

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS**

The Governing Board intends to provide English language learners with challenging curriculum and instruction that develops proficiency in English as rapidly and effectively as possible in order to assist students in accessing the full educational program and achieving the district's academic standards. The district's program shall be based on sound instructional theory and shall be adequately supported so that English language learners can achieve results at the same academic level as their English-proficient peers in the regular course of study.

The Board encourages staff to exchange information with staff in other districts and the county office of education about programs, options, and strategies for English language learners that succeed under various demographic conditions.

*(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)*

The Superintendent or designee shall maintain procedures which provide for the identification, assessment, and placement of English language learners and for their redesignation based on criteria adopted by the Board and specified in administrative regulations.

To evaluate program effectiveness, the Superintendent or designee shall regularly examine program results, including reports of the English language learners' academic achievement, their progress towards proficiency in English, and the progress of students who have been redesignated as fluent English proficient. The Superintendent or designee shall annually report these findings to the Board and shall also provide the Board with regular reports from any district or schoolwide English learner advisory committees.

*(cf. 6190 - Evaluation of the Instructional Program)*

**Type of Instruction**

Students who are English language learners shall be educated through "sheltered English immersion" or "structured English immersion" during a temporary transition period not normally intended to exceed one year. "Nearly all" of the classroom instruction in the district's sheltered English immersion program shall be in English, but with the curriculum and presentation designed for students who are learning the language. (Education Code 305, 306)

The district has defined the term "nearly all" as follows:

All classroom instruction to be conducted in English except for clarification, explanation, and support as needed.

ATTACHMENT #3

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS** (continued)

When an English language learner has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education or any locally developed assessments and using other criteria developed by the district, he/she shall be transferred from a structured English immersion classroom to an English language mainstream classroom in which the instruction is "overwhelmingly" in English. (Education Code 305; 5 CCR 11301)

An English language learner has acquired a "reasonable level of English proficiency" when he/she has achieved the following:

1. An objective of the student's verbal English proficiency level using a test approved by State Superintendent.
2. An objective assessment of student's English writing skills scored holistically.
3. Results from standardized tests in reading and English language arts.
4. Results of California English Language Development Test (CELDT).
5. Results of the SOLOM that are congruent with multiple measures to demonstrate English proficiency.
6. Teacher/ELL Coordinator recommendation.
7. Parental conference.

*(cf. 6011 - Academic Standards)*

*(cf. 6162.5 - Student Assessment)*

*(cf. 6171 - Title I Programs)*

Upon the request of his/her parent/guardian, a student shall be placed in an English language mainstream classroom. (5 CCR 11301)

**Parental Exception Waivers**

At any time during the school year, the parent/guardian of an English language learner may have his/her child moved into an English language mainstream program.

Parent/guardian requests for waivers from Education Code 305 regarding placement in a sheltered English immersion program shall be granted in accordance with law and administrative regulation.

If the Superintendent or designee denies the waiver request, he/she shall provide a written justification to the parent/guardian describing the reasons for the denial. A parent/guardian may appeal the Superintendent's decision in writing to the Board. The Board may consider the matter at its next regular Board meeting. The Board may decide not to hear the appeal, in which case the Superintendent's decision shall be final. If the Board hears the appeal, the Superintendent shall send the Board's decision to the parent/guardian within seven working days.

*Legal Reference: (see next page)*

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)***Legal Reference:*EDUCATION CODE

300-340 English language education for immigrant children  
 430-446 English Learner and Immigrant Pupil Federal Conformity Act  
 33308.5 CDE guidelines not binding  
 44253.5-44253.10 Certification for bilingual-cross-cultural competence  
 48985 Notices to parents in language other than English  
 51101 Rights of parents to information  
 51101.1 Rights for parents of English learners  
 52130-52135 Impacted languages act of 1984  
 52160-52178 Bilingual Bicultural Act  
 52180-52186 Bilingual teacher training assistance program  
 54000-54028 Programs for disadvantaged children  
 60810-60812 Assessment of language development  
 62001-62005.5 Evaluation and sunseting of programs

CODE OF REGULATIONS, TITLE 5

4320 Determination of funding to support program to overcome the linguistic difficulties of English learners  
 11300-11316 English Language Learner Education  
 11510-11517 California English Language Development Test

UNITED STATES CODE, TITLE 20

1701-1705 Equal Educational Opportunities Act  
 6312 Local education agency plans  
 6801-6871 Title III, Language instruction for limited English proficient and immigrant students

