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August 4, 2006

TO: District Superintendents
Superintendents of Public Schools
Administrators of Charter Schools
Administrators of Non-Public Schools

FROM: Jean C. Stevens *Jean C. Stevens*

SUBJECT: LEP/ELL Student Statewide Assessment Policy/Title I Requirements

The *No Child Left Behind Act* (NCLB) requires that the language arts proficiency of all students who are limited English proficient / English language learners (LEP/ELL) be measured annually as part of school and district accountability. NCLB also requires that the English proficiency of all LEP/ELL students be annually assessed. The New York State English as a Second Language Achievement Test (NYSESLAT) was developed as the assessment of English language proficiency for LEP/ELL students. Prior to the 2006-07 school year, LEP/ELL students who had attended school in the United States for less than three consecutive school years were allowed to take the NYSESLAT in lieu of the Grades 4 and 8, and in 2005-06, the Grades 3-8, English Language Arts (ELA) assessments to meet Title I accountability requirements.

New York has been notified by the U.S. Department of Education (USDOE), based upon USDOE's NCLB standards and assessment peer review process, that NYSESLAT can no longer be used for Title I accountability purposes, except as described below for students newly arrived in the United States. USDOE determined that New York's use of NYSESLAT for ELA accountability was not consistent with the requirements of NCLB and directed New York to come into compliance with NCLB by the end of the 2006-07 school year. As a result, New York must administer its ELA assessment to LEP/ELL students who, as of January 3, 2007, have been enrolled in school in the United States (excluding Puerto Rico) for one year or more.

New York will comply with these directives. However, the Department will continue to discuss and explore with USDOE alternate ways of assessing LEP/ELL students. To that end, New York will participate in the LEP Partnership announced by USDOE on July 27, 2006. A meeting will be held in Washington, D.C. on August 28-29. For more information on the LEP Partnership, please see USDOE's website at: <http://www.ed.gov/news/pressreleases/2006/07/07272006.html>. In addition, the Department will use the data obtained from the LEP/ELL students taking both the NYSESLAT and the ELA tests to research other approaches to the testing of and accountability for these students.

LEP/ELL students taking the ELA test may be provided with the following testing accommodations: extended time, separate locations, third reading of listening selections, and bilingual dictionaries/glossaries. Only those LEP/ELL students who, on January 3, 2007, were enrolled in school in the United States (excluding Puerto Rico) for less than one year, may take the NYSESLAT in lieu of the ELA test. For purposes of determining adequate yearly progress, such students will be counted for participation only; NYSESLAT results will not be included in the calculation of the ELA Performance Index for a subgroup, school, or district.

Please note that these Title I policy adjustments do not affect other State assessments. All LEP/ELL students are required to participate in the State's mathematics, science, and social studies tests. LEP/ELL students may take the mathematics, science, and social studies tests in English or an alternative language, whichever is better for the student. Each of these tests is provided in Chinese (Traditional), Haitian Creole, and Spanish. The mathematics tests are also provided in Korean and Russian. These tests may also be translated orally into other languages for those LEP/ELL students whose first language is one for which a written translation is not available from the Department. Schools are permitted to offer LEP/ELL students specific testing accommodations when taking these tests. These accommodations are detailed in the respective test manuals.

The Department will continue to work closely with USDOE in exploring the benefits and options presented at the upcoming partnership initiative and will seek options that will best serve and assess LEP/ELL students. You will be advised of future USDOE initiatives and progress on these ongoing discussions. The Department will continue to collaborate with the LEP/ELL Statewide Committee of Practitioners for its professional input, recommendations, and advice on these critical matters.

Within the next few weeks you will receive State assessment ordering forms and instructions for the January 2007 administration of the Grades 3–8 ELA Tests. Be sure to include LEP/ELL students in your ELA count, with the exception of those students who, as of January 3, 2007, have been enrolled in school in the United States for less than one year, as indicated above. Please keep in mind that all LEP/ELL students are required to take the NYSESLAT to annually assess the student's English proficiency. Ordering instructions for the spring 2007 administration of NYSESLAT will be sent to schools in the winter of the 2006-07 school year.

We will keep you informed of new developments regarding the ELA accountability issues. If you have any additional questions, please contact David Abrams, Assistant Commissioner for Standards, Assessment and Reporting, at 518-473-7880.