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Bilingual Education Provision in New York State: An Assessment of Local Compliance, 2007-2008

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Foreword

In the summer of 2009, NYLARNet published *Bilingual Education Provision in New York State, An Assessment of Local Compliance*, authored by Jennifer Woodward, from the University at Albany, State University of New York. The 2009 report found that 38% or 107 of 281 schools in districts located within the jurisdiction of Latino elected officials in New York City failed to provide bilingual education programs as required by law and/or failed to complete the CR Part 154 application to the New York State Education Department. In some cases, schools submitted applications that did not indicate the number of students served by bilingual or free-standing ESL programs. Our report classified the failure to provide services programmatic non-compliance, and the absence of applications on file or incomplete applications, procedural non-compliance. Both types of non-compliance constitute a breach with state requirements that shortchanges English language learners in general and Latino English language learners in particular.

The 2009 report assessed compliance during the academic year 2006-2007. The present study follows up on that report by assessing compliance during the 2007-2008 academic year. Once again we find a significant level of non-compliance with state requirements. This time, of the 280 schools included in our sample, 35% or 99 schools were found to be in either programmatic or procedural non-compliance. While the proportion of schools failing to comply with the law was slightly smaller in 2007-2008 than in 2006-2007, the number of schools that failed to provide bilingual education programs during 2007-2008 was greater than previously: 51 schools in 2007-2008 vs. 25 in 2006-2007.

In my foreword to the 2009 report, I expressed the expectation that a corrective to the existing breach in policy implementation would come sooner rather than later, because the schools assessed were in assembly districts represented by Latinos. This expectation has not been fulfilled as the breach instead has widened.

NYLARNet is not an advocacy organization. Our role is to document, assess, diagnose, and recommend. Thus, we hope that community leaders, community organizations, and professionals that work in education and whose mission is to advocate for the well-being of students, will review this report and take up the cause of bilingual education by making elected officials and state education administrators take steps to meet their obligation to English language learners in New York.

José E. Cruz
Director
New York Latino Research and Resources Network (NYLARNet)

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Executive Summary

Description of Project

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

This report provides a second assessment of local compliance in schools represented by Latino members of the New York State Assembly, because their constituent base includes the highest concentrations of Latinos in New York State. These schools are contained within the Bay Shore, Brentwood, Central Islip, and Islip districts, and 15 of the 32 New York City School Districts. Compliance was determined by reviewing the CR Part 154 Comprehensive Report applications on file at the New York State Office of Bilingual Education and Foreign Language Studies at the New York State Education Department (NYSED) for the programs implemented in the 2007-2008 academic year.

Findings

The overall rate of non-compliance in our sample of 280 schools was 35%. A total of 99 schools failed either programmatic or procedural compliance with the law. The overall rate of non-compliance in our first report covering the 2006-2007 academic year was 38%. A total of 107 schools failed either programmatic or procedural compliance with the law during the 2006-2007 academic year.

Fifty-one schools out of the 280 schools sampled failed to provide bilingual education programs during the 2007-2008 academic year, even though they were required to do so by law. This is compared to the 25 schools that failed to provide bilingual education programs during the 2006-2007 academic year, even though they were required to do so by law.

Thirty-eight schools out of the 280 failed to provide either an ESL or a bilingual education program to identified ELLs during the 2007-2008 academic year.

During the 2007-2008 academic year, an additional 10 schools were not in procedural compliance for failing to file a CR Part 154 application to NYSED.

There may be a need for additional bilingual education classes in schools where ELLs are served by free-standing ESL and bilingual programs. Based upon the CR Part 154 applications, 40 schools or 14% of the total sampled offer free-standing ESL programs but had enough ELLs that they may need to offer more bilingual programs or increase the number of students served by bilingual programs. During the 2007-2008 academic year, 36 schools or 13% of the total sampled offered free-standing ESL programs but may have needed to offer bilingual programs or increase the number of students served by bilingual programs.

Recommendations

Provide legislative oversight to ensure the New York State Board of Regents, NYSED officials, and district staff bring non-compliant schools into compliance with existing regulations.

Develop a standardized electronic database for schools and districts to provide the information required in the CR Part 154 application in a consistent and efficient manner.

Develop programs and strategies to increase the number of appropriately certified bilingual and ESL teachers in order to lower student-teacher ratios and ensure students receive the instruction they need.

Expand recruitment programs offered in New York City to state levels, encourage the use of state law that allows English proficient foreign-born teachers to become certified, and encourage the development of undergraduate and graduate level bilingual teacher certification programs in the state and city university system.

Encourage community-based organizations to facilitate relations between parents and schools. Increasing the level of communication between parents, teachers, and administrators will ensure that parents understand the programs offered to English Language Learners and ensure that students are placed in the program most suitable for them.

Provide the funding needed to ensure that NYSED has adequate staff to enforce the law and ensure that all schools eligible for state and federal funds apply and use the funds effectively.

Bilingual Education Provision in New York State: An Assessment of Local Compliance, 2007-2008

Description of Project

With the growing number of Latinos in New York State (a 30% increase...
between 1990 and 2000 alone) the importance of educational programs that serve Latino students is evermore significant. According to the 2010 U.S. Census, there were 3,416,922 Hispanics or Latinos in New York State, up from 2,867,583 reported in the 2000 U.S. Census. This is an increase from 15% to 18% of the state population. Among this population are immigrants and children of recent immigrants that come from families that speak Spanish as their primary language. Beyond the ability to teach English to non-native English speakers, bilingual education assists students in academic achievement and preserves the linguistic and cultural heritage of the students. Bilingual education is the instruction of English language learners in both their native language and English.

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

A bilingual education program must be provided in “each school district which has an enrollment of 20 or more pupils with limited English proficiency of the same grade level assigned to a building, all of whom have the same native language which is other than English.” In New York, bilingual programs consist of content area instruction in the native language and English, as well as a native language arts component. There are two types of bilingual programs in New York. The most common are transitional bilingual education (TBE) programs that provide instruction in the native language and English to English Language Learners. Two-way bilingual education programs provide instruction in English and another language to both ELLs and English proficient students.

A free-standing ESL program (or a bilingual education program) must be offered in “each school district which has pupils with limited English proficiency of the same grade level assigned to a building, but which does not have 20 of such pupils with the same native language which is other than English.” In these cases, providing a bilingual education program is optional. Free-standing ESL programs consist of two components: language arts instruction and content area instruction. This type of program requires that the first language be taken into account during instruction. Often ELLs are served through “push-in” or “pull-out” ESL programs. Through push-in programs, ESL teachers work with the ELLs in their regular classrooms. In pull-out programs, ESL teachers work with the ELLs in separate classrooms.

This study explores the level of compliance with New York State laws on bilingual education in selected school districts. Our assessment of compliance with New York State Education Department (NYSED) regulations on bilingual education is based on the 2008-2009 CR Part 154 applications filed by the schools. The CR Part 154 applications we examined for this report contain 2007-2008 data on the number of identified ELLs in each school, as well as the number of ELLs served by bilingual and ESL programs as reported by the schools. The CR Part 154 applications also provide individualized school plans for ELL programs in the 2007-2008 academic year. Demographic data from the 2000 U.S. Census about Latinos in New York and within the school districts was also part of the analysis. Finally, we carried out a review of relevant literature, websites, and publications from organizations familiar with bilingual education.

The study was narrowed to cover districts represented by Latino members of the New York State Assembly. Latino Assembly members were chosen because their constituent base includes the highest concentrations of Latinos in New York State. The public school districts within the 12 Assembly Districts represented by Latino elected officials during the 2007-2008 academic year were: Bay Shore, Brentwood, Central Islip, Islip, and 15 of the 32 New York City School Districts. This paper examines the schools within these districts offering education for grades K-12 that have a CR Part 154 application on file at the New York State Office of Bilingual Education and Foreign Language Studies. Of the 280 schools represented by Latino assembly members in New York during the 2007-2008 academic year, 51 failed to provide the required bilingual education programs, 10 did not have a CR Part 154 application on file with the NYSED, and 38 additional schools failed to provide either ESL or a bilingual education program to identified ELLs. Overall, this amounts to a 35% non-compliance rate.

