table>	Intermediate Level	Native Language Arts (36 min. Native Language)	Mathematics (15 min. N.L./15 min. English)	Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)	Social Studies (15 min. N.L./15 min. English)	English as a Second Language (15 min Oral Lang./45 min Reading/Writing)	Science/Health & Safety (5 min. N.L./ 10 min. English)
Beginning Level															
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Social Studies (15 min. N.L./15 min. English)															
English as a Second Language (15 min Oral Lang./45 min Reading/Writing)															
Science/Health & Safety (5 min. N.L./ 10 min. English)															
<b>24th to 40th Percentile</b>															
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">Advanced Level</td></tr> <tr><td style="text-align: center;">Native Language Arts (36 min. Native Language)</td></tr> <tr><td style="text-align: center;">Mathematics (10 min. N.L./20 min. English)</td></tr> <tr><td style="text-align: center;">Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)</td></tr> <tr><td style="text-align: center;">Social Studies (10 min. N.L./20 min. English)</td></tr> <tr><td style="text-align: center;">English as a Second Language (10 min Oral Lang./30 min Reading/Writing)</td></tr> <tr><td style="text-align: center;">Science/Health &amp; Safety (15 min. English)</td></tr> </table>	Advanced Level	Native Language Arts (36 min. Native Language)	Mathematics (10 min. N.L./20 min. English)	Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)	Social Studies (10 min. N.L./20 min. English)	English as a Second Language (10 min Oral Lang./30 min Reading/Writing)	Science/Health & Safety (15 min. English)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="text-align: center;">Transitional Level</td></tr> <tr><td style="text-align: center;">Native Language Arts (36 min. Native Language)</td></tr> <tr><td style="text-align: center;">Mathematics* (30 min. English)</td></tr> <tr><td style="text-align: center;">Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)</td></tr> <tr><td style="text-align: center;">Social Studies* (30 min. English)</td></tr> <tr><td style="text-align: center;">Transitional Language Arts (60 min English Reading/Writing)</td></tr> <tr><td style="text-align: center;">Science/Health &amp; Safety* (15 min. English)</td></tr> </table>	Transitional Level	Native Language Arts (36 min. Native Language)	Mathematics* (30 min. English)	Art, Music, Physical Education (Eng Instrm-45 min P.E./30 min Art/Music)	Social Studies* (30 min. English)	Transitional Language Arts (60 min English Reading/Writing)	Science/Health & Safety* (15 min. English)
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Source: University of the State of New York, 1990a, p. 27.

The Guidelines were so popular that NYSED ran out of copies after the first run. It was an extremely important document. The Division of Bilingual Education made two runs of it three years apart (R. Woo, personal communication, May 7, 2012).

### **Beyond CR Part 154: Enhancing and Expanding Services for English Language Learners**

During the decade of 1981-90, and due to policies such as NYSED CR Part 154, Regents Plan for Bilingual Education, availability of state and federal funding, and in New York City, the Aspira Consent Decree and the Lau Guidelines, several additional initiatives on behalf of emergent bilingual learners were planned, developed and implemented. In 1981, together with

CR Part 154, the Board of Regents passed Part 117, Diagnostic, Screening of pupils. Regarding ELLs, CR Part 117 stated:

Pupils who score below level two on either the third grade reading or mathematics test for New York elementary schools and pupils who obtain a comparable percentile score on the Regents preliminary Competency Test on Reading or writing shall mean pupils obtaining scores that have been designated by the Commissioner as the scores indicating the need for diagnostic screening. Those pupils exempted from testing as non-English speaking shall be examined in the pupil's native language through similar procedures, and shall be screened for possible handicapping conditions if resultant scores are comparable to those indicated above (p. 1). (This document is included as an appendix in *Guidelines for Programs under Part 154 of Commissioner's Regulations for Pupils with limited English proficiency*, University of the State of New York, 1990a).

As part of this policy, the Board of Regents approved alternative competency assessment testing procedures for emergent bilinguals to assure their equal access to State-endorsed diplomas. For example, the Competency Test in Mathematics and a Reading and Writing test were provided in 29 separate languages. What a milestone! ELL students were allowed for the first time in the history of NYSED to be tested in their strongest language! Further, there was a need to identify those ELLs who also might have a “possible handicapping condition.”

Although the base instructional programs for ELL students during the 1980s were, and still are, funded primarily by local funds supplemented by New York State *Limited English proficiency (LEP) Aid*, districts are entitled to an additional percent of the districts per pupil operating aid. This aid is provided to those districts with State-approved comprehensive plans following the guidelines established by CR Part 154 (University of the State of New York, 1995). In 1981, the State legislature approved an additional five percent in General State Aid to districts providing approved services to limited English proficient students. This apportionment was increased several times to a 1989 level of 15 percent. This funding initiative increased the

number of school districts that implemented transitional bilingual programs and English as a second language programs.

In addition, since 1973, the provision of services to ELL students was reinforced by funding from the New York State Legislature. ‘Bilingual Categorical Funding’ allowed the NYSED Division of Bilingual Education to provide additional bilingual education initiatives for school districts. For example, in 1983, a network of bilingual/ESL Technical Assistance Centers (BETACs) were established, located in Boards of Cooperative Educational Service Centers and institutions of higher education throughout the state. The Commissioner’s Advisory Council on Bilingual Education had recommended the development of technical assistance centers and Carmen Pérez-Hogan had visited the federally-funded Multilingual Centers, which used similar technical assistance activities. She designed the Bilingual Education/ESL Assistance Centers (BETACs) following the Multilingual Centers model (C. Pérez-Hogan, personal communication, April 5, 2012).

Ron Woo provided insight into how involved communities and organizations were with the development of NYSED initiatives. Woo stated that the Chinese Bilingual Educators Coalition had heard of the planning and establishment of these technical assistance centers and felt that one of them should address the needs of the Chinese ELL population (R. Woo, personal communication, May 7, 2012). Members of the Coalition met with Carmen Pérez-Hogan, who told them “she would do whatever she could.” One year later, one of the BETACs became the Chinese Bilingual/ESL Technical Assistance Center (CABETAC). Other Asian languages continued to push to be included, and years later the CABETAC was expanded to include other Asian languages and became the ‘Asian Languages Bilingual/ESL Technical Assistance Center’ (ALBETAC). That was followed by the development and funding of the Haitian Bilingual

education Center (HABETAC) and later the Spanish Bilingual Education Center. Initially, seven BETACs were established, located in Buffalo, Eastern and Western Suffolk, New York City, Erie, Monroe, Onondaga/Cortland, Ulster, and South Westchester. Most of them were located at the BOCES offices.

In 1984, in the spirit of promoting bilingual education for all children, NYSED funded Two-Way Bilingual Education programs. Two-Way Bilingual programs provide instruction in two languages (native and English) to both English language learners and English proficient students. This enabled school districts to promote the simultaneous development of English and the students' home language, and for monolingual English speaking students, the development of the additional language. Schools and school districts that received funding for the implementation of Two-way Bilingual Programs included PS 211(CSD 4-NYC), PS 30 (CSD 30-NYC), and Bay View Elementary School (Freeport School District), Lido Elementary School (Long Beach School District), and J. F. Kennedy School (Port Chester/Rye School District). (C. Pérez-Hogan, personal communication, April 5, 2012; University of the State of New York, 1998b).

During the period of 1984-1988, 25 school districts received funding for Two-Way Bilingual education programs (University of the State of New York, 1989b). By 1990, NYSED had upgraded the 'Bureau of Bilingual Education' to the 'Division of Bilingual Education' and Carmen Pérez-Hogan continued as the director. She and her staff continued to work closely with other departments at NYSED, with the Board of Regents, and especially with Regent Louise Matteoni, and later on with Regent Ricardo Oquendo in the establishment of significant bilingual initiatives. In addition, the Division of Bilingual Education continued to make use of the talents,



knowledge, expertise, advocacy and experience of the members of the Commissioner's Advisory Council on Bilingual Education.

An effective strategy employed by Carmen Pérez-Hogan was to invite groups of well-informed educators, experts, and advocates to become members of committees and work groups with the task of working on a specific project, issue or document. For example, the development of The New York State Core Curriculum for English as a Second Language in the Secondary Schools (University of the State of New York, 1983) included members such as Richard Quintanilla, Karl C. Folkes, Karen Andreasen, Dolores Girillo, and Diane Isola. Another group that was invited to work with the Division of Bilingual Education was the New York State Consortium of Colleges and Universities in Bilingual Education, which included Angela Carrasquillo, Iris Martinez-Arroyo, Basilio Serrano, Sandra Ruiz-Scott, Edgar Rodríguez, Gladys Wolf, and Isaura Santiago Santiago. They contributed by developing documents on bilingual education for use by institutions of higher education. One of the documents that came out of that collaboration was the Background paper on Bilingual Postsecondary Education (University of the State of New York, 1980). Carmen Pérez-Hogan had an inspiring charisma, and when she invited people to volunteer their time and expertise they “felt honored to receive a phone call inviting them to be part of a committee or the Commissioner's Advisory Council” (R. Woo, personal communication, May 7, 2012). The NYSED Office of Bilingual Education was able to bring educators from different areas and use their expertise and experience to prepare documents to support school districts in providing appropriate assessments, services, and instruction to English language learners.

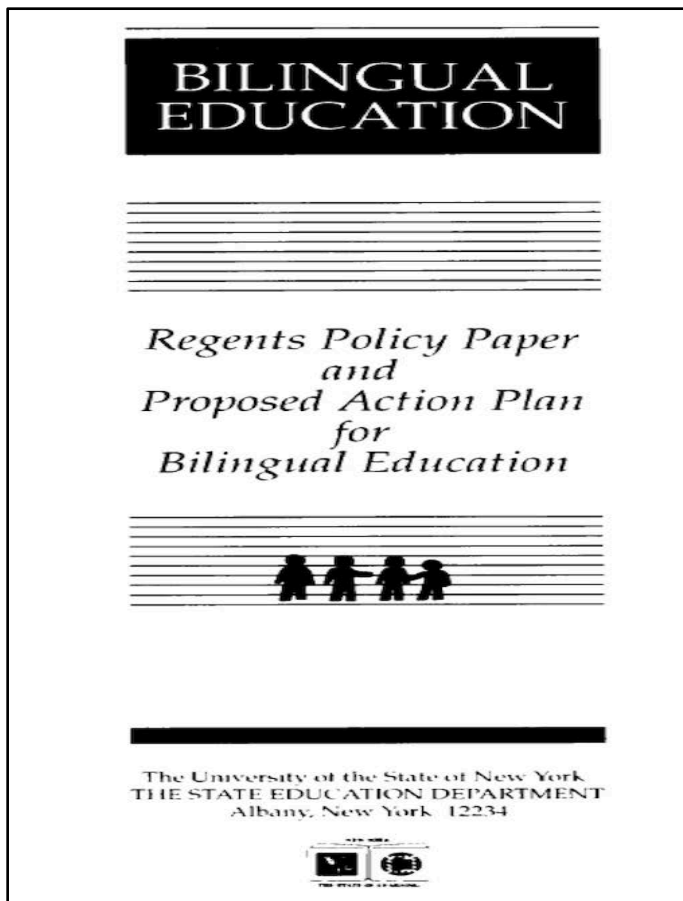
Carmen Pérez-Hogan was conscious of the need to have the Board of Regents' continued support and commitment toward bilingual education and English as a Second language. Further,

as part of that role, she had regular presentations at the Board of Regents' meetings to inform and "educate" them on issues, topics, research, and strategies to better serve the ELL population. She invited experts in the field of bilingual education, as well as her staff to make full presentations to the Board.

At the end of the 1980s, Carmen Pérez-Hogan invited a committee of educators and practitioners, together with a group of members of the Commissioner's Advisory Council (including Jean Previllon, Frank Puig, Manuel Ramos, Luis Reyes, Mutsuko Tanouchi, José Vazquez, Michael Vega, Robin Willmer, Isaura Santiago Santiago, Katherine Sid, Nilda Soto Ruiz, John Spiridakis) to review the previous policy on bilingual/ESL programs, with the purpose of drafting a new one to present to the NYSED Board of Regents for approval. The committee from the field was comprised of "people who worked on it and wrote it for presentation to the Advisory Council, whose members read, reacted, approved, and gave the imprimata to it" (R. Woo, personal communication, May 7, 2012).

In 1988, the Board of Regents approved the 1988 Regents' Position Paper on Bilingual Education (University of the State of New York, 1988b), and disseminated it one year later (see Figure 5.4 for the copy of the cover page). This document reaffirmed the Regents' commitment to provide appropriate programs for the emergent bilingual school population. It also provided then Commissioner Thomas Sobol with the necessary support to continue developing policies and regulations for initiatives for bilingual and ESL instruction.

Figure 5.4. Cover page of the 1988 Regents Policy Paper and Proposed Action Plan for Bilingual Education.



Source: University of the State of New York, 1988b, cover page.

In the introduction to this policy document, the Regents' Chancellor, Martin Barell, said:

The Policy Paper establishes new York State as a leader in recognizing the needs of students with limited English proficiency and recognizing that native languages other than English are a valuable resource. It provides the State with a long-range vision of bilingual proficiency, not only for native speakers of languages other than English, but for all New Yorkers" (University of the State of New York, 1988b, p. vi).

During the 1980s, the Division of Bilingual Education recognized the diversity within the ELL bilingual population, not only in terms of ethnic and language backgrounds and language proficiency levels, but also in terms of school experiences and cognitive development. The publication Guidelines for Services to Handicapped Students with Special Education Needs in

New York State (University of the State of New York, 1988a) is reflective of the work and collaboration of two offices at NYSED — the Division of Bilingual Education and the Office of Vocational and Educational Services for Individuals with Disabilities (VESID), today known as the Office of Special Education. Collectively, personnel in those two offices worked to address the needs of emergent bilinguals with disabilities. These guidelines outline requirements for the appropriate identification, referral, and placement of limited English proficient students having or suspected of having handicapping conditions (Comprehensive discussions of topics related to Bilingual Special education in New York appear in Chapter 9).

Unfortunately, during the end of the 1980s and the beginning of the 1990s, when the State and Board members, practitioners, and assessment experts were all working together toward the development of effective bilingual and ESL programs in order to meet the instructional and linguistic needs of the ELL population, an enemy arrived to New York State - the English Only movement (C. Pérez-Hogan, personal communication, April 5, 2012). Luis O. Reyes expressed that pushing the English-only faction out of New York State was one of the most ardent fights they had (L. O. Reyes, personal communication, May 7, 2013). Reflecting on this time in the history of bilingual education in New York State, Carmen Pérez-Hogan said: “We kept that movement out of New York, we kicked them out.” She said that several people helped prevent the English Only Movement from changing New York State language policy. This English Only group’s purpose was to declare an English Only policy in New York State. They tried to have an open audience at one of the Board of Regents meetings. However, Carmen Pérez-Hogan alerted advocates and members of the Commissioner’s Advisory Council on Bilingual Education, community organizations and educational practitioners, and people responded by going to the meeting in Albany and gave their counter position. Carmen Pérez-

Hogan said: “Advocates played a big role. Luis Reyes played a big part. The Regents played a big part, and Assemblyman José Serrano played a big part in keeping English Only out of New York State” (C. Pérez-Hogan, personal communication, April 5, 2012). During the 1990s, the English only movement could not persuade the Board of Regents, NYSED Commissioner Sobol and other officers, nor, of course, the diverse community of practitioners and advocates to change language policy in New York State.

### **Conclusion**

Bilingual Education was strengthened during the 1980s. Bilingual Education and English as Second Language methodologies were recognized as effective instructional models in New York State’s public schools. Also important were certification requirements for qualified teachers, as well as mandated regulations for bilingual and ESL programs. These positive results were due to the coordinated efforts of the Division of Bilingual Education, the Commissioner’s Advisory Council on Bilingual Education, committed school districts and school administrators, the collaboration of advocates and community organizations, the enthusiasm of bilingual and ESL teacher educators, the motivation and commitment from bilingual and ESL teachers, and the involvement of parents of ELLs. All of these groups worked together on behalf of the ELL population. The Board of Regents had no other option but to pass policies that were brought to them. Funding from various sources such as ‘categorical funding’ and federally funded grants contributed to the development and implementation of programs and initiatives to expand the services provided to the ELL school population. The Board of Regents welcomed presentations and research summaries to enlighten them on the strengths and needs of emergent bilinguals in the state of New York.

CR Part 154 is considered the backbone of the Regents' educational policy for the provision of appropriate educational programs and services for ELLs in the state of New York. Even today, in 2013, after several CR Part 154 modifications and amendments, the policy remains as the central focus, offering guidance and criteria for the provision of instruction and services to English Language Learners. We conclude this chapter by stating that the success of the decade was due to the many voices that requested equal and appropriate education for emergent bilinguals. These voices encouraged the Division of Bilingual Education, as well as the Commissioners during that time (Ambach and Sobol) and the Board of Regents, to approve initiatives to expand the services provided to ELL students.

## **Chapter 6: 1991-2000: Setting High Expectations, Building Capacity, and Reporting Results for English Language Learners**

For many years, the education of limited English proficient (LEP) students has been one of the Regents major goals, and they have taken many steps toward this goal. Now changes in the educational environment, in demographic trends, and in the international arena have made this goal even more crucial. The numbers of limited English proficient and language minority students have increased; and as demand for linguistically skilled persons has risen in both the public and the private sectors, the value of bilingualism becomes more and more evident (University of the State of New York, 1988b, p. 1).

This chapter describes policies and initiatives developed during the 1990s for the purpose of strengthening programs and services to meet the linguistic and academic needs of students for whom English was not their primary language. Accordingly, this chapter describes the main initiatives that were implemented to meet the Regents' statewide initiatives to reform the educational system, the Regents' policies and proposed action plan for bilingual education, and the implementation of CR Part 154 mandates and guidelines for implementation.

### **Bilingual/ESL Initiatives in the Early 1990s**

The beginning of the 1990s had Thomas Sobol as the Commissioner of Education who had offered his own reform plan called A New Compact for Learning. Folts (1996) in the section IV of his writing, addressing elementary, middle, secondary and continuum education in New York State, summarized Sobol's plan as follows:

The new Compact was the Regents' broadest statement of educational philosophy since the Regents' inquiry reports of the late 1930s. It embraced a number of them, all of them aimed at raising school standards and performance: statewide goals for schools, a challenging program for all students, mutual responsibility of local school administrators, teachers, and parents and the community for school and pupil performance; Department

support for school initiatives and interventions when schools were in danger of failing (n.p.)