COURT DECISIONS

Valeria G. v. Wilson, (9<sup>th</sup> Circuit) 2002 U.S. App. Lexis 20956  
California Teachers Association et al. v. State Board of Education et al., (9<sup>th</sup> Circuit, 2001) 271 F.3d 1141  
McLaughlin v. State Board of Education, (1999) 75 Cal.App.4<sup>th</sup> 196  
Teresa P. et al v. Berkeley Unified School District et al., (1989) 724 F.Supp. 698  
Casteneda v. Pickard, (5<sup>th</sup> Cir. 1981) 648 F.2d 989

ATTORNEY GENERAL OPINIONS

83 Ops. Cal. Atty. Gen. 40 (2000)

*Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Guidelines for Reclassification of English Learners, September 2002

Accommodations for the California English Language Development Test, Revised 8/13/01

WEB SITES

CDE: <http://www.cde.ca.gov>

CSBA: <http://www.csba.org>

Policy  
 adopted: September 21, 2009  
 Revision Adopted: January 21, 2014

**HAMILTON UNIFIED SCHOOL DISTRICT**  
 Hamilton City, California

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS**

**Definitions**

*English learner* means a student who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English, also known as a limited English proficient or LEP child. (Education Code 306)

*English language classroom* means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language. (Education Code 306)

*English language mainstream classroom* means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English. (Education Code 306)

*Sheltered English immersion or structured English immersion* means an English language acquisition process in which nearly all classroom instruction is in English but with the curriculum and presentation designed for students who are learning the language. (Education Code 306)

*Bilingual education/native language instruction* means a language acquisition process for students in which much or all instruction, textbooks, and teaching materials are in the student's native language. (Education Code 306)

**Identification and Assessment**

Upon enrollment, each student's primary language shall be determined through use of a home language survey. (5 CCR 11307)

Within 30 calendar days of their initial enrollment, students who are identified as having a primary language other than English, as determined by the home language survey, and for whom there is no record of results from an English language development test shall be assessed using the California English Language Development Test (CELDT). (5 CCR 11511)

All students shall have sufficient time to complete the CELDT as provided in the directions for test administration. (5 CCR 11516)

Any student with a disability shall take the CELDT with those accommodations for testing that the student has regularly used during instruction and classroom assessment as delineated in the student's individualized education program (IEP) or Section 504 plan that are appropriate and necessary to address the student's individual needs. (5 CCR 11516.5)

(cf. 6159 - Individualized Education Program)

(cf. 6164.6 - Identification and Education Under Section 504)

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS** (continued)

The district shall notify parents/guardians of their child's results on the CELDT within 30 calendar days. (5 CCR 11511.5)

*(cf. 5145.6 - Parental Notifications)*

Within 90 days of initial enrollment, students identified as having limited English proficiency shall be further assessed for primary language proficiency in comprehension, speaking, reading, and writing. The Superintendent or designee shall develop criteria for determining student needs on the basis of these assessments. (Former Education Code 52164.1, 62002)

Before students are enrolled in a program for English language learners, parents/guardians shall receive information about the program and their opportunities for parental involvement. This information shall include the fact that an individual student's participation in the program is voluntary on the part of the parent/guardian. (Education Code 52173)

Not later than 30 calendar days after the beginning of the school year, each parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title III funds shall receive notification of the assessment of his/her child's English proficiency. The notice shall include all of the following: (Education Code 440; 20 USC 6312)

1. The reason for the student's classification as English language learner.
2. The level of English proficiency.
3. A description of the program for English language development instruction, including a description of all of the following:
  - a. The manner in which the program will meet the educational strengths and needs of the student.
  - b. The manner in which the program will help the student develop his/her English proficiency and meet age-appropriate academic standards.
  - c. The specific exit requirements for the program, the expected rate of transition from the program into classrooms not tailored for English language learner students, and the expected rate of graduation from secondary school if Title I funds are used for students in secondary schools.
  - d. Where the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)**

4. Information regarding a parent/guardian's option to decline to allow the student to become enrolled in the program or to choose to allow the student to become enrolled in an alternative program.
5. Information designed to assist a parent/guardian in selecting among available programs, if more than one program is offered.