**Bilingual Education Background**

The first Congressional vote on language in the United States was held in 1795. The proposed bill would have allowed Congressional laws to be printed in both English and German. While the bill was rejected, a second bill was passed later in the year that required federal statutes to be printed in English only. The right to teach languages other than English was first made explicit by the Supreme Court in the case *Meyer v. Nebraska* (1923), a case...
involving the right to teach in German, that declared these state laws were a violation of due process. Nevertheless, by 1935, thirty-five states prohibited public schools from teaching in languages other than English.7

In the 1960’s, when Cuban refugees began arriving in Florida, the focus on education in languages other than English turned towards the Spanish language.8 Bilingual Education in the United States began officially funded under Title VII of the Bilingual Education Act of 1968 (the Elementary and Secondary Education Act or ESEA), which was amended in 1978 and 1994. Combined with the Supreme Court ruling in Lau v. Nichols (1974), which required that non-English speaking students be allowed to “participate meaningfully” in the classroom, instruction in native languages was mandated to provide an equal educational opportunity for students with limited English proficiency.9

In the 1980s, opposition to both bilingual education and bilingual voting rights intensified and bills have been introduced every year in Congress to declare English the official language of the United States. While these bills have failed, under the No Child Left Behind (NCLB) Act of 2002, discretionary federal funding to school districts for bilingual education ended and now federal funding for K-12 is allocated to state departments of education for them to use at their discretion.10

With the changes in funding for bilingual education under NCLB, the policies of individual states are increasingly important. In New York State, Commissioner’s Regulation under Part 117 and Commissioner’s Regulation under Part 154 encompass the state’s policy for bilingual education. To help implement educational programs for ELLs, the Office of Bilingual education (OBE) was established as a unit within NYSED in 1969. Today this unit oversees programs serving ELLs in over 500 school districts.11

Latinos in New York State

The 2010 U.S. Census Bureau reported 19,378,102 individuals residing within New York State. Of these, 3,416,922 (18%) were Latino. The counties with the largest concentrations of Latinos are Bronx (57%), Queens (28%), New York (25%), Westchester (22%), Kings (20%), Orange (18%), Richmond (17%), Rockland (16%), Suffolk (16%), and Nassau (15%). Of these counties, Latinos were represented in the state legislature in the Bronx, New York, Queens, Kings, and Suffolk counties during the 2007-2008 period covered by this study.

Assembly Districts

Latinos were the majority of the population in 9 of the 12 Assembly Districts (AD) in which they had Latino elected officials during the 2007-2008 academic year. In AD 68 they were 49% of the population; in AD 6 they were 42% and they were 34% of the population in AD 80.12 Table 1 summarizes the state of Latino representation in the New York State Assembly for the districts comprising the schools assessed in this report.

School Districts

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

New York State Department of Education Requirements

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

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

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

Section 154.3 requires all school
districts receiving Total Foundation
Aid to develop a Comprehensive
Plan for meeting the educational
needs of LEP students. Since the
2007-2008 school year, school
districts applying for Title III funds
and districts receiving Contract for
Excellence funds also must submit a
Comprehensive Plan. Under
subdivision 1g, school districts with
‘an enrollment of 20 or more pupils
with limited English proficiency of
the same grade level assigned to a
building, all of whom have the same
native language which is other than
English, shall provide such pupils
with bilingual education programs.’

Schools that are Non-Compliant
A total of 280 schools were reviewed.
The number of those that were not in
compliance with Commissioner’s
regulations is very high. We identified
three types of non-compliance in two
categories. Programmatic non-
compliance includes: 1. failure to
provide required educational program
services; and 2. failure to serve
identified ELLs. Procedural non-
compliance consists of failure to file
required reports.

Of the 270 schools that were
procedurally compliant by submitting
completed CR Part 154 applications
to NYSED, 89 or 32% were out of
compliance programatically.
Providing the required educational
program services and/or serving
identified ELLs is considered
programmatic compliance. Of these
schools, 51 or 18% of the 280
schools reviewed had 20 or more
students that spoke the same native
language in the same grade, but did
not provide bilingual education
programs. Unless the parents of all
these children requested that their
children be served by a free-standing
ESL program only, these schools
should have offered bilingual
education programs during the 2007-
2008 academic year. Additionally, 38
or 14% of the 280 schools reviewed
failed to provide either an ESL or a
bilingual education program to
identified ELLs according to their
reports. A total of 10 schools, or 4% of
the 280 schools reviewed, were out
of procedural compliance; they did
not have a CR Part 154 application
filed with NYSED. A description of
the compliance issues for each school
in the districts represented by Latino
assembly members follows.

Bay Shore
Seven schools in Bay Shore were
represented by Latino Assembly
Members. CR Part 154 applications
were filed for all the schools and one
school was non-compliant during the
2007-2008 academic year.

Bay Shore High School should have
offered bilingual education programs
for the 9th and 11th grades in 2007-
2008 to comply with New York State
regulations. There were 26 identified
native Spanish-speaking ELLs in the
9th grade and 24 identified native
Spanish-speaking ELLs in the 11th
grade. All of these students were
served by an ESL program.

According to the CR Part 154
applications Form A-5, there were
three full time equivalent (FTE)
certified ESL teachers for the 80
ELLs for a student teacher ratio of 27
to 1.13 There was also one ESL
teaching assistant/paraprofessional.
This school was also non-compliant
during the 2006-2007 academic year.

Brentwood
Seventeen schools in Brentwood
were represented by Latino Assembly
members. CR Part 154 applicationss
were filed for all the schools with 10 schools
non-compliant during the 2007-2008
academic year.

Nine of these schools failed to serve
all identified students according to
the A2 and A2(a) building reports.
Laurel Park Elementary identified
240 ELLs in the school and 239
ELLs were served. There were five
certified bilingual education and five
certified ESL teachers for the 239
ELLs for a student to teacher ratio of
24 to 1. There was also one
uncertified bilingual education
teacher and four ESL teaching
assistants/paraprofessionals.

Loretta Park Elementary identified
264 ELLs and 261 were served.
There were five certified bilingual
education and five certified ESL
teachers for the 264 ELLs for a
student to teacher ratio of 27 to 1.
There were also four ESL teaching
assistants/paraprofessionals.

Northeast Elementary identified 457
ELLs and 455 ELLs were served.
There were 10 certified bilingual
education and six certified ESL
teachers for the 457 ELLs for a
student to teacher ratio of 29 to 1.
The school also had one uncertified
bilingual education teacher and five
teaching assistants/paraprofessionals.

Southwest Elementary identified 325
ELLs and 321 were served. There
were nine certified bilingual
education as well as five FTE and
one part time certified ESL teachers
for the 325 ELLs for a student to
teacher ratio of 23 to 1. There were
also four ESL teaching
assistants/paraprofessionals.

East Middle School identified 128
ELLs and 122 were served. There
were two certified bilingual education
and three certified ESL teachers for
the 128 ELLs for a student to teacher
ratio of 26 to 1. The school also had
a part time and three FTE and
uncertified bilingual education teachers.

North Middle School identified 163 ELLs and 162 were served. There were four certified bilingual education and three certified ESL teachers for the 163 ELLs for a student to teacher ratio of 24 to 1. The school also had one uncertified bilingual education teacher and one bilingual teaching assistant/paraprofessional.

South Middle School identified 133 ELLs and 129 were served. There were four certified bilingual education and three certified ESL teachers for the 133 ELLs for a student to teacher ratio of 19 to 1. There was also one bilingual education teaching assistant/paraprofessional.

West Middle School identified 82 ELLs and 76 were served. There were two certified bilingual education teachers and three certified ESL teachers for the 82 ELLs for a student to teacher ratio of 17 to 1. The school also had two uncertified bilingual education teachers. Other than the ELLs that were not served, these schools offered both bilingual and ESL programs to serve ELLs.

At Oak Park Elementary the 23 identified Spanish-speaking ELLs in the 5th grade were all served by an ESL program. There was a part time and six FTE certified bilingual teachers and a part time and three FTE certified ESL teachers for the 300 ELLs, for a student to teacher ratio of 30 to 1. There was also one uncertified bilingual education teacher as well as three FTE and one part time ESL Teaching Assistants/Paraprofessionals.

At Freshman Center there were 33 identified native Spanish-speaking ELLs in the 9th grade who were all served by an ESL program. In addition, 45 ELLs were identified and 44 were served. There was a part time and two FTE certified ESL teachers in the school for the 45 ELLs for a student to teacher ratio of 18 to 1. Freshman Center was also non-compliant during the 2006-2007 academic year.

Central Islip

Eight schools in Central Islip were represented by Latino Assembly Members. CR Part 154 applications were filed for all the schools and two schools were non-compliant during the 2007-2008 academic year. The non-compliant schools were: Cordello Avenue Elementary School and Francis J. O’Neill School. These schools were also non-compliant during the 2006-2007 academic year.

