
Bismarck Public Schools
English Learner Program
Handbook (*Lau Plan*)



Revised November 2024

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I.	INTRODUCTION
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Statement of Commitment-BPS Policy (GABAA)

The Bismarck Public School system is committed to providing appropriate educational services to ensure that all students are empowered to thrive. The District has a legal responsibility to provide equal educational opportunities, along with curricular, instructional, and other related services to ensure that all English Learners (ELs) are equipped to participate effectively in the schools' educational programs.

To accomplish this, Bismarck Public Schools is committed to implementing the District English Learner (EL) Plan, which details the procedural requirements and services provided to EL students. This includes registration, identification, placement, instruction, assessments, program exit, and monitoring criteria. The plan shall describe the instructional model chosen, the process of developing Individualized Language Plans (ILPs), the methods used to assist with academic achievement, and the role of the licensed and endorsed EL or bilingual teacher assigned to each identified EL student enrolled in the program.

The EL Plan will be monitored to ensure that it meets the needs of all ELs and their families. Parents or guardians of EL students shall be notified upon identification and be informed of students' needs, services available, and annual progress in English and academic achievement. The District shall communicate with parents or guardians, to the extent practicable, in a language and format they can understand.

Bismarck Public Schools ensures that English Language Development services are provided to all eligible students and that all federal and state regulations regarding the education of ELs are implemented. Bismarck Public Schools shall strive to create and maintain an EL Program that is consistent with best educational practices. The EL Plan will be monitored to ensure that it meets the needs of EL students.

State and District Responsibilities

Under Title VI of the *Civil Rights Act of 1964* and the *Equal Educational Opportunities Act of 1974*, all states and local education associations must ensure that ELs can participate meaningfully and equally in educational programs and services. To meet their obligations under Title VI and the *EEOA*, districts must, for example:

- Identify and assess all potential EL students in a timely, valid, and reliable manner;
- Provide EL students with a language instructional education program (LIEP) that is educationally sound and proven successful, consistent with *Castañeda v. Pickard* and the Supreme Court decision in *Lau v. Nichols*;

- Provide sufficiently well-prepared and trained staff to support the LIEPs for EL students;
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities;
- Avoid unnecessary segregation of EL students;
- Ensure that EL students who have or are suspected of having a disability under the *Individuals with Disabilities Education Act (IDEA)* or Section 504 of the *Rehabilitation Act of 1973* are identified, located, and evaluated in a timely manner and that the language needs of students who need Special Education and disability-related services because of their disability are considered in evaluations and delivery of services;
- Meet the needs of EL students who opt out of LIEPs through the Program Refusal Form;
- Monitor and evaluate EL students in LIEPs to ensure their progress in acquiring English proficiency and grade level content knowledge, exit EL students from LIEPs when they are proficient in English, and monitor exited students to ensure they were not prematurely exited and that any academic deficits incurred during the time the LIEP was provided have been remedied;
- Evaluate the effectiveness of a school district’s LIEPs to ensure that EL students in each program acquire English proficiency and that each program is reasonably calculated to allow EL students to attain parity of participation in the standard instructional program within a reasonable period of time; and
- Promote activities that stimulate meaningful engagement of parents, families, and community in the education process.

Legal References

A series of federal laws and legal decisions have impacted school district policy regarding the education of culturally and linguistically diverse (CLD) students:

Title VI of the *Civil Rights Act of 1964* was the first piece of federal legislation to address the needs and rights of speakers of other languages in public education, prohibiting discrimination based on race, color, or national origin. It mandated that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

A US Department of Education *Memorandum* issued in 1970 required school districts to take additional steps to help limited English proficient students overcome language barriers and ensure that they could meaningfully participate in the educational programs offered by school

districts. This *Memorandum* provided further interpretation of the *Civil Rights Act of 1964*. The following excerpts address specific major areas of concern with respect to compliance with Title VI, and have the force of law:

Where inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.

School districts have the responsibility to adequately notify national origin minority group parents of school activities which are called to the attention of other parents. Such notices, in order to be adequate, may have to be provided in a language other than English.

School districts must not assign national origin minority group students to Special Education on the basis of criteria which essentially measure or evaluate English language skills; nor may school districts deny national origin minority group children access to college preparation courses on a basis directly related to the failure of the school system to inculcate English language skills.

Any ability grouping or tracking system employed by the school system to deal with the special language skill needs of national origin minority group children must be designed to meet such language skill needs as soon as possible and must not operate as an educational dead-end or permanent track.

The US Supreme Court case *Lau v. Nichols* (1974) affirmed the *Memorandum's* admonition that equal access to education is not provided simply by supplying all students with "the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education." The US Office of Civil Rights (OCR) prohibits such discrimination, whether intentional or not.

Since *Lau v. Nichols* (1974), there has been additional legislation passed that further clarifies the responsibilities of educators in addressing the special needs of students who are not fully English proficient (FEP). For example, the *Equal Educational Opportunities Act of 1974* established that failure on the part of a school to take appropriate steps to overcome language barriers of its students is, in itself, a denial of equal educational opportunity. Furthermore, the *Lau* remedies established by the Office of Civil Rights (OCR) in 1975 expanded upon *Lau v. Nichols* and the *EEOA* by specifying approaches, methods, and procedures school districts needed to follow in order to ensure that they were taking the "appropriate action" toward equal educational opportunity mandated by the *EEOA*.

The *Casteñeda v. Pickard* decision (1981) created a three-pronged approach to measuring compliance with this "appropriate action" requirement. It directed school systems to:

1. Adopt English learner programs (LIEPs) that were based on sound educational theory;
2. Follow through by providing adequate personnel, resources, and practices needed to implement these programs and bridge language barriers; and
3. Evaluate the programs, changing or replacing them if they failed to produce results.

Another court case decision from 1981, *Plyler v. DOE*, affirmed that students are entitled to full access to a school district’s educational programs regardless of immigration status. The Supreme Court determined that, under the Equal Protection Clause of the Fourteenth (14th) Amendment of the US Constitution, the cost of providing education to undocumented immigrant children was far less than the ultimate cost to society of denying such children an education. Accordingly, school district personnel may not act as immigration agents or collect/disseminate information on students’/families’ legal status.

