

CSBA Sample Administrative Regulation

Instruction

AR 6174(a)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS

Definitions

Note: The following section reflects definitions in Education Code 306, as amended by Proposition 58 (November 2016).

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

***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. (Education Code 306; 20 USC 7801)**

***Native speaker of English* means a student who has learned and used English in his/her home from early childhood and English has been his/her primary means of concept formation and communication. (Education Code 306)**

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

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

~~*Structured English immersion* (also known as "sheltered English immersion") means an English language acquisition process in which nearly all classroom instruction is in English but with the~~

~~curriculum and presentation designed for students who are learning the language. (Education Code 306)~~

AR 6174(b)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

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

Identification and Assessments

Note: Education Code 52164.1 and 5 CCR 11307 ~~and 11511~~ require the district to administer a home language survey to all enrolled students. **A sample home language survey form in English and Spanish is available on the California Department of Education's (CDE) web site.** and, for students who are determined by the survey to have a primary language other than English, to follow up with administration of a state assessment of English proficiency. The California English Language Development Test (CELDT) is the state test designated for this purpose. However, in the 2016-17 school year the state will field test a new language proficiency assessment, English Language Proficiency Assessments for California (ELPAC), which is aligned with the 2012 state standards for English language development. The ELPAC will include both an initial screening test to identify students who may be English learners and a summative assessment which will be used to determine English learners' level of English proficiency and their progress in acquiring the skills of listening, speaking, reading, and writing in English.

Upon enrollment in the district, each student's primary language shall be determined through **the** use of a home language survey. (Education Code 52164.1; 5 CCR 11307)

Note: When the home language survey indicates that a student's proficiency in English should be tested, Education Code 313 requires the district to administer a state assessment of English language proficiency. When fully operational in 2018, the English Language Proficiency Assessments for California (ELPAC) will be used for initial identification of language proficiency and subsequently for annual assessment of language proficiency.

Any student 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 assessed for English proficiency using the state's designated English language proficiency test **for initial identification**. (Education Code 313, 52164.1; 5 CCR 11511)

Each year after a student is identified as an English learner and until he/she is redesignated as English proficient, the summative assessment **of the state's designated English language proficiency test** shall be administered to the student during a four-month period after January 1 as determined by the California Department of Education. (Education Code 313)

Note: 5 CCR 11516-11516.6 specify allowable variations and accommodations in **CELDT the administration of the state English language proficiency assessment**. These variations and accommodations are generally the same as those allowed for other state assessments; see AR 6162.51 - State Academic Achievement Tests.

AR 6174(c)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

The state assessment shall be administered in accordance with test publisher instructions and 5 CCR 11511-11516.76. Variations and accommodations in test administration may be provided **to English learners** pursuant to 5 CCR 11516-11516.76.

Note: The Individuals with Disabilities in Education Act (20 USC 1412) requires that students with disabilities be included in all state assessments, including the annual assessment of English language proficiency as appropriate. English learners with disabilities must be allowed to take the test with accommodations as specified in their individualized education program or Section 504 plan. Pursuant to 5 CCR 11516.7, students with the most significant cognitive disabilities who cannot participate in the assessment, even with appropriate accommodations, must be given an alternate assessment of English proficiency. 34 CFR 200.16, as amended by 81 Fed. Reg. 86076, provides that, if an English learner with a disability is unable to take the assessment with accommodations, the state accountability system must include the student's score on any part(s) of the test for which it is possible to assess the student (i.e., speaking, reading, listening, writing).

Education Code 56305, as added by AB 2785 (Ch. 579, Statutes of 2016), requires the CDE to develop, by July 1, 2018, a manual providing guidance on identifying, assessing, supporting, and reclassifying English learners with disabilities.

