



**TO:** P-12 Education Committee  
Higher Education Committee

**FROM:** Cosimo Tangorra, Jr. *Cosimo Tangorra Jr.*  
John L. D'Agati *John L. D'Agati*

**SUBJECT:** Proposed Amendments to Sections 80-3.6, 100.2(dd) and 154-2.3(k) of the Regulations of the Commissioner of Education Relating to Professional Development in Language Acquisition to Address the Needs of English Language Learners

**DATE:** November 10, 2014  
*Richard A. Tranter* *John B. 959.*

**AUTHORIZATION(S):**

### SUMMARY

#### Issue for Discussion

Should the Board of Regents adopt amendments to sections 80-3.6, 100.2(dd) and 154-2.3(k) of the Regulations of the Commissioner of Education relating to professional development in language acquisition addressing the needs of English Language Learners (ELL)?

#### Reason for Consideration

Review of Policy.

#### Proposed Handling

The proposed rule will be presented at the Joint Meeting of the P-12 Education Committee and the Higher Education Committee for discussion at the November 2014 meeting of the Board of Regents. A copy of the proposed rule is attached. Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

## **Procedural History**

A Notice of Proposed Rule Making will be published in the State Register on December 3, 2014 for a 45-day public comment period.

## **Background Information**

Over the past 10 years, New York State ELL student enrollment has increased by 20%. According to the U.S. Department of Education, ELL student enrollment has increased by 18% nationally. Currently in New York State, over 230,000 ELLs make up 8.9% of the total public student population. Students in New York State speak over 140 languages, with 61.5% of ELL students having Spanish as their home language. In addition, 41.2% of ELL students were born outside of the United States.

In the landmark 1974 decision, *Lau v. Nichols*, the United States Supreme Court established the right of ELL students to have “a meaningful opportunity to participate in the educational program.” That same year, an agreement between the New York City Board of Education and ASPIRA of New York (called the ASPIRA Consent Decree) assured that ELL students would be provided Bilingual Education. As such, ELL students must be provided with equal access to all school programs and services offered to non-ELL students, including access to programs required for graduation. Education Law §3204 and Part 154 of the Commissioner’s Regulations contain standards for educational services provided to ELL students in New York State. With this framework in place, the Department began to engage stakeholders to determine how the programs and services required in Part 154 could be enhanced to better meet the needs of the State’s multilingual population.

The Department’s process began in early 2012 with focus group discussions representing over 100 key stakeholders from around the state. Those discussions informed the development of a statewide survey of policy options that was released in June 2012, and resulted in over 1,600 responses from teachers, principals, superintendents, advocates and others interested in the education of ELL students. The Department then used the survey results and focus group discussions to develop proposed policy changes and enhancements. Proposed changes were then shared with stakeholders for feedback and were also shared with the U.S. Department of Justice Office of Civil Rights, U.S. Department of Education staff responsible for Title I and Title III, and members of the Board of Regents for review and feedback.

At its September 2014 meeting, the Board of Regents adopted a number of changes to Part 154 of the Commissioner’s Regulations, including the addition of a new subdivision (k) to 154-2.3 to require each school district to provide professional development to all teachers and administrators that specifically addresses the needs of ELLs. Specifically, the regulation requires that a minimum of fifteen percent (15%) of the required professional development clock hours for all teachers prescribed by Part 80 of this Title be dedicated to language acquisition, including a focus on best practices for co-teaching strategies and integrating language and content instruction for English Language Learners. For all Bilingual and English to Speakers of Other Languages (ESOL) teachers, a minimum of fifty percent (50%) of the required professional

development clock hours prescribed by Part 80 of this Title shall be dedicated to language acquisition in alignment with core content area instruction, including a focus on best practices for co-teaching strategies and integrating language and content instruction for English Language Learners. It further requires all school districts to align and integrate such professional development for Bilingual and English to Speakers of Other Languages (ESOL) certified teachers with the professional development plan for core content area for all teachers in the district.

The proposed rule amends sections 80-3.6 and 100.2(dd) of the Commissioner's Regulations to implement the Part 154 changes. The proposed rule also amends section 154-2.3(k) to conform to sections 80-3.6 and 100.2(dd), as amended, and to clarify that administrators and holders of a level III teaching assistant certificate also be required to complete a minimum of 15 percent of the required professional development clock hours in language acquisition addressing the needs of ELLs and integrating language and content instruction for ELLs; consistent with its requirements for teachers.

### **Recommendation**

Not applicable.