At Cordello Avenue Elementary School there were 20 identified native Spanish-speaking ELLs in the 3rd grade all served by an ESL program. There were two certified ESL teachers for the 65 ELLs for a student to teacher ratio of 33 to 1.

At Francis J. O’Neill School there were 24 identified native Spanish-speaking ELLs in the 2nd grade all served by an ESL program. There were two certified ESL teachers for the 92 ELLs for a student to teacher ratio of 46 to 1.

NYC School District 4

Thirty-one schools in NYC School District 4 were represented by Latino Assembly Members. CR Part 154 applications were missing for three schools (P.S. 964, P.S. 224, and Tag Young Scholars), two reports (P.S. 435 and P.S. 695) indicated that there were identified students that were not served by either a bilingual or ESL program, and three schools (P.S. 57, P.S. 146, and P.S. 635) were not program compliant during the 2007-2008 academic year. Overall, three schools were out of procedural compliance and five were not in programmatic compliance for failure to provide the required program.

At the Manhattan Center for Science and Mathematics (P.S. 435) and Urban Peace Academy (P.S. 695) students were identified, but not served. At the Manhattan Center for Science and Mathematics, 10 students were identified, but not served. Seven of these 10 were native Spanish-speaking ELLs. In the 9th grade, 25 Spanish-speaking ELLs were served by bilingual education programs, one was served by an ESL program, and one was identified, but not served. In the 10th grade, 15 students were served by bilingual education programs, five were served by an ESL program, and two were identified, but not served. In the 11th grade, 12 students were served by an ESL program and two were identified, but not served. In the 12th grade, two students were served by a bilingual education program, three students were served by an ESL program, and two students were identified, but not served. Of these students, two were special education students served by ESL programs. There were also two native Chinese-speaking and one native Uzbek-speaking ELLs in the 9th grade that were identified, but not served. There were two certified ESL teachers for the 67 ELLs for a student to teacher ratio of 34 to 1. There were also four uncertified bilingual teachers.

At the Urban Peace Academy, one Spanish speaking ELL was identified in the 10th grade, but was not served. However, it was noted that the student received instruction in an English Language Arts class after a Special Education teacher received his Bilingual Extension Certification in June 2008.

This school was in the process of being phased out and graduated its last class in June 2010. Of the 40
students at the school, three were ELLs. The school did not have a certified teacher and only one uncertified ESL teacher, but the school was trying to provide the services of a certified ESL teacher according to a letter from the Principal.

James Weldon Johnson School (P.S. 57), Anna M. Short School (P.S. 146), and the Academy of Environmental Science Secondary School (P.S. 635) failed to provide bilingual education services. At James Weldon Johnson School, there were 24 identified native Spanish-speaking ELLs that were all served by an ESL program. James Weldon Johnson School had three certified bilingual teachers and one certified ESL teacher for the 140 ELLs for a student to teacher ratio of 35 to 1.

At Anna M. Short School there were 20 identified native Spanish-speaking ELLs in Kindergarten that were all served by an ESL program. Anna M. Short School had two certified ESL teachers for the 86 ELLs at the school for a student to teacher ratio of 43 to 1.

At the Academy of Environmental Science Secondary School, one identified Spanish speaking ELL was identified in the 11th grade, but was not served. The Academy of Environmental Science Secondary School had one certified ESL teacher for the 20 ELLs at the school resulting in a student to teacher ratio of 20 to 1.

NYC School District 5

Two schools in NYC School District 5 were represented by Latino Assembly Members. One of the schools was not program compliant during the 2007-2008 academic year. Choir Academy of Harlem (P.S. 469) reported two identified native Spanish-speaking ELLs in the 6th grade, but did not indicate that the students were served by either an ESL or bilingual education program. These students were listed on the A2 and A2(a) building report, but not the A3 report. The Choir Academy of Harlem did not list any ESL teachers on the A5 report.

NYC School District 6

Seventeen schools in NYC School District 6 were represented by Latino Assembly Members. Four reports (P.S. 98, P.S. 132, P.S. 152, and P.S. 322) indicated that there were students identified but not served by a bilingual or ESL program during the 2007-2008 academic year.

At Shorac Kappock School (P.S. 98), there was one identified native Spanish-speaking ELL in the 3rd grade and one in the 4th grade that were not served. Shorac Kappock School had 21 certified bilingual teachers and three certified ESL teachers for the 316 ELLs resulting in a student to teacher ratio of 14 to 1.

At Juan Pablo Duarte School (P.S. 132) there was one identified native Spanish-speaking ELL in the 2nd grade that was not served. Juan Pablo Duarte School had 16 certified bilingual teachers and four certified ESL teachers for the 566 ELLs for a student to teacher ratio of 29 to 1. There were also two uncertified bilingual education teachers.

At Dyckman Valley School (P.S. 152) there was one identified native Spanish-speaking ELL in the 5th grade that was not served. Dyckman Valley School had 17 certified bilingual teachers and five certified ESL teachers for 354 ELLs for a student to teacher ratio of 17 to 1.

NYC School District 7

Twenty-nine schools in NYC School District 7 were represented by Latino Assembly Members. Ten schools were not in programmatic compliance during the 2007-2008 academic year. Two schools were not program compliant for failing to provide the required educational program services. Additionally, eight of the 29 schools identified Spanish ELLs, but failed to serve them with either bilingual or ESL programs.

At Wilton School (P.S. 30) there were 21 identified native Spanish speaking ELLS in Kindergarten and all of these students were served by an ESL program. There were three certified bilingual education teachers and one certified ESL teacher for the 145 ELLs for a student to teacher ratio of 37 to 1. At P.S. 179, there were 23 identified native Spanish-speaking ELLS in Kindergarten, 23 in the 1st grade, 22 in the second grade, 10 in the 3rd grade, 10 in the 4th grade, and six in the 5th grade served by an ESL program. Only nine students in the 1st grade were served by a bilingual education program. There were two certified ESL teachers for the 107 ELLs for a student to teacher ratio of 54 to 1.

At Port Morris School (P.S. 5) there were two identified native Spanish-speaking ELLs identified in Kindergarten that were not served, but were in special education programs. There were seven certified bilingual and two certified ESL teachers for the 124 ELLs for a student to teacher ratio of 14 to 1.

At Mott Haven Village Preparatory High School (P.S. 473), there was one native Spanish-speaking ELL identified and not served in the 9th grade, but this student was in a special education program. There was also a Hindi-speaking general
education student identified in the 10th grade that was not served. There was one certified ESL teacher for the nine ELLs for a student to teacher ratio of 9 to 1.

At L. Rodríguez De Tió School (P.S. 162) there were 22 identified native Spanish-speaking students in the 6th grade, five in the 7th grade, and four in the 8th grade that were not served. Only one of the identified, but not served students was in a special education program. There was also an identified, but not served, native Bengali-speaking general education student in the 6th grade. There was one ESL teacher for the 49 ELLs for a student to teacher ratio of 49 to 1.

At Jonathan D. Hyatt School (P.S. 154), there were four identified native Spanish-speaking ELLs in the 1st grade that were not served. There were also 19 in the 1st grade that were served by an ESL program and in the 3rd grade 19 Spanish-speaking ELLs were served by an ESL program. In the 5th grade, there was one identified native Spanish-speaking ELL that was not served. There was one certified ESL teacher for 79 ELLs for a student to teacher ratio of 79 to 1.

At Ponce De León School (P.S. 161) there was one native Spanish-speaking ELL that was identified in the 1st grade, but not served. At P.S. 224, there were two Spanish-speaking ELLs that were identified, but not served in the 6th grade. There were five certified bilingual education and one certified ESL teacher for the 138 ELLs for a student to teacher ratio of 23 to 1.

Melrose School (P.S. 29) was compliant with regards to identified native Spanish-speaking ELLs, but there was one general education Twi-speaking student that was identified and not served in the 1st grade. There were two certified bilingual and two certified ESL teachers for the 95 ELLs for a student to teacher ratio of 24 to 1.

At South Bronx Preparatory School (P.S. 221) there were two identified native Spanish-speaking ELLs in the 7th grade and one in the 9th grade that were not served. Two of these students were in special education programs. There was one certified ESL teacher for the seven ELLs for a student to teacher ratio of 7 to 1.

NYC School District 8

Twenty schools in NYC School District 8 were represented by Latino Assembly Members. CR Part 154 applications were missing for two schools and six schools were not in programmatic compliance during the 2007-2008 academic year.

At Unionport School (P.S. 36) there were 20 identified native Spanish-speaking ELLs in the 1st grade served by an ESL program. There was one certified ESL teacher for the 94 ELLs for a student to teacher ratio of 94 to 1.

