Commissioner's Regulations Subparts 154-2 and 154-3

Guidance

Determining English Language Learner/Multilingual Learner (ELL/MLL) Status of and Services for Students with Disabilities

New York State
EDUCATION DEPARTMENT
BOARD OF REGENTS

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Introduction

Subpart 154-3 is part of the New York State Education Department's (NYSED) effort to improve instruction and programming for English Language Learners/Multilingual Learners (ELLs/MLLs) to ensure stronger outcomes for this student population. Subpart 154-3 establishes criteria for determining whether a student with a disability shall take the statewide English language proficiency identification assessment and criteria for exiting students with disabilities from identification as an ELL/MLL.

The Department's process leading to the proposed regulations, which incorporated feedback form all stakeholders, 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 ELLs/MLLs. 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 Titles I and III of ESEA, and members of the Board of Regents. On November 17, 2014, the Board of Regents adopted the Department's proposal of Subpart 154-3 of the Regulations of the Commissioner of Education.

The following guidance is intended to assist Local Education Agencies (LEAs), school administrators, and educators in meeting the requirements set forth in the regulations and to clarify questions regarding their implementation. Topics covered include:

- Screening for (ELL/MLL) Status for Students Who Enter or Re-Enter School with an (IEP)
- Information that must be reviewed and considered by the LPT
- Principal and Superintendent Review of LPT Recommendation
- Review of ELL/MLL Identification Determination
- Participation of Students with Disabilities in the New York State Initial (NYSITELL) and Annual (NYSESLAT) Assessments of English Proficiency
- Notifications & Rights of Parents/Guardians of Students with Disabilities under Subparts 154-2 and -3
- ELL/MLL Program Placement & Services for Students with Disabilities
- ELL/MLL Exit Criteria

Additional questions?
Please send questions or comments to the Office of Special Education at SPECED@nysed.gov
OR the Office of Bilingual Education and World Languages at OBEWL@nysed.gov

This guidance does not impose any requirements beyond those required under applicable law and regulations. This document supersedes any previously issued guidance on this topic and will be periodically updated.

Screening for English Language Learner/Multilingual Learner (ELL/MLL) Status for Students Who Enter or Re-Enter School with an Individualized Education Program (IEP)

ELL/MLL ID PROCESS FOR STUDENT WITH AN IEP

The determination of English language proficiency (ELP) or ELL/MLL status for **a student with a disability who initially enrolls or re-enters a NYS public school** follows a multiple-step ELL/MLL identification process [CR section 154-2.3(a)]. The steps are:

1. **Initial Screening:** Administration of the Home Language Questionnaire (HLQ) to the parent/guardian[1]. The HLQ must be administered to parents/guardians **to determine if a language other than English is spoken at home** in the language or mode of communication they understand or with a qualified interpreter. If the HLQ indicates that a student's home or primary language is other than English, an individual interview with the student (in English and in the student's home language) is conducted by qualified personnel. If the results of the individual interview confirm that the student's home or primary language is other than English, proceed to Step 2: Language Proficiency Team.
2. **Language Proficiency Team (LPT):** The LPT will consider evidence to make a recommendation as to whether the student may have second language acquisition needs and must take the NYSITELL **OR** makes the recommendation that the disability may be the determinant factor affecting the student's ability to demonstrate proficiency in English. **IF** LPT notes no second language needs, a recommendation that the student should be designated English proficient is made to the Principal.
3. **Principal Review:** Principal disagrees with LPT and refers student for NYSITELL **OR** agrees with the LPT that there are no second language needs and makes a recommendation to the Superintendent.
4. **Superintendent Review:** Superintendent rejects Principal recommendation and student will take the NYSITELL **OR** superintendent accepts the recommendation that the student is not an ELL/MLL.

IF student takes the New York State Identification Test for English Language Learners (NYSITELL) and does not demonstrate ELP, student is an ELL and parents/guardians must be notified within five school days of determination and of their right to request a review. **IF** student demonstrates ELP, student is not an ELL. **If it is determined during any of these steps that a student is not an ELL/MLL, the remaining steps of the initial enrollment and/or reentry process to identify the student as an ELL/MLL stops. (For more information regarding the screening process for all new entrants, please refer to NYSED's July 2015 guidance, English Language Learners (ELLs), Screening, Identification, Placement, Review, and Exit Criteria.**

[1] Parent/guardian refers to "parents or persons in parental relation."

STUDENTS TO WHOM STEP 2 (LANGUAGE PROFICIENCY TEAM) APPLIES

Students eligible for Step 2 include new entrants or re-entering students who:

- were identified in NYS as preschool students with disabilities[2] and who are entering a public school and continue to be eligible for special education as school-age students with disabilities; or
- come from other states[3] in the United States, including the District of Columbia and the Commonwealth of Puerto Rico and the outlying areas[4], with both an identified disability and an IEP.

STUDENTS TO WHOM STEP 2 (LANGUAGE PROFICIENCY TEAM) DOES NOT APPLY

Step 2 of the process outlined above **DOES NOT** apply to new entrants or re-entering students who:

- are **suspected** of having a disability but there is no documentation of a disability (e.g., an IEP or its equivalent); or
- come from another country with documentation from that country indicating that the student has a disability, but does **not** have an IEP from the United States.

Since these students have not been determined by an IEP team or Committee on Special Education (CSE) to have a disability, ELL/MLL status is determined by administering the NYSITELL, if warranted following Step 1 (Initial Screening with HLQ and Individual Interview).

If a student transfers from another school district within NYS and was previously identified as an ELL/MLL in NYS, the student is not considered a newly enrolling or re-entering student and thus should not be screened by the LPT or take the NYSITELL again. The student will continue to be an ELL/MLL until he or she meets the criteria for exiting ELL/MLL status and should be placed in a Bilingual Education or English as a New Language (ENL) program and receive the required units of ENL, English Language Arts (ELA), and Home Language Arts (HLA) instruction based on the results of the previous NYSITELL or most recent NYSESLAT.

Figure 1: English Language Learner/Multilingual Learner (ELL/MLL) Identification Process for New or Re-entering Students with an Individualized Education Program (IEP) provides a visual

[2]. For students transitioning from preschool special education, the LPT should consider the extent to which the student received preschool special education services in his/her home/primary language or only in English and the effect on the student's continued need for ELL services.

[3] According to 34 CFR § 300.717(c), "as used in this subpart, State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico."

