Education for English Language Learners

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English learner means a student who is age 3-21 years, who is enrolled or is preparing to enroll in an elementary or secondary school, and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student the ability to meet state academic standards, the ability to successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society. An English learner may include a student who was not born in the United States or whose native language is a language other than English; a student who is Native American or Alaska Native, or a native resident of the outlying areas, 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 a student 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.

Designated English language development means instruction provided during a time set aside in the regular school day for focused instruction on the state-adopted English language development standards to assist English learners to develop critical English language skills necessary for academic content learning in English.

Integrated English language development means instruction in which the state-adopted English language development standards are used in tandem with the state-adopted academic content standards. Integrated English language development includes specially designed academic instruction in English.

Long-term English learner means:

1. For the purpose of setting the local control and accountability plan (LCAP) priorities, a student who has not attained English language proficiency within seven years of initial classification as an English learner

2. For the purpose of English language proficiency assessment, an English learner in grades 6-12 who has been enrolled in school in the United States for six years or more and who either:

    a. Has remained at the same English language proficiency level for two or more consecutive years, or has regressed to a lower proficiency level; or

    b. Is a student in grades 6-9 who has scored far below basic or below basic on the prior year's English language arts standards-based achievement test, or a score determined by the Superintendent of Public Instruction on any successor test

Native speaker of English means a student who has learned and used English at home from early childhood and English has been the primary means of concept formation and communication.

Identification and Assessment

Upon enrollment in the district, each student's primary language shall be determined through the use of a home language survey.

Any student in kindergarten or grades 1-12, not including transitional kindergarten, who is identified as having a primary language other than English as determined by the home language survey, and who has not previously been identified as an English learner by a California public school or for whom there is no record of

results from an administration of an English language proficiency test, shall be initially assessed for English proficiency using the English Language Proficiency Assessments for California (ELPAC). Prior to administering the ELPAC, the Superintendent or designee shall notify the student's parent/guardian in writing that the student will be administered the initial ELPAC.

Administration of the ELPAC, including the use of variations and accommodations in test administration when authorized, shall be conducted in accordance with test publisher instructions and 5 CCR I 1518.5-11518.37.

Based on the initial assessment, the student shall be classified either as Initial Fluent English Proficient, or as an English learner. The Superintendent or designee shall notify the student's parent/guardian, in writing, of the results of the ELPAC initial assessment within 30 calendar days after the student's date of initial enrollment, or, if administered prior to the student's initial date of enrollment, up to 60 calendar days prior to such enrollment, but not before July 1 of the school year of the student's initial enrollment. The notice shall indicate whether the student met the ELPAC initial assessment criterion for proficiency and include the district's contact information for use if the parent/guardian has questions or concerns regarding the student's classification.

Each year after a student is identified as an English learner and until the student is redesignated as English proficient, the summative assessment of the ELPAC shall be administered to the student during a four-month period after January 1 as determined by the California Department of Education.

The Superintendent or designee shall notify parents/guardians of their child's results on the summative assessment of the ELPAC within 30 calendar days following receipt of the results from the test contractor or, if the results are received from the test contractor after the last day of instruction for the school year, within 15 working days of the start of the next school year.

The parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title I or Title III funds shall receive notification of the assessment of the student's English proficiency. Such notice shall be provided not later than 30 calendar days after the beginning of the school year or, if the student is identified for program participation during the school year, within two weeks of the student's placement in the program. The notice shall include all of the following:

1. The reason for the identification of the student as an English learner and the need for placement in a language acquisition program

2. The level of English proficiency, how the level was assessed, and the status of the student's academic achievement

3. A description of the language acquisition program in which the student is, or will be, participating, including a description of all of the following:

    a. The methods of instruction used in the program and in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction

    b. The manner in which the program will meet the educational strengths and needs of the student

    c. The manner in which the program will help the student develop English proficiency and meet age-appropriate academic standards for grade promotion and graduation

d. The specific exit requirements for the program, the expected rate of transition from the program into classes not tailored for English learners, and the expected rate of graduation from secondary school if applicable

e. When the student has been identified for special education, the manner in which the program meets the requirements of the student's individualized education program

