



A publication of the  
New York State Association  
for Bilingual Education

2014

# New York State Education Department Policies, Mandates and Initiatives on the Education of English Language Learners

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### Recommended Citation

Carrasquillo, Angela; Rodríguez, Diane; and Kaplan, Laura (2014) "New York State Education Department Policies, Mandates and Initiatives on the Education of English Language Learners," *Journal of Multilingual Education Research*: Vol. 5, Article 5.

Available at: <http://fordham.bepress.com/jmer/vol5/iss1/5>

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# New York State Education Department Policies, Mandates, and Initiatives on the Education of English Language Learners

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This article is a summary of a longer report, completed under the direction of the Research Institute for the Study of Language in Urban Society and the doctoral program in Urban Education at the Graduate Center in the City University of New York (CUNY) with funding provided by the New York State Initiative on Emergent Bilinguals (NYSIEB). It describes educational laws, policies, mandates, and initiatives regarding the education of English language learners, which took shape and reverberated in the New York State Education Department. This historical descriptive research focused on the period from 1965 to the year 2013. The content of the report includes information obtained through interviews and the analysis of a significant number of educational documents, including Regents' policies, memoranda, position papers, publications, resource guides, and other programmatic information developed and disseminated by the New York State Education Department (NYSED). Based on the original report, this article critically examines the historical trajectory of the enactment of bilingual education programs geared to educating culturally and linguistically diverse students across New York state. The entire report can be found at the CUNY-NYSIEB website

<http://www.nysieb.ws.gc.cuny.edu/files/2014/05/CUNY-NYSIEB-Report-NY-State-Policies-to-NYSED-04-30-2014-Final.pdf>

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**Keywords:** English language learners, bilingual education, New York State Education Department

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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 State 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. Importantly, amid a cultural and linguistic diverse environment, advocacy groups of educators in collaboration with policy makers shaped the initiatives, programs, and policies of the New York State Education Department (NYSED) toward educating culturally and linguistically diverse students. Of particular interest to this research are the policies enacted towards the establishment of bilingual education in the state.

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 (García, 2010). 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. The NYSED philosophy on bilingual education from these decades has been an inspiration for educational leaders, legislators, advocates, and administrators of bilingual education programs throughout the state, and it has served as a motivational force throughout the years.

Federal policies on bilingual education, national civil rights movements, and federal and state court decisions have influenced the planning, development, and implementation of bilingual education across New York. For instance, bilingual education, as a field, expanded with the passage of the Federal 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 students that had a mother tongue different from 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, the Bilingual Education Act allowed the use of students' home languages in the school curriculum.

This legislation paved the way for the lawsuit *Lau vs. Nichols* (1974), a court case brought on behalf of Chinese students against the San Francisco School District in 1970. It indicated that non-English speaking students were not provided with equal educational opportunities when they were instructed in a language they could not understand. The court decision 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.

As a result of these federal policies and court cases, bilingual education in New York State was recognized. 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 required school districts to provide bilingual instruction to students whom at the time were identified as *limited English proficient* or LEP. The NYSED made funds available to school districts for the implementation of innovative programs that provided equal educational programs and learning opportunities to English language learners. 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 households.

This article opens with a description of the research methods used to complete the historical descriptive study. It also presents the linguistic and ethnic diversity background across the state. Subsequently, it discusses the evolution of policies to serve emergent bilinguals divided into six historical periods and an additional section focusing on bilingual special education. Conclusions and recommendations are presented in the final section of the article. Regarding terminology, throughout the article we use various terms to refer to students who are linguistically and culturally diverse. The terms reflect different conceptual and political understandings used by governmental institutions to identify this student population across the historical period covered in the report. For instance, we use the term “English language learners” (ELLs) for most of the article since it is the current and official term used the New York State Education Department in their written policies. Occasionally we also use “Limited English Proficient” (LEP) when citing NYSED documents that used the federal label. It is common to see LEP being used in older documents published by the state and federal governments, before the incorporation of the ELL term. On a few places we use the term “emergent bilingual,” (García, 2010) since it is a current term that better describes students who are in the process of developing English language proficiency and bilingualism.