[4] *Outlying areas* means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

representation of the steps in the initial identification of ELL/MLL status for students who enter or re-enter a school district with an IEP. As can be seen in Figure 1, the district must proceed to Step 2 only if:

- Step 1 (HLQ and Individual Interview) indicates a language other than English is spoken in the home or the student's primary/home language is other than English; **and**
- the student does not demonstrate proficiency in English during the individual interview and collection of work samples.

If there is no evidence of a primary/home language other than English and the student is able to demonstrate proficiency in English during Step 1, there is no need to proceed to Step 2.

Figure 1: English Language Learner/Multilingual Learner (ELL/MLL) Identification Process for New or Re-entering Students with an Individualized Education Program (IEP)

Visit OBEWL website for additional guidance on this process.

NYSED.gov

ENGLISH LANGUAGE LEARNER/MULTILINGUAL LEARNER (ELL/MLL) IDENTIFICATION PROCESS FOR NEW OR RE-ENTERING STUDENTS WITH AN INDIVIDUALIZED EDUCATION PROGRAM (IEP)

NOTE: Per section 154-2.3(a)(8), districts must complete all steps of the ELL/MLL identification process prior to the student's final placement in a school. A student shall be provisionally placed in a school until the identification process is completed.

1. INITIAL SCREENING

Follow initial steps for identifying a student as a potential ELL (steps 1a and 1b in the ELL Screening, Identification, Placement, Review, and Exit Criteria flow chart). If steps 1a and 1b (i.e., the HLQ and Individual Interview) indicate that a student's home or primary language is other than English and the results of the individual interview and collection of work samples confirm that the student's home or primary language is other than English, proceed to Step 2: Language Proficiency Team (LPT).

2. LANGUAGE PROFICIENCY TEAM (LPT)

The **Language Proficiency Team** will consider evidence, per section 154-3.3 (a)(2) to make a recommendation as to whether:

- The student may have second language acquisition needs OR
- The disability may be the determinant factor affecting the student's ability to demonstrate proficiency in English during Step 1b

LPT determines YES, the student may have second language needs. Refers student for NYSITELL.

Student takes the NYSITELL with accommodations recommended in the student's IEP, consistent with NYSED policy.

Student does not demonstrate proficiency in English. STUDENT IS AN ELL

OR

Student demonstrates English language proficiency at the Commanding level. STUDENT IS NOT AN ELL

Parents/Guardians notified within five school days of final determination and their right to request a review.

OR

LPT notes NO second language needs. Makes recommendation to Principal.

3. PRINCIPAL REVIEW

Principal disagrees with LPT. Refers student for NYSITELL and notifies parents/guardians.

OR

Principal agrees with LPT. Makes recommendation to Superintendent and notifies parents/guardians in a timely manner. Superintendent has 10 calendar days to accept or reject LPT/principal's recommendation that the student has no second language needs and make final determination.

4. SUPERINTENDENT REVIEW

Superintendent rejects recommendation and student will take the NYSITELL.

OR

Superintendent accepts recommendation. STUDENT IS NOT AN ELL

Parents /Guardians notified within five school days of final determination and their right to request a review.

Student takes the NYSITELL with accommodations already recommended in the student's IEP, consistent with NYSED policy.

Student does not demonstrate proficiency in English. STUDENT IS AN ELL

OR

Student demonstrates English language proficiency at the Commanding level. STUDENT IS NOT AN ELL

Parents/Guardians notified within five school days of final determination and their right to request a review.

LANGUAGE PROFICIENCY TEAM (LPT)

Beginning in the 2015-16 school year, when the results of the Individual Interview of the ELL/MLL Identification Process are inconclusive NYS school districts must use LPTs to screen new entrants and re-entering students who have already been identified as students with disabilities. The LPT was created to ensure the appropriate initial identification of English proficiency for students with disabilities by requiring a committee of individuals with expertise in the areas of second language acquisition and disabilities in the screening process.

The LPT is minimally comprised of:

- a school/district administrator;
- a teacher or related service provider with a bilingual extension and/or a teacher of ESOL;
- the director of special education or individual in a comparable title (or his or her designee); and
- the student's parent or guardian.

A qualified interpreter or translator of the language or mode of communication the parent/guardian best understands, as defined in CR section 154-2.2(t), must be present at each meeting of the LPT.

The LPT must review relevant information from the student's record to determine whether:

- a student who has been identified as a student with a disability appears to have second language acquisition needs; or
- there is evidence that the student's disability is the determinant factor affecting whether the student could demonstrate proficiency in English during Initial Screening.

Prior to the start of each school year, each school district must develop a Subpart 154-2 Comprehensive ELL/MLL Education Plan (CEEP), including the district's administrative practices to screen for English language proficiency (ELP) and identify and place ELLs/MLLs, including those with previously-identified disabilities, in appropriate programs [Section 154-2.4(b)(2)]. Each school district should designate an individual or individual(s) at the school or district level with administrative responsibility to ensure that the ELP screening and identification process for ELLs/MLLs is carried out in a timely and appropriate manner. This includes procedures for determinations of English proficiency for students with disabilities, which include reviewing the recommendations of LPTs and making final determinations of a student's ELL/MLL status.

INFORMATION THAT MUST BE REVIEWED AND CONSIDERED BY THE LPT

When recommending that a student with a disability should not take the NYSITELL because the disability is the determinant factor affecting whether the student can demonstrate English proficiency, the LPT should have evidence that the student has no second language needs, requires no second language supports, and does not meet the federal definition of English Language Learner (ELL).

This entails ruling out that the student meets the four criteria from the federal definition of an ELL student under Elementary and Secondary Education Act (ESEA) Section 8101[20] as an individual:

(1) Who is aged 3 through 21;

(2) Who is enrolled or preparing to enroll in an elementary school or secondary school;
(3) Who:
    i) was not born in the United States **or** whose native language is a language other than English; OR
    ii) is a Native American or Alaska Native or a native resident of the outlying areas AND comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; OR
    iii) is migratory, whose native language is not English, and who comes from an environment where a language other than English is dominant;

B. Whose difficulties in speaking, reading, writing, or understanding English may be sufficient to deny the individual:
    i) the ability to meet the challenging state academic standards; OR
    ii) the ability to successfully achieve in classrooms where the language of instruction is English; OR
    iii) the opportunity to participate fully in society.

The LPT must consider evidence of the student's English language development, including, but not limited to:

(i) the results of the initial screening process;
(ii) the student's history of language use in school and home or community;
(iii) the individual evaluation of the student in accordance with state and federal requirements[5] which must include assessments administered in the student's home language; and
(iv) the information provided by the CSE as to whether there is compelling information that the student's disability is the determinant factor affecting whether the student can demonstrate proficiency in English.