4. As applicable, the identification of a student as a long-term English learner or at risk of becoming a long-term English learner, as defined in Education Code 313.1, and the manner in which the program for English language development instruction will meet the educational strengths and needs of such students and help such students develop English proficiency and meet age-appropriate academic standards

5. Information about the parent/guardian's right to have the student immediately removed from a program upon the parent/guardian's request

6. Information regarding a parent/guardian's option to decline to enroll the student in the program or to choose another program or method of instruction, if available

7. Information designed to assist a parent/guardian in selecting among available programs, if more than one program or method is offered

Language Acquisition Programs

Whenever parents/guardians of enrolled students, and those enrolled for attendance in the next school year, request that the district establish a specific language acquisition program in accordance with Education Code 310, such requests shall be addressed through the following process:

1. The school shall make a written record of each request, including any request submitted verbally, that includes the date of the request, the names of the parent/guardian and the students grade level on the date of the request. As needed, the school shall assist the parent/guardian in clarifying the request. All requests shall be maintained for at least three years from the date of the request in accordance with Board Policy 3580- District Records.

2. The school shall monitor requests on a regular basis and notify the Superintendent or designee when the parents/guardians of at least 30 students enrolled in the school, or at least 20 students in the same grade level, request the same or a substantially similar type of language acquisition program.

   If the requests are for a multilingual program model, the district shall consider requests from parents/guardians of students enrolled in the school who are native English speakers in determining whether this threshold is reached.

3. If the number of parents/guardians described in item #2 is attained, the Superintendent or designee shall:

   a. Within ten (10) days of reaching the threshold, notify the parents/guardians of students attending the school, the school's teachers, administrators, and the district's English Learner Parent Advisory Committee and parent advisory committee, in writing, of the requests for a language acquisition program

b. Identify costs and resources necessary to implement any new language acquisition program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent/guardian and community engagement to support the proposed program goals

c. Within sixty (60) calendar days of reaching the threshold number of parents/guardians described in item #2 above, determine whether it is possible to implement the requested language acquisition program and provide written notice of the determination to parents/guardians of students attending the school, the school's teachers, and administrators

If a determination is made to implement the language acquisition program, create and publish a reasonable timeline of actions necessary to implement the program. If a determination is made that it is not possible to implement the program, provide a written explanation of the reason(s) the program cannot be provided. The district shall notify parents/guardians at the beginning of each school year or upon the student's enrollment regarding the process to request a language acquisition program, including a dual-language immersion program, for their child. The notice shall also include the following:

1. A description of the programs provided, including structured English immersion

2. Identification of any language to be taught in addition to English when the program includes instruction in a language other than English

3. The manner in which the program is designed using evidence-based research and includes both designated and integrated English language development

4. The manner in which the district has allocated sufficient resources to effectively implement the program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development, and opportunities for parent/guardian and community engagement to support the program goals

5. The manner in which the program will, within a reasonable period of time, lead to language proficiency and achievement of the state-adopted content standards in English and, when the program includes instruction in another language, in that other language

6. The process to request establishment of a language acquisition program not offered at the school

7. For any dual-language immersion program offered, the specific languages to be taught. The notice also may include the program goals, methodology used, and evidence of the proposed program's effectiveness.

The district shall provide additional and appropriate educational services to English learners for the purposes of overcoming language barriers and academic deficits in other areas of the core curriculum.

Advisory Committees

A school-level English Learner Advisory Committee (ELAC) shall be established when there are more than 20 English learners at the school. Parents/guardians of English learners, elected by parents/guardians of English learners at the school, shall constitute committee membership in at least the same percentage as English

learners represent of the total number of students in the school. The school may designate for this purpose an existing school-level advisory committee provided that it meets these criteria for committee membership.

The ELAC shall be responsible for assisting in the development of a schoolwide needs assessment, recommending ways to make parents/guardians aware of the importance of school attendance, and advising the principal and school staff in the development of a detailed master plan for English learners for the individual school and submitting the plan to the Board for consideration for inclusion in the district master plan.