This plan set curriculum standards for each grade level and directed school districts to develop their own plans and curricula for meeting their goals. There was also the mandate to involve parents and teachers in the teaching/learning process. Another initiative of Commissioner Sobol at the beginning of the 1990s was to restructure the New York State Education Department by closing the divisions and subject matter bureaus, assigning staff with vertical and horizontal responsibilities, and creating “teams” for policy and central services. He implemented state regional teams, thinking that this organization would allow more parental and community involvement in schools, resulting in a better school curriculum and higher student achievement. Most program directors were assigned to regions such as Buffalo, Long Island, and New York City while concurrently having responsibility for providing leadership in their subject expertise.

The Division of Bilingual Education was closed, staff assigned to various teams, and Carmen Pérez-Hogan assigned to lead the Buffalo team while at the same time, respond to all concerns relative to the education of English language learners. This dual responsibility proved to be detrimental to programs and services. For example, in a memo sent by Carmen Pérez-Hogan on July 5, 1994 to Associate Deputy Commissioner Larry Gloeckler (Pérez-Hogan, 1994), she stated:

***Issue: There is a need to establish a team with a lead coordinator that will have the full time responsibility to coordinate Department program initiatives, services, resources, communication, data, and funding and to address issues that meet the needs of LEP students and their families.*** (It appears in bold print in the original document)

Great effort has been made by Department staff in different sectors of the Office of Elementary, Secondary, Middle and Continuing Education in trying to carry out the



multiple responsibilities relative to limited English proficient students. Despite the courageous efforts of SED staff, the magnitude of the programs, issues and challenges are beyond the reasonable capability of the current configuration of teams, staff, to handle along with other vertical responsibilities (p. 1).

Other regional bilingual educational offices had closed with the exception of the New York City office with Gloria Casar as the main administrator. At the same time, NYSED was challenged to implement Regents' policies and mandates to serve emergent bilinguals enrolled in New York State public schools. Carmen Pérez-Hogan found herself with the responsibility of continuing to work on initiatives in order to support the instructional needs of emergent bilinguals and their teachers, as well as leading the Buffalo team.

However, after a few years of the Commissioner's lack of success with the Department's restructuring, program directors and staff were returned to program offices. The Division of Bilingual Education became the Office of Bilingual Education and in December 1994, Carmen Pérez-Hogan was re-assigned to lead the office. Nancy Villarreal de Adler, talking about NYSABE advocacy on behalf of the opening of the Albany office said: "During my presidency, we finally won the battle. We did because we fought for two or more years. You are going to see the memorandum that says, yes, we are reopening the Office of Bilingual Education" (M. Villarreal de Adler, personal communication, May 15, 2013).

### **Initiatives Under the New Compact for Learning**

Regents' policies passed and initiatives included in the *New Compact for Learning* included:

- Supporting the Regents Policy Paper and Proposed Action Plan for Bilingual Education (University of the State of New York, 1981). The policy asserted that:
  - (a) all students in New York State become proficient in English, and to the extent, possible, in another language, and that all students understand and respect their own and other cultures;
  - (b) educational access, equity and excellence be promoted for

ELLs so that they become proficient in English and remain proficient in their first language;

(c) programs need to be staffed by qualified professionals;

(d) encouragement and initiatives for parental participation; and,

(e) consideration of the needs of emergent bilinguals in the development of all State educational initiatives.

- CR Part 154 was amended in 1990, holding all districts accountable for identifying and serving emergent bilingual students, by requiring them to adopt a policy on their education, to provide a plan for appropriate services, evaluate and report student achievement in English and mathematics, and to provide assurance that all provisions of CR Part 154 were met. Students were able to generate LEP Aid under CR Part 154 for a maximum of six years. If the ELL student did not achieve the required proficiency after three years of bilingual or ESL instruction, the district was able to request to extend bilingual or ESL services for an additional three years.
- The LAB was revised (LAB-R) by the New York City Department of Education and the ELL cut off point score to exit the bilingual or ESL program was raised to the 40th percentile.
- New York City had two additional requirements: (a) the Consent Decree required that ELL Spanish speaking students be provided with bilingual education; and (b) the Lau Compliance Plan required that ELL students of languages other than Spanish be provided with ESL or bilingual education programs.

### **Office of Bilingual Education's Monitoring and Compliance Responsibilities**

The decade of the 1990s found the NYS Office of Bilingual Education working diligently, implementing all components of the State policies and mandates, especially (a) the periodic monitoring of mandated programs for ELL students; (b) compliance with federal and state requirements; and (c) provision of technical assistance. Since school districts were claiming state aid to implement bilingual and ESL programs in their districts to meet mandated CR Part 154, the Bilingual Education Office provided oversight of programs and services to ELL

students, including the review of each district report for assessment of compliance with State laws and regulations. In 1990-1991, there were 207 districts with programs serving emergent bilinguals, and by 1993-1994, there were 226 districts that had claimed State LEP aid (University of the State of New York, 1995).

The Office of Bilingual Education developed initiatives to help districts with mandated assessment requirements. Emergent bilingual students enrolled in bilingual and ESL programs exited the program once they reached the 40<sup>th</sup> percentile on an English test, primarily the LAB-R.

Additionally, new assessment policies required students to meet high school graduation requirements by passing the Regents' competency tests in mathematics, social studies, science and the English Comprehensive Test. To overcome students' English language challenges in being tested in English, an initiative was passed to provide ELLs with the alternative of taking the Regents competency tests in their native languages (University of the State of New York, 1998b).

In general, there were positive results in the initial implementation of bilingual and ESL programs: "many bilingual and ESL teachers and programs were found to be in full compliance" (University of the State of New York, 1995, p. 2). Compliance issues in some of the schools that were not properly implementing appropriate services and instruction to ELLs included (a) lack of bilingual or ESL programs; (b) instruction not provided by a certified bilingual or ESL teacher; (c) not providing the required hours of weekly ESL instruction; (d) lack of an appropriate curriculum; (e) poor coordination between the bilingual/ESL and special education services; (f) lack of an annual educational assessment to students; (g) lack of communication with parents in a language they understood; and (h) lack of providing for an extension to provide ESL or

bilingual services beyond the third year. These issues prompted the Office of Bilingual Education to plan, develop, and implement strategies to provide technical assistance and staff development to more school districts across the state.

In 1992, the certification requirements for bilingual education and English as second Language teachers were revised to comply with the new NYSED policies on teaching in bilingual and ESL programs, and with mandated curriculum and assessment mandates. In addition to the provisions of State law and Commissioner's Regulations, federal laws and regulations also protected the rights of emergent bilinguals by providing guidelines to states for how to develop and implement proper programming for those students. NYSED followed the guidelines in Title I and Title III, (formerly Title VII) as well as Title VI (Civil Rights of 1964) and the Equal Opportunities Act of 1974.

### **Funding for Bilingual and ESL Programs**

Instructional programs for serving ELL students were funded primarily by local funds and supplemented by State LEP Aid. In addition, other federal and State funds were used to enrich the base programs and provide additional services for ELL students.

- State Limited English Proficiency (LEP) Aid. For each ELL student, local districts were entitled to an additional 15% of the district per-pupil operating aid;
- Legislature Bilingual Categorical Funds. The Legislature continued to provide categorical funds to provide additional initiatives to benefit emergent bilinguals;
- Federally-Funded Programs. Title VII represented the largest source of federal funding for programs for emergent bilinguals. It also funded salaries for staff in the NYS Office of Bilingual Education; and
- The Emergency Immigrant Education Assistance (EIEA) program provided funds for the education of immigrant students to districts having been in the U.S. three years or less. Many of these immigrant students were emergent bilinguals.

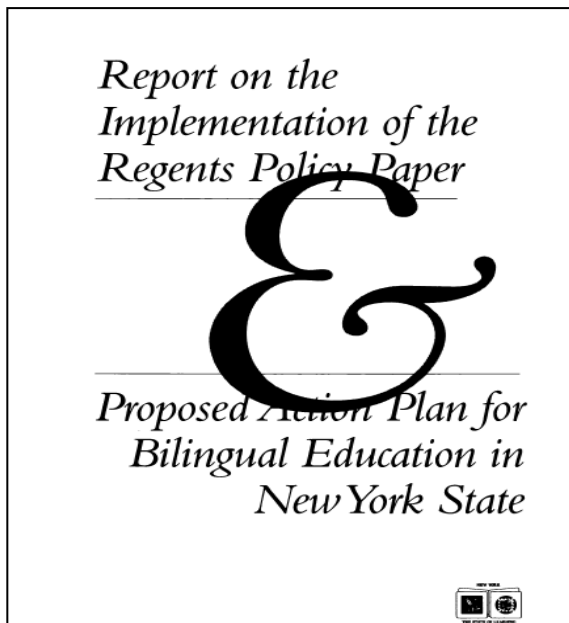
## **Bilingual/ESL Initiatives to Meet Regents' Reform Agenda**

Richard P. Mills became Commissioner of Education in 1995. Commissioner Mills and the Board of Regents took a further step and passed the Educational Reform Agenda for all Students. Accordingly, NYSED started the development of an overall strategy for students in New York that set clear and high expectations for all students. It included two components: (a) A Strategy for Raising Standards; and (b) Essential Elements of New Effective programs. Three main principles were the foundation for the new reform goals: (a) Establishing clear and high standards; (b) Developing the capacity of the system, the school, and the student to ensure successful education; and (c) Reporting results in a meaningful and accountable manner. One of the main policies was establishing that the Regents exams and the Regents Diploma be required for all of New York State's students, which was to be phased in over several years beginning with the English and math tests in 1997. Education reform effort specifications included:

- Adoption of NY State's 28 learning standards in seven subject areas (English language arts; mathematics, science and technology; social studies; languages other than English; arts; career development and occupational studies; and health, physical education and home economics). The 28 learning standards define, in general terms, what the Regents determined all students needed to learn.
- Revision of the State assessment system (i.e., implementing Regents examinations) to measure achievement of State learning standards. The state voted to phase out state-developed tests (RCTs), which were less rigorous; further, the state voted to require that all students take and pass the Regents' tests in five areas: English, math, global history/geography, U.S. history/geography, and science.

- Revision of the State’s graduation requirements to match the learning standards.
- Preparation of the Report on the Implementation of the Regents Policy Paper: Proposed Action Plan for Bilingual Education in New York State in order to address activities undertaken during the previous five years to meet the five goals of the Regents Policy Paper on Bilingual Education, as well as the Regents’ reform goals. The report documents the status of the implementation plan for the 1988 Regents’ Policy Paper on Bilingual education. See Figure 6.1 for the cover page of the Report on the Implementation of the Regents Policy Paper.

Figure 6.1. Cover page of the Report on the Implementation of the Regents’ Policy Paper: Proposed Action Plan for Bilingual Education in New York State.



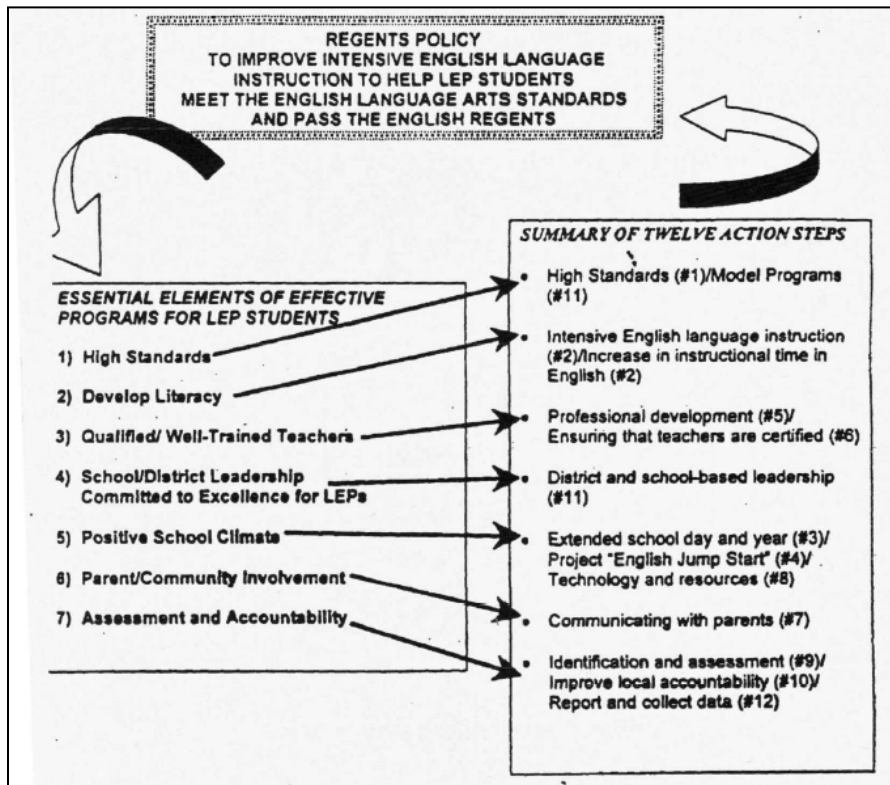
Source: University of the State of New York, 1995, cover page.

### **Twelve Action Steps**

The Office of Bilingual Education developed a plan for implementing ways to enable ELLs to reach the standards and complete the requirements for graduation. The plan, known as Twelve Action Steps to Assist Limited English Proficient/English Language Learners in Meeting

the ELA Standards, was approved by the Board of Regents. These steps were developed by the Office of Bilingual Education to ensure that ELLs meet learning standards and pass the Regents' tests required for graduation. See Figure 6.2 for a list of the twelve action steps.

Figure 6.2. Twelve Action Steps for Effective Programs ELLs.



Source: University of the State of New York, 1998b, p. 1.

The main focus of the Regents and NYSED was on ELLs becoming proficient in English and meeting the identified learning standards, especially for English Language Arts. After a careful review of the literature on successful language, literacy and academic strategies for instructing emergent bilinguals, and in consultation with specialists in the field, the Office of Bilingual Education, using the Regents' *Seven Essential Elements for Effective Programs*, developed *the 12 action steps* to help language minority students meet the English Language Arts standards and pass the Comprehensive English Regents' Test. Activities of the Office of Bilingual Education were planned in accordance with those action steps.

There were a variety of activities conducted at the state and local school district levels to guide teachers and administrators to increase the English language proficiency of ELL students. These initiatives addressed several components, including the provision of technical assistance to school districts and schools; professional staff development to teachers of emergent bilinguals; and dissemination of publications addressing the linguistic, academic and assessment needs of the ELL student population. The Office of Bilingual Education slogan was ‘All Roads Lead to Passing the Regents Test,’ disseminated through technical assistance, staff development, and publications. The first phase of the implementation of the action steps began in the 1998-1999 school year. Full implementation was expected for the 2000-2001 school year.

### **Assessment Strategies**

As we have stated repeatedly, one of the primary areas of emphasis of the decade was the development of ELLs’ English proficiency. One of the state’s initiatives was to increase the amount of time for English language instruction. A plan was developed that needed Board of Regents approval to increase the number of ESL periods, tripling it for high school students identified at the beginning level of English proficiency, and doubling it at the intermediate levels of ESL and providing instruction in English Language Arts for students in the advanced and transitional levels. It was believed that providing more time for English language instruction would help emergent bilinguals pass the Comprehensive English test in order to graduate, whether or not they reached the 40<sup>th</sup> percentile: “Increasing the amount of time for English language instruction is critical in helping LEP students graduate” (University of the State of New York, 1998b). It is important to note that this instructional shift did not decrease the importance of instruction of the native language and content area instruction in students’ native language.

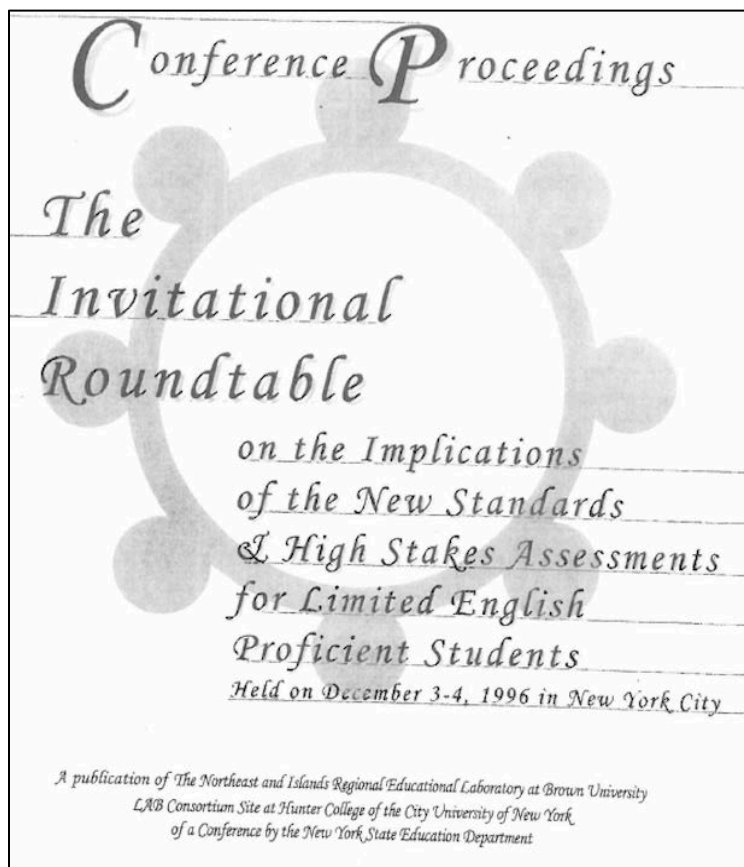


The native language was seen as a critical resource, facilitating the transferability of skills and the acquisition of content areas, and transition to English language proficiency. For the first time in the history of NYSED, the Regents examinations were translated into the five languages spoken by the majority of ELL students: Spanish, Chinese, Haitian Creole, Korean, and Russian. This was a historic and powerful decision on behalf of ELLs in New York State. The Office of Bilingual Education developed ‘Bilingual Glossaries’ with the goal of helping ELL students with their assessments. As a special recommendation for ELLs, they were permitted to use the glossaries during testing. The first glossary was the Mathematics Glossary, which was also disseminated at the end of the decade.