The LPT does not conduct a new evaluation, but rather must rely on existing evaluation information provided by the CSE, special education records from the previous district (e.g., IEP and any reports of previous individual bilingual evaluations and/or educational reports), additional information from the parent, and existing school records[6] provided by the parent or previous district, including, but not limited to, the following (see next page):

[5] 34 CFR §§ 300.300 through 300.311. Please refer to CR section 200.4(b)(6) for evaluations conducted in NYS.
[6] These include records from the previous district or, in the case of students who were identified as preschoolers with disabilities, records from preschool evaluations and services as well as a CSE evaluation conducted by the current district to determine eligibility for school-age special education services.

1. **History and current patterns of language use in school, home, and community.**

   - ☐ Is there evidence that English is the student's primary and home language and the student rarely speaks or understands another language?
   - ☐ Have multiple sources (e.g., parent, previous teachers, and service providers) indicated that the student has had little or no exposure to another language or that exposure to another language at home ceased several years ago?

2. **Speech-language evaluations conducted in English and the home/primary language(s) and progress reports.**

   - ☐ Are errors in English developmental in nature or indicative of a speech-language disorder, or are patterns of errors indicative of dialectical differences or exposure to a language other than English?
   - ☐ Is there evidence that the student does not speak or respond to another language in school, home, and community?
   - ☐ Is there a recommendation for speech-language services in another language? Has student demonstrated progress in attaining speech-language goals in another language? In English, without bilingual/ENL supports?

3. **Psychological evaluations conducted in English and the home/primary language(s).**

   - ☐ Does the student demonstrate difficulties in memory, processing information, or problem solving when assessed in the home/primary language(s), but not in English or to a significantly lesser extent in English?
   - ☐ Does the student demonstrate social or behavioral concerns in settings in which the home/primary language(s) are used, but not, or to a significantly lesser extent, in settings in which English is used? Are social and behavioral concerns exhibited to a greater extent in settings in which only English is used?

4. **Educational evaluations and response to interventions in English and the home/primary language(s).**

   - ☐ Is there evidence that the student responds to interventions in English with a greater rate and level of progress than interventions provided in the home/primary language?
   - ☐ If the student was identified as an ELL/MLL[7] in one of the 50 States or the District of Columbia, did the student exit ELL/MLL status?
   - ☐ If the student was identified as an ELL/MLL in one of the 50 states or the District of Columbia, was instruction in ENL (or English as a Second Language) provided consistently, and how did the student respond to that instruction compared to other ELLs/MLLs?
   - ☐ If the student was identified as an ELL/MLL in one of the 50 states or the District of Columbia, is there evidence that the student benefited from testing accommodations for ELLs/MLLs that were provided in that state?

[7] Identification as an ELL in another state may indicate that the student's primary/home language is other than English. However, the criteria for being designated ELL or exiting ELL status vary from state to state.

FACTORS FOR LPTs TO CONSIDER

- ✓ Evidence that the student's disability affects his or her ability to speak, listen, read, or write ANY language. **If there is no evidence that the disability affects one or more of these domains/modalities[8] and therefore, could not be the determinant factor in the student's inability to demonstrate proficiency in English, the student should be referred for the NYSITELL.**
- ✓ The extent of the student's exposure to language(s) other than English (i.e., evidence whether the student has had extensive/sustained or minimal exposure to other language(s)).
- ✓ In cases in which a student is entering or re-entering from a country or an area, such as Puerto Rico and the outlying areas, where the primary language is other than English, the LPT should refer the student for the NYSITELL, unless there is clear and compelling information that English is the student's primary language.
- ✓ For a child adopted from a family or country in which one or more languages other than English were the primary languages:
  - the length of time since the child was exposed to the language(s) other than English;
  - the primary language spoken by the adoptive parents; and
  - the age at which the child was adopted.
- ✓ Whether the child's parent/guardian, foster parent, or other primary caretaker's primary language is a language other than English.
- ✓ Whether the IEP identifies any need for language assistance services. (For example, it indicates that the student is not able to benefit from instruction and special education services without accommodations or supports to address second language needs or recommends special education services in a language other than English.) **The fact that a student previously received instruction and special education services only in English should not be the sole factor in deciding the student's primary language is English and whether or not the student is able to benefit from instruction and special education services only in English.**
- ✓ Whether previous evaluations, conducted in the other language and English, present levels of performance in the IEP; or the parent indicates that the student:
  - understands or responds to another language(s) at a similar or higher level than he or she understands or responds to English; OR
  - does not understand or respond to <u>any</u> language <u>other than</u> English.[9]

[8] For example, a student with a physical disability that requires use of a wheelchair may have no special education needs that affect the student's ability to listen, speak, read or write.

[9] The LPT should consider information about the receptive language skills (in English and the home language) of students who are non-verbal.

Unless the preponderance of evidence clearly indicates that a student has no second language needs and requires no second language supports, the student should take the NYSITELL. A lack of information about second language needs in the IEP or previous records should not be interpreted as meaning these needs do not exist. If a parent/guardian or teacher believes a student was mistakenly identified as an ELL/MLL based on the NYSITELL, the parent/guardian may request a Review of Identification Determination within **45 school days**[10] of their child's initial identification, and additional information obtained during ENL or bilingual instruction may be used in such a Review. [CR section 154-2.3 (b)]

The LPT should not recommend that the disability is the determinant factor in the initial identification of English proficiency merely because of concern that the student may be unable to exit ELL/MLL status due to the impact of the disability on the student's performance in listening, speaking, reading, or writing.

LPT RECOMMENDATIONS If the LPT has information that the student is an ELL/MLL and that the reasons for the student's inability to demonstrate English language proficiency during the Initial Screening Process are not solely based on the student's disability, *the LPT must recommend that the student take the NYSITELL.*

If the LPT recommends that the student should take the NYSITELL, the student must take the test and the student's ELL/MLL status will be based on his or her score on the test. The LPT does **not** decide whether a student should receive testing accommodations on the NYSITELL. A student with a disability must be provided with the testing accommodations recommended in the student's IEP consistent with New York State policy. School personnel who are responsible for administering the NYSITELL must ensure that the student participates in the assessment with the testing accommodations recommended in the student's IEP. **If the LPT recommends that the student should take the NYSITELL, there is no review by the principal or superintendent.**

1. If the LPT has convincing evidence that the disability is the determinant factor in the student's inability to demonstrate proficiency during The Initial Identification Process, **the LPT recommends that the student should not take the NYSITELL and forwards that recommendation to the school principal for review**.

