Bilingual / ESL Education

Program Overview

Instructional Model:

PK-5th-Transitional Bilingual/ Late Exit

6th-12th-English as a Second Language
South San Antonio Independent School District

Our Vision

All students will enjoy successful educational experiences to empower them to make decisions and enrich their lives in the future they create.

Our Core Beliefs

- We believe in engagement of the school community for the success of our district.
- We believe in a strong support system for the school community to achieve excellence.
- We believe that innovative and challenging experiences produce successful learners.
- We believe that trusting relationships among the school community are essential to student success.
- We believe that an inclusive school culture promotes positive student development.
- We believe strong and effective leadership is essential to build a culture of high expectations.

Our Goals

- We will engage all school community members through transparency and effective communication to create an inclusive environment for all students.
- We will develop a strong support system offering opportunities across the curriculum to create an innovative school experience, teaching students to value their education and motivate them to achieve excellence.
- We will provide meaningful innovative instruction that promotes critical thinking and problem solving.
- We will recruit, attract, retain, and develop exceptional personnel in order to accomplish the goals of the school community.
- We will prioritize district revenues to guide student future choices.
SOUTH SAN ANTONIO INDEPENDENT SCHOOL DISTRICT

Bilingual / ESL/ Migrant Education Program

Mission Statement:

“The mission of the South San Antonio Independent School District Bilingual/ESL/Migrant Program is to ensure that all students achieve their potential and graduate as bi-literate, bilingual, and responsible adults with the skills to succeed in higher education, the workforce, or the military.

The SSAISD Independent School District’s Bilingual Education Program is a full-time program of Late Exit, and ESL instruction that provides for learning academic skills in the primary language of the students of limited English proficiency who are enrolled in the program and provides for carefully structured and sequenced mastery of English language skills. The program is designed to consider the students’ learning experiences while incorporating the linguistic and cultural aspects of the students. The Bilingual Education Program focuses on the individual student’s needs, the vision of the district’s superintendent to see that every student becomes a functional bilingual – biliterate student meeting the requirements stipulated by the Texas Education Administrative and Education Code.

It Starts With US!

¡Empieza Con Nosotros!
TITLE III LANGUAGE PROGRAM DEFINITIONS

The definitions outlined below are provided as a resource to assist Title III-funded school districts in completing the 2008-2009 NCLB Consolidated Compliance Report. The language instruction educational programs described refer to the program models used to serve limited English proficient (LEP) students in Texas. Definitions are based on Texas Education Code (TEC) §29.066 and are exactly the same as those used for the Public Education Information Management System (PEIMS) beginning in 2008-2009.

Transitional Bilingual/Late Exit – Elementary Schools

- A bilingual program that serves students identified as students of limited English proficiency in both English and Spanish and transfers a student to English-only instruction.
- Academic growth is accelerated through cognitively challenging academic work in the students’ first language along with meaningful academic content taught through the students’ second language, English.
- The goal is to promote high levels of academic achievement and full academic language proficiency in the students’ first language and English.
- Students enrolled in the transitional bilingual/late exit program are eligible to exit the program not earlier than six or later than seven years after the students enroll in school.

Pull-out English as a Second Language (ESL) - Secondary Schools

- An English program that serves students identified as students of limited English proficiency in English only by providing a certified teacher under Section 29.061(c) to provide English language arts instruction exclusively, while the student remains in a mainstream instructional arrangement in the remaining content areas.
- Instruction may be provided by the ESC teacher in a pull-out or inclusionary delivery model.
- Exiting to an all-English program of instruction will occur not earlier than the end of first grade, or if the student enrolls in school during or after the first grade, the student will remain in the program for a minimum of two to five years before being eligible to exit the ESL program.
This addresses the requirements found in 19 TAC Chapter 89, Subchapter BB of the Commissioner’s Rules Concerning State Plan for Educating Limited English Proficient Students and Title III of the No Child Left Behind Act of 2001 (NCLB).


The TEA NCLB website is located at: www.tea.state.tx.us/nclb/

**Instructional Program Design:**

Our Bilingual or ESL program must address the **affective**, **linguistic** and **cognitive** needs of LEP students (19 TAC §89.1210).

**Affective**: Limited English proficient students shall be provided instruction in their home language to introduce basic concepts of the school environment, and instruction both in their home language and in English which instills confidence, self-assurance, and a positive identity with their cultural heritages. The program shall address the history and cultural heritage associated with both the students’ home language and the United States.

**Linguistic**: Limited English proficient students shall be provided instruction in the skills of comprehension, speaking, reading, and composition both in their home language and in English. The instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher order thinking skills in all subjects.

**Cognitive**: Limited English proficient students shall be provided instruction in mathematics, science health, and social studies both in their home language and in English. The content area instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher order thinking skills in all subjects.

