EQUITY IN EDUCATION for NYS ENGLISH LANGUAGE LEARNERS

FALL 2016
EQUITY
[EK-WI-TEE]

1. THE QUALITY OF BEING FAIR OR IMPARTIAL; FAIRNESS; IMPARTIALITY:
   THE EQUITY OF SOLOMON.
   SYNONYMS: DISINTEREST, EQUITABLENESS, IMPARTIALITY, FAIR-MINDEDNESS, FAIRNESS, JUSTNESS, EVENHANDEDNESS, OBJECTIVITY; JUSTICE, PROBITY.
   ANTONYMS: BIAS, DISCRIMINATION, INEQUITY, INJUSTICE, PARTIALITY, PARTISANSHIP, PREJUDICE, UNFAIRNESS, UNREASONABLENESS; INJUSTICE.

2. SOMETHING THAT IS FAIR AND JUST: THE EQUITIES OF OUR CRIMINAL-JUSTICE SYSTEM.

3. LAW. ALSO CALLED CHANCERY. THE APPLICATION OF THE DICTATES OF CONSCIENCE OR THE PRINCIPLES OF NATURAL JUSTICE TO THE SETTLEMENT OF CONTROVERSIES.
   ALSO CALLED CHANCERY. A SYSTEM OF JURISPRUDENCE OR A BODY OF DOCTRINES AND RULES DEVELOPED IN ENGLAND AND FOLLOWED IN THE U.S., SERVING TO SUPPLEMENT AND REMEDY THE LIMITATIONS AND THE INFLEXIBILITY OF THE COMMON LAW.

4. THE MONETARY VALUE OF A PROPERTY OR BUSINESS BEYOND ANY AMOUNTS OWED ON IT IN MORTGAGES, CLAIMS, LIENS, ETC.: OVER THE YEARS, THEY HAVE CAREFULLY AVOIDED TAPPING INTO THEIR HOME EQUITY FOR UNNECESSARY EXPENSES.

5. INFORMAL. OWNERSHIP, ESPECIALLY WHEN CONSIDERED AS THE RIGHT TO SHARE IN FUTURE PROFITS OR APPRECIATION IN VALUE.

6. THE INTEREST OF THE OWNER OF COMMON STOCK IN A CORPORATION.

7. (IN A MARGIN ACCOUNT) THE EXCESS OF THE MARKET VALUE OF THE SECURITIES OVER ANY INDEBTEDNESS.
Searches related to Equity

equity in law
equity vs equality
home equity
equity movie
equity in accounting
equity film
equity examples
equity in education
Educational equity, also referred to as equity in education, is a measure of achievement, fairness, and opportunity in education.
The OECD has recommended ten steps which would reduce school failure and dropout rates, make society fairer and avoid the large social costs of marginalised adults with few basic skills.

**Design**
1. Limit early tracking and streaming and postpone academic selection.
2. Manage school choice so as to contain the risks to equity.
3. In upper secondary education, provide attractive alternatives, remove dead ends and prevent dropout.
4. Offer second chances to gain from education.

**Practices**
5. Identify and provide systematic help to those who fall behind at school and reduce year repetition.
6. Strengthen the links between school and home to help disadvantaged parents help their children to learn.
7. Respond to diversity and provide for the successful inclusion of migrants and minorities within mainstream education.

**Resourcing**
8. Provide strong education for all, giving priority to early childhood provision and basic schooling.
9. Direct resources to the students with the greatest needs.
10. Set concrete targets for more equity, particularly related to low school attainment and dropouts.
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Eight Guiding Principles

1. All teachers are teachers of English Language Learners (ELLs) and need to plan accordingly.
2. All school boards and districts/school leaders are responsible for ensuring that the academic, linguistic, social, and emotional needs of ELLs are addressed.
3. Districts and schools engage all English Language Learners instruction that is grade-appropriate, academically rigorous, and aligned with the New York State Prekindergarten Foundation for the Common Core and P-12 Common Core Learning Standards.
4. Districts and schools recognize that bilingualism and biliteracy are assets and provide opportunities for all students to earn a Seal of Biliteracy upon obtaining a high school diploma.
5. DISTRICTS AND SCHOOLS VALUE ALL PARENTS AND FAMILIES OF ELLS AS PARTNERS IN EDUCATION AND EFFECTIVELY INVOLVE THEM IN THE EDUCATION OF THEIR CHILDREN.

