Sec. 1. REQUIREMENTS UNDER TITLE III OF ESEA

Texas Leadership Public Schools (TLPS) shall comply with the statutory requirements regarding emergent bilingual students[1] and immigrant students upon receipt of funds under Title III of the Every Student Succeeds Act. *20 U.S.C. § 6801–7014.*

Sec. 2. STATE POLICY AND TLC ACADEMY RESPONSIBILITIES

It is the policy of the state that every student who has a primary language other than English and who is identified as an emergent bilingual students shall be provided a full opportunity to participate in a bilingual education or English as a second language ("ESL") program.

TLPS shall:

1. Identify emergent bilingual students based on criteria established by the state;
2. Provide bilingual education and ESL programs, as integral parts of its regular program;
3. Seek appropriately certified teaching personnel to ensure that emergent bilingual students are afforded full opportunity to master the essential knowledge and skills required by the state; and
4. Assess academic achievement and linguistic progress in accordance with Texas Education Code Chapter 29 to ensure accountability for emergent bilingual students and the schools that serve them.

19 Tex. Admin. Code § 89.1201(a).

Sec. 3. BILINGUAL AND ESL PROGRAMS

Upon the enrollment of 20 or more students identified as emergent bilingual in any language classification in the same grade, TLPS shall offer a bilingual education or special language program as follows:

1. Bilingual education in prekindergarten through the elementary grades.
2. Bilingual education, instruction in English as a second language, or other TEA-approved transitional language instruction in post-elementary grades through 8th grade.
3. Instruction in English as a second language in grades 9–12.

If a program other than bilingual education must be used in prekindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

Tex. Educ. Code §§ 29.053(c)-(d); 29.054(a).

a) *Program Content*

TLPS's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully

[1] The term "emergent bilingual student" is interchangeable with "English learner" as used in federal regulations and replaces the term "limited English proficient student" formerly used in Subchapter B, Chapter 29 of the Education Code.

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structured and sequenced mastery of English language skills. An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

In subjects such as art, music, and physical education, emergent bilingual students shall participate fully with English-speaking students in regular classes provided in the subjects. TLPS shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English. *Tex. Educ. Code § 29.055(a)-(e, 057(b); 19 Tex. Admin. Code § 89.1210(f)*

b) *Classes and Facilities*

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. TLPS shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and TLPS shall keep adequate records of the educational level and progress of each student enrolled in the program.

Bilingual education and ESL programs shall be located in each regular TLPS campus with equitable access to all educational resources rather than in separate facilities. TLPS may concentrate the programs at a limited number of schools. Recent immigrant emergent bilingual students shall not remain enrolled in newcomer centers for longer than two years. *Tex. Educ. Code § 29.057; 19 Tex. Admin. Code § 89.1235*.

Sec. 4. IDENTIFYING EMERGENT BILINGUAL STUDENTS

Within the first four weeks following the first day of school, the language proficiency assessment committee ("LPAC") shall determine and report to the Board the number of emergent bilingual students at each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to the Texas Education Agency ("TEA") before November 1 every year. *Tex. Educ. Code §29.053(b)*.

Sec. 5. LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES

TLPS shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of emergent bilingual students.

a) *LPAC Membership*

Each LPAC shall include:

1. An appropriately certified bilingual educator (for students served through bilingual education);
2. An appropriately certified English as a Second Language ("ESL") educator (for students served through an ESL program);
3. A parent of the emergent bilingual students participating in a bilingual or ESL program; and
4. A campus administrator.

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TLPS may add other trained members to the committee in any of the required categories. If TLPS does not have an individual in one or more of the job classifications required, another professional staff member shall be designated to serve on the LPAC.

No parent serving on the LPAC shall be an employee of TLPS.

All members of the LPAC, including parents, shall observe all laws and guidelines concerning student confidentiality. TLPS will provide orientation and training for all members of the LPAC, including parents. *Tex. Educ. Code § 29.063; 19 Tex. Admin. Code § 89.1220(a)-(f)*.

b) *Duties of LPAC*

The LPAC shall:

1. Review all pertinent information on emergent bilingual students, including the home language survey, the language proficiency tests in English and the primary language, each student's achievement in content areas, and each student's emotional and social attainment;
2. Make recommendations concerning the most appropriate placement for the educational advancement of the emergent bilingual student after the elementary grades;
3. Review each emergent bilingual student's progress at the end of the school year in order to determine future appropriate placement;
4. Monitor the progress of students formerly classified as emergent bilingual who have transferred out of the bilingual education or special language program and based on the information, designate the most appropriate placement for such students; and
5. Determine the appropriateness of a program that extends beyond the regular school year based on the needs of each emergent bilingual student.

