

INDIANA DEPARTMENT OF EDUCATION  
Office of English Language Learning & Migrant Education  
Guidelines to Satisfy Legal Requirements  
of  
Title VI of the Civil Rights Act of 1964 (42 USCS, 2000d)  
Lau v. Nichols (1974) 414 US 563, 39L ED 2d1, 94 S Ct 786  
Equal Educational Opportunities Act of 1974 204(f), 20 USCA 1703(f)  
and 511 IAC 6.1-5-8

## Section I: Establishment of Policies and Procedures

A. The school corporation shall administer a Home Language Survey (census) to identify the first (native) language(s) of all students enrolled in the school corporation. The Home Language Survey shall elicit the following information:

1. What is the native language of the student?
2. What language(s) is spoken most often by the student?
3. What language(s) is spoken by the student in the home?

Two steps are necessary to implement this process.

1. Administer the Home Language survey to all students enrolled in the school corporation.
2. Use the Home Language Survey in the enrollment process to identify the native language of each new student at the time of enrollment into the school corporation.

Documentation of a student's native language shall be recorded in the permanent record. School corporations shall implement an identification procedure to survey all students in the district with the above three questions.

B. As required by the *No Child Left Behind* Act, the school corporation must assess all students whose first (native) language is other than English to determine whether a student is Fluent English Proficient (FEP, see level 5 below) or Limited-English Proficient (LEP, see levels 1-4 below). Each Spring, all LEP students must participate in the LAS Links English proficiency assessment. Newly-enrolling students must be assessed for identification as LEP using the LAS Links Placement Test within thirty (30) **calendar** days of enrollment at the beginning of the school year or within two (2) weeks during the school year.

Assessment shall, to the extent possible, include listening, speaking, reading, and writing abilities, as well as academic achievement. Language proficiency levels are described below:

**Level 1:** Students performing at this level of English language proficiency begin to demonstrate receptive or productive English skills. They are able to respond to some simple communication tasks.

**Level 2:** Students performing at this level of English language proficiency respond with increasing ease to more varied communication tasks.

**Level 3:** Students performing at this level of English language proficiency tailor the English language skills they have been taught to meet their immediate communication and learning needs. They are able to understand and be understood in many basic social situations (while exhibiting many errors of convention) and need support in academic language.

**Level 4:** Students performing at this level of English language proficiency combine the elements of the English language in complex, cognitively demanding situations and are able to use English as a means for learning in other academic areas, although some minor errors of conventions are still evident.

**Level 5:** Students performing at this level of English language proficiency communicate effectively with various audiences on a wide range of familiar and new topics to meet social and academic demands. Students speak, understand, read, write, and comprehend in English without difficulty and display academic achievement comparable to native English speaking peers. In order to attain the English proficiency level of their native English-speaking peers, further linguistic enhancement and refinement are necessary.

**NOTE:** Oral language skills shall not be the sole criterion for determining language proficiency. Academic achievement and writing and reading abilities in English must also be considered as assessed with the LAS Links English proficiency assessment.

C. The school corporation shall establish standards for placement of language minority students into instructional programs in accordance with the following criteria:

1. Students must be placed age appropriately.
2. If the student is fluent English proficient, placement will be in the regular instructional program.
3. If the student is limited-English proficient, placement will be made into an appropriate instructional program that provides English language development for a minimum of one (1) hour daily. (see section D).
4. Review previous educational records of students to determine the grade level attained in his/her home country.

D. The school corporation shall provide equal educational opportunity to language minority students with the appropriate level of English language development to allow for meaningful participation of language minority students in the district's educational program. Such instruction shall take place during the regular school day. A minimum of one (1) hour daily is appropriate for LEP students at English proficiency levels 1-4.

One or more of the following approaches to instruction may be used:

1. **Transitional Bilingual Education:** TBE is an instructional program in which subjects are taught through two languages--English and the native language of the English language learners -- and English is taught as a second language. English language skills, grade promotion and graduation requirements are emphasized and **L1** is used as a tool to learn content. The primary purpose of these programs is to facilitate the LEP student's transition to an all-English instructional environment while receiving academic subject instruction in the native language to the extent necessary. As proficiency in English increases, instruction through L1 decreases. Transitional bilingual education programs vary in the amount of native language instruction provided and the duration of the program (U.S. General Accounting Office, 1994). TBE programs may be **early-exit** or **late-exit**, depending on the amount of time a child may spend in the program.

