

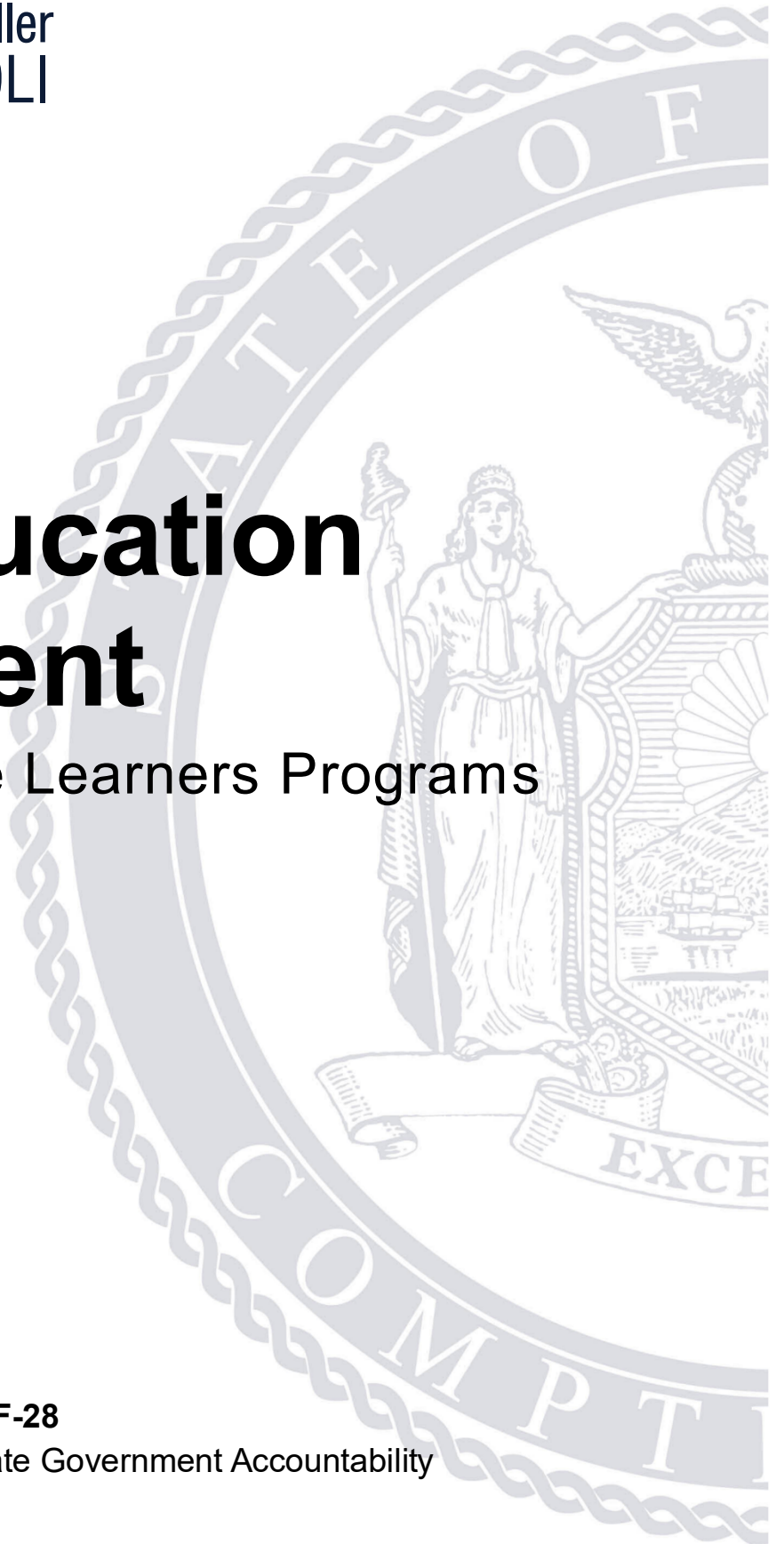
New York State Comptroller
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State Education Department

English Language Learners Programs
(Follow-Up)

August 2026 | Report 2025-F-28

Prepared by the Division of State Government Accountability



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Authority

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the State Education Department to implement the recommendations contained in our initial audit report, *English Language Learners Programs* (Report [2022-S-30](#)).