**NOTE:**

- The English Language Proficiency Standards (ELPS) are to TELPAS as the TEKS are to STAAR. We must ensure that both are being taught to all ELL students.
- The ELPS are available at: http://www.tea.state.tx.us/index2.aspx?id=6148
### Bilingual Late Exit Model Framework for All Elementary Schools

<table>
<thead>
<tr>
<th>School Year</th>
<th>Grade Level</th>
<th>Spanish</th>
<th>English</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014 - 2015</td>
<td>Pre-Kinder</td>
<td>90%</td>
<td>10% Integrated through song/chants/games P.E./Music (in grades levels)</td>
</tr>
<tr>
<td>2015 - 2016</td>
<td>Kindergarten</td>
<td>80%</td>
<td>20% Social Studies</td>
</tr>
<tr>
<td>2016 – 2017</td>
<td>First grade</td>
<td>70%</td>
<td>30% Social Studies Science</td>
</tr>
<tr>
<td>2017 – 2018</td>
<td>Second grade</td>
<td>60%</td>
<td>40% Social Studies Science and some Math</td>
</tr>
<tr>
<td>2018 – 2019</td>
<td>Third grade</td>
<td>50%</td>
<td>50% Social Studies Science Math</td>
</tr>
<tr>
<td>2019 - 2020</td>
<td>Fourth grade</td>
<td>30%</td>
<td>70% Social Studies Science Math Language Arts (writing, Spelling, Grammar) Literature</td>
</tr>
<tr>
<td>2020-2021</td>
<td>Fifth grade</td>
<td>10%</td>
<td>90% Social Studies Science Math Language Arts (writing, Spelling, Grammar) Literature Reading</td>
</tr>
</tbody>
</table>

**Some campuses have implemented the Late Exit Model beyond the above schedule. If students were taught in Spanish the previous year, continue to provide instruction in Spanish according to the late exit model.**

A Late Exit Model is a bilingual program that serves a student identified as limited English proficient in both English and Spanish, or another language, and transfers the student to English-only instruction. Academic growth is accelerated through cognitively challenging academic work in the student's first language along with meaningful academic content taught through the student's second language, English. The goal is to promote high levels of academic achievement and full academic language proficiency in the student's first language and English. A student enrolled in a transitional bilingual/late exit program is eligible to exit the program no earlier than six years or later than seven years after the student enrolls in school. A student who has met exit criteria in accordance with §89.1225(h), (j), and (k) of this title may continue receiving services, but the school district will not receive the bilingual education allotment for that student.
Early Exit Model for Grades 1<sup>st</sup>-5<sup>th</sup> (Pre-K and Kinder are under the Late Exit Model as of 2015-16)

<table>
<thead>
<tr>
<th>School Year</th>
<th>Grade</th>
<th>Spanish/English</th>
<th>Notes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014-15</td>
<td>Kinder</td>
<td>50/50</td>
<td>Significant amount of oral English and Spanish Literacy foundation.</td>
</tr>
<tr>
<td>2014-16</td>
<td>1&lt;sup&gt;st&lt;/sup&gt;</td>
<td>40/60</td>
<td>Support Spanish literacy foundation and use sheltered instruction</td>
</tr>
<tr>
<td>2014-17</td>
<td>2&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>20/80</td>
<td>Sheltered instruction and transition into English with support in Spanish as needed.</td>
</tr>
<tr>
<td>2014-18</td>
<td>3&lt;sup&gt;rd&lt;/sup&gt;</td>
<td>10/90</td>
<td>Sheltered instruction and transition into English with support in Spanish as needed.</td>
</tr>
<tr>
<td>2014-19</td>
<td>4&lt;sup&gt;th&lt;/sup&gt;</td>
<td>0/100</td>
<td>Students who did not exit should have support in Spanish as needed and the use of effective sheltered instruction.</td>
</tr>
<tr>
<td>2014-20</td>
<td>5&lt;sup&gt;th&lt;/sup&gt;</td>
<td>0/100</td>
<td>Students who did not exit should have support in Spanish as needed and the use of effective sheltered instruction.</td>
</tr>
</tbody>
</table>

- Students who do not speak English will need more Spanish instruction regardless of his/her grade.
- Note the school year, as we will be transitioning into the Late Exit Model a grade per year. By the school year 2020-2021, all grades will be in a Late Exit Model.
- It is recommended that all 5<sup>th</sup> grade students STAAR test in English unless they have been in the U.S. for 2 years or less.

ESL Model Framework for All Middle Schools

<table>
<thead>
<tr>
<th>Student TELPAS scores</th>
<th>Teachers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginner / Intermediate</td>
<td>Must have an ESL certified teacher for ELAR.</td>
</tr>
<tr>
<td>Advanced / Advanced High</td>
<td>May take ELAR with a general education teacher. Must see an ESL certified teacher in any content area during the school day. All content area teachers that serve ELL students must be trained in sheltered instruction and ELPS.</td>
</tr>
</tbody>
</table>

ESL Model Framework for the High School

<table>
<thead>
<tr>
<th>Student TELPAS scores</th>
<th>Teachers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginner / Intermediate</td>
<td>Must have an ESL certified teacher for ELAR.</td>
</tr>
<tr>
<td>Advanced / Advanced High</td>
<td>All content area teachers that serve ELL students must be trained in sheltered instruction and ELPS.</td>
</tr>
</tbody>
</table>
Teacher Training / Certification Expectations

Elementary Campuses:

- In departmentalized grade levels, all teachers that service ELLs must be Bilingual certified.
- All Bilingual teachers should be trained in Sheltered Instruction and attend an annual refresher course such as ELPS, 50 Strategies for Teaching ELLS or Building Academic Language for ELLs.
- Teachers in departmentalized grades should attend ELPS training in the content area taught; all other elementary teachers should attend training in a content area they are teaching in English.
- It is highly recommended that all Bilingual teachers attend GT training.

