

Bilingual Education Provision in New York State: *An Assessment of Local Compliance*

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Foreword

Federal law dictates that lack of English language proficiency constitutes a barrier to equal participation in the educational process. Consequently, schools are obliged to address language deficiencies so that all students can profit from educational opportunities. While common sense may suggest that simply studying a second language leads smoothly to its acquisition, research demonstrates that facility in the first language greatly enhances the ease of learning a second, thus improving proficiency. Spanish-speaking students are better positioned to learn English when their reading and writing in Spanish are strong, since literacy skills transfer from one language to another. Bilingual education programs offer language skills in the native as well as the target language, precisely to allow for this transfer to occur.

Despite convincing research in the field of second language acquisition supporting its efficacy, bilingual education remains a controversial topic among educational policymakers. One view of bilingual education is that it is merely a political mechanism to promote a divisive, liberal cultural agenda, which emerged in the context of the civil rights movement. In this view, monolingualism is the best way to promote national unity and avoid political strife. Opponents of bilingual education often point to the lower level of educational attainment of non-native English speakers to suggest that enrollment in such programs will only perpetuate their lower standing.

Even if these objections did not exist, there would always be economic concerns. Bilingual education costs money. Yet, while monolingual education for non-native English speakers may be cheaper in the short-term, in the long-term it is more costly than bilingual education: economically, by failing to address the needs of a multilingual market; socially, by failing to effectively integrate multilingual populations as functional communities; and politically, by fostering alienation and disfranchisement. If non-native English speakers fail to perform educationally at the same level as native English speakers, how could a policy aimed at promoting English language acquisition be the cause of their failure? Of course, in policy implementation, results can diverge from intent. But in the case of bilingual education, research strongly suggests that programs that strengthen native language skills enhance student academic performance.¹

Since the U.S. Supreme Court decision *Lau v. Nichols* (1974) mandated language support for students lacking proficiency in English, most state policymakers and advocates have understood not only that an effective education requires mastery of the English language but also that the process of mastering English must incorporate instruction and resources in the student's native language. Law and policy in New York State reflect this understanding.

¹ See for example R. E. Slavin and A. Cheung, "A Synthesis of Research on Language Reading Instruction for English Language Learners," *Review of Educational Research* 75: 2 (2005): 247-284.



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Moreover, current state policy clearly establishes that “each school district which has an enrollment of 20 or more 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.” Controversial or not, in New York State, bilingual education is the law of the land. Yet, it is not being implemented as mandated by law.

This NYLARNet report documents a significant breach in local compliance with state requirements for bilingual education programs. Its findings show that Latino students who are English language learners are being shortchanged. Moreover, the number of local schools that currently fail to provide bilingual education programs to Latino students is likely to be greater than what this study suggests. This is so, simply because the proportion of schools that do not provide information needed to assess compliance is significant; in fact, this proportion is double the percentage of schools that are not in compliance with state requirements.

Another significant finding of this report concerns teacher certification. The lack of certified bilingual teachers and the number of inappropriately certified teachers in New York is of epidemic proportions. Incentives for recruitment of bilingual teachers seem to be insufficient and existing certification qualifications appear to be an obstacle for increasing the number of certified teachers. This is why the report suggests that the changes in state law allowing non-citizens to become certified teachers be further utilized in order to increase their numbers. Foreign-born teachers proficient in English could provide an especially qualified candidate pool of bilingual or multilingual instructors in the state. In addition, state and city colleges and universities with teacher education programs should be strongly encouraged to provide certification programs at the undergraduate and graduate levels to prepare bilingual and ESL teachers.

By focusing our assessment on school districts where Latinos are politically represented, we are likely only scratching the surface of a deeper and wider problem. In fact, we are almost certain this is the case. The concentration of Latinos in Amsterdam, New York, for example, is sufficiently large to meet state criteria for the provision of bilingual education programs—20 students in a building in the same grade, speaking the same primary language. We cannot say which Amsterdam schools are not in compliance but anecdotal evidence suggests that the problem is significant there. Similarly, non-compliance may be a problem in qualifying

schools in counties where Latino concentrations are significant but lack Latino political representation; such as Nassau, Westchester, Orange, Erie, and Monroe counties. Non-compliance there is more than likely and should be investigated.

It is our hope that precisely because the school districts assessed in this report are politically represented by Latinos, a corrective to the existing breach in policy implementation will come sooner rather than later. Descriptive representation should matter. We also expect that state education officials will monitor state school districts more vigilantly so that those not meeting their obligation to English language learners take steps to do so immediately.

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Executive Summary

Description of Project

Bilingual education is the instruction of English language learners (ELLs) in both their native language and English.² There are two types of programs required by New York State’s Commissioner’s Regulation Part 154 (CR Part 154). A bilingual education program must be provided in “each school district which has an enrollment of 20 or more 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.” If there are fewer than 20 pupils with limited English proficiency of the same grade level assigned to a school building, a free-standing English as a Second Language (ESL) program must be provided. In these cases, schools have the option of offering a bilingual education program.

This report assesses local compliance in schools represented by Latino members of the New York State Assembly, because their constituent base includes the highest concentrations of Latinos in New York State. These schools are contained within the Bay Shore, Brentwood, Central Islip, and Islip districts, and 15 of the 32 New York City School Districts. Compliance was determined by reviewing the CR Part 154 Comprehensive

2 New York State Regulations use the term “limited English proficient” or LEP to describe students that qualify for bilingual or ESL language services. While the term “English language learner” or ELL is synonymous with LEP, this report uses ELL, because it is the more commonly used term today.

Report applications on file at the New York State Office of Bilingual Education and Foreign Language Studies at the New York State Education Department (NYSED) for the programs implemented in the 2006-2007 academic year.

Findings

- The overall rate of non-compliance in our sample of 281 schools was 38%. A total of 107 schools failed either programmatic or procedural compliance with the law.
- Twenty-five schools out of 281 failed to provide bilingual education programs during the 2006-2007 academic year even though they were required to do so by law.
- Based on the records on file at the NYSED an additional 82 schools were not in procedural compliance for not having a CR Part 154 report on file at the NYSED (69 schools) or by not indicating the number of students served (13 schools).
- Many students are served by free-standing ESL programs when they may be better served by bilingual programs. Based upon the CR Part 154 Building Reports, 36 schools or 13% of the total sampled offer free-standing ESL programs but may need to offer bilingual programs or increase the number of students served by bilingual programs.