For either recommendation, each member of the LPT should document in writing whether the recommendation of the team reflects his or her conclusion. If it does not reflect his or her conclusion, the team member may also submit a separate statement presenting his or her conclusion. A sample form is provided in Appendix C.

The responsibilities of the LPT for the student cease once the LPT recommends that the student should take the NYSITELL or the LPT recommends to the principal that the student should not take the NYSITELL. The LPT does not:

[10] For a request for Review of Identification Determination, "school days" refers only to days in grades K-12 after the initial identification, not the days a student may have continued to be enrolled in a preschool program after the initial identification. Days in grades K-12 includes days enrolled in a school-age special education placement in July and August for students whose IEP recommends Extended School Year services.

- make decisions about testing accommodations, special education services, or placement in a bilingual or ENL program;
- handle requests for or participate in Reviews of Identification Determination; or
- make decisions about a student exiting ELL/MLL status.

PRINCIPAL AND SUPERINTENDENT REVIEW OF LPT RECOMMENDATION

In cases in which the LPT recommends that the student **should not** take the NYSITELL, the principal is responsible for reviewing the recommendation and ensuring the LPT has provided sufficient documentation and the review process has been followed with fidelity.

The principal who reviews the LPT's recommendations should not be a member of that LPT.

- If the principal disagrees with the recommendation of the LPT[11] based on the information provided, the principal can reject the LPT recommendation and refer the student for the NYSITELL.
- If the principal agrees with the LPT that the student is not an ELL/MLL and should not take the NYSITELL, the recommendation is forwarded to the Superintendent, and the parent/guardian is informed of the recommendation in the language or mode of communication he or she best understands. Upon receipt of such a recommendation from the principal, the Superintendent has 10 calendar days to review the recommendation and,
    - if the Superintendent agrees that a student with a disability should not take the NYSITELL, make a final determination of English proficiency; or
    - if the Superintendent disagrees with such a recommendation, refer the student for the NYSITELL.

Documentation of the LPT's recommendation that a student with a disability does or does not appear to have second language needs must be retained in the student's cumulative record. Appendices B and C include sample forms that the LPT, principal, and superintendent may use to document their decisions.

[11] For example, it may be evident to the principal that a student has been exposed to a language other than English (e.g., the student was adopted within the last three years from a country where a language other than English is spoken or a foster parent or primary caregiver speaks a language other than English), but the LPT recommends that the student be exempted from the initial ELP assessment.

Timeline Following Superintendent Review

1

- Superintendent has **10** days to review the principal's recommendation and make a final determination.

2

- If superintendent determines the student with a disability is not an ELL, parent/guardian must be notified within **5** days of final determination

3

- If student is referred for NYSITELL and determined to be an ELL, parent/guardian must be notified within **5** school days of final determination and their right to request a review. The review must be requested within **45** school days of a student's initial ELL designation.

4

- Upon receiving a written request for a review from a parent/guardian, teacher, or student aged 18 years or older, a district has **10** school days to initiate and complete a Review of ELL Identification Determination (**20** school days if the CSE is consulted).

Review of ELL/MLL Identification Determination

If a student's parent/guardian disagrees with the identification of the student as an ELL/MLL or as English proficient they may request a Review of Identification Determination for ELL/MLL status. This review is available to all students and may be requested, in writing, by:

(i) a student's parent/guardian;
(ii) a student's teacher, if such teacher's request includes written consent from the parent/guardian; or
(iii) a student, if the student is 18 years of age or older.

A request for a Review of Identification Determination should be submitted within 45 school days after initial identification to the principal of the school in which the student is placed.

If a parent/guardian cannot read or write, the school will provide an interpreter/translator in the parent/guardian's preferred language who will receive an oral request from the parent/guardian and produce a written request in both English and the parent/guardian's preferred language on his or her behalf. The interpreter/translator will affirm in writing that the request is a true and accurate statement of the parent/guardian's wishes.

If a district receives a request for a Review of Identification Determination the school principal and qualified personnel **should consult with appropriate members of the CSE if the student has a disability or is suspected of having a disability** that may impact his or her ability to speak, read, write, or listen in English [section 154-2.3(b)(2)(vi)]. The CSE does not conduct the Review of Identification Determination. Consultation with the CSE does not require a meeting of the CSE.

Parents/guardians must be informed in a timely manner of a principal's recommendation to change a student's designation since under section 154-2.3(b)(4) the parent must provide written consent before the principal can forward the recommendation to the Superintendent. For students with identified or suspected disabilities, the district has 20 school days from the receipt of a written request to consult with the CSE, conduct the Review, and make a determination.

The LPT has no role in a Review of Identification Determination. However, some individuals who participated in the LPT may be asked to assist with a Review of Identification Determination under section 154-2.3(b) of the regulations.

Participation of Students with Disabilities in the New York State Initial (NYSITELL) and Annual (NYSESLAT) Assessments of English Proficiency

TESTING ACCOMMODATIONS

The CSE or the Section 504 Committee must consider whether each student with a disability needs testing accommodations to be used consistently by the student in his/her educational program and to participate in state and districtwide assessments, including the NYSITELL. Testing accommodations as outlined in the IEP or 504 Plan must be provided for all students with disabilities, regardless of the student's age or grade level.

When the CSE meets to make recommendations regarding a student who is an ELL/MLL, the school district shall ensure that the CSE include an individual with a Bilingual Extension or certification as a teacher of English for Speakers of Other Languages (ESOL) [section 154-2.3(a)(9)]. Testing accommodations provided during the NYSITELL should be based on the IEP from the previous district or the most recent IEP developed by the current district for students who are enrolling in Kindergarten and consistent with State policy. Although students with Section 504 Accommodation Plans are not screened by the LPT, they would still be entitled to testing accommodations on the NYSITELL as recommended on the Section 504 Plan from their previous district.

Testing accommodations recommended for the NYSITELL and NYSESLAT cannot change the construct of the test or render the results of the assessment invalid for the purposes for which it was designed. In general, students with disabilities must be provided with the testing accommodations specified in their IEPs or 504 Plans when taking these tests. For possible exceptions, refer to the latest NYSESLAT School Administrator's Manual or the February 2017 memo, Change in Allowable Testing Accommodations on the New York State English as a Second Language Achievement Test (NYSESLAT).