One of the unique characteristics of Carmen Pérez-Hogan’s leadership role as the Coordinator of the Office of Bilingual Education was to seek input from the professional community working directly with ELL students. In December 1996, and commensurate with NYSED’s emphasis on raising standards for all children, Carmen Pérez-Hogan invited professionals to participate in a two-day event, the New York State Invitational Roundtable on the New Standards and High Stakes Assessment for Limited English Proficient Students. The conference addressed policies, issues, and concerns from local and national experts, teachers, and parents. At the end of the two days, the group generated recommendations and a report to the New York State Board of Regents was prepared. See Figure 6.3 for the Conference Proceedings. One of the conclusions addressed anticipated results on the Regents’ comprehensive examinations:

Those LEP students who enter the system with comprehensive/continuous education in their native language should be able to pass the Regents in the core subjects in their home language and some will do so in English. Those that have been studying English for less than six years may experience difficulty passing the English Regents. Some may have to stay in high school more than four years (University of the State of New York, 1996, p. 1).

Figure 6.3. Cover Page of Conference Proceedings on Assessment, 1996.



Source: University of the State of New York, 1996, cover page.

One strategy developed by the Office of Bilingual Education was the establishment of the School Building Bilingual Excel Program (BILINGUAL EXCEL) (ceiling of \$20,000 per school) was funded in academic year 1997-1998 to strengthen a school's capacity to help ELLs meet the same high academic assessment expectations as all students in the state. The emphasis for the first year of funding was for activities to prepare ELLs to pass the Regents' examinations in English and mathematics.

### **Supports for Caribbean Creole Students**

Another challenge that the Office of Bilingual Education had to address was the appropriate instruction of Caribbean students. In 1998, the Board of Regents raised concerns in

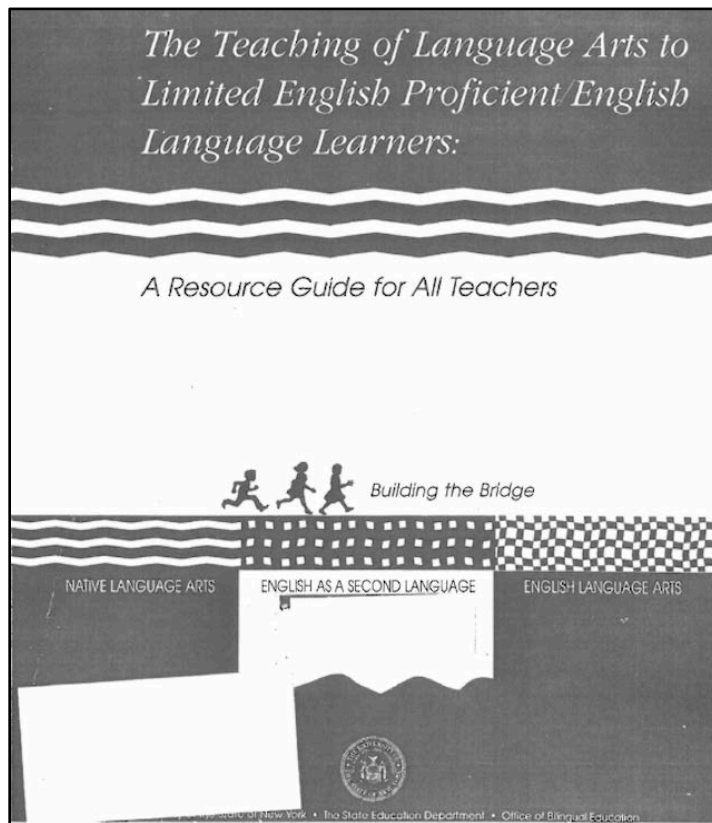
respect to the English language instruction for students from English speaking Caribbean countries. NYSED's response follows:

We recognize that students from Caribbean countries in which English is the official language continue to enter our schools in growing numbers, at all grades levels and with varying educational preparation. To help teachers with this student population, the Department is working on specific guidelines for instruction of students from the English Caribbean. In addition, in the 1998-1999 school year, we estimate that these students will generate over \$5 million in federal Emergency immigrant education program funds. The Department will ensure that these funds will be used to address the needs of the students who generate the funds in accordance with State guidelines" (Kadamus, September 4 1998, p. 1).

### **The Teaching of Language Arts for LEP/ELL Students**

The Office of Bilingual Education thought that it was critical for bilingual and ESL teachers to become familiar with the State English Language Arts standards and the best strategies for teaching them, as integrated in the English as Second Language and native language arts instruction. The Office accelerated the publication of *The Teaching of Language Arts for LEP/ELL Students: A Resource Guide for All Teachers*, under the leadership of Dr. Ximena Zate, who was given the responsibility to work with the field in its development. In addition, the New York State English Language Arts Standards were disseminated to most teachers of ELLs through a number of staff development activities throughout the state. See Figure 6.4 for cover page of the Resource Guide.

Figure 6.4. Cover Page of *The Teaching of Language Arts for LEP/ELL Students: A Resource Guide for All Teachers*.



Source: University of the State of New York, 2000, cover page.

## Project BEST

The Office of Bilingual Education conceived the idea of disseminating academic success stories of emergent bilingual students, their teachers, and programs throughout the State to NYSED and the Board of Regents. The publication of the newsletter *BEST: The Bilingual/ESL Success Times* was initiated in Fall 1996, co-edited by Martha Hansen (BOCES/BETAC), Laurie Wellman (Office of Bilingual Education), and Maryellen Wittington-Couse (BOCES/BETAC) (Office of Bilingual Education, 1996). Commissioner Mills endorsed the newsletter and also recognized the challenges of emergent bilinguals in meeting English language curriculum and English assessment. He said: “Not all students learn in the same time frame or through one

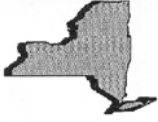
particular instructional method. We need to provide them with multiple paths that meet their individual needs” (Office of Bilingual Education, 1996, p. 1). See Figure 6.5 for the first page of the Newsletter.

Figure 6.5. First Page of *The BEST: The Bilingual/ESL Success Times*.

# The BEST

## The Bilingual/ESL Success Times

A collection of success stories in bilingual and ESL education  
in New York State



Vol. I, No. 1  
Fall 1996

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**A MESSAGE FROM THE COMMISSIONER OF EDUCATION**  
*by Richard P. Mills*

The world is becoming more complex and the level of knowledge and skill demanded of all students is increasing rapidly. They need to be able to manage change, communicate effectively, manipulate information, solve problems and work in teams. To get high-paying jobs, they must have high-level skills. All across the State, schools are implementing higher standards for all students that provide the more challenging education that all students need to be successful. These higher standards consist of content standards and performance standards. Content standards describe what students should know, understand and be able to do. Performance standards define the levels of student achievement and answer the question, “How good is good enough?” The State assessment system is being improved to measure how well students are meeting the standards. School report cards will be issued to inform the public of the results.

I believe that all children can learn and achieve the higher learning standards. However, not all students learn in the same time frame or through one particular instructional method. We need to provide them with multiple paths that meet their individual needs. Schools and districts must build their capacity to provide a meaningful learning environment for all students, to use the best and most effective instructional practices, to use time and resources effectively, and to engage parents/care givers and the wider community in supporting improvement.

The first issue of this newsletter highlights the hard work, talent and abilities of students who have met the additional challenge of learning in a new language. Future issues will provide information on successful practices and programs that will help to ensure that all of our students successfully achieve the higher learning standards.

**GREETINGS FROM THE OFFICE OF BILINGUAL EDUCATION**  
*by Carmen A. Perez Hogan, Coordinator*

It is often said that good news travels fast. But sometimes it seems as if in our area of education bad news travels faster. I am often mystified by the persistence of negative press regarding the level of performance of our schools and our students, especially those students who are facing the difficult task of learning English as a new language in a relatively short time and, simultaneously, keeping up with their classmates in all academic areas. Why do we so very rarely hear of the truly amazing success stories that occur in schools throughout the state each and every day? Why do we so rarely celebrate the accomplishments, despite many barriers and hurdles, of newly arrived students?

It is for this reason that the New York State Office of Bilingual Education is initiating a newsletter that focuses exclusively on the outstanding achievements of students who are learning English as a second language in bilingual education or free-standing ESL programs, on their teachers and on their educational programs. The information contained in this first issue of *The BEST* demonstrates the broad range of talents and accomplishments represented by the more than 200,000 students in our schools who are rapidly becoming bilingual. Although this first issue is 16 pages long, it represents only a small sample of all of the items that were submitted to us for publication. I thank each and every one of you who took the time to submit information to us, and I invite our readers to use the form that appears in the back of the newsletter to send us more “good news.”

It gives me great pleasure and pride to share these success stories with our readers and to offer my warmest congratulations to all of the stars of bilingual education and English as a second language programs who are featured in this issue.

¡Felicidades!

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The BEST

Fall 1996

Source: Office of Bilingual Education, 1996, p. 1.

## **BESARS**

Professional development for bilingual/ESL teachers intensified, addressing strategies for teachers in teaching ELLs. Although Staff development was carried out in many ways, there was a goal to train as many teachers of emergent bilinguals as possible through the ‘Bilingual/ESL Staff Academy for Raising Standards’ (BESARS) that started in 1998. This project had as its main purpose to help ELLs pass the English Regents’ examination through the following academies: (a) Professional Development Academy; (b) Instructional Academy; and (c) Parent Academy (University of the State of New York, 1998a). The Office of Bilingual Education envisioned BESARS as follows:

The Professional Development Academy is a collaborative turnkey training model involving school teams of language arts teachers, an English Regents teacher, a native language arts teacher and the English as a Second Language teacher in an intensive professional development and tutorial program... The teams, in turn, will work with other teachers in the school to ensure that LEP students receive instruction to meet the new graduation standards.

The Instructional Academy provides for the extension of the school day for LEP youngsters to participate in intensive tutorials sessions before, after school or on Saturdays, under the leadership of the Professional Development Academy teams. The Instructional Academy will provide intensive instruction in language arts to help LEP students pass the Regents test.

The Parent Academy provides information to parents on the State’s new standards and graduation requirements (University of the State of New York, 1998a)

This model was extended to middle school teachers, mainly in the Bronx.

## **Project Jump Start**

In 1998, Project English Jump Start began for newly enrolled emergent bilingual students at all grade levels to provide them and their parents with an orientation to the new school

environment and “survival English strategies” to help them with a smoother transition to school. It was two weeks of intensive English language instruction during the last two weeks of August, prior to the opening of schools in September. It was piloted in 1996 and fully implemented in Summer 1998 using Emergency Immigrant Education program funds. In addition, parents of newly enrolled emergent bilingual students were required to attend a two-hour orientation program at the districts or provided by the BETACS.

## **NYSBEN**

Another strategy, known as New York State Bilingual/ESL Network (NYSBEN), was implemented in 1998 on the Office of Bilingual Education website. In 1997, the website was planned to “disseminate bilingual education and English as second language information. The research pieces that inform policy and practice, together with program descriptions and helpful guidance, will be categorized and linked in a user friendly web page devoted to improving practices in ESL and English language instruction and achievement” (University of the State of New York, 1998a, p. 3).

## **ELL Students with Interrupted Schooling**

One of the challenges in the implementation of the Regents’ reform goals and the twelve action steps was the establishment of strategies to address the over-age ELL student population with limited or interrupted schooling. A 1997 NYSED survey indicated that approximately 12% of ELLs were over-age and had limited or interrupted schooling. A statement from the Office of Bilingual Education of these students in January 1998 stated: “Most will experience great difficulty in meeting the standards and passing one of the required Regents’ examinations.

Whether they can be expected to pass the Regents' examinations and graduate will depend on the extent of the educational deficiency in their home country, the age and grade level at which they entered school in New York State and the instruction they receive in school to meet the standards" (University of the State of New York, 1998a, p. 1-2).

To identify best teaching practices for this group, a symposium was held in 1997. Documentation of the symposium outcomes were published as the Proceedings of the New York State Symposium on the Education of Over-age Limited English Proficient Students with Interrupted Schooling, which were disseminated throughout NYSED and school districts (Office of Bilingual Education, 1997). As stated in the proceedings, "The symposium was convened to update educators on efforts by the New York State Education Department to profile these youngsters to identify effective instructional interventions shaped by the goals of the New York State learning standards" (Office of Bilingual Education, 1997, p. 1).

### **Students with Disabilities**

Another sub-group of ELLs, including those of preschool age, is comprised of students with disabilities. The Office of Bilingual Education responded to this challenge by publishing, in 1997, Guidelines for Services for Culturally and Linguistically Diverse Preschool Students with Disabilities Ages 3-5 (University of the State of New York, 1997a), which provided guidance on the appropriate evaluation and placement of culturally and linguistically diverse preschool students with disabilities. According to NYSED's OBE "this document will serve as a catalyst for the improvement of assessment and placement of limited English proficient students with disabilities" (University of the State of New York, 1997a, p. ii). (Additional information on bilingual special education appears in Chapter 9.)



## **Bilingual/ESL Teacher Certification Assistance**

Another area of emphasis was in teacher certification. The Office of Bilingual Education, under Carmen Pérez-Hogan's leadership in collaboration with Dr. Peter Byron, Supervisor in the NYS Office of Bilingual Education, pursued the goal of 'ensuring that certified teachers teach LEP students by planning, developing, and implementing several initiatives. Confronting the challenge that there was a significant number of Preparatory Provisional Teachers (PPTs) who were having difficulties in passing the required New York State certification tests -- The Liberal Arts and Science Test (LAST); the Assessment of Teaching Skills Test – Written (ATS-W); and the Content Specialty Test (CST) -- initiatives were planned to offer tutorials and preparatory workshops for these teachers. Two initiatives were established during the academic year 1998-1999: (a) Workshops for uncertified teachers; and (b) Establishment of the Intensive Teacher Institute in Bilingual/ESL (ITI: BE). The focus of the certification workshops was to help uncertified teachers with content and strategies to pass two of the certification teacher assessments. Most of the workshops were held in New York City since the city had a significant number of uncertified bilingual and ESL teachers. For several years, Dr. Nancy Lemberger was the consultant, hired to coordinate and conduct the workshops.

The Intensive Teacher Institute for Bilingual and ESL (ITI-BE) was established in 1990 with the collaboration of Dr. Charles Mackey, director of Teacher Education, and the ITI-BE initiative continues today to increase the number of certified bilingual and ESL teachers. Initially, the ITI-BE program was housed at the New York City Board of Education, Office of Bilingual Education and subsequently moved to the Long Island Suffolk BETAC, under the direction of Dr. María Valverde, who was the director for about 10 years.

Another initiative of the Office of Bilingual Education included the implementation of a conference for professors and administrators from institutions of higher education with approved bilingual and ESL certification programs. The conference pertained to preparation of their teacher candidates to help ELLs meet required standards and assessments. A significant number of institutions of higher education (IHEs) had approved Bilingual Education and English as a Second Language programs. IHEs with bilingual programs included Adelphi University, Bank Street College, CUNY City College, CUNY Brooklyn College, CUNY Hunter College, College of New Rochelle, D'Youville College, Fordham University, Hofstra University, Long Island University at Brooklyn, Long Island University at Westchester, C. W. Post College, New York University, St. John's University, St. Thomas Aquinas, SUNY Brockport, SUNY Buffalo, SUNY New Paltz, SUNY Old Westbury, and Teachers College. IHEs with TESOL programs included Adelphi University, CUNY Hunter College, CUNY York College, Fordham University, Hofstra University, and Long Island University at Brooklyn, Long Island University at Westchester, C. W. Post, Nazareth College, New York University, St. John's University, SUNY Buffalo, SUNY Albany, SUNY Stony Brook, Syracuse University, University of Rochester and Teachers College. Universities were responsible for assessing, using an approved examination, the demonstrated proficiency in English (for TESOL candidates) and proficiency in both English and the language of instruction other than English of teacher candidates (University of the State of New York, 1982b). There were about 20 institutions (most of them identified above) with State approved proficiency testing. Recall that in 1981, CR Part 154 was amended to require a valid certificate for bilingual special education. There were six universities with bilingual special education programs.

## **Technology in Bilingual/ESL Programs**

The learning standards movement gave emphasis to the role of technology in the teaching/learning process. The Office of Bilingual Education's response to this mandate was to identify a group of professionals to be part of a Technology Task Force. As part of the work performed, the group recommended the preparation of a publication on strategies to be used by ELLs in the classroom. *Technology Applications for Bilingual Education and English as a Second Language* (University of the State of New York, 1997b) was published and disseminated under the leadership of Annalisa Allegro, Director of the Monroe BOCES/BETAC. The main purpose of this booklet was described in the following words: "strengthening classroom instruction through the use of instructional technology as a pivotal strategy for enabling LEP students to achieve high content standards expected by the Board of Regents" (University of the State of New York, 1997b, p. 5). It provided recommendations on technological devices for education and instructional strategies to improve instruction in the different content areas of the curriculum (University of the State of New York, 1997b).

## **Continuation of Programs Using the Bilingual Categorical Funds**

There were some initiatives started in the 1980s that continued in the 1990s. The BETACs continued to be funded and helped the Office of Bilingual Education carry out activities toward meeting Regents' regulations and NYSED policies and mandates. Another program that continued with a lot of impetus was funding, through the Bilingual Categorical funds, of Two-Way Bilingual Education programs. Two-Way bilingual programs increased, especially during 1998-1999, because the Office of Bilingual Education and practitioners recognized the two-way program model as one of the most successful bilingual education

program models. In Fall 1998, NYSED held the first northeast conference on Two-Way Bilingual Education.

The ITI-BE continued to be funded, and NYSED's Office of Vocational and Educational Services for Individuals for Disabilities (VESID) added a Special Education component in 1994.

In July 1998, all of the initiatives above were summarized for the Board of Regents in the memo, Strategies to Provide Intensive English Language Instruction to Limited English Proficient Students, which was sent by Assistant Commissioner James A. Kadamus to the Board of Regents. The memo outlined strategies that the Office of Bilingual Education had undertaken to provide ELLs with intensive English instruction in order to meet the Language Arts Standards and pass the Comprehensive English Regents examination.