Recommendations

- Provide legislative oversight to ensure the New York State Board of Regents, NYSED officials and district staff bring non-compliant schools into compliance with existing regulations.
- Develop programs and strategies to increase the number of appropriately certified bilingual and ESL teachers in order to lower student teacher ratios and ensure students receive the instruction they need. Expand recruitment programs offered in New York City to state levels, promote further utilization of the changes to the state law that allows English proficient foreign-born teachers to become certified, and encourage the development of undergraduate and graduate level bilingual teacher certification programs in the state and city university system.
- Encourage community-based organizations to facilitate relations between parents and schools. Increasing the level of communication between parents, teachers, and administrators will ensure that parents understand the programs offered to English Language Learners and ensure that students are placed in the program most suitable for them.
- Provide the funding needed to ensure that NYSED has adequate staff to enforce the laws and ensure that all schools eligible for state and federal funds apply and use the funds effectively.

Bilingual Education Provision in New York State: An Assessment of Local Compliance

Description of Project

With the growing number of Latinos in New York State (a 30% increase between 1990 and 2000 alone) the importance of educational programs that serve Latino students is evermore significant.³ Among these students are immigrants and children of recent immigrants that come from families that speak Spanish as their primary language. Beyond the ability to teach English to non native English speakers, bilingual education assists students in academic achievement and preserves the linguistic and cultural heritage of the students.⁴ Bilingual education is the instruction of English language learners in both their native language and English.

There are two types of programs required by New York State's Commissioner's Regulation Part 154 (CR Part 154). Either a bilingual education or free-standing English as a Second Language (ESL) program must be offered to English Language Learners (ELLs) depending on the number of identified ELLs of the same native language per grade within a school building.

A bilingual education program must be provided in "each school district which has an enrollment of 20 or more 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." In New York, bilingual programs consist of content area instruction in the native language and English, an intensive English component, as well as a native language arts component. There are two types of bilingual programs in New York. The most common are transitional bilingual education (TBE) programs that provide instruction in the native language and English to English Language Learners. Two-way bilingual education programs provide instruction in English and another language to both ELLs and English proficient students.

A free-standing ESL program (or a bilingual education program) must be offered in "each school district which has 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

³ U.S. Census Bureau, 1990, 2000.

⁴ National Association for Bilingual Education. <http://www.nabe.org/education/index.html> <Accessed 3/4/09>

than English.” In these cases, providing a bilingual education program is optional. Free-standing ESL programs consist of two components: English language instruction and content area instruction in English. This type of program only requires that the first language be taken into account during instruction. Often ELLs are served through “push in” or “pull out” ESL programs. Through push in programs, ESL teachers work with the ELLs in their regular classrooms. In pull out programs, ESL teachers work with the ELLs in separate classrooms.

This study explores the level of compliance with New York State laws on bilingual education in selected school districts. Our assessment of compliance with New York State Education Department (NYSED) regulations on bilingual education is based on the 2007-2008 CR Part 154 Comprehensive Reports filed by the schools. The CR Part 154 Comprehensive Reports we examined contain 2006-2007 data on the number of identified ELLs in each school, as well as the number of ELLs served by bilingual and ESL programs as reported by the schools.⁵ The CR Part 154 Comprehensive Reports also provide individualized school plans for ELL programs in the 2007-2008 academic year. Demographic and ELL information about each district and school from the 2006-2007 New York State School and District Report Cards found on the NYSED website was also used. Additional demographic data from the 2000 U.S. Census about Latinos in New York and within the school districts was also part of the analysis. Finally, we carried out a review of relevant literature, websites, and publications from organizations familiar with bilingual education.

The study was narrowed to cover districts represented by Latino members of the New York State Assembly. Latino Assembly members were chosen because their constituent base includes the highest concentrations of Latinos in New York State.⁶ The public school districts within the 12 Assembly Districts represented by Latino elected officials are: Bay Shore, Brentwood, Central Islip, Islip, and 15 of the 32 New York City School Districts.⁷ This paper examines the schools within these districts offering education for grades K-12 that have a CR

Part 154 Building Report application on file at the New York State Office of Bilingual Education and Foreign Language Studies. Of the 281 schools represented by Latino assembly members in New York, 25 failed to provide the required bilingual education programs, 69 did not have a CR Part 154 Comprehensive Report on file with the NYSED, and 13 additional schools failed to indicate the number of students served by bilingual and ESL programs in their application. Overall, this amounts to a 38% non-compliance rate.

Bilingual Education Background

The first Congressional vote on language in the United States was held in 1795. The proposed bill would have allowed Congressional laws to be printed in both English and German. While the bill was rejected, a second bill was passed later in the year that required federal statutes to be printed in English only. The right to teach languages other than English was first made explicit by the Supreme Court in the case *Meyer v. Nebraska* (1923), a case involving the right to teach in German, that declared these state laws were a violation of due process. Nevertheless, by 1935, thirty-five states prohibited public schools from teaching in languages other than English.⁸

In the 1960's, when Cuban refugees began arriving in Florida, the focus on education in languages other than English turned towards the Spanish language.⁹ Bilingual Education in the United States became officially funded under Title VII of the Bilingual Education Act of 1968 (the Elementary and Secondary Education Act or ESEA) which was amended in 1978 and 1994. Combined with the Supreme Court ruling *Lau v. Nichols* (1974) which required that non-English speaking students be allowed to “participate meaningfully” in the classroom, instruction in native languages was mandated to provide an equal educational opportunity for students with limited English proficiency.¹⁰

In the 1980s, opposition to both bilingual education and bilingual voting rights intensified and bills have been introduced every year in Congress to declare English the official language of the United States. While these bills have failed, under the No Child Left Behind (NCLB) Act of 2002 discretionary federal funding to school districts for

5 These reports are also known as the 2007-2008 Part 154 Comprehensive Plan and Reporting Requirements for the Education of Limited English Proficient (LEP) Students.

6 These Assembly members are: Philip Ramos, 6th Assembly District; José R. Peralta, 39th Assembly District; Felix Ortiz, 51st Assembly District; Vito J. Lopez, 53rd Assembly District; Adam Clayton Powell, IV, 68th Assembly District; Adriano Espaillat, 72nd Assembly District; Peter M. Rivera, 76th Assembly District; José Rivera, 78th Assembly District; Naomi Rivera, 80th Assembly District; Carmen E. Arroyo, 84th Assembly District; Marcos Crespo, 85th Assembly District; Nelson L. Castro, 86th Assembly District.

7 These include NYC School Districts 4-12, 14-15, 20, 24, 30, and 32. Note that these districts are reported as “geographic” districts by the New York State School Report Cards.