6. DISTRICT AND SCHOOL COMMUNITIES LEVERAGE THE EXPERTISE OF BILINGUAL, ESL, AND LANGUAGE OTHER THAN ENGLISH (LOTE) TEACHERS AND SUPPORT PERSONNEL WHILE INCREASING THEIR PROFESSIONAL CAPACITIES.

7. DISTRICTS AND SCHOOL COMMUNITIES LEVERAGE ELLS’ HOME LANGUAGES, CULTURAL ASSETS, AND PRIOR KNOWLEDGE.

8. DISTRICTS AND SCHOOL USE DIAGNOSTIC TOOLS AND FORMATIVE ASSESSMENT PRACTICES IN ORDER TO MONITOR ELLS’ CONTENT KNOWLEDGE AS WELL AS NEW AND HOME LANGUAGE DEVELOPMENT TO INFORM INSTRUCTION.
WHO ARE ENGLISH LANGUAGE LEARNERS?

Students who, by reason of foreign birth or ancestry,

• Speak or understand a language other than English

• Speak or understand little or no English

• Require support in order to become proficient in English

• In New York State, are identified pursuant to CR Part 154 (Section 2.3 on identification of ELLs)
HOW ARE ELLs IDENTIFIED IN NEW YORK STATE?

• Administration of the **Home Language Questionnaire (HLQ)** to determine if a language other than English is spoken at home

• An individual interview with the student by **qualified personnel** in English and the student’s home language to determine if the student shall be administered the **NYSITELL** and to determine the student’s grade level of literacy in their home language and grade level in math

• Administration of the **NYSITELL**

• If the student receives a score **below the designated level of proficiency** on the NYSITELL, the student is identified as an ELL
# ENGLISH PROFICIENCY LEVELS NYSITELL and NYSESLAT

<table>
<thead>
<tr>
<th>English Proficiency Levels</th>
<th>Descriptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entering (formerly Beginning)</td>
<td>A student at this level has great dependence on supports and structures to advance academic language skills and has not met the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts.</td>
</tr>
<tr>
<td>Emerging (formerly Low Intermediate)</td>
<td>A student at this level has some dependence on supports and structures to advance academic language skills and has not yet met the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts.</td>
</tr>
<tr>
<td>Transitioning (formerly Intermediate)</td>
<td>A student at this level shows some independence in advancing academic language skills but has yet to demonstrate English language proficiency in a variety of academic contexts.</td>
</tr>
<tr>
<td>Expanding (formerly Advanced)</td>
<td>A student at this level shows great independence in advancing academic language skills and is approaching the linguistic demands necessary to demonstrate English language proficiency in a variety of academic contexts.</td>
</tr>
<tr>
<td>Commanding (formerly Proficient)</td>
<td>A student at this level is designated as a Former ELL, and entitled to receive two years of continued ELL services. A student at this level has met the linguistic demands necessary to demonstrate proficiency in a variety of academic contexts.</td>
</tr>
</tbody>
</table>
NYSESLAT ESL ACHIEVEMENT TEST

• Designed to annually assess the English language proficiency of all English Language Learners (ELLs) enrolled in Grades K–12.

• It is a component of the State’s compliance with federal laws that mandate annually assessing and monitoring the English Language proficiency progress of all ELLs.

• Assesses English Proficiency: Listening, Speaking, Reading, Writing.

https://www.engageny.org/resource/new-york-state-english-a-second-language-achievement-test-nyseslat-resources
PROGRAM OPTIONS AND PLACEMENT

• Bilingual Education Programs:
  • Transitional Bilingual Education
  • Dual Language (e.g., 90-10; 50-50)

• English as a New Language Program

Source: NYSED Guidance Memorandum, May 2016
NEW EXIT CRITERIA FOR ELLS

EXIT CRITERIA HAS EXPANDED TO ALLOW QUALIFIED STUDENTS TO EXIT ELL STATUS BY:

OPTION 1)
Scoring at the Proficient/Commanding level on the NYSESLAT [154-2.3(m)(1)(i)]

OPTION 2)
Scoring at the Advanced/Expanding level on the NYSESLAT,
- and -
  ➢ 3+ on a grade 3-8 ELA Assessment,
  - or -
  ➢ 65 + on the English Regents Exam [154-2.3(m)(1)(ii)]

OPTION 3)
Please see Areas of Pending Regulation: Students with Disabilities. [154-2.3(m)(2)]
FORMER ELLS

• Once an ELL has exited ELL status, he or she becomes a former ELL.