Funding was one of the key elements in the implementation of the action steps identified by the Office of Bilingual Education. At one of the report presentations, the Board of Regents asked: "What are the additional costs for implementing this plan, and where will funds come from?" The Office of Bilingual Education answered as follows:

Some of the initiatives are already funded through existing funds. These include, but are not limited to, Two Way Bilingual Education grants (\$1,000,000), Bilingual EXCEL grants (\$2,000,000), the Bilingual/ESL Staff Academy for Raising standards (BESARS) (approximately \$1,00,000) and the Intensive Teacher Institute (ITI) (\$850,000). In addition, other existing streams of funding will be redirected to implement some of the activities, such as federal Title I funding, the State's learning Technology grants (\$50,000 per grant) and the Emergency Immigrant Education Program. Where new funding will be required, the Department will make a request to the Legislature. For example, this might consist of an increase in State LEP aid (University of the State of New York, 1998b, p. 7).

This decade posed many challenges that required extensive work for the Office of Bilingual Education. Although the Albany Office was re-established, the other offices were

eliminated, with the exception of that in New York City. The Office of Bilingual Education had a small staff. Many of the initiatives were implemented with the assistance of the BETAC centers.

### **Conclusion**

The 1990s put challenging tasks in the hands of the Office of Bilingual Education. Due to the changes in English Language Arts assessments, and the high expectations for students graduating from high school, emphasis was placed on development of English and academic language to meet learning standards and participate in English language arts classes. The Regents' reform goals gave NYSED, and especially the Office of Bilingual Education, a clear direction to strengthen English instruction for ELLs and to hold high expectations for all students, including ELLs. Many initiatives and programs were developed under this direction in spite of the dismantling of the Office of Bilingual Education in 1992.

Unfortunately, due to the mandates and requirements of programs and initiatives to increase English instruction, the teaching of the native language did not receive the needed attention. School districts began to place more emphasis in the assessment of English than in native language instruction. With the exception of the Regents exams translations, assessment in the native language was non-existent or very limited.

## **Chapter 7: 2001-2005: Building Capacity to Comply with Assessment Mandates**

Standards-based education is realized through student engagement in comprehensive learning experiences that combine direct instruction, student construction of knowledge, use of all four language skills, multiple sources of information, and various forms of assessment (University of the State of New York, 2003, p. 15).

The purpose of this chapter is to summarize policies, mandates, and strategies planned, developed, and implemented by NYSED to help ELLs during the period of 2001-2005. This chapter describes the follow-up given to those reforms that were approved in the 1990s, and the changes in State public school assessment policies due in part to federal mandates. This chapter also describes new and continuing program initiatives, especially those related to ELLs' acquisition of English language proficiency. The preparation and certification of bilingual and ESL teachers plays an important role in the academic development of ELLs, and as such, issues pertaining to teacher preparation and certification are discussed at the end of this chapter.

### **English Language Learners and the Regents Reform Agenda**

The emphasis of the first five years of the decade beginning in 2000 was to implement the blueprints that comprised the long-range plan designed to strengthen the educational system's capacity for all students. The New York State Board of Regents and NYSED were committed to raising the academic achievement of all students and developing strategies to close the academic gap between English language learners and monolingual students. Those plans and commitments required students to meet learning standards and pass Regents' tests in order to graduate from high school. There was a particular interest in building the capacity of school districts to strengthen educational services to better serve English language learners. NYSED's

efforts were focused on developing ELLs' proficiency in English to enable them to pass required assessments, especially the Regents tests, the most challenging of which for ELLs is the English Comprehensive Regents Test.

In 2002, CR Part 154 was amended to strengthen assessment requirements for the identification and reporting of ELLs' progress (Kadamus, 2004). A new mandate was that information on all students would be collected and reported, regardless of the number of years in the system. NYSED emphasized the development of strategies to monitor compliance with State and federal laws and regulations.

NYSED was aware of the diversity of the emergent bilingual student school population, which included students with diverse economic, experiential, educational, and linguistic backgrounds. Many of the ELLs enrolled in New York schools came with well-developed literacy skills in their primary languages, but, for others, education was temporarily suspended or unavailable in their native countries due to political, social, or economic problems. There was also a growing group of emergent bilinguals with disabilities requiring specialized instructional strategies and learning settings. Regardless of past circumstances and academic and linguistic diversity, the mandate that all high school students had to pass the Regents exams, including the English Comprehensive Regent Test, was reinforced. Consequently, strategies were developed to help emergent bilinguals be successful, in particular, to complete high school. Bilingual and ESL teachers were given the responsibility of guiding emergent bilingual students to pass those tests, and school districts were held accountable for the instructional services and academic achievement of all students, including emergent bilinguals.

## **Assessment Mandates**

Data on services, progress, and achievement of ELLs, which were provided by school districts, was difficult to summarize due to the inconsistency of the information submitted. As mentioned previously, one of the biggest challenges NYSED encountered was data collection to accurately and comprehensively report the achievement of ELLs.

In 2004, Deputy Commissioner James Kadamus, in a report to the Board of Regents stated that data collection for LEP/ELLs "... had been inconsistent and often inaccurate due to the range of assessments that school districts used both to identify LEP/ELL students when first enrolled and to measure their progress annually in English proficiency" (Kadamus, 2004, p. 2). For example, not all school districts were submitting CR Part 154 plans and reports. In addition, districts used different tools to assess students' language and academic achievement. Due to these inconsistencies, the Department rigorously enforced mandates to school districts and developed strategies to monitor compliance with state and federal laws and regulations.

## **The LAB-R**

In order to eliminate some of the data collection issues, the NYSED passed a mandate to make exclusive use of the Language Assessment Battery-Revised (LAB-R) and the New York State English as a Second Language Achievement Test (NYSESLAT) to measure English proficiency. The LAB-R was a modification of the old Language Assessment Battery (LAB), developed by the New York City Department of Education. The LAB-R was administered in New York City for the first time in 2002, and adapted by NYSED to identify those incoming students who may be ELLs and thus eligible for bilingual education or free standing ESL programs. LAB-R started to be used by the rest of the State in the 2002-2003 school year. All



incoming students who lived in a home where a language other than English was spoken, as confirmed by the New York State Home Language Survey, were tested using LAB-R upon admission to a public school. A score below the designated cut score for the child determined eligibility for free standing ESL or bilingual education programs. LAB-R began to be administered only once to each incoming student. After placement into either a bilingual or free standing ESL program, achievement in English began to be measured with the New York State English as a Second Language Achievement Test (NYSESLAT).

## **NYSESLAT**

NYSESLAT evaluated the English language proficiency of ELLs in K-12 in the areas of listening, speaking, reading and writing English. The test was developed using, as its foundation, the recently developed English as a Second Language Standards, which were aligned with the State standards for English Language Arts. NYSESLAT was first administered on a statewide basis in May 2003. It is a measure of English language proficiency of listening, speaking, reading and writing English.

BETACs were charged with the provision of training to school districts to address assessment issues and to provide necessary technical assistance. Both LAB-R and NYSESLAT are criterion-referenced tests, measuring progress toward meeting standards. When NYSESLAT was created in 2002, LAB-R started to be used statewide for placement purposes only, and NYSESLAT was used for identification of annual yearly progress and for exiting purposes. In 2002, the U.S. Department of Education approved NYSED's proposal to use the students' NYSESLAT data results for both Title I accountability purposes and Title III language acquisition of all ELLs who had attended school in the U.S. for less than three years.

## **NCLB Assessment Mandates**

By 2005, more strict federal mandates were imposed on states (Abrams, 2007). The No Child Left Behind Act (NCLB) (2002) put tremendous pressure on NYSED, which included the following challenges:

- Ensuring that challenging academic content and achievement standards in English reading/language arts and math be included;
- Mandating an alignment of the assessment system measuring student achievement towards meeting standards in Grades 3-8 and in Grades 10-12;
- Title I, Part A accountability required states to determine annual yearly progress (AYP) by administering tests in reading and English language arts to all students;
- Title III, Part A required states to show demonstrated improvement in the English proficiency of LEP children each fiscal year, and adequate yearly progress for ELLs, including immigrant children and youth.

In 2006, the U.S. Department of Education communicated to NYSED that the State was not in compliance with NCLB requirements and that “NYSESLAT is not sufficiently comparable to the regular English language arts assessment to use it as a substitute language arts assessment for limited English proficient students” (Mills, 2006a, p. 2). Accordingly, the Commissioner instructed school districts to administer a particular ELA exam to emergent bilinguals, and made provisions for assessment accommodations, if necessary. The NCLB, Title III policy, required that emergent bilinguals meet the same standards as all other students, and mandated that ELLs had to take the State assessment in the core subject areas appropriate to their grade level. The mandate also indicated that only those emergent bilinguals that were in the school system in the U.S. for three years or less could be exempted from the English Language Arts Test in 4<sup>th</sup> and 8<sup>th</sup>

grades. In a memorandum to the field, Commissioner Mills described NYSED's efforts on behalf of ELLs as follows:

The Board of Regents and I are continuing to advocate strongly on behalf of the children for a change in the USED ruling and, if necessary, a change in the NCLB reauthorization. Our efforts to persuade them extend back many months. Both formally and informally through meetings, correspondence, discussions, and direct negotiations with USED officials, my colleagues and I in the State Education Department have proposed alternatives to the federal requirements for assessing ELL students under Title I of NCLB. Most recently, on October 23, I wrote to Assistant Secretary Henry Johnson, the federal official in charge of this area, asking at least that the USED allow children who have been in this country for more than one year but less than two years to take the ELA for participation purposes only. We are also working very hard with members of the New York Congressional delegation, and most of them have sent letters to Secretary Spellings seeking this change. I have not yet received an official response from USED and am still attempting to get a positive one. I will continue to fight for a change in the federal policy (Mills, 2006b, p. 1)

The U.S. Department of Education reviewed and approved each state's system of standards and assessments. Adding to the federal requirements above, the State has its own mandates, especially those identified in the CR Part 154 requirements, which include an annual English assessment of whether an ELL student continued to be limited English proficient based on NYSESLAT results. The Office of Bilingual Education worked closely with the Office of Assessment and Accountability to meet federal and state assessment mandates, and worked vigorously with school districts to understand and implement all of the aforementioned assessment mandates. The Guidelines for Programs for Limited English Proficient Students: Bilingual Education/English as a Second Language were revised to reflect the changes of CR Part 154 amendments. Approved by the Regents in 2003, the guidelines included the adoption of LAB-R and NYSESLAT, which was consistent with the amendments to the regulations.

### **Programmatic Initiatives**

From 2000-2003, the Office of Bilingual Education developed a series of initiatives and strategies to help school districts meet the State and federal mandates and regulations. The OBE's main activities were (a) monitoring school districts in the implementation of CR Part 154; (b) providing technical assistance to school districts mainly in the area of instruction and assessment; (c) development of a series of publications focusing on instructional assistance to teachers and schools in order to address the linguistic and academic needs of LEP/ELL students; and (d) providing programs and staff development initiatives for increasing the number of certified bilingual and ESL teachers.

### **Monitoring Initiatives**

The Office of Bilingual Education was charged to review and approve each school district's plan for the provision of transitional bilingual education or free standing ESL programs for eligible emergent bilingual students. As part of CR Part 154, The Office of Bilingual Education staff followed up with school districts that were not in compliance with CR Part 154 regulations, guidelines and federal mandates. Letters, visits, surveys, and telephone interviews were common strategies that were implemented to monitor compliance.

### **Technical Assistance/Staff Development**

Technical assistance was mainly provided through the BETACs. These centers were established and located around the state for the purpose of working with school districts and teachers to understand and implement effective strategies at the classroom level, and become

familiar with the administration of LAB-R and NYSESLAT. BETAC personnel provided a significant number of workshops and turnkey training on how to appropriately conduct these assessments. In addition, some personnel were assigned by the Office of Bilingual Education to collaborate among themselves on the development of publications, instructional guides and other programmatic areas.

### **Programs for SIFE Students**

ELLs with interrupted formal education (SIFE) continued to be an increasing challenge as the number of students increased. NYSED was concerned about those emergent bilingual students who entered the State educational system after Grade 2 with limited/interrupted or no prior schooling experiences. On December 2003, a work group of educators from across the State discussed issues associated with educating these students and developed a series of recommendations for implementation them across the state. The recommendations of the participants motivated the NYSED Office of Bilingual Education to fund pilot programs in schools specifically designed to meet the educational and linguistic challenges of SIFEs.

### **Continuation of Successful Programs for ELLs**

The Office of Bilingual Education continued funding other programs to supplement services for ELLs. Among those funded programs were (a) Two-way/Dual Language Programs b) Angelo del Toro Hispanic Youth Leadership Scholarship Fund; and (c) ITI-BE program to provide tuition assistance to teachers seeking certification in Bilingual education and English as a Second Language.

## **Assistance Through Publications**

The Office of Bilingual Education disseminated a series of publications to guide educators, especially teachers, regarding the instructional ramifications of the Regents' mandates. Most prominent among these publications was the *Trilogy of Language Arts*, the main purpose of which was to make the connection between the State learning standards, assessments, and instruction. These guides were founded on the concept of building on the student's native language skills, and moving toward the new English language arts skills by using the bridge of English as a Second Language while at the same time strengthening and retaining the native language.

The first guide, *The Teaching of Language Arts to Limited English Proficient/English Language Learners: A Resource Guide for All Teachers*, coordinated by Dr. Ximena Zate from the Suffolk BETAC, was the first of the three publications. Its purpose was to enable all teachers of ELLs to understand the complexities of adjusting to a new culture and learning a second language. It establishes the foundation for language development and discusses State and federal requirements in the context of education reform and standards-based education. The second guide, *The Teaching of Language Arts to Limited English Proficient/English Language Learners: Learning Standards for English as a Second Language* served as the foundation for English as a Second Language (ESL) curriculum, instruction, and assessment in the State. It was coordinated by Carmen Pérez Hogan, the Coordinator of the Office of Bilingual Education, and Dr. Daniel H. Shanahan from the New York City BETAC. It provides the framework for interweaving teaching, learning, assessment, and student work. The ESL standards served as the framework for preparing students for the New York State ESL Achievement Test (NYSESLAT).

Development of the third document, *The Teaching of Language Arts to Limited English Proficient/English Language Learners: Learning Standards for Native Language Arts* was coordinated by Dr. Ximena Zate from the Suffolk BETAC. The document provided a rationale for viewing the native language as a required component of the bilingual program in instruction in native language arts (NLA). The native language standards in native language arts are parallel to the ESL standards and are aligned with the ELA standards. It was disseminated to schools during spring 2004.

Another important set of publications included the Bilingual Glossaries, which were prepared for five subject areas (Mathematics; U.S. History and Government; Global history and Geography; Living Environment; and Earth Science) and were developed in 13 languages. They contained the vocabulary in the subject of the test. The Glossaries were an important instrument for students taking the Regents' examination required for high school graduation. Students were allowed to use these glossaries as one of the testing accommodations for high stakes tests.

### **Increasing the Pool of Certified Bilingual, Bilingual Special Education, and ESL Teachers**

The Office of Bilingual Education recognized that the student achievement of emergent bilinguals required highly qualified and certified teachers. State temporary licenses were eliminated during the 2003-2004 school year, which had a great impact on the programs for ELL bilingual students. A significant number of teachers who were teaching ELLs had to leave the system due to lack of certification in bilingual education or ESL. In 2004, Deputy Commissioner of Education James Kadamus stated: "A shortage of properly certified bilingual and ESL general education and special education teachers continues to be a challenge in New York State, particularly New York City and the other Big Four School districts" (Kadamus, 2004, p. 5). The

Office of Bilingual Education implemented three main initiatives, mainly to help large urban areas of the State, particularly Buffalo and New York City, to increase the number of certified bilingual and ESL teachers.

1. The continuation of the Intensive Teacher Institute in Bilingual Education (ITI-BE) provided tuition assistance to bilingual and ESL teachers working in preK-12 school programs while holding a Temporary provisional certificate. Under this initiative, many teachers were able to take required coursework and complete all necessary requirements for the certification extension in bilingual education or certification in Teaching English as a Second Language. The program was housed in the Suffolk Office. Program directors initially included María Valverde, followed by Ximena Zate, and presently Terri Brady-Mendez.
2. The establishment of the Intensive Teacher Institute in Bilingual Special Education (ITI-BSE) provided tuition assistance to bilingual special education teachers and pupil personnel professionals working in preK-12 school special education programs while holding a Temporary provisional certificate. Funds for this program were allocated by the Office of Vocational and Educational Services for Individuals with Disabilities (VESID). Administration of the ITI program was housed in the Suffolk BETAC under the direction of Ximena Zate and is currently administered by Terri Brady Mendez.
3. The Bilingual Education Teacher Leadership Academy (BETLA) was created by the Office of Bilingual Education under the leadership of Carmen Perez-Hogan, Gloria Casar, a NYSED supervisor, and a group of bilingual and ESL educators. BETLA was designed to develop leadership skills in exemplary bilingual and ESL teachers who might become effective trainers, leaders and mentors of other teachers in their schools. The program started with a cohort of 30 bilingual/ESL teachers housed at Bank Street College under the direction of Genis Melendez and Awilda Orta and later on, by Cándido de Jesús.



## **Changes at the Office of Bilingual Education**

Carmen Pérez-Hogan surprised many colleagues when she announced her retirement in 2004. She directed the office with clear and specific goals and provided strong leadership, which included collaborations with diverse educators (teachers, administrators, college faculty and staff, national and state researchers), community and political leaders, and parents. This historical-descriptive document is a vivid testimony of the many accomplishments Carmen Pérez-Hogan had as a strong leader of bilingual education in the state of New York. All the educators we interviewed mentioned and admired Carmen Pérez-Hogan's strong leadership. Former Regent Oquendo said: "If there is no staff paying attention to this issue, the Regents will never see a policy. That's why Carmen Pérez-Hogan was so critical to bilingual education policy. In this State, it depended entirely on her, and her bringing policy to the Board" (R. Oquendo, personal communication, April 3, 2012).

What Carmen used to do in her Advisories was to say, "I've got this problem. You guys represent some of the best minds or experienced people around the State for ELLs. How do we best grapple with this problem?" (R. Woo, personal communication, May 7, 2012). Dr. Pedro Ruiz, who was the director of Bilingual and ESL Programs in Mount Vernon, was hired in 2005 as the new director of the office.

