



Waco Independent School District

**English Learners Department
Department Guidelines and Procedures
2020-2021**

Bilingual/ESL Procedures

Identifying English Learners (ELs)

Training for Staff:

Campus Language Proficiency Assessment Committee (LPAC) Chairs will be trained at the beginning of the school year, middle of the school year, and end of the school year on the procedures described below. These trainings typically occur mid-August, November, mid-January, and end of April/early May, respectively.

Upon enrollment:

Home Language Survey (HLS) – Front office gives the Registration Packet, which includes the HLS, to the parent to complete. The HLS needs to be filled out completely with home language responses, signed, and dated. If anything other than English is noted *anywhere* on the HLS, the campus staff will email or fax the following to the English Learners Department:

- HLS
- Registration Form with student information
- Student Background Information for Grades PK-12 Form
- Birth Certificate
- Student's transcripts or other pertinent school records from the previous school

§89.1226. Testing and Classification of Students: Beginning with School Year 2019-2020.

“(a) Beginning with school year 2019-2020, the provisions of this subsection supersede the provisions in §89.1225 of this title (relating to Testing and Classification of Students).

(b) Within **four weeks** of initial enrollment in a Texas public school, a student with a language other than English indicated on the home language survey shall be administered the required oral language proficiency test in prekindergarten through Grade 12 and norm-referenced standardized achievement instrument in Grades 2-12 as described in subsection (c) of this section and shall be identified as an English learner and placed in the required bilingual education or English as a second language (ESL) program in accordance with the criteria listed in subsection (f) of this section.

(c) For identifying English learners, school districts shall administer to each student who has a language other than English as identified on the home language survey:

- (1) in prekindergarten through Grade 1, the listening and speaking components of the state-approved English language proficiency test for identification; and

(2) in Grades 2-12, the listening, speaking, reading, and writing components of the state-approved English language proficiency test for identification.

(d) School districts that provide a bilingual education program at the elementary grades shall administer a language proficiency test in the primary language of the student who is eligible to be served in the bilingual education program. If the primary language of the student is Spanish, the school district shall administer the Spanish version of the state-approved language proficiency test for identification. If a state-approved language proficiency test for identification is not available in the primary language of the student, the school district shall determine the student's level of proficiency using informal oral language assessment measures.

(e) All of the language proficiency testing shall be administered by professionals or paraprofessionals who are proficient in the language of the test and trained in the language proficiency testing requirements of the test publisher.

(f) For entry into a bilingual education or ESL program, a student shall be identified as an English learner using the following criteria.

(1) In prekindergarten through Grade 1, the student's score from the listening and speaking components on the state-approved English language proficiency test for identification is below the level designated for indicating English proficiency.

(2) In Grades 2-12, the student's score from the listening, speaking, reading, and writing components on the state-approved English language proficiency test for identification is below the level designated for indicating English proficiency.

(g) A student shall be identified as an English learner if the student's ability in English is so limited that the English language proficiency assessment described in subsection (c) of this section cannot be administered.”

LPAC meets:

Within the ***four-week window*** of student enrollment, the members of the LPAC meet to discuss test results and determine proper placement and interventions.

Depending on the time of the school year, state assessment decisions are made according to the state criteria.

Please note for students with disabilities:

“The language proficiency assessment committee ***in conjunction with*** the admission, review, and dismissal (ARD) committee shall identify a student as an English learner if the student's ability in English is so limited or the student's disabilities are so severe that

the English oral language proficiency or norm-referenced assessments described in Subsection (c) of this section cannot be administered. The decision for entry into a bilingual education or ESL program shall be determined by the language proficiency assessment committee in conjunction with the ARD committee in accordance with §89.1220(f) of this title (relating to Language Proficiency Assessment Committee).”

Parental Approval for Program Placement:

Ensure that the **Parent Permission Form** (which includes the student’s test results and information about the Bilingual/ESL programs) is provided to the parent.

Per Section 6.3.3 of the Student Attendance Accounting Handbook, Requirement to Serve Eligible Students, *districts “**must** place a student in a bilingual or ESL education program as soon as the district identifies the student as an EL and the LPAC recommends program placement based on the identification and placement process outlined in 6.3 Program Placement/Eligibility.”*

*“Recommended program placement still occurs if parental approval is pending; however, the district **may only count the student for bilingual education funding after parental approval has been obtained and all necessary documentation has been received.** If a parent ultimately denies program services, a district must discontinue serving the student, but the student’s EL identification remains until the student meets reclassification criteria.” (SAAH, 6.3.3)*

As funding is effective from the date the parent gives written consent on the Parent Permission Form (or in accordance with §89.1220(m)), Parent Permission forms that are submitted to the English Learners Department must be **signed** and **dated** or **contain the criteria described below by §89.1220(m)** or they will be returned to campuses as incomplete.

“(m) A school district may identify, exit, or place a student in a program without written approval of the student’s parent or guardian if:

- (1) the student is 18 years of age or has had the disabilities of minority removed;*
- (2) the parent or legal guardian provides approval through a phone conversation or e-mail that is documented in writing and retained; or*
- (3) an adult who the school district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.”*

A data integrity letter and updated coding document with Parent Permission, Program, and LEP codes is provided for reference purposes below. Please use the coding document provided by the English Learners Department when completing data integrity

checks each six-weeks. Coding for English Learners is completed by the English Learners Department. The English Learners Department **will not code students** unless paperwork meets the guidelines provided by TEA under the Student Attendance Handbook and TAC §89.1240. Parental Authority and Responsibility.

Please note that by not submitting paperwork for English Learners in a timely manner and within the four-week window set forth by TEA, **the campus is delaying funding and affecting the integrity of snapshot data**. Thus, it is critical that the LPAC work with parents and the English Learners Department to stay within compliance of the four week window for testing and classification of students as outlined in §89.1226. Testing and Classification of Students:

(b) “Within four weeks of initial enrollment in a Texas school, a student with a language other than English indicated on the home language survey shall be administered the state-approved English language proficiency test for identification as described in subsection (c) of this section and shall be identified as English learners and placed into the required bilingual education or ESL program in accordance with the criteria listed in subsection (f) of this section.”

**LEP Student, Parent Permission, and Program Codes for English Learners
Waco ISD English Learners Department**

Code	LEP Indicator Code Definition
0	Not LEP/English Proficient (EP)
1	Identified as LEP/English Learner (EL)
F	Student Reclassified from LEP to non-LEP and is in the first year of monitoring (M1)
S	Second year of monitoring (M2)
3	Third year of monitoring-for accountability only-(M3)
4	Fourth year of monitoring-for accountability only-(M4)
5	Former LEP student / previously identified as LEP, has met reclassification criteria, and has completed four years of monitoring . The student continues with this status and coding for the rest of his/her school years in Texas