For more information on testing accommodations for students with disabilities, see NYSED's Office of Special Education website at http://www.p12.nysed.gov/specialed/.

In addition to testing accommodations identified in a student's IEP or 504 Plan, ELLs/MLLs may also be provided additional testing accommodations to address their second language needs on state assessments other than the NYSITELL or NYSESLAT. See the field memo: Testing Accommodations for Students with Disabilities and English Language Learners.

The School Administrator's Manuals that are published each year for New York State assessments also contain information about testing accommodations permitted for ELLs/MLLs. These publications are available at the Office of State Assessment's Test Manuals for School Administrators and Teachers page.

Notifications & Rights of Parents/Guardians of Students with Disabilities under Subparts 154-2 and -3

In addition to the rights that all parents/guardians have under Subpart 154-2, the parents/guardians of new entrants to public schools who have previously been identified as having disabilities have the following rights under Subpart 154-3:

1. To be included as a member of the LPT, which must also include a qualified interpreter or translator of the language or mode of communication the parent or person in parental relation best understands [154-3.2]
2. To be informed by the principal in a timely manner when the principal agrees with the LPT's recommendation that a student is **not** an ELL/MLL and will **not** take the English language proficiency assessment [NYSITELL] [154-3.3(a)(5)]
3. If the Superintendent agrees with the recommendation of the LPT and principal and determines that the student is **not** an ELL, to receive notice of such determination within five (5) days of such final determination. [154-3.3(a)(6)]

The meeting of the LPT should be scheduled in a timely manner and be held at a time and in a location that are reasonably convenient for the parent/guardian. If a parent/guardian is not able to meet with other members of the LPT to develop or finalize the LPT's recommendation, the LPT should consider alternative means of participation and document its efforts to include the parent/guardian.

The district may provide the parent/guardian with a copy of Appendix D: LPT Member Certification of Recommendation Regarding Second Language Needs. This form is provided as a template and is not required, but whatever form of notification is used, it must be sent in a timely manner so the parent/guardian can exercise his or her review rights, and it should be provided in the language or mode of communication the parent/guardian best understands. If the parent/guardian was not at the meeting of the LPT, a qualified interpreter/translator should review the form with the parent/guardian. If the LPT determines that the student may have second language acquisition needs and should take the NYSITELL, the student must take the assessment and the parent/guardian must be informed of the right to request a review of the initial determination and that they have 45 school days from the date of the initial determination to submit a written request for such a review. [CR section 154-2.3(b)(1)]

In addition to regularly scheduled parent-teacher conferences, quarterly progress meetings, or other such scheduled meetings provided for parents/guardians of all students, school districts are required to meet annually with the parents/guardians of each individual ELL/MLL student to discuss (a) the goals of the program; (b) their child's progress in home and second language development, including NYSITELL results; and (c) their child's language development needs in all content areas. This additional meeting must include all school staff necessary to sufficiently inform the parents/guardians about the child's language development in all content areas in English and, in the case of students enrolled in a Bilingual Education program, language development in the child's home/primary language. It should be conducted with a qualified interpreter/translator in the language or mode of communication the parent/guardian best understands. School districts determine the manner and form of such individual parent/guardian meetings, in accordance with local collective bargaining agreements. [CR section 154-2.3(f)(5)]

ELL/MLL Program Placement & Services for Students with Disabilities

ELLs/MLLs with disabilities who are enrolled in public or charter schools are entitled to the same programs and services under CR Subpart 154-2 or alternative language instruction educational programs that these schools provide to students without disabilities. Charter Schools do not need to comply with the programmatic aspects of CR Part 154 (providing dual language, ENL, or bilingual programming), but are required to develop their own authorizer-approved ELL program. Education Law §2854(1)(b) requires that all charter schools shall meet the same student assessment requirements applicable to other public schools. Charter schools are also required to administer an initial and exit assessment to determine ELL status, approved by the Commissioner, within the number of days prescribed by CR Part 154. Currently the NYSITELL and NYSESLAT are the Commissioner-approved ELL exams. All federal laws and regulations regarding ELLs are applicable to charter schools as well.

When the CSE develops an IEP for a student with a disability who is an ELL/MLL, it must consider the language needs of the student as they relate to the student's IEP as well as the special education supports and services a student needs to address his or her disability and to support the student's participation and progress in the general education curriculum. Such considerations include, but are not limited to:

- the student's need for special education programs and services to support the student's participation and progress in English language arts instruction, content area instruction in English, ENL instruction, and for students in bilingual programs, content area and language arts instruction in the home/primary language; and
- whether the student needs bilingual special education and/or bilingual related services.

When the CSE has determined that the student cannot, because of his or her disability, participate in the district's general BE program or stand-alone ENL program without special education supports, it must consider specially designed instructional programs provided by appropriately qualified staff (e.g., personnel with certification in special education or, as appropriate, a certified reading teacher with bilingual extension and/certification as a teacher of ESOL) who would:

- support the development of the student's skills in the areas of understanding, speaking, reading and writing in English, through the integration of academic content appropriate for the student's age, grade level, English language skills, and level of English proficiency; and
- develop the cognitive skills of the ELL/MLL student.

This does not mean, however, that specially designed instruction (e.g., specialized reading instruction or supplemental instruction provided in a resource room, provided by an individual who does not hold a bilingual extension, certification in a language other than English, or ESOL certification) **can, or should, replace a student's right to access the district's BE or stand-alone ENL program as a result of issues such as scheduling or availability of staff to provide such services.** CSEs should consider whether the required CR Subpart 154-2 services must be met, in part or in total, through special education programs and services in which bilingual or ENL instruction are provided (e.g., a bilingual special class; a special class, with ENL instruction provided by appropriately qualified staff in the special class; bilingual counseling; direct consultant teacher services in the ENL class; bilingual integrated co-teaching class, as defined in CR section 200.6(g)).

For a student with a disability placed in an out-of-district program (e.g., BOCES, approved private school),

the school district should consider how bilingual and/or ENL programs, as such terms are defined in CR section 154.2, will be made available to the student including, but not limited to, consideration of whether the student could participate in the public school district's ENL program to receive the necessary units of instruction.

Annual Assessment of English Proficiency

The NYSESLAT is designed to annually assess the English language proficiency of all ELLs/MLLs enrolled in Grades K–12 in compliance with state and federal laws that mandate the evaluation and monitoring of the English language proficiency progress of all ELLs/MLLs. It provides information about ELL/MLL students' English language development, which drives instruction aligned to the NYS Next Generation Learning Standards, the Blueprint for English Language Learner Success, and the Bilingual Progressions.