• Former ELLs are entitled to receive two years of ELL support services (e.g., testing accommodations, 0.5 Integrated - ENL unit of studies)
NYSED PUBLIC SCHOOL ENGLISH LANGUAGE LEARNERS ENROLLMENT (2015-2016 SED DATA)

• K-12 ELLS TOTAL ENROLLMENT: 217,804

• ELLS WITH DISABILITIES (ELL – SWD): 50,793 (23%)

• ECONOMICALLY DISADVANTAGED: 183,682 (84%)

• BY GENDER: 119,932 (55%) MALE; 97,872 (45%) FEMALE

NYSED PUBLIC SCHOOL ENGLISH LANGUAGE LEARNERS ENROLLMENT (2015-2016 SED DATA)

BY ETHNICITY:

- **AMERICAN INDIAN / ALASKA NATIVE** - 682 - 0%
- **BLACK/AFRICAN AMERICAN** - 12,812 - 6%
- **HISPANIC/LATINO** - 140,540 - 65%
- **ASIAN/NATIVE HAWAIIAN/PACIFIC ISLANDER** - 45,803 - 21%
- **WHITE** - 17,542 - 8%
- **MULTIRACIAL** – 425 - 0%

<table>
<thead>
<tr>
<th>Rank</th>
<th>Language</th>
<th>Learners</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Spanish</td>
<td>3,770,816</td>
</tr>
<tr>
<td>2</td>
<td>Arabic</td>
<td>100,461</td>
</tr>
<tr>
<td>3</td>
<td>Chinese</td>
<td>99,943</td>
</tr>
<tr>
<td>4</td>
<td>Vietnamese</td>
<td>80,283</td>
</tr>
<tr>
<td>5</td>
<td>Haitian/Haitian Creole</td>
<td>35,467</td>
</tr>
<tr>
<td>6</td>
<td>Somali</td>
<td>25,278</td>
</tr>
<tr>
<td>7</td>
<td>Tagalog</td>
<td>24,370</td>
</tr>
<tr>
<td>8</td>
<td>Hmong</td>
<td>23,473</td>
</tr>
<tr>
<td>9</td>
<td>Portuguese</td>
<td>10,102</td>
</tr>
<tr>
<td>10</td>
<td>Bengali</td>
<td>9,371</td>
</tr>
<tr>
<td>11</td>
<td>Russian</td>
<td>9,111</td>
</tr>
<tr>
<td>12</td>
<td>Navajo</td>
<td>8,914</td>
</tr>
<tr>
<td>13</td>
<td>Urdu</td>
<td>8,438</td>
</tr>
<tr>
<td>14</td>
<td>Yupik languages</td>
<td>6,629</td>
</tr>
<tr>
<td>15</td>
<td>Polish</td>
<td>5,347</td>
</tr>
<tr>
<td>16</td>
<td>Karen languages</td>
<td>5,195</td>
</tr>
<tr>
<td>17</td>
<td>Korean</td>
<td>5,011</td>
</tr>
<tr>
<td>18</td>
<td>Marshallese</td>
<td>4,327</td>
</tr>
<tr>
<td>19</td>
<td>Creoles and pidgins, Portuguese-based others</td>
<td>3,893</td>
</tr>
<tr>
<td>20</td>
<td>Nepali</td>
<td>3,633</td>
</tr>
</tbody>
</table>
Of the approximately 2.7 million public school students in New York State, 8% are English Language Learners (ELLs).