## **Conclusion**

The main emphasis of the decade beginning in 2000 was, and still is, demonstration of English language proficiency and academic achievement by ELLs as evidenced by grade level scores on English standardized tests. That became the main achievement priority for NYSED and

school districts across the state. Due to the fact that the English Language Arts (ELA) Test was mandated to be taken by ELL students enrolled in public schools, State initiatives were planned and implemented around the theme of ELLs' English language acquisition. Accordingly, the main emphasis of school districts became preparing students for the ELA exam. Due to federal mandates and guidelines, school districts increased the number of ESL classes while, to some extent, the number of bilingual education programs began to decrease.

Another big impact on the instruction of emergent bilinguals was the State mandated yearly assessment through the New York State English as a Second Language Achievement Test (NYSESLAT), designed to assess the English proficiency of all English language learners enrolled in Grades K–12 in New York State schools. The federal mandates, including those under Title III, required schools to report ELLs' annual yearly progress of English, demonstrated through NYSESLAT. Schools began to prepare students for these English language proficiency assessments. Many hours of instruction were dedicated to rehearsing test taking strategies and completing examples of test items.

## Chapter 8: 2006-2012: Responding to Achievement Challenges of ELLs

Additional research shows that, whether in ESL or Bilingual programs, the use of native language instruction can help students learn English. To date, five separate meta-analyses have been done on the effects of using a students' primary language (also referred as native language or home language) to promote achievement of English, and all studies reached the same conclusion about the positive effects of teaching children to read in their home language (Slentz, 2011, p. 13).

This chapter provides an overview of policies, mandates and initiatives planned and implemented by NYSED during the period of 2006-2012 to respond to the Regents' Reform agenda, which included ELL assessment mandates and policies pertaining to instructional services. This chapter describes recommended actions, initiatives, and strategies to improve ELLs' language proficiency and academic achievement. This chapter ends with a brief overview of the New York City corrective action plan to better serve its ELL school population.

### **Regents' Recommended Actions to Improve Achievement of ELLs**

In 2006, the Board of Regents passed what is called the P-16 Educational Reform (thereafter, P-16 Plan). By 2006, NYSED recognized that although student achievement improved, the improvement was not sufficient, the achievement gap had narrowed but not closed.

#### **The P-16 Plan**

The Approved P-16 Plan was divided into three categories: (a) students; (b) systems, and c) structures. Each of these three categories included action goals. Table 8.1 provides a summary of the 13 actions presented in the P-16 Plan.

Table 8.1. Summary of P-16 Plan

<b>STUDENTS</b>
<ol style="list-style-type: none"> <li>1. Promote a sustainable early education program for all high need students. Resolve issues of standards, funding and service delivery.</li> <li>2. Improve academic outcomes for children with disabilities by setting performance targets, promoting effective practices, and holding schools accountable for dramatic improvements.</li> <li>3. Improve outcomes for English Language Learners by setting performance targets, promoting effective practices, and holding schools accountable for dramatic improvements.</li> <li>4. Improve high school attendance and graduation rates by setting performance targets, promoting practices that remove barriers to graduation, and holding schools accountable for dramatic improvements.</li> <li>5. Report student persistence and college completion results, and increase investment in programs that have been shown to remove barriers to graduation.</li> </ol>
<b>SYSTEMS</b>
<ol style="list-style-type: none"> <li>6. Raise the learning standards to exceed global standards to graduate all students ready for citizenship, work, and continued education. Align standards, assessments, curriculum and instruction across P-16, emphasizing transitions.</li> <li>7. Strengthen instruction. Define, reduce and then eliminate the inequitable distribution of teaching talent. Require all teachers of core academic subjects to be highly qualified in the subject they are teaching by July 2007. Improve teacher retention. Focus professional development on effective practices in areas in which academic needs are greatest. Accelerate the integration of technology into teaching and learning practices in P-16 institutions.</li> <li>8. Advocate for a Foundation Formula to provide State Aid that is adequate, sustainable, fair, and commensurate with the cost of education that enables students to meet the standards.</li> <li>9. Strengthen the capacity of the State Education Department to support schools as they work to improve student achievement and the Department’s capacity to hold them accountable for doing so.</li> <li>10. Create a P-16 student data system to drive improvements in graduation rates in high school and higher education.</li> </ol>
<b>STRUCTURES</b>
<ol style="list-style-type: none"> <li>11. Reduce barriers to teaching and learning in high need schools by creating a vision and leadership framework for an integrated education, health and mental health collaboration. Promote strategies found to be promising in resolving high incident health and mental health problems among children.</li> <li>12. Create a P-16 Council to advise the Regents on actions to improve student outcomes dramatically at each transition point in the P-16 system.</li> <li>13. Focus regional education networks on joint P-16 strategies and actions to improve student outcomes.</li> </ol>

Source: Mills, 2006c, p. 3.

The Regents’ P-16 Plan focused on ways to raise graduation rates, including strengthening instruction, the need for greater funding, targeted measures to improve education

of students with disabilities and ELLs, and actions to involve libraries and colleges in helping students complete elementary school through high school.

Action 3 in the P-16 plan addressed the ELL school population, particularly the need to improve outcomes for English Language Learners by setting performance targets, promoting effective practices, and holding schools accountable for dramatic improvements. The Office for Elementary, Middle, Secondary and Continuing Education, under Interim Deputy Commissioner Jean C. Stevens, and the Office of Bilingual Education/Foreign Language Studies, under Pedro Ruiz, had the enormous task of implementing this action by promoting local and state initiatives and developing accountability strategies.

### **NYSED Accountability Requirements**

While implementing the P-16 plan, NYSED continued to ‘negotiate’ with the U.S. Department of Education on assessment policies and accountability requirements. During 2006, NYSED was in constant communication with the U.S. Department of Education conveying the State’s accountability amendments to satisfy federal demands, especially those related with the assessment and reporting of ELLs’ progress in academic achievement. The State accountability amendments included:

- English language proficiency of all ELLs to be assessed annually;
- Amendment of Commissioner’s Regulations Part 154, requiring all ELLs to take the NYSESLAT English proficiency assessment;
- Administration of the ELA test to all English Language Learners who have been enrolled in schools in the U.S. for one year or more; and
- Provision of test accommodations for ELLs taking the ELA exam.

These changes were not welcomed by the field, and Commissioner Mills was continuously answering letters from the field (e.g., Mills 2006d). During the years following 2006, the Department engaged in constant meetings and conversations to present changes acceptable to the field, and to report that there were no alternatives to change the federal mandates.

### **Modifications to CR Part 154**

In 2007, under chapter 57, schools were no longer able to claim State Limited English proficiency aid (Duncan-Poitier, 2007). Beginning in 2007-2008, all districts received total foundation aid. Therefore, modifications to CR Part 154 were made in 2007 specifically requiring school districts receiving total foundation aid to develop a comprehensive plan for the education of pupils with limited English proficiency. It provided specific guidelines for school districts' comprehensive plans including (a) procedures for screening, identifying and annually assessing ELLs; (b) identification of type of program to be offered; (c) curriculum activities and criteria; (d) program management; (e) standards for the distribution of school related information to parents; and (f) standards for the referral of ELLs suspected of having a difficulty. The Office of Bilingual Education/Foreign Language Studies, under Dr. Pedro Ruiz, was charged to develop initiatives and strategies to help school districts improve outcomes for English language learners by developing appropriate identification, instructional, and assessment implementation plans.

### **Bilingual/ESL Committee of Practitioners**

In 2007, Commissioner of Education Mills made changes to the former Commissioner's Advisory Council on Bilingual Education; he created a new group, the Bilingual/ESL Committee of Practitioners (COP) composed of bilingual/ESL professionals to serve as an advisory group to

the Commissioner of Education. The COP meets twice a year, and it is mainly convened to inform the field of NYSED policies and initiatives related to the instruction, performance, and assessment of emergent bilingual students. During Commissioner Mills's tenure, participation was by invitation, but recently, under Commissioner John King, it is more like an informational public meeting. Ron Woo, talking about the COP said: "The amount of input into the current committee of practitioners is very little. We are not there to work. We are there to listen and be informed (R. Woo, personal communication, May 7, 2012).

### **Leadership Changes at NYSED**

In 2007, the structure of the Office of Bilingual Education was modified by merging it with the Office of Foreign Language Studies (OBE/FLS), with Dr. Pedro Ruiz as its director. Further, in 2009, the office became part of a new State structure. In previous years, the OBE/FLS was under Associate Commissioner Jean C. Stevens in the Office of Curriculum, Instruction and Standards. In 2009, OBE/FLS became part of the Office of Accountability under Assistant Commissioner Ira Schwartz. The office has two sites, one in Albany and one in New York City, with limited staff in both sites and limited clerical support.

Commissioner Mills retired in 2009 and Dr. David Steiner succeeded him as Commissioner of Education. Dr. Steiner resigned in 2011, and Dr. John King was appointed as the new NYSED Commissioner of Education. The P-16 implementation agenda of Commissioner Mills did not receive the enthusiasm of the following two commissioners.

## **P-12 Common Curriculum Learning Standards**

In January 2011, under Commissioner King's Administration, the NYS Board of Regents adopted New York State P-12 Common Curriculum Learning Standards for English Language Arts and Literacy, Learning Standards for Mathematics, and Learning Standards for Prekindergarten. P-12 Common Curriculum Learning Standards were implemented in New York State schools at the beginning of the 2012-2013 school year. NYSED has embarked on the development of instructional and staff resources to support the successful implementation of the CCLS in classrooms across New York State over the next several years. Local school districts have clear decision-making authority over the adoption of curriculum materials and instructional practices. On March 6, 2013, Deputy Commissioner Slentz sent a memo to school districts regarding the transition to Core assessments. He stated:

The Common Core State Standards, adopted by 45 states, the District of Columbia, four territories, and the Department of Defense Education Activity, were developed by mapping backwards from college and career success, internationally benchmarked and informed by research. As such, the Common Core State and accompanying assessments that measure student progress on these standards are closely aligned with the knowledge and skills measure by the NAEP. New York State educators and parents will now have an accurate indicator of how our students are performing and their progress toward college-and career readiness (Slentz, 2013, p. 1).

In March 2012, the Board of Regents approved a plan to develop new Common Core Bilingual Standards (ESL and native language arts), aligned to the P-12 Common Core Learning Standards for English Language arts. Also in 2012, initiatives for the identification of English language Arts/Literacy learning standards for emergent bilinguals began. These learning standards were reinforced through the implementation of the New York State web-based professional development initiative EngageNY.org, which is a professional development



website. It provides extensive information on State initiatives, especially those pertaining to the implementation of the Common Core Learning Standards.

### **Summary of Assessment and Accountability Mandates**

The federal government kept imposing more stringent assessment and accountability measures on NYSED, which passed those to school districts for implementation. The following federal and State mandates pertain to ELL assessment and reporting of achievement results.

- Title III of the NCLB Act requires State educational agencies to hold local educational agencies (school districts) accountable for meeting all requirements of the act pertaining to services and programs for ELLs;
- NYS requires that school districts identify ELLs when reporting assessment results;
- School districts are held accountable for the annual yearly progress of ELL subgroups for graduation rate;
- Since 2006-2007, ELLs in Grades 3-8 who have been enrolled in U.S. schools for less than one year and who receive a valid score on NYSESLAT will be counted as participating in the elementary or middle level ELA assessment. However, ELL performance will not be counted in the calculation of the performance index for the school district;
- Since the school year 2006-2007, ELLs in Grades 3-8 who have been enrolled in U.S. schools for one year or more take the Grade 3-8 elementary or middle level ELA assessment, and their performance will be included in the calculation of the performance index for the school district;
- LAB-R continues to be used as the only assessment tool for the identification of ELLs' bilingual/ESL program eligibility; and
- NYSESLAT continues to be used as the only assessment tool to measure ELLs' English language proficiency progress and determination of the level of annual yearly progress. This test annually assesses the English proficiency of all emergent bilinguals enrolled in Grades K-12 in NYS schools. The test provides information about the English language

development of emergent bilinguals and it is part of the State compliance with federal laws that mandate the annual assessment and teaching of English proficiency of ELLs.

### **Initiatives of the Office of Bilingual Education and Foreign Language Studies**

The Office of Bilingual Education, under the leadership of Dr. Pedro Ruiz, developed or continued past initiatives to implement the Regents' instructional agenda for ELLs, as well respond to federal and State assessment and accountability mandates. The office has also continued to provide support to school districts in developing and implementing appropriate effective bilingual and ESL programs and has provided technical assistance and professional development in the area of instruction and assessment. The following initiatives or programs have been funded by NYSED, mainly with categorical funding, which is provided by the NYS Legislature.

1. Continuation of funding for the Intensive Teacher Institute in Bilingual Education and ESL (ITI-BE) to address the shortage of certified bilingual and ESL educators in New York State. The ITI-BE collaborates with school districts, preschools, and with those institutions of higher education that are approved by NYSED, to assist participants in meeting requirements for a Bilingual Education extension and ESOL certification. The ITI-BE is currently housed in Eastern Suffolk BOCES under the direction of Terri Brady-Mendez.
2. The continuation of the Bilingual ESL Teacher Leadership Academy (BETLA), a teacher leadership program currently at Fordham University, Westchester campus under the directorship of Nancy Rosario Rodríguez. The BETLA Program located in Bank Street College, under the direction of Cándido De Jesús, was phased out in 2011.
3. The LEP/ELL Program Evaluation Toolkit (PET) (Office of Bilingual Education, 2007), funded since 2007, is a self-reflective/self evaluative tool designed to enable districts and schools to assess the quality of their programs and services for ELLs. The LEP/ELL PET provides staff and administrators in school districts and schools an opportunity to review the quality of their programs and levels of compliance with the state and federal

requirements for programs serving ELLs. It also provides training and guidance to schools so that they can enhance the services provided to ELLs. The program is housed at Academic Enterprises and is under the directorship of Isabel Sirgado. A staff member from Academic Enterprise works with a school staff team, encouraging staff members to reflect on the services they offer, as well as the requirements, standards, assessment procedures, and results of the school's ELL population. Together, the group plans for a self-development or a self improvement plan (if necessary) to improve current practices.

4. BETACs were in place for almost 20 years, providing technical assistance and professional development throughout New York State. BETAC offices/programs were closed in 2011. As a replacement, NYSED funded Regional Bilingual Education Resource Networks (RBERNs) with the purpose of providing technical assistance and professional development to districts/schools in order to improve instructional practices and educational outcomes of students who are emergent bilinguals. These centers work directly with schools to provide support and assistance in the following areas: (a) student identification and placement; (b) leadership roles and functions within the school; (c) quality of programs; (d) quality of instruction; (e) assessment methods and assessment results; and (f) planning for modifying instruction, if necessary. These centers provide interventions to schools in order to improve results of ELLs' language and academic achievement needed to meet NCLB Title III Annual Measurable Achievement Objectives (AMAOS) and annual yearly progress. The long-term goal is that these interventions will increase student performance, reduce dropout rates, and increase graduation rates. The eight RBE-RBs are located statewide in the following areas: (a) Statewide language RBE-RN, NYC; (b) New York City RBE-RN at Fordham University; (c) NYS Regional Capital district-BOCES; (d) NYS Hudson Valley-BOCES; (e) NYS Regional Long Island, Eastern Suffolk-BOCES; (f) NYS Regional mid State, OCN-BOCES; (g) NYS Regional Mid West at Monroe 2, Orleans --BOCES; and (g) NYS West Region Erie-BOCES.

Since 2011, NYSED has funded the CUNY-NYSIEB (City University of New York-New York State Initiative on Emergent Bilinguals). Over the last two years, CUNY-NYSIEB has

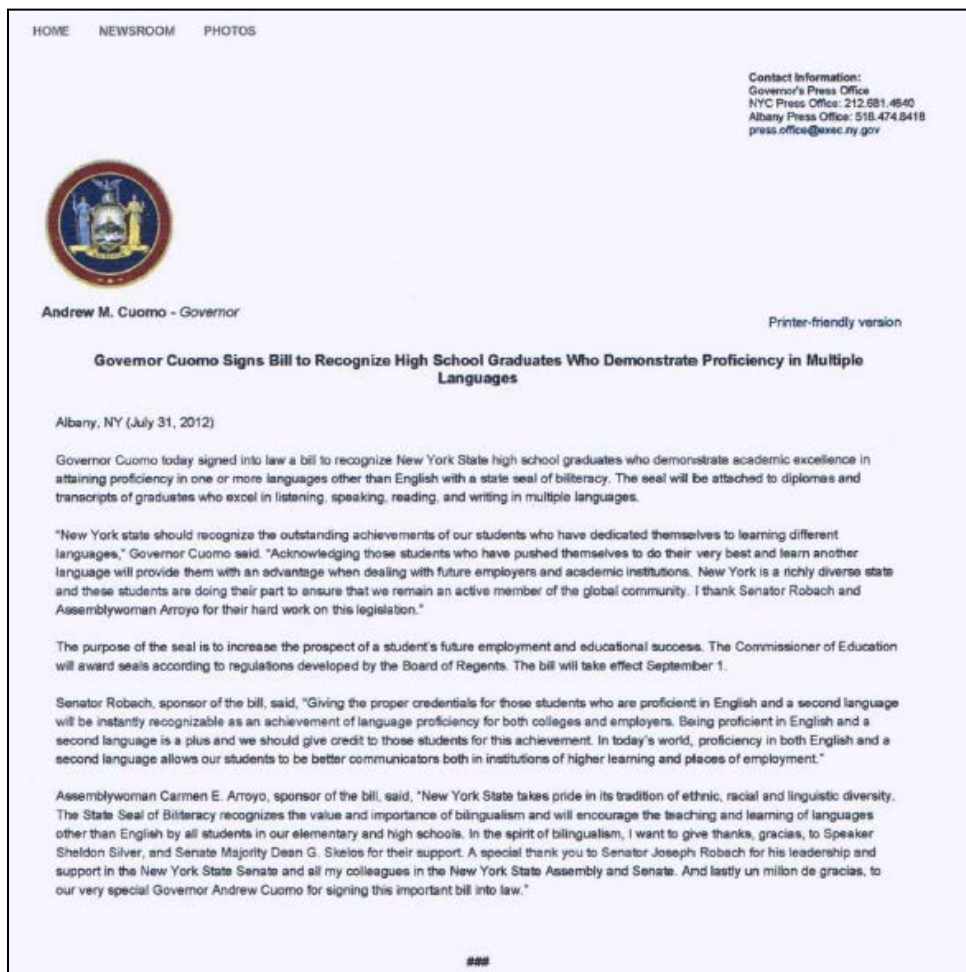
worked with 43 NYS schools that have increased numbers of emergent bilinguals and who are not meeting AYP (Priority Schools).