An ELL's performance on the NYSESLAT indicates his or her level of English language proficiency relative to the linguistic demands of the grade-level classroom. Proficiency levels determine the minimum requirements for services/provision of programming (i.e., the type and amount of English and home language support each ELL/MLL needs to participate productively in the classroom). A student who scores at the highest proficiency level has met the linguistic demands necessary to meet the discipline-specific standards.

Once a student is identified as an ELL, the following requirements for the annual assessment of ELP apply:

- All public schools must administer the NYSESLAT to all ELLs/MLLs in Grades K–12 regardless of physical location of the student, classification as disabled, or number of years of service as an ELL/MLL (including six or more years), until the student meets the criteria for exiting ELL/MLL status.
- Nonpublic schools must administer the NYSESLAT or an equivalent test annually to any ELLs/MLLs receiving services from a public school district funded under Title III. Nonpublic schools are strongly encouraged to administer the NYSESLAT to all ELLs/MLLs.
- High School Equivalency (HSE) programs preparing students for the Test Assessing Secondary Completion (TASC) are not required to administer the NYSESLAT to any of their students. Valid scores and score reports cannot be provided for students enrolled in HSE programs who take the NYSESLAT (NYSESLAT 2016 School Administrator's Manual, p. 11).

ELL/MLL Exit Criteria

An ELL/MLL, including an ELL/MLL with a disability, can ***only*** exit ELL/MLL status when he or she no longer meets the definition of an ELL/MLL in accordance with CR section 154-2.2(f) and meets the criteria set forth in CR section 154-2.3(m). Currently, the criteria include:

(1) scoring at the proficient/commanding level on the NYSESLAT [section 154-2.3(m)(1)(i)]; **or**
(2) scoring at the advanced/expanding level on the NYSESLAT **-and-**
    a. Achieving at level 3 or 4 on a grade 3-8 ELA Assessment **-or-**
    b. Scoring 65 or higher on the Regents Exam in English [section 154-2.3(m)(1)(ii)].

The CSE can make a recommendation as to the language needs of the student as such needs relate to the student's IEP and whether the student needs testing accommodations to participate in the State's annual English language proficiency assessment and other State assessments. However, **the CSE has no authority** under the Individuals with Disabilities Education Act (IDEA) or ESSA to:

- decide whether a student should exit ELL/MLL status; or
- terminate ENL instruction or ELL/MLL testing accommodations.

While section 154-2.3(m)(3) includes an option for a CSE to recommend that students with severe disabilities take an alternate assessment of English language proficiency, **as of the release date of this document, NYS does not have an approved alternate assessment for English language proficiency**. Until such time as an alternate assessment is developed and approved by NYSED, CSEs may only recommend whether students who take the NYSESLAT should take it with or without testing accommodations. School districts will be notified when and if an approved alternate assessment becomes available.

School districts are required to provide at least two years of Former ELL services to ELLs/MLLs, including ELLs/MLLs with disabilities, who exit out of ELL/MLL status (Former ELLs). Please refer to sections 154-2.3(h)(1)(v) and 154-2.3(h)(2)(v) or NYSED's 2015 guidance, *Former English Language Learners*, for additional information on services for students who exit ELL/MLL status.

Appendices

Appendix A: Definition of Terms/Acronyms
Appendix B: Summary of Responsibilities of LPTs Pursuant to CR Subparts 154-2 and 154-3
Appendix C: Language Proficiency Team (LPT) Parent/Guardian Questionnaire (SAMPLE)
Appendix D: LPT Member Certification of Recommendation Regarding Second Language Needs (SAMPLE)

APPENDIX A: DEFINITION OF TERMS/ACRONYMS

Bilingual Education Program (BE Program): A Transitional Bilingual Education Program or a Dual Language Program that is research-based and comprised of the following instructional components:

- Language Arts which includes Home and English Language Arts;
- English as a New Language; and
- Content area in English and/or the student's home language. See CR section 154-2.2 (b)

Click here for more information on ELL/MLL programs.

Committee on Special Education (CSE): A multidisciplinary team whose membership is defined in section 4402 of the Education Law and section 200.3 of the Regulations of the Commissioner of Education to ensure timely evaluations, eligibility determinations, and IEP recommendations and placements for students with disabilities. If a student is identified as an ELL with a disability, the CSE must include at least one individual certified to provide bilingual services or instruction or teach English to Speakers of Other Languages, who is knowledgeable about the student's English and home language development needs.

Days: Under CR section 154-2.2(d), mean **calendar days** unless otherwise indicated as school day or business day. **School day** means any day, including a partial day, that students are in attendance at school for instructional purposes. **Business days** means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day). For a request for Review of Identification Determination, "school days" refers only to days in grades K-12 after the initial identification, not the days a student may have continued to be enrolled in a preschool program after the initial identification. Days in grades K-12 includes days enrolled in a school-age special education placement in July and August for students whose IEP recommends Extended School Year services.

Dual Language Program (DL Program): Also known as Two-Way Bilingual Education, offers students from different or the same home language backgrounds and/or cultures opportunities to become bilingual, biliterate, and bicultural while improving their academic achievement. Click here for more information on ELL/MLL programs.

English Language Learner/Multilingual Learner (ELL/MLL): A student who speaks or understands languages other than English and who scores below a State designated level of proficiency on the New York State Identification Test for English Language Learners (NYSITELL) or the New York State English as a Second Language Achievement Test (NYSESLAT). See CR section 154-1.2(a)

English as a New Language (ENL): A research-based English language development program, formerly known as English as a Second Language (ESL), comprised of two components:

- a content area instructional component in English (including all core content, i.e. English language arts, math, science, or social studies) with home language supports and appropriate scaffolds, and
- an English language development component (Stand-alone and/or Integrated ENL). [CR section

154-2.2(h)] Click here for more information on ELL/MLL programs.

In bilingual education programs and ENL programs, the English language development component can be provided in two ways:

- Integrated ENL: A unit of study or its equivalent in which students receive core content area and English language development instruction as a component of their BE or ENL program with home language supports and appropriate ELL scaffolds; and
- Stand-alone ENL: A unit of study or its equivalent in which students receive English language development instruction taught by a NYS certified English to Speakers of Other Languages (ESOL) teacher in order to acquire the English language needed for success in core content areas.

Click here for more information on ELL/MLL programs.