Parent Permission Codes for ESL Programs	
Code	Parent Permission Code Definition
A	<p>Parent or guardian has denied placement of a LEP student in the <i>required</i> Bilingual program, but has approved placement of a LEP/English Learner in the ESL program.</p> <p>Please note: Since Waco ISD is required to offer a Bilingual program at the Elementary level because we have more than 20 English Learners who speak Spanish, LPACs must offer this program to students. After offering the program, the parent then either approves or denies placement in the program. If the parent approves placement in the Bilingual program, and we have offered transportation, but ultimately not able to place the student in a program due to the program being full or not having the program at the campus and the parent does not want to place the child in another campus that has room in the Bilingual program we must code A for Parent Permission.</p>
K	<p>Parent or guardian has approved placement of a LEP/English Learner student in the ESL program.</p> <p>Please note: All secondary LEP students in an ESL program are coded K since we do not have a Bilingual program at the Middle or High School levels and a Bilingual program is not required at these levels. However, since a Bilingual program is required at the Elementary level, the only students who should be coded K at the Elementary level are English Learners who speak any other language other than Spanish since Waco ISD does not offer a Bilingual program in other languages other than Spanish.</p>
J	<p>Use this code only if the parent has provided permission for the placement of the LEP/English Learner in the ESL program but <u>the student's teacher is not ESL certified and the school district has filed for an ESL Waiver</u> for the student's teacher for the current school year.</p>
H	<p>Parent or guardian has requested placement of a non-LEP/English Proficient (EP) student in an ESL program.</p> <p>Please note: Use this code only for students who have never been identified as English Learners or did not qualify as English Learners and the parent is requesting placement in the ESL program.</p>

Parent Permission Codes for Bilingual Education Programs	
Code	Parent Permission Code Definition
D	Parent or guardian has approved placement of a LEP/English Learner in the Bilingual program.
E	Use this code only if the parent has provided permission for placement of the LEP/English Learner in the Bilingual program but <u>the student's teacher is not Bilingual certified and the school district has filed for a Bilingual Education Exemption</u> for the student's teacher for the current school year.
3	Parent has requested placement of a non-LEP/ English Proficient (EP) student in the Bilingual program. Please note: Use this code only for students who have never been identified as English Learners or did not qualify as English Learners and the parent is requesting placement in the Bilingual Education program.

Code	Parent Denial For Any Program (ESL or Bilingual) Definition
C	Parents have denied placement of the LEP/English Learner in any and all special language programs (e.g. ESL or Bilingual)

Code	Parent Request For Placement in Any Program (ESL or Bilingual Program) Definition
G	The parent or guardian has approved the placement of a reclassified English Proficient (EP) in a Bilingual or ESL program . Please note: Use this code only for students who were identified as English Learners and have met exit criteria and parent is approving that they continue in an ESL or Bilingual Education program or have denied exit of the student from the ESL or Bilingual Education program.

ESL and Bilingual Program Codes for Waco ISD	
Code	ESL Program Code Definition
0	The student does not participate in the ESL program
2	<p>English as a Second Language (ESL)/Content-Based</p> <p>Important Note – Please see below: Elementary Level: Use this program code only if the English Learner is in a self-contained (not departmentalized classroom) and the student’s teacher is ESL certified. If Departmentalized, use this code only if the student’s core content area teachers (e.g. ELAR, Math, Science, and Social Studies) assigned to the English Learner are all ESL certified.</p> <p>Middle School and High School Level: Use this program code only if the student’s core content area (e.g. ELAR, Math, Science, and Social Studies) teachers assigned to the English Learner are all ESL certified.</p>
3	<p>English as a Second Language (ESL)/Pull-Out</p> <p>Important Note – Please see below: Elementary, Middle, and High Schools: Use this program code only if the <u>English Learner’s ELAR teacher</u>, at the student’s grade level, is ESL certified and other core content area teachers are not ESL Certified.</p>

Code	Bilingual Program Code Definition
0	The student does not participate in the Bilingual Education program
2	Transitional Bilingual/Early Exit
4	Dual Language Immersion/Two-Way

Special Exit Criteria:

Determine Special Exit Criteria for student (if applicable) in conjunction with the student's ARD Committee. Special Exit Criteria can only be determined in the fall at or near the beginning of the school year. Please see TAC §89.1226(m) below:

“For an English learner with significant cognitive disabilities, the language proficiency assessment committee in conjunction with the ARD committee may determine that the state's English language proficiency assessment for exit is not appropriate because of the nature of the student's disabling condition. In these cases, the language proficiency assessment committee in conjunction with the ARD committee may recommend that the student take the state's alternate English language proficiency assessment and shall determine an appropriate performance standard requirement for exit by language domain under subsection (i)(1) of this section...”

Student enrollment changes:

Let the English Learners Department know when an EL student withdraws from school, has been transferred to another school, or to the Alternative school.

Student entering from another state who has/has not had ESL services:

Same procedure as stated above is followed.

Student entering from another district or from another school within the district:

- Bilingual/ESL records are examined for proper placement.
- Bilingual/ESL records are examined to determine possible accommodations prior to state assessment. Accommodations must mirror ***routinely provided*** instructional practices.
- Determine Special Exit Criteria for student (if applicable) in conjunction with the student's ARD Committee. Special Exit Criteria can only be determined in the fall at or near the beginning of the school year. Please see (TAC §89.1226(m)).
- Discussion to determine appropriate testing procedures for individual student in each subject area occurs in mid-year LPAC meetings.

Spring:

Important note: Students are administered the state's English language proficiency assessment to determine their progress in English language acquisition across the four language domains.

Texas English Language Proficiency Assessment System (TELPAS):

English language proficiency in the four language domains of Speaking, Listening, Reading, and Writing are assessed for each EL student, according to state guidelines.

TELPAS and Domain 3: Closing the Gaps

While continuous academic growth for English Learners is paramount, English language proficiency growth is especially important in the **English Language Proficiency (ELP)** target on *Domain 3: Closing the Gaps*. Campuses that have 25 or more English Learners need to meet this target on Domain 3. At this time, the ELP target is 36%. It is also important to remember that TELPAS is assessed in grades K-12. *A student is considered having made progress if:*

- *the student advances by at least one score of the composite rating from the prior year to the current year, or*
- *the student's result is Advanced High.*

All four language domains (Listening, Speaking, Reading, and Writing) are now weighted the same at 25% and are equally important in terms of assessing English language proficiency growth under TELPAS. Thus, teachers should ensure that they are addressing all four language domains during instruction.

TELPAS and students receiving special education services:

Please note that for students receiving special education services, "participation must be considered on a **domain-by-domain basis**" and the "decision must be made by the ARD Committee in conjunction with the LPAC." The "reason for not assessing the student must be well-supported and documented." (Texas Education Agency)

LPAC meets to determine student's linguistic accommodations with input from teachers and in accordance with TEA guidance and other pertinent considerations for standardized state assessments (e.g. if applicable, special exit criteria that was set in the fall in collaboration with ARD committee). Linguistic accommodations should mirror accommodations that the child is provided on a regular basis during the school year.

An English Learner from another Texas school district, state, or country who enrolls on or after the first day of the TELPAS testing window:

- "Will not be assessed by receiving district in the holistically-rated domains."

- “Is required to take the TELPAS reading test and listening and speaking test.”
(Texas Education Agency)

TELPAS and students placed at Alternative Schools:

LPAC Chairs should use due diligence and collaborate with the English Learner Department, Director of Assessment and Accountability, and alternative schools (if students from their campus are placed in an alternative school) to ensure that all ELs who need to take TELPAS are assessed in all four language domains and/or the LPAC’s recommended domains when applicable. If a student is not able to test in any one area of TELPAS (e.g. due to lack of technology), documentation needs **to be provided in writing to the EL Department upon the completion of the TELPAS testing and include all of the following information:**

1. Name of student, Grade Level, Campus name, and ID number of the student
2. Name of the TELPAS test that the student did not take (e.g. listening, speaking)
3. All reasonable attempts that were made to test the student
4. Dates that attempts to test the student were made
5. Circumstances involved which did not allow the student to test
6. Any pertinent additional forms of documentation (including screen shots of the student’s attendance-if applicable)
7. Name and signature of the campus LPAC Chair, School Principal, and TELPAS Coordinator

Documentation will be placed in the student’s LPAC folder and a copy will be sent to the English Learner Department for record keeping.