Middle School Campuses:

- All ESL and core content area teachers should be trained in Sheltered Instruction and attend an annual refresher course such as ELPS, 50 Strategies for Teaching ELLS or Building Academic Language for ELLs.
- It is highly recommended that all ESL teachers attend GT training.

High School Campus:

- All teachers that service ELL students must be trained in Sheltered Instruction.
- Teachers should attend a Sheltered Instruction refresher course such as ELPS, 50 Strategies for Teaching ELLS or Building Academic Language for ELLs annually.
- It is highly recommended that all ESL teachers attend GT training.
Instructional Materials

As we progress in the Late Exit Bilingual Model, we are receiving numerous requests for materials in Spanish, especially Tesoros. Please remember:

- All campuses were provided Tesoros materials when this textbook series was adopted.
- There are some incomplete Tesoros sets in the warehouse as well as numerous consumable student workbooks in Spanish. Please submit requests for materials to Mr. Joe Jasso. If the materials you are requesting are available, they will be delivered to your campus.
- If materials that were purchased using federal funds have become lost or damaged, it is the responsibility of the campus to replace these materials using 199 funds.
- The Bilingual Department has given each campus monies to purchase instructional materials. Many campuses did choose to purchase supplemental reading materials, such as leveled readers.
- An inventory of materials purchased by the Bilingual Department will be submitted to the campus at the beginning of the school year and end of the school year to verify that all materials are present and accounted for.
Bilingual / ESL Roles and Responsibilities

Bilingual/ESL Instructional Assistant Duties

- Works under the direct supervision of the LPAC facilitator and ESL teacher
- Administers the Oral Language Proficiency assessment instrument to eligible students
- Ensures that new students are tested within 10 school days of initial entry.
- Ensures that new students are LPACed within 20 school days of initial entry.
- Communicates with parents and other districts to gather information that will assist with correct program placement for the student
- Assists with proper maintenance of ELL student files
- Maintain files/binder with current information on ELL students: PEIMS status, LPAC minutes, ELL checklist, monitoring forms, etc.
- Prepares documentation for the LPAC meeting and notify LPAC members of meeting
- Develops and prints the Agenda for each meeting
- Completes the Program Placement paperwork prior to meeting
- Gathers and prepares additional paperwork if needed
- Ensures that Member Roster is signed each meeting
- Completes minutes form during the LPAC meeting
- Submits LPAC Meeting Agenda, Member Roster, and Minutes Form to the SSAISD Bilingual Department within 10 days
- Pulls progress reports for all ELL students every 3-weeks and collaborates with Bilingual/ESL teacher and LPAC administrator to ensure that students get services needed to succeed.
- Monitor M1 and M2 student’s academic progress
- Provide instructional support for ELL students in the content area classrooms
- Participates in all required professional development and training meetings
- Follows all district, state and federal policies, rules and procedures
- Performs other duties and responsibilities as assigned
- Assists the Guidance Department and other services with the placement and scheduling of limited English proficient students
- Manages Campus LPAC binder which contains:
  - Oaths of Confidentiality
  - LPAC Minutes with Agendas and Signed Member Rosters
Bilingual/ESL Teacher Duties

In addition to Major Duties and Responsibilities as outlined in the Teacher job description, the Bilingual/ESL teacher:

- Ensures proper documentation for LPAC meetings
- Helps to determine appropriate instructional interventions and language assessment decisions.
- Signs paperwork regarding LPAC placement and assessment decisions.
- Plans engaging and meaningful lessons that address the TEKS and ELPS
- Differentiates lessons and activities to meet the various needs and learning styles of ELLs
- Displays content (TEKS) and language (ELPS) objectives daily
- Uses relevant data (benchmarks, STAAR, LPAC, TELPAS, WM-LS, TPRI, Tejas Lee) to plan and implement meaningful interventions
- Collects writing samples at regular intervals to gauge student proficiency and provides intervention as needed before TELPAS
- Holds and prepares deliberations for LPAC meeting
- Supports content area teachers by ensuring that ELL accommodations are being properly implemented (ELL Checklist)
- Advocates for ELL student participation in special programs such as Advanced Academics (GT) and Special Education
- Attends additional training opportunities available from the district (Bilingual Symposiums), Region 20, etc.

LPAC Administrator Responsibilities

In addition to Major Duties and Responsibilities as outlined in Vice Principal/Principal job description, the LPAC administrator:

- Ensures that teachers and aides keep up with responsibilities as outlined in this document.
- Provides annual LPAC training for all campus Bilingual/ESL teachers and staff
- Continuously supports teachers and aides
- Regular teacher walk-throughs and effective feedback to ensure student learning
- Oversees LPAC procedures and documentation
- Helps to determine appropriate instructional interventions and language assessment decisions
- Signs paperwork regarding LPAC placement and assessment decisions as administrative representative
- Discusses program options with parents
- Meets with parents regarding waiver/denial decisions
• Provides official school letterhead for parents who choose to waive/deny program
• Must also sign and date waiver/denial letter as witness
• The waiver/denial date must be included in the comments section of the LPAC minutes.

✓ IMPORTANT: The LPAC Administrator is ultimately the one responsible for the LPAC Process. At no time should the LPAC Teacher or Aide be left alone to carry out all LPAC responsibilities.