English Proficiency Level: A student's performance on the New York State Identification Test for English Language Learners (NYSITELL) or the New York State English as a Second Language Achievement Test (NYSESLAT) indicates the student's level of English language proficiency. Those levels are: Entering, Emerging, Transitioning, Expanding, or Commanding.
Click here for more information on ELL/MLL assessment.

Home Language Questionnaire (HLQ): The HLQ is a survey as prescribed by the Commissioner and administered by qualified personnel to determine if a language other than English is spoken at home. It is completed by the parent or person in parental relation when a student is registered and is the first step in the ELL identification process. See CR section 154-2.2 (k)

Individualized Education Program (IEP): A written statement, developed, reviewed, and revised in accordance with CR section 200.4, which includes the components (e.g., the student's present levels of performance, strengths, needs and recommended special education services and testing accommodations) specified in section 200.4(d)(2) to be provided to meet the unique educational needs of a student with a disability.

Language Proficiency Team (LPT): A committee of individuals with expertise in the areas of second language acquisition and disabilities and who are part of the screening process. The role of the LPT is to ensure the appropriate initial identification of English proficiency for students with disabilities. The LPT, which also includes the student's parent or person in parental relation, must review relevant information from the student's record to determine whether a student who has been identified as a student with a disability appears to have second language acquisition needs or that there is evidence that the student's disability is the determinant factor affecting whether the student could demonstrate proficiency in English during Initial Screening. The LPT is minimally comprised of:

- a school/district administrator;
- a teacher or related service provider with a bilingual extension and/or a teacher of ESOL;
- the director of special education or individual in a comparable title (or his or her designee); and
- the student's parent or guardian.

A qualified interpreter or translator of the language or mode of communication the parent/guardian best understands, as defined in CR section 154-2.2(t), must be present at each meeting of the LPT.

New York State Identification Test for English Language Learners (NYSITELL):
An assessment that is administered once during the ELL Identification/Reentry process. It is designed to determine if a student is an ELL after the student's enrollment in the NYS public school system, as well as his or her instructional requirements in a BE or ENL program.

New York State English as a Second Language Achievement Test (NYSESLAT): An annual assessment designed to measure the English language proficiency of all ELLs/MLLs enrolled in grades K-12. It is one component of the State's compliance with Federal laws that mandate annually assessing and monitoring the English Language proficiency progress of all ELLs/MLLs. Click here for more information on ELL/MLL assessment.

Qualified Personnel: CR section 154-2.2(u) defines qualified personnel as:
(1) a bilingual or English to Speakers of Other Languages teacher, certified pursuant to Part 80 of this Title, who is fluent in the home language of the student and parent or person in parental relation, or uses a qualified interpreter/translator of the language or mode of communication the student or parent or person in parental relation best understands, or
(2) a teacher who is certified pursuant to Part 80 of this Title, and has been trained in cultural competency, language development and the needs of English Language Learners, and who is proficient in the home language of the student or parent or person in parental relation or uses a qualified interpreter/translator of the language or mode of communication the student or parent or person in parental relation best understands.

Re-entering: A re-entering student is one who is re-enrolling in a NYS public school after not having been enrolled in a NYS public school at any time during the preceding immediate two continuously enrolled school years. See CR section 154-2.2(v)

Specially Designed Instruction: Specially designed instruction means adapting, as appropriate to the needs of a student with a disability, the content, methodology, or delivery of instruction to address the unique needs that result from the student's disability and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards that apply to all students.

Transitional Bilingual Education Program (TBE Program): Offers students of the same home language the opportunity to learn to speak, understand, read, and write in English while continuing to learn academic content in their home language. The students' home language is used to ensure that they continue to progress academically in all content areas while they acquire English. Click here for more information on ELL/MLL programs.

APPENDIX B: SUMMARY OF RESPONSIBILITIES OF LPTS PURSUANT TO CR SUBPARTS 154-2 AND 154-3

Membership

The LPT is minimally comprised of:

- a school/district administrator;
- a teacher or related service provider with a bilingual extension and/or a teacher of ESOL;
- the director of special education or individual in a comparable title (or his or her designee); and
- the student's parent or guardian.

A qualified interpreter or translator of the language or mode of communication the parent/guardian best understands, as defined in section 154-2.2(t) of this Part, shall be present at each meeting of the LPT.

Responsibilities

1. **Review:**
   (i) the results of Initial Screening
   (ii) the student's history of language use in school, home, or community;
   (iii) the individual evaluation of the student and the information provided by the CSE as to whether the student's disability is the determinant factor affecting whether the student can demonstrate proficiency in English.
2. **Determine** that there is evidence that a student who has already been identified as having a disability and who is entering or re-entering the district may have second language acquisition needs and the student should take the NYSITELL **OR**
3. Make a **recommendation** that the student's disability is the determinant factor affecting whether the student could demonstrate proficiency in English during the Initial Screening Process.
4. If the LPT recommends that the student does not have second language acquisition needs and therefore should not take the NYSITELL, refer the recommendation to the school principal for review.

Documentation of the LPT's recommendation that a student with a disability does or does not have second language needs must be placed in the student's cumulative record, along with other documentation related to identification and placement that should be retained in the student's cumulative record as per sections 154-2.3(6) and (7).

Timeline for the LPT Screening and Principal/Superintendent Review Process

- If the principal agrees with the LPT recommendation that the student does not appear to have second language needs and there is evidence that the disability is the determinant factor affecting whether the student could demonstrate proficiency in English, the principal should inform the parent **in a timely manner** and forward the recommendation to the Superintendent.
- The Superintendent or his or her designee has **10 calendar days** to review the school principal's recommendation and make a final determination to accept or reject the school principal's recommendation.
- If the Superintendent makes a final determination that the student is not an ELL, notice of such determination shall be provided to the parent/guardian in the language or mode of communication the parent/guardian best understands within **5 calendar days** of such final determination.
- If the student is referred for the NYSITELL and is initially identified as an ELL, within **5 school days** of such identification, the school district must provide the student, if the student is 18 years of age or older, or the student's parent/guardian written notice, in the language or mode of communication the student or parent/guardian best understands, of such identification determination and the right to seek review of such identification determination pursuant to section 154-2.3(b).

Schools are encouraged to complete the process for initial or reentry identification of students who enter with IEPs and parent notification, orientation, and placement so that a student is placed in either a BE program or an ENL program:

- **within 10 school days** after the student's initial enrollment or reentry in the school district and
- **by the first day of school in September** for students identified more than 10 business days prior to such date.

Per section 154-2.3(a)(8), districts must complete all steps of the identification process prior to the student's final placement in a school. A student shall be provisionally placed in a school until the identification process is completed.