8 Deborah J. Schildkraut, *Press One for English* (Princeton University Press, 2005).

9 Encyclopedia of Bilingual Education. Appendix A: Policy Landmarks in U.S. Bilingual Education. http://www.sage-reference.com/static/bilingual/pdfs/Reading_d8.pdf <Accessed 3/4/09>

10 New York State Department of Education. http://www.emsc.nysed.gov/biling/faq_001.htm <Accessed 3/4/09>

bilingual education ended and now federal funding for K-12 is allocated to state departments of education for them to use at their discretion.¹¹

With the changes in funding for bilingual education under NCLB, the policies of individual states are increasingly important. In New York State, Commissioner's Regulation under Part 117 and Commissioner's Regulation under Part 154 encompass the state's policy for bilingual education. To help implement educational programs for ELL students, the Office of Bilingual Education (OBE) was established as a unit within NYSED in 1969. Today this unit oversees over 500 school districts.¹²

Latinos in New York State

The 2000 U.S. Census Bureau reported 18,976,457 individuals residing within New York State. Of these, 2,867,583 (15%) were Latino. The U.S. Census Bureau estimates that by 2007 this proportion increased to 16.2% of the state population or 3,126,718 residents. The counties with the largest concentrations of Latinos are Bronx (48%), New York (27%), Queens (25%), Kings (20%), Westchester (16%), Richmond (12%), Orange (12%), Suffolk (11%), Nassau (10%), and Rockland (10%). Of these counties, Latinos are represented in the state legislature in the Bronx, New York, Queens, Kings, and Suffolk counties.

Assembly Districts

Latinos are the majority of the population in 9 of the 12 Assembly Districts in which they have Latino elected officials. In AD 68 they are 49% of the population; in AD 6 they are 42% and they are only 34% of the population in AD 80.¹³ Table 1 summarizes the state of Latino representation in the New York State Assembly.

TABLE 1. LATINO REPRESENTATIVES AND PERCENT LATINO POPULATION

BY ASSEMBLY DISTRICT		
ASSEMBLY DISTRICT	ELECTED OFFICIAL	PERCENT LATINO POPULATION
6	Philip Ramos	42
39	José R. Peralta	65
51	Felix Ortiz	57
53	Vito J. Lopez	73
68	Adam Clayton Powell, IV	49
72	Adriano Espaillat	84
76	Peter M. Rivera	57
78	José Rivera	61
80	Naomi Rivera	34
84	Carmen E. Arroyo	71
85	Marcos Crespo	60
86	Nelson L. Castro	66

Sources: *Latinos in New York State: Demographic Status and Political Representation*, NYLARNet Policy Report, Spring 2009. New York State Assembly Website.

School Districts

Within the school districts represented in this report, the number of Latino school age children (ages 17 and under) reported by the 2000 U.S. Census Bureau was 680,380. The highest concentration of Latino school age children was in the Brentwood School District, in which the majority of the population age 17 and under (55%) is Latino.

TABLE 2. LATINO POPULATION BY SCHOOL DISTRICT 2000 U.S. CENSUS

SCHOOL DISTRICT	TOTAL LATINO POPULATION	% LATINO OF TOTAL DISTRICT POPULATION	TOTAL LATINO SCHOOL AGE POPULATION	% LATINO OF TOTAL SCHOOL AGE POPULATION
Bay Shore	5,650	18	1,898	23
Brentwood	38,511	50	12,601	55
Central Islip	12,001	35	3,961	40
Islip	1,737	9	574	11
NYC*	2,160,554	27	661,346	34

Source: U.S. Census Bureau, 2000. *Note: The U.S. Census Bureau does not break the demographic data down by school districts. These numbers represent the population of the entire New York City School Districts.

In 2006-2007, the New York State District Report Cards provided data on the number of Latino and ELL students in each district, including each New York City School District (hereafter referred to as NYC School District). The percentage of enrolled Latino students ranged from 11% in the Islip School District to 88% in NYC School District 6

¹¹ See footnote 3.

¹² See <http://www.emsc.nysed.gov/biling/>

¹³ See *Latinos in New York State: Demographic Status and Political Representation*, NYLARNet Policy Report, Spring 2009 and *Latinos in New York: 2000-2007* NYLARNet, Spring 2009, <http://www.nylarnet.org>.

with an average of 54% of the students enrolled in the districts identified as Latino. The school district with the largest number of Latino students was NYC School District 10 with 38,243 (66%) of the students identified as Latino. This district also has the largest number of ELLs with 12,348 (21%) of its students identified as ELLs. The percentage of ELLs (Spanish and other native languages) within a school district ranges from 2% in Islip to 37% in NYC School District 6, with an average of 18% percent per school district. Most ELL students in New York are native Spanish speakers.¹⁴

TABLE 3. LATINO STUDENTS AND ELLS BY SCHOOL DISTRICT

2006-07 SCHOOL REPORT CARDS

SCHOOL DISTRICT	NUMBER OF ENROLLED	PERCENT OF TOTAL	PERCENT OF TOTAL	
	LATINO STUDENTS	ENROLLED STUDENTS	ENROLLED ELLS	ENROLLED ELLS
Bay Shore	1,595	28	354	6
Brentwood	11,112	67	4,904	30
Central Islip	3,456	57	1,675	28
Islip	404	11	86	2
NYC District 4	9,083	62	1,774	12
NYC District 5	4,768	36	1,489	11
NYC District 6	24,371	88	10,312	37
NYC District 7	13,435	69	3,177	16
NYC District 8	19,928	61	3,650	11
NYC District 9	21,167	63	7,890	24
NYC District 10	38,243	66	12,348	21
NYC District 11	15,276	40	3,629	10
NYC District 12	14,088	66	3,714	17
NYC District 14	11,586	63	2,591	14
NYC District 15	11,038	45	3,593	15
NYC District 20	11,470	29	9,130	23
NYC District 24	29,022	61	12,011	25
NYC District 30	19,476	52	8,565	23
NYC District 32	11,595	71	3,096	19

Source: School Report Cards, 2006-07.

Schools

Within the schools sampled, the percentage of Latino students ranged from 4% at Maud S. Sherwood Elementary School (Islip District) to 100% at the International School for Liberal Arts (NYC School District 10) during the 2006-07 academic year.¹⁵ The largest number of Latino students was 2,937 in De Witt Clinton High School (NYC School

District 10) and the smallest number was 19 in Maud S. Sherwood Elementary School (Islip District). The percent of ELLs (all native languages) for these schools ranged from 0% at Tag Young Scholars Junior High (NYC School District 4) and Bronx High School of Science (NYC School District 10) to 96% at the International School for Liberal Arts and Kingsbridge International High School (NYC School District 10).

New York State Department of Education Requirements

Requirements for the identification and instruction of ELLs in New York are found in Commissioner's Regulations Part 117 and Part 154. CR Part 117 provides the standards for screening every new pupil to determine if the pupil is gifted, has a possible handicapping condition in accordance with subdivision 6 of section 3208 of the Education Law and/or has limited English proficiency in accordance with subdivision 2a of section 3204 of the Education Law.

CR Part 154.1 provides the standards for the education of limited English proficient students. The regulation requires that "each school district shall provide pupils with limited English proficiency equal access to all school programs and services offered by the district commensurate with their ages and grade level, including access to programs required for graduation."