At James M. Kiernan (P.S. 123) there were 26 identified native Spanish-speaking ELLs in the 6th grade and 29 in the 8th grade all served by an ESL program. There was one certified ESL teacher for the 74 ELLs for a student to teacher ratio of 74 to 1.

At Evergreen School (P.S. 152) there were 34 identified native Spanish-speaking ELLs in Kindergarten served by an ESL program and there was also one identified ELL in the 3rd grade that was not served. There were two certified ESL teachers for the 223 ELLs for a student to teacher ratio of 112 to 1.

At The New Visions School (P.S. 69) there were 23 identified native Spanish-speaking ELLs in the 1st grade served by an ESL program. There was one certified ESL teacher for the 74 ELLs for a student to teacher ratio of 74 to 1.

At Adlai E. Stevenson High School (P.S. 450) there were 21 identified native Spanish-speaking ELLs in the 10th grade, 31 in the 11th grade, and 44 in the 12th grade all served by ESL programs. There was one certified ESL teacher for the 109 ELLs for a student to teacher ratio of 109 to 1.

At P.S. 119 there were 20 identified native Spanish-speaking ELLs in the 2nd grade served by an ESL program. There was also one identified native Spanish-speaking ELL identified in the 3rd grade and one in the 4th grade that were not served. One of these two identified students was in a special education program. There was one certified ESL teacher for the 166 ELLs for a student to teacher ratio of 166 to 1.

NYC School District 9

Two schools in NYC School District 9 were represented by Latino Assembly Members. One of these schools, Joseph H. Wade was out of programmatic compliance during the 2007-2008 academic year. This school had 44 identified native Spanish-speaking ELLs in the 8th grade that were all served by an ESL program. It is also worth noting that in the 6th grade there were 39 ELLs served by an ESL program and only one in a bilingual education program. In the 7th grade there were 59 ELLs served by an ESL program and only two in a bilingual education program. There were four certified bilingual education and six certified ESL teachers for the 154 ELLs for a student to teacher ratio of 16 to 1. There was also one teaching assistant/paraprofessional.

NYC School District 10

Forty-eight schools in NYC School District 10 were represented by Latino Assembly Members. CR Part 154 applications were missing for two schools and 13 schools were non-compliant during the 2007-2008 academic year. The
two schools missing applications were: P.S. 143 and the International Leadership Charter School (P.S. 347). The 13 schools out of programmatic compliance were: George J. Werdan III School (P.S. 20), Creston School (P.S. 79), Bronx School (P.S. 91), Fiorello La Guardia (P.S. 205), P.S. 209, P.S. 306, The Bronx School of Scientific Inquiry and Investigation (M.S. 331), P.S. 340, Discovery High School (P.S. 549), Kingsbridge International High School (P.S. 268), Eames Place (P.S. 307), Marble Hill School (P.S. 310), and P.S. 360. Of these 13 schools, Fiorello La Guardia and P.S. 209 were also non-compliant in the 2006-2007.15

George J. Werdan III School (P.S. 20) needed to offer bilingual education in Kindergarten and grades one to seventh. In Kindergarten there were 32 identified native Spanish-speaking ELLs, in the 1st grade there were 31, in the 2nd grade there were 21, in the 3rd grade there were 27, in the 4th grade there were 31, in the 5th grade there were 22, and in the 7th grade there were 23. All of these ELLs were served by an ESL program. There were 10 certified ESL teachers for the 271 ELLs for a student to teacher ratio of 28 to 1. There were also 12 ESL teaching assistants/paraprofessionals.

At Creston School (P.S. 79) there were 39 identified native Spanish-speaking ELLs in the 1st grade, there were 47 in the 2nd grade, there were 33 in the 3rd grade, there were 38 in the 4th grade, and 22 in the 5th grade. All of these ELLs were served by an ESL program. There were two certified ESL teachers for the 206 ELLs for a student to teacher ratio of 103 to 1.

At Bronx School (P.S. 91) there were 37 identified native Spanish-speaking ELLs in the 3rd grade, 29 in the 4th grade, and 25 in the 5th grade that were all served by an ESL program. There were also more students served by an ESL program than a bilingual program in the 1st and 2nd grades. In the 1st grade there were 19 students served by ESL and 18 served by a bilingual program. In the 2nd grade there were 27 served by an ESL program and 16 by a bilingual program. There was also one identified native Bengali-speaking ELL that was identified, but not served by either an ESL or bilingual program (Bengali-speaking ELLs were served by ESL programs in the 1st, 2nd, 3rd, and 4th grades and there was one Bengali ELL served by a bilingual program in Kindergarten). There were six certified bilingual education and five certified ESL teachers for the 225 ELLs for a student to teacher ratio of 21 to 1. There were also two bilingual teaching assistants/paraprofessionals.

At Fiorello La Guardia (P.S. 205) there were 35 identified native Spanish-speaking ELLs in the 3rd grade, 34 in the 4th grade, and 22 in the 5th grade all served by an ESL program. There was also a Spanish-speaking ELL that was identified in Kindergarten, but not served by either an ESL or bilingual program. There were five certified bilingual education and five certified ESL teachers for the 234 ELLs for a student to teacher ratio of 24 to 1.

At P.S. 209 there were 20 identified native Spanish-speaking ELLs in the 1st grade served by an ESL program. There was one certified ESL teacher for the 46 ELLs for a student to teacher ratio of 46 to 1.

At P.S. 306 there were 23 identified native Spanish-speaking ELLs in the 5th grade that were served by an ESL program. There were three certified bilingual education and three certified ESL teachers for the 162 ELLs for a student to teacher ratio of 27 to 1.

At The Bronx School of Science Inquiry and Investigation (M.S. 331) there were 29 identified native Spanish-speaking ELLs that were served by an ESL program. There were two certified bilingual education teachers for the 53 ELLs for a student to teacher ratio of 27 to 1.

At P.S. 340 there were 20 identified native Spanish-speaking ELLs in the 3rd grade that were served by an ESL program. There were five certified bilingual education and three certified ESL teachers for the 115 ELLs for a student to teacher ratio of 15 to 1.

At Discovery High School (P.S. 549) there were 24 identified native Spanish-speaking ELLs in the 9th grade that were served by an ESL program. There was one certified ESL teacher for the 35 ELLs for a student to teacher ratio of 35 to 1.

At Kingsbridge International High School (P.S. 268) there were 69 identified native Spanish-speaking ELLs in 9th grade, 84 in the 10th grade, and 91 in the 11th grade. There were eight certified bilingual education and 10 certified ESL teachers for the 301 ELLs for a student to teacher ratio of 17 to 1.

At Eames Place (P.S. 307) there were 23 identified native Spanish-speaking ELLs in Kindergarten and 29 in the 1st grade that were served by an ESL program. There were five certified ESL teachers for the 79 ELLs for a teacher ratio of 16 to 1.

At Marble Hill School (P.S. 310) there were 54 identified native Spanish-speaking ELLs in the 3rd grade, 38 in the 4th grade, and 27 in the 5th grade that were served by an ESL program. There were two certified bilingual education and five certified ESL teachers for the 246 ELLs for a student to teacher ratio of 36 to 1. There were also three uncertified ESL teachers and one ESL teaching assistant/paraprofessional.

At P.S. 360 there were 20 identified
native Spanish-speaking ELLs in the 4th grade served by an ESL program. There was one certified bilingual
education and three certified ESL teachers for the 88 ELLs for a student to teacher ratio of 22 to 1.

NYC School District 11

Twelve schools in NYC School District 11 were represented by Latino Assembly Members. The CR Part 154 application was missing for one school and five schools were non-compliant during the 2007-2008 academic year. The school with the missing application was Richard Rogers School (P.S. 96). The non-compliant schools were: Bennington School (P.S. 76), Williamsbridge School (P.S. 89), Senator A. Bernstein School (P.S. 105), Parkchester School (P.S. 106), and Christopher Columbus High School (P.S. 415). Bennington School, Williamsbridge School, and Senator A. Bernstein School were also non-compliant during the 2006-2007 academic year.

At Bennington School (P.S. 76) there were 21 identified native Spanish-speaking ELLs in Kindergarten and 25 in the 1st grade that were served by an ESL program. There were two certified ESL teachers for the 125 ELLs for a student to teacher ratio of 63 to 1.

At Williamsbridge School (P.S. 89) there were 20 identified native Spanish-speaking ELLs in the 4th grade served by an ESL program. There were 10 certified ESL teachers for the 244 ELLs for a student to teacher ratio of 25 to 1.