Background, Objective, and Scope

According to the U.S. Department of Education, there is a well-documented achievement gap between students learning the English language and their English-proficient peers, as demonstrated through lower test scores and lower graduation rates. Ensuring that English Language Learners (ELLs)—students who, by reason of foreign birth or ancestry, speak or understand a language other than English, speak or understand little or no English, and require support to become proficient in English—receive appropriate support to improve English proficiency can result in better academic outcomes and engagement in their communities.

State Education Department (SED) data shows that ELL enrollments are on the rise in New York, with the number of ELL students outside of New York City increasing more than 19% from 2019–20 to 2024–25. Linguistic isolation is a challenging aspect of transitioning to a new country, and courses provided in their home language can offer additional support to these students as they learn English, providing them with a greater ability to participate in their communities, as well as keep them engaged in school and improve their academic outcomes.

Title III of the federal Elementary and Secondary Education Act of 1965 (Title III), as amended by the Every Student Succeeds Act (ESSA) of 2015, seeks to ensure that ELL students attain English language proficiency and meet the same academic standards as their peers. Part 154 of the Regulations of the Commissioner of Education (Part 154) specifies standards for identifying and providing educational services to ELLs in New York State. Under Part 154, students are generally entitled to receive an education in the school district where they live, regardless of the language they speak. This includes the right to receive all core content instruction and to learn English and other subjects at the same academic level as all other children.

Within SED, the Office of Bilingual Education and World Languages (OBEWL) enforces Part 154 and provides ongoing guidance, professional development, resources, and assistance to school districts on issues related to the education of ELLs. During the 2024–25 school year, excluding New York City schools and charter schools, OBEWL was responsible for 125,387 ELLs at 585 public school districts with approximately 200 language backgrounds. Additionally, OBEWL oversees the Regional Bilingual Education Resource Networks (RBERNs), which provide developmental and technical support and guidance to school districts with ELL students.

School districts identify ELLs and the services to which they are entitled through questionnaires, individual interviews, and tests. Districts are required to provide English as a New Language (ENL) service to all eligible ELLs and are required to make Bilingual Education (BE) programs available in all home languages spoken by 20 or more ELLs of the same grade and home language districtwide. Part 154 allows SED to grant temporary exemptions from BE program

requirements. Districts can obtain a Bilingual Education Program Waiver (waiver) if they can demonstrate that they don't have qualified staff, are actively trying to recruit qualified staff, and have an alternate plan for providing services to eligible students. Part 154 also mandates that school districts develop a Comprehensive ELL Education Plan (Comprehensive Plan) to meet the educational needs of ELLs.

All school districts must report student data to SED annually via the Student Information Repository System (SIRS), which includes indicating whether students are ELL eligible, along with the services they received. OBEWL monitors school districts' compliance with Part 154 through review of Comprehensive Plan updates and attestations, as well as periodic compliance reviews (e.g., Building Reviews) and investigations as needed. OBEWL may require school districts to develop corrective action plans (CAPs) to address statutory or regulatory violations that cannot be resolved through informal intervention.

The objective of our initial audit, issued on September 18, 2024, was to determine whether SED was adequately overseeing whether school districts were providing services to ELLs as required. The audit covered the period from July 2019 through November 2023. The audit found that SED needed to improve its oversight and work to remove barriers to ensure school districts are providing the services to which ELLs are entitled. Specifically, we found school districts lacked BE programs and certified BE teachers, could not consistently provide sufficient documentation to support that ELLs completed the identification process and received required ENL services, and did not always submit accurate data to SIRS or share information regarding ELL transfer students. Furthermore, we found gaps in program monitoring, as OBEWL did not conduct any Building Reviews during our audit scope period.

The objective of our follow-up was to assess the extent of implementation, as of March 2026, of the seven recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

SED officials made significant progress in addressing the issues we identified in the initial audit report. All seven of the initial report's audit recommendations were implemented.