When the district has more than 50 English learners, the Superintendent or designee shall establish a District English Learner Advisory Committee (DELAC), the majority of whose membership shall be composed of parents/guardians of English learners who are not employed by the district. Alternatively, the district may use a subcommittee of an existing districtwide advisory committee on which parents/guardians of English learners have membership in at least the same percentage as English learners represent of the total number of students in the district.

The DELAC shall advise the Board on at least the following tasks:

1. Developing a district master plan, including policy(ies), for education programs and services for English learners, taking into consideration the school site plans for English learners

2. Conducting a districtwide needs assessment on a school-by-school basis

3. Establishing a district program, goals, and objectives for programs and services for English learners

4. Developing a plan to ensure compliance with applicable teacher or instructional aide requirements

5. Administering the annual language census

6. Reviewing and commenting on the district's reclassification procedures

7. Reviewing and commenting on the required written parental notifications

In order to assist the advisory committee in carrying out its responsibilities, the Superintendent or designee shall ensure that DELAC and ELAC committee members receive appropriate training and materials. This training shall be planned in full consultation with the members.

Local Control and Accountability Plan (LCAP) Advisory Committee
When there are at least 15 percent English learners in the district, with at least 50 students who are English learners, a district-level English Learner Parent Advisory Committee shall be established to review and comment on the district's LCAP. Such advisory committee shall provide input regarding the district's existing language acquisition programs and language programs, and, where possible, the establishment of other such programs, in accordance with Board Policy 0460 - Local Control and Accountability Plan. The committee shall be composed of a majority of parents/guardians of English learners. If the DELAC acts as the ELAC pursuant to Education Code 52063 and 52062, the DELAC shall also review and comment on the development or annual update of the LCAP.

The DELAC may also serve as the LCAP ELAC, as specified in Board Policy 0460- Local Control and Accountability Plan.

Policy Reference Disclaimer:
These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the Board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

Legal References:

STATE

CALIFORNIA CODE OF REGULATIONS
5 CCR 11300-11316 English learner education
5 CCR 11510-11517.5 California English Language Development Test
5 CCR 11517.6-11519.5 English Language Proficiency Assessments for California
5 CCR 853 Administration of CAASPP
5 CCR 854.9 CAASPP and unlisted resources for students with disabilities
EDUCATION CODE
200 Prohibition of discrimination
300-340 English language education for immigrant children
310 Language acquisition programs
313-313.5 Assessment of English proficiency
33050 Nonwaivable provisions
361 Statewide implementation plan for the "EL Roadmap Policy"
42238.02 Local Control Funding Formula
430-446 English Learner and Immigrant Pupil Federal Conformity Act
44253.1-44253.11 Qualifications of teachers of English learners
48345 lnterdistrict instruction collaboration agreements
48980 Parent/Guardian notifications
48985 Notices to parents/guardians in language other than English
52052 Accountability; numerically significant student subgroups
52060-52077 Local control and accountability plan
52160-52178 Bilingual Bicultural Act of 1976
56305 CDE manual on English learners with disabilities
60603 Definition; recently arrived English learner
60640 California Assessment of Student Performance and Progress
60811.8 Newcomer student; definition
62002.5 Continuation of advisory committee after program sunsets

FEDERAL

UNITED STATES CODES
20 USC 1412 State eligibility
20 USC 1701-1721 Equal Educational Opportunities Act
20 USC 6311 State plan
20 USC 6312 Local educational agency plan
20 USC 6801-7014 Limited English proficient and immigrant students
20 USC 7011 Definition of immigrant children and youth
20 USC 7801 Definition of English learner
CODE OF FEDERAL REGULATIONS
34 CFR 100.3 Prohibition of discrimination on basis of race, color or national origin

