



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234
Office of Education Policy

Elisa Alvarez, Associate Commissioner
Office of Bilingual Education and World Languages
55 Hanson Place, Room 594
Brooklyn, New York 11217
Tel: (718) 722-2445 / Fax: (718) 722-2459

89 Washington Avenue, Room 505 EB West
Albany, New York 12234
Tel: (518) 474-8775/ Fax: (518) 474-7948

TO: District Superintendents
Superintendents of Schools
Administrators of Public and Charter Schools
Bilingual/ELL Coordinators/Directors

FROM: Elisa Alvarez

SUBJECT: English Language Learner (ELL) Identification and Placement for
Recently Arrived Children and Youth

DATE: August 16, 2023

Communities across New York State are experiencing an influx of recently arrived and asylum-seeking students and families in advance of the 2023-24 school year. The Board of Regents and the New York State Education Department (NYSED or “the Department”) are committed to supporting Local Educational Agencies (LEAs) in the delivery of high-quality educational services to all students, including recently arrived children and youth. This memorandum provides important information for LEAs regarding the English Language Learner (ELL) identification process outlined in Commissioner’s Regulations Part 154-2.3(a) and available resources to support students and families.

Available Flexibility to Identification and Placement Timelines

Due to an unanticipated increase in the enrollment of speakers of languages other than English, it is expected that some LEAs may have difficulty conforming to the standard 10-day timeline for administering the New York State Identification Test for English Language Learners (NYSITELL) and placing eligible students in an appropriate language acquisition program. LEAs serving recently arrived asylum seekers with school-age children, will therefore be afforded **up to 30 school days** from the date of a student’s enrollment to complete this process. After the 30-school day period granted by this waiver has ended, all identifications will again be required to be completed within 10 school days of a student’s initial enrollment.

LEAs seeking a waiver from the timeline specified in Commissioner’s Regulations Part 154-2.3(g) must complete and submit the “Attestation in Support of Waiver of the ELL Identification and Placement Timeline for Recently Arrived Children and Youth” form through the NYSED Business Portal. The waiver will be available to qualifying LEAs until further notice. The standard identification period will apply to all LEAs that do not receive a waiver.

Questions regarding LEA eligibility or any other aspect of the ELL identification timeline waiver can be directed to the Office of Bilingual Education and World Languages (OBEWL) at obewl@nysed.gov.

Required Services and Available Supports for Newly Arrived Students

Please be advised that all children in New York State, regardless of their immigration or citizenship status, have the right to attend school full time so long as they meet the age and residency requirements established by state law. Please see the Department's [Student Registration Guidance](#), [Guideline for Refugee and Immigrant Vaccination Requirement](#), and [2018 field memo](#) for information on requirements related to enrollment of recently arrived children. For health/immunization records and residency questions contact the Office of Student Support Services at StudentSupportServices@nysed.gov.

In addition, please note that recently arrived students in temporary housing are entitled to protections and services under The McKinney-Vento Homeless Assistance Act. As a reminder, the McKinney-Vento Homeless Assistance Act states that children and youth who lack "a fixed, regular, and adequate nighttime residence" will be considered homeless. This applies to students in a wide range of temporary living situations, including shelters and emergency or transitional housing; students living in hotels, motels, trailer parks, or campgrounds due to lack of alternative adequate housing; and, to students who are "doubled-up" with friends or relatives due to loss of housing, economic hardship, or lack of adequate alternative accommodations.

Homeless students are entitled to immediate enrollment in school, even if they lack documents normally required for enrollment, or have missed application or enrollment deadlines during any period of homelessness. For further information about the McKinney-Vento Act, the rights of students experiencing homelessness, and for strategies that LEAs and schools can implement to meet such students' needs, please visit [NYS-TEACHS](#) or call 1-800-388-2014. LEAs can also contact State McKinney-Vento Coordinator Jane Fronheiser in the Office of ESSA-Funded Programs at (518) 473-0295 or jane.fronheiser@nysed.gov.

Information to support asylum seekers and other recently arrived immigrants can be found on s [Immigrants and Newcomers page](#) on OBEWL's website. Information includes:

- Civil rights for newcomers and immigrants
- CUNY Initiative on Immigration and Education resources including the Supporting Immigrants in Schools resource guide and professional development modules
- A guide to community-based organizations for immigrants
- Best practices for instruction including the Advanced Literacies for Academic Success topic briefs
- Contact for the [Regional Bilingual Education Resource Networks](#)

Additional support for newly arrived students who are children of migratory agricultural workers or migratory fishers, or for students who are migratory agricultural workers or fishers themselves, and who have made a "qualifying move" within the last 3 years are also be available through the New York State Migrant Education Tutorial and Support Services (METS) Program Centers.

These centers provide direct educational programs and services to migrant children at homes and in schools. They also link migrant families with necessary academic, social, and health services and provide direct services to migrant families in the areas of academic assistance, advocacy, coordination with schools and community agencies, and other outreach activities. Please use the interactive [map](#) or the [METS](#) page to find contact information for the Program Center that serves your county.