Follow-Up Observations

Recommendation 1 – Enhance monitoring activities and guidance to ensure school districts:

- Comply with Part 154.
- Provide required services.
- Retain necessary documentation.

Status – Implemented

Agency Action – Since the initial audit, SED added requirements for school districts to submit evidence of compliance with Part 154. Beginning with the 2024–25 school year, school districts

must submit certain documents to SED as part of their annual Comprehensive Plan updates, including:

- A district-specific standard operating procedure that complies with the ELL identification process.
- A school building testing schedule that complies with annual testing requirements to assess English language proficiency.
- Examples of parent/guardian notifications.
- An example of a building-wide schedule showing that students are receiving appropriate ENL and BE service hours.
- The school district's professional learning plan.
- A step-by-step description of the individual interview process.

Additionally, OBEWL developed a submission guide to direct school district administrators in completing Comprehensive Plan updates. This guide identifies the specific subsections of Part 154 that are addressed by each Comprehensive Plan and specifies documentation that is required to show evidence of compliance, so that districts can easily meet these requirements.

OBEWL generates reports based on the data school districts submit in their Comprehensive Plans. These reports identify compliance issues, such as school districts in need of new or expanded bilingual programming, school districts in need of a standard operating procedure to ensure the proper identification of ELLs, and school districts with underserved ELLs. All RBERNs, as part of their contractual obligations, are required to review the Comprehensive Plan reports within their regions and identify areas of improvement for their respective school districts. The RBERNs use this information along with their own review of the Comprehensive Plan to provide recommendations to OBEWL. OBEWL then reviews this information and notifies the district either through a letter to the superintendent (when a district needs a waiver) or a request for resubmission of the Comprehensive Plan.

Recommendation 2 – Continue to work with the Board of Regents to increase the number of certified instructors.

Status – Implemented

Agency Action – To teach ENL and BE classes, educators are required to hold professional certificates in English for Speakers of Other Languages (ESOL) and/or bilingual extensions (extensions of base teaching certificates), which authorize the holder not only to teach the subject they are already certified in (e.g., mathematics, geography) but also to instruct ELLs in BE programs. SED collaborated with the Board of Regents to modify the requirements for supplementary certifications for teachers and supplementary bilingual extensions. In September 2025, a proposal was made to the Board of Regents to permanently amend Sections 80-2.9, 80-4.3, and 80-5.18 of the Regulations of the Commissioner of Education relating to flexibilities for the supplementary certificate and supplementary bilingual education

extension requirements in response to the influx of recently arrived and asylum-seeking students. The proposal was adopted at the October 2025 meeting of the Board of Regents.

According to SED officials, this flexibility reduces the requirements for currently certified teachers to earn a supplementary ESOL certification or bilingual extension, which should enable more teachers to become available to support ELLs. Supplementary certificates give teachers time to complete the requirements for a professional certification while addressing the staffing needs of their school district.

Recommendation 3 – Reinforce waiver requirements for schools not offering BE programs for all applicable home languages and grade levels.

Status – Implemented

Agency Action – SED updated its procedures for reviewing Comprehensive Plans to include a process for verifying if a waiver was completed. OBEWL notified eight school districts, through the return of their Comprehensive Plan, that they were required to submit a waiver for the 2024–25 school year. For the 2025–26 school year, OBEWL staff reviewed Comprehensive Plans and identified 12 districts that qualified for waivers. OBEWL sent letters to these school districts’ superintendents referring them to the waiver online form and explaining the stipulations that must be met to be granted a waiver. The waiver is available for school districts seeking an exemption from providing BE programs in languages spoken by less than 5% of the total statewide ELL population.

For languages without a content specialty test available for bilingual teachers to obtain certification (e.g., Burmese, Karen, Kinyarwanda, Somali, and Swahili), districts are asked to complete the form, indicate that the test is not yet available for that language, and provide a plan for how the district will provide alternate home language supports. For other languages, in addition to providing a plan, districts must demonstrate the efforts being made to recruit qualified BE teachers in the languages that are needed to establish bilingual programs, the plans for ongoing and intensive efforts to recruit qualified BE teachers in that language, and a plan for how the district will provide alternate home language supports. This can include, but is not limited to, bilingual teacher assistants or aides, and heritage language programs.