At Senator A. Bernstein School (P.S. 105) there were 40 identified native Spanish-speaking ELLs in Kindergarten, 54 in the 1st grade, 49 in the 2nd grade, 28 in the 3rd grade, 38 in the 4th grade, and 29 in the 5th grade all served by an ESL program. There was also one Spanish-speaking ELL identified in the 5th grade that was not served by either an ESL or bilingual program. There were 13 certified ESL teachers for the 340 ELLs for a student to teacher ratio of 27 to 1.

At Parkchester School (P.S. 106) there were 21 identified native Spanish-speaking ELLs in the 4th grade served by an ESL program. There were three certified ESL teachers for the 187 ELLs for a student to teacher ratio of 63 to 1.

At Christopher Columbus High School (P.S. 415) there were 45 identified native Spanish-speaking ELLs in the 9th grade and 31 in the 10th grade. There was also one Spanish-speaking ELL identified in the 9th grade and one identified in the 10th grade that were not served by either ESL or bilingual education. There was also one identified native Albanian-speaking ELL that was identified in the 12th grade. There was one certified ESL teacher for the 202 ELLs for a student to teacher ratio of 202 to 1.

NYC School District 12

Eighteen schools in NYC School District 12 were represented by Latino Assembly Members. CR Part 154 applications were filed for all the schools with six schools non-compliant during the 2007-2008 academic year. The non-compliant schools were: West Farms School (P.S. 6), Mohegan School (P.S. 67), P.S. 195, P.S. 196, P.S. 197, and High School of World Cultures (P.S. 550). High School of World Cultures, P.S. 195, and P.S. 197 were also non-compliant during the 2006-2007 academic year.

At West Farms School (P.S. 6) there were 20 identified native Spanish-speaking ELLs in the 1st grade, 24 in the 2nd grade, 25 in the 3rd grade, 24 in the 4th grade, and 24 in the 5th grade. There was one certified ESL teacher for the 135 ELLs for a student to teacher ratio of 135 to 1. There was also one bilingual education teaching assistant/paraprofessional.

At Mohegan School (P.S. 67) there were 20 identified native Spanish-speaking ELLs served by an ESL program in the 2nd grade. There were three certified bilingual education and one certified ESL teacher for the 128 ELLs for a student to teacher ratio of 32 to 1.

At P.S. 195 there were 31 identified native Spanish-speaking ELLs in the 3rd grade, 26 in the 4th grade, and 21 in the 5th grade that were served by an ESL program. There were two certified ESL teachers for the 98 ELLs for a student to teacher ratio of 49 to 1.

At P.S. 196 there were 27 identified native Spanish-speaking ELLs in the 2nd grade and 20 in the 3rd grade that were served by ESL programs. There were two ESL teachers for the 75 ELLs for a student to teacher ratio of 38 to 1.

At P.S. 197 there were 63 identified native Spanish-speaking ELLs in Kindergarten and 74 in the 1st grade that were served by an ESL program. There were three certified ESL teachers for the 149 ELLs for a student to teacher ratio of 50 to 1.

At High School of World Cultures (P.S. 550) there were 105 identified native Spanish-speaking ELLs in the 9th grade, 30 in the 10th grade, 92 in the 11th grade, and 13 in the 12th grade that were all served by an ESL program. There were two certified ESL teachers for the 265 ELLs for a student to teacher ratio of 133 to 1.

NYC School District 14

Sixteen schools in NYC School District 14 were represented by Latino Assembly Members. Two
schools were non-compliant during the 2007-2008 academic year. The non-compliant schools were: Carlos Tapia School (P.S. 120) and George H. Lindsey School (P.S. 250). These are the same schools that were non-compliant during the 2006-2007 academic year.

At Carlos Tapia School (P.S. 120) there were three identified native Spanish-speaking ELLs in Kindergarten, 31 in the 1st grade, 32 in the 2nd grade, 25 in the 3rd grade, 19 in the 4th grade, and six in the 5th grade that were all served by an ESL program. Only eight students were served by a bilingual education program in the 8th grade. There were two certified ESL teachers for the 131 ELLs for a student to teacher ratio of 66 to 1.

At George H. Lindsey School (P.S. 250) there were nine identified native Spanish-speaking ELLs in Kindergarten, 23 in the 1st grade, 22 in the 2nd grade, 15 in the 3rd grade, 12 in the 4th grade, and four in the 5th grade. There were three certified ELLs for the 112 ELLs for a student to teacher ratio of 38 to 1.

NYC School District 15

Twenty-nine schools in NYC School District 15 were represented by Latino Assembly Members. The CR Part 154 application was missing for one school and a total of five schools were non-compliant during the 2007-2008 academic year. The application was missing for The Children’s School (P.S. 372). The remaining non-compliant schools were: P.S. 131, Charles O’Dewey School (I.S. 136), Sunset Park School (P.S. 169), Beacon School of Excellence (P.S. 172), and Doris L. Cohen School (P.S. 230). Sunset Park School (P.S. 169), Beacon School of Excellence (P.S. 172), and Doris L. Cohen School (P.S. 230) were also non-compliant in the 2006-2007 academic year.

At P.S. 131 there were 34 identified native Spanish-speaking ELLs in Kindergarten, 27 in the 1st grade, 48 in the 2nd grade, 36 in the 3rd grade, 29 in the 4th grade, and 15 in the 5th grade served by an ESL program. Only 21 identified native Spanish-speaking ELLs in Kindergarten and 20 in the 1st grade were served by a bilingual education program. There were four certified bilingual education and eight certified ESL teachers for the 360 ELLs for a student to teacher ratio of 30 to 1. There was also one uncertified ESL teacher.

At Charles O’Dewey School (I.S. 136) there were 17 identified native Spanish-speaking ELLs in the 6th grade, 26 in the 7th grade, and 31 in the 8th grade that were all served by an ESL program. This school did not offer a bilingual program during the 2007-2008 academic year. There were six certified bilingual education and three certified ESL teachers for the 80 ELLs for a student to teacher ratio of 9 to 1. There were also two uncertified ESL teachers.

At Sunset Park School (P.S. 169) there were 19 identified native Spanish-speaking ELLs in Kindergarten, 24 in the 1st grade, 22 in the 2nd grade, 39 in the 3rd grade, 33 in the 4th grade, and 19 in the 5th grade served by an ESL program. There were 39 identified native Spanish-speaking ELLs in Kindergarten, 24 in the 1st grade, 23 in the 2nd grade, and 24 in the 3rd grade served by a bilingual education program. The school did not offer a bilingual program in the 4th grade, even though there were 33 identified native Spanish-speaking ELLs in the 4th grade. There were also 24 identified native Chinese-speaking ELLs in the 4th grade that were served by an ESL program (bilingual education programs were offered in Kindergarten through the 2nd grade for Chinese-speaking ELLs, but not in the 3rd through 5th grades). There were 10 certified bilingual education and nine certified ESL teachers for the 477 ELLs for a student to teacher ratio of 26 to 1. There was also one uncertified ESL teacher as well as two bilingual education and two ESL teaching assistant/paraprofessionals.

At Beacon School of Excellence (P.S. 172) there were 32 identified native Spanish-speaking in Kindergarten, 35 in the 1st grade, 31 in the 2nd grade, 20 in the 3rd, 11 in the 4th grade, and 10 in the 5th grade served by an ESL program. The school did not offer a bilingual program during the 2007-2008 academic year. There were two FTE and one part time certified ESL teacher for the 155 ELLs for a student to teacher ratio of 62 to 1.

At Doris L. Cohen School (P.S. 230) there were 37 identified native Spanish-speaking ELLs in Kindergarten, 26 in the 1st grade, 29 in the 2nd grade, 15 in the 3rd grade, 15 in the 4th grade, and seven in the 5th grade all served by an ESL program. There were also 30 identified native Bengali-speaking ELLs in Kindergarten, 26 in the 1st grade, 27 in the 2nd grade, 19 in the 3rd grade, eight in the 4th grade, and eight in the 5th grade all served by an ESL program. The school did not offer a bilingual education program during the 2007-2008 academic year. There were seven certified ESL teachers for the 343 ELLs for a student to teacher ratio of 49 to 1.

NYC School District 20

Two schools in NYC School District 20 were represented by Latino Assembly Members. Both schools were non-compliant. The CR Part 154 application was missing for one school and therefore was in procedural non-compliance and one school was programatically non-compliant during the 2007-2008 academic year. The application was missing for Nathan Hale (M.S. 293). The programatically non-compliant
school was John J. Pershing (J.H.S. 220).