In 2012, NYSED launched the Bilingual Common Core Initiative to develop the English as a Second Language standards and Native Language Arts standards aligned to the P-12 Common Core Learning Standards. These standards are now called New Language Arts Progressions (NLAP) and Home Language Arts Progressions (HLP), (University of the State of New York, 2013). Dr. Patricia Velasco of Queens College leads this effort.

One of the most rewarding experiences for New York State bilingual, foreign language and ESL educators was when Governor Cuomo signed a bill in July 2012 to recognize high school graduates who demonstrate proficiency in multiple languages. This bill was presented to the Legislature by Assemblyman Carmen Arroyo and is known as the *Seal of Biliteracy*. When Governor Cuomo signed the bill (see Figure 8.1 for the press release), the Honorable Carmen Arroyo reacted to the signing by saying:

New York State takes pride in its tradition of ethnic, racial and linguistic diversity. The State Seal of Biliteracy recognizes the value and importance of bilingualism and will encourage the teaching and learning of languages other than English by all students in our elementary and high schools” (Bill on the Seal of Biliteracy, 2012).

Figure 8.1. Governor Cuomo Press Release on the Seal of Biliteracy, 2012.




Source: Governor Cuomo Press Office (2012).

## New York City Corrective Action Plan

Seventy percent of the State's emergent bilingual population attends schools in New York City, and data on New York City ELLs indicate that they lagged behind other students. For example, only 12.4% were proficient in English Language Arts and 34.5% were proficient in mathematics as indicated by English Language Arts and Mathematics standardized tests results. New York City has a long way to go in educating emergent bilinguals and preparing them to be college and career ready (New York State Education Department, Office of Communications, 2011). This ELL underachievement reality, prompted NYSED Commissioner John B. King to

ask Chancellor Walcott to create a ‘Corrective Action Plan’ to improve services for English Language Learners. Commissioner John B. King and Chancellor Dennis M. Walcott worked out the details to be included in the plan (New York State Education Department, Office of Communications, 2011). The plan intention was to provide more programs, options support and services for ELLs and their families. See Figure 8.2 for the cover page of the corrective plan.

Figure 8.2. New York City Corrective Action Plan, 2011.



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**STATE EDUCATION COMMISSIONER KING AND CITY SCHOOLS CHANCELLOR WALCOTT ANNOUNCE COMPREHENSIVE PLAN TO SUPPORT ENGLISH LANGUAGE LEARNERS**

**Plan Will Increase Options for Immigrant Families and Address Areas in Need of Improvement**

State Education Commissioner John B. King Jr. and New York City Schools Chancellor Dennis M. Walcott announced today that the State has approved a new City plan to provide more program options, supports and services for English Language Learners (ELLs) and their families. Under the agreement, New York City has committed to opening 125 new bilingual programs in the next three years, concentrated in areas with greater need for dual-language and transitional education programs.

“English language learners are facing serious obstacles to academic success,” King said. “This plan removes a lot of those obstacles. Seventy percent of the state’s ELL population attends school in New York City. There’s more to do, but we’ll keep on working with Chancellor Walcott to make sure these students graduate from high school college- and career-ready. It’s vital to our economy that we help ELL students succeed. If they’re not successful, everyone suffers.”

“This plan builds upon the progress we’ve made over the past nine years with English Language Learners, providing more options and services for immigrant families,” said Chancellor Walcott. “We know that when these students become proficient in English and no longer need additional services, they perform even better than their peers and boost our system as a whole. I look forward to working with Commissioner King to implement this bold plan.”

The June graduation rate for ELL students in New York City has jumped from 25.1 percent (2003

cohort) to 41.5 percent (2006 cohort), an increase of percentage 16.4 points over the past four years. However, given the citywide June graduation rate of 61 percent, ELL students have significant room to grow. In addition, only 7 percent of the 2006 ELL cohort was college and career-ready.

The New York State Board of Regents has been concerned about the performance of New York City's ELL students, which has consistently lagged behind other students. Only 12.4 percent of New York City ELL students were proficient on last year's grade 3-8 English Language Arts exams, as compared with 43.9 percent citywide. On the 3-8 math exams, only 34.5 percent of the city's ELL students were proficient, as compared with 57.3 percent citywide. On August 31, 2010, the State Education Department sent a letter to former Schools Chancellor Joel I. Klein, requesting that the city create a "Corrective Action Plan" to improve in several areas of services for English Language Learners.

The new agreement is the result of more than a year of discussions between the two departments and addresses the timely administration of the language proficiency screening exam (LAB-R), increasing the number of certified bilingual and English as a Second language teachers, creating more bilingual programs to increase parental choice options, and holding school principals accountable for implementing this plan in their schools.

"For years we have been concerned about the decline in bilingual programs for English language learners, particularly progress in Asian languages and Asian immigrant communities. We are encouraged by the efforts to target bilingual programs in language groups that have few bilingual programs, and we are eager to see the city and the state work together to address the needs of ELLs," said Khin Mai Aung of the Asian American Legal Defense and Education Fund.

"We applaud the state for their efforts to work with the city to improve services for English language learners," said Lucía Gómez-Jiménez of La Fuente. "We are particularly encouraged by the plan's efforts to reach out to parents of ELLs and community groups to inform parents of their choices and gather feedback on the implementation of new bilingual programs."

The plan will also shorten the time it takes for students to be identified as needing bilingual services; improve services for students who are long-term ELLs; and ensure all schools report how many students are receiving ELL services in their classrooms. Finally, the plan will charge the New York City Department of Education's auditor general with reviewing whether schools are offering the required range of options – bilingual, English-as-a-Second Language (ESL), and dual-language – to families eligible for ELL programs.

Under the plan, the NYC DOE will implement new data and warning systems to ensure that newly enrolled ELLs are tested for their English proficiency in a timely manner; maintain the lifting of hiring restrictions on ESL and bilingual teachers in the 2011-12 hiring season to facilitate opening more programs; open 125 new bilingual programs over the next three years; create new systems to monitor and track parent choice; and create a new database to collect and analyze ELL programming. The NYC DOE will provide periodic reports to SED detailing progress towards the multi-year plan, which contains yearly benchmarks and targets. SED will publish a yearly progress report on the NYC DOE activities required in the plan and the degree to which the agreed upon goals have been met.

The NYC DOE also agreed to enhance training for staff on enrollment procedures for ELLs, create informational materials and provide trainings for parents and community groups on parental options, and enhance training for schools and networks on bilingual programs. In addition, the NYC DOE and SED plan to work together to address statewide shortages of certified bilingual teachers through exploring alternative pathways to certification and incentive programs and funds.

The full text of the approved plan may be found at: <http://www.p12.nysed.gov/biling/bilinged/>

Source: New York State, Office of Communications, 2011.

In 2011, the New York City Department of Education provided the State with a Comprehensive Plan to Support English Language Learners (New York State, Office of Communications, 2011). The plan was approved by NYSED and addresses the following goals:

- Timely administration of the language proficiency screening exam (LAB-R);
- Increasing the number of certified bilingual and English as a second language teachers;
- Creating more bilingual programs;
- Increasing parental choice options; and
- Holding school principals accountable for implementing the plan in their schools.

According to NYSED: “The plan will also shorten the time it takes for students to be identified as needing bilingual services, improve services for students who are long-term ELLs and ensure all schools report how many students are receiving ELL services in their classrooms” (New York State, Office of Communications, 2011, p. 2). The NYCDOE agreed to provide periodic reports to NYSED using benchmarks and targets, detailing progress towards the multi-year plan. NYSED also agreed to provide training for staff on enrollment procedures for ELLs, informational materials, training for parents and community groups, and training for schools and networks in bilingual programs.

### **Conclusion**

English language learners in New York State continue to lag academically in spite of the initiatives created by NYSED to help school districts provide appropriate services to these students. The Regents’ reform agendas and actions, although well intended, have not produced the expected results. There are different factors contributing to the mismatch between the



Regents' policies toward ELLs' linguistic and academic achievement and actual achievement gaps. We theorize that the following factors or variables may play a role.

1. Due to federal and state mandates, there is an overemphasis on English language acquisition and proficiency, without providing a reasonable time for these students to affirm and expand their literacy foundation in the home language. The role of the home language, although still present as an important component of bilingual education programs, as described in CR Part 154, has not received sufficient instructional attention.
2. All NCLB and State language assessment mandates are in English, no assessment in emergent bilinguals' home language is recommended to identify progress. This incomplete assessment picture of emergent bilingual students enrolled in bilingual programs could be compensated for by assessment in students' home language, and perhaps other types of classroom assessments. NYSED, school districts administrators, and all those directly involved with emergent bilinguals must see the value of the two languages as instructional tools. This approach will be very beneficial to help students attain the *Seal of Biliteracy*, signed by Governor Cuomo in 2012.
3. In educating emergent bilinguals, another factor to consider is the fact that many come from low-socioeconomic areas and households, and are not performing at grade level. NYSED has not identified and analyzed the role of poverty and factors related to poverty (e.g., parent literacy level, reading at home) contributing (or not contributing) to students' achievement gaps. The results of this analysis may prompt school districts to add those necessary instructional interventions.
4. In 2005, the U.S. Department of Education passed a mandate requiring that emergent bilingual students who are enrolled for more than one year in U.S. schools take the English Language Arts (ELA) Test. This mandate has been implemented at the state level, even though many educators do not understand the rationale behind it. There is a need to analyze the results of this assessment. A thorough analysis of the assessment results of students in US schools for one to two years may motivate scholars, educational agencies, and school administrators to convey to the U.S. Department of Education the limitations of the assessment results, especially for students with interrupted schooling.

One or two years in school is not sufficient time to require students to take and pass an English Language Arts assessment of this magnitude.

## Chapter 9: NYSED Services for ELLs with Disabilities: A Shared Responsibility

For students from diverse linguistic and cultural backgrounds, an education appropriate to their unique needs must include consideration of language and culture as an integral part of the referral, evaluation, development of IEPs, placement, and annual review process. Incorporation of language and culture will provide a more holistic and accurate reflection of the student's capabilities and learning characteristics (University of the State of New York, 1990b, p. 1)

Bilingual special education is at the intersection of special education and bilingual education, providing appropriate instruction and services for ELLs with disabilities. Although this chapter is not intended to be a historical summary of bilingual special education in New York State, it provides an overview of New York State Education Department initiatives for ELLs with disabilities, shared by two NYSED offices. These initiatives, originated in either the Office of Bilingual Education or in the Office of Special Education (formerly the Office for the Education of Children with Handicapping Conditions, and later on the Office of Vocational and Educational Services for Individuals with Disabilities, VESID), were promoted and implemented as a shared responsibility of both offices.

Since the focus of this chapter is on shared responsibility in the area of bilingual special education at NYSED, it does not address all the bilingual special education initiatives of the New York City Board/Department of Education or the activities conducted solely in bilingual special education by VESID. A New York City overview would require a different perspective to the one presented in this document.

## **Sharing the Responsibility for Bilingual Students with Learning Disabilities**

An appropriate individualized education plan is necessary for all students with disabilities. Further, for ELLs with disabilities, instruction and services are provided in two languages, English and the student's native language. The field of bilingual special education provides an appropriate educational environment for students whose challenges prevent them from participating successfully in general education. In New York State, specific mandates for referral, evaluation, development of individual education programs, placement and annual reviews are defined by Part 200 of the Regulations of the Commissioner of Education (hereafter referred to as CR Part 200). These mandates ensure that students with handicapping conditions are properly addressed, classified, and placed in appropriate programs (University of the State of New York, 1990b). Although CR Part 200 addresses students with disabilities in general, CR Part 154 of the Regulations of the Commissioner also applies to ELLs with disabilities. The Office of Bilingual Education and the Office of Special Education have worked together to provide programs and services under these two regulations, and have developed guidelines to apply the regulations of CR Part 200 and CR Part 154. CR Parts 154 and 200 both require that students be placed in an appropriate program and receive appropriate services.

Bilingual Special Education involves two disciplines - special education and bilingual education. Consequently, personnel in two main offices at NYSED share responsibilities for the appropriate instruction and services to ELLs with disabilities, namely the Office of Special Education and the Office of Bilingual Education, which today is called the Office of Bilingual Education and Foreign Language Studies. Officially, bilingual special education programs have been housed in the Office of Special Education, but the Office of Bilingual Education has

worked alongside to ensure that bilingual students with disabilities receive the special education and bilingual instructional services needed. Back in 1990, referring to this shared collaborative perspective in *Guidelines for Services to Students with Limited English Proficiency and Special Education Needs in New York State*, NYSED wrote the following words in the publication's *Foreword* about the collective effort to assist ELLs with a disability: "It is the result of a collaborative effort on the part of two units within the State Education Department, the Division of Bilingual Education and the Office for the Education of Children with Handicapping Conditions" (p. iii). Informational guides and other published materials were generated in one of the two offices. The Office of Bilingual Education took the leadership in providing the external resources necessary for the publication and dissemination of materials in the area of bilingual special education in the early 1990's. This function was undertaken by bilingual special education support projects in technical assistance and teacher preparation after this date. We recognize two NYSED employees that have been instrumental collaborators of bilingual special education initiatives: Dr. Peter Byron, currently retired, and Dr. Alexia Rodriguez-Thompson, an Associate in the Office of Special Education. Their work enabled many bilingual students with disabilities to get the services they much needed. In addition to these two individuals, Carmen Pérez-Hogan and Pedro Ruiz, coordinators of the Office of Bilingual Education supported the development of initiatives to address the needs of bilingual special education students. Those four individuals were able to implement policies and initiatives at NYSED due to the collaboration of professionals from the field of bilingual special education that worked and continue to work with the State in different roles, as consultants, task force members, publication teams, or as advisors. Collaborators include, for instance, Dr. Sarita Samora Curry, Isaura Barrera Metz, Dr. Eddy Bayardelle, Dr. Nancy Cloud and Ms. Nancy Villarreal. We had the

opportunity to interview Dr. Peter Byron, Dr. Alexia Rodriguez-Thompson and Nancy Villarreal, and their voices were used in preparing this chapter.

Initiatives developed and implemented at NYSED included the compliance with federal policies, to oversee the implementation of federal and state laws and the implementation of mandates for ELLs with disabilities. In addition to overseeing the implementation of the federal legislation provisions, NYSED provides supervision and monitoring of public and private schools; serves preschool and school age students with disabilities; provides technical assistance; and ensures the implementation of due process in the educational system.

### **Court Decisions Providing Impetus to the Implementation of Services for ELLs with Disabilities**

In 1974, the U.S. Supreme Court ruled in *Lau v. Nichols* that limited English speaking students are protected by Title VI of the Civil Rights Act and that school districts must take affirmative steps to open instructional programs to these students. For ELLs with disabilities, this mandate was affirmed in 1975 by the Education for All Handicapped Children Act of 1975, enacted by the United States Congress, which in 1990 became the Individuals with Disabilities Education Act (IDEA) of 1990, and in 2004, the Individuals with Disabilities Education Improvement Act of 2004. IDEA ensures that all children with disabilities are protected under six principles: (a) zero reject; (b) a free appropriate education; (c) protection in evaluation; (d) least restrictive environment; (e) procedural safeguard; and (f) parental participation. These federal mandates prompted NYSED to develop policies and make accommodations for students with disabilities. However, despite the regulations requiring the provision of an appropriate program and services for children with exceptionalities, including ELLs with disabilities, these provisions did not always occur. Consequently, parents and community organizations had to

implement advocacy strategies for moving local school districts (e.g., New York City) and NYSED to acknowledge the educational rights of ELL students with disabilities and provide appropriate instruction and services.

*Jose P. v. Ambach* (1979) and *Ray M. v. NYC Board of Education and NY State Department of Education* (1995), though decades apart, serve to raise consciousness about issues pertaining to bilingual special education students in the State.

### **Jose P.**

Jose P. was a deaf boy who sued the NYC Board of Education on behalf of handicapped Hispanic students (*Jose P. v. Ambach*, 1979). The judge in the case declared that the New York City Board of Education and the NYS Department of Education, NYS Commissioner of Education, and NYC Chancellor and Board members were violating federal and State laws requiring the provision of a free appropriate public education in a timely manner to the plaintiff class. As a result of the case, a federal judge ordered the NYC Board of Education to evaluate and provide educational services to all students with a handicap. On behalf of the children with a handicap, the plaintiffs sought to ensure that the Department of Education would “obey federal laws that required appropriate evaluations, placement, and services be provided to all students with disabilities” (*Jose P. v. Ambach*, 1979). Due to the court case decision, NYSED and the NYC Board of Education implemented initiatives to remediate the lack of proper services for ELLs with disabilities. Farland, Hanlon, and Bryson (1986) identified those initiatives and mandates as:

- *Timely Evaluation*: New York State regulations defined timely education to be within 30 school days from referral;
- *Multidisciplinary School Based Support Teams (SBSTs)*: Conduct evaluations and

provide related services in students' native languages and following recommendations from the SBSTs, which included in their teams psychologists, social workers, and educational evaluators who were assigned to provide services to the schools;

- *Timely Placement*: The judgment incorporated specific timelines and ordered that students with disabilities be placed in appropriate programs within 30 days of the SBST program recommendation or 60 days of referral, whichever came first;
- *Due Process Rights*: The court ordered that a document describing parent rights, including the right to attend and participate in meetings and understand the SBST's recommendations be created and that those documents were to be translated into the language the parent could understand;
- *Accessibility of Facilities*: A detailed plan and timetable for making a sufficient number of school facilities accessible to physically challenged students was to be developed;
- *Monitoring of Services*: The court ordered that these systems be made more uniform, comprehensive, and coordinated. The court also ordered the school system to establish or maintain a series of data systems covering a variety of management areas, such as lists of special education personnel, assignments, vacancies, and classroom utilization;
- *School Services*: The Board of Education was obliged to enter into contracts with nonpublic providers for classroom instruction or for related services when timely and/or appropriate services were not available in the public schools.