End-of-Year:

LPAC meets to discuss student progress, test scores, grades, and teacher anecdotal data (e.g. rubric).

If applicable, determine if student has met Special Exit Criteria set in the fall in conjunction with the student’s ARD Committee and make recommendations.

Decision is made for next year’s placement (Bilingual/ESL class, exit (if student has met criteria for reclassification and with parent approval). Please note that a student can only be exited from an ESL or Bilingual program at the end of the school year.

Per §89.1220. Language Proficiency Assessment Committee (m), “a school district may identify, exit, or place a student in a program without written approval of the student’s parent or guardian if:

- 1) the student is 18 years of age or has had the disabilities of minority removed;
- 2) the parent or legal guardian provides approval through a phone conversation or e-mail that is documented in writing and retained; or
- 3) an adult who the school district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.”

In addition, the following procedures are completed by the Campus LPAC Chair **no later than the last contracted day**:

Forms and Procedures Required for EOY LPAC:

1. **Copy of signed EOY LPAC and minutes** §89.1220. Language Proficiency Assessment Committee
2. **Copy of signed Parent Permission for exited students (if applicable)** §89.1220. Language Proficiency Assessment Committee
3. **Copy of Report Card (Fifth six weeks)** §89.1220. Language Proficiency Assessment Committee and §89.1265(d). Evaluation
4. **Copy of EL Instructional Accommodations** §89.1220. Language Proficiency Assessment Committee
5. **Copy of TELPAS Confidential Student Report (CSR)** §89.1220. Language Proficiency Assessment Committee
6. **Copy of STAAR Confidential Student Report (CSR)** §89.1220. Language Proficiency Assessment Committee
7. **Copy of Progress Report (*Cumulative Folder Report* from ELlevation) sent home to parent** §89.1265(d). Evaluation
8. **All Documents filed in student’s folder prior to LPAC Chair’s last contracted date** (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)
9. **All EL folders stored in safe location on campus** (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

Reclassified Students:

The language proficiency assessment committee shall monitor the academic progress of each student who has met criteria for exit in accordance with TEC, §29.056(g), for the first two years after reclassification. If the student earns a failing grade in a subject in the foundation curriculum under TEC, §28.002(a)(1), during any grading period in the first two school years after the student is reclassified, the language proficiency assessment committee shall determine, based on the student's second language acquisition needs, whether the student may require intensive instruction or should be reenrolled in a bilingual education or special language program. In accordance with TEC, §29.0561, the language proficiency assessment committee shall review the student's performance and consider:

- 1) the total amount of time the student was enrolled in a bilingual education or special language program; Commissioner's Rules Concerning State Plan for Educating English Learners §89.BB. July 2019 Update Page 11
- 2) the student's grades each grading period in each subject in the foundation curriculum under TEC, §28.002(a)(1);
- 3) the student's performance on each assessment instrument administered under TEC, §39.023(a) or (c);
- 4) the number of credits the student has earned toward high school graduation, if applicable; and
- 5) any disciplinary actions taken against the student under TEC, Chapter 37, Subchapter A (Alternative Settings for Behavior Management).

Monitoring forms for year 1 and year 2 after exiting are also completed, reflecting the reviews conducted each 6 weeks throughout the school year.

Note: After the first two years of monitoring of reclassified students, the LPAC will continue to coordinate with PEIMS for an additional two years of monitoring, as required by federal statute. During this time, the LEP/EL indicator codes of 3 and 4 are used to reflect the third and fourth years of monitoring (SAAH p. 178).

All documents are processed so that the English Learners Department receives a copy of all documents and originals are filed in student blue folder within the cumulative folder.

EL folders contain confidential student information and must be stored in a safe location on campus.

If a student meets the criteria to exit from a Bilingual or ESL program, ***a parent signature must be obtained for the student to exit the program.***

Reclassification from Bilingual/ESL Program

LPAC considers the current state criteria that enables "reclassification" from the Bilingual/ESL program.

Follow end-of-year procedures.

Bilingual Program Reclassification Considerations:

Waco ISD's bilingual program is Transitional Bilingual Early-Exit program; therefore, "English learners are served in both English and another language and are prepared to

meet reclassification criteria to be successful in English-only instruction not earlier than two or later than five years after the student enrolls in school” (§89.1210. Program Content and Design).

Student’s in Waco ISD’s Two-Way Dual Language Immersion Program “are prepared to meet reclassification criteria in order to be successful in English-only instruction not earlier than six or later than seven years after the student enrolls in school” (§89.1210. Program Content and Design).

Exit from a Bilingual or ESL Program (§89.1226. Testing and Classification of Students(i)-(m):

(i) For exit from a bilingual education or ESL program, a student may be classified as English proficient only at the end of the school year in which a student would be able to participate equally in a general education, all-English instructional program. This determination shall be based upon all of the following:

(1) a proficiency rating on the state-approved English language proficiency test for exit that is designated for indicating English proficiency in each the four language domains (listening, speaking, reading, and writing);

(2) passing standard met on the reading assessment instrument under the Texas Education Code (TEC), §39.023(a), or, for students at grade levels not assessed by the aforementioned reading assessment instrument, a score at or above the 40th percentile on both the English reading and the English language arts sections of the state-approved norm-referenced standardized achievement instrument; and

(3) the results of a subjective teacher evaluation using the state's standardized rubric.

(j) A student ***may not be exited from the bilingual education or ESL program in prekindergarten or kindergarten.*** A school district must ensure that English learners are prepared to meet academic standards required by the TEC, §28.0211. Commissioner's Rules Concerning State Plan for Educating English Learners §89.BB. July 2019 Update Page 15

(k) A student may not be exited from the bilingual education or ESL program if the language proficiency assessment committee has recommended designated supports or accommodations on the state reading assessment instrument.

(l) For English learners who are also eligible for special education services, the standardized process for English learner program exit is followed in accordance with applicable provisions of subsection (i) of this section. However, annual meetings to

review student progress and make recommendations for program exit must be made in all instances by the language proficiency assessment committee in conjunction with the ARD committee in accordance with §89.1230(b) of this title (relating to Eligible Students with Disabilities). Additionally, the language proficiency committee in conjunction with the ARD committee shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with §89.1230(a) of this title.

(m) For an English learner with significant cognitive disabilities, the language proficiency assessment committee in conjunction with the ARD committee may determine that the state's English language proficiency assessment for exit is not appropriate because of the nature of the student's disabling condition. In these cases, the language proficiency assessment committee in conjunction with the ARD committee may recommend that the student take the state's alternate English language proficiency assessment and shall determine an appropriate performance standard requirement for exit by language domain under subsection (i)(1) of this section;

Grades are monitored after each 6 weeks for 2 years.

LPAC determines re-enrollment if grades are not satisfactory, each grading period.