✓ IMPORTANT: The LPAC Administrator must monitor the paperwork process and should assist when needed.

LPAC Parent Responsibilities

• Helps to determine appropriate instructional interventions and language assessment decisions
• Signs paperwork regarding LPAC placement and assessment decisions as parent representative.
• SSAISD Bilingual department will provide parent trainings in the fall. Campus will ensure that their representative is made aware of trainings.
Language Proficiency Assessment Committee

What is LPAC?

• **Determines** ELL status after reviewing scores of entry criteria
• **Recommends** the appropriate educational **program** for each ELL student
• **Notifies** the parent about classification and obtains permission in writing for program entry
• **Determines** the best **state testing option** for each ELL student (immediately prior to state assessment)

What does the LPAC do?

• **Facilitates and reviews** student participation and progress in the district’s Bilingual or ESL program
• **Facilitates the participation** of eligible ELL students in **other special programs** provided by the district with either state or federal funds.
• **Determines exit status** (reclassification as Non-ELL) upon reaching state exit criteria
• **Monitors progress** of Exit, Waivers, and Denial students every **9 weeks for 2 years**

Mandatory LPAC Meetings:

**Beginning of Year LPAC (BOY)**
- Identification, Testing & Placement of ELLs
- Must be done by the 20th day of student registration

**Middle of Year LPAC Meeting (MOY)**
- STAAR Language (Grades 3-6)
- STAAR Exemptions (Grades 3-10)
- ELL Postponements (Grade 11)

**End-of-Year LPAC (EOY)**
- Annual Review of ELL students who are served in Bilingual/ESL program, including denial students
- 1st and 2nd Year Monitoring of Exited Students
- 1st and 2nd Year Monitoring of ELL Students not served (Waivers/Denials)
- Program Exit Decisions
- Re-Classification of ELL Students (Removal of the ELL Code)
- **Cannot** take place until STAAR data is received
LPAC Meeting Training Expectations

The Bilingual Department will attend LPAC training at ESC-20 for each of the required LPAC meeting time frames. The department will then hold an in district meeting to training the LPAC administrator, Bilingual / ESL Aide and any other staff member the campus administration would like trained. It is then the responsibility of those that attended the training meeting to inform the rest of the campus bilingual team of any updates, training or required actions.

It is the recommendation of the Bilingual Department that any staff new to the LPAC process attend training at ESC-20 as well as in-district LPAC training during their first year on the LPAC committee.

LPAC TRAINING FORMS

After members of the Language Proficiency Assessment Committee have been trained, provide them with a copy of the training certificate and have them sign the LPAC Responsibilities Form as well as the Confidentiality Form. These forms should be filed in the LPAC Journal.

- LPAC training verification signature form
- LPAC confidentiality signature form (English/Spanish)
- LPAC training certificate

LPAC COMMITTEE Members

Following are some guidelines that will help in training LPAC Committee members:

The district / campus bilingual program LPAC membership consists of:
- campus administrator
- professional bilingual / ESL teacher
- professional transitional language educator (general education teacher)
- parent of a limited-English proficient student who is not employed by the school district
- The LPAC consists of a parent of a LEP student participating in the program and one or more professional staff members
LPAC Committee Responsibilities

- Give individuals time to familiarize themselves with the LPAC forms/Project ELL.
- Clarify decisions will be made using test data, not opinions/preferences.
- Clarify LPAC recommendations will come after considering input from teachers and others who know the students. These decisions need to be made by a committee, never by an individual.
- Explain the type of “extended” programs that are available to students: Special Ed, GT, RTI, etc.
LPAC Decision Making Information

Title III requires that student identification and parent notification take place no later than 30 days after the beginning of the school year and within 2 weeks of placement thereafter.

An LPAC should follow the more stringent Texas requirements and have student identification and placement occur within the first 4 weeks (20 days) of student enrollment.

Identification and Placement

Review all pertinent information on LEP students, such as the HLS forms, the oral test results in English and, if pertinent, in Spanish, the achievement test results for grades 2-12, and any prior educational history.

- Only one Home Language Survey (HLS) shall be administered to each student new to the district and to students previously enrolled who were not surveyed in the past. Returning students will not be administered another HLS.
  - The original HLS shall be kept in the students' permanent record.
  - A copy of the original HLS shall be kept in the students' B/E folder.
- If the HLS indicates a language other than English, the student shall be tested in accordance with §89.1225 to determine English Proficiency.
  - Testing results must be documented.
- Designate, subject to parental approval, the initial instructional placement of each limited English proficient student in the required program.

We are required to offer a Bilingual/ESL program and

- Must test students in English and in their primary language.
- Testing must be administered by trained personnel.
- Parental permission does not have to be obtained prior to oral language proficiency testing.

For students in grades PK-1st

- Administer an oral language proficiency test (OLPT) in English and Spanish (Woodcock-Munoz)
- PK-1 students scoring below the cut–off for English proficiency on the OLPT are classified as LEP.

For students in grades 2nd -12th

- Administer an OLPT (Woodcock-Munoz)
• Students in grades 2-12 scoring below the cut-off for English proficiency on the OLPT are classified as LEP.
• Administer a Norm Referenced Test (Iowa Assessments, Reading and Language Arts sections)
• Students who score below the 40th percentile on the reading and language arts sections of the Norm Referenced Test (NRT) are classified as LEP, even if their OLPT score reflects English proficiency.
• If the student’s ability on the English OLPT is so limited that the administration at his/her grade level of the English norm-referenced standardized achievement test is not valid, then the student qualifies for ESL Services.