In 2013, the results of the Jose P. litigation are still strongly influencing New York State and New York City special education programs and services through the provision of appropriate bilingual special education programs and services, staff development, technical assistance, preparation and dissemination of state plans and guidelines.

### **Ray M. v. NYC Board of Education and NYSED**

In 1994, in *Ray M. v. NYC Board of Education and NYS Department of Education*, New York City parents claimed that their preschool children with disabilities were denied referrals



and evaluation to special education services in a timely manner, as required by state and federal special education laws. The plaintiffs also claimed that their preschool children with disabilities who were English learners were also denied timely evaluation services in their native language and were placed in inappropriate classroom environments. The importance of this case is that it created inclusive education settings for preschool ELLs with disabilities. As result of this litigation, training programs for Pre-K teachers in bilingual special education were provided.

### **The Influence of Court Cases on Bilingual Special Education Programs**

The above two court cases and the national emphasis given to bilingual special education by professional organizations and researchers moved NYSED to develop initiatives to promote appropriate instruction and services to ELLs with disabilities. Due to these two landmark cases, an effort was made to provide ELLs with special education programs using two languages for instruction (mainly Spanish and English). Those efforts lead to promotion and development of an appropriate educational environment for those students who needed the services because challenges prevented them from participating successfully in general education. Services included appropriate instructional programs along with an individualized education plan for students with disabilities. These services were intended to be provided in two languages, English and the student's native language.

During the 1990s, Dr. Peter Byron, who worked in the Office of Bilingual Education and later in VESID, collaborated in the coordination of activities to make sure that ELLs with disabilities were provided with appropriate programs and services. He worked with his immediate supervisor Fredric DeMay, Coordinator of Program Services at VESID as well as with Carmen Pérez-Hogan, director of the Office of Bilingual Education. He stated in an

interview that one of his roles was to ensure that bilingual special education was provided to bilingual students with disabilities. He was very involved in planning and implementing initiatives for providing remedies necessary given the rulings in the José P. Case. He responded to court issues within NYSDE and was instrumental in the implementation of services for ELLs with disabilities, resulting from NYSED and court decisions. According to Peter Byron, NYSED responded very positively to both lawsuits, there was never any question that NYSED would not provide assistance to bilingual special education students (P. Byron, personal communication, June 5, 2012). Nevertheless, it was a challenge to implement changes because of the variety of issues and all the reporting that was going on with the many stakeholders involved.

Dr. Alexia Rodríguez-Thompson was also a key player in the training projects that dealt with professional development or technical assistance for professionals who would work with English language learners with disabilities. In an interview with Alexia Rodriguez-Thompson, she stated, “They (local school districts) had lots of difficulties filling in the bilingual special education positions because of the requirements for the position: You have to have a bilingual extension; you have to have Special Ed certification; and you have to have experience working with ELLs with disabilities” (A. Rodríguez -Thompson, personal communication, June 8, 2012)

The *Jose P v. Ambach* and the *Ray M. v. NYC Board of education and NYS Department of Education* court cases moved NYSED to:

- Develop modifications to certification requirements;
- Create work standards for psychologists and interpreters;
- Train evaluators for bilingual special education students;
- Identify best steps to take when encountering bilingual special education students without a native speaker to provide services; and
- Establish bilingual programs.

### **Assessment Initiatives**

Assessment and intervention for ELLs with disabilities must match their needs and be consistent with state and federal laws and regulations. Both federal and New York State laws and regulations govern the requirements to be met by school districts and the rights of parents and children. According to CR Part 200.4 (b), the evaluation and assessment of a child suspected of having disabilities: (a) must be conducted by a multidisciplinary team, including qualified bilingual personnel, and at least a person knowledgeable in the area of the suspected disability; (b) the child must be assessed in all areas related to the suspected disability, including where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status (in first and second language) and motor abilities (University of the State of New York, 1993;1993a; 1993b).

In New York State, the assessment and evaluation initiatives for bilingual students included the provision of all assessment to be conducted in the student's dominant language. There is an emphasis on assessments and tests to be nonbiased. Further, test results must not be the only indication for placement in special education programs (University of the State of New York, 1989b). The importance of addressing the native language affirms the need to communicate in a language the children with disabilities and their parents understand and comprehend.

Another assessment goal of NYSED is for each school district to have a multidisciplinary team that understands and works skillfully with culturally and linguistically diverse people. According to Alexia Rodriguez-Thompson: "I think that when you're going to initially evaluate a student for a possible disability, you have to look at the native language, the student's skills in the native language, and parents have to be part of the process" (A. Rodríguez-Thompson, personal communication, June 8, 2012). Once the suspected bilingual student with a disability

has been evaluated and assessed for special education services by a multidisciplinary team, the team gathers together to write and implement the Individualized Education Plan (IEP) for the bilingual special education student. The IEP is critical to the student's development and is used for monitoring purposes, as described below. As Dr. Rodriguez-Thompson stated, "If something is on a student's IEP, then our office would be monitoring it so, where sometimes we get calls saying, "My student has a disability. He's not receiving ESL." Then we would look at the requirements, and that's one of the things that our office has been saying is that you have to provide ELLs access to the core curriculum to the bilingual gen education and bilingual-ESL program" (A. Rodríguez -Thompson, personal communication, June 8, 2012).

### **Initiatives for Bilingual Special Education**

Rulings in the court cases described above and the national emphasis given to bilingual special education by professional organizations and researchers have moved NYSED to develop initiatives that provide appropriate instruction and services to ELLs with disabilities. In addition, the CR Part 200 of 1986 offered safeguards for the provision of appropriate educational programs to students with handicapping conditions. Regarding these initiatives, we highlight the ones having a shared responsibility of the two offices mentioned previously.

CR Part 154 identifies requirements for schools districts to follow regarding the education of ELLs. Both the regulations and the guidelines for programs under CR Part 154 describe provisions for the identification of 'LEP students suspected of having a Handicapping condition. The Guidelines for Programs under CR Part 154 (University of the State of New York, 1989b), clearly states:

If a district refers LEP pupils who are suspected of having a handicapping condition to the committee of special education (CSE), the provisions of CR Part 200 must be

followed. The CSE must ensure that a bilingual multidisciplinary assessment is conducted in accordance with section 200.4(b) before it classifies such pupils with limited English proficiency as having a handicapping condition.

Districts are required to adhere to the protection afforded to LEP students with handicapping conditions by Public Law 94-142 and CR Part 200. All laws and regulations regarding referral, entry screening and procedures for diagnostic evaluation and placement of students with handicapping conditions must be followed. Those students should also be eligible for services pursuant to CR Part 154 when such services are recommended in the IEP.

A pupil with a handicapping condition receiving service in accordance with the provisions of CR Part 154 shall also be counted as a pupil served for the purposes of pupil excess cost aid for children with handicapping conditions (University of the State of New York, 1990a, p. 9).

To improve services for special education programs, NYSED has worked arduously to address compliance issues and provide technical assistance to monitor reviews for the school improvement quality assurance review. It also added a traumatic brain injury technical assistance project and provided more funds to the Special Education Training and Resource Centers (SETRCs). Furthermore, the IDEA discretionary funds provided and fostered the development of integrated program models to increase participation of students with disabilities in the general education classroom. Importantly, NYSED worked jointly with the Office of Civil Rights to develop an agreement regarding the issue of overrepresentation of minority students in special education programs. Another major initiative in the mid 1990s was the five year federal grant on building the capacity to address bilingual special education issues in New York State through a personnel preparation grant at Hunter College and Medgar Evers College.

In March 2011, NYSED issued a memorandum entitled Bilingual and English as a Second Language (ESL) Services for Limited English Proficient (LEP)/English Language Learners (ELLs) who are Students with Disabilities (University of the State of New York, 2011)

which addresses topics related to bilingual students with disabilities. Guided by the 1990 training manual, the memorandum clarifies state policy regarding bilingual special education students, especially roles and functions. First, the memorandum states “when the Committee on Special Education develops an IEP for a ELL student with a disability, it must consider the language needs of the student as they relate to the student’s IEP as well as the education supports and services a student needs to address his or her disability and to support the student’s participation and progress in the general education curriculum” (University of the State of New York, 2011, p. 2). Second, the memorandum addressed the issue of declassification from LEP/ELL status: “Part 154 of the Regulations of the Commissioner of Education establishes that for a student to be declassified from LEP/ELL status and therefore no longer be eligible to receive mandated bilingual education or free standing ESL programs, the student must score proficient on the NYSESLAT” (University of the State of New York, 2011, p. 3). Third, the Committee in Preschool Special Education must include personnel knowledgeable of second language and how those needs are related to the students with disabilities.

### **Guidelines for Special Education Programs**

In 1990, the NYSED Division of Bilingual Education and the Office for the Education of Children with Handicapping Conditions published a training manual entitled, Guidelines for Services to Students with Limited English Proficiency and Special Education Needs in New York State (University of the State of New York, 1990b), with the purpose of providing guidance to school districts in providing appropriate services to ELL students who “have or are suspected of having a handicapping condition.” These guidelines interpreted CR Part 200, Section 3204 of Education Law (Chapter 827), and CR Part 154. It states in the Foreword: “The

development of this document brings together two regulations, Part 200 of the Regulations of the Commissioner of Education (CR Part 200) and Part 154 of the Regulations of the Commissioner of Education” (p iii). The training manual addressed the following topics: (a) identification and referral; (b) multidisciplinary evaluation; (c) individual education program; (d) due process; (e) range of services; (f) annual review and triennial evaluation; (g) data collection and reporting; and (h) personnel. Drs. Sarita Samora Curry, Debra Colley and Isaura Barrera Metz, recognized authorities in the field of special education, were the main writers of this publication. These guidelines were very useful to the State Education Department personnel when working with school districts addressing the needs of bilingual special education students. This publication was a major collaboration between the two offices in providing guidelines to ensure that nonbiased procedures were used for identifying ELLs with disabilities.

In the academic year 1996-1997, NYSED required preschool program providers in NYC to provide a plan for advancing the development of full bilingual services. The New York State Guidelines for Services for Culturally and Linguistically Diverse Preschool Students with Disabilities ages 3-5 (University of the State of New York, 1997a) was developed jointly by VESID and the Office of Bilingual Education to guide appropriate evaluation and placement of culturally and linguistically diverse preschool students with disabilities. This is an important document in the sense that it presents the concept of the ‘bilingual multidisciplinary evaluation’.

It says:

It is the Department’s expectation that this document will serve as a catalyst for the improvement of assessment and placement of limited English proficient students with disabilities. It is anticipated that this document will stimulate discussion which will result in 1) the improvement of the assessment process to better reflect the cultural needs of the student, 2) an expansion of least restrictive opportunities for preschool students with disabilities who speak languages other than English, 3) expansion of certification and staff development opportunities (University of the State of New York, 1997a, p. 1)

Related to the bilingual multidisciplinary evaluation, the 1997 guidelines for CLD preschool students with disabilities state:

Parents must be informed that their child requires a bilingual multidisciplinary evaluation when the home language(s) is other than English or when a child has been exposed to a language(s) other than English for a significant amount of time and appears to have some receptive or expressive skills in that language(s) (e.g., adopted children, foster children)” (p. 11). It also stated that, “For culturally and linguistically diverse children, every effort must be made to locate appropriately licensed/certified bilingual professionals to conduct the evaluation (University of the State of New York, 1997a, p. 13).

### **The SETRCs**

VESID traditionally operated Special Education Training and Resource Centers (SETRCs). Bilingual personnel were hired by VESID for centers beginning in 1997, for the purpose of providing technical assistance to those educators serving students with disabilities, including ELLs. These centers function as a network to provide professional development in special education to train personnel educating students with disabilities. In 1997, there were about 50 centers spread across the state (University of the State of New York, 1997a, p. 69). There were bilingual personnel in those centers, specifically located in districts with a significant representation of ELLs.

### **Bilingual Special Education Certification**

According to NYSED policy, personnel providing bilingual instruction or bilingual services for ELLs with disabilities must hold an appropriate bilingual extension in their special education or pupil personnel certificate. As mentioned earlier in this document, a bilingual teacher certificate extension and a TESOL teacher certificate were approved by the Board of Regents in 1981 for teachers, including teachers of special education. The regulations were



amended in 1992 and included bilingual extension certification for pupil personnel service professionals. All candidates had to demonstrate, at the time of applying for the certification, subject background knowledge and bilingual language proficiency. Regarding language proficiency, the certification regulations state: “The candidate will submit evidence of having a satisfactory level of oral and written proficiency in English and in the target language of instruction on the New York state Teacher certification examination” (University of the State of New York, 1992). In 1997, bilingual special education teacher certification titles included: (a) Teacher of Special education with bilingual education extension; (b) Teacher of the speech and speaking handicapped with Bilingual education extension; (c) Teacher of the deaf and hearing impaired with bilingual education extension; and (d) Teacher of the visually impaired with bilingual education extension (University of the State of New York, 1997a).

### **Intensive Teacher Institute in Bilingual Special Education**

In 1994, The Office of Bilingual Education and the Office of VESID began collaborating to create a program called the Intensive Teacher Institute in Bilingual Special Education (ITI-BSE). The program offers tuition assistance to teachers and pupil personnel professionals, primarily school social workers, school counselors, and school psychologists, to work toward bilingual or ESL certification course work. The program provides tuition assistance to bilingual and ESL teachers to facilitate the acquisition of the bilingual certificate extension or ESL teacher certificate.

### **Conclusion**

English language learners with disabilities manifest learning needs, which can be met through appropriate bilingual special education programs. For many ELLs with disabilities, the

use of their native language seems necessary, even for a long period of time. NYSED has developed and implemented initiatives for serving ELLs with disabilities, yet much more needs to be done. For example, New York City has a significant number of ELLs with disabilities, and available data indicates that bilingual special education programs have decreased (Office of Special Education, n.d.). There is a need to continue the enhancement of services that support ELLs with disabilities in the least restrictive environment. Shared responsibility should continue between offices at NYSED to provide ongoing professional development and publications in bilingual special education (e.g., language use, native language instructional materials, methodology of teaching, pre and post assessment, and bilingual multiculturalism). Programs such as the Intensive Institute in Bilingual Special Education must continue in order to increase the number of appropriately certified bilingual special education teachers in the State.

## Chapter 10: Professional Organizations' Role in Shaping NYSED Policies on the Education of ELL Students

One of New York SABE's goals is to disseminate the positive effects of bilingual education and bilingualism. New York SABE's objective goes hand in hand with the long-term goals of New York State and the New York Education Department, which is to promote and develop multilingualism and multiculturalism throughout the State (Carrasquillo, 1991, p. 3).

There are three main organizations that have played an active role in the development and implementation of NYSED policies regarding ELL education - (a) the New York State Association for Bilingual Education (NYSABE); (b) the New York State Teachers of English to Speakers of Other Languages (NYSTESOL); and (c) the New York State Association of Foreign Language Teachers (NYS AFLT). They have supported or criticized policies, mandates, or practices for emergent bilinguals that were proposed or implemented by NYSED. This chapter acknowledges the important role of these associations and provides examples of documents (e.g. position papers, press releases, letters, and memoranda) that have been prepared and disseminated by these organizations in order to defend the rights and needs of emergent bilinguals and their educators.

This chapter does not intend to present a historical framework; rather, it serves to illustrate examples of the advocacy role of professional associations. As document in this document, these organizations have influenced policymaking in the State of New York. In this chapter we provide perspectives advanced by the associations regarding issues such as bilingualism/bilingual education, assessment, curriculum and instruction, and CR Part 154.

## **The New York State Association for Bilingual Education**

The New York State Association for Bilingual Education (NYSABE), established in 1976, is a multilingual and multicultural association fostering the awareness and appreciation of bilingualism and biculturalism as an integral part of cultural pluralism in our society. As indicated in their by-laws, the goals of NYSABE are: (a) to encourage the establishment, maintenance, and expansion of quality programs in bilingual education; (b) to promote bilingual education as an educational process by which success of students is enhanced through instruction in their native language while learning English; and (c) to foster the recognition by the total community of the importance of bilingualism and its contributions toward a better understanding of the cultural and linguistic differences among people. Over the years, NYSABE has served as an advocate at the state and national policy level for bilingual/ELL students. Their advocacy has included issuing position statements and letter writing to policy makers and policy-making bodies. Examples of documents that have been written to respond to NYSED initiatives are listed and described subsequently. Nancy Villarreal de Adler summarized NYSABE's role as follows:

You have to enter those organizations; you have to infiltrate every single decision making team, group, whatever. We should not be relegated to participate only when it deals with discussing Part 154 or something bilingual. We have to be there at the table in every issue: Common Core, student learning outcomes, every single issue we have to be represented. And this has been the major role of NYSABE. NYSABE has addressed through position statements almost everything affecting us, not only instruction, but the movement of English Only, which I had to fight (N. Villarreal de Adler, personal communication, May 15, 2013).

An examination of the NYSABE website provides readers with a recent list of position papers. Table 10.1 lists a sample of NYSABE's Position Statements and their descriptions.

Table 10.1. NYSABE Position Statements.

Dates	Presented To	Overview of Position Statement
June 16, 2008	Commissioner Mills, NYSED	NYSABE expressed its deep concern for the exclusion of the Native Language Arts Standards as indicated in Commissioner Mills memorandum to the NYS Regent (New York State Association for Bilingual Education, 2008b).
September 23, 2008	The New York State Assembly Standing Committee on Education	It provided recommendations for procedures to enforce federal mandates, state law, and regulations governing the identification, placement, and appropriate instructional and support services for LEP/ELLs in general and special education. Recommendations included: a) comprehensive student data that is disaggregated by ethnicity, native language, ELL status, ELL program type, and achievement in all curriculum areas, for LEP/ELLs in general and special education, b) Allocate specific funding for the expansion of bilingual education programs and development of materials to meet the needs of Asian American LEP/ELLs (New York State Association for Bilingual Education 2008a).
April 1, 2009	Response to NYS Assembly Speaker Sheldon Silver	New York State Association for Bilingual Education (NYSABE) expressed its opposition to Bill Number A5350, an act to amend the state law, in relation to making English the official language of New York State (New York State Association for Bilingual Education, 2009).
April 9, 2010	NABE, National Action Plan	To bring urgent attention to bilingual learners with disabilities and Students with Interrupted, Formal Education (SIFEs) (New York State Association for Bilingual Education, 2010).
September 17, 2012	New York State Board of Regents	<i>Recommendations for the Proposed Revisions to Commissioner's Regulations Part 154:</i> Provides a detailed set of recommendations to consider in the implementation of high quality bilingual programs (New York State Association for Bilingual Education, 2012).