At John J. Pershing (J.H.S. 220) there were 26 identified native Spanish-speaking ELLs in the 6th grade, 39 in the 7th grade, and four in the 8th grade served by an ESL program. There was one identified native Spanish-speaking ELL in the 7th grade and 24 in the 8th grade. There were three certified bilingual education and eight certified ESL teachers for the 303 ELLs for a student to teacher ratio of 28 to 1.

NYC School District 30

One school in NYC School District 30 was represented by a Latino Assembly Member. A CR Part 154 application was filed for the school and it was non-compliant during the 2007-2008 academic year.

At Jackson Heights School (P.S. 69) only ESL programs were provided for ELLs. Bilingual education programs should have been offered for identified native Spanish-speaking ELLs, but were not. Spanish-speaking ELLs were served by an ESL program as follows: 45 were served in Kindergarten, 34 were served in 1st grade, 33 were served in 2nd grade, 28 were served in 3rd grade, 21 were served in 4th grade, 15 were served in 5th grade. Seventeen of these 176 ELLs were in special education programs. There were 12 certified ESL teachers for the 337 ELLs for a student to teacher ratio of 28 to 1. There were also five ESL teaching assistants/paraprofessionals.

NYC School District 32

Eleven schools in NYC School District 32 were represented by Latino Assembly Members. A CR Part 154 application was filed for all the schools and two schools were non-compliant during the 2007-2008 academic year. The non-compliant schools were:

Irvington School (P.S. 86) and Felisa Rincón De Gautier (P.S. 376). These schools were also non-compliant during the 2006-2007 academic year.

At Irvington School (P.S. 86) there were 25 identified native Spanish-speaking ELLs in Kindergarten, 30 in the 1st grade, 15 in the 2nd grade, 24 in the 3rd grade, 11 in the 4th grade, and 11 in the 5th grade served by an ESL program. There were four certified ESL teachers for the 121 ELLs for a student to teacher ratio of 31 to 1.

At Felisa Rincón De Gautier (P.S. 376) there were 34 identified native Spanish-speaking ELLs in Kindergarten, 32 in the 1st grade, 32 in the 2nd grade, 24 in the 3rd grade, 22 in the 4th grade, and 13 in the 5th grade. None of the ELLs were served by a bilingual education program. The report from the previous year stated that the school would not offer TBE programs in the 2007-2008 academic year due to parental choice. However, it appears that when bilingual education programs were offered in the 2006-2007 academic year, parents opted for those programs and therefore bilingual classes might be needed in the school. There were five certified ESL teachers for the 159 ELLs for a student to teacher ratio of 32 to 1.

Tables 2 and 3 below summarize our findings, correlating school and assembly districts, indicating the number of schools that were within the purview of specific elected officials and the number of non-compliant schools.

Explanation for Non-Compliance and Lack of Bilingual Programs

Lack of Appropriately Certified Teachers

During the 2007-2008 academic year, there were 4,628 Full Time Equivalent (FTE) ESOL teachers throughout the state.16

Statewide 4,235 or 92% were certified in their assigned area. However, in the New York City Region, only 76 of 86 Full Time Equivalent ESOL teachers, or 82%, were properly certified.17 When looking at Bilingual Education teachers throughout the state, 211,970 of 222,315 FTE teachers, or 95%, were properly certified. Yet, only 1,092 of the 1,427 Spanish language Bilingual Education teachers in New York State were properly certified. In other words, 23% of the Spanish language Bilingual Education teachers in the state were not properly certified in the 2007-2008 academic year. In the New York City region, 26% of the Spanish language Bilingual Education teachers were not properly certified. Only 74% or 775 of the 1,053 Spanish language Bilingual Education FTE teachers were properly certified.18

Although this is required, in addition to the 10 schools that did not have an A-2 Building Report on file there were also 3 schools that did not have an A-5 Report on file (reporting the number of teachers and teaching assistants/paraprofessionals serving ELLs). Still this is a significant increase in the number of schools with reports on file. Only 145 of the 281 schools examined in the 2006-2007 academic year listed both the number of students served and the number of certified bilingual and ESL teachers. However, according to the available data from both the 2006-2007 and the 2007-2008 academic years, there is still a critical need for increased numbers of certified bilingual and ESL teachers.

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

Some schools are making efforts to recruit certified teachers and to work with the Intensive Teaching Institute (ITI) to encourage uncertified teachers to become certified. For example, four of the uncertified bilingual teachers were in the process of obtaining certification/extension at the Manhattan Center for Science and Mathematics, including a bilingual math teacher that was awaiting certification in the 2008-2009 academic year. The school also placed job advertisements, attended job fairs, contacted colleges and programs such as Teacher for America and Teaching Fellows, and conducted interviews in attempts to hire bilingual teachers.

In some cases, schools have teachers certified in ESL teaching bilingual programs. For example, the school with the largest number of students served by bilingual programs, De Witt Clinton High School in NYC School District 10, had 513 students served by a bilingual education program in the 2007-2008 academic year. However, the school had more teachers certified in ESL than bilingual education. There were eight certified bilingual teachers and two certified bilingual teaching assistants/paraprofessionals. The school had 19 ESL certified teachers and two certified ESL teaching assistants/paraprofessionals. Only 46 ELLs were served by an ESL program at De Witt Clinton High School.

Parental Choice

CR Part 154 gives parents of eligible English Language Learners the right to “opt out” their children from a bilingual education program. Parents must be given verbal and/or written explanation of placement options and can choose their preference for the type of program provided to their child or children via a Parent Survey or Program Selection form.

Sometimes a video is shown to explain program options to parents. Parents are also invited to orientations and some schools provide tours of the schools or allow parents to observe the types of classes offered in a school.

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

There is some evidence from the parental choice forms that accompanied the files that the first choice of a parent is not always honored. This appears to occur because the school either does not have the teacher(s) and/or other resources to provide the program or because the majority of the parental forms requested an ESL rather than a bilingual education program. At Anna M. Short School (P.S. 146) in NYC Geographics District 4 there was a request for TBE from one parent and a first choice of a dual language program from another parent. However, these students were served by an ESL program and the parent requesting the TBE was offered the ability to transfer her child to another school if they were not satisfied with the ESL program. Of the ELLs eligible for services at the school, the parents of ten chose ESL as a first choice and one chose dual language as a first choice and ESL as a second.

At James Weldon Johnson School the 24 students entitled to bilingual education and ESL programs were notified and of the 13 responses received by the school, all of the parents selected an ESL program for their children. In addition, two of these 13 ELLs were discharged in September 2007, so the school did not offer a bilingual education program.

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

Inaccurate or Incomplete Reporting

One explanation provided by schools for either not serving or under serving ELLs is that the schools inaccurately or incompletely reported the information. For example, the report for the Manhattan Center Science and Mathematics (P.S. 435) used this reason to explain the students that were incompletely served. Of the incompletely served students reported in error; in reality one was being served according to level, one was discharged as a 2007-2008 school year graduate, one of the ELLs was an entry error made by the school and the student received appropriate services in the 2008-2009 year, one student was an entry error made by the school and was served per their Individual Education Plan in 2007-2008, and two were entry errors made by the school and the ELLs were appropriately served in 2007-2008.
Additional Findings

More Students in Free-standing ESL than Bilingual Programs

Forty schools had more ELLs enrolled in free-standing ESL rather than bilingual education programs for ELLs with the same native language in the same grade during the 2007-2008 academic year. Ten of these schools were also non-compliant. During the 2006-2007 academic year, there were 36 schools that were in compliance with the law, but had more students enrolled in free-standing ESL than bilingual programs for students with the same native language in the same grade.

Sometimes this difference was a matter of one student. However, there were times when the gap was large enough to indicate that there might be a need for additional bilingual education classes. The schools that served more students through an ESL than bilingual education program are described below.

NYC Geographic District 6

In NYC Geographic District 6 there were nine schools that served more students through an ESL than bilingual education program. At Alexander Humbolt School (P.S. 115) there were 20 or more ELLs served by an ESL program in the 1st through 4th grades. At Audubon School (P.S. 128) there were over 20 ELLs served by an ESL program in the 1st through 4th grades. At Juan Pablo Duarte School (P.S. 132) there were 28 and 58 ELLs served by an ESL program in the 1st through 5th grades. This school was also non-compliant for failing to provide services to all the identified ELLs. At Dyckman Valley School (P.S. 152) there were 20 or more ELLs served by an ESL program in the 1st through 4th grades. This school was also non-compliant for failing to provide services to all the identified ELLs. At P.S. 189 there were between 39 and 76 ELLs served by an ESL program in Kindergarten through the 5th grade. At P.O. Michael J. Buczak School (P.S. 48) there were between 22 and 39 ELLs served by an ESL program in Kindergarten through the 3rd grade. At Shorac Kappock School (P.S. 98) there were over 20 ELLs served by an ESL program in Kindergarten through the 4th grade. At Salome Ukena (I.S. 218) there were 28 ELLs served by an ESL program in the 7th grade. At Middle School (P.S. 322) there were 28 ELLs served by an ESL program in the 7th grade and 31 in the 8th grade. This school was also non-compliant for failing to provide services to all the identified ELLs.