Grade Placement

• Original placement will be at an age appropriate level unless appropriate report card documentation is provided.
• A student’s enrollment in the bilingual/ESL program does not constitute a reason for/against retaining the student. A LEP student cannot be retained because of Limited English Proficiency alone.

Special Education Program Placement

• For students referred to special education, placement in a bilingual or ESL program may not be refused solely because the student has a disability. However, if the student:
  o has a disability and language is not a factor then the student is not LEP, even though the family may speak other languages.

• For LEP students, the LPAC and ARD committee may recommend that a student:
  o is limited English proficient and has an identified disability, therefore, he/she should be served jointly through special education and Bilingual/ESL programs.
  o is limited English proficient but assessment results show that the student is not eligible for the Special Education program; therefore, he/she should be served through the bilingual/ESL program and NOT in special education.
  o ALL ARD and LPAC committee members should be present and sign the appropriate paperwork for both entry and exit of students.
### ARD/LPAC Model

**LEP ENTRY**—ARD/LPAC teams convene.  
*Entry Criteria for SPED Students into a Bilingual or ESL program Form*

**ON-GOING ANNUAL MONITORING**—ARD with LPAC representative conducts annual ARD meetings. LPAC has spring meetings. *

**LEP EXIT**—ARD/LPAC teams convene.  
*Exit Criteria for LEP/SPED Students*

**YEAR 1 MONITORING AFTER EXIT**—ARD with LPAC representative conducts annual ARD meetings. LPAC has spring meetings. **

**YEAR 2 MONITORING AFTER EXIT**—ARD with LPAC representative conducts annual ARD meeting. LPAC has spring meetings. **

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* The ARD/LPAC may need to additionally meet together during the annual monitoring if a change in the established LEP exit criteria is needed.

** The ARD/LPAC meets together if the student receiving special education services is demonstrating academic difficulty within two years that the ARD/LPAC exited the student.

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**In A Nutshell:**
The ARD/LPAC is re-convened if the established LEP exit criteria appears to need adjustment. Another event when the ARD/LPAC is re-convened is when the special education student who has been LEP exited is demonstrating academic difficulty and may need to re-enter LEP status. Thus, the ARD/LPAC might conceivably meet to:

- establish LEP entry criteria and determine eligibility;
- establish LEP exit criteria and determine exit eligibility;
- adjust, if necessary, the established LEP exit criteria;
- if applicable, determine if intensive instruction or re-enrollment as LEP is necessary for a student who has been exited from LEP status within the last two years, but is having academic difficulty.
- Removing a student from Bilingual or ESL program in order to be classified Special Education is in violation of Chapter 89. Students should be served in both programs.
Gifted and Talented

- Research has described gifted English Language Learners as having varying degrees of the following characteristics:
  - acquires a second language rapidly,
  - shows high ability in mathematics,
  - displays a mature sense of diverse cultures and languages,
  - code switches easily (think in both languages),
  - demonstrates an advanced awareness of American expressions
  - translates at an advanced level (oral)
  - navigates appropriate behaviors successfully within both cultures
- Removing a student from Bilingual or ESL program just to be classified GT is in violation of Chapter 89; they can be served in both programs.
- Given that our ELL students are underrepresented in the GT program, ensure that they get GT tested if they demonstrate GT characteristics.
- The district does have a gifted and talented assessment in Spanish available for students. Please contact the Advanced Academics coordinator for more information.

Transfer Students

If the student transfers from a school in Texas:

- Review the withdrawal form, if available, to see if he/she was being served in a program or identified LEP in PEIMS.
- Try to get as much original documentation as possible, especially the HLS (document your attempts).
- The LPAC identifies and places student within the first 20 school days of enrollment. Be sure that all of the necessary signed documents are in the student’s LPAC folder.

If the student transfers from a school outside of Texas:

- Review any documentation brought in by the student.
- Assess student oral language proficiency using the Woodcock Munoz Language Survey (WM-LS) and Iowa Assessment, Reading and Language (Grades 2-12).
- Proceed with Texas law, including HLS, for identification as outlined for Texas students new to the district.

For additional clarification/questions, please refer to the Student Attendance Accounting Handbook, Section 6.3 Enrollment Procedures
Re-Entry Students to SSAISD
(Students who had participated in SSAISD's Bilingual/ESL Program, left the district, and then return to SSAISD):

- The LPAC only needs to complete placement forms and indicate that student is re-entering the SSAISD Bilingual/ESL Program.
- All initial placement forms from when the student was first placed need to be on file.
- If any paperwork from initial placement year is missing, they must be completed.
- **DO NOT TEST** (WM-LS) students who are re-entering the program.

Students who **withdraw** from the campus

- The LPAC must record in the minutes all Bilingual/ESL served students who withdraw (drop) from the campus.
- It is important that the withdrawal date be included in the LPAC Minutes Form in the “Comments” section.
- Please keep record of all ELLs served students who withdraw even if they are transferring to another campus in SSAISD.
- No LPAC paperwork needs to be signed for students who withdraw.