Section 154.2 defines limited English proficiency based upon a number of factors including ability to understand and speak English as well as performance on the Language Assessment Battery-Revised (LAB-R) or the New York State English as a Second Language Achievement Test (NYSESLAT). These exams target four language skills—reading, writing, listening, and speaking. The section also defines the components of English language arts (ELA), ESL, and native language arts (NLA) instruction. In addition, subdivision 2e defines a bilingual education program as "a program of instruction composed of two components: a language arts instructional component, and a content area instructions component. Such instruction shall take into account the first language and culture of such pupils." The language arts instructional component is provided through ELA, ESL, and NLA instruction. The content area component is provided through NLA and ESL instruction. If the building does have 20 students with the same native language other than English, then either a free-standing ESL or bilingual education program must be provided to the pupils.

¹⁴ These percentages are based on enrollment data from school report cards, summarized in Table 3, not from U.S. Census Bureau data.

¹⁵ Eight of the 281 schools sampled did not have School Report Cards for 2006-07.

Section 154.3 requires all school districts receiving Total Foundation Aid to develop a Comprehensive Plan for meeting the educational needs of LEP students. Section 154.3 requires all school districts receiving Total Foundation Aid, including community school districts, to develop a Comprehensive Plan for meeting the educational needs of ELLs (referred to as LEP students in regulations), including a description by building of the curricular and extracurricular services provided to ELLs. In addition to developing the Comprehensive Plan, all school districts must submit seven documents and reports annually to the NYSED. Among these reports is the Building Report which reports the number of ELLs served in the preceding school year, including their grade level, native language, and instructional program. The information provided by the schools under this requirement serves as the basis for determining compliance with the state law. Beginning in the 2007-2008 school year, school districts applying for Title III funds and districts receiving Contract for Excellence funds also must submit a Comprehensive Plan. Under subdivision 1g, school districts with "an enrollment of 20 or more 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."

Schools that are Not Compliant

A total of 281 schools were reviewed. The number of those that are not in compliance with Commissioner's regulations is very high. We identified three types of non-compliance in two categories. The types are, 1. failure to provide required educational program services; 2. failure to file reports; and 3. failure to indicate the number of students served. The categories are, 1. programmatic; and 2. procedural.

Of the 199 schools that were procedurally compliant by submitting completed CR Part 154 reports to NYSED, 25 or 13% were out of compliance programmatically. These schools had 20 or more students that spoke the same native language in the same grade, but did not provide bilingual education programs. These programs should have offered bilingual education programs during the 2006-2007 academic year. Although, parents have the option to request that their children be served by free-standing ESL programs.

A total of 82 schools or 29% of the sample, were out of procedural compliance; 69 did not have a CR Part 154 Building Report filed with NYSED and 13 failed to indicate the number of students served by bilingual and free-standing ESL programs in their reports. A description of the compliance

issues for each school in the districts represented by Latino Assembly Members follows.

Bay Shore

Seven schools in Bay Shore are represented by Latino Assembly Members. CR Part 154 Building Reports were filed for all the schools and one school was not compliant during the 2006-2007 academic year.

Bay Shore High School should have offered bilingual education programs for the 9th and 11th grades in 2006-2007 to comply with New York State regulations. There were 21 identified native Spanish-speaking ELLs in the 9th grade and 20 identified native Spanish-speaking ELLs in the 11th grade. All of these students were served by free-standing ESL programs. According to the CR Part 154 Building Reports, there were 2.8 full time equivalent ESL certified teachers (for 79 ELLs) and one ESL certified Teaching Assistant/Paraprofessional in the school for a student teacher ratio of 29 to 1.

Brentwood

Seventeen schools in Brentwood are represented by Latino Assembly Members. CR Part 154 Building Reports were filed for all the schools with one school not compliant during the 2006-2007 academic year. Freshman Center had 41 identified Spanish speakers in the 9th grade that were served by free-standing ESL programs. The CR Part 154 Comprehensive Report states that ELLs requesting a bilingual program at Freshman Center are sent to Brentwood High. There were two certified ESL teachers in the school, for a 31 to 1 student teacher ratio. Brentwood High had six certified bilingual teachers and 11 ESL certified teachers in addition to two certified bilingual Teaching Assistants/Paraprofessionals.

Central Islip

Eight schools in Central Islip are represented by Latino Assembly Members. CR Part 154 Building Reports were filed for all the schools and two schools were not compliant during the 2006-2007 academic year. The non compliant schools were: Cordello Avenue Elementary School and Francis J. O'Neill School.

In Cordello Avenue Elementary School, there were 16 identified native Spanish speakers in both the 1st and 3rd grades. Additionally, there were 28 identified in the 2nd and 22 in the 4th grade. All of the native Spanish speaking and

other ELLs were served by a free-standing ESL program served by two full time equivalent certified teachers (43 students per a teacher). Under state law, the students in the 2nd and 4th grade should have been given the option of a bilingual education program.

Francis J. O'Neill School had 23 native Spanish speakers in the 1st grade, 22 in the 2nd grade, 19 in the 3rd grade, and 11 in the 4th grade. These students and the other ELL students are served by a free-standing ESL program by two certified teachers (41 students per a teacher). A part-time bilingual social worker was assigned to both schools.

NYC School District 7

Thirty schools in NYC School District 7 are represented by Latino Assembly Members. CR Part 154 Building Reports were not on file at the NYSED for 18 schools, two reports did not provide the number of students served by bilingual or free-standing ESL programs, and one school was not program compliant during the 2006-2007 academic year. Overall, 20 schools were out of procedural compliance and one was not in programmatic compliance for failure to provide the required program.

At Samuel Gompers Career and Technical Education High School, 105 native Spanish speakers were identified in the 9th grade, 64 in the 10th grade, 51 in the 11th grade, and seven in the 12th grade. While the report does not provide the number of students served by free-standing ESL programs, it indicates that all the students served were in one such program. Parents requesting another program (i.e. dual language, TBE) were counseled to find an alternative placement for their children. There were five ESL teachers (three were reported as inappropriately certified) to serve the 234 students (227 are native Spanish speakers) for a ratio of 47 students per teacher.

NYC School District 8

Twenty schools in NYC School District 8 are represented by Latino Assembly Members. CR Part 154 Building Reports were not on file at the NYSED for 14 schools, two reports did not provide the number of students served by bilingual or free-standing ESL programs, and one school was not in programmatic compliance during the 2006-2007 academic year. Overall, 16 schools were out of procedural compliance and one was not in compliance for failure to provide the required program.

Banana Kelly High School was not in compliance for either native Spanish or Chinese speakers. Indeed, the two native Chinese speakers were not served by either free-standing ESL or bilingual programs. For native Spanish speakers, there were 20 identified students in the 10th grade that were all served by free-standing ESL programs.