Elementary Implications:

Important Chapter 89. Adaptations for Special Populations Update:

In order to be in compliance with the new guidelines from TEA under *Chapter 89. Adaptations for Special Populations*, the following guidance from TEA must be implemented when providing services to English Learners through an **ESL Pull-Out Program Model in Elementary and Secondary Levels**:

*“An ESL/pull-out program model is an English acquisition program that serves students identified as English learners through English instruction **provided by an appropriately certified ESL teacher under the TEC, §29.061(c), through English language arts and reading.**” Note: Students at the Elementary Level are served by both Content-Based and Pull-Out ESL Models.*

*“The goal of ESL pull-out is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading. **Instruction shall be provided by the ESL teacher in a pull-out or inclusionary delivery model.**”*

Bilingual Programming

The LPAC should make all efforts to communicate the benefits of Bilingual instruction for English Learners. Waco ISD provides a Bilingual Programs in grades Pre-K through Five.

- English Learners at Waco ISD have the option to participate in the Bilingual or ESL Programs per LPAC recommendations.
- If a child is placed in a Bilingual Program and the Bilingual program is full or not available at the student's resident campus, with parent approval, the campus should submit a Student Placement Form and the English Learners Department will work with other campuses that offer a Bilingual program to place the students (the Student Placement Form can be found under the Reference Section of the English Learners Department Handbook or obtained directly from the English Learners Department). Please note that Student Placement Forms are time stamped upon receipt and will be processed in the order received. The LPAC should make its recommendation based on the best program for the student, not the program's location.
- Transportation will be provided at no cost to the student to and from the receiving campus.

Further guidance from TEA is below:

IV.B-5. What is the appropriate procedure for a student who registers at his/her zoned campus(home campus), is identified as an English learner (EL), and is eligible for placement in the district's bilingual education program, but the bilingual program is located on another campus?

The LPAC at the home campus

- includes (at a minimum) the LPAC administrator, an ESL certified teacher, and an LPAC parent. It is not necessary to include a bilingual certified teacher if one is not present on the home campus.
- should be able to explain the benefits of the bilingual program and why it is recommended for the student. Parents must be fully aware of access to and benefits of the bilingual program in order to make an informed decision.
- should not hesitate to recommend the bilingual education program even though it is not offered on the home campus. There should be a district procedure for connecting the family to the appropriate bilingual campus (clear communication between the two campuses, busing information, knowledge about exact location of bilingual campus, etc.).
- should not present both the bilingual education and ESL program simultaneously to the parents, especially when both programs are not available on the home campus, because bilingual and ESL program placement is an LPAC recommendation. The LPAC should make its recommendation based on the best program for the student, not the program's location.

If parents

- accept bilingual program placement, the home campus should ensure a smooth transition between the home and bilingual campus.
- deny bilingual program placement, denial of program services paperwork should be signed. Then the home campus should explain the benefits of the ESL program provided on the home campus and offer parents the opportunity for ESL program participation.

Enrollment in a language program (e.g. Bilingual, Dual-Language, and ESL) is voluntary. Thus, parents may decline enrollment, through the LPAC, in the Bilingual or Dual-Language Program and choose ESL Services. Waco ISD provides both Content-Based and Pull-Out ESL Service Models for English Learners. Parents also have the right to deny language services or programming (e.g. Bilingual, Dual-Language, and ESL) for their child.

Newcomers

*According to the U.S. Department of Education, “the term “**newcomers**” refers to any foreign-born students and their families who have recently arrived in the United States. Throughout our country’s history, people from around the world have immigrated to the United States to start a new life, bringing their customs, religions, and languages with them. The United States is, to a great extent, a nation of immigrants. Newcomers play an important role in weaving our nation’s social and economic fabric, and U.S. schools play an important role in helping newcomers adapt and contribute as they integrate into American society.”*

For Newcomers and ELs with very limited English speaking skills in ESL programs or those whose parents deny placement in a bilingual program, a Newcomer Specialist from the EL Department is assigned to the student for supplemental instructional support. The Newcomer Specialist provides accelerated instruction via a pull-out model utilizing specialized linguistic and academic interventions for Newcomers and ELs with very limited English speaking skills.

Please see below for specific guidance from TEA regarding Newcomers:

IV. A-5. Are there grading exemptions for newcomer English learners who have recently enrolled in U.S. schools? No. Grading exemptions for newcomer ELs are not appropriate. The focus should be on instructional and classroom assessment practices for newcomer ELs that facilitate access to the curriculum and opportunities for varied methods for demonstrating content knowledge for grading purposes. Limited language proficiency in English should not be a basis for failure or retention.

Resource: *The United States Department of Education (USDE) provides a Newcomer Toolkit resource for programmatic and instructional support for newcomer English learners.*

IV. A-6. How are the grade levels, course schedules, and English learner program placement handled for newcomer ELs, particularly those at the secondary level with little prior schooling documentation and limited proficiency in English?

Grade placement of any student is a local decision. Districts and charters should NOT factor in English language proficiency when placing a student into an appropriate grade placement, as determined by age or prior school setting. However, there are several important factors to consider when determining grade placement for newcomer ELs:

- Prior schooling documentation from their home country that demonstrates grade completion,
- Current age of the student and estimated age of graduation (students can be enrolled in high school through age 21 as described in the Student Attendance Accounting Handbook in section 3.2.3 on Age Eligibility),
- Social-emotional factors associated with appropriate age placement.

Newcomer ELs should have equitable access to the same grade level courses as their peers without restrictive requirements for pre-requisite courses that do not generate credits toward graduation. Furthermore, the interests of the student should be taken into consideration in order to provide opportunities for course participation that ignites intrinsic motivation.

Language program placement for newcomer ELs should maximize the services provided through the ESL program, or the bilingual education program as available at the secondary level. In grades three through twelve, ELs at a beginning or intermediate English language proficiency level should receive focused, targeted, and systematic language instruction (TAC 74.4 (b)(4)). This means that LEAs should strategically place ELs at these levels with more robust services than their EL peers. The USDE resource listed below provides further information on language services for newcomer ELs.

Resource: *The United States Department of Education (USDE) provides a Newcomer Toolkit resource for programmatic and instructional support for newcomer English learners.*

Some Newcomers may also be undocumented students. Per the U.S. Department of Education, Office of Civil Rights in the Dear Colleague letter dated on May 8, 2014:

- “Under Federal law, State and local educational agencies (hereinafter “districts”) are required to provide all children with equal access to public education at the elementary and secondary level.”
- “Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public

education to any child residing in the State, whether present in the United States legally or otherwise.”

- “In order to ensure that its educational services are enjoyed only by residents of the district, a district may require students or their parents to provide proof of residency within the district. See, e.g., *Martinez v. Bynum*, 461 U.S. 321, 328 (1983).¹ For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students’ citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district. A district should review the list of documents that can be used to establish residency and ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school.
- Furthermore, “a school district may not bar a student from enrolling in its schools because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.”
- “In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.”
- “Districts cannot use the acquired data to discriminate against students; nor should a parent’s or guardian’s refusal to respond to a request for this data lead to a denial of his or her child’s enrollment.”

Please note: The full ***Dear Colleague Letter: School Enrollment*** and ***Enrollment Fact Sheet*** can be found under the resources section of the English Learners Department Handbook and at the end of this document.

Some Newcomers also qualify as immigrant students. In order to qualify as an immigrant. Students who meet the following criteria are coded as immigrant students per the PEIMS data standards:

- 1) is aged 3 through 21;
- 2) was not born in any state in the United States, Puerto Rico, or the District of Columbia;
- 3) has not been attending school in the United States for more than three full academic years.