Tex. Educ. Code § 29.063(c).

The LPAC shall also fulfill the duties set forth at 19 Texas Administrative Code § 89.1220(g)-(i), (k).

c) *Home Language Survey*

For each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through Grade 12, the Texas Education Agency ("TEA")-developed home language survey shall be administered. This home language survey will serve as the original and only home language survey throughout the student's educational experience in Texas public schools. If TLPS is required to administer a home language survey, the school shall require that the survey be signed by the student's parent for each student in prekindergarten through Grade 8 or by the student in Grades 9-12 as permitted under Texas Education Code § 29.056(a)(1). It is TLPS's responsibility to ensure that the student's parent understands the language used in the survey and its implications. The original copy of the survey shall be kept in the student's permanent record and transferred to any subsequent Texas public school districts in which the student enrolls

The TEA-developed home language survey shall be administered in English and a language that the parents can understand. The home language survey shall contain the following questions:

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1. "What languages are used at home?"
2. "What languages are used by the child at home?"
3. "If the child had a previous home setting, which language(s) were used? If there was no previous home setting, answer Not Applicable (N/A)."

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 Texas Administrative Code § 89.1226.

For students previously enrolled in a Texas public school, TLPS shall secure the student records, including the original home language survey and LPAC documentation as described in 19 Texas Administrative Code § 89.1220(l), as applicable. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the student's original home language survey shall be made.
If a parent determines an error was made when completing the original home language survey, the parent may request a correction only if:

1. The student has not yet been assessed for English proficiency; and
2. Corrections are made within two calendar weeks of the student's initial enrollment date in Texas public schools.

19 Tex. Admin. Code § 89.1215.

d) *Classification as an Emergent Bilingual Student*

The LPAC may classify a student as emergent bilingual if:

1. The student's ability in English is so limited, or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Tex. Educ. Code § 29.056(c).

e) *Parent Notice and Consent*

Not later than the 10th day after the LPAC's classification of a student as an emergent bilingual student, the LPAC shall give written notice of the classification to the student's parent. The notice must be in English and in the parent's primary language. The parents of students eligible to participate in the required bilingual education program shall be informed of the benefits of the bilingual education or special language program and that it is an integral part of the school program. *Tex. Educ. Code § 29.056(d)*.

f) *Placement*

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Placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent, or through allowable alternatives described in 19 Texas Administrative Code § 89.1220(m), in order for the student to be included in the bilingual education allotment. *19 Tex. Admin. Code § 89.1240(a)(1)*.

The parent's approval shall be considered valid for the student's continued participation in the required bilingual education or ESL program until the student meets the reclassification criteria described in 19 Texas Administrative Code § 89.1226(i), the student graduates from high school, or a change occurs in program placement. A change between bilingual education and ESL program placement requires new parental approval using the TEA-developed change in placement letter. *19 Tex. Admin. Code § 89.1240(a)(2)*.

If a parent denies program placement at any point, the TEA-developed denial letter shall be used to ensure parents are informed of the implications of program denial, including understanding that the child will continue to be identified as an emergent bilingual student and will continue to be assessed annually using the Texas English Language Proficiency Assessment System ("TELPAS") until reclassification criteria have been met. *19 Tex. Admin. Code § 89.1240(a)(3)*.

Pending completion of the identification process, receipt of LPAC documentation for transferring students, or parental approval of an identified emergent bilingual student's placement into the bilingual education or ESL program recommended by the LPAC, TLPS shall place the student in the recommended program. However, only emergent bilingual students with parental approval for program participation will be included in the bilingual education allotment. *19 Tex. Admin. Code § 89.1220(j), (m).*

TLPS may place a student in or exit a student from a program without written parent approval if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. The parent provides approval by telephone or email that is documented in writing and retained; or
3. An adult recognized by TLPS as standing in parental relation to the student provides written approval. This may include a foster parent or an employee of a state or governmental agency with temporary possession or control of the student.