Parent/guardians also shall be notified of the results of any reassessments. (Education Code 52164.3)

**Parental Exception Waivers**

At the beginning of each school year, parents/guardians shall be informed of the placement of their children in a structured English immersion program and shall be notified of an opportunity to apply for a parental exception waiver. (Education Code 310; 5 CCR 11309)

A parent/guardian may request that the district waive the requirements of Education Code 305, pertaining to the placement of a student in a structured English immersion program if the one of the following circumstances exists:

1. Students who already know English: The student already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading and writing, in which the student scores at or above the state average for his/her grade level or at or above the fifth-grade average, whichever is lower. (Education Code 311(a))
2. Older students: The student is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of study would be better suited to the student's rapid acquisition of basic English skills. (Education Code 311(b))
3. Students with special needs: The student already has been placed, for a period of not less than 30 calendar days during that school year, in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the student has special physical, emotional, psychological or educational needs and that an alternate course of educational study would be better suited to the student's overall educational development. (Education Code 311(c))

The parent/guardian shall personally visit the school to apply for the waiver. (Education Code 310)

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)**

Upon request for a waiver, the Superintendent or designee shall provide to the parents/guardians: (Education Code 310, 311; 5 CCR 11309)

1. A full written description, and a spoken description upon request, of the intent and content of the structured English immersion program, any alternative courses of study and all educational opportunities offered by the district and available to the student, and the educational materials to be used in the different educational program choices.
2. For a request for waiver pursuant to Education Code 311(c) for students with special needs, notification that the student must be placed for a period of not less than 30 calendar days in an English language classroom and that the Superintendent must approve the waiver pursuant to Governing Board guidelines.

Pursuant to Education Code 311(b) and 311(c), the principal and educational staff may recommend a waiver to a parent/guardian for a student 10 years or older and a student with special needs. Parents/guardians shall be informed in writing of any recommendation for an alternative program made by the principal and staff and shall be given notice of their right to refuse to accept the recommendation. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs available to the student. If the parent/guardian elects to request the alternative program recommended by the principal and educational staff, the parent/guardian shall comply with district procedures and requirements otherwise applicable to a parental exception waiver, including Education Code 310. (5 CCR 11309)

When evaluating waiver requests pursuant to Education Code 311(a) for students who already know English and other waiver requests for those students for whom standardized assessment data are not available, other equivalent assessment measures may be used. These equivalent measures may include local assessments, local standards, and teacher evaluations.

Parental exception waivers pursuant to Education Code 311(b) for students 10 years or older shall be granted if it is the informed belief of the principal and educational staff that an alternate course of educational study would be better suited to the student's rapid acquisition of basic English language skills. (Education Code 311)

Parental exception waivers pursuant to Education Code 311(c) for students with special needs shall be granted if it is the informed belief of the principal and educational staff that, due to the student's special physical, emotional, psychological, or educational needs, an alternate course of educational study would be better suited to the student's overall educational development. (Education Code 311)

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS** (continued)

The principal shall consider all waiver requests made pursuant to Education Code 311(c) for students with special needs and shall submit a rationale of the decision regarding the waiver to the Superintendent or designee. When determining whether or not to recommend the approval of the waiver request, the principal shall assume that the facts justifying the request attested by the parent/guardian are a true representation of the child's condition.

Each waiver shall be considered on its individual merits with great deference given to parental preference for student placement.

The principal or designee shall act upon all parental exception waivers within 20 instructional days of submission to the principal. However, parental waiver requests pursuant to Education Code 311(c) for students with special needs shall not be acted upon during the 30-day placement in an English language classroom. These waivers shall be acted upon no later than 10 calendar days after the expiration of that 30-day English language classroom placement or within 20 instructional days of submission of the waiver to the principal, whichever is later. (5 CCR 11309)

All parental exception waivers shall be granted unless the principal and educational staff have determined that an alternative program offered at the school would not be better suited for the overall educational development of the student. (5 CCR 11309)

Individual schools in which 20 students or more of a given grade level receive a waiver shall be required to offer such a class; otherwise they must allow the students to transfer to a public school in which such a class is offered. (Education Code 310)

Students wishing to transfer shall be subject to the district's intradistrict and interdistrict attendance policies and administrative regulations. Students wishing to transfer to another district shall also be subject to the receiving district's interdistrict attendance policies and administrative regulations.