Eligibility for STAAR

Before the administration of the state criterion-referenced test each year, the language proficiency assessment committee shall determine the eligibility of ELL students in grades 3-10 for one of the following options:

- administration of the English version criterion-referenced test; or
- STAAR L, or
- administration of the Spanish version criterion-referenced test (3-5); or
- exemption from the criterion-referenced test and participate, if applicable, in Linguistically Accommodated Testing (LAT).

In granting an Exemption, the LPAC shall consider the general and specific criteria for each student as required by the State of Texas.

Assessment: Requirements and Considerations

1. Some **immigrant** students may be granted ELL exemptions if the LPAC follows the procedures as outlined and explained in the LPAC Decision-Making Process for the Texas Assessment Program (Grades 3-12) located at: [http://www.tea.state.tx.us/student.assessment/resources/guides/lpac/index.html](http://www.tea.state.tx.us/student.assessment/resources/guides/lpac/index.html).
2. The TELPAS is administered to all ELL students in Grades K-12, including ELL students with parental denial until they are reclassified as non-LEP in PEIMS. For additional information about TAKS/TELPAS testing visit: http://www.tea.state.tx.us/student.assessment/

Annual Review & Exit Criteria

At the end of each year, the LPAC will meet to review student progress and determine whether the student will continue in the program or qualifies for exiting the program (only after first grade has been completed). Students must meet established exit criteria and show mastery in listening, speaking, reading, writing, and comprehension in English to successfully exit the bilingual and ESL programs.

The following exit criteria must be met in order to change an identified ELL student to a non-ELL status:

a) TEA-approved tests that measure the extent to which the student has developed oral and written language proficiency and specific language skills in English;

b) Satisfactory performance on the reading assessment instrument under the Texas Education Code, Sec. 39.023(a), or

c) an English language arts assessment instrument administered in English, or

d) a score at or above the 40th percentile on both the English reading

e) and the English language arts sections of a TEA-approved norm-referenced assessment instrument for a student who is enrolled in Grade 1 or 2; and

f) TEA-approved criterion-referenced (Woodcock Munoz) evaluation [TEC, 29.056(g)].

Norm-referenced standardized achievement tests are required only for entry of students in grades 2-12.

Students in Pre-Kindergarten and Kindergarten may not be exited from a Bilingual or English as second language programs. An annual review is still conducted by the LPAC but students cannot be reclassified as English proficient at these grade levels.

Students who earn a failing grade in a subject in the foundation curriculum under Section 28.002(a)(1) during any grading period in the first two school years after the student is exited from a bilingual or ESL program will be reevaluated to determine whether the student should be reenrolled in a bilingual education or special language program [Chapter 89.1220(l), TEC 29.0561(a)].

http://www.tea.state.tx.us./curriculum/biling/ListApprovedTests0708.pdf
Students exited from the program will be monitored for **two years** to determine academic success [TEC 29.0561]. The LPAC will consider:

a) the total amount of time the student was enrolled in a bilingual or ESL program;

b) the student’s grades each grading period in each subject in the foundation curriculum under Section 28.002(a)(1);

c) the student’s performance on each assessment instrument administered under Section 39.023(a) or (c);

d) the number of credits the student has earned toward high school graduation, if applicable; and

e) any disciplinary actions taken against the student under Subchapter A, Chapter 37.

The LPAC may require intensive instruction for the student or reenroll the student in a bilingual or ESL program.

When an exited/monitor student is to be reclassified, parent permission must be obtained. An oral language proficient test (WM-LS) should be administered to determine the student’s current level of language proficiency.

**Exit Requirements from the SSAISD Bilingual / ESL Program:**

- Student must pass the STAAR Reading Assessment without linguistic accommodations (Grades 3-10)
- Must pass STAAR tests in English (Grades 3-10)
- Must pass the TELPAS with Advanced High on the Listening, Speaking and Writing tests. (Grades 3-11)
- Must pass Iowa Assessment, Form E, Reading and Language tests (11th grade)

*See English Proficiency Exit Criteria Chart in appendix*
**LPAC Coding**

- **LEP** is a *status of identification* for all English Language Learners (ELL’s)
- **PEIMS** is an *identification* system used to report to the state
- “**ESL**” or “Bilingual” is a *program* used to provide services required to serve eligible students