### **Timetable for Implementation**

It is anticipated that the proposed rule will be presented for action at the February 2015 Regents meeting. If adopted at February Regents meeting, the proposed rule will take effect on February 25, 2015.

## AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 305, 3004 and 3006 of the Education Law.

1. Section 80-3.6 of the Regulations of the Commissioner of Education is amended, effective February 25, 2015, to read as follows:

(a) . . .

(b) Mandatory requirement.

(1) Requirements.

(i) Requirement for holders of professional certificates in the classroom teaching service. [The] Except as otherwise provided in subparagraph (v) of this subdivision, the holder of a professional certificate in the classroom teaching service shall be required to successfully complete 175 clock hours of acceptable professional development during the professional development period; provided that for any professional development period beginning on July 1, 2015, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for such English Language Learners.

(ii) Requirements for holders of level III teaching assistant certificates. The holder of a level III teaching assistant certificate shall be required to complete successfully 75 clock hours of acceptable professional development during the professional development period: provided that for any professional development period beginning on July 1, 2015, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners and integrating language and content instruction for such English Language Learners.

(iii) Requirements for holders of professional certificates in the educational leadership service. The holder of a professional certificate in the educational leadership service shall be required to complete successfully 175 clock hours of acceptable professional development during the professional development period; provided that for any professional development period beginning on July 1, 2015, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for such English Language Learners.

(iv) (a) [An] Except as otherwise provided in subparagraph (v) of this subdivision, an individual holding more than one professional certificate in the classroom teaching service and/or educational leadership service shall be required to complete 175 clock hours of acceptable professional development during the five-year professional development period; provided that for any professional development period beginning on July 1, 2015, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for such English Language Learners.

(b) [An] Except as otherwise provided in subparagraph (v) of this subdivision, an individual holding a level III teaching assistant certificate and one or more professional certificates in the classroom teaching service and/or educational leadership service shall be required to complete 175 clock hours of professional development during the five-year professional development period, unless the individual does not hold a professional certificate during the entire five-year professional development period, in which case the individual shall be required to complete 75 clock hours of professional

development during the five-year professional development period; provided that for any professional development period beginning on July 1, 2015, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for such English Language Learners.

(v) For any professional development period beginning on July 1, 2015, a holder of a professional certificate in the certificate title of English to Speakers of other Languages (all grades) and a holder of a bilingual extension under section 80-4.3 of this Title, shall be required to complete a minimum of 50 percent of the required professional development clock hours in language acquisition aligned with the core content area of instruction taught, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for English Language Learners.

(2) . . .

(3) . . .

(4) Notwithstanding the requirements of paragraph (1) of this subdivision, a holder of a certificate in the classroom teaching service who achieves certification from the National Board for Professional Teaching Standards shall be deemed to have met the professional development requirement, prescribed in this subdivision, for the five-year professional development period in which such national board certification is achieved; provided that for any professional development period beginning on July 1, 2015:

(i) a holder of a professional certificate in the certificate title of English to Speakers of other Languages (all grades) and a holder of a bilingual extension under section 80-4.3 of this Title, shall be required to complete a minimum of 50 percent of the

required professional development clock hours in language acquisition aligned with the core content area of instruction taught, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for English Language Learners; and

(ii) for all other holders of professional certificates in the classroom teaching service, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for such English Language Learners; and

(iii) for an individual holding a level III teaching assistant certificate, a minimum of 15 percent of the required professional development clock hours shall be dedicated to language acquisition addressing the needs of English Language Learners and integrating language and content instruction for such English Language Learners.

(c) . . .

(d) Acceptable professional development.

(1) . . .

(2) For individuals not regularly employed by an applicable school in New York in a professional development year, acceptable professional development for such year shall be study in the content area of any certificate subject to the professional development requirement held by the individual or in pedagogy related to such certificate and any required study in language acquisition addressing the needs of English Language Learners as described in subdivision (b) of this section:

(i) . . .

(ii) . . .

(e) . . .

(f) Recordkeeping requirements. In addition to the recordkeeping requirement for an applicable school in New York, as prescribed in section 100.2(dd) of this Title, the certificate holder shall maintain a record of completed professional development, which includes: the title of the program, the total number of hours completed, the number of hours completed in language acquisition addressing the need of English Language Learners, the sponsor's name and any identifying number, attendance verification, and the date and location of the program. Such records shall be retained for at least seven years from the date of completion of the program and shall be available for review by the department in administering the requirements of this section.

