



Rights of English Language Learners

How is my child identified as an English Language Learner (ELL)?

- In New York State, all newly enrolled students and students re-enrolling after two years are required to complete a Home Language Questionnaire (“HLQ”).
- The HLQ must be conducted at the time of enrollment.

What is an HLQ?

- The purpose of the questionnaire is to identify the language(s) spoken in the home and whether the student should be assessed for English as a New Language (“ENL”) services (formerly known as English as a Second Language or “ESL”).

Why must a HLQ be conducted?

- Through this survey, along with an informal interview, a qualified teacher or other professional staff member will get to know what languages are used in the home.
- If the survey and the interview indicate that a language other than English is used in the home, your child must take an English language proficiency test called the New York State Identification Test for English Language Learners (“NYSITELL”).

What happens after the completion of the NYSITELL?

- The NYSITELL results are then used to assess your child’s English language level (Entering, Emerging, Transitioning, Expanding, and Commanding).
- If your child scores at Entering (Beginning), Emerging (Low Intermediate), Transitioning (Intermediate), or Expanding (Advanced), he or she is identified as an ELL.
- If a student scores at the Commanding (Proficient) level he or she is not identified as an ELL.
- ELLs are entitled to receive Bilingual Education (“BE”) or English as a New Language (“ENL”) services.

What do teachers do with the NYSITELL results?

- The NYSITELL results help teachers better prepare and serve their students. Teachers use this information to identify a student’s English language strengths and needs in listening, speaking, reading, and writing.
- These results also guide the school in programming the minimum number of minutes of ENL instruction per week for the student.

- The process of identification must be conducted prior to the beginning of the school year or no later than within the first ten days of a student's enrollment.

What are the programs available for English Language Learners?

Currently, New York State offers two approved program models for ELLs in state school districts:

1. Bilingual Education:

- a. The Transitional Bilingual Education ("TBE") Program
- b. The One or Two-Way Dual Language Program ("OWDL"/"TWDL")

2. English as a New Language (ENL) Program

- **If there are 20 or more students at the same grade level in the school district who speak the same home language, the school district must provide a Bilingual Education program.**
- Both program models support the academic achievement of ELLs, but the instructional time spent in the home or primary language and in English differs in each model. Families may choose to have their children participate in a Transitional Bilingual Education, a One or Two-Way Dual Language, or an English as a New Language program.
- If these programs are not available at the local school, you may request a transfer to a school that offers your program of choice. ELLs in Transitional Bilingual Education or One or Two-Way Dual Language programs are mandated to receive the same amount of specific units of ENL instruction as students in the ENL model.
- SIFE, or Students with Interrupted/Inconsistent Formal Education, is another program that is offered to students who are identified as being an English Language Learner. Students are identified as being a SIFE during the individual interview that takes place prior to the administration of the NYSITELL.
- Students who are identified as SIFE usually display low or no literacy in native language, little acquaintance with school culture, few or no academic literacy skills, and little academic knowledge.
- At a minimum, ELLs are mandated to receive ENL instruction.

Can I choose which program to enroll my child in?

- Yes. As a parent or guardian of an English Language Learner, you have the right to choose which program you want for your child. Once you select the right program for your child, he or she must be placed in the program of your choice within 10 days of enrollment.

What if the school does not offer the program I want?

- If your selected program is not available at your child's current school, the school will offer you the following two options:
 - **Option 1:** You may keep your child enrolled at the current school in a different English Language Learner program. If you choose this option, the school will immediately place your child in that program.
 - **Option 2:** You may transfer your child to a school that offers the program you're interested in. Your current school will work with the school on your child's transfer. In the meantime, your child will temporarily be placed in an English Learner program at the current school until the transfer is complete.

How will I know how well my child is performing in a program?

- Your child's school will hold parent-teacher conferences and annual ELL parent meetings to let you know how your child is performing in school.
- In addition, each spring your child will be given the New York State English as a Second Language Achievement Test (NYSESLAT). This test measures your child's progress in learning English. It is given to all English Language Learners enrolled in grades K-12 in New York State schools.
- The results allow students, teachers, and parents to understand each student's strengths and areas that need improvement, such as speaking, reading, and writing.
- The results of this test are also used to determine if your child will continue to be identified as an English Language Learner in the next school year.

What state tests are ELLs required to take?

ELLs must take the same state exams as English-speaking students with 3 important exceptions:

1. ELLs do not take the Grades 3-8 English exam during their first year in the United States.
2. ELLs who arrive in the United States in 11th or 12th grade may be excused from taking one or two Regents exams.
3. Only ELLs are required to take the NYSESLAT.

Do ELLs receive testing accommodations?

- Yes, ELLs may receive testing accommodations because they are not yet fluent English speakers.
- Former ELLs also may receive accommodations up to two years after exiting ELL status.
- **Note:** ELLs do not receive testing accommodations on the NYSESLAT because the test measures English language skills. ¹

¹ C.R. 154-3.4

What testing accommodations can ELLs receive?