2. **ESL:** English as a second language (ESL) is an educational approach in which English language learners are instructed in the use of the English language. Their instruction is based on a special curriculum that typically involves little or no use of the native language, focuses on language (as opposed to content) and is usually taught during specific school periods. For the rest of the school day, students may be placed in mainstream classrooms, an immersion program, or a bilingual education program. Every bilingual education program has an ESL component (U.S. General Accounting Office, 1994).

3. **Pull-out ESL:** A program in which **LEP** students are "pulled out" of the regular, mainstream classrooms for special instruction in English as a second language (Baker, 2000).

4. **Content-based ESL:** This approach to teaching English as a second language makes use of instructional materials, learning tasks, and classroom techniques from academic content areas as the vehicle for developing language, content, cognitive and study skills. English is used as the medium of instruction (Crandall, 1992)

5. **ESOL:** English language development (**ELD**) means instruction designed specifically for English language learners to develop their listening, speaking, reading, and writing skills in English. This type of instruction is also known as "English as a second language" (**ESL**), "teaching English to speakers of other languages" (**TESOL**), or "English for speakers of other languages" (ESOL). ELD, ESL, TESOL or ESOL standards are a version of English language arts standards that have been crafted to address the specific developmental stages of students learning English.

6. **Sheltered English:** An instructional approach used to make academic instruction in English understandable to English language learners to help them acquire proficiency in English while at the same time achieving in content areas. Sheltered English instruction differs from **ESL** in that English is not taught as a language with a focus on learning the language. Rather, content knowledge and skills are the goals. In the sheltered classroom, teachers use simplified language, physical activities, visual aids, and the environment to teach vocabulary for concept development in mathematics, science, social studies and other subjects (National Clearinghouse for Bilingual Education, 1987).

7. **Structured Immersion:** In this program, language minority students receive all of their subject matter instruction in their second language. The teacher uses a simplified form of the second language. Students may use their native language in class; however, the teacher uses only the second language (Snow, 1986). The goal is to help minority language students acquire proficiency in English while at the same time achieving in content areas.

8. **English as a New Language (ENL):** a course (#1012) for high school students which may count as four of the eight English/language arts credits needed for high school graduation. Under Certification Type Rules 46/47, teachers with any license may teach the course although the K-12 ESL endorsement is strongly recommended. Under Certification Type Rules 2002, teachers must have the content area certification (ENL) and the high school setting licensure to teach the course. See course descriptions for more information.

E. The school corporation shall have specific criteria established to safeguard appropriate placement and subsequent delivery of services to exceptional language minority students. The PreReferral process to Special Education should include an assessment in the native language and in English to provide evidence that difficulty exists in both languages. A referral should only be made after all other avenues have been explored and it has been determined that the child's needs can not be met by the regular education program. (The complete PreReferral Checklist is available from the Office of English Language Learning & Migrant Education.) These criteria will be designed in accordance with Indiana Rule S-1.

F. The school corporation shall provide counseling services to language minority students in the following areas:

1. social, emotional adjustment to United States culture
2. drop-out prevention
3. technical vocational training
4. college preparatory coursework
5. substance abuse
6. teenage pregnancy and prevention

The limited-English proficient student should be counseled in his/her native language, when possible or necessary.

G. Retention of language minority students shall NOT be based solely upon English language proficiency. Appropriate classroom modifications should be made for each language minority student to ensure meaningful participation in the educational program. (Retention Guidelines are available from the Office of English Language Learning & Migrant Education.)

H. The school corporation shall employ or train sufficient qualified personnel to provide instructional services appropriate to the needs of limited-English proficient students. Students must receive instruction from properly certified, licensed teachers. 511 IAC 6.1-3-1(d). Instructional aides **must** work under the direct supervision of a certified teacher and should **not** have the sole responsibility of teaching units of study. 511 IAC 1-8-7.5. The ratio of the number of limited-English proficient students to qualified teachers in a class shall not exceed the state mandated student/teacher ratio for all classrooms.