19 Tex. Admin. Code § 89.1220 (j), (m).

g) *Participation of Non-Emergent Bilingual Students*

With the approval of TLPS and a student's parent, a student who is not an emergent bilingual student may participate in a bilingual education program. The number of participating students who are not emergent bilingual students may not exceed 40% of the number of students enrolled in the program. *Tex. Educ. Code § 29.058; 19 Tex. Admin. Code § 89.1233(b)-(c)*.

h) *Students with Disabilities*

For students with disabilities, TLPS shall utilize the state's criteria for identification of emergent bilingual students as described in 19 Texas Administrative Code § 89.1226(f) and shall establish placement procedures that ensure the placement recommendation by the LPAC, in conjunction with the admission, review, and dismissal ("ARD") committee, in a bilingual education or English as a second language

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program is not refused based on the student's disabling condition. LPAC members shall meet in conjunction with ARD committee members to review and provide recommendations with regard to the educational needs of each emergent bilingual student who qualifies for services in the special education program. *19 Tex. Admin. Code § 89.1230*.

Sec. 6. COOPERATION AMONG PUBLIC SCHOOLS

TLPS may join with one or more other public schools to provide the required bilingual and special language programs. The availability of the programs shall be publicized throughout the schools involved.

TLPS may allow a nonresident emergent bilingual student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The district of residence shall pay the tuition for the student. *Tex. Educ. Code § 29.059*; *19 Tex. Admin. Code § 89.1205(e)*.

Sec. 7. SUMMER PROGRAM

If TLPS is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for emergent bilingual students who will be eligible for admission to kindergarten or first grade at the beginning of the next school year. The program shall be implemented in accordance with the requirements of 19 Texas Administrative Code § 89.1250. Enrollment in the program is optional with the parent of the child. *Tex. Educ. Code § 29.060*; *19 Tex. Admin. Code § 89.1250.*

a) *Other Programs*

TLPS may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for emergent bilingual students and may join with other districts in establishing such programs. Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year. *Tex. Educ. Code § 29.060(d)-(e).*

Sec. 8. PERSONNEL

Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. *Tex. Educ. Code § 29.061(b), (c)*.

If TLPS is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, TLPS may file an application for exception with TEA in accordance with 19 Texas Administrative Code § 89.1207. *Tex. Educ. Code § 29.054(b); 19 Tex. Admin. Code § 89.1207*.

Sec. 9. EMERGENT BILINGUAL STUDENTS AND STATE ASSESSMENTS

In kindergarten through grade 12, an emergent bilingual student shall participate in state assessments in accordance with 19 Texas Administrative Code § 101.1001-.1007.

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Sec. 10. PROGRAM EXIT

TLPS may transfer an emergent bilingual student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Texas Education Code § 39.023(a) or an English language arts assessment instrument under Texas Education Code § 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by the TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Tex. Educ. Code § 29.056(g).

a) *Notice to Parents*

TLPS shall notify the student's parent in writing of the student's reclassification as English proficient and his or her exit from the bilingual education or English as a second language program and acquire written approval as required under Texas Education Code § 29.056(a). Students meeting exit requirements who have been recommended for exit by the LPAC may only exit the bilingual education or ELS program with parental approval. Parental approval is also required for students participating in a dual language immersion program who have met reclassification criteria and for whom the LPAC has recommended continued program participation as an English proficient student. *19 Tex. Admin. Code § 89.1240(b)*.

b) *Evaluation of Transferred Students and Reenrollment*

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under the Student Code of Conduct.

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After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program. *Tex. Educ. Code § 29.0561*.

Sec. 11. PEIMS REPORTING REQUIREMENTS

If required to implement a bilingual education or special language program, TLPS shall include the following information in its PEIMS report:

1. Demographic information on students enrolled in TLPS's bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by TLPS; and
3. The number and percentage of students identified as emergent bilingual students who do not receive specialized instruction. *Tex. Educ. Code § 29.066(a)*.

Sec. 12. PROGRAM EVALUATION

If TLPS is required to implement a bilingual education or ESL program, it shall conduct an annual evaluation in accordance with Texas Education Code § 29.053, collecting a full range of data to determine program effectiveness to ensure student academic success. The annual evaluation report shall be presented to the Board before November 1 of each school year, and the report shall be retained at the administrative level in accordance with Texas Education Code § 29.062.

The annual report of educational performance shall reflect:

1. The academic progress in the language(s) of instruction for emergent bilingual students by bilingual education and/or ESL program model;
2. The extent to which emergent bilingual students are developing English proficiency by bilingual education and/or ESL program model, including proficiency in the partner language for students participating in a dual language immersion program model;
3. The number of students who have been reclassified as English proficient and their continued academic progress after reclassification; and
4. The number of teachers and aides trained and the frequency, scope, and results of professional development in approaches and strategies that support second language acquisition.

TLPS shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to emergent bilingual students. *19 Tex. Admin. Code § 89.1265*.

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