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**MEMORANDUM**

**TO:** Members of the New York State Board of Regents  
New York State Education Department

**FROM:** Dr. Joseph S. Famularo, President, Nassau County Council of School Superintendents  
Dr. Charles T. Russo, President, Suffolk County School Superintendents Association  
Mr. Daniel Holtzman, President, Suffolk County High School Principals Association  
Dr. Sean Feeney, President, Nassau County High School Principals Association

**DATE:** November 21, 2016

**RE:** Part 154 Reform (Updated)

**Executive Summary**

Like the New York State Education Department, which strives to ensure that all students' individual educational paths and socio-emotional needs are met in multiple languages leading them to college and career readiness, Long Island educational leaders work to ensure that students receive the highest quality programs and services in a safe, secure environment. We believe that this happens when we work together on behalf of all students.

Part 154 of the Commissioner's Regulations was amended to meet the needs of the diverse English language learners through the state. Long Island is experiencing a tremendous demographic shift, largely in the form of South and Central American immigration. As reported in Newsday on November 2, 2016, "Long Island has been the state's top region for a net gain in international migration out of New York City...according to a report issued Wednesday by state Comptroller Thomas P. DiNapoli's office." Long Island's communities are truly diverse when one considers its ethnic, economic and geographic characteristics. The Island is home to one of the state's largest non-city school districts and the smallest; it is comprised of rural farming communities, wealthy suburbs and lower-income industrial centers.

The illustration is compelling when one considers the following statistics:

- The difference between Long Island's wealthiest school district and the least wealthy, as measured by the Combined Wealth Ratio (CWR), is a factor of 49.6.
- Between October 2015 and September 2016, Long Island ranked third among destinations for the total number of unaccompanied minors resettling in the United States. Of the total number of unaccompanied minors settling in New York State (4,985) during that same time frame, 54 percent (2,691) settled on Long Island.
- More than 3,000 entering language learners on Long Island (62 percent) need the highest levels of intervention. In 2015-16, 66 percent of Suffolk County and 57 percent of Nassau County's new entrants were considered Entering, Emerging or Transitioning, the three



lowest proficiency determinations.

- On October 31, 2016, the New York State Council of School Superintendents shared in its report, “Something Has to Give,” that poverty rates among children and youth, as analyzed by the latest U.S. Census figures, jumped 53.2 percent on Long Island between 2007 and 2014, while the rise statewide over that same time span was 11.4 percent.

**As a result, uniform application of Part 154 across districts has presented a number of obstacles. To be sure, our districts are committed to ensuring that English language learners receive every opportunity to attain an excellent education, to pursue a pathway to college and career readiness, and to have their social and emotional needs met.**

To that end, the following reforms are proposed. We believe that these pragmatic and responsible reforms empower districts with local discretion, while still preserving our shared universal expectations for high academic and social outcomes for English language learners.

## **REFORMS TO ACCOUNTABILITY THAT EMPOWER DISTRICTS TO SERVE ELLS**

### **1. Provide unique pathways to graduation and accountability reform related to students with interrupted formal education (SIFE).**

Districts with “over-aged and under-credited” immigrant students strive to provide vocational, social-emotional and academic opportunities that also include intensive English and basic mathematics education. A viable pathway to an outcome must be established for this unique case, as well as protections for school districts against the negative impacts of the four-year graduation rate accountability marker. Please consider:

- a. An increased flexibility to adjust the cohort for both SIFE and non-SIFE students is critical. A period of 24 months is insufficient for some SIFE students and flexibility may also be needed for non-SIFE students. We support even the use of a waiver to address those situations on a case-by-case basis.
- b. The immigrant profile has changed in the last 10 years. Today’s immigrants, largely from South and Central America, are transient. Each year, students enroll and then “disappear” with no warning or explanation. School districts employ resources to track students down, whether the time frame of their enrollment is measured in days or months. Yet, if the student is not recovered, the district’s accountability status suffers, even after one day of enrollment.