APPENDIX C: LANGUAGE PROFICIENCY TEAM (LPT) PARENT/GUARDIAN QUESTIONNAIRE

This form must be maintained in student's cumulative file and made available to parent/guardian upon request.

Parent / Guardian Name(s)		Student Name	
Student ID Number			
Grade	School	Date questionnaire completed	
LPT Interviewer Name	LPT Interviewer Title	Interpreter Name (if required)	
If parent/guardian does not respond to requests to complete the questionnaire or participate in LPT meetings, list methods used to contact parent/guardian in home language (e.g., phone, letter) and dates of attempts:			

Parent/Guardian Questionnaire	Comments
A. At what age did your child start to speak their home/primary language? English?	Home/primary language: English:
B. Does your child speak any languages other than those noted above or use another mode of communication?	
C. What is the best language to use when explaining things to your child?	
D. In which language does your child best express wants, needs, and feelings?	
E. How well does your child understand others who speak his/her primary language?	
F. Which language does your child most often use when speaking to other children?	
G. Which language does your child most often use when speaking to adults?	
H. Did your child ever take a language test in his/her previous school? Yes / No I. If Yes, what were the results?	

Additional Information Parent / Guardian Wishes to Share:

Appendix C: Language Proficiency Team (LPT) Parent/Guardian Questionnaire cont.

Anecdotal Reporting of Intelligibility[12]

J. How well does your child understand what is said? *Check all boxes that apply.*

	Parent or Guardian		Childcare Provider or Teacher		Non Family Members	
	Home	English	Home	English	Home	English
Understands the first time						
Understands after 2-3 attempts						
Understands after many attempts						

K. How often do you and other people understand your child when he or she is speaking? *Check all boxes that apply.*

	Parent or Guardian		Childcare Provider or Teacher		Non Family Members	
	Home	English	Home	English	Home	English
All of the time (100%)						
Most of the time (75%)						
Sometimes (50%)						
Rarely (25% or less)						
Never (0%)						

L. When your child is not understood by you and by other people, what does he or she do? *Check all boxes that apply.*

	Parent or Guardian		Childcare Provider or Teacher		Non Family Members	
	Home	English	Home	English	Home	English
Repeat						
Say different words						
Gesture or point						
Give up/walk away						
Other (describe below)						

Comments:

LPT Interviewer Signature: _____

[12] **Adapted by Erie 1 BOCES RBE-RN West from http://sped.dpi.wi.gov/sites/default/files/imce/sped/pdf/slguide.pdf**

APPENDIX D: LPT MEMBER CERTIFICATION OF RECOMMENDATION REGARDING SECOND LANGUAGE NEEDS

This form must be maintained in student's cumulative file and made available to parent/guardian upon request.

Student Name	Age	Sex	Grade
ID Number	School		Date of Entry/Re-entry

Student Background

☐ Newly enrolling

☐ Re-entering (after 2 years outside of NYS schools)

If re-entering: ☐ Previously identified ELL/MLL in NYS

☐ Not previously identified ELL/MLL in NYS.

Individualized Education Program (IEP) is from:

☐ another district in NYS

☐ this district

☐ another state[13]

☐ an outlying area

☐ U.S. military base *(specify)* _____

The LPT's *Recommendation* must include the following information:

1. This decision was based on the following evaluation results, records, and reports:

2. The LPT has determined that the evidence relevant to the student's demonstration of English proficiency noted during the LPT's review, including the student's history of exposure to a language other than English, educational history, and characteristics/effects of the disability, impact on the student's demonstration of English proficiency as follows[14]:

[13] According to 34 CFR § 300.717(c), "as used in this subpart, State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico."

[14] Please cite specific evidence to support the LPT's recommendation.

LPT MEMBER CERTIFICATION OF RECOMMENDATION REGARDING SECOND LANGUAGE NEEDS cont.

The findings of previous evaluation(s) indicate patterns of language use and levels of language proficiency in English and the home/primary language[15] as specified below:

Oral expression:		
Listening comprehension:		
Written expression:		
Basic reading skill:		
Reading comprehension:		

FINAL LPT RECOMMENDATION

☐ Administer NYSITELL - Student appears to have second language needs. Refer to the attached IEP for testing accommodations or whether the student should take an alternate assessment of ELP[16].

☐ Do not administer NYSITELL - Student does not appear to have significant exposure to a language other than English or English language acquisition needs. Refer to principal for review.

LPT MEMBER CERTIFICATION OF THE RECOMMENDATION REGARDING SECOND LANGUAGE NEEDS

Each LPT member should certify in writing whether the report reflects his or her conclusion. If not, the team member may submit a separate statement presenting his or her conclusion.

Title (mandated members of LPT)	Signature	Date	Agree	Disagree
School or District Administrator			☐	☐
Parent/Guardian			☐	☐
Teacher/Related Service Provider with Bilingual Extension or ESOL Certification			☐	☐
Director of Special Education or Designee			☐	☐
Student (if 18 or older)			☐	☐
Others (specify):			☐	☐

If parent/guardian does not respond to requests to participate in LPT meetings, list methods used to contact parent/guardian in home language (e.g., phone, letter) and dates of attempts:

[15] For example, the student does not speak the home language, but listening comprehension skills are better in the home language than in English. The student can follow two-step directions in the home language, but needs visual cues in English.

[16] Currently, there is no alternate assessment of ELP approved for use in NYS.

LPT MEMBER CERTIFICATION OF RECOMMENDATION REGARDING SECOND LANGUAGE NEEDS cont.

Date forwarded to principal for review, if recommended: _____

PRINCIPAL'S RECOMMENDATION

(Required if LPT recommends the NYSITELL should not be administered.)

☐ Agree with LPT recommendation - *Refer to superintendent or designee for review*

☐ Disagree with LPT recommendation - *Refer for administration of NYSITELL*

Explanation: _____

Print Name _____Signature _____Date: _____

Date sent to Superintendent's/Designee's office for approval: _____

Date principal informed parent/guardian of recommendation: _____

SUPERINTENDENT/DESIGNEE DETERMINATION

(Required if Principal agrees the NYSITELL should not be administered.)

☐ Agree with Principal's recommendation - *Student determined to be English Proficient*

☐ Disagree with Principal's recommendation - *Refer back to Principal or LPT for administration of NYSITELL*

Comments: _____

Print Name _____Signature _____Date: _____

Date parent/guardian notified of Superintendent's/Designee's determination and their right to request a Review of Identification Determination: _____

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