The Waco ISD English Learners Department gathers important information students, their families, and campus staff to determine whether a Newcomer meets immigrant

student criteria. Thus, it is important that campuses collect and send the following to the English Learners Department for all students:

- Home Language Survey
- Birth Certificate
- Any school records or transcripts the family or student can provide
- Student Background Information Form

Please do not only provide the Student Background History Form to foreign born students as this would not follow the guidance from the U.S. Department of Education's ***Dear Colleague Letter: School Enrollment***. "In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students."

Upon receipt of these documents, if a language other than English is noted anywhere on the Home Language Survey, the Newcomer student will be assessed for English Learner identification purposes as per the guidelines under §89.1226. *Testing and Classification of Students, Beginning with School Year 2019-2020*.

The term immigrant is not to be confused with migrant. Per PEIMS data standards, a migrant student "is one who is a migratory agricultural worker (or whose parent, spouse, or guardian is a migratory agricultural worker) and who, in the preceding 36 months, in order to obtain temporary employment in agriculture or fishing, or to accompany a parent, spouse, or guardian to obtain such employment: 1) has moved from one school district to another, or 2) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence in order to engage in a fishing activity." Please note that a migrant student does not necessary have to be a LEP student.

Secondary Implications:

Important Chapter 89. Adaptations for Special Populations Update:

In order to be in compliance with the new guidelines from TEA under *Chapter 89. Adaptations for Special Populations*, the following guidance from TEA must be implemented when providing services to English Learners through an ESL Pull-Out Program Model in Elementary and Secondary Levels:

*An ESL/pull-out program model is an English acquisition program that serves students identified as English learners through English instruction **provided by an appropriately certified ESL teacher under the TEC, §29.061(c), through English language arts and reading.***

The goal of ESL pull-out is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language

*development through academic content instruction that is linguistically and culturally responsive in English language arts and reading. **Instruction shall be provided by the ESL teacher in a pull-out or inclusionary delivery model.***

Middle School and High School Implications for Newcomers:

Please note: If an English Learner student possesses very limited English proficiency skills, the counselors at the Middle School campuses should enroll the student in an ELLA 8h grades 7 or 8 course and in an ELDA course at the High School level to be taken concurrently with ESOL I or ESOL II.

A Newcomer Specialist from the English Learners Department is also assigned to Newcomers for supplemental instructional support. This linguistic and academic support **is in addition to the ESL support provided by the student's ESL Certified ELAR teacher.** **The support by the Newcomer Specialist is supplemental and does not take the place of the required ESL support provided the student's ESL Certified ELAR teacher.** The Newcomer Specialist provides accelerated instruction via pull-out model utilizing specialized linguistic and academic interventions for Newcomers and ELs with very limited English speaking skills.

The ESL teacher corresponds with other content area teachers about expectations and instructional interventions/strategies for the EL student. The ESL classroom is open for accepting EL students for tutoring and for assistance in test taking/assignment completions. This is done most routinely for the recent arrival ELs.

For speakers of languages other than English – the ESL room has dictionaries for other languages and students are allowed to use electronic translators during regular class time. Effort is made by school personnel to find another high school student who speaks the same language to whom the new student can be introduced.

If the student needs to be placed in classes before the testing can be completed or before ESL records (if applicable) are received, the counselors and the ESL teacher work together to place the student in appropriate classes.

Data Integrity Checks

Each 6 weeks reports will be sent to campus staff to verify student coding. Corrections will be noted by staff and reviewed by the campus principal, and coding will be corrected by the English Learners Department.

A data integrity letter and coding document with Parent Permission, Program, and LEP codes is provided for reference purposes in this document. Please use the coding document when completing data integrity checks each six-weeks. Coding for English Learners is completed by the English Learners Department. The English Learners Department will not code students unless paperwork meets the

guidelines provided by TEA under the Student Attendance Handbook and TAC §89.1240. Parental Authority and Responsibility.

LPAC Committees on the campus will be trained to ensure that all meetings and documentation are completed in a timely manner. Deadlines for LPACs are established by Chapter 89 of TAC as a four-week window of enrollment of any student with a language other than English, if they qualify for services or if a closing LPAC has determined that the student does not qualify for services. Deadlines for conducting meetings and submitting paperwork are established and communicated to campus principals and LPAC chairs at the beginning of each school year. The deadlines typically occur within four weeks of the start of school for Beginning of the Year (BOY) LPACs, the last week in January for Middle of the Year (MOY) LPACs, and the last week of May for the End of the Year (EOY) LPACs. Data Integrity Checks also require deadlines to be met, typically 5 per year – at the end of each 6 weeks.

The English Learners Department monitors the accuracy of proper procedures in LPAC meetings (required membership, training of LPAC members, and procedures during meetings), paperwork, student placement, teacher certification, instructional strategies for differentiation, as well as the timeliness of campus submission of documents. Documentation of submission of paperwork, which accounts for all ELs on the campus, will require signatures of the campus principal, LPAC Chair, EL Content Specialist, and Director of Bilingual and ESL Education for required documents such as, but not limited to the following:

BOY – 1) Home Language Survey (to initiate testing and identification), 2) Student Background Information Form for Grades PK-12, 3) Testing documents (provided by the English Learners Department), 4) Minutes of Meetings, 5) Initial Review, 6) Parent Permission (due within 20 days of student enrollment and reoccurring throughout the year based on the date of the student’s enrollment), 7) Special Exit Criteria documentation (when applicable) that is completed in conjunction with the student’s ARD Committee.

MOY – 1) Minutes of Meetings, 2) Linguistic Accommodations (TEA testing forms), and 3) Student History Sheet (documenting 1-3 year immigrants).

EOY – 1) Minutes of Meetings, 2) Annual Review (LEP – including denials and Non-LEP- M1 & M2 – monitored students), 3) Progress Report (LEP – including denials and Non-LEP- M1 & M2 – monitored students) – must be signed by parent to exit the program, 4) Special Exit Criteria documentation which includes determination (if applicable) of whether or not the student met the criteria set in the fall in conjunction with the student’s ARD Committee 5) Parent Permission if student changes program (bilingual to ESL in Elementary) or if student meets criteria to exit from an ESL or Bilingual program.

Data Integrity Checks – 1) LEP list (provided by English Learners Department), 2) LPAC Roster Review Form (provided by campus), 3) 6 Week Monitored Students Form.

Processing of Paperwork:

Copies of all documents must be submitted to the English Learners Department **prior to or upon the deadline**. LPAC and documentation deadlines can have an effect on funding, are tied to time sensitive assessment decisions, and inform important linguistic and academic differentiation decisions for the instruction of ELs; thus, **a request for an extension for a deadline must be requested in writing (e.g. via e-mail) and approved by the English Learners Department Director prior to the deadline**. Submission of paperwork to the English Learners Department must be preceded by filing the original student documents in the blue folder within the cumulative folder.

As PEIMS coding and District funding are tied to these documents, whether entering or exiting the program, timeliness and accuracy are paramount. Campuses will be supported by the English Learners Department to meet these requirements; however, filing of LPAC documents and ensuring that EL folders are stored in a secure location at the campus is the responsibility of the campus. One week prior to each deadline, EL Content Specialists will contact the campus LPAC chair to assess progress and timeliness of completion of LPACs and documentation.

Immigrant Students:

Coding for Immigrant students is done in the English Learners Department and students must meet the criteria described below to qualify as immigrant.