Recommendation 4 – Work with school districts to help them to obtain and retain required documentation regarding ELL identification and provision of services.

Status – Implemented

Agency Action – During the 2024–25 school year, RBERNs held 59 training events for district administrators and teachers containing information on ELL identification and programming. We reviewed course descriptions and available presentation slides from these events and determined that 41 events directly addressed the identification of ELLs, and 15 events directly addressed the provision of services. Training event topics included the identification process from the questionnaire to informed placement, administering the Identification Test, and required ELL services and what these services should look like.

The ELL Leadership Council, made up of OBEWL and ENL district administrators for schools with high levels of ELL enrollment across the State, meets regularly to discuss issues and best

practices related to ELLs. OBEWL officials reminded district administrators of ELL identification and placement steps, and of the regulations surrounding retention of identification and review records, during meetings held in September 2024 and September 2025.

Recommendation 5 – Resume Building Reviews at school districts in order to monitor compliance with Part 154 in a way that doesn't rely on self-reported information.

Status – Implemented

Agency Action – Following the audit report's issuance through March 2026, OBEWL conducted 14 on-site reviews that involved monitoring for compliance with Part 154 at 11 school districts. We reviewed agendas and follow-up letters to verify that the site visits took place.

Eight of the school districts were visited as part of SED's coordinated monitoring reviews. These reviews are designed to assess districts' adherence to programmatic and fiscal requirements related to ESSA-funded programs, which include Title III. As part of the review process, selected school districts are required to provide evidence of compliance related to testing, identifying, and placing ELLs; Comprehensive Plan reporting; and teacher certification. OBEWL staff review this documentation before conducting on-site visits. OBEWL officials told us that the on-site reviews involve meeting with administrators, teachers, and students; verifying Part 154 documents; and observing classrooms. SED's Office of ESSA-Funded Programs provides the district with ratings on compliance indicators along with notes detailing strengths, required actions, and recommended actions. These ratings and notes include the results from OBEWL's review. SED will inform the district that the coordinated monitoring review process is complete only after the district has satisfactorily addressed all required and corrective actions. OBEWL staff were scheduled to visit eight additional school districts in April and May 2026 as part of SED's coordinated monitoring for the 2025–26 school year.

OBEWL staff conducted five on-site visits to two school districts with CAPs for targeted compliance monitoring of areas with previously cited deficiencies. For example, OBEWL staff visited one district to observe and monitor adjustments the district made to its ELL identification and placement protocol. OBEWL presented the district with recommendations following the visit. The remaining on-site review involved monitoring a school district's plan to address various priority action areas related to the development of a BE program.

Recommendation 6 – Work with school districts to improve the reliability of program and participation data.

Status – Implemented

Agency Action – SED officials stated that OBEWL collaborates with SED's Office of Information and Reporting Services to ensure the accuracy of school district responses by comparing the information in Comprehensive Plan updates with district data provided in SIRS. SIRS is updated on an ongoing basis to ensure the data being used for reviews represents the current state of each district. OBEWL officials said that staff will continue to provide direction to districts on items that need correction or clarification to ensure the accuracy of the data they provide. Additionally, OBEWL officials told us that they discuss the importance of accurate data with school districts during ELL Leadership Council meetings.

Further, SED implemented edits for the SIRS data for students designated as ELLs. For example, if a student is designated as an ELL and their home language is entered into SIRS as English, an error message will appear requesting that the school district double-check the accuracy of the home language.

Recommendation 7 – Provide guidance to school districts to enable efficient sharing of information.

Status – Implemented

Agency Action – SED developed an updated Comprehensive Plan submission guide, which included guidance to school districts related to the transfer of records. The guidance directs school districts to transfer a student's records in a timely manner when a student transfers to a new district. The student's records include the completed questionnaire, record of the individual interview, parent notifications, and Identification and Achievement Test results. The new district must honor the ELL status determination from the original district.

We thank the management and staff of SED for the courtesies and cooperation extended to our auditors during this follow-up.



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