<table>
<thead>
<tr>
<th>Language</th>
<th>Speakers</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish</td>
<td>152,341</td>
<td>64.3%</td>
</tr>
<tr>
<td>Chinese</td>
<td>25,102</td>
<td>10.6%</td>
</tr>
<tr>
<td>Arabic</td>
<td>10,206</td>
<td>4.3%</td>
</tr>
<tr>
<td>Bengali</td>
<td>7,272</td>
<td>3.1%</td>
</tr>
<tr>
<td>Russian</td>
<td>4,022</td>
<td>1.7%</td>
</tr>
<tr>
<td>Urdu</td>
<td>4,005</td>
<td>1.7%</td>
</tr>
<tr>
<td>Haitian Creole</td>
<td>3,718</td>
<td>1.6%</td>
</tr>
<tr>
<td>French</td>
<td>2,831</td>
<td>1.2%</td>
</tr>
<tr>
<td>Karen</td>
<td>2,280</td>
<td>1.0%</td>
</tr>
<tr>
<td>Nepali</td>
<td>1,923</td>
<td>0.8%</td>
</tr>
<tr>
<td>Uzbek</td>
<td>1,389</td>
<td>0.6%</td>
</tr>
<tr>
<td>Somali</td>
<td>1,349</td>
<td>0.6%</td>
</tr>
<tr>
<td>Punjabi</td>
<td>1,180</td>
<td>0.5%</td>
</tr>
<tr>
<td>Korean</td>
<td>1,105</td>
<td>0.5%</td>
</tr>
<tr>
<td>Japanese</td>
<td>1,066</td>
<td>0.5%</td>
</tr>
<tr>
<td>Albanian</td>
<td>898</td>
<td>0.4%</td>
</tr>
<tr>
<td>Fulah</td>
<td>825</td>
<td>0.3%</td>
</tr>
<tr>
<td>Yiddish</td>
<td>785</td>
<td>0.3%</td>
</tr>
<tr>
<td>Vietnamese</td>
<td>717</td>
<td>0.3%</td>
</tr>
<tr>
<td>Polish</td>
<td>654</td>
<td>0.3%</td>
</tr>
</tbody>
</table>

| **NEWCOMERS** | ELLs who have received English as a New Language instruction, as a component of their Bilingual Education or ENL program, for a total of **0 to 3 years** in the United States (the 50 States and the District of Columbia) |
| **DEVELOPING ELLS** | ELLs who have received ENL instruction as a component of their Bilingual Education or ENL program, for a total of **4 to 6 continuously enrolled school years** in the United States (the 50 States and the District of Columbia) |
| **LONG-TERM ELLS** | ELLs who have received ENL instruction as a component of their Bilingual Education or in an ENL program, for a total of **7 or more continuously enrolled school years** in the United States (the 50 States and the District of Columbia) |
| **ELLs/STUDENTS WITH DISABILITIES (SWDS)** | ELLs who are also served by an IEP. |
| **STUDENTS WITH INTERRUPTED/INCONSISTENT FORMAL EDUCATION (SIFE)** | ELLs who have attended schools in the United States (the 50 States and the District of Columbia) for less than 12 months and who, upon initial enrollment in such schools are **2 or more years** below grade level in literacy in their home language and/or **2 or more years** below grade level in Math due to inconsistent or interrupted schooling prior to entry. |
| **FORMER ELLS** | ELLs who have exited from ELL status and successfully reached proficiency level on the NYSESLAT (2 years). |
ELL ENROLLMENT BY GRADE

• Pre-K Full day – 1.3K
• K Full day – 29K
• 1st Grade – 26K
• 2nd Grade – 22K
• 3rd Grade – 18K
• 4th Grade – 16K
• 5th Grade – 14K

• 6th Grade – 13K
• 7th Grade – 12K
• 8th Grade – 11K
• 9th Grade – 17K
• 10th Grade – 15K
• 11th Grade – 9.6k
• 12th Grade – 8.2K

• Does not including ungraded, half days Pre-K and half-days K
ELL ENROLLMENT BY GRADE
QUESTIONS

I. Whose work do you consider centrally important to addressing and / or dismantling and / or eradicating disproportionality?

II. How would you like your work to be used toward a solution to inequity in special education?

III. Why should communities of color be concerned about disproportionality?

IV. Why should White or majority communities be concerned about disproportionality?

V. Why should immigrant families be concerned about disproportionality?

VI. What are new avenues where disproportionality presents an emerging threat?

VII. Is disproportionality the most important civil rights issue facing our schools today--how do you contextualize it as a civil rights issue?