*(cf. 5116.1 - Intradistrict Open Enrollment)*

*(cf. 5117 - Interdistrict Attendance)*

In cases where a parental exception waiver pursuant to Education Code 311(b) or (c) is denied, the parent/guardian shall be informed in writing of the reason(s) for the denial and advised that he/she may appeal the decision to the Board if the Board authorizes such an appeal, or to the court. (5 CCR 11309)

Waiver requests shall be renewed annually by the parent/guardian. (Education Code 310)



**EDUCATION FOR ENGLISH LANGUAGE LEARNERS** (continued)**Reclassification/Redesignation**

The district shall continue to provide additional and appropriate educational services to English language learners for the purposes of overcoming language barriers until the English language learners have: (5 CCR 11302)

1. Demonstrated English language proficiency comparable to that of the district's average native English language speakers
2. Recouped any academic deficits which may have been incurred in other areas of the core curriculum as a result of language barriers

English language learners shall be redesignated as fluent English proficient when they are able to comprehend, speak, read and write English well enough to receive instruction in the regular program and make academic progress at a level substantially equivalent to that of students of the same age or grade whose primary language is English and who are in the regular course of study. (Education Code 52164.6)

The following measures shall be used to determine whether an English language learner shall be reclassified as fluent English proficient: (5 CCR 11303)

1. Assessment of English language proficiency utilizing the CELDT as the primary criterion, and objective assessment of the student's English reading and writing skills
2. Participation of the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions
3. Results of growth that are congruent with CST or similar, CELDT and the SOLOM are considered for multi-measures demonstrating English Language Proficiency.
4. Parent/guardian opinion and consultation during a redesignation interview

Parents/guardians shall receive notice and a description of the redesignation process, including notice of their right to participate in the process. Parent/guardian participation in the process shall be encouraged.

5. Comparison of performance in basic skills, including performance on the English-Language Arts section of the California Standards Test or similar to 325 or better along with multiple measures as delineated in item 3.
6. Objective data on the student's academic performance in English
7. Generally reclassification is best determined between grades 3 and 12 where multiple measures of assessing English language skills can be used. The District redesignation

policy for students in kindergarten through the end of the second grade year is determined on a case by case basis and only when a strong presence of the following are present:

1. The student can demonstrate clear diction and understanding of word meaning and annunciation.
2. The student demonstrates grade level reading and writing skills.
3. The Teacher through multiple grade or school based measures demonstrates grade level work in all core academic subjects.
4. Parents have been fully consulted as part of the team process to determine fluency.

The Superintendent or designee shall provide subsequent monitoring and support for redesignated students, including but not limited to monitoring the performance of redesignated students in the core curriculum in comparison with their native-English speaking peers, monitoring the rate of redesignation, and ensuring correct classification and placement.

Students who do not maintain growth in English Language Arts and who do not demonstrate the abilities to maintain proficient or advanced on state adopted standardized tests and/or who do not pass the CAHSEE with a 350 or more on test's English tests will receive additional support through the District's ELD program through the following methods:

Step 1. Student will receive additional tutoring in ELA.

Step 2. Should student need additional support outside of tutoring, may be assigned to Supplemental ELA/ELD support class(s) to strengthen ELA skills.

In all cases, parental meetings for support of student will be held at the earliest date to insure school to home communication and parental involvement in the academic advancement of the affected student.

The Superintendent or designee shall develop a process to monitor the effectiveness of the district's program for English language learners. The district's program shall be modified as needed to help ensure language and academic success for each English language learner.

### **Advisory Committees**

At the district level when there are more than 50 English language learners in the district and at each school with more than 20 English language learners, parent/guardian advisory committees shall be maintained to serve the advisory functions specified in law. (5 CCR 11308)

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS** (continued)

Parents/guardians of English language learners shall constitute committee membership in at least the same percentage as their children represent of the total number of students in the school. (Education Code 52176)

The district's English language advisory committee shall advise the Board on at least the following tasks: (5 CCR 11308)

1. The development of a district master plan of education programs and services for English learners, taking into consideration the school site plans for English learners
2. The districtwide needs assessment on a school-by-school basis
3. Establishment of a district program, goals and objectives for programs and services for English learners
4. Development of a plan to ensure compliance with applicable teacher or aide requirements
5. Administration of the annual language census
6. Review of and comment on the district's reclassification procedures
7. Review of and comments on the written notification required to be sent to parents/guardians pursuant to 5 CCR 11300-11316

*(cf. 0420 - School Plans/Site Councils)*

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 6020 - Parent Involvement)*

In order to assist advisory members in carrying out their responsibilities, the Superintendent or designee shall ensure that committee members receive appropriate training and materials. This training shall be planned in full consultation with the members. (5 CCR 11308)

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS** (continued)**Process for Language Redesignation:**

**Each of the following four criteria is required to redesignate a LEP student to RFEP.** The only exception to this would be English Learners in special education programs. See Alternative Assessments Guidelines and Accommodations for the California English Language Development Test.