Any student with a disability **who is identified as an English learner** shall be allowed to take the assessment with those accommodations for testing that the student has regularly used during instruction and classroom assessment as delineated in the student's individualized education program (IEP) or Section 504 plan. ~~that are appropriate and necessary to address the student's individual needs.~~ If ~~he/she~~ **the student** is unable to participate in the assessment or a portion of the assessment **even** with such accommodations, ~~he/she shall be administered~~ an alternate assessment for English language proficiency **shall be administered to the student** as set forth in his/her IEP. (5 CCR 11516-11516.7; **20 USC 1412**)

(cf. 6152.51 - State Academic Achievement Tests)

(cf. 6159 - Individualized Education Program)

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

Parental Notifications

Note: The ~~following remainder of this~~ section specifies notifications that must be sent to parents/guardians regarding assessment results and available programs for English learners. ~~The district may choose to combine these notifications with notifications required for parental exception waivers, as detailed in the section "Parental Exception Waivers" below.~~ The ~~California Department of Education (CDE)~~ has developed sample notification

Attachment F: Use CSBA Sample with Suggested Changes

letters, available on its web site in multiple translations, to notify parents/guardians of the initial identification of a student as an English learner or as initially fluent English proficient and to notify them of the results of an annual assessment.

Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to their parents/guardians must be written in English and in the primary language and may be answered by the parent/guardian in either language.

~~The Superintendent or designee shall provide the following written notifications to parents/guardians of English learners:~~

AR 6174(d)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

~~1. Assessment Notification: The district~~ **The Superintendent or designee** shall notify parents/guardians of their child's results on the state's English language proficiency assessment within 30 calendar days following receipt of the results from the test contractor. (Education Code 52164.1; 5 CCR 11511.5)

(cf. 5145.6 - Parental Notifications)

~~2. Placement Notification: At the beginning of each school year, parents/guardians shall be informed of the placement of their child in a structured English immersion program and shall be notified of an opportunity to apply for a parental exception waiver. (Education Code 310; 5 CCR 11309)~~

Note: ~~Items #3-4 below are~~ **The following paragraph is** for use by districts that receive federal **Title III** funds **under either Title I or Title III for services to English learners. Such districts are required to provide parents/guardians with notification of their child's identification as an English learner and placement in a language acquisition program. The Every Student Succeeds Act (P.L. 114-95) repealed 20 USC 7012 and moved the notification requirement to 20 USC 6312.**

~~3. Title III Notifications: Each~~ **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 his/her child'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: (Education Code 440; 20 USC ~~7012~~ **6312**)

- a1.** The reason for the ~~student's classification~~ **identification of the student** as an English learner **and the need for placement in a language acquisition program**
- b2.** The level of English proficiency, how the level was assessed, and the status of the student's academic achievement

- e3. A description of the **language acquisition** program ~~for English language development instruction in which the student is, or will be, participating,~~ including a description of all of the following:
- (1)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

AR 6174(e)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

- (2)c. The manner in which the program will help the student develop his/her English proficiency and meet age-appropriate academic standards **for grade promotion and graduation**
 - (3)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
 - (4)e. Where the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP
4. **Information about the parent/guardian's right to have the student immediately removed from a program upon the parent/guardian's request**
- d.5. Information regarding a parent/guardian's option to decline to **allow enroll** the student ~~to be enrolled~~ in the program or to choose ~~to allow the student to be enrolled in an alternative program~~ **another program or method of instruction, if available**
 - e.6. Information designed to assist a parent/guardian in selecting among available programs, if more than one program **or method** is offered

Note: Pursuant to 20 USC 6842, the CDE must develop annual measurable objectives for English learners served under federal Title III. These include targets for the percentage of English learners who are proficient on the assessments used in the calculations of "adequate yearly progress" for accountability purposes; see BP-0500—Accountability.