<table>
<thead>
<tr>
<th>LEP Indicator Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Not LEP</td>
</tr>
<tr>
<td>1</td>
<td>Identified as Limited English Proficient</td>
</tr>
<tr>
<td>F</td>
<td>Student Exited from LEP Status- Monitored Year 1 (M1)</td>
</tr>
<tr>
<td>S</td>
<td>Student Exited from LEP Status- Monitored Year 2 (M2)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parental Permission Code (do not allow a student to generate Bilingual/ESL funding)</th>
<th>Description</th>
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<tbody>
<tr>
<td>3</td>
<td>Parent or Guardian has requested placement of a non-LEP student in the Bilingual Program</td>
</tr>
<tr>
<td>7</td>
<td>Parent or Guardian did not respond</td>
</tr>
<tr>
<td>8</td>
<td>Parent or Guardian was not contacted</td>
</tr>
<tr>
<td>C</td>
<td>Parent or Guardian has denied placement of a LEP student in any special language program</td>
</tr>
<tr>
<td>G</td>
<td>Parent or Guardian has approved placement of a recently exited non-LEP student in a Bilingual or ESL special language program</td>
</tr>
<tr>
<td>H</td>
<td>Parent or Guardian has requested placement of a non-LEP student in the ESL special language program</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Parental Permission Code (do allow a student to generate Bilingual/ESL funding)</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>A</td>
<td>Parent or Guardian has denied placement of a LEP student in the required Bilingual Program but approved Placement in the ESL Program</td>
</tr>
<tr>
<td>B</td>
<td>Parent or Guardian has approved placement of a grade PK-8 LEP student in the required ESL Program</td>
</tr>
<tr>
<td>D</td>
<td>Parent or Guardian has approved placement of a LEP student in the Bilingual Program</td>
</tr>
<tr>
<td>E</td>
<td>Parent or Guardian has approved placement of a LEP student in the Bilingual Program but the district has requested an exception; Parent has therefore approved placement of LEP student in the ESL Program</td>
</tr>
<tr>
<td>F</td>
<td>Parent or Guardian of a Grade 9-12 LEP student has approved services in accordance with the LPAC Plan. The LPAC Plan may include English I for Speakers of Other Languages (ESOL I), English II for Speakers of Other Languages (ESOL II) and/or modified (sheltered) courses taught for LEP students.</td>
</tr>
<tr>
<td>J</td>
<td>Parent or Guardian has approved the placement of a LEP student in the ESL program but the program is an Alternative Language Program approved by TEA; district must have submitted a waiver</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bilingual Program Code</th>
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</tr>
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<tbody>
<tr>
<td>0</td>
<td>Student does not participate in a Bilingual Education Program</td>
</tr>
<tr>
<td>2</td>
<td>Transitional Bilingual- Early Exit</td>
</tr>
<tr>
<td>3</td>
<td>Transitional Bilingual- Late Exit</td>
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<tr>
<td>4</td>
<td>Dual Language Immersion- Two Way</td>
</tr>
<tr>
<td>5</td>
<td>Dual Language Immersion- One Way</td>
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</table>

<table>
<thead>
<tr>
<th>ESL Program Code</th>
<th>Description</th>
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<tbody>
<tr>
<td>0</td>
<td>Student does not participate in an ESL Program</td>
</tr>
<tr>
<td>2</td>
<td>ESL- Content Based</td>
</tr>
<tr>
<td>3</td>
<td>ESL- Pull Out</td>
</tr>
</tbody>
</table>
Placement – Funding Allotment

Pending parent approval of a LEP student’s entry into the Bilingual/ESL program, the campus will place the student in the recommended program, but may count only LEP students with parental approval to receive the Bilingual/ESL Education allotment.

Parental Denials

- The parent must meet with the LPAC Administrator (or Principal) to discuss the benefits of the Bilingual/ESL program.
- If a parent denies placement in the program:
  - A letter must be hand-written on campus letterhead which states that the parent wishes their student to be placed in a monolingual setting. The parent must provide justification for this decision.
  - The letter must be signed and dated to reflect the date of the meeting.
  - The LPAC Administrator/Principal must also sign and date the letter.
  - The parent must meet with the Bilingual Director prior to final denial approval.
- Students whose parents deny services are identified in PEIMS as LEP with a parent denial until the student meets exit criteria.
- The progress of the LEP student with a parent denial on file will be closely monitored every nine weeks to determine academic success/progress.
- Staff must not encourage parents to deny services for scheduling conveniences.

Required LPAC Paperwork

Before each LPAC meeting, the Bilingual secretary will email electronic copies of the required forms to be completed. Please complete only these forms.

Beginning of Year LPAC Meetings

Students new to the state and students new to the district that were not previously identified as LEP must be LPACed and all paperwork returned/submitted by the 20th day of school.

For these students, complete the Initial Plan in Project ELL. When the plan is completed, generate the Parent Notification Letter in the Action Forms of Project ELL to send home to get signed. When the form returns signed, complete the Initial Plan and appropriate Audit information.
When Initial Plans have been submitted and all appropriate forms uploaded (Home Language Survey, Parent Permission, Signed Initial Plan), notify the Bilingual Department so that students can be coded in PEIMS.

Keep the original documents in the student teal folder.

Mid-Year LPAC Meeting (Assessment Decisions)

All students in STAAR tested grades must be LPACed. During this meeting, complete the Mid-Year State Assessment Plan to determine language of assessment, exemptions and assessment accommodations. Meeting minutes must justify all assessment decisions made.

After the meeting, upload a signed copy of the Assessment Plan into the student file. When all plans are signed and uploaded, notify the Bilingual Department so that the appropriate reports may be run.

Keep the original documents in the student teal folder.

During mid-year LPACs, please review all monitor students to ensure students are successful in content area classes. All M1 and M2 students should have a Monitor Plan in Project ELL. If any students are not successful in academic courses, the plan must be modified to provide additional academic support and determine whether it would be appropriate to reclassify the student as an active ELL.

End of Year LPAC Meeting

All students, including denials, must be LPACed at the end of the year. During this meeting, student assessment data, grades and behavior should be discussed. Determine the appropriate placement and accommodations to be used to start the next school year on the End of Year Plan in Project ELL. If a student is to be exited, complete the Exit ELL Plan also. Notification of Exit must be generated, signed by the parent and returned before the student can be exited from the program.