## Methodology

This article is a summary of a longer report, completed under the direction of the Research Institute for the Study of Language in Urban Society and the doctoral program in Urban Education at the Graduate Center in the City University of New York (CUNY) with funding provided by the New York State Initiative on Emergent Bilinguals (NYSIEB). The entire study took two years to complete (2011-2013). The first phase of the research project was the identification of the Research Team done by the City University of New York – New York State Initiative on Emergent Bilinguals (CUNY-NYSIEB) staff. Once the team was identified, together, they submitted a proposal to the CUNY Institutional Review Board to conduct the research, including an Interview Protocol. The Research Team, with the feedback from professors and other personnel from the CUNY Graduate School, identified a list of key individuals, representing different areas, levels of involvement, and expertise, who over the last five decades contributed to the development and implementation of bilingual education in the State of New York.

The second phase of the project included data collection and analysis. Four groups of individuals, including regents, legislators, bilingual education administrators, and bilingual education advisory council members/advocates, were identified to be interviewed. An *Interview Protocol* was developed for each group, inquiring about: 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. Main contributors in the field of bilingual education 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.

In addition to the interviews, the Research Team identified, located, collected, summarized, and analyzed NYSED documents that provided information on the initiatives and policies developed during 1965 to 2013. A list of documents was generated and organized by historical periods into four main categories: (a) policies and mandates; (b) publications/resource guides; (c) position papers/memoranda; and (d) other programmatic initiatives. The search for documents proved to be very challenging since it was found that many of them were not organized systematically in education archives located at the Albany Public Library. In addition, NYSED did not keep copies of most of these documents, and the Research Team had to search other avenues including individuals' private libraries and archives from other organizations.

While reviewing and analyzing the information from the interviews and documents, researchers generated categories, which were organized into a checklist with brief descriptions to summarize the written documentation. The checklist of categories was then divided into the following six historical periods: 1965-1971; 1972-1980; 1981-1990; 1991-2000; 2001-2005; and 2006-2012.

Writing the report was the final phase of the project, including findings and recommendations. The report included eleven chapters. In addition to the chapters dedicated to policies on bilingual education, the authors decided to include a separate chapter dedicated to bilingual special education, since it was found that a limited number of initiatives developed to this area by the NYSED. The report was revised several times by the Research Team and by the CUNY-NYSIEB faculty and staff. The final copy was sent to three external reviewers who provided feedback and recommendations. Their recommendations were included in the final revision of the report. The final report was submitted to the NYSED in the summer of 2013. The second section of this article describes the cultural and linguistic context of the State, summarizes the main findings within each historical period, and identifies key policies enacted related to bilingual special education.

### **The New York State Cultural and Linguistic Context**

New York State's unique cultural and linguistic heritage shaped policies and mandates related to the education of English language learners, which have been planned, developed, and implemented. Knowledge of this history is fundamental to

understanding New York State's unique role as a pioneer in enacting language policies for its diverse PreK-12 population. 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 1960s. Ron Woo, school administrator and former member of the Commissioner Advisory Council of Bilingual Education, 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 came to the state of New York during the first decade of the 21st 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.

### **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). 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. Immigration to New York State has greatly influenced the languages, the ethnic backgrounds, and the cultural structures of its people. As it will be illustrated in the sections that follow, the education system in the State is aware of these influences, and to some extent in the past six decades has recognized and valued the linguistic and cultural diversity of the people it serves.

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

The community, political, and educational alliances mentioned in this section are philosophically connected to the development of policies and mandates to appropriately educate emergent bilingual students in the state of New York. The 1950s and the 1960s were decades of community unrest and intellectual movements.

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.

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 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.

Another group that made an impact in New York, especially in New York City, was the Young Lords Organization (later the Young Lords Party). They were 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.

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, 1978). The consent suit agreement, *Aspira of New York vs. New York City Board of Education* (1975) became known as the Aspira Consent Decree.

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. 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 came into effect in 1975.

There were New York City initiatives undertaken on behalf of students who were not proficient in English, and these activities additionally contributed to the implementation of bilingual education in New York State.

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

**1956:** The Heald Commission on Educational Finances recommended 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 was initiated. 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 a teacher assistant position of Bilingual Pupil Professional (BPS) to accommodate professionals, such as lawyers who went 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:** 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, 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, established the first bilingual school; and,
- Project *BEST*, a staff development program located at the Board of Education- Brooklyn Central Office, provided 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 5, 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 US 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).

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

This section describes 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. 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 Teaching English to Speakers of Other Languages (TESOL) teacher certification

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 known as 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.

In 1970, the New York 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 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, 1985, p. 17).