Source: NYSABE webpage.

NYSABE is an active promoter and defender of bilingualism and bilingual programs. In the 1990s, they fervently fought the English-Only movement. Nancy Villarreal de Adler, president of NYSABE in 1995, on the question, “Should English be our official language?” said:

Absolutely not. By making English the official language we’re excluding from mainstream life language-minority students and their families. This legislation is divisive because it promotes anti-immigrant feelings. Bilingual educators have never said that children should not teach a second language -- just the opposite. Give the child knowledge in the language that the child understands best. Then, when the child has

mastered English, move the child into an all-English classroom (Newsday, September 12, 1995, p. A37).

In 2011-2012 NYSABE supported the Honorable Carmen Arroyo's bill for the New York State Seal of Biliteracy, which became law on July 31, 2012 when Governor Cuomo signed the legislation, hoping that this legislation would increase the number of bilingual and biliterate graduates.

NYSABE has been militant related to the proper assessment of emergent bilinguals. NYSABE promotes the establishment of quality bilingual education programs, especially those with a strong native language component. It communicated with Commissioner Mills several times expressing concerns for the exclusion of the Native Language Arts Standards (New York State Association for Bilingual Education, 2008b ), and throughout the years, NYSABE has defended Part 154 of Commissioner's Regulation, including recommendations for revisions of Part 154 on behalf of all educators, parents, advocates, and community-based and educational entities they represent (New York State Association for Bilingual Education, 2012).

### **The New York State Association of Teachers of English to Speakers of other Languages**

NYSTESOL, established in 1970, has taken many positions on policy issues pertaining to the teaching of English to speakers of other languages and has developed position papers in support of culturally and linguistically diverse students (<http://nystesol.org>). NYSTESOL promotes educational programs that provide emergent bilinguals with the linguistic and cultural skills to function in an English-speaking society, and to have pride in their linguistic and cultural backgrounds. NYSTESOL identifies bilingual education as a viable instructional program and supports the goal of bilingualism and the notion of two or more languages for all students. In addition to position papers, NYSTESOL has written letters and published several papers on

matters related to the education of emergent bilinguals/English language learners. Table 10.2 lists a sample of NYSTESOL Position Statements and their descriptions.

Table 10.2. NYSTESOL Position Statements.

Date	To	Overview of Position Statements
June, 1995	Policy makers and legislators	NYSTESOL opposed the silencing of any languages in the name of English (New York State TESOL, 1995).
No Date	NYSED	NYSTESOL supported the notion of providing adequate programs, resources and instruction to English language learners (New York State TESOL, n.d.a).
No Date	NYSED	ESOL teachers require appropriate working conditions, adequate resources and time to better serve the ELL population (New York State TESOL, n.d.b).
June 9, 2012	NYSED	The New York State Education Department (NYSED) needs to develop and provide both administrators and teachers with clear guidelines to ensure that ELLs acquire academic proficiency in English and meet the Common Core Learning Standards (CCLS) (New York State TESOL, 2012).

Source: NYSTESOL webpage.

NYSTESOL has endorsed legislation that (a) recognizes the special needs of students with limited English proficiency; (b) allows school districts to choose ESL as an alternative method of instruction for LEP students; (c) provides funds for the training of ESL and bilingual teachers; and (d) provides funds for research in ESL and bilingual education. In June of 1995, NYSTESOL strongly denounced all measures to declare English the official language of the United States, which would bar bilingual assistance to voting adults. It also expressed strong support for all measures that encourage multilingualism. As an alternative to English Only legislation, they proposed an English Plus policy, which would encourage the mastery of English plus other languages for all individuals (New York State TESOL, 1995). This policy statement was distributed to NYSTESOL’s sister organizations, the media, as well as policymakers.

NYSTESOL has also written on the assessment of ELLs. In their position paper, "The Proposed Elimination of NYSED Content Assessment in Chinese, Haitian, Creole, Korean, and Russian" (New York State TESOL Joint Position Statement with New York State Bilingual Association of Bilingual Education, n.d.c). NYSTESOL urged NYSED to continue the fair and equitable practice of providing ELLs the best opportunity to demonstrate their knowledge through the use of officially translated editions of content assessments required under the New York State Testing Program.

Further, NYSTESOL disseminated a position statement on Common Core Learning Standards and English language learners (New York State TESOL, 2012), in which they state that the Common Core Learning Standards (CCLS) present a particular challenge for English Language Learners because provisions were not made to address the development of academic language proficiency of these students. NYSTESOL provided recommendations to NYSED in order to recognize that ELL students should be able to meet the dual goals of reaching academic proficiency in English and meeting the Common Core Learning Standards.

### **The New York State Association of Foreign Language Teachers**

The mission of the New York State Association of Foreign Language Teachers (NYS AFLT), established in 1917, is to serve the needs of the foreign languages profession. It is dedicated to the development of second language skills and cultural awareness among students. NYSAFLT provides multiple services to its members, including a communication network linking colleagues throughout the state; opportunities for professional growth through conferences; institutes and colloquia held regionally and statewide; a direct link with the State Education Department; and an advocate's voice among the members of the Board of Regents and



the State's legislators. As noted below, NYSAFLT has published papers on a variety of issues pertaining to foreign language teaching and acquisition.

NYSAFLT advocates for learning a foreign language as a core subject, which is evident in their position paper, *Learning a Language Other than English*:

The study of a language other than English fosters an appreciation and understanding of other cultures, promotes a better understanding of one's own language and culture, supports learning and improves performance in other content areas, and cultivates the qualities of global citizens who are well-educated and prepared to compete professionally in an increasingly interconnected world. Therefore, language learning should be a part of the core curriculum at all levels of instruction from pre-kindergarten through graduate school and be available and encouraged for students of all abilities and backgrounds (New York State Association of Foreign Language Teachers, 2011, p. 11).

Consistent with their mission, NYSAFLT is a strong advocate for appropriate curriculum and instruction for students learning a second/foreign language. Indeed, NYSAFLT's position paper on *Language Programs and Offerings* (New York State Association of Foreign Language Teachers, 2013) states that: (a) Language learning should be accessible to all students, including those with special learning needs, with academic intervention programs or special education support; (b) Language programs should allow students to develop fluency and proficiency through sustained, well-articulated sequences of study; (c) The opportunity to learn a second language is more important than the specific language learned, because second language learning facilitates the acquisition of a third or fourth language; and (d) Language offerings should reflect community interest and heritage and should not necessitate the elimination or diminishment of another language offering.

With respect to evaluation in the teaching process, NYSAFLT stated:

Assessment is an essential tool of teaching and learning for all levels of target language instruction. Defined as the practice of gathering information about what language learners know and can do with the target language, assessment in the language classroom should serve to measure students' progress toward and achievement of short- and long-term instructional and program goals and inform all stakeholders of this progress in ways that

promote quality target language teaching, learning, and programs (New York State Association of Foreign Language Teachers, 2011, p. 14).

### **Conclusion**

The New York State Association of Bilingual Education, the New York State Teachers of English to Speakers of other Languages, and the New York State Association of Foreign Language Teachers have supported, advocated, and worked on behalf of bilingual/ELL students and teachers in the State of New York. These associations need to be applauded for their efforts in communicating and pleading with policymakers, legislators, senators, members of Congress, and NYSED on behalf of all bilingual/ELL students and families. These organizations reflect the essence of social justice, equity, integrity, and inclusion of emergent bilingual learners. In addition, they have served bilingual learners and their families, and they have provided important insights vital to wise educational decision-making.

## Chapter 11: A Call for Action

New York State should recognize the outstanding achievements of our students who have dedicated themselves to learning different languages. Acknowledging those students who have pushed themselves to do their very best and learn another language will provide them with an advantage when dealing with future employers and academic institutions. New York is a richly diverse state and these students are doing their part to ensure that we remain an active member of the global community (Governor Cuomo Press Office, July 31, 2012).

This chapter provides a set of conclusions that were generated through a process of compilation, review and analysis of laws, policies and mandates available in documents developed by NYSED, New York State and federal courts, and New York State and federal legislators. Importantly, the analyses also included information provided in interviews conducted with a group of educators, policy makers, and advocates. Both the documentation piece and the interviews provided the Research Team with the information needed to produce the content of this final chapter. As part of the interview process, the Research Team asked each of the interviewees for their views on Bilingual Education and recommendations on how to preserve bilingual education in the State of New York. The recommendations provided here are presented as the beginning of a conversation between NYSED (including the Board of Regents), the Commissioner, the deputy/assistant commissioners, the director of the Office of Bilingual Education, the legislators, and those representing the field of Bilingual Education - advocates, educators, researchers, parents, and community representatives. That is the reason for calling this chapter a “Call for Action.”

## Conclusions

After compiling and analyzing numerous documents and interview data, and having synthesized our findings in the previous chapters, we offer, for your consideration, the following lists of conclusions and recommendations, with a brief explanation for each.

1. The history of Bilingual Education in New York State is one of courage, effort and dedication by NYSED, Regents, legislators, administrators, and especially from a group of individuals representing different constituencies, organizations, disciplines, languages, communities, and areas of expertise. We take this opportunity to give credit to two particular individuals at NYSED whose commitment to culturally and linguistically diverse students provided the framework for the development and implementation of bilingual education programs and initiatives. One of those pioneers was María Ramírez, who sparked enthusiasm for bilingual education at the State level, and the other was Carmen Pérez-Hogan, the “master implementator.” Carmen Pérez-Hogan was an effective and instrumental individual in the development and implementation of policies and initiatives in the area of Bilingual Education across the State of New York. Without her, we may not have Bilingual Education in the State today. In addition, there were many advocates and educators who volunteered their time to the cause of emergent bilinguals and Bilingual Education, especially all those during the decades of the 1970s, 1980s, and the 1990s who became part of the Commissioner’s Advisory Councils on Bilingual Education, and who guided and worked with NYSED, particularly the Office of Bilingual Education staff who created, implemented and nurtured initiatives consistent with Regents’ policies and mandates on behalf of English language learners. This support group, as well as other individuals who were members of task forces or consultants, were constantly advocating for the implementation of policies and programs to serve emergent bilinguals.
2. Federal and state policies and court decisions on behalf of ELLs [e.g., *Lau vs. Nichols*, Title VII, *José P v. Ambach*, *Aspira Consent Decree*, CR Part 154, and CR 200(b)] have influenced the planning, development, and implementation of Bilingual Education

throughout the State. These decisions pushed the Board of Regents and the Commissioner of Education to develop, fund, and implement programs and initiatives to comply with requirements of these rulings and policies.

3. The Puerto Rican community played an important role in the initiation, implementation, and growth of Bilingual Education in New York State. As stated by Assemblywoman Carmen Arroyo, “Evelina Antonetti and Antonia Pantoja worked very hard on motivating educators to implement bilingual education programs” (C. Arroyo, personal communication, May 18, 2012). Other noteworthy individuals include Luis O. Reyes, Diana Caballero, and Alice Cardona. Documents such as the *Puerto Rican Study* and the *Aspira Consent Decree* were critical for advocacy that served the Puerto Rican students of the 1950s, 1960s and 1970s.
4. The 1960s, 1970s, and 1980s were golden years of Bilingual Education in New York State. Civil rights movements, federal educational policies and funding contributed to the promotion, development, and implementation of Bilingual Education policies, mandates and programs addressing the instructional needs of bilingual students in New York State. The 1980s was a decade in which the field of Bilingual Education flourished in New York State. Educational policies such as *CR Part 154*, *Two-way Bilingual Education*, and *Alternate Competency Testing* were developed during the 1980s and along with the establishment of the BETAC centers, greatly influenced the implementation of programs and services for ELLs/emergent bilinguals.
5. During the last decade (2001-present), New York State’s emphasis on the provision of services for ELLs has been in the areas of assessment, accountability and compliance regulations (mainly to comply with federal regulations). New York State has decreased the amount of emphasis and effort/time devoted to appropriate best practices instruction and the development of professional development and technical assistance to districts and schools. Most technical assistance and professional development are routed through special initiatives (e.g., R-BERNS, BETLA, ITI-BE) developed using categorical funding.
6. Funding (local, state, federal) has been a constant challenge for the development, implementation and expansion of Bilingual Education and English as a Second Language programs in New York State. The “bilingual categorical funds,” annually assigned by the

New York State Legislature have been critical to the implementation of State bilingual education initiatives, enabling services to ELLs. These funds are made available on an annual basis and cannot be counted on in planning bilingual education long-term initiatives. Furthermore, more federal and state funding is necessary, especially to create additional innovative bilingual programs at the school district level. For example, in 2012, there were only a few state-funded Two-Way/Dual language programs due to the funding limitations and the need to fund other important programmatic initiatives.

7. Federal and NYSED's emphasis on English language development and proficiency as the main goal in the education of ELLs has been an impediment to the native language instructional component in bilingual programs. Although CR Part 154 requires and identifies specific periods of native language instruction, there is no assessment and no accountability procedures to summarize and compare the progress of ELLs' home language development and achievement.
8. Bilingual special education programs receive funding and technical assistance through the collaborative efforts of the NYSED Office of Special Education (formally VESID) and the Office of Bilingual Education and Foreign Language Studies (NYSED/OBE-FLS). More collaborative initiatives are necessary at the instructional and assessment level to guide school districts in the provision of appropriate services to emergent bilinguals with disabilities.
9. Today, in 2013, Bilingual Education needs a philosophical booster. NYSED needs a new conceptualization of Bilingual Education, in which the Board of Regents, the Commissioner, and the Department's administrators see bilingual education as a personal, academic and professional asset to the individual, the State, the country, and to the world. A beginning of this shift is present in the Seal of Biliteracy. Consider the importance of bilingualism, as expressed by Assemblyman Rombach.

Giving the proper credentials for those students who are proficient in English and a second language will be instantly recognizable as an achievement of language proficiency for both colleges and employers. Being proficient in English and a second language is a plus and we should give credit to those students for this achievement. In today's world, proficiency in both English and a second language allows our students to be better communicators both in institutions of higher learning and places of employment (Governor Cuomo Press Office, 2012).

10. Latinos/Hispanics, as well as other ethnic and language groups, are severely underrepresented in the New York State Board of Regents. Of the 16 Regents, there is usually only one Latino/Hispanic member who represents the borough of the Bronx. This Bronx Regent is the main voice and advocate at the Board of Regents, promoting policies and initiatives for emergent bilingual/English Language Learners.

### **Recommendations**

In light of those conclusions, we make the following recommendations.

1. NYSED needs a new philosophy of bilingualism and Bilingual Education conceptualized as a linguistic and academic asset. Bilingualism and biliteracy have cognitive, academic and linguistic benefits, and Bilingual Education needs to be pushed as a mainstream goal for all students, not just for students who need to acquire English language skills. Bilingualism should be promoted and encouraged as a cognitive asset for all. A former Regent expressed this new philosophy in the following words “*A bilingual mind is a more cognitively developed mind*” (Former Regent R. Oquendo, Personal communication, April 13, 2012).
2. To provide quality instructional programs for all bilingual students, NYSED needs to provide additional staffing to the Office of Bilingual Education, which should be proactive in providing staff development and technical assistance to school districts, administrators, and teachers. The limited staff is mainly involved in informational and compliance mandates. Today, this role of staff development and technical assistance and the monitoring of school services provided to school districts through CR Part 154 are mainly delivered through programs implemented using “categorical funding.” Although these programs are necessary and meet a tremendous need in the field, they are developed through contracts between NYSED and educational organizations that exist on a ‘temporary’ basis. A more cohesive structure and staff are necessary to meet the need to provide quality instruction and services ELL students.

3. There is a need to create a new movement of individuals and advocates who are strong supporters of bilingual education, and who will meet on a regular basis with staff from NYSED to analyze, plan, and develop initiatives to move Bilingual Education forward. It is recommended that NYSED restore the Commissioner's Advisory Council on Bilingual Education, which the interviewees regarded as a committed and highly qualified group of individuals who collectively built bilingual education practices and services in the State of New York. Former Commissioner Mills' structure of the Committee of Practitioners (COP) does not serve as an advisory role and is viewed by many as merely an informational tool for NYSED.
4. There is a need to coordinate advocacy efforts to push all the Regents to take a more proactive stance on behalf of Bilingual Education. For example, one initiative could be to identify the "constituencies" of each of the Board of Regents, calling them to support and embrace bilingual education.
5. Although there are NYSED regulations requiring school districts to provide bilingual/ESL programs to English language learners, there is a need to provide legislative oversight to ensure that NYSED brings non-compliant school districts into compliance with existing regulations.
6. There is a need to ensure funding to the Office of Bilingual Education (and not to wait for annual Legislature categorical funding) in order for the office to be adequately staffed for effective implementation of the Regents' policies and mandates. Further, provide staff development and technical assistance to school districts and follow up on compliance and non-compliance of state regulations, which collectively will appropriately serve the statewide emergent bilingual school population.
7. The Office of Bilingual Education has gone through many re-organization formats and names (Bilingual Unit, Bureau, Division, and Office) and has been under several deputy or assistant commissioners. The State's ambivalence towards the appropriate name, state, and reporting structure (who reports to whom) sends an ambiguous message about the importance of Bilingual Education to school district administrators, to bilingual/ESL educators and to the community it serves. We recommend that the Regents and the NYSED Commissioner create an individual office with its own Associate Commissioner.



8. Projects such as this one, and efforts to create policy and implementation documents such as NYSED Educational Policies, Mandates and Initiatives on the Education of Emergent Bilinguals/English Language Learners, are needed in the field of Bilingual Education. This project provides continuity and historical memory “so that you can build on what’s been done before, and not reinvent the wheel and start from scratch” (P. Byron, personal communication, June 16, 2012).

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