NYC Geographic District 7

In NYC Geographic District 7 there were two schools that served more ELLs through an ESL rather than bilingual education program. At Samuel Gompers Career and Technical Education High School (P.S. 655) there were 20 ELLs served by an ESL program in the 10th grade. At P.S. 179 there were 23 ELLs served by an ESL program and nine served by a bilingual education program in the 1st grade. This school was also non-compliant for failing to provide bilingual education programs in Kindergarten and the 2nd grade.

NYC Geographic District 8

In NYC Geographic District 8 there were two schools that served more students through an ESL rather than bilingual education program. At P.S. 75 there were 23 ELLs served by an ESL program and one served by a bilingual education program in the 3rd grade. At Evergreen School (P.S. 152) there were 20 or more ELLs served by an ESL program in all the grades (Kindergarten through the 5th grade). This school was also non-compliant for failing to provide bilingual education services for the 34 ELLs in Kindergarten and for failing to provide services to an identified ELL.

NYC Geographic District 9

In NYC Geographic District 9 there were two schools that served more students through an ESL rather than bilingual education program. At Mt. Hope School (P.S. 28) there were between 29 and 34 ELLs served by an ESL program in the 2nd through 5th grades. At Joseph H. Wade (J.H.S. 117) there were 39 ELLs served by an ESL program in the 6th grade, 59 in the 7th grade, and 44 in the 8th grade. This school was also non-compliant for failing to provide bilingual education in the 8th grade (and only one ELL in the 6th grade and two in the 7th grade were served by a bilingual education program).

NYC Geographic District 10

In NYC Geographic District 10 there were 13 schools that served more students through an ESL rather than a bilingual education program. At Isaac Varian (P.S. 8) there were 39 ELLs served by an ESL program in Kindergarten and 22 ELLs in served by a bilingual education program. There were also more ELLs served by an ESL rather than a bilingual education program in the 1st and 3rd grades. There were over 20 ELLs in ESL programs for each grade, indicating that the school may have needed to offer more bilingual education classes. P.S. 205 Fiorello La Guardia (which was also non-compliant for failing to provide bilingual education in the 3rd through 5th grades) had 27 ELLs served by an ESL and 16 served by a bilingual education program in the 1st grade and 21 ESL students compared to the 23 ELLs served by a bilingual education in the 2nd grade. At Kingsbridge Heights School (P.S. 86), there were more than 20 students served by an ESL program in the 1st through 5th grades. At Timothy Dwight School (P.S. 33) there were
more than 20 students served by an ESL program in Kindergarten through the 4th grade. At Poe Center (P.S. 246), there were over 20 students served by an ESL program in the 2nd, 3rd, and 4th grades. At Grace H. Dodge Career and Technical High School there were 22 students served by an ESL program in the 10th grade and 20 in the 11th grade. At Marble Hill School (P.S. 310) there were over 20 ELLs served by an ESL program in Kindergarten and the 2nd grade. At Edgar Allan Poe School (P.S. 46) there were 20 ESL students in the 4th grade. At Bronx School (P.S. 91) there were 27 ESL students in the 2nd grade. At M.S. 399 there were over 20 ELLs served by an ESL program in the 6th and 7th grades. At Ryer Avenue Elementary School (P.S. 9) there were 22 ELLs served by an ESL program in the 2nd grade. At P.S. 306 there were 20 ELLs served by an ESL program in the 1st and 2nd grades. At Great Expectations School there were over 20 ELLs served by an ESL program in the 2nd through 4th grades.

NYC Geographic District 12

In NYC Geographic District 12 there were two schools that served more students through an ESL rather than a bilingual education program. At John Randolph School (P.S. 47) there were 20 or more ELLs served by an ESL program in Kindergarten, the 1st and 4th grades. At Charles James Fox School (P.S. 150) there were 24 ELLs served by an ESL program in the 2nd grade.

NYC Geographic District 14

In NYC Geographic District 14 there was one school that served more students through an ESL than bilingual education program. At Roberto Clemente School (P.S. 19) there were more than 20 ELLs served by ESL programs in the 2nd through 5th grades.

NYC Geographic District 15

In NYC Geographic District 15 there were three schools that served more students through an ESL than bilingual education program. At Bergen (P.S. 1) there were more than 20 ELLs served by an ESL program in Kindergarten through the 5th grade. In the 1st grade there were 52 ELLs served by an ESL program and 11 served by a bilingual education program. At Sunset Park School (P.S. 169) there were more than 20 ELLs served by an ESL program in the 1st through 4th grades (and Kindergarten, 1st grade, and 4th grade for native Chinese-speaking ELLs). This school was also non-compliant for failing to provide bilingual education in the 4th grade for either native Spanish or Chinese speaking ELLs. At P.S. 131 more than 20 ELLs were served by an ESL program in Kindergarten and the 1st grade in addition to the school failing to provide a bilingual education program for the 2nd through 5th grades.

NYC Geographic District 20

In NYC Geographic District 20 there was one school that served more students through ESL rather than bilingual education programs. At John J. Pershing (J.H.S. 220) there were 39 ELLs served by an ESL program and only one served by a bilingual education program in the 7th grade. The school was also non-compliant for failing to provide a bilingual education program in the 6th grade.

NYC Geographic District 24

In NYC Geographic District 24 there were four schools that served more students through an ESL rather than bilingual education program. At Leonardo Da Vinci (I.S. 61) there were 58 ELLs served by an ESL program in the 6th grade, 65 in the 7th grade, and 47 in the 8th grade. At P.S. 16 there were 33 to 65 ELLs served by an ESL program in Kindergarten through the 4th grade. At Marino P. Jeantet School (P.S. 19) there were between 93 and 213 ELLs served by an ESL program in the school, but the most ELLs served by a bilingual education program was 63 in Kindergarten. At Elmhurst School (P.S. 89) there were between 72 and 108 ELLs served by an ESL program. In all grades, there were more students enrolled in an ESL rather than bilingual education program.

NYC Geographic District 32

In NYC Geographic District 32 there was one school that served more students through an ESL rather than a bilingual education program. At Suydam School (P.S. 123) there were over 20 ELLs served by an ESL program in Kindergarten through the 4th grade.

These examples demonstrate that more bilingual education classes may be needed in schools where they are already offered. When bilingual education programs were offered, it appears from the CR Part 154 applications that transitional bilingual education (TBE) programs were the most common form of bilingual education. Dual language programs were not as common.

At I.S. 61 Leonardo Da Vinci in NYC School District 24, the majority of parents reportedly selected bilingual education programs. However, when a program (such as dual language) is chosen by a parent but there are not enough parents making this request these parents are offered the option of transferring their child to a school that provides the program. Perhaps this is why there appears to be a need for more dual language classrooms in schools that offer the programs. For instance, during the 2006-2007 academic year at P.S. 89 Elmhurst School in NYC School District 24 there were 100
students in dual language programs and 99 Kindergarten students enrolled in free-standing ESL programs. This school reported that parents of students in Kindergarten through the 2nd grade chose dual language programs in a manner that exceeds the capacity of the number of dual language classrooms. Since there are no vacancies in dual language classrooms (especially in Kindergarten) the parents had the option of placing their children on a wait list for the current or next academic year. Parents of 3rd through 5th graders were reported to choose TBE programs, even though if available they would have chosen dual language programs. Further study is needed on the number of students transferred to receive the program of their choice or the number of students that enroll in a second-choice program to avoid being transferred.

Schools without CR Part 154 Applications

Ten (4%) of the 280 schools represented by Latino Assembly Members did not file a CR Part 154 application indicating that they did not apply for federal or state funds to support bilingual and free-standing ESL programs for ELLs for the 2008-2009 academic year. These schools were within NYC School Districts 4 (3 schools), 8 (2 schools), 10 (2 schools), 11 (1 school), 15 (1 school), and 20 (1 school). An important question is whether these schools received federal or state funds despite their failure to submit the required reports.

