



154-1.2 Definitions. As used in this Subpart:

(a) Pupils with limited English proficiency (or English Language Learners ) shall mean students who by reason of foreign birth or ancestry, speak a language other than English and:

(1) either understand and speak little or no English; or

(2) score below a State designated level of proficiency, on the Language

Assessment Battery-

(c) Annual English language assessment is the process followed to determine if a student with limited English proficiency continues to be limited English proficient, based upon such student scoring below a State designated level of proficiency on the NYSESLAT.

(d) For grades kindergarten through 12, free-standing English as a second language program shall mean a program of instruction composed of two components: a language arts instructional component and a content area instructional component. Such instruction shall take into account the first language and culture of such students.



performance indicators for such standards, shall serve as the basis for the NLA and ESL curricula.

(i) English language arts instruction shall be provided to students at the advanced level of English language proficiency for a minimum of one unit of study or its equivalent, divided into substantially equal daily allotments of instructional time.

(ii) English as a second language (ESL) instruction shall be designed to develop skills in understanding, speaking, reading, writing and communicating in English through the integration of academic content appropriate for the student's age, grade level and English language skills. The time requirements for ESL instruction within a bilingual education program shall be the same as those established for the ESL instruction within a free-standing ESL program, as prescribed in subdivision (d) of this section.

(iii) Native language arts instruction shall be provided to students in a bilingual education program for at least one unit of study or its equivalent and shall be provided in substantially equal daily allotments of instructional time.

(2) The content area instructional component shall provide grade and age level appropriate instruction in the required content area subjects in the native language and English, in a systematic and structured way, and shall be designed to develop the cognitive skills of English Language Learners.

(f) Exception. A school district, which is subject to a court order or is a party to a preexisting agreement with an appropriate Federal agency requiring programs substantially equivalent to or in excess of those required under these regulations, will not be required to comply with these regulations and will be in compliance with this Subpart as long as the district implements the court order or agreement and fulfills all





(f) The school district shall submit to the commissioner the following documents in a form and by a date specified by the commissioner:

(1) an assurance:

(i) of access to appropriate instructional and support services for such students, including guidance programs pursuant to section 100.2(j) of this Title;

(ii) that each such student has equal opportunities to participate in all school programs and extracurricular activities as non-English Language Learners;

(iii) that the minimum ESL and ELA requirements prescribed in section 154-1.2(d) of this Subpart for the freestanding ESL programs are adhered to;

(iv) that the minimum ESL, ELA and NLA requirements prescribed in section 154-1.2(e) of this Subpart for bilingual education programs are adhered to;

(v) that teachers in the district's free-standing ESL and bilingual education programs are appropriately certified pursuant to Part 80 of this Title;

(vi) that the district will comply with the requirements of this Subpart and the provisions of the Education Law governing programs for English Language Learners;

(vii) that programs for English Language Learners will be administered in accordance with applicable Federal and State law and regulations and the district's comprehensive plan;

(2) a report by building of the number of students identified as English Language Learners in the preceding year, including their grade level, native language and instructional program;

(3) a report by building of the number of students who are English Language Learners served in the preceding year, including their grade level, native language and instructional program;

(4) a report by building of the number of students that took the NYSESLAT in the preceding school year;

(5) a report by building of the number and qualifications of teachers and support personnel providing services to English Language Learners;

(6) a fiscal report containing such data concerning the preceding school year as

(h) Support services. Each school district with students who are English Language Learners participating in bilingual or free-standing English as a second language programs shall provide appropriate support services needed by such students to achieve and maintain a satisfactory level of academic performance. Such services may include, but need not be limited to, individual counseling, group counseling, home visits, and parental counseling. Where appropriate, such services shall be provided in

English as a second language program and their options as set forth in paragraphs (2) and (3) of this subdivision. School districts offering programs to students who are English Language Learners shall make an effort to meet with the parents or other

Title, shall be provided an orientation session on the State standards, assessments, school expectations and general program requirements for the bilingual education program and the free-standing English as a second language program. Such orientation shall take place within the first semester of their child's enrollment in the school and, when needed, shall be provided in the first language of the pupil's parents or other persons in parental relation to the student.

(l) A student whose score on the LAB-R prior to February 1, 2014, or on the NYSITELL commencing February 1, 2014 and thereafter, or on the NYSESLAT, as specified in section 154-1.2(a), (b) and (c) of this Subpart, is a result of a disability shall be provided special education programs and services in accordance with the individualized education program (IEP) developed for such student pursuant to Part 200 of this Title, and shall also be eligible for services pursuant to this Subpart when such services are recommended in the IEP. A student with a disability receiving services in re