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Office of P-12

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English Language Learner Field Advisory

From: Angelica Infante-Green, Associate Commissioner
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Subject: Regulations Related to the Justification Requirements for Placing a New
Bilingual Education Program in a Focus School or a Priority School

The purpose of this memorandum is to provide information relating to Section 154-2.3(d)(3) of the Regulations of the Commissioner of Education, which sets forth conditions for and a procedure by which school districts may apply for a waiver from the prohibition on placing a new Bilingual Education program in a school identified as a School Under Registration Review, a Focus School, or a Priority School pursuant to Part 100 of the Regulations.

The Regulations prohibit the placement of a new Bilingual Education program in a school identified as a School Under Registration Review.

The Regulations also prohibit a district from placing a new Bilingual Education program in a Focus or Priority School, *unless* a school that has not been identified as a School Under Registration Review, a Focus School, or a Priority School a) does not exist in that district, or b) does not have the physical space for a new program. If these conditions are met, a district may apply for a waiver from the prohibition by following the procedure set forth below.

Focus School

To place a new Bilingual Education program in a Focus School, the school district must submit a Justification Form prescribed by the Commissioner demonstrating that a school which has not been identified as a School Under Registration Review, a Focus School, or a Priority School either does not exist in the district or does not have the physical space for a new program. This application must be approved by the Commissioner.

Priority School

To place a new Bilingual Education program in a Priority School, a school district must submit a Justification Form prescribed by the Commissioner demonstrating that a school that has not been identified as a School Under Registration Review, a Focus School, or a Priority School either does not exist in the district or does not have the physical space for a new program. In addition, the school district must assure that there are no Focus Schools in the district.

New York City

In the case of New York City, if a Priority School is the *only* option for placement of a new Bilingual Education program, in addition to following the procedure identified above, the district must give parents or persons in parental relation the option to transfer their child to a Bilingual Education program in a neighboring community school district. The school to which the child may transfer must be a school that has not been identified as a School Under Registration Review, a Focus School, or a Priority School. The school district must also provide the student transportation in accordance with Education Law Section 3635 and/or district policy, as applicable.