Conclusion

Overall, 35% of the schools examined were not in compliance with existing regulations. Of the 280 schools within our sample, 99 were out of programmatic or procedural compliance. A total of 51 schools or 18% did not provide required bilingual education programs. This is twice the percentage failing to provide a bilingual education program during the 2006-2007 academic year. An additional ten schools or 4% were not in procedural compliance for failing to file a CR Part 154 application to NYSED.

Within the majority of the schools, there is a strong preference for providing free-standing ESL over bilingual programs. Some schools indicate that this is due to parental preferences. However, when there are dozens and sometimes over one hundred students in free-standing ESL programs within a single school there is a need to investigate why all would opt for free-standing ESL over bilingual programs. Further, it appears that many schools simply do not provide bilingual education as an option. Based upon the CR Part 154 applications, at least 30% of the schools sampled should have offered bilingual programs. Otherwise, they deny the placement options parents have by regulation for their children.

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

Recommendations

Increased Monitoring and Oversight

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

Standardized Electronic Reporting

To ensure that elected officials, legislative staffs, the NYSED, and the general public are able to access the information needed regarding compliance in an efficient and accurate matter, we recommend that the Part 154 applications and related documents be transitioned into a computerized database that provides consistent documentation of compliance between school districts. This database should be easily accessed and allow for easy updating to correct errors.

Increased Certification

In New York State during the 2007-2008 academic year, 23% of the Spanish language Bilingual Education teachers were not properly certified. In the New York City region, 26% of the Spanish language Bilingual Education teachers were not properly certified.

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

**Improve Communication between Schools and Parents**

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

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

**Increased Funding**

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

Most of the funding received by the schools (sometimes all of the funding) is used to pay for salaries to either hire a new teacher or fund the teaching of additional programs (such as Saturday Schools or afterschool programs). Additionally, books, instructional materials, and staff development are provided with these funds. Considering the shortage of teachers, recruitment is critical for these schools and their ELLs. Funding must provide for more than teacher salaries and per pupil expenditures. Grants and other forms of support need to continue to flow towards community groups and research organizations to supplement and provide alternative sources of information for parents, schools, and lawmakers. Finally, schools and the NYSED need the staff resources necessary to ensure that the school information needed to monitor compliance is available. Proper documentation and analysis is indispensable to ensure that schools are able to apply to for the funds that are already available and for the state to ensure that the funds are most effectively used and the law enforced.

**Acknowledgement**

Thank you to NYLARNet’s Advisory Board members Carmen Pérez Hogan and Dr. Gladys Cruz for their guidance, support, commentaries and suggestions. While they certainly helped improve this report they are not responsible for any flaws that may remain in the final product.
Table 1. Latino Representatives and Percent Latino Population by Assembly District

<table>
<thead>
<tr>
<th>Assembly District</th>
<th>Elected Official</th>
<th>Percent Latino Population</th>
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</thead>
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<tr>
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</tr>
<tr>
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<td>Felix Ortiz</td>
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<tr>
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<td>Vito J. Lopez</td>
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<td>Naomi Rivera</td>
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<td>Marcos Crespo</td>
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</tr>
<tr>
<td>86</td>
<td>Nelson L. Castro</td>
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<table>
<thead>
<tr>
<th>School District</th>
<th>Latino Elected Official</th>
<th>Number of Schools</th>
<th>Schools Without CR Part 154 Applications</th>
<th>Schools Failing to Provide Program to Identified ELL(s)*</th>
<th>Schools Failing to Provide Bilingual programs</th>
<th>Total Schools out of Compliance</th>
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Source: CR Part 154 Applications. The schools that did not provide data filed reports, therefore the total not in compliance in this regard is not a duplicate number. *These are schools where ELLs (of any language) were identified, but not served.
### Table 3. Non-Compliant Schools Academic Year 2007-2008

<table>
<thead>
<tr>
<th>School</th>
<th>District</th>
<th>Number of ELLs in Bilingual Programs</th>
<th>Number of ELLs in ESL Programs</th>
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<td>Bay Shore Senior High School</td>
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<td>East Middle</td>
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<td>School</td>
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<td>Number of ELLs in ESL Programs</td>
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Table 3 (Cont.). Non-Compliant Schools Academic Year 2007-2008

<table>
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<tr>
<th>School</th>
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<th>Number of ELLs in Bilingual Programs</th>
<th>Number of ELLs in ESL Programs</th>
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<td>Evergreen School (PS 152)</td>
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### Table 3 (Cont.). Non-Compliant Schools Academic Year 2007-2008

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<th>Number of ELLs in ESL Programs</th>
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<td>School</td>
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<td>Number of ELLs in Bilingual Programs</td>
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<td>Nathan Hale (MS 293)</td>
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</table>

Source: CR Part 154 Applications. Students in programs includes all languages.
Endnotes

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

2 In the report for the 2006-2007 academic year, there were 281 schools represented by Latino Assembly members. P.S. 184 in NYC District 7 closed at the end of the 2006-2007 academic year and therefore the school was not included in this report.


5 These Assembly members are: Philip Ramos, 6th Assembly District; Francisco P. Moya, 39th Assembly District; Felix Ortiz, 51st Assembly District; Vito J. Lopez, 53rd Assembly District; Robert J. Rodríguez, 68th Assembly District; Guillermo Linares, 72nd Assembly District; Peter M. Rivera, 76th Assembly District; José Rivera, 78th Assembly District; Naomi Rivera, 80th Assembly District; Carmen E. Arroyo, 84th Assembly District; Marcos Crespo, 85th Assembly District; Nelson L. Castro, 86th Assembly District.

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


10 See footnote 4.

11 See http://www.emsc.nysed.gov/biling/


13 The student to teacher ratios are obtained by dividing the number of all ELLs identified in the school (native Spanish speaking and other languages) as reported in the A-2 Building Report by the number of properly certified teachers reported in the A-5 Report. When this results in a fraction (in this example 26.6 students per a teacher) the number is rounded up, as a student cannot be a fraction of a person. Teaching assistants/paraprofessionals and uncertified teachers were not counted towards the student to teacher ratio.

14 In the report for the 2006-2007 academic year, there were thirty schools represented by Latino Assembly members in NYC District 7. P.S. 184 closed at the end of the 2006-2007 academic year and therefore the school was not included in this report.

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

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


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

20 These quotes are from the data collected for the first assessment of local compliance and are referring to the 2006-2007 academic year. See Bilingual Education Provision in New York State: An Assessment of Local Compliance, NYLARNet Report, Summer 2009, http://www.nylarnet.org.

21 Information obtained from a letter dated June 19, 2009 from Mona Silfen, Principal of Anna M. Short School. The letter was located in the CR Part 154 file for NYC Geographic District 4 in the NYSED Office of Bilingual Education and Foreign Language Studies.

22 Information obtained from a letter dated June 22, 2009 from Israel Soto, Principal of James Weldon Johnson School. The letter was located in the CR Part 154 file for NYC Geographic District 4 in the NYSED Office of Bilingual Education and Foreign Language Studies.

23 Information obtained from a letter dated June 20, 2009 from J. David Jimenez, Principal of the Manhattan Center Science and Mathematics (P.S. 435). The letter was located in the CR Part 154 file for the NYC Geographic District 4 in the NYSED Office of Bilingual Education and Foreign Language Studies.

24 This example is from the 2006-2007 academic year.


26 This is based upon the 51 of the 280 schools that were non-compliant for failing to provide services and the 30 schools that were compliant, but had enough ELLs served by an ESL program to indicate a need for more bilingual education programs.


29 See http://www.teachnycprograms.net/
NYLARNNet

The New York Latino Research and Resources Network (NYLARNNet) was created to bring together the combined expertise of U.S. Latino Studies scholars and other professionals from five research institutions within New York State to conduct non-partisan, policy relevant research in four target areas: Health, Education, Immigration and Political Participation. This network is constituted by recognized scholars and other professionals who are engaged in critical thinking, dialogue, and the dissemination of information on U.S. Latino issues. NYLARNNet addresses a broad spectrum of concerns related to the four target areas mentioned above, and provides information services to legislators, public agencies, community organizations, and the media on U.S. Latino affairs. NYLARNNet also pays special attention to the realities and needs of the largely neglected Latino populations throughout New York State and outside of New York City.

This work was made possible in part through funding from legislative initiative grants from the New York State legislature, supported by Assembly Speaker Sheldon Silver, and sponsored by Assemblyman Peter M. Rivera and Assemblyman Félix Ortiz, Chair of the Assembly’s Puerto Rican/Hispanic Task Force. They are not responsible for the contents of this report.