There are different types of accommodations that students may receive. Some common examples are:

- Time extension (e.g. if a test is 1 hour long, an ELL may be given 1.5 hours to complete the test).
- Separate testing location.
- Bilingual dictionaries and/or glossaries.
- Written translations of exam.
- Oral translations of exams for languages in which written translations are not available.

When can my child exit from ELL programs?

There are four ways ELLs can exit ELL status:

- **Grades K-12:** Scoring at the Commanding/Proficient level on the NYSESLAT.
- **Grades 3-8:** Scoring at the Expanding/Advanced level on the NYSESLAT and 3 or above on the NYS English Language Arts (ELA) assessment in the same year.
- **Grades 9-12:** Scoring at the Expanding/Advanced level on the NYSESLAT and 65 or above on the Regents Exam in English in the same year.
- **ELLs with disabilities:** An alternative method of assessment will be used to determine language proficiency (pending approval).
- Once an ELL has exited ELL status, he or she becomes a former ELL. Former ELLs are entitled to receive two years of former ELL support services.

What rights do I have as a parent or guardian of a child who is an ELL and is receiving or may need special education services?

- You have the right to help create and choose your child's special education program.
- If your primary language is not English, you have the right to translation services (written words from documents put into your language).
- You have the right to interpretation services (spoken words put into your language) so that you can understand and help create your child's education program.

Schools and Committees on Special Education (CSEs) are responsible for translating documents and for making sure that interpreters are at meetings when parents are present. The school is required to provide these services for you and may not ask or force you to bring someone to interpret at your meetings.²

- However, you still can choose to bring an adult friend or relative to interpret for you at meetings.
- Under no circumstances should the child be used as an interpreter.
- In New York public schools, parents who do not speak English have a right to free translation and interpretation services in order to communicate with their children's school and participate in their children's education.
- Parents have the right to have their children's school records and other important documents translated into their native language.

² IDEA 34 C.F.R. § 300.503(c)

What rights do I have regarding the translation of school-related documents?

A translator converts written material from one language into a different language. You have the right to receive the following information in your primary language:

- **Notice of consent for evaluation:** This is a letter the school district must send you when they want permission to evaluate or test your child to figure out if s/he needs special education services.
- **Meeting notice:** This letter lets you know that a meeting has been scheduled.
- **Evaluation reports:** These reports are made from the results of tests done by the school district to tell whether your child has learning-related disabilities and what kind of services s/he might need.
- **Final notice of recommendation:** This letter lets you know what changes the school district plans to make to your child's special education services.
- **Individualized Education Program (IEP):** This document describes what special education program and services your child should receive.
- **Report Cards/Progress Reports:** These documents explain how your child is doing in school.
- **Procedural Safeguards Notice:** This document explains what your rights are as a parent of a child who is receiving or might need special education services.
- **Mediation Agreement:** This is a legal agreement that is made after a meeting (a "mediation session") between you and the school district that explains how you have resolved a disagreement over your child's special education program.
- **Resolution agreement:** This is a legal agreement that is made during a meeting (a "resolution session") between you and the school district that can happen before an impartial hearing. The agreement explains how you have resolved a disagreement about your child's special education program.
- **Impartial hearing decision:** When you and the school district cannot agree about your child's special education program (and cannot agree at a mediation or resolution session), you can present your case at an impartial hearing to a hearing officer who makes a decision about what programs and services your child has the right to receive from the school district. This is a written decision made by the hearing officer after the impartial hearing.
- Additionally, you have the right to receive translated documents that are sent to all parents. This may include information about registering your child, applying for and selecting a school, and how a child's success in school is measured. In addition, you should also receive translated information about the conduct, safety, and discipline of your child.

What rights do I have regarding the interpretation of school-related meetings?

An interpreter converts any spoken material from one language into a different language. You have the right to an interpreter fluent in your primary language in the following situations:

- **PTA meeting:** You should receive interpretation services at Parent Teacher Association (PTA) meetings held at your child's school.
- **IEP meeting:** A meeting to create, discuss, or go over your child's special education program, which is called the Individualized Education Program (IEP).

- **CSE review:** A meeting to go over your child’s IEP with the CSE. The CSE is part of the Board of Education and is in charge of special education.
- **Mediation Session:** A meeting between you, the CSE or school, and someone who does not take sides who tries to help resolve disagreements about your child’s special education program
- **Resolution session:** A meeting between you and the CSE that happens before an impartial hearing where you try to agree about your child’s special education program.
- **Impartial Hearing:** A hearing that happens when you and the CSE cannot agree about your child’s special education program and where your case is presented to an impartial hearing officer, a person who acts like a judge and makes the final decision about what programs and services your child has a right to receive.
 - What if I disagree with the decision of the Impartial Hearing Officer?
 - If you disagree with the decision of the Impartial Hearing Officer (IHO), you have the option to appeal the decision to the New York State Office of State Review.
 - What happens if I decide not to appeal the decision of the IHO?
 - If you decide not to appeal, you must follow the final determination of the IHO.³

Bilingual Education

What is SIFE?

- SIFE, or Students with Interrupted/Inconsistent Formal Education, is a student identified as an English Language Learner who has attended school in the United States (the 50 States and the District of Columbia) for less than twelve months and is two or more years below grade level in literacy in their home language and/or math due to inconsistent or interrupted schooling prior to arrival in the United States (the 50 States and the District of Columbia).⁴

How is a student identified as a SIFE?