*-Also endorsed by The Conference of Big 5 School Districts*

### **2. Eliminate the requirement of “a year and a day” for newcomers taking the English language arts assessment.**

Understanding that this is an ESSA State Plan recommendation, we support allowing districts to use the NYSESLAT or an approved third-party assessment to show acceptable growth. As a 2000 University of California Linguistic Minority Research Institute study shows, it is clear that



“academic English proficiency takes longer to develop than oral English proficiency, and that the range for academic English proficiency development, by these measures, takes between 4 to 7 years.” This measure should qualify for a district’s accountability measure for this subgroup; it will keep the focus on ensuring English language learners are learning English in concert with the research on language acquisition.

*-Also endorsed by The Conference of Big 5 School Districts*

**3. Eliminate the double or triple labeling of students for schools labeled as “needing improvement.”**

Many of our students have multiple sub-group labels, including economically disadvantaged, Students With Disabilities or ELL. As a result, if a student does not achieve proficiency, despite being identified for necessary remediation, the school is identified three times, thus increasing the sanctions and labels for that school. This results in a demoralized staff, school community, and other often-bureaucratic compliance activities that both threaten community support of the school system and distract our efforts at a critical time, when we must focus most on supporting those students.

**4. The Language Proficiency Team (LPT) should have the ability to prioritize the needs of students with severe developmental disabilities and language needs.**

In extreme cases of students with disabilities, who are non-verbal in their native language, the limited minutes of the school day compete for a prioritization of special education and language access services. The LPT should be empowered to identify a prioritization of services for students in situations such as long-term ELL/SWD students.

**REGULATORY REFORM THAT FISCALLY EMPOWERS DISTRICTS TO SERVE ELLS**

**1. Eliminate the ENL/ELA dual-certification requirement to teach at the secondary level.**

The TESOL certification is sufficient to teach the ENL/ELA component. Without a robust pool of teaching candidates, an issue that numerous regions in the state are facing, districts are forced to create co-teaching arrangements. In a tax cap scenario, districts must decide what funds to reallocate to meet this obligation.

**2. Allow Bilingual Teacher Assistants or staff, who meet a certain criteria, to administer the Home Language Questionnaire (HLQ) and the New York State Identification Test for English Language Learners (NYSITELL).**

The requirement in Part 154-2.2(q) defines the qualified personnel to conduct these entry assessments as:

*“a dually certified teacher, certified pursuant to Part 80 of this Title, (i.e., TESOL and content area certification) or a certified English to Speakers of Other Languages teacher and a certified content area teacher, certified pursuant to Part 80 of this Title, who co-teach a class. In a K-6 bilingual program, as defined in section 154-2.3(h)(3), personnel qualified to teach Integrated English as a New Language means a common branch K-6 teacher with a bilingual extension.”*



This requirement pulls teachers from the classroom frequently and inconsistently, which threatens the continuity of high-quality instruction. As NYSED has identified, a substitute teacher shortage strains the daily operations of the school with normal sick days, personal days and professional development absences, nevermind these additional instances, which are higher in some districts than others. Flexibility to determine who best can administer these assessments and review the HLQ will empower districts.

If non-instructional staff are certified by a district to administer and review these batteries, teachers can remain focused on daily instruction. Section 154-2.3(b) initiates a review of the ELL identification determination by either the student, the parent/guardian, or the teacher after 45 days if it is felt that the placement is mis-calibrated; this is a “fail-safe” to also ensure that students are properly identified and placed.

**3. Amend Part 154-2.3(i), the Grade Span requirement.**

The maximum allowable grade span for grouping instruction in grades K-12 ENL or bilingual classes is two contiguous grades. For schools that have grade configurations of three grade levels (especially K-2, 3-5, 6-8), this provides a redundancy in faculty needs, thus increasing cost. We believe that a three contiguous grade span range, as in the Part 200 Regulations – Special Education, would allow districts to more efficiently – both operationally and fiscally – deliver service to students.

**HIGHER EDUCATION REFORM TO EMPOWER DISTRICTS TO SERVE ELLS**

**1. Incentivize Dual-Teacher Certification Programs for Teacher Candidates**

Incentivize programs and candidates who pursue bilingual education, secondary English as a New Language and Content Area Specialty, and offer reciprocity to bilingual teachers from other states and countries.

*-Also endorsed by The Conference of Big 5 School Districts*

Thank you for the opportunity to offer reform proposals for consideration. We believe this proposal empowers a district to effectively deliver language acquisition services while maintaining the shared commitment for strong outcomes for our English language learners.