4. ~~Annual Measurable Objectives Notification: If the district fails to make progress on the annual measurable achievement objectives for English learners established pursuant to 20 USC 6842, the Superintendent or designee shall, within 30 days after such failure occurs,~~

~~send a notification regarding such failure to the parents/guardians of each student identified for participation in a language instruction educational program supported by Title III funds. (20 USC 7012)~~

~~Parental Exception Waivers~~

~~[SECTION ON PARENTAL EXCEPTION WAIVERS DELETED]~~

Reclassification/Redesignation

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

AR 6174(f)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

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

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

Note: **Education Code 313 and 52164.6 and** 5 CCR 11303 requires that the district's reclassification process include, **at a minimum**, the criteria specified in items #1-4 below. **The district may expand the following list to reflect any additional criteria it has established.** The CDE's CELDT Information Guide includes recommendations for assessing each of the following criteria **and states that, for a student with disabilities, the student's IEP team or Section 504 team should determine any supplemental criteria to be used.**

The ~~following~~ measures ~~shall be~~ used to determine whether an English learner shall be reclassified as fluent English proficient **shall include, but not be limited to:** (Education Code 313, 52164.6; 5 CCR 11303)

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the state's English language proficiency assessment
2. Participation of the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions related to the student

3. Parent/guardian opinion and consultation

The Superintendent or designee shall provide the parent/guardian with notice and a description of the reclassification process and of his/her opportunity to participate in the process and shall encourage his/her involvement in the process.

Note: Pursuant to Education Code 313, the fourth criterion requires comparison of student performance on an objective assessment of basic skills that provides an empirically established range of performance of English proficient students of the same age. A letter from the CDE to district superintendents (Academic Criterion for Reclassification) dated August 11, 2014 clarifies that, when a state test of basic skills is unavailable, districts must select another measure which may include a local assessment. The CDE correspondence provides examples of appropriate measures and is available on the CDE web site.

4. Student performance on an objective assessment of basic skills in English that shows whether the student is performing at or near grade level

AR 6174(g)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

The Superintendent or designee shall monitor the progress of reclassified students to ensure their correct classification and placement. (5 CCR 11304)

Note: The following **optional** paragraph may be revised to reflect district practice.

The Superintendent or designee shall monitor students for at least two years following their reclassification to determine whether the student needs any additional academic support to ensure his/her language and academic success.

Advisory Committee

Note: The following section should be revised to reflect district practice. Pursuant to 5 CCR 11308, a parent/guardian advisory committee is required for any district with over 50 English learners and for each school with over 20 English learners. Duties of the advisory committee are specified in 5 CCR 11308.

A parent/guardian advisory committee shall be established at the district level when there are more than 50 English learners in the district and at the school level when there are more than 20 English learners at the school. Parents/guardians of English learners shall constitute committee membership in at least the same percentage as English learners represent of the total number of students in the school. (Education Code 52176; 5 CCR 11308)

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

Attachment F: Use CSBA Sample with Suggested Changes

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

(cf. 0420 - School Plans/Site Councils)
(cf. 1220 - Citizen Advisory Committees)

AR 6174(h)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6020 - Parent Involvement)

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

LCAP Advisory Committee

Note: The following section is applicable if the district's student enrollment includes at least 15 percent English learners, with at least 50 students who are English learners. Education Code 52063 requires that such districts establish an English learner parent advisory committee to review and comment on the district's local control and accountability plan; see BP 0460 - Local Control and Accountability Plan. 5 CCR 15495, as amended by Register 2015, No. 2, requires this committee to include a majority of parents/guardians of English learners.

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 local control and accountability plan (LCAP) in accordance with BP 0460 - Local Control and Accountability Plan. The committee shall be composed of a majority of parents/guardians of English learners. (Education Code 52063; 5 CCR 15495)

(cf. 0460 - Local Control and Accountability Plan)

Attachment F: Use CSBA Sample with Suggested Changes

The advisory committee established pursuant to 5 CCR 11308, as described in the section "Advisory Committee" above, could serve as the LCAP English learner advisory committee if its composition includes a majority of parents/guardians of English learners.

(11/12 4/15) 3/17

Policy Reference UPDATE Service

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