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Title: Resolution in support of the New York State Education Department’s Elementary and Secondary Education Act Waiver Renewal request that newly arrived English Language Learners be exempted from participating in the English language arts assessments for two years.

Sponsors: Antonio Reynoso, Margaret S. Chin, Corey D. Johnson, Carlos Menchaca, Rosie Mendez, Vincent J. Gentile, Andrew Cohen, Stephen T. Levin, Ydanis A. Rodriguez, Vanessa L. Gibson, Inez D. Barron

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Res. No. 388

Resolution in support of the New York State Education Department’s Elementary and Secondary Education Act Waiver Renewal request that newly arrived English Language Learners be exempted from participating in the English language arts assessments for two years.

By Council Members Reynoso, Chin, Johnson, Menchaca, Mendez, Gentile, Cohen, Levin, Rodriguez, Gibson and Barron

Whereas, In September 2011, President Obama announced an Elementary and Secondary Education Act (ESEA) regulatory flexibility initiative, which is based upon the Secretary of Education’s authority to issue waivers; and

Whereas, Subsequently, the United States Department of Education (USDE) invited each State educational agency to request flexibility regarding specific requirements of the No Child Left Behind Act of 2001 (NCLB) in exchange for rigorous and comprehensive State-developed plans designed to improve

educational outcomes for all students, close achievement gaps, increase equity, and improve the quality of instruction; and

Whereas, The New York State Education Department (NYSED) received approval from the USDE for its flexibility waiver request in May 2012, one of 43 states approved for ESEA flexibility; and

Whereas, NYSED is in the process of submitting an ESEA Waiver Renewal request for the 2014-15 and 2015-16 school years, including some amendments to the State's previously approved flexibility plan; and

Whereas, One of the proposed amendments relates to the NCLB requirement that schools annually administer State tests in English language arts (ELA) to all students in grades 3-8; and

Whereas, Under State and federal accountability rules, student performance on the ELA assessments partially determines whether the school makes "Adequate Yearly Progress" which can impact a school's state and federal accountability status and may affect its level of support and intervention; and

Whereas, NCLB does not exempt English language learners (ELLs) from this required annual assessment of reading and language arts proficiency; and

Whereas, USDE, however, has approved the New York State English as a Second Language Achievement Test (NYSESLAT) in lieu of the grades 3-8 ELA assessments for newly arrived students who have been attending school in the United States for less than one year; and

Whereas, In light of the new Common Core Learning Standards, NYSED seeks to extend this exemption to two years in order to afford ELLs the time needed to acquire a sufficient level of English such that they can demonstrate their knowledge and skills on the Common Core ELA assessments; and

Whereas, According to NYSED, this exemption will allow New York State to better measure the progress of ELLs by utilizing NYSESLAT as a way of measuring ELL progress in the first two years of their instruction in the United States; and

Whereas, In a January 9, 2014 memorandum to the Board of Regents, NYSED maintains that, by extending the exemption for one additional year, "districts would be given sufficient time to work intensively

with ELLs to develop their English language without being held accountable for results on an ELA assessment that will not sufficiently capture those instructional gains in developing the English language needed to meaningfully participate in the Common Core;” and

Whereas, ELLs, by virtue of the definition that identifies these students as developing in their understanding and use of English, have a limited ability to demonstrate what they know and can do on the ELA assessments; and

Whereas, Unlike accommodations provided to ELLs on other content area assessments, such as math, translations of the ELA assessments are not provided to ELLs; and

Whereas, Any progress, therefore, in language development is not captured by the ELA assessments, which require a high level of English language development in order to demonstrate knowledge and skills on the assessments; and

Whereas, If given the opportunity, however, to demonstrate their knowledge and skills of language arts in their native language, these students will make significant progress in language development, which will prepare them to be successful on the ELA exams; and

Whereas, The NYSESLAT exam is an appropriate exam for newly arrived ELLs to demonstrate progress because it is rigorous, aligned to the Common Core and highly correlated with ELA performance; now, therefore, be it

Resolved, That the Council of the City of New York supports the New York State Education Department’s Elementary and Secondary Education Act Waiver Renewal request that newly arrived English Language Learners be exempted from participating in the English language arts assessments for two years.

LS# 1046
JA
8/1/14