In 1972, NYCBOE, following the initiatives of the NYSED, 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. And, during the same year of 1972, the NYSED Board of Regents, under Commissioner of Education Ewald B. Nyquist, passed 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 1972 Regents' Position Paper on Bilingual Education described 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). 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.

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, and started the implementation of bilingual education and English as a Second Language (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.

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.

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 ESL instruction. As Luis O. Reyes stated, this mandate provided strong impetus to the development of 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.

Since 1970, the NY State budget has included funds for 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 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, Bilingual Education and English as a Second Language Teacher Leadership Academy (BETLA), and small school projects/programs for ELL students].

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).

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.

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.

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, 1989). 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.

In the spring of 1976, the New York State Teaching English to Speakers of Other Languages NYSTESOL 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.

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

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 Commissioner's Regulations (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). 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 an 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).

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, 1988). 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.

During the decade of 1981-90, 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).

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.

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

The initiatives of the previous decade provided the impetus to review CR Part 154, which was amended in 1990 to hold 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.

In the early 1990s Thomas Sobol became the Commissioner of Education. He offered his own reform plan called *A New Compact for Learning*. Folts (1996), in 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.

In 1995, Richard P. Mills became Commissioner of Education. Commissioner Mills and the Board of Regents passed another educational policy—the *Educational Reform Agenda for all Students*. Accordingly, NYSED started the development of an overall strategy 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 Regents Competency Test (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 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.

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.

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

The emphasis of the first five years of this century (2000-2005) was to implement the blueprints developed during the last decade of 1990s 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 they recommended the development of 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. And to meet this goal, during 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.

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. The NYSED recommended the use of the following assessment measures.

- **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.
- **NYSESLAT:** This test 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 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.

### **2006-2012: Responding to Achievement Challenges of ELLs**

In 2006, the Board of Regents passed what is called the P-16 Educational Reform (thereafter, the 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 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 to 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.

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.

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. 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 No Child Left Behind (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;
- NYSED 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 will continued to be used as the only assessment tool for the identification of ELLs' bilingual/ESL program eligibility; and
- NYSESLAT will continue 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.

One of the most rewarding experiences for New York State bilingual, foreign language, and ESL educators was in July 2012 when Governor Cuomo signed the bill to recognize high school graduates who demonstrate proficiency in multiple languages. This bill was presented to the Legislature by Assemblywoman Carmen

Arroyo and is known as the *Seal of Biliteracy*. When Governor Cuomo signed the bill, 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 (Arroyo as quoted in the New York State Pressroom, 2012).

### **NYSED Services for ELLs with Disabilities: A Shared Responsibility**

An appropriate individualized education program is necessary for all students with disabilities. For ELLs with disabilities, instruction and services may be provided in two languages- English and the student's native language. 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. These mandates ensure that students with disability conditions are properly assessed, classified, and placed in appropriate programs (University of the State of New York, 1990). 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, requiring that students be placed in an appropriate program and receive appropriate services.

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 and Foreign Language Studies. Officially, bilingual special education programs have been overseen by 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. 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" (University of the State of New York, 1990, p. iii). Informational guides and other published materials were generated in one of the two offices.

As a result of the José P. case (a deaf boy who sued the NYC Board of Education on behalf of handicapped Hispanic students; *José P. v. Ambach*, 1979), the 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 follows:

- *Timely Evaluation:* New York State regulations defined timely evaluation 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 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 a result of this litigation, training programs for Pre-K teachers in bilingual special education were provided.

The results of the José P. and Ray M. 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 services, staff development, technical assistance, preparation, and dissemination of state plans and guidelines.

## Conclusions

Throughout the last 50 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. 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, differentiated programs must be implemented to serve diverse students in a variety of contexts.

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, working together with the Office of Bilingual Education 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. In addition, professional organizations have played a role in shaping NYSED policies on the education of ELL students, especially: (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 (NYSFLT). These three professionals' organizations serve as an advocate at the state policy level for bilingual/ELL students, taking positions on policy issues and as a communication network linking colleagues throughout the state and fostering opportunities for professional growth through conferences and institutes.

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 Board of Regents amended the Educational law to provide instruction in a language other than English and funding was provided for the development and implementation of bilingual programs. 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.

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. 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.

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, 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.

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. 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.

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.

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 (New York State Education Department, 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).

## 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. 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.
2. NYSED must provide quality instructional programs for all bilingual students through the provision of monitoring to schools and the provision of funding and staff development to teachers and supervisory personnel.
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.
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.
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. 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).

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.

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## Note

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 Thompson (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).