I. Exiting from Services: School corporations must continue to provide English language development services to LEP students until they attain an Overall/Composite score of Level 5 on the summative LAS Links English proficiency assessment. Services for Level 4 students may be modified based on the students' needs including:

- level of proficiency in each language domain, specifically reading and writing;
- ability to function well with grade level content area curriculum;
- level of academic achievement in the content areas; and
- input of ESL teacher and regular classroom teachers.

Upon the first Overall/Composite score of Level 5, students are exited from daily English language development services and reclassified as FEP for reporting (DOE-LM) purposes and they begin informal monitoring. At this point students no longer generate funding. The following Spring, upon the attainment of the second Overall/Composite score of Level 5 on LAS Links, students enter the formal two-year monitoring period required by Title III to ensure continued academic success. After the second score of Level 5, students no longer participate in LAS Links.

J. School corporations shall ensure that LEP students in self-contained ESL/Bilingual classes are given as much opportunity as possible to interact with English speaking peers at lunch, recess, in art, music, physical education and other elective classes.

K. School corporations shall provide evidence that communication between the school and the home, whether about language minority student progress or school activities, is conducted, to the extent possible, in the native/preferred language of the home.

L. School corporations shall maintain records that indicate the following:

1. the native language of the student,
2. the English language proficiency level of the student,
3. the type and frequency of English language development services offered,
4. the instructional and assessment adaptations made based on level of English proficiency, and
5. other intervention strategies employed.

The method of maintaining this information for each language minority student is the Individual Learning Plan (ILP). (Sample ILP forms are available from the Office of English Language Learning & Migrant Education.) ILPs are developed for each student,

and updated annually, based on their Overall/Composite level of English proficiency on LAS Links. ILPs are developed by the ESL teacher in collaboration with the classroom teacher. Accommodations used on ISTEP+ must be those already in place for regular classroom instruction that are outlined on each ILP.

## Section II: Report and Review

Public Law 221, continuous improvement for all students, encompasses the demonstration of growth of language minority students. Title III of NCLB requires annual improvement of students' English language proficiency as measured by the Annual Measurable Achievement Objectives (AMAOs). School corporations will be responsible for demonstrating the effectiveness of their services to language minority students in their individual School Improvement Plans in conjunction with Legal Standard 28 (511 IAC 6.1-5-8). Annual reporting of language minority data through the DOE-LM (language minority) via the STN Application Center will be submitted to the Office of English Language Learning & Migrant Education.

## Section III: Training

School corporations shall participate in training programs designed to help the development and implementation of these guidelines offered and facilitated by the Office of English Language Learning & Migrant Education including inservices and technical assistance. Other resources for staff development include courses available through the Regional Educational Service Centers, various university level courses, annual conferences held by the Office of English Language Learning & Migrant Education, Indiana Teachers of English to Speakers of Other Languages (INTESOL) and the national Teachers of English to Speakers of Other Languages (TESOL) and National Association of Bilingual Education (NABE) conferences.

## Guidelines for the Placement of Language Minority Students

1. Students who enroll in the school corporation must complete a home language survey.
2. If the survey indicates that a student speaks a language other than English, he or she must be assessed for oral, reading and writing English language proficiency skills using the LAS Links English proficiency assessment.
3. Students must be placed in an age-appropriate grade level. Placement below grade level should **only** be considered if the student has no prior school experience or if the student has been out of school for more than one academic year.
4. Initial scheduling of courses for LEP students must include classes designed to improve English language proficiency. Each student must receive the appropriate level of English language development based on their level of proficiency.
5. Language minority students should be informed that they must meet graduation requirements if they intend to receive a high school diploma.
6. Migrant students graduating from home base schools need to be enrolled in courses that fulfill the home state's graduation requirements.
7. Adaptations must be made to lessons and assignments by teachers in the content area classrooms with the appropriate level of English language development for each student.

IF YOU HAVE QUESTIONS CALL:  
OFFICE OF ENGLISH LANGUAGE LEARNING & MIGRANT EDUCATION  
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