Guidance Related to Immigrant Indicator Code

Please note: “You cannot ask directly about immigration status, but here are three questions based on guidance from the *PEIMS Data Standards* that you are allowed to ask:”

- 1) *Are you aged 3–21 years?*
- 2) *Were you born outside of the US?*
- 3) *Have you attended a US school for 3 full academic years?*
Note: The 3 years do not need to be consecutive.

If the answer is yes to the first two questions and no to the third question, then the immigrant flag should be turned on.

Excerpt from the *PEIMS Data Standards*:

“IMMIGRANT-INDICATOR-CODE (E0797) indicates whether the student is an identified immigrant under the definition found under Title III of the No Child Left Behind Act of 2001 (NCLB), where the term ‘immigrant children and youth’ is defined as, “individuals who are aged 3 through 21; were not born in any state;

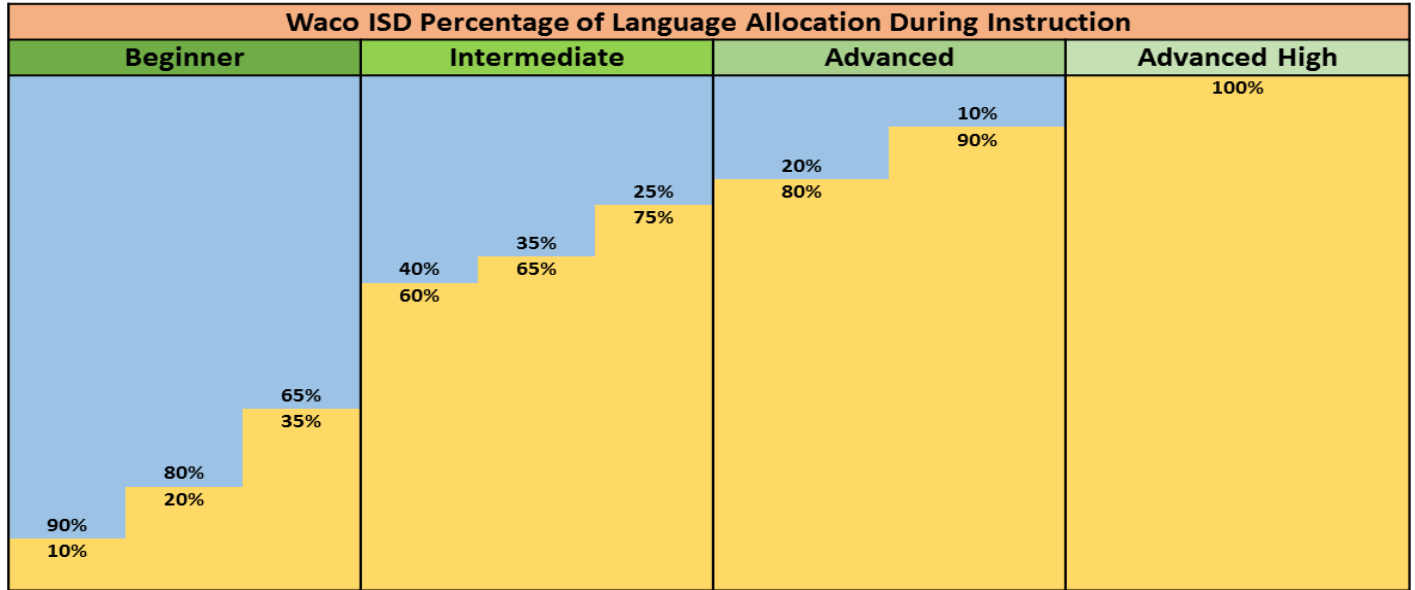
and have not been attending one or more schools in any one or more states for more than 3 full academic years. The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. (See P.L. 107-110 Title III, Part C, § 3301(6).)

Note: The term immigrant has three definitions approved by the Texas Education Agency. Each definition serves a unique purpose. The NCLB definition serves to identify the recent immigrants for the Title III program. The Student Assessment Division's definition assists in determining the appropriate evaluation of the LEP students in Texas. The English for Speakers of Other Languages (ESOL) I and II definition determines eligibility of the LEP students who may receive high school credit for these two courses."



English Learners Department Bilingual Program Model

Waco Independent School District Elementary Transitional Early Exit Model Time Allocations for L1 and L2



Primary Language/L1

English/L2

“The amount of instruction in each language within the bilingual education program shall be commensurate with the students' level of proficiency in each language and their level of academic achievement. The students' level of language proficiency and academic achievement shall be designated by the language proficiency assessment committee” (19 TAC Chapter 89, Subchapter 89.1210 (b)). Note: The teacher must differentiate and adjust instruction as students' language proficiency in the L2 progresses.



Acquisition of the English Language Framework



English Language Acquisition Framework		Language Arts <small>*(Simultaneous + LOD)</small>		Social Studies <small>*LOD</small>		Math		Science	
		English	Spanish	English	Spanish	English	Spanish	English	Spanish
PK	Daily	50%	50%	50%	50%	100%	0%	100%	0%
		<p>*50:50 Simultaneous Reading instruction in L1 and L2: Students begin reading in both languages simultaneously (<i>Effective Reading Programs for English Language Learners: A Best Evidence Synthesis</i>; Slavin and Cheung, 2003).</p> <p>*LOD: Language of the Day will be used for Language Arts and Social Studies instruction to ensure for separation of languages and promote L2 acquisition. Science and Math will be taught in English daily. Many years of research have concluded that separation of the two languages L1 and L2, during literacy instruction helps promote “long-term” academic achievement for ELLs (Crawford, Ovando, Combs, Collier, 2006).</p>							
<p>*Student Transition of Language (Critical Transition Period) The purpose of this model is Early English Language Proficiency as Waco ISD’s Bilingual students attend a Transitional (Early-Exit) Bilingual Program</p>									
*K-1	Daily	50%	50%	50%	50%	100%	0%	100%	0%
2	Daily	75-100%	0-25%	80%	20%	100%	0%	100%	0%
3-5	Daily	90-100%	0-10%	100%	0%	100%	0%	100%	0%

Note: These are recommendations and the LPAC Committee will determine the student’s language plan using guidance from 19 TAC Chapter 89, Subchapter 89.1210 (b) and the Waco ISD Elementary Transitional Early Exit Model Time Allocations for L1 and L2 Document. Newcomers will receive additional academic and language support via Waco ISD’s Newcomer Program.

CHAPTER 89 COMMISSIONER'S RULES CONCERNING STATE PLAN FOR EDUCATING ENGLISH LANGUAGE LEARNERS

“The goal of bilingual education programs shall be to enable English language learners to become competent in listening, speaking, reading, and writing in the English language through the development of literacy and academic skills in the primary language and English. **Such programs shall emphasize the mastery of English language skills,** as well as mathematics, science, and social studies, as integral parts of the academic goals for all students to **enable English language learners to participate equitably in school”** (§89.1201 (b)).