NYC School District 10

Forty-eight schools in NYC School District 10 are represented by Latino Assembly Members. CR Part 154 Building Reports were not on file at the NYSED for 31 schools, four reports did not provide the number of students served by bilingual or free-standing ESL programs, and four schools were not compliant during the 2006-2007 academic year. Overall, 35 schools were out of procedural compliance and four of the 13 that did report were not in compliance for failure to provide the required program. The four non program compliant schools were: P.S. 86 Kingsbridge Heights School, P.S. 205 Fiorello La Guardia, P.S. 209, and the High School for Teaching and the Professions.¹⁶

P.S. 86 Kingsbridge Heights School served students in both bilingual education and free-standing ESL programs. However, not all of the students identified were served by a program (see table below). In Kindergarten, 39 identified native Spanish speakers were not served. In the 1st grade, 47 students were not served. Forty-three were not served in the 2nd grade, 48 in the 3rd grade, 65 in the 4th grade, 97 in the 5th grade, and 82 in the 6th grade. These numbers do not account for speakers of other languages that were also identified, but not served. Overall, 421 qualifying Spanish-speaking students did not receive any services. The school had TBE for seven general education bilingual classes and 12 bilingual special education classes. Students that had not passed the NYSESLAT and were not in bilingual classes were supported by a push-in free-standing ESL program that served 255 students. The school had 19 certified bilingual teachers, 12 certified bilingual Teaching Assistants/Paraprofessionals, and three certified ESL teachers.

¹⁶ Two additional schools were not in compliance with the law for languages other than Spanish. P.S. 440 DeWitt Clinton High School was compliant with the exception of an identified native Bosnian speaker in the 12th grade that was not served by a bilingual or ESL program. P.S. 246 Poe Center did not serve three identified native Vietnamese speakers in the 1st grade.

TABLE 4. NATIVE SPANISH SPEAKERS IN P.S. 86 KINGSBRIDGE HEIGHTS SCHOOL

GRADE	IDENTIFIED ELL	BILINGUAL SERVED	ESL SERVED	ELLS NOT SERVED
Kindergarten	92	27	26	39
First	131	48	36	47
Second	113	39	31	43
Third	132	48	36	48
Fourth	138	34	39	65
Fifth	157	35	25	97
Sixth	151	44	25	82
Totals	914	275	218	421

Source: CR Part 154 Comprehensive Report, academic year 2007-2008.

In P.S. 205 there were 42 native Spanish speakers in the 3rd grade and 24 in the 4th grade all served by free-standing ESL programs. There were students in transitional bilingual education programs in Kindergarten through the second grade, but there were more (24) served by ESL than bilingual programs (18) for Kindergarten. The school reported that in the early grades parents choose TBE and “the option for ESL placement has increased in upper grades.” The school had five certified bilingual teachers and four certified ESL teachers. In addition, the school also reported that it would hire an additional ESL teacher in order to increase its compliance with the law. There were three TBE classes in Kindergarten through 2nd grade and one self-contained 3rd grade class and two ESL (push in/pull out) programs for Kindergarten through 5th grade.

P.S. 209 only served its students through free-standing ESL programs even though there were 20 native Spanish speakers in Kindergarten. The school reported that parents chose free-standing ESL programs as the reason why there were no TBE or dual language classrooms. There was one certified ESL teacher for the 49 ELLs (47 Spanish-speaking) in the school. The school also reported that there were nine teachers whose classes had ELLs, but did not have certification in bilingual or ESL instruction.¹⁷

The High School for Teaching and the Professions served only three of the six Special Education native Spanish speakers during the 2006-2007 academic year. In addition, all the students within the school were reported to be served by free-standing ESL programs despite there being 22 identified native Spanish speakers in the 9th grade and 25 identified native Spanish speakers in the 10th grade. There were two

certified ESL teachers for the 69 students served out of the 72 identified. The report states that after the Home Language Identification Surveys were conducted and an informational meeting was held to explain the differences between TBE, dual language, and free-standing ESL programs, parents preferred the ESL model.

NYC School District 11

Twelve schools in NYC School District 11 are represented by Latino Assembly Members. CR Part 154 Building Reports were filed for all the schools with three schools not compliant during the 2006-2007 academic year. The non compliant schools were: P.S. 76 Bennington School, P.S. 89 Williamsbridge School, and P.S. 105 Senator A. Bernstein School.

P.S. 76 Bennington School had 26 native Spanish speakers in Kindergarten all enrolled in free-standing ESL programs. There were two certified ESL teachers for all of the 109 ELLs (including 77 Spanish ELLs) in the school that were served by free-standing ESL programs.

P.S. 89 Williamsbridge School did not offer a bilingual program for the 22 native Spanish speakers in the 3rd grade. It had 10 ESL certified teachers for its 247 students. Both of these schools only offered free-standing ESL programs.

P.S. 105 Senator A. Bernstein School did not provide bilingual education for any of its students. In Kindergarten there were 45 students; there were 41 in the 1st grade; 30 in the 2nd grade; 33 in the 3rd grade; 32 in the 4th grade; and in the 5th grade there were 11 and eight Special Education students, for a total of 200 students. These students were offered ESL instruction. There is no explanation for why none of these students were served by a bilingual program during the 2006-2007 academic year. Further study should be done to determine if the parents of these 200 students all requested ESL over bilingual programs for their children. There was one bilingual certified teacher and 12 ESL certified teachers for the 287 ELLs in the school.

NYC School District 12

Eighteen schools in NYC School District 12 are represented by Latino Assembly Members. CR Part 154 Building Reports were filed for all the schools with three schools not compliant during the 2006-2007 academic year. The non compliant schools were: High School of World Cultures, P.S. 195, and P.S. 197.

At High School of World Cultures there were 85 identified Spanish-speaking ELLs in the 9th grade, all served by free-standing ESL programs. In the 10th grade, 76 Spanish ELLs were served by free-standing ESL programs and six

¹⁷ If classes are not designated as bilingual, teachers are not required to be certified. This is a loophole that may prevent students from receiving adequate instruction.

by bilingual programs. Thirty of the Spanish-speaking ELLs in the 11th grade were served by bilingual programs and 20 were served by free-standing ESL programs.

P.S. 195 had 25 Spanish-speaking ELLs in the 2nd grade that were all served by free-standing ESL programs. In the 3rd grade, 12 were served by bilingual and 14 by free-standing ESL programs. In the 4th grade, nine were served by bilingual and 14 by free-standing ESL programs.

At P.S. 197, there were 13 Kindergarteners in bilingual programs and 40 in ESL programs. In the 1st grade, all 54 Spanish-speaking ELLs were in free-standing ESL programs.

NYC School District 14

Sixteen schools in NYC School District 14 are represented by Latino Assembly Members. CR Part 154 Building Reports were not on file at the NYSED for two schools and two schools were not compliant during the 2006-2007 academic year. The non compliant schools were: P.S. 120 Carlos Tapia School and P.S. 250 George H. Lindsey School.