VIII. What are a couple of suggestions for action that you have for individual educators to address disproportionality?

IX. What are some ways that professionals can both protect students from unjust practices while also ensuring they get the help they need?

X. What is the most important take-a-way you would like the audience to know about disproportionality?
DISPROPORTIONALITY / INEQUITY ELLs

• Gap in graduation rates between ELLs and non-ELLs
• Access to parents to all aspects of the students education in their preferred language
• Access to instructional programs staffed with appropriately certified teachers
ELLs with Disabilities
NY Statewide Data

- ELLs are disproportionately identified as students with disabilities.

- While the overall classification rate of all students with disabilities in NYS is just under 14 percent, the classification rate for ELLs is 23 percent (2015-2016 NYSED data) – a disproportionality.

- ELLs are significantly overrepresented as students with speech and language impairments (40% Latinos), learning disabilities and emotional disabilities (25% Latinos) as compared to students who were never ELLs.

DISABILITY CLASSIFICATIONS BY ELL STATUS 2014-2015

Source: NYS SIRS 2014-2015
Identification or misidentification, including the misdiagnosis of the disability, resulting in both under-identification and over-identification of ELLs with disabilities:

- A student who needs special education may not get it because that student’s school district evaluation teams may not have the specific language specialist needed, such as a psychologist in the child’s native language, or the appropriate assessment instruments, to make an appropriate determination.
- ELL students with poor school achievement may also be mistakenly identified as needing special education because their language and cultural differences are interpreted as a disability.

Access to appropriate services once identified.

- Students in another district may need help learning English, but if the district does not have resources to help, that student may be referred to special education.
Whose work do you consider centrally important to addressing and/or dismantling and/or eradicating disproportionality?

IT’S EVERYONE’S JOB

• Clarify expectations for administrators, policy makers, and practitioners
• Appropriately certified educators
• Provide a framework to prepare ELLs for success—beginning in Pre-kindergarten to lay the foundation for college and career readiness
• Provide guidance, resources, and supports to districts, schools, and teachers
• Clear understanding and appreciation of Bilingual Education, English as a Second Language, and World Languages/Foreign Language.
ACTIONS NEEDED

• STATE POLICIES, PROCEDURES AND PRACTICES
• CR PART 154 AMENDED 2014
• CR PART 154.3 FOR SWD ELLS
• DEVELOPMENT OF APPROPRIATE ASSESSMENTS FOR ELLS WHO ARE REFERRED TO THE CSE, OR WHO ARE KNOWN TO HAVE A DISABILITY UPON INITIAL ENTRY IN SCHOOLS.
• MONITORING OF REFERRALS, PLACEMENTS AND DELIVERY OF SERVICES.
Units of Study Tables for English as a New Language (ENL) and Bilingual Education Programs


RESEARCH IN THE FIELD OF ELLS WITH DISABILITIES

• Dr. Elsa Cárdenas-Hagan, Colorado College
• Dr. Linda Rosa-Lugo, University of Central Florida
• Dr. Russell Gersten, University of Oregon
• Dr. Laura M. Saenz, University of Texas Rio Grande Valley
Why should communities of color be concerned about disproportionality?

• All communities must be concerned about whether their children are being appropriately evaluated and that appropriate services are provided.
Why should White or majority communities be concerned about disproportionality?

• All communities must be concerned about whether their children are being appropriately evaluated and that appropriate services are provided.

• All communities should be concern about the possible waste in time and resources if children with disabilities are misidentified (both over- and under-identified) and improperly served.

• All communities should consider ELL students as members of their communities.
Why should immigrant families be concerned about disproportionality?

• Both disproportionality and inequity to access to appropriate school programs are of great concern for parents of ELLs / immigrant communities.

• All families, including immigrant families, are concerned about their children receiving appropriate services. They would be greatly concerned if their children were misidentified or misdiagnosed, and misplaced as a student with a disability, in addition to not receiving appropriate ELL services.
What are new avenues where disproportionality presents an emerging threat?

- As new immigrant and refugee students are enrolling in our public schools with a variety of language, social, and academic needs, school districts and schools must be prepared to have appropriate services ready for them.