<b>Criteria</b>	<b>Method</b>	<b>District Standards</b>
#1 Assessment	CELDT	Overall Proficiency level is Early Advanced or higher-and <ul style="list-style-type: none"> <li>• Listening/speaking is Intermediate or higher</li> <li>• Reading is intermediate or Higher</li> <li>• Writing is intermediate or Higher</li> </ul>
#2 Teacher Evaluation	Use Academic Performance IPT Performance ELL Teacher Questionnaire	English Grade of "C" or better on most recent report card
#3 Comparison of Performance in Basic Skills	ELA/CMA CST Score CAHSEE Common Core Smarter Balance once implemented and SOLOM	Minimum Score 340 on ELA CMA/CST or 325 on CMA CST and 350 on CAHSEE SOLOM congruent with CST or similar 325 Score
#4 Parent and Student Opinion and consultation	Letter to parent informing them of intent to redesignate to RFEP. Meeting or phone call to parent may be used in addition to the letter	Documentation: Copy of parent letter in cum folder.

Regulation  
approved: September 21, 2009  
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**HAMILTON UNIFIED SCHOOL DISTRICT**  
Hamilton City, California

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS**

**PARENTAL EXCEPTION WAIVER  
EDUCATION CODE 311(a): Children who know English**

Name: \_\_\_\_\_ Grade: \_\_\_\_\_

School: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Language Designation: \_\_\_\_\_

My child possesses good English language skills and for that reason I request a waiver of the school's Structured/Sheltered English language program. I understand that the objective for my child is to be taught English as rapidly and effectively as possible.

I have personally visited the school to apply for this waiver.

I have been provided a full written description of: the intent and content of the structured English immersion program; any alternative courses of study offered by the district and made available to my child; all educational opportunities offered by the district and made available to my child; and the educational materials to be used in the different educational program choices.

I understand that I must request that this waiver be reconsidered annually, each school year.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**For School Use Only:**

Child's English standardized test scores: Scores must be at or above the state average for the child's grade level or above the 5th grade average:

\_\_\_\_\_

Waiver Granted/Denied: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**EDUCATION FOR ENGLISH LANGUAGE LEARNERS**

**PARENTAL EXCEPTION WAIVER  
EDUCATION CODE 311(b): Children age 10 or older**

Name: \_\_\_\_\_ Grade: \_\_\_\_\_

School: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Language Designation: \_\_\_\_\_

My child is 10 years of age or older and I believe that an alternate course of study is better suited to my child's rapid acquisition of English. For that reason, I request a waiver of the school's Structured/Sheltered English language program. I understand that the objective for my child is to be taught English as rapidly and effectively as possible.

I have personally visited the school to apply for this waiver.

I have been provided a full written description of: the intent and content of the structured English immersion program; any alternative courses of study offered by the district and made available to my child; all educational opportunities offered by the district and made available to my child; and the educational materials to be used in the different educational program choices.

I understand that I must request that this waiver be reconsidered annually, each school year.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**For School Use Only:**

\_\_\_\_\_

Waiver Granted/Denied: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

EDUCATION FOR ENGLISH LANGUAGE LEARNERS

PARENTAL EXCEPTION WAIVER
EDUCATION CODE 311(c): Children with Special Needs

Name: \_\_\_\_\_ Grade: \_\_\_\_\_

School: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Language Designation: \_\_\_\_\_

I believe that my child has special needs and that an alternate course of study is better suited to his/her educational development. (Check all that apply and provide a brief statement)

\_\_\_ Educational Needs \_\_\_ Physical Needs \_\_\_ Emotional/Psychological Needs

Therefore, I request a waiver of the school's Structured/Sheltered English language program. I understand that the objective for my child is to be taught English as rapidly and effectively as possible. I have personally visited the school to apply for this waiver.

I understand that my child must be placed in an English language classroom for 30 calendar days and that this waiver will be considered by the Superintendent pursuant to Board-established guidelines.

I have been provided a full written description of: the intent and content of the structured English immersion program; any alternative courses of study offered by the district and made available to my child; all educational opportunities offered by the district and made available to my child; and the educational materials to be used in the different educational program choices.

I understand that I must request that this waiver be reconsidered annually, each school year.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone Number: \_\_\_\_\_

For School Use Only:

Waiver Granted/Denied: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_