P.S. 120 Carlos Tapia School had a transitional bilingual education program for 19 students in Kindergarten. Another 14 in Kindergarten were served by “pull-out” free-standing ESL programs that, according to the school’s report, used 100% English instruction. The same type of free-standing ESL program served the 35 first graders, 24 second graders, 19 third graders, 14 fourth graders, nine fifth graders, and three Special Education students identified as native Spanish speaking ELLs. The total 137 students were assisted by two ESL teachers—one for grades K-2 and the other for grades 3-5.

The report for P.S. 250 George H. Lindsey School claims that selection surveys from parents requested free-standing ESL programs for all of the 100 Spanish-speaking ELLs in special education and grades K-5 (nine in Kindergarten, 27 in the 1st grade, 25 in the 2nd grade, 17 in the 3rd grade, nine in the 4th grade, eight in the 5th grade, and five in special education). The school only had two certified ESL instructors for these and other ESL students, for a student/teacher ratio of 50-1 in six grades, and used a freestanding push-in/pull-out model of instruction. The school reports that parents were informed of the differences between programs and that parents could opt for a bilingual program, a monolingual program with ESL services, or transfer their children to another school if they wanted their children in a program not offered by the school.

NYC School District 15

Twenty-nine schools in NYC School District 15 are represented by Latino Assembly Members. The CR Part 154 Building Report was not on file at the NYSED for one school and four schools were not compliant during the 2006-2007 academic year. The non compliant schools were: P.S. 1 Bergen, P.S. 169 Sunset Park School, P.S. 172 Beacon School of Excellence, and P.S. 230 Doris L. Cohen School.

P.S. 1 Bergen had bilingual programs for students in Kindergarten through the 3rd grade. In this school, there were 32 Spanish-speaking ELLs in the 4th grade and 19 in the 5th grade that were served by free-standing ESL programs.

P.S. 169 Sunset Park School also had bilingual programs for students in Kindergarten through the 3rd grade, with 42 Spanish-speaking ELLs in the 4th grade, 21 Spanish-speaking ELLs in the 5th grade, and 21 Spanish-speaking ELLs in Special Education, none of which received bilingual education.

P.S. 172 Beacon School of Excellence served all its ELLs through ESL programs. There were 29 Spanish-speaking ELLs in Kindergarten, 33 in the 1st grade, 23 in the 2nd grade, 21 in the 3rd grade, 17 in the 4th grade, and 13 in the 5th grade, and eight in Special Education.

P.S. 230 Doris L. Cohen School was not compliant with either Spanish-speaking or Bengali ELLs. All 100 Spanish-speaking ELLs and 80 Bengali ELLs students were served through free-standing ESL rather than bilingual programs. In Kindergarten, there were 27 Spanish-speaking ELLs and in the 1st grade 28 Spanish-speaking ELLs should have been offered bilingual programs. One ESL certified teacher was reported for all the schools within this district.

NYC School District 30

One school in NYC School District 30 is represented by a Latino Assembly Member. A CR Part 154 Building Report was filed for the school and it was not compliant during the 2006-2007 academic year. P.S. 69 Jackson Heights School only provides free-standing ESL programs and not all the students identified as ELLs were in these programs. Students were served by free-standing ESL as follows: 32 were identified and served in Kindergarten, 34 were identified and served in 1st grade, 31 were identified and served in 2nd grade, 19 were identified and 18 were served in 3rd grade, 30 were identified and 28 were served in 4th grade, 14 were identified and served in 5th grade, and 12 were identified and served in special education programs.

Bilingual programs should have been offered for both Spanish-speaking and Bengali ELLs but were not.

NYC School District 32

Eleven schools in NYC School District 32 are represented by Latino Assembly Members. A CR Part 154 Building Report was filed for all the schools and two schools were not compliant during the 2006-2007 academic year. The non-compliant schools were: P.S. 86 Irvington School and P.S. 376 Felisa Rincón De Gautier.

P.S. 86 Irvington School identified only one 4th grade native Spanish speaker ELL as enrolled in a bilingual program out of 19 identified native Spanish speakers; the remaining 18 were served by free-standing ESL programs. The 29 identified Kindergarteners, 27 identified 1st graders, 21 identified 2nd graders, 17 identified 3rd graders, 18 identified 4th graders, 13 identified 5th graders, and one identified Special Education student were served by free-

standing ESL programs. Two certified ESL teachers served the 127 ELLs for an average of 63 students per teacher.

P.S. 376 Felisa Rincón De Gautier had 23 Kindergarten Spanish-speaking ESL students, 28 Spanish-speaking ESL students in the 2nd grade, 25 Spanish-speaking ESL students in the 4th grade, and 16 in the 5th grade. However, almost all of the identified Spanish-speaking ELLs in the 1st (26 of 34) and 3rd (16 of 19) grades were served by bilingual programs. The report states that the school would not offer TBE programs in the 2007-2008 academic year due to parental choice. However, it appears that when bilingual programs were offered in the 2006-2007 academic year, parents opted for those programs and therefore more bilingual classes might be needed in the school.

Tables 5 and 6 below summarize our findings, correlating school and assembly districts, indicating the number of schools that fall within the purview of specific elected officials and the number of non-compliant schools.

TABLE 5. NUMBER OF NON-COMPLIANT SCHOOLS BY SCHOOL DISTRICTS REPRESENTED BY LATINO ELECTED OFFICIALS, 2006-2007 ACADEMIC YEAR

SCHOOL DISTRICT	LATINO ELECTED OFFICIAL	NUMBER OF SCHOOLS	SCHOOLS WITHOUT CR PART 154 REPORTS	SCHOOLS FAILING TO PROVIDE DATA	SCHOOLS FAILING TO PROVIDE BILINGUAL PROGRAMS	TOTAL SCHOOLS OUT OF COMPLIANCE
Bay Shore	Phil Ramos AD 6	7	0	0	1	1
Brentwood	Phil Ramos AD 6	17	0	0	1	1
Central Islip	Phil Ramos AD 6	8	0	0	2	2
NYC District 4	Adam Clayton Powell, IV AD 68	31	2	0	0	2
NYC District 7	Carmen E. Arroyo AD 84	30	18	2	1	21
NYC District 8	Adam Clayton Powell, IV AD 68,	20	14	2	1	17
	Peter M. Rivera AD 76,					
	Marcos Crespo AD 85					
NYC District 10	José Rivera AD 78,	48	31	4	4	39
	Naomi Rivera AD 80,					
	Nelson L. Castro AD 86					
NYC District 11	Peter M. Rivera AD 76,	12	0	0	3	3
	Naomi Rivera AD 80					
NYC District 12	Peter M. Rivera AD 76,	18	0	0	3	3
	Marcos Crespo AD 85					
NYC District 14	Vito J. Lopez AD 53	16	2	0	2	4
NYC District 15	Félix Ortíz AD 51	29	1	0	4	5
NYC District 20	Félix Ortíz AD 51	2	1	0	0	1
NYC District 24	José R. Peralta AD 39	5	0	5	0	5
NYC District 30	José R. Peralta AD 39	1	0	0	1	1
NYC District 32	Vito J. Lopez AD 53	11	0	0	2	2
Totals		255	69	13	25	107

Source: CR Part 154 Comprehensive Reports The schools that did not provide data filed reports, therefore the total not in compliance in this regard is not a duplicate number.