- Over the past three decades, almost 30 million immigrants have settled in the U.S. (Migration Policy Institute, ELL Information Center.)

- By 2030, immigrants born somewhere else will make up over 20% of the U.S. workforce. (National Council of State Directors of Adult Education.)
IS DISPROPORTIONALITY THE MOST IMPORTANT CIVIL RIGHTS ISSUE FACING OUR SCHOOLS TODAY--HOW DO YOU CONTEXTUALIZE IT AS A CIVIL RIGHTS ISSUE?

- Issue: Implementation of the appropriate identification, placement and delivery of appropriate services for all ELLs, including ELLs with disabilities.
- Disproportionality of ELLs with disabilities is a civil rights issue so long as there continues to be a lack of access to appropriate identification, assessments, placements, and instructional and clinical services.
- Concerns: lack of certified and qualified educators.
- Concerns: lack of guidance and training of educators.
- Concerns: lack of access to appropriate assessment instruments in the home languages.

• *Lau v. Nichols*, 414 U.S. 563 (1974), was a civil rights case that was brought by Chinese American students living in San Francisco, California who had limited English proficiency. The students claimed that they were not receiving special help in school due to their inability to speak English, which they argued they were entitled to under *Title VI of the Civil Rights Act of 1964* because of its ban on educational discrimination on the basis of national origin.

• Finding that the lack of linguistically appropriate accommodations (e.g. educational services in English) effectively denied the Chinese students equal educational opportunities on the basis of their ethnicity, the U.S. Supreme Court in 1974 ruled in favor of the students, thus expanding rights of students nationwide with limited English proficiency. The Supreme Court stated that these students should be treated with equality among the schools. Among other things, Lau reflects the now-widely accepted view that a person's language is so closely intertwined with their national origin (the country someone or their ancestors came from) that language-based discrimination is effectively a proxy for national origin discrimination.

• The case relied on Section 601 of the Civil Rights Act of 1964 and not the 14th amendment.
ASPIRA Consent Decree (1974)

• ASPIRA of New York, with the support of ASPIRA of America and the representation of the Puerto Rican Legal Defense and Education Fund, filed a suit against the New York City Board of Education in 1972 that led to the ASPIRA Consent Decree.

• The decree, signed August 29, 1974, established the right of New York City public school students with limited English proficiency to receive bilingual education.
Jose P. v. NYSED and NYCDOE (1979)

- *Jose P.* was filed on behalf of a group of New York City school children with disabilities over three decades ago to force the Department of Education to obey federal laws that require appropriate evaluation, placement and services be provided to all students including ELLs with disabilities.

- In 1979, a judgment was issued directing a variety of relief measures. Numerous subsequent orders and so-ordered stipulations have been issued since 1979.
WHAT ARE A COUPLE OF SUGGESTIONS FOR ACTION THAT YOU HAVE FOR INDIVIDUAL EDUCATORS TO ADDRESS DISPROPORTIONALITY?

• Development of appropriate home language assessment instruments for General Education ELLs and ELLs with disabilities.
• Parent information and guidance about programs for ELLs, students with disabilities, and home language instruction.
• Development of appropriate guidance documents aligned to the regulations for the evaluation of ELLs who may have disabilities.
• Recruitment and training of specialized educators and clinicians, including teacher and school leadership preparation programs.
WHAT ARE SOME WAYS THAT PROFESSIONALS CAN BOTH PROTECT STUDENTS FROM UNJUST PRACTICES WHILE ALSO ENSURING THEY GET THE HELP THEY NEED?

• Stay informed about community, and all matters affecting ELLs.
• Develop cultural responsiveness and linguistic awareness.
• Provide teachers with a range of intervention strategies, and an awareness and understanding of ELLs who may have disabilities prior to referral.
• Support to parent and community.
WHAT IS THE MOST IMPORTANT TAKE-A-WAY YOU WOULD LIKE THE AUDIENCE TO KNOW ABOUT DISPROPORTIONALITY?

- Being an ELL is not a disability.
- Being bilingual is an asset.
- Appropriate services and assessments are key.
- ELLs who may have disabilities must be evaluated with specialized personnel and appropriate assessment instruments. Once appropriately determined to be ELLs with disabilities, they must receive service appropriate to their identified disability.