One of the most prominent pieces of legislation that affected English learners and the school personnel who served them was the *No Child Left Behind Act of 2002 (NCLB)*. The overall purpose of *NCLB* was “to close the achievement gap with accountability, flexibility, and choice, so that no child [would be] left behind” academically, including those with “limited English proficiency”—what the law referred to as LEP students.

NCLB required states to establish challenging academic content standards for *all* students, while Title III of this act declared that LEP students were not exempt from meeting those high expectations. It asserted that ***English learners must develop English proficiency and skills for high academic achievement in English WHILE SIMULTANEOUSLY MEETING the same challenging state standards that all students are required to meet.***

Title I and Title III of *No Child Left Behind* both called for educator accountability in meeting state standards, evaluated through high-quality assessments. As a result, schools not only had to demonstrate improvements in EL students’ English proficiency each school year, but were also required to prove that English learners were making the same “adequate yearly progress” (AYP) as other students. Available data confirms that *NCLB* did result in a steady uptick in EL students’ academic progress as a whole.

NCLB’s successor, The *Every Student Succeeds Act (ESSA)*, was signed into law by President Barack Obama in December 2015 and took full effect on July 1, 2017. This legislation is the latest update to the *Elementary and Secondary Education Act (ESEA) of 1965*.

The new *ESSA* terminology *English learner (EL)* replaces the terms *limited English proficient (LEP)* and *English language learner (ELL)* that were used to identify English learner students under *NCLB*. *ESSA* maintains the robust accountability system of *NCLB* while increasing state and local programming flexibility. For example, instead of *NCLB*’s adequate yearly progress (AYP) reporting requirements, *ESSA* mandates that individual states design their own accountability systems with long-term and interim goals that take into account student subgroups, such as ELs.

In addition, the new *ESSA* accountability system gives more weight than before to student success factors such as English language proficiency indicators, high school graduation rates, and school quality. Under *ESSA*, the state will also specifically track the academic and English language proficiency progress of *long-term ELs* (those who have been in an EL program longer than five years)



II. BPS LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS (LIEPs)

ESSA requires that school districts provide effective language instruction educational programs that meet the needs of ELs and demonstrate success in increasing English language proficiency and student academic achievement (*ESEA* Section 3115(c)(1)).

Based on assessment results, EL students qualify for English language development (ELD) instruction in fundamental phonics, vocabulary, reading, and conversational skills to help them develop Basic Interpersonal Cognitive Skills (BICS) and Cognitive Academic Language Proficiency (CALP).

The Language Instructional Education Programs (LIEPs) offered to English learners through the BPS EL Program, as well as their goals, are as follows:

Pull-Out Instruction

Pull-out ELD instruction is typically used in the elementary school setting. Students spend the majority of their day in a mainstream classroom but leave the classroom for approximately 30 minutes to receive direct English language instruction from the EL Resource Teacher. The pull-out program model may also be used at any grade level with students at low English language proficiency levels who need to develop “survival” English skills.

Although schools with a large number of EL students may have a full-time EL teacher, most BPS EL Resource Teachers travel to more than one school a day to work with small groups of students who are at a similar level of English language proficiency. Pull-out ELD instruction is commonly used in this scenario.

Goal of a Pull-Out LIEP:

- Development of English proficiency to a point where EL students feel secure and are able to function in their regular classrooms with minimal assistance

Push-In Instruction

Push-In instruction is often used in middle and high school settings, but may also be evident at the elementary school level. Students spend most of the day in their mainstream classes but are provided additional in-class instruction or language support by an EL Resource Teacher or EL Instructional Aide. The EL specialist may roam the room, working with individual students (including non-ELs), or may pull a designated group of EL students to the side to modify the whole-class lesson for them with vocabulary instruction, a mini grammar lesson, or visual aids.

Goals of a Push-In LIEP:

- Preparation to meet academic achievement standards
- Proficiency in English

Content-Based Instruction

Also known as CBE or CBI, Content-Based English language development (ELD) classes present content in English with adjustments according to student proficiency level so the subject matter is comprehensible. Although CBI uses core content (science, math, or social studies) as the means, the instruction is predominantly focused on learning English. Students may receive Pull-Out ELD instruction from an EL Resource Teacher or EL Instructional Aide during their content classes, or they may be enrolled in a dedicated ELD class during the school day. These classes may be grouped for instruction according to students' level of English proficiency. Grades 9-12 receive ½ elective credit per semester of dedicated ELD class completed.

Goals of a Content-Based LIEP:

- Proficiency in English
- Preparation to meet academic achievement standards

Co-Teaching

In the co-teaching model, a mainstream content-area teacher and an EL-certified teacher share the responsibility for planning, delivering, and evaluating instruction for a group of students, some of whom are ELs. Instruction occurs within the context of a single classroom (i.e. biology, U.S. history, English 10) where the both teachers work collaboratively to create a classroom community. Whenever possible, both teachers should be listed as class instructors of record to avoid the impression that one of the teachers is the “sage on the stage” and the other is relegated to the role of the “guide on the side.”

Goals of a Co-Taught LIEP:

- Preparation to meet academic achievement standards
- Proficiency in English

Staff Responsibilities and Credentials

EL Program Director

The EL Program Director supervises the overall operation of the EL program. The Director is expected to:

- ensure that the goals and requirements of the program are met.

- manage the budget.
- hire and supervise EL staff.
- write grants for financial support.
- prepare and submit federal and state program applications and documentation.
- coordinate program with other existing district programs.
- manage the program consistent with the current knowledge base on EL instruction.
- provide activities and materials for EL teacher use that indicate an understanding of the language proficiency level of students.
- understand the responsibilities of language minority parents and value their support.
- ensure the district's compliance with federal law.
- perform ongoing reviews and present periodic updates to school, district, local, and state committees/organizations.
- oversee program placement, scheduling, and assignment of appropriate accommodations in order to advocate for the best interest of students.
- hold a North Dakota administrative license.