English Learners Department End of Year Procedures Documentation Form

To be completed by Campus LPAC Chair **no later than last contracted day.**

I, _____, attest that I have completed the following steps and have sent copies of the following to the ELL Department:

Forms Required for EOY LPAC:

Copy of signed EOY LPAC and minutes §89.1220. Language Proficiency Assessment Committee

Copy of signed Parent Permission for exited students (if applicable) §89.1220. Language Proficiency Assessment Committee

Copy of Report Card (Fifth six weeks) §89.1220. Language Proficiency Assessment Committee and §89.1265(d). Evaluation

Copy of EL Instructional Accommodations §89.1220. Language Proficiency Assessment Committee

Copy of TELPAS Confidential Student Report (CSR) §89.1220. Language Proficiency Assessment Committee

Copy of STAAR Confidential Student Report (CSR) §89.1220. Language Proficiency Assessment Committee

Copy of Progress Report (Cumulative Folder Report from ELLevation) sent home to parent §89.1265(d). Evaluation

All Documents filed in student’s folder prior to LPAC Chair’s last contracted date (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

All EL folders stored in safe location on campus (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

Check off each area upon completion, sign and submit completed form upon to Grace Benson, Director of ESL and Bilingual Education.

_____ Signature of LPAC Chair

_____ Date

_____ Signature of Campus Principal

_____ Date

For ELL Department Use Only:

Date received by Grace Benson, Director of Bilingual and ESL Education

Please note: Copy placed is also placed in EL Department Accountability Binder

Updated 11/2019

7.3 Bilingual Inter-district Placement

Reference or Contact: Director of Bilingual and ESL Education

1. Parents register on campus and student eligibility for bilingual services is verified through prior testing and LPAC decision-making or the campus will initiate testing procedures, as required.
 - a. Personnel receiving student Home Language Survey (HLS) indicating a language other than English anywhere on the HLS and Student Background Information Form for Grades PK-12, will fax or email copies of the forms along with a copy of the student's Birth Certificate to the English Learners Department.
 - b. If bilingual services are not available at the receiving campus, a Student Placement Form will be provided to the English Learners Department to begin the student placement request process.

2. English Learners Department receives student placement request
 - a. Personnel will enter student's info into database, and verify student bilingual program eligibility.
 - b. The English Learners Department will inquire of campuses with available bilingual services regarding availability of space according to student needs and potential sibling requirements.
 - c. Transportation needs will be considered and if busing is required, the English Learners Department will work with the campuses and Goldstar to set up bus transportation. Existing bus routes and available campuses will be considered prior to setting up any new routes.
 - d. The Student Placement Form will be faxed to the campus sending placement request, campus receiving the transfer student, and Goldstar.
 - e. The campus will contact the parents to let them know that the placement was approved and when the bus will be available, if appropriate.

Please note: A Bilingual Inter-district Placement request is not synonymous with an Inter-district Transfer request. Therefore, the procedures outlined above apply only to Bilingual Inter-district Placement requests.

Updated 11/2019

**Waco ISD Campus Staffing for English Learners
Elementary School**

Campus Name:

Grade Level	Teacher's Name	Core Subject Area	Please Check if the Teacher is ESL Certified	Please Check if this is Departmentalized Core Area	Please Check if this is a Content-Based Classroom
PK	Example: John Smith	All	✓		✓
PK					
PK					
PK					
PK					
K					
K					
K					
K					
K					
1					
1					
1					
1					
2					
2					
2					
2					
3					
3					
3					
3					
4					
4					
4					
4					
5					
5					
5					
5	Example: Mary Smith	Math and Science	✓	✓	

LPAC Chairperson	TELPAS Coordinator

**Waco ISD Campus Staffing for English Learners
Middle School**

Campus Name:

Grade Level	Teacher's Name	Please Choose from the Following: ELAR, Reading, or ELLA Class	Please Check if the Teacher is ESL Certified
6	Example: John Smith	ELAR and ELLA	✓
6			
6			
6			
6			
7			
7			
7			
7			
8			
8			
8			
8			

LPAC Chairperson	TELPAS Coordinator

**Waco ISD Campus Staffing for English Learners
High School**

Campus Name:

Grade Level	Teacher's Name	Please Choose From The Following: English 1, English II, English III, English IV, Reading Class, or ELDA Class	Please Check if the Teacher is ESL Certified
9	Example: John Smith	English I and Reading	✓
9			
9			
9			
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11			
12			
12			
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12			

LPAC Chairperson	TELPAS Coordinator

Waco ISD English Learners Department

Memorandum

To: Principals and Supervisors

From: Grace Benson, Director of Bilingual and ESL Programs

Date: September 8, 2021

Subject: **Stipends**

At the beginning of each year, all stipends are deleted from the payroll system. This is done to prevent overpayments to employees that may have changed campus responsibilities from one year to the next.

Enclosed please find the 2020-2021 Stipend Form. Teachers eligible for ESL stipends include ESL Certified ELAR, ELLA, and ELDA Middle and High School teachers serving English Learners (ELs), ESL certified content-based Elementary classroom teachers or if departmentalized, ESL certified ELAR teachers serving ELs.

The bilingual and ESL stipends require a completed ***Bilingual and ESL Stipend*** form. This form is attached for your reproduction. Please have the teacher complete the form with their name, ID number, campus and whether they are ESL or Bilingual; sign, and return the form to you for your signature.

The first paycheck to include the Bilingual and ESL stipends will be based on how quickly the forms are turned in to the EL Department and can be verified regarding certifications, and students served. Forms must be completed and returned to the EL office to be processed.

If you have any questions regarding the stipend process, please feel free to contact our English Learners Department. We will gladly provide you or your teachers with assistance.

Thank you,

Grace Benson, Ed.S.
Director of ESL and Bilingual Education
Waco ISD

English Learners Department Stipend Procedures

Campus Responsibility

1. Principal will process the stipend form provided by the EL Department.
2. Principal obtains teacher information and signature, then signs the form.
3. Send the original completed stipend form to the EL Department.



EL Department Responsibility

1. Review the stipend form.
2. Verify certification and students served. Bilingual stipend-\$5,000, ESL stipend is between \$500 - \$2,000 and contingent upon the ratio of ELs to non-LEP students served (only for ESL Certified ELAR teachers serving LEP students).
3. Director of Bilingual and ESL Programs approves and routes to payroll.



Payroll Responsibility

1. Process stipend form in the teacher's paycheck, based on date of receipt and next payroll run.



U.S. Department of Justice
Civil Rights Division

U.S. Department of Education
Office for Civil Rights
Office of the General Counsel



May 8, 2014

Dear Colleague:

Under Federal law, State and local educational agencies (hereinafter “districts”) are required to provide all children with equal access to public education at the elementary and secondary level. Recently, we have become aware of student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students based on their or their parents’ or guardians’ actual or perceived citizenship or immigration status. These practices contravene Federal law. Both the United States Department of Justice and the United States Department of Education (Departments) write to remind you of the Federal obligation to provide equal educational opportunities to all children residing within your district and to offer our assistance in ensuring that you comply with the law. We are writing to update the previous Dear Colleague Letter on this subject that was issued on May 6, 2011, and to respond to inquiries the Departments received about the May 6 Letter. This letter replaces the May 6 Letter.

The Departments enforce numerous statutes that prohibit discrimination, including Titles IV and VI of the Civil Rights Act of 1964. Title IV prohibits discrimination on the basis of race, color, or national origin, among other factors, by public elementary and secondary schools. 42 U.S.C. § 2000c-6. Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Title VI regulations, moreover, prohibit districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. See 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2).

Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public education to any child residing in the State, whether present in the United States legally or otherwise. Denying “innocent children” access to a public education, the Court explained, “imposes a lifetime hardship on a discrete class of children not accountable for their disabling status. . . . By denying these children a basic education, we deny

them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.” *Plyler*, 457 U.S. at 223. As *Plyler* makes clear, the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student’s entitlement to an elementary and secondary public education.