- For a student to be identified as a SIFE, he/she first has to be identified as an English Language Learner (ELL).

After the student has been identified as an ELL, what happens next?

There are six steps of SIFE identification:

1. Administer the Home Language Questionnaire (“HLQ”). The HLQ indicates if the student’s home/primary language is other than English.
2. Conduct individual interviews. The interview is conducted in English as well as in the student’s home/primary language.
 - The interview and all future oral and written communications must be conducted with a qualified translator/interpreter provided by a school/ district.
3. The New York State Identification Test for English Language Learners (“NYSITELL”) is administered.

³ 34 C.F.R. § 104.36

⁴ EL §3204-8

- For students with disabilities, approved testing accommodations per the student’s IEP should be provided.⁵
4. SIFE oral interview questionnaire is administered. This questionnaire determines potential SIFE status.
 5. Administer multilingual literacy SIFE Screener (“MLS”).
 6. Administer writing screener to determine the student’s basic writing skills in his or her home/primary language.

What is Transitional Bilingual Education?

- Transitional Bilingual Education (“TBE”) Programs offer students of the same home/primary language the opportunity to learn to speak, understand, read, and write in English while continuing to learn academic content in their home/primary language.
- The students’ home/primary language is used to help them progress academically in all content areas while they acquire English.
- The goal of a TBE Program is to provide students with the opportunity to transition to a monolingual English classroom setting without additional supports once they reach proficiency. Even though the amount of English instruction students receive will increase over time, in a TBE program, there will always be home/primary language instruction and supports, allowing students the opportunity to develop bilingually.⁶

What are One or Two-Way Dual Language Programs?

- These programs are designed to help native and nonnative English speakers achieve bilingualism (the ability to speak fluently in two languages), biliteracy (the ability to read and write in two languages), cross-cultural competence, and academic proficiency equal to that of students in non-ELL programs.
- The **One-Way** Dual Language Program is primarily composed of students who come from the same home/primary language and/or background.
- The teacher provides instruction in both English and the home/target language.
- The **Two-Way** Dual Language Program includes both native English speakers and ELLs. The teacher or teachers provide instruction in both English and the home/primary language.
- In the majority of Dual Language Programs, the students receive half of their instruction in their home/primary language and the remainder of their instruction in the target language. Depending upon the model, the percentages of English and home/target language instruction will vary.
- For example, in a 90%-10% model, a greater percentage of the instruction is in the target language other than English and increases over time until reaching 50%-50%. The goal of these programs is for students to develop literacy and proficiency in English and in the home/target language.

⁵ CR section 154-3.3 (a)(7)

⁶ CR section 154-2

What is the English as a New Language program?

- ENL Instruction emphasizes English language acquisition. In an ENL program, language arts and content-area instruction are taught in English using specific ENL instructional strategies.
- Some content area classes are Integrated ENL classes. Students receive core content area and English language development instruction, including the use of the home/primary language as support and appropriate ELL instructional supports to enrich comprehension.
- Integrated ENL classes are taught by a teacher dually certified in the content area and ENL or are co-taught by a certified content area teacher and a certified ENL teacher.
- In a Stand-alone ENL class, students receive English language development instruction taught by a NYS-certified teacher of English to Speakers of Other Languages (ESOL) in order to acquire the English language needed for success in core content areas.
- This program typically serves ELL students from many different home/primary language backgrounds whose only common language is English and therefore cannot participate in a bilingual program.

What are the differences among these programs?

- Dual Language Programs use instruction in both languages and aim to develop biliteracy and bilingualism. The primary goals of Transitional Bilingual Education are to ensure mastery of grade-appropriate academic skills and knowledge and facilitate the process of learning English by using the home/primary language. In ENL classrooms and models, instruction is primarily in English and home/primary language supports are offered.

What are some problems of ELL/SIFE programs?

- There is a lack in the collection of data regarding the demographics, characteristics, and performance of students within these programs.⁷
- It is not clear whether students in these programs are being properly identified as needing special education services and/or whether or not their special education services are being coordinated with any ELL or SIFE services.
- Students with interrupted formal education (SIFE students), especially in the higher grades, may be below grade level in some or all subjects when they enter a school district.⁸ School districts may lack the appropriately specialized programs to meet their needs.

⁷ See STUDENTS WITH INTERRUPTED FORMAL EDUCATION: A CHALLENGE FOR THE NEW YORK CITY PUBLIC SCHOOLS (MAY 2010), available at <http://www.advocatesforchildren.org/SIFE%20Paper%20final.pdf?pt=1>

⁸ Maria Santos, Office of English Language Learners, New York City Department of Education, Presentation “Students with Interrupted Formal Education (SIFE) Strand” to the New York State Association for Bilingual Educators (Mar. 3, 2007).

- These programs lack the services to help children properly acclimate to the U.S. school system and attend to their socio-emotional needs (poverty, post-traumatic stress disorder (PTSD), family separation or reunification, etc.).