EL Program Coordinator

The EL Program Coordinator serves as a liaison between teachers and the program director. The Coordinator is expected to:

- serve as a contact person upon the arrival of new students who may potentially qualify for the EL program.
- complete initial language proficiency assessments.
- supervise annual English proficiency testing, including ordering and disseminating testing materials, scheduling test sessions, maintaining and distributing test data.
- supervise scheduling and activities of EL instructional aides and other EL staff members.
- provide training for instructional aides and classroom teachers on appropriate EL methodology.
- maintain accurate PowerSchool and STARS data.
- oversee monitoring process for students who have exited the EL program.
- hold a Master's degree in addition to Resource Teacher qualifications (see below)

EL Resource Teacher

The EL Resource Teacher works cooperatively with the Program Director, Coordinator, classroom teachers, and building principals in teaching EL students in kindergarten through 12th grade.

A. Program Responsibilities:

The EL Resource Teacher position requires a combination of program coordination, staff supervision, and education of EL students. The EL teacher is expected to:

- assist with the enrollment of new immigrant students.
- complete language proficiency assessments and assist with providing appropriate EL accommodations on district assessments.
- develop an annual Individualized Language Plan (ILP) for each EL student, in cooperation with the student's language support team.
- administer and update annually the acculturation growth of culturally and linguistically diverse (CLD) students.
- collaborate and coordinate EL instruction with general education teachers.
- provide assistance and/or EL curriculum materials for classroom teachers for the education of EL students.
- update EL Power school data.
- participate in parent-teacher conferences and IEP meetings for EL students.
- coordinate translators and interpreters for parent-teacher conferences and school events.
- provide training for instructional aides and classroom teachers on appropriate EL methodology.
- annually evaluate the EL instructional aide(s) under their supervision.
- attend Teacher Assistance Team, Child Study, Problem Solving team meetings when an EL student is referred for intervention.
- participate in weekly EL professional learning communities (PLCs) and monthly EL teacher meetings.
- monitor EL students' grades, attendance, and other applicable data at least quarterly.
- semi-annually monitor progress of exited students.
- maintain EL student records and cumulative files.

B. Qualifications:

- North Dakota licensure in elementary and secondary education with ESL/bilingual education endorsement
- ability to work with a variety of people and situations
- ability to manage, coordinate and supervise
- experience working with multicultural students (preferred)
- knowledge of second language (preferred)

EL Instructional Aide

The EL Program Instructional Aide works cooperatively with/assists the EL Resource Teacher and classroom teachers in the instruction of English learner students.

The EL aide is expected to:

- demonstrate fidelity to the EL Program and act as a role model to students through consistent attendance and punctuality.
- assist the Resource Teacher and classroom teacher in achieving EL Program objectives by working with individual students or small groups and using techniques consistent with program design, including computer-assisted instruction, instructional manipulatives, etc.
- reinforce learning of materials, concepts, and skills initially introduced by Resource Teacher or classroom teacher.
- contribute to a well-organized, smooth functioning class environment in which students can take full advantage of the instructional program and available resource materials.
- confer with the classroom teachers or Resource Teacher on any problems or special information learned about individual students.
- maintain the same high level of ethical behavior and confidentiality with information about students as is expected of certified staff.
- develop an awareness of and sensitivity to the cultural/language background of EL students in the program.
- attend in-service training programs as assigned.

III. PROCEDURES FOR IDENTIFICATION AND PROGRAMMING FOR ELs

English Learner Definitions

The term “limited English proficient”, which is defined in section 9101 of Title IX when used with respect to an individual, means an individual –

- Who is age 3-21 and enrolled or preparing to enroll in an elementary school or secondary school;
- Who was not born in the United States or whose language is a language other than English; or who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; OR
- Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; AND
- Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:
 - i. The ability to meet the state’s proficient level of achievement on state assessments;
 - ii. The ability to successfully achieve in classrooms where the language of instruction is English;
 - iii. The opportunity to participate fully in society.

(Title IX, Section 9109, No Child Left Behind Act, 2001)

In contrast, *ESSA* defines an “English learner” as an individual who, among other things, has difficulties in speaking, reading, writing, or understanding the English language that may be sufficient to deny him or her the ability to meet challenging State academic standards.

The State of North Dakota also has an English learner definition in its Administrative Code, Section 67-28-01-04, which identifies an EL student as follows:

1. Is at least five (5) years of age, but has not reached the age of twenty-two (22);
2. Is enrolled in a school district in North Dakota;
3. Has a primary language other than English or comes from an environment in which a language other than English significantly impacts the individual’s level of English language proficiency; and
4. Has difficulty speaking, reading, writing, and understanding English as shown by assessment results.

General Procedures for Initial Student Identification

1. The parent or guardian of a prospective BPS grade K-12 student completes the online registration form available on the BPS website at this address: <https://www.bismarckschools.org/Page/3633>. Students from a different district, state, territory, or country follow the same registration procedure and enrollment policies as all other students.
2. The online registration includes a series of **Home Language Survey** questions that must be answered by the parent/guardian, with help from the EL Coordinator or Resource Teacher and an interpreter, if requested. The HLS asks for information about language background and use, prior EL program participation, and educational history, including grades attended and languages learned both in and outside of the US.
3. There are also optional refugee and immigrant identification questions that may qualify students for additional programs; parents/guardians are encouraged, but not required, to supply this information. The Fourteenth (14th) Amendment to the US Constitution guarantees non-discrimination for public education regardless of immigration status. In accordance with federal law, BPS never asks for documents such as proof of citizenship or social security numbers as a requirement for enrollment or participation in any program or class.
4. Referral for screening is made if the HLS indicates a language other than English spoken in the home or with a grandparent or caretaker UNLESS school records provided at registration show overwhelming evidence of academic success. Previous EL testing or program placement data from former school districts may be used as part of the referral process. Students whose parents mark English-only on the HLS, but who are determined at a later date to be significantly impacted by a second language at home, may be referred at any time by the classroom teacher using a **BPS EL Program Referral** form.
5. If feasible, An **English Language Proficiency Screening** will be administered to referred students during the family’s initial visit to Central Registration. If this is not possible, the assessment will be administered in a timely manner by an endorsed EL

- teacher. BPS uses the WIDA MODEL (Kindergarten, paper and pencil test) or WIDA Screener (grades 1-12, online) English language proficiency assessment for initial screening. During the first semester of the year, a student will take the test that corresponds to his/her previous grade level.
6. EL program staff create an EL folder for any student who has been tested for the BPS EL program, regardless of whether he/she qualifies for the program. The EL folder is a working file maintained by the EL Resource Teacher and kept inside the student's cumulative folder. A student's EL folder should include the following documents:
 - Completed Home Language Survey
 - Initial MODEL, WIDA Screener, and/or ACCESS assessment results; and student response booklet, if applicable
 - Annual ACCESS Student Score Reports and Growth to ELP Target graphs
 - Annual Individual Language Plans (ILPs), if applicable
 - Any relevant referral documents, such as the Acculturation Quick Screen (AQS III) or EL Program Referral form
 - Any vital correspondence
 - Completed monitoring form (to be placed in folder two (2) years after program exit)
 7. The following factors will be considered when placing an EL student in an appropriate grade level:
 - Chronological age
 - Educational background
 - English Language Proficiency (ELP) level
 - Academic performance
 - Number of credits previously earned
 8. Bismarck Public Schools informs parents of their child's eligibility for/ participation in the EL program no later than **30 days** after the beginning of the school year. For a child who enters after the beginning of the school year, BPS must inform parents within **two weeks** of the child's identification/placement in the English Learner Program.
 9. A **Language Support Team** will be assigned to each individual EL student. The team may consist of any combination of the following members:
 - EL Director
 - EL Coordinator
 - EL Resource Teacher (signature required on ILP)
 - EL Instructional Assistant
 - Classroom or Content teachers (at least one signature required on ILP)
 - School administrator (signature required on ILP)
 - Other program specialists
 - School counselor
 - Parents (an integral part of the team--must be invited *in writing* to the meeting at which the ILP will be written)
 - Student
 - Interpreter (if applicable)

The Language Support Team will:

- Write and revise an **Individual Language Plan (ILP)** for the student at least annually;
 - The completed ILP will include at least the following data:
 - the student’s current English language proficiency level and growth toward the target of full English proficiency within the expected number of years;
 - indicators of the student’s current academic achievement (NWEA, NDSA, or AIMSweb + scores);
 - individual student goals and objectives for language growth;
 - the type and amount of English language development services provided to the student and the EL personnel responsible for providing these services;
 - the type and amount of any related services provided to the student by other educational programs;
 - appropriate instructional strategies for the student’s classroom teachers;
 - any applicable accommodations and modifications to the student’s assignments and tests.
- Make data-driven decisions about placement and appropriate EL support in any instructional programming, including LIEPs, recommended for the student;
- Meet at least twice a year (generally at Fall and Spring Parent-Teacher Conferences) to monitor the EL student’s language and academic progress (may include grade reports, a portfolio, standardized tests results when applicable, and parent and teacher observations);
- Carry out periodic monitoring for at least two (2) years after a student’s reclassification to fully English proficient.

EL Services

Students who receive scores ranging from 1.0-4.9 on the WIDA Screener, MODEL, or ACCESS 2.0 qualify for some model of direct service (LIEP) from the EL Resource Teacher or Instructional Assistant serving the student’s school. Parents have the option of choosing a different LIEP model (if available) for their child if they do not agree to the proposed service model.

Parents may decline EL program services entirely by completing the green EL Program Refusal of Services form and returning it to their child’s school. If services are declined, an ILP is still written to address the student’s linguistic needs within the regular education setting. Additionally, declining services does not exempt an EL student from participating in the annual English language proficiency (ACCESS 2.0) assessment, which is a district responsibility.

EL Service Levels

The amount of service time provided to an EL student will vary depending on factors such as the amount of literacy the student has in his/her first language, the current grade level assignment, and the student's level of English language proficiency as determined by the ELP screening tool (WIDA Screener, MODEL, or ACCESS 2.0).

English Language Proficiency Scores range from a 1.0 (newcomer student with no English vocabulary) to a 6.0 (on par with native English-speaking peers). Students are tested in four language domains: listening, reading, speaking, and writing. The listening and speaking scores are combined to give an oral language score; the reading and writing scores are combined to produce a literacy score. To come up with an overall score, the oral language components are weighted at 30% of the total score, and literacy at 70%.

The WIDA Screener English Language Proficiency Assessment is only scored at intervals of .5 (1.0, 1.5, 2.0, 2.5, etc.). It is a binary decision screener, which means that its sole purpose is to determine whether or not a student qualifies for the EL program. It is not meant to diagnose any particular language difficulties or drive explicit instruction. WIDA MODEL and WIDA ACCESS 2.0 provide more detailed information that may be used to hone in on a student's specific language needs.

Cummins' Common Underlying Proficiency (Iceberg) Theory (1979) divides language proficiency into two types: surface fluency—what's visible and audible on the surface (BICS)-- vs. the underlying proficiency that might not be reflected in the student's conversations but is essential for coping in the classroom CALP).



- Basic Interpersonal Communication Skills (BICS)—the linguistic skills needed in everyday, face-to-face social interactions: cognitively undemanding, context-embedded, non-specialized; may include a “silent period” when the student is taking in language but not yet producing it; may up to two (2) years to develop BICS
- Cognitive Academic Language Proficiency (CALP)—the linguistic skills needed to access the academic language of the classroom in the various content areas: cognitively demanding, context-reduced, specialized; may take 5-7 years or more to develop fully

Student Characteristics by English Language Proficiency Level

- **Level 1: Entering (1.0-1.9)**
 - When compared with others of the same age or grade, a Level 1 student demonstrates negligible cognitive-academic language proficiency (CALP) in English. If provided with unsupported English-only instruction at the subject's

chronological age or corresponding grade level, it is expected that a Level 1 student will find the *language demands* of the learning task impossible to manage.

- **Level 2: Beginning (2.0-2.9)**
 - When compared with others of the same age or grade, a Level 2 student demonstrates very limited cognitive-academic language proficiency (CALP) in English. If provided with unsupported English-only instruction at the subject’s chronological age or corresponding grade level, it is expected that a Level 2 student will find the *language demands* of the learning task extremely difficult to manage.

- **Level 3: Developing (3.0-3.9)**
 - When compared with others of the same age or grade, a Level 3 student demonstrates limited cognitive-academic language proficiency (CALP) in English. If provided with unsupported English-only instruction at the subject’s chronological age or corresponding grade level, it is expected that a Level 3 student will find the *language demands* of the learning task difficult to manage.

- **Level 4: Expanding (4.0-4.9)**
 - When compared with others the same age or grade, a Level 4 student demonstrates fluent cognitive-academic language proficiency (CALP) in English. If provided with unsupported English-only instruction at the subject’s chronological age or corresponding grade level, it is expected that a Level 4 student will find the *language demands* of the learning task manageable.

- **Level 5: Bridging; Level 6: Reaching (5.0-6.0)**
 - When compared with others of the same age or grade, a Level 5 student demonstrates advanced cognitive-academic language proficiency (CALP) in English. If provided with unsupported English-only instruction at the subject’s chronological age or corresponding grade level, it is expected that a Level 5 student will find the *language demands* of the learning task very manageable. Most students at Level 5 and 6 are exited from EL program; exited students are monitored for two (2) additional years to ensure continued academic success.

When scheduling students for EL services, the BPS EL Program takes into consideration the following guidelines for *recommended daily* service time provided by an EL-endorsed teacher (North Dakota State EL Program Advisory Committee (ELPAC)).

English Language Proficiency Level	Recommended LIEP Service Time
Newcomer	4-6 units of English language instruction educational services
Level 1 – Entering	3-4 units of English language instruction educational services
Level 2 – Beginning	2-3 units of English language instruction educational services

Level 3 – Developing	1-2 units of English language instruction educational services
Level 4 – Expanding	1 units of English language instruction educational services
Level 5 – Bridging and Level 6 – Reaching	up to 1 unit of English language instruction educational services

A unit is defined as a class period. In the elementary grades, this equals approximately 30 minutes per unit. At the secondary level, a unit would typically be a 50-minute class period. A class taught in a 75-90 minute block may count as two units at the secondary level.

EL Caseload Criteria

The North Dakota EL Program Advisory Committee (ELPAC) recommends that there be no more than 40 students assigned to each EL Resource Teacher. To ensure this recommendation is taken into consideration, EL Resource Teacher caseloads will be monitored through the number of EL students assigned to each teacher license number in the EL student detail record in the State Automated Reporting System (STARS).

Factors to consider in determining appropriate caseload size include other professional or teaching responsibilities assigned to the EL Resource Teacher, EL program administrative duties, the number of buildings that the EL Resource Teacher travels between, the English proficiency level of the EL students served, and the units of EL service recommended for each student, and the grade level of each student.

Instructional Materials and Resources

Materials, resources and instructional facilities for ELs must be comparable to those available for non-EL students in the district. The general fund must supply EL staff with the materials that they need to provide a core language instruction educational program (LIEP). Additional materials to supplement the core may be purchased with Title III or other supplemental funds (“supplement, not supplant” clause).

The North Dakota Department of Public Instruction (NDDPI) does not make recommendations on specific language development materials from publishing companies; however, WIDA has a protocol (PRIME) that measures the representation of WIDA’s English language development standards appearing within published materials. More information can be found at <http://prime.wceruw.org/>.

General Procedures for Annual Assessment Participation

Bismarck Public Schools must assure the North Dakota Department of Public Instruction that all BPS English Learner students are:

- identified and assessed annually for English language proficiency.
- provided appropriate instructional services based on assessment.

- included in the statewide achievement assessment system.

Bismarck Public Schools documents and reports on the language proficiency and academic achievement of identified EL students.

- Academic achievement assessment reporting on EL students is included with district reporting on all students.
- Language proficiency assessment reporting is submitted separately.

Under *ESSA*, the accountability measures for English learners (ELs) have been moved from Title III into Title I in order to show that language and academic proficiency for EL students is as important as proficiency for any other students. EL students are expected to make adequate annual progress toward reaching full English proficiency in the anticipated amount of time; districts are expected to exit students who have reached fully fluent English language proficiency from their programs; and the EL subgroup must make progress toward academic proficiency on the State academic achievement assessment.

Annual English Language Proficiency Assessment – WIDA ACCESS for ELLs 2.0

Students who are identified as ELs shall take the North Dakota English Language Proficiency Assessment (NDELPA), currently the WIDA ACCESS for ELLs 2.0, annually to:

- re-establish the student’s eligibility for the EL program.
- measure the student’s progress toward the target of full English proficiency (FEP)
- determine whether or not the student has achieved FEP and is ready to exit the EL program and move to monitoring status for the next two (2) years.
 - Currently, full English language proficiency (FEP) in North Dakota requires a composite proficiency level of at least 5.0 with no domain score (listening, speaking, reading, or writing) less than a 3.5.
- provide data to the North Dakota Department of Public Instruction (NDDPI) as evidence of EL program accountability.

All EL students are expected to participate in annual English language proficiency (ELP) testing, regardless of whether or not the parent/guardian has signed the annual EL Program Refusal of Services form.

The research of Collier and Thomas (1995) suggests that Basic Interpersonal Communication Skills (BICS) may generally be acquired in from six (6) months to two (2) years. However, acquisition of Cognitive Academic Language Proficiency (CALP) takes at least five (5) and perhaps as long as eight (8) or ten (10) years. To this end, the state of North Dakota, in its *ESSA* plan, developed a timeline for a reasonable number of years it should take an EL student, given appropriate ELD instruction time, to reach full English proficiency (FEP) and exit the EL program.

All North Dakota English Learner (EL) students are expected to attain full English proficiency (FEP) and exit the EL program within two (2) to six (6) years of their first annual (baseline) ACCESS assessment in North Dakota (see table below). Student progress toward the target of full English language proficiency (ELP) is determined beginning with the student’s second

annual ELP assessment (the following year). Growth to target information is shared with parents/guardians via the student’s Individual Language Plan (ILP).

Composite Proficiency Level	Expected # Years to Attain Full English Proficiency
1.0-1.9	6 years after baseline (annual growth of .5 to .75 expected)
2.0-2.9	5 years after baseline (annual growth of .5 to .75 expected)
3.0-3.9	4 years after baseline (annual growth of .3 to .5 expected)
4.0-4.9	3 years after baseline (annual growth of .3 to .5 expected)
5.0-6.0	2 years after baseline (annual growth of .3 to .5 expected)

Annual Achievement Assessment – NDSA

North Dakota State Assessment Requirements for EL Students:

- ELs must take the same required high-quality state assessments in math, reading/language arts, and science as all other students. These assessments must be aligned with challenging state academic standards and with entrance criteria for credit-bearing coursework at the state’s institutions of higher education, as well as state career and technical education standards.
- State assessment results must be disaggregated by:
 - Racial and ethnic group;
 - Economically disadvantaged students compared to students who are not economically disadvantaged;
 - Children with disabilities as compared to children without disabilities;
 - English proficiency status;
 - Gender; and
 - Migrant status
- ELs who were not born in a US state or Puerto Rico and who have been enrolled in the US school system for less than one (1) year are exempt from having to take the reading/language arts portion of the NDSA during that first year; however, they still are still required to participate in the mathematics/science portions with appropriate designated supports and/or accommodations.
- EL students have a right to accommodations according to their level of English language proficiency. Such accommodations are marked on the student’s ILP and may include embedded or non-embedded supports.

IV. ENGLISH LANGUAGE PROFICIENCY STANDARDS

In 2006, North Dakota joined the World-class Instructional Design and Assessment (WIDA) consortium. This consortium provides the assessment tools that are used for English language proficiency testing. Along with the adoption of the assessments, ND also adopted the WIDA English Language Development standards to which the assessments are aligned. The ELD standards may be found at: <https://www.wida.us/standards/eld.aspx>

V. EL PARTICIPATION IN SPECIAL PROGRAMS

Meeting the EL identification criteria does not disqualify a student from other special programs, including, but not limited to co-curricular and extra-curricular activities, Title I, Title III, Gifted and Talented (Levels of Service—LOS), and Special Education. BPS takes steps to ensure that EL students have equal access to, and are represented proportionally in, any special programs made available to all students.

Co-Curricular and Extracurricular Activities

The Fourteenth (14th) Amendment to the US Constitution ensures that no student shall be denied access to any course or activity because of his/her language or cultural background. Courts have determined a violation of the Amendment if English Learners are not provided an opportunity to actively engage in the entire academic curriculum or activities offered by the district due to a language barrier.

Title I

Title I of the *Elementary and Secondary Education Act* provides financial assistance to state and local educational agencies to meet the needs of at-risk children. The goal of Title I is to provide instructional services and activities that support students in meeting the state's challenging academic performance standards. In order to show that it is just as important for EL students to meet these academic, as well as English language development standards, the accountability measures for English learners (ELs) have been moved from Title III into Title I in *ESSA*.

The Title I program provides students with extra educational assistance beyond the regular classroom. The program serves children in elementary schools that have demonstrated that extra assistance is needed. In targeted schools, Title I law requires that the selection of Title I students be based on objective, uniformly applied criteria given to all students at each grade level. Such targeted criteria must use universal assessments (i.e., an assessment that is given to all students)

to determine eligibility. English language proficiency scores (MODEL, WIDA Screener, and/or ACCESS) cannot be used to disqualify a student from additional services such as Title I.

In order to determine that the linguistic and academic needs of an EL student are being met, the Language Support Team, consisting of at least an EL teacher, general education teacher, and Title I teacher, should meet to determine the most appropriate services. This may necessitate a student receiving services from multiple teachers. More information about Title I programs serving EL students is available at:

<http://www.dpi.state.nd.us/title1/targeted/general/facts/ldstudnts.pdf>

Title III

Like Title I, Title III is also a part of the federal *ESSA* law. It is a federal formula grant that NDDPI receives and distributes annually to districts/consortiums; monies from the grant are specifically targeted to provide additional resources that benefit English Learners (ELs) and immigrant children and youth.

A district receiving a Title III sub-grant must be able to demonstrate that it does not use Title III funds to provide services that are required to be made available under state or local laws or other federal laws (“supplement, not supplant” clause); and it does not use Title III funds to provide services that it provided in the previous year with state, local or other federal funds.

Gifted and Talented (Levels of Service)

EL students may not be categorically excluded from Gifted and Talented or other specialized programs. If a school district has a process for locating and identifying gifted/talented students, it must also locate and identify gifted/talented EL students who could benefit from the program.

Selection criteria for Gifted and Talented programs must not discriminate on the basis of language. Many Gifted and Talented programs use assessments to determine eligibility. These assessments must account for linguistically and culturally diverse students. Unless the particular gifted/talented program or program component requires proficiency in English language skills for meaningful participation, the district must ensure that evaluation and testing procedures do not disqualify EL students because of their lack of English proficiency. To the extent feasible, tests used to place students in specialized programs should not prevent language minority students from qualifying for a program for which they would otherwise be qualified.

The exclusion of EL students from specialized programs such as Gifted and Talented programs may have the effect of excluding students from a school district’s programs on the basis of national origin, in violation of 34 C.F.R. § 100.3(b)(2), unless the exclusion is educationally justified by the needs of the particular student or by the nature of the specialized program. Educational justifications for excluding a particular EL student from such a program should be

comparable to those used in excluding a non-EL peer and include: (1) that time for the program would unduly hinder his/her participation in an alternative language program; and (2) that the specialized program itself requires proficiency in English language skills for meaningful participation.

In determining whether a district has improperly excluded EL students from its gifted/talented or other specialized programs, the Office of Civil Rights (OCR) will carefully examine the district's explanation for the lack of participation by EL students. OCR will also consider whether the district has conveyed these reasons to students and parents.

Special Education

Determining special needs placement for students in the EL program is a complex process. There may be a number of individual or combined factors determining why a particular language minority student might achieve little academic progress over time. The normal process of second language acquisition, the acculturation process, different learning styles, motivation to learn, and/or the student's lack of/interruptions in prior schooling are a number of issues to consider before attempting to identify/label a student as having an intrinsic learning problem or disability.

When considering the needs of culturally and linguistically diverse (CLD) students, the following general guidelines should be taken into consideration throughout the general education intervention, assessment, and programming process:

- Lack of proficiency and skills in English does not, in itself, make students eligible for Special Education.
- An individual who lacks English language skills is different from an individual with a language disorder.
- Demonstrating Basic Interpersonal Communication Skills (BICS) in English is not a true indication of the overall English language skills necessary for academic success.
- A student may be eligible for both EL and Special Education services if he/she has been appropriately assessed.
- There is no such thing as a "culturally fair" or "culture-free" test.
- All tests given in English are tests of English language proficiency, regardless of their content.
- Learning styles are determined on an individual basis and by the culture of the students.
- Culturally-based behaviors may incorrectly appear to suggest Special Education needs.
- Parents of English Learner students and culturally diverse students may have a different perception of school from parents of traditional non-ELs.
- Parents and family members of all ethnic groups have valuable information about the student to share with the team when creating an appropriate educational plan.

English Learner and culturally diverse students must be involved in the Multi-Tiered Systems of Support (MTSS) problem-solving process before being considered as candidates for Special Education evaluation and eligibility. This process may involve one or more levels of the MTSS model and should include data on the student's culture, experiential and educational

background, language proficiency, behavior and adaptive skills, academic progress, current curriculum, documentation of instructional interventions and accommodations that have been implemented, and documentation of insufficient growth in relation to increased interventions.

The use of the MTSS process is vital in determining if an EL student’s difficulties are a result of language/cultural differences or due to innate learning problems or emotional/behavioral issues.

Prior to involving professional resource staff in the MTSS procedure, problem-solving should have already begun at the building level. This process should include a description of the difficulty the student is experiencing. Determination should be made as to the appropriateness and effectiveness of the curriculum and instructional methods for ELs, and the student’s problem **should be validated in both the first and second languages when possible** (for example, by a language sample). At this stage of the problem-solving process, materials and methods should be developed, adapted, and modified to fit EL needs; concepts and vocabulary should be taught in context, and EL services should be provided as appropriate for the English language proficiency (ELP) level of the student.

Service time in the EL Program cannot be counted toward Special Education service minutes. EL students with an IEP qualify for Special Education and EL accommodations on state academic achievement assessments (NDSA, NDAA). EL students with an IEP may also qualify for Special Education accommodations on the annual English language proficiency assessment (WIDA ACCESS 2.0). More details regarding appropriate accommodations can be found in the ACCESS for ELLs® District and School Test Administration Manual. ELs qualifying for Special Education who are taking the NDAA may qualify to take the Alternate ACCESS for ELLs instead of the ACCESS 2.0.

VI. EXITING AND RECLASSIFICATION

To qualify for exit from the EL program, the scores achieved on the North Dakota English Language Proficiency Assessment (NDELPA)—currently the WIDA ACCESS for ELLs 2.0-- must meet a minimum level in each of the following areas of assessment:

- A. Minimum Overall (Composite) Proficiency Level Score: 5.0
- B. Minimum Proficiency Level Scores on each of the four subtests:
 - a. Reading: 3.5
 - b. Writing: 3.5
 - c. Listening: 3.5
 - d. Speaking: 3.5

These EL students will have demonstrated their ability to:

- A. understand and speak English in relation to the full range of demands of the classroom and the academic language needed to succeed;
- B. read and comprehend English as evidenced by successful classroom performance and a proficient score on standardized achievement tests;
- C. write English as evidenced by successful classroom performance and proficient scores on standardized achievement tests; and

D. meet or exceed district guidelines in their academic subjects.

Once reclassified as fully English proficient, the state enters a program exit date for the student in its State Automated Reporting System (STARS). After that date, the student will no longer participate in annual English proficiency testing or be eligible to receive testing supports/accommodations for ELs on the North Dakota State Assessment. However, for accountability purposes on the NDSA, exited students are classified as “former EL,” and their NDSA scores continue to be included in the EL subgroup for two (2) years after program exit.

Similarly, BPS EL staff will monitor former EL students for two (2) years after they exit the program. The primary purpose of monitoring is to ensure that the student is not experiencing academic difficulties as a result of a language barrier. Exited students who encounter difficulty later on due to language proficiency can be re-entered into the EL program if an EL Resource Teacher, along with the Language Support Team, determine that the data collected during the monitoring period indicate a need for re-entry. The option of program re-entry can be considered during the student’s two-year monitoring period, immediately following completion of monitoring, or anytime thereafter, if the student shows evidence of academic difficulty stemming from a language barrier.

VII. PROGRAM EVALUATION

BPS is committed to evaluating the implementation of the EL program. The primary purpose of the evaluation plan is to assure effective and appropriate ESL interventions for EL students.

At the district level, program evaluation begins with the Language Support Committee, which is comprised of building or district-level educators and representatives of the immigrant/EL community. The purpose of this committee is to ensure that all EL students are served according to district policy, consistent with state and federal statutes. The LSC shall also annually evaluate the program using the three-pronged approach outlined in *Casteñeda v. Pickard* (1981):

4. Adopt English learner programs (LIEPs) that are based on sound educational theory;
5. Follow through by providing the personnel, resources, and practices needed to implement these programs and bridge language barriers; and
6. Change or replace the programs if they fail to produce results.

VIII. OTHER RELATED EL INFORMATION

Support for Home Language Development

Research indicates that language instruction education programs (LIEPs) that show respect for and even utilize the student's home language are effective in building academic and English language proficiency. In addition, strategic reading skills learned in a student's first language are known to transfer to reading in a second language. To this end, BPS educators should show respect for and encourage the student and family to maintain and develop the home language(s).

District-Employed Interpreters/Translators

Effective Jan. 1, 2019, all interpreters and translators used by Bismarck Public Schools must be employees of the district, pass both a background check and fingerprinting check, and attend an interpreter/translator orientation session where the BPS Interpreter Handbook is reviewed. All interpreters must sign and agree to abide by the Interpreter Confidentiality and Non-Disclosure Agreement.

Parent, Family, and Community Engagement

Multiple studies have shown that parents have more influence on their child's academic success than any other factor—more than any teacher or available educational program. In addition, children from diverse cultural backgrounds tend to do better academically when their parents collaborate with their teacher(s) to bridge the gap between the home culture and that of the school. By being actively engaged in their child's education, a parent or family of an EL can:

- serve as a role model, showing their child that his/her academic success is important to them.
- communicate regularly with school personnel on their child's academic progress, using a BPS interpreter/translator, if needed.
- teach their child that parental input is valued, and even expected, in American culture.