When reviewing denial students, the LPAC Committee must determine if the student still qualifies for services. If so, the parent should be contacted to attempt to obtain parental
approval prior to the next school year. For more information, please refer to the Student Attendance Accounting Handbook, Section 6.11.3.

After the meeting, upload a signed copy of the End of Year Plan (and Exit ELL Plan if necessary) into the student file. If a student is exiting, also upload a signed copy of the Parent Notification. When all necessary documentation has been signed and uploaded, notify the Bilingual Department so that the appropriate reports may be run.

Keep the original documents in the student teal folder.

During end of year LPACs, please review all monitor students to ensure students are successful in content area classes. Review monitor plans in Project ELL and revise plans for the upcoming school year for students that have not concluded the monitor period.

**Texas English Language Proficiency Assessment System**

**TELPAS Benchmark**

The Bilingual Department will hold a TELPAS benchmark before the state assessment window opens. The purpose of this benchmark is to gauge student writing proficiency levels and tailor instruction with the goal of raising students at least one proficiency level from the beginning of the school year to the end of the year.

For each TELPAS Benchmark, please keep the following in mind:

- Type student names and ratings into the student rating roster for each benchmark and update this document after the official state TELPAS rating is complete.
- Maintain the same student rating roster throughout the year. If any students need to be added or deleted, this can be done electronically.
- Use the writing Proficiency Level Descriptors to determine student proficiency levels. The Bilingual Department recommends having one copy of the PLDs for each student. As writing samples are reviewed, highlight the appropriate descriptors on the rubric. The overall rating should be based on which proficiency level had the most highlighted descriptors.
- Review any exemptions that may occur before the state assessment. Do you have any students that may need to be exempt from the writing portion of the
assessment due to documented special needs? This will need to be addressed in the mid-year assessment LPAC meetings.

The Bilingual Department will host several PLD training sessions throughout the year for the benchmarks and state assessment window. Any teacher involved in the TELPAS rating process can attend these trainings. It is recommended that any new rater attend a training session in the fall to prepare for benchmarks and returning raters attend a training in the spring, if needed.

Please visit the TEA TELPAS Resources website for more information and training resources. http://tea.texas.gov/student.assessment/ell/telpas/
Appendix

2015-2016 Exit Criteria Chart for SSAISD

Student Attendance Accounting Handbook, Section 6 Bilingual/English as a Second Language

Chapter 89, Subchapter BB
At the end of the school year, a district may transfer (exit, reclassify, transition) a LEP student out of a Bilingual or ESL education program for the first time if the student is able to participate equally in a regular all-English instruction program as determined by satisfactory performance in all three assessment areas below and the results of a subjective teacher evaluation.

For State of Texas Assessments of Academic Readiness (STAAAR) English reading and English writing, the performance level for program exit is Level II (Satisfactory Academic Performance) or above. If students receive any linguistic accommodations, they do not meet the exit criteria.

For TELPAS Listening, Speaking, and Writing domains, the performance level for program exit is Advanced High.

For Iowa Assessment, the performance level for program exit is above the 40th percentile.

§89.1225. Testing and Classification of Students

(i) A student may not be exited from the bilingual education or English as a second language program in prekindergarten or kindergarten. A school district must ensure that English language learners are prepared to meet academic standards required by the TEC, §28.0211.

Students may exit from Bilingual / ESL only at the end of the school year, if they meet the following exit criteria. This includes Spec. Ed. students. Students are reclassified as Non-LEP / M1 effective the next school year for PEIMS purposes.

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<tr>
<td><strong>Current School Year Oral Proficiency: Listening &amp; Speaking</strong></td>
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<td><strong>English Reading</strong></td>
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<td>STAAR Scored Level II or above without any accommodations</td>
<td>STAAR Scored Level II or above without any accommodations</td>
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<td>STAAR Scored Level II or above without any accommodations</td>
<td>STAAR Scored Level II or above without any accommodations</td>
<td>EOC Scored Level II or above without any accommodations</td>
<td>EOC Scored Level II or above without any accommodations</td>
<td>Iowa Assessments, Form E Reading and Language Scored above 40th percentile</td>
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<tr>
<td><strong>English Writing</strong></td>
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<td>STAAR Scored Level II or above without any accommodations</td>
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<td>STAAR Scored Level II or above without any accommodations</td>
<td>STAAR Scored Level II or above without any accommodations</td>
<td>EOC Scored Level II or above without any accommodations</td>
<td>EOC Scored Level II or above without any accommodations</td>
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Section 6 Bilingual/English as a Second Language (ESL)

This section addresses unique provisions for bilingual and ESL education programs. These provisions must be applied in conjunction with the general rules in Sections 1, 2, and 3. If students are served by multiple programs, review and apply the provisions of each applicable program.

The term “limited English proficient (LEP) student,” as used in Section 6 of the handbook, is interchangeable with the terms “English language learner,” used in 19 Texas Administrative Code Chapter 89, and “student of limited English proficiency,” used in the Texas Education Code, Chapter 29, Subchapter B.

Important: See Section 3 for general attendance requirements that apply to all program areas, including bilingual/ESL.

6.1 Responsibility

List in the following spaces the name and phone number of the district personnel to whom all bilingual and ESL education program coding questions should be directed:

Name: _____________________________________________________________

Phone Number