To comply with these Federal civil rights laws, as well as the mandates of the Supreme Court, you must ensure that you do not discriminate on the basis of race, color, or national origin, and that students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents or guardians. Moreover, districts may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin. To assist you in meeting these obligations, we provide below some examples of permissible enrollment practices, as well as examples of the types of information that may not be used as a basis for denying a student entrance to school.

In order to ensure that its educational services are enjoyed only by residents of the district, a district may require students or their parents to provide proof of residency within the district. *See, e.g., Martinez v. Bynum*, 461 U.S. 321, 328 (1983).¹ For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students’ citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district. A district should review the list of documents that can be used to establish residency and ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school.

As with residency requirements, rules vary among States and districts as to what documents students may use to show they fall within State- or district-mandated minimum and maximum age requirements, and jurisdictions typically accept a variety of documents for this purpose. A school district may not bar a student from enrolling in its schools because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.

¹ Homeless children and youth often do not have the documents ordinarily required for school enrollment such as proof of residency or birth certificates. A school selected for a homeless child must immediately enroll the homeless child, even if the child or the child’s parent or guardian is unable to produce the records normally required for enrollment. *See* 42 U.S.C. § 11432(g)(3)(C)(1).

Moreover, we recognize that districts have Federal obligations, and in some instances State obligations, to report certain data such as the race and ethnicity of their student population. While the Department of Education requires districts to collect and report such information, districts cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of his or her child's enrollment.

Similarly, we are aware that many districts request a student's social security number at enrollment for use as a student identification number. A district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number. See 5 U.S.C. §552a (note).² If a district chooses to request a social security number, it shall inform the individual that the disclosure is voluntary, provide the statutory or other basis upon which it is seeking the number, and explain what uses will be made of it. *Id.* In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.

As the Supreme Court noted in the landmark case of *Brown v. Board of Education*, 347 U.S. 483 (1954), "it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education." *Id.* at 493. Both Departments are committed to vigorously enforcing the Federal civil rights laws outlined above and to providing any technical assistance that may be helpful to you so that all students are afforded equal educational opportunities. As immediate steps, you first may wish to review the documents your district requires for school enrollment to ensure that the requested documents do not have a chilling effect on a student's enrollment in school. Second, in the process of assessing your compliance with the law, you might review State and district level enrollment data. Precipitous drops in the enrollment of any group of students in a district or school may signal that there are barriers to their attendance that you should further investigate.

We are also attaching frequently asked questions and answers and a fact sheet that should be helpful to you. Please contact us if you have additional questions or if we can provide you with assistance in ensuring that your programs comply with Federal law. You may contact the Department of Justice, Civil Rights Division, Educational Opportunities Section, at (877) 292-3804 or education@usdoj.gov, the Department of Education Office for Civil Rights (OCR) at (800) 421-3481 or ocr@ed.gov or the Department of Education Office of the General Counsel at (202) 401-6000. You may also visit <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm> for the OCR enforcement office that serves

² Federal law provides for certain limited exceptions to this requirement. See Pub. L. No. 93-579, § 7(a)(2).

your area. For general information about equal access to public education, please visit our websites at <http://www.justice.gov/crt/edo> and <http://www2.ed.gov/ocr/index.html>.

We look forward to working with you. Thank you for your attention to this matter and for taking the necessary steps to ensure that no child is denied a public education.

Sincerely,

/s/

Catherine E. Lhamon
Assistant Secretary
Office for Civil Rights
U.S. Department of Education

/s/

Philip H. Rosenfelt
Deputy General Counsel
Delegated the Authority to
Perform the Functions and
Duties of the General Counsel
U.S. Department of Education

/s/

Jocelyn Samuels
Acting Assistant Attorney General
Civil Rights Division
U.S. Department of Justice

Attachments



U.S. Department of Justice
Civil Rights Division

U.S. Department of Education
Office for Civil Rights
Office of the General Counsel



Fact Sheet: Information on the Rights of All Children to Enroll in School

All children in the United States are entitled to equal access to a basic public elementary and secondary education regardless of their actual or perceived race, color, national origin, citizenship, immigration status, or the status of their parents/guardians. School districts that either prohibit or discourage, or maintain policies that have the effect of prohibiting or discouraging, children from enrolling in schools because they or their parents/guardians are not U.S. citizens or are undocumented may be in violation of Federal law.

Below are some examples of acceptable enrollment policies, such as requesting proof of residency in the school district, as well as policies that may not be used by schools to deny enrollment to your child.

Proof of Residency in the School District.

- School officials may request proof that you live within the boundaries of the school district. School districts typically accept a variety of documents for this purpose, such as copies of phone and water bills, lease agreements, affidavits, or other documents. A school district's requirements to establish residency must be applied in the same way for all children.
- A school district may not ask about your or your child's citizenship or immigration status to establish residency within the district, nor may a school district deny a homeless child (including a homeless child who is undocumented) enrollment because he or she cannot provide the required documents to establish residency.
- While a school district may choose to include a parent's state-issued identification or driver's license among the documents that can be used to establish residency, a school district may not require such documentation to establish residency or for other purposes where such a requirement would unlawfully bar a student whose parents are undocumented from enrolling in school.

Proof of Age.

- School officials may request documentation to show that a student falls within the school district's minimum and maximum age requirements. School districts typically accept a variety of documents for this purpose, such as a religious, hospital, or physician's certificate showing date of birth; an entry in a family bible; an adoption record; an affidavit from a parent; a birth certificate; or previously verified school records.
- Although a school district might request documents such as those listed above to verify your child's age, a school district may not prevent or discourage your child from enrolling in or attending school because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.



U.S. Department of Justice
Civil Rights Division

U.S. Department of Education
Office for Civil Rights
Office of the General Counsel



Social Security Numbers.

- Some school districts request a student's social security number during enrollment to use as a student identification number. If a school district requests a student's social security number, it must: (1) inform you and your child that providing it is voluntary and that refusing to provide it will not bar your child from enrolling in or attending school, and (2) explain for what purpose the number will be used.
- A school district may not prevent your child from enrolling in or attending school if you choose not to provide your child's social security number.
- A school district may not require you to provide your own social security number in order for your child to enroll in or attend school.

Race or Ethnicity Data.

- School districts have some Federal and state obligations to report race and ethnicity data about the students in their schools. A school district may request that you provide your child's race or ethnicity for this purpose.
- However, a school district may not bar your child from enrolling if you choose not to provide your child's race or ethnicity.

If you want to learn more about your rights and the rights of your child when enrolling in public school, or if you believe that a school district is violating Federal law, you may contact the following government agencies:

- Department of Justice, Civil Rights Division, Educational Opportunities Section
Telephone: (877) 292-3804 (toll-free)
Fax: (202) 514-8337
Email: education@usdoj.gov
- Department of Education, Office for Civil Rights
Telephone: (800) 421-3481 (toll-free)
Email: ocr@ed.gov
If you wish to fill out a complaint form online with the Department of Education, you may do so at <http://www.ed.gov/ocr/complaintintro.html>
- Department of Education, Office of the General Counsel
Telephone: (202) 401-6000
Fax: (202) 205-2689

English Learners Department
Waco ISD
<https://www.wacoisd.org/domain/3624>
501 Franklin Avenue
Waco, TX 76701