MANAGEMENT RESOURCES

ATTORNEY GENERAL OPINION
83 Ops.Cal.Atty.Gen. 40 (2000)
CALIFORNIA DEPARTMENT OF EDUCATION COMMUNICATIONS
Updated Reclassification Guidance for 2018-19
Interim Guidance on Transitional Kindergarten Students and English Language Proficiency Testing, June 2024
CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS
EL Roadmap Policy
Summative English Language Proficiency Assessments for California, Assessment Fact Sheet, July 2023
Englisher Learner, Federal Program Monitoring Instrument

Monitoring Reclassified Students, December 2019
California Practitioners' Guide for Educating English Learners with Disabilities, 2019
English Language Proficiency Assessments for California Information Guide, July 2023
California Digital Learning Integration and Standards Guidance, May 2021
Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning, December 2015
Accessibility Resources Matrix, 2022
Next Generation Science Standards for California Public Schools, Kindergarten through Grade Twelve, rev. March 2015
Reclassification Guidance for 2020-21 and Statewide Testing Window Extension, CDE Correspondence, June 14, 2021
California English Learner Roadmap: Strengthening Comprehensive Educational Policies, Programs and Practices for English Learners, 2017
Common Core State Standards for Mathematics, 2013
English Language Development Standards for California Public Schools: Kindergarten Through Grade Twelve, 2012
English Language Arts/English Language Development Framework for California Public Schools: Kindergarten through Grade Twelve, 2014

COMMISSION ON TEACHER CREDENTIALING PUBLICATION

Bilingual Authorization Educator Preparation Preconditions, Program Standards, and Bilingual Teaching Performance Expectations, December 2021

COURT DECISIONS

Valeria 0. v. Davis (2002) 307 F.3d 1036
California Teachers Association v. State Board of Education et al. (9th Circuit, 2001) 271 F.3d 1141
Mclaughlin v. State Board of Education (1999) 75 Cal.App.4th 196
Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698

CSBA PUBLICATIONS

English Learners in Focus, Issue 1: Updated Demographic and Achievement Profile of California's English Learners, Governance Brief, September 2016
English Learners in Focus, Issue 3: Ensuring High-Quality Staff for English Learners, Governance Brief, July 2016
English Learners in Focus, Issue 4: Expanding Bilingual Education in California after Proposition 58, Governance Brief, March 2017
English Learners in Focus: The English Learner Roadmap: Providing Direction for English Learner Success, Governance Brief, February 2018
English Learners in Focus, Issue 2: The Promise of Two-Way Immersion Programs, Governance Brief, September 2014

THE EDUCATION TRUST- WEST PUBLICATIONS

Unlocking Learning: Science as a Lever for English Learner Equity, January 2017
Unlocking Learning II: Math as a Lever for English Learner Equity, March 2018

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

English Learners and Title Ill of the Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA), September 2016
Innovative Solutions for Including Recently Arrived English Learners in State Accountability Systems: A Guide for States, January 2017
English Learner Tool Kit for State and Local Educational Agencies (SEAs and LEAs), rev. November 2016
Dear Colleague Letter: English Learner Students and Limited English Proficient Parents, January 7, 2015

WEBSITES

Observation Protocol for Teachers of English Learners (OPTEL) https://www.cde.ca.gov/sp/ml/optel.asp
California Department of Education Home Language Survey
https://www.cde.ca.gov/ta/cr/documents/hls2020.pdf
Bilingual teacher professional development program https://www.cde.ca.gov/ci/pl/btpdp24.asp
Bilingual teacher training programs https://www.ctc.ca.gov/credentials/leaflets/bilingual-teacher-training-programs-(cl-772)
California Department of Education, English Language Proficiency Assessments for California (ELPAC)
https://www.elpac.org/
CSBA District and County Office of Education Legal Services https://legalservices.csba.org/

National Clearinghouse for English Language Acquisition http://www.ncela.us/
The Education Trust-West http://west.edtrust.org/
California Department of Education, English Learners http://www.cde.ca.gov/sp/el
California Association for Bilingual Education http://www.gocabe.org/
CSBA http://www.csba.org/
U.S. Department of Education http://www.ed.gov/

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