(g) . . .

(h) . . .

(i) . . .

2. Subparagraph (iii) of paragraph (1) of subdivision (dd) of section 100.2 of the Regulations of the Commissioner of Education is amended, effective February 25, 2015, to read as follows:

(iii) A school district or BOCES shall include as part of its professional development plan a description of the professional development activities provided to all professional staff and supplementary school personnel who work with students with disabilities and English Language Learners to assure that they have the skills and knowledge necessary to meet the needs of students with disabilities and English Language Learners, respectively.

3. A new subparagraph (v) is added to paragraph (2) of subdivision (dd) of section 100.2 of the Regulations of the Commissioner of Education, effective February 25, 2015, to read as follows:



(v) For plans covering the time period July 1, 2015 and thereafter, each school district or BOCES shall describe in its plan how it will provide:

(a) a holder of a professional certificate in the certificate title of English to Speakers of other Languages (all grades) and a holder of a bilingual extension under section 80-4.3 of this Title with a minimum of 50 percent of the required professional development clock hours for such certificate title in language acquisition aligned with the core content area of instruction taught, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for English Language Learners; and

(b) all other holders of professional certificates in the classroom teaching service, a minimum of 15 percent of the required professional development clock hours in language acquisition addressing the needs of English Language Learners, including a focus on best practices for co-teaching strategies, and integrating language and content instruction for such English Language Learners; and

(c) a holder of a level III teaching assistant certificate, a minimum of 15 percent of the required professional development clock hours in language acquisition addressing the needs of English Language Learners and integrating language and content instruction for such English Language Learners.

(d) A school district or board of cooperative educational services may seek permission on an annual basis from the commissioner for an exemption from the professional development requirements in this subparagraph where there are fewer than thirty (30) English Language Learner students enrolled or English language learners make up less than five percent (5%) of the district's or board of cooperative educational services' total student population as of such date as established by the

Commissioner. The process for such exemption can be found in section 154-2.3(k) of this Title.

4. Subdivision (k) of section 154-2.3 of the Regulations of the Commissioner of Education is amended, effective February 25, 2015, as follows:

(k) Professional Development. Each school district and board of cooperative educational services shall provide professional development to all teachers, level III teaching assistants and administrators that specifically addresses the needs of English Language Learners.

(1) Consistent with section 80-3.6 and section 100.2(dd) of this Title, a minimum of fifteen percent (15%) of the required professional development clock hours for all teachers and administrators [prescribed by Part 80 of this Title] shall be dedicated to language acquisition, including a focus on best practices for co-teaching strategies and integrating language and content instruction for English Language Learners. For holders of a level III teaching assistant certificate, a minimum of fifteen percent (15%) of the required professional development clock hours shall be dedicated to language acquisition and content instruction for English Language Learners. For all Bilingual and English to Speakers of Other Languages (ESOL) certified teachers, a minimum of fifty (50%) of the required professional development clock hours prescribed by Part 80 of this Title shall be dedicated to language acquisition in alignment with core content area instruction, including a focus on best practices for co-teaching strategies and integrating language and content instruction for English Language Learners. All school districts must align and integrate such professional development for Bilingual and English to Speakers of Other Languages (ESOL) certified teachers with the professional development plan for core content area for all teachers in the district.

(2) A school district or board of cooperative educational services may seek permission on an annual basis from the commissioner for an exemption from the professional development requirements of this subdivision where there are fewer than thirty (30) English Language Learner students enrolled or English language learners make up less than five percent (5%) of the district's or board of cooperative educational services' total student population as of such date as established by the Commissioner. A district or board of cooperative educational services seeking permission for such exemption shall submit to the commissioner for approval an application, in such format and according to such timeline as may be prescribed by the commissioner, that includes:

(i) evidence that, as part of the required professional development clock hours prescribed by Part 80 of this Title, all teachers, level III teaching assistants and administrators receive training, sufficient to meet the needs of the district's or board of cooperative educational services' English Language Learner students, in language acquisition, including a focus on best practices for co-teaching strategies and integrating language and content instruction for English Language Learners; and

(ii) evidence that, as part of the required professional development clock hours prescribed by Part 80 of this Title, all Bilingual and English to Speakers of Other Languages (ESOL) certified teachers receive training, sufficient to meet the needs of the district's English Language Learner students, in language acquisition in alignment with core content area instruction, including a focus on best practices for co-teaching strategies and integrating language and content instruction for English Language Learners.