TABLE 6. NON-COMPLIANT SCHOOLS 2006-2007 ACADEMIC YEAR

SCHOOL	DISTRICT	NUMBER OF ELL STUDENTS IN BILINGUAL PROGRAMS	NUMBER OF ELL STUDENTS IN ESL PROGRAMS
Bay Shore Senior HS	Bay Shore	0	79
Freshman Center	Brentwood	0	61
Cordello Avenue Elementary School	Central Islip	0	86
Francis J. O'Neill School	Central Islip	0	82
Samuel Gompers Career and Technical Education HS	NYC District 7	0	234
Banana Kelly HS	NYC District 8	0	49
DeWitt Clinton HS	NYC District 10	698	57
HS for Teaching and the Professions School	NYC District 10	0	69
PS 86 Kingsbridge Heights School	NYC District 10	275	265
PS 205 Fiorello La Guardia	NYC District 10	68	174
PS 209	NYC District 10	0	49
PS 246 Poe Center	NYC District 10	122	143
PS 105 Senator A. Bernstein School	NYC District 11	0	287
PS 76 Bennington School	NYC District 11	0	109
PS 89 Williamsbridge School	NYC District 11	0	247
HS of World Cultures	NYC District 12	36	198
PS 195	NYC District 12	21	61
PS 197	NYC District 12	16	105
PS 120 Carlos Tapia School	NYC District 14	19	126
PS 250 George H. Lindsey School	NYC District 14	0	128
PS 1 Bergen	NYC District 15	74	212
PS 169 Sunset Park School	NYC District 15	160	280
PS 172 Beacon School of Excellence	NYC District 15	0	172
PS 230 Doris L. Cohen School	NYC District 15	0	263
PS 69 Jackson Heights School	NYC District 30	0	308
PS 86 Irvington School	NYC District 32	1	127
PS 376 Felisa Rincón De Gautier	NYC District 32	42	106

Source: CR Part 154 Comprehensive Reports. Students in programs includes all languages.

Explanation for Non-Compliance and Lack of Bilingual Programs

Lack of Appropriately Certified Teachers

Based upon the data collected from 2006-2007 by NYSED, the certification areas with the largest percent of full-time equivalent teachers without appropriate certification in the entire state were bilingual education (28%) and bilingual special education (19%). There were 448 full-time bilingual teachers that were not properly certified; 360 of these teachers were in the New York City region. This does not include the 52 improperly certified teachers that taught bilingual special education, 38 of whom were in the New York City region.¹⁸

Although this is required, many schools failed to report the number of certified teachers and Teaching Assistants/Paraprofessionals on their applications. Only 145 of the 281 schools examined in this report listed both the number of students served and the number of certified bilingual and ESL teachers. However, those schools that did submit this information indicate that there is a critical need for increased numbers of certified bilingual and ESL teachers.

As the ratios reported for the non-compliant schools demonstrate, it is impossible to provide the required number of components and hours of instruction required by New York State regulations without an adequate number of certified teachers.¹⁹ While these ratios indicate a need for increased teacher certification programs, the distribution of these teachers demonstrates an additional problem. The need for more certified teachers is particularly strong in

¹⁸ University of the State of New York, The New York State Education Department, Office of Higher Education "Teacher Supply and Demand in New York State: Third Annual Report," (May 2008), pp. 9, 15. <http://www.highered.nysed.gov/pdf/tsd2008final.pdf> <Accessed 3/4/09> The New York City Region includes New York, Bronx, Kings, Queens, and Richmond Counties.

¹⁹ The requirements for each ELL is determined by grade level and proficiency and can be found in the Commissioner's Regulation Part 154.2.

New York City schools. Schools within NYC Districts 14, 15, and 32 report one ESL certified teacher per school. However, this problem is not unique to New York City schools. According to the CR Part 154 Comprehensive Reports, there were no teachers certified in bilingual education at Bay Shore High School in the Bay Shore District.

In some cases, schools have teachers certified in ESL teaching bilingual programs. For example, the school with the largest number of students served by bilingual programs, De Witt Clinton High School in NYC School District 10, had 698 students served and only eight certified bilingual teachers and two certified bilingual Teaching Assistants/Paraprofessionals. However, the school had 19 ESL certified teachers and two certified ESL Teaching Assistants/Paraprofessionals and only 57 students were provided an ESL program.

Parental Choice

CR Part 154 gives parents of eligible English Language Learners the right to “opt out” their children from a bilingual education program. Parents must be given verbal and/or written explanation of placement options and can choose their preference for the type of program provided to their child or children via a Parent Survey or Program Selection form. Sometimes a video is shown to explain program options to parents. Parents are also invited to orientations and some schools provide tours of the schools or allow parents to observe the types of classes offered in a school.

Parental choice to opt out is occasionally cited as the reason for more students in free-standing ESL than bilingual programs for a given grade. For example, the CR Part 154 Report for J.H.S. 50 John D. Wells in NYC School District 14 states that “Parent Surveys indicate that that majority of parents of students who are newcomers prefer their children be placed in a Bilingual class.” However, in upper grades ESL programs appear to be preferred. At P.S. 205 Fiorello La Guardia in District 10 parents choose TBE in the early grades and “the option for ESL placement has increased in upper grades.”

Parental choice surveys should be on file with the school or school district. Further study of these surveys and of parental choices would be helpful to determine if parents understand the differences between the types of programs offered and whether or not their children are placed in the type of program they desire or the program that is most appropriate.

Additional Findings

More Students in Free-standing ESL than Bilingual Programs

Thirty-six schools were in compliance with the law, but had more students enrolled in free-standing ESL than bilingual programs for students with the same native language in the same grade. Sometimes this difference was a matter of one student. However, there were times when the gap was large enough to indicate that there might be a need for additional bilingual education classes.

When bilingual education programs were offered, it appears from the CR Part 154 Comprehensive Reports that transitional bilingual education (TBE) programs were the most common form of bilingual education. Dual language programs were not as common. For example, the only dual language class in the Brentwood District was in 5th grade at Southwest Elementary School. Two schools in District 7 offered dual language programs (P.S. 25 and P.S. 161). NYC School District 15 offered dual language programs in P.S. 1, P.S. 24, and P.S. 94. NYC School District 14 reported that it did not offer any dual language programs.

At I.S. 61 Leonardo Da Vinci in NYC School District 24, the majority of parents reportedly select bilingual education programs. However, when a program (such as dual language) is chosen by a parent but there are not enough parents making this request these parents are offered the option of transferring their child to a school that provides the program. Perhaps this is why there appears to be a need for more dual language classrooms in schools that offer the programs. For instance, at P.S. 89 Elmhurst School in NYC School District 24 there are 100 students in dual language programs and 99 Kindergarten students enrolled in free-standing ESL programs. This school reported that parents of students in Kindergarten through the 2nd grade chose dual language programs in a manner that exceeds the capacity of the number of dual language classrooms. Since there are no vacancies in dual language classrooms (especially in Kindergarten) the parents have the option of placing their children on a wait list for the current or next academic year. Parents of 3rd through 5th graders were reported to choose TBE programs, even though if available they would have chosen dual language programs. Further study is needed on the number of students transferred to receive the program of their choice or the number of students that enroll in a second-choice program to avoid being transferred.

Schools without CR Part 154 Reports

Sixty-nine (25%) of the 281 schools represented by Latino Assembly Members did not have a CR Part 154 Building Report on file at the NYSED indicating that they did not apply for federal or state funds to support bilingual and free-standing ESL programs for ELLs for the 2008-2009 academic year. These schools were concentrated within NYC School Districts 10 (31 schools), 7 (18 schools), and 8 (14 schools) all located in Bronx County. The other Districts missing one or two reports included NYC School Districts 4, 14, 15, and 20. The school with the largest number of ELLs was P.S. 46 Edgar Allan Poe School (NYC School District 10) with ELLs. The highest concentration of ELLs was Kingsbridge International High School (NYC School District 10) with 96% of its student body identified as ELLs. An important question is whether the schools without reports on file at the NYSED received funds despite their failure to submit the required reports.

Conclusion

Overall, 38% of the schools examined were not in compliance with existing regulations. Of the 281 schools within our sample, 107 were out of programmatic or procedural compliance. A total of 25 schools or 9% did not provide required bilingual education programs. An additional 82 schools or 29% were not in procedural compliance for failing to file a CR Part 154 Building Report to NYSED (69 schools) or by failing to indicate in their reports the number of students served (13 schools).

Within the majority of the schools, there is a strong preference for providing free-standing ESL over bilingual programs. Some schools indicate that this is due to parental preferences. However, it seems unlikely that out of dozens and sometimes over one hundred students in free-standing ESL programs within a single school, all would opt for free-standing ESL over bilingual programs. Further, it appears that many schools simply do not provide bilingual education as an option. Based upon the CR Part 154 Building Reports, at least 28% of the schools sampled should offer bilingual programs. Otherwise, they deny the placement options parents have by regulation for their children.

There is an overall trend towards providing bilingual programs in the early grades and then shifting towards free-standing ESL programs in higher grades. However, the majority of the schools that need to increase their offerings of bilingual programs are schools serving Kindergarten through 5th grade. A lack of proper instruction early in the education of children is a recipe for long-term problems.

Recommendations

Increased Monitoring and Oversight

Even though the primary responsibility of elected officials is legislation, it is important for elected officials to provide oversight about compliance with legislation and regulations. Oversight is a legitimate legislative function. For Latinos, the stakes are too high. Education in general and bilingual education in particular are tools too important for their socioeconomic advancement to leave to normal administrative/bureaucratic procedures to provide. Instead, elected officials must work closely with the New York State Board of Regents, NYSED officials and staff to insure that Latino students in need of bilingual education programs are duly served.

Increased Certification

In New York during 2006-2007, there were 500 teachers in bilingual classrooms that were inappropriately certified.²⁰ Teachers have to be certified on the subject matter and the native language of instruction which is one reason why it is rare for a school to offer all courses in a native tongue. Therefore bilingual education programs in high school are usually only offered in one or two subjects in the native language.²¹ New York City currently provides a number of incentives to recruit bilingual teachers and paraprofessionals. These include tuition assistance, loan forgiveness, grants, and fellowships.²² Expanding these efforts on a state level will help. However, more creative solutions are also needed to increase the number of bilingual certified teachers. For example, changes in state laws allowing non-citizens to become certified teachers should be further utilized to increase the number of individuals qualified to teach in a bilingual education program. Foreign-born teachers proficient in English could provide an especially qualified candidate pool of bilingual or multilingual instructors. In addition, state and city colleges and universities with teacher education programs should be strongly encouraged to provide undergraduate and graduate certification programs to prepare bilingual and ESL teachers.

20 <http://www.highered.nysed.gov/pdf/tsd2008final.pdf>, pp. 9,15. <Accessed 3/4/09>

21 Diane Ravitch and Joseph P. Viteritti, *City Schools: Lessons from New York* (Baltimore: Johns Hopkins University Press, 2000), p. 193.

22 See <http://www.teachnycprograms.net/>

Improve Communication between Schools and Parents

While the CR Part 154 Comprehensive Reports show that many schools are making efforts to improve the communication between the schools and parents, more work needs to be done in this area. Currently schools employ a variety of means for facilitating connections with parents. Examples include: the availability of translators, parent orientations, parent/teacher conferences, workshops for parents, newsletters sent to homes in multiple languages, regular informational meetings, providing books and other reading materials to parents, and opportunities for parents to volunteer. Some schools provide parents with Saturday workshops and evening ESL classes.

However, the basic level of communication provided to parents is in the form of translation services and parent/teacher conferences. An occasional workshop or parent orientation provides only limited training for parents, making it difficult for them to support their children's literacy at home. Long term, ongoing programs and involvement is needed, as well as services necessary to ensure parents have the time and ability to visit the school and participate in school programs. The role of community groups appears to be vital to bridging the gap between parents and the schools. Ensuring that parents are aware of these groups gives them access to a third-party advocate for their families.

Increased Funding

The lack of reports from schools indicates that many schools are not applying for the funds that are available. Ensuring that all schools with ELLs are aware of the availability of funding and understand the application process is vital. If these schools are not applying for the funds because they are not in compliance, they should receive immediate assistance from district and state levels to help them design and implement the required programs. Fiscal accountability is important. Therefore, we need to know if the schools that did not submit CR Part 154 plans are in fact receiving federal or state funds tied to the provision of bilingual education programs.

Most of the funding received by the schools (sometimes all of the funding) is used to pay for salaries to either hire a new teacher or fund the teaching of additional programs (such as Saturday Schools or afterschool programs). Additionally, books, instructional materials, and staff development are provided with these funds. Considering the shortage of teachers, recruitment is critical for these

schools and their ELLs. Funding must provide for more than teacher salaries and per pupil expenditures. Grants and other forms of support need to continue to flow towards community groups and research organizations to supplement and provide alternative sources of information for parents, schools, and lawmakers. Finally, schools and the NYSED need the staff resources necessary to ensure that the school information needed to monitor compliance is available. Proper documentation and analysis is indispensable to ensure that schools are able to apply for the funds that are already available and for the state to ensure that the funds are most effectively used and the law enforced.