Bismarck Public Schools values the joint efforts of parents, families, schools, and communities working together to ensure a quality education for EL students. As required under *ESSA*, the BPS EL program will provide a variety of activities and implement strategies that will promote family and community stakeholder participation in the EL program.

The parent/guardian/family are encouraged to be part of the child's Language Support Team. Through active participation in this committee, parents will help draft the student's individualized language plan (ILP), will be kept informed of any upcoming assessments or changes in programming planned for their child, and will be notified of all proposed changes/assessment results in a timely manner.

In addition, the district-wide Language Support Committee (LSC) will include representation by parents and students from the immigrant/EL community. This group will provide input in developing procedures that ensure all EL students are served in accordance with district policy, state and federal statutes. The committee will recommend, plan, and implement parent/family/community engagement activities and professional development opportunities for

the BPS EL program, The LSC shall also annually evaluate the program using the three-pronged approach outlined in *Casteñeda v. Pickard* (1981). (See “Program Evaluation,” page 28.)

A community-wide parent advisory meeting will be held in conjunction with Title I at least once a year to provide an opportunity for parents to communicate, consult, and collaborate with other parents of EL and Title I-served students. The information obtained will be used to evaluate the manner in which BPS educates culturally and linguistically diverse (CLD) children, and make any necessary changes.

Professional Development

The *No Child Left Behind Act* described what constitutes professional development activities in very generic terms. Under *NCLB*, professional development was defined as activities that improve teachers’ knowledge in the subjects they teach, allow them to become highly qualified, and advance their understanding of instructional strategies.

However, the *Every Student Succeeds Act* is more specific on professional development expectations—that opportunities should be “sustained (not stand-alone, 1-day, or short-term workshops), intensive, collaborative, job-embedded, data-driven, and classroom focused” (*S. 1177, Section 8002, page 295, paragraph 42*).

In accordance with federal law, BPS offers ongoing embedded, district-level professional development activities for school personnel who deliver or support LIEP services, including mainstream teachers, administrators, counselors, social workers, specialists, and support staff.

Private School Participation

Bismarck Public Schools will conduct a timely and meaningful consultation with the private schools that are within its school district boundaries. They must work together to determine how they will provide support to EL students and/or to staff working with EL students. All services (consultation, professional development, student services) must be agreed upon and funded directly by the grantee (funds cannot be transferred to the private school). Title III funds may be spent to identify, screen and annually assess the English language proficiency of private school students; however, Title III funds may not be spent for identification, screening and the annual English language proficiency assessment for public school students, as this is a district responsibility.

IX.

DEFINITIONS

Basic Interpersonal Communication Skills (BICS): A component of second language proficiency that usually occurs on an informal level that precedes the more complex skills of

cognitive academic language proficiency. If only an oral assessment of a student's skills is taken, the student may appear proficient according to BICS. BICS are less abstract and more concrete than the more demanding cognitive academic language proficiency (CALP). BICS can generally be acquired in less than 2 years; CALP often requires from 4-10 years.

Cognitive academic language proficiency (CALP): A component of second language proficiency that occurs at the complex higher language acquisition level after the simpler, basic interpersonal communication skills (BICS). It may take at least 4 and as many as 10 years for an EL student to reach national grade-level norms of native English speakers in all subject areas of language and academic achievement as measured on standardized tests. The span of time for acquiring CALP is directly influenced by factors such as (a) age at arrival in a second language culture, (b) amount of uninterrupted schooling in the heritage language, and (c) length of residence in both cultures.

Content-based ELD: An approach to second language teaching that utilizes content-area subject matter to teach language. With contextualized and understandable concepts attached to content-area school subjects, the second language acquisition process is enhanced through content ESL. Concepts and vocabulary may be set at a lower academic level to target the student's level of English proficiency. This approach helps the second language learner maintain the cognitive structures that may have already been developed in the native language. The EL teacher usually provides this LIEP.

CLD: A culturally and linguistically diverse student, who may or may not be an English Learner

English Language Development (ELD): A systematic instructional model designed to develop English language proficiency. ELD instruction emphasizes the development of all four language domains: listening, speaking, reading, and writing. ELD instruction may focus solely on language, or can be integrated with other subject areas during content-based ELD instruction.

ELD Pull-out: Through this kind of instruction, services to ELs are provided in isolation from the regular curriculum and the mainstream classroom. Instruction is typically one-on-one or in very small groups offered for 30 minutes daily.

ELD Push-in: This program model provides services to ELs within the mainstream classroom. The model may be staffed with an instructional aide or EL resource teacher; this person may assist with individual EL students or the class as a whole.

Home Language Survey: A required form filled out by a parent or guardian during initial registration to help the district identify culturally and linguistically diverse (CLD) students.

Individualized Language Plan (ILP): A document that defines the special language service needs of a particular EL student. This document is similar to the individual education plan (IEP) that may be developed for students with disabilities.

Language Instruction Educational Program (LIEP): The approach that is used to provide English language development (ELD) services at a particular school or in a particular district.

Multiple LIEPs may be in use in a single building or district, depending on students' English language proficiency (ELP) levels and other factors.

Language Support Committee (LSC): A group of building or district-level educators whose responsibilities are outlined in the district's *Lau* plan. The committee is generally charged with the task of ensuring that all EL students are served according to district policy consistent with state and federal statutes.

Language Support Team (LST): A group consisting of the EL Resource Teacher, classroom teacher, administrator, and parent(s), who write the student's annual ILP

Language proficiency: Language fluency skills acquired in one or more languages.

Lau Plan: An equal access plan and policy targeted for language minority youth of a given school district. The plan includes the procedure for identification of EL students, an academic program plan for them, and criteria for their ultimate exit from a language support program.

NDSA: North Dakota State Assessment, the state-mandated annual assessments that measure student performance against the state's challenging content and achievement standards. All students in grades 3-8 and 10 are assessed in English language arts/literacy and mathematics. Students in grades 4, 8, and 11 also take the NDSA science assessment.

Office of Civil Rights (OCR): The civil rights enforcement arm of the U.S. Department of Education, which enforces federal civil rights laws prohibiting discrimination on the basis of race, color, national origin, sex, disability, and age in services, programs, or activities receiving federal assistance. Through complaint investigations, compliance reviews, and technical assistance, the OCR oversees the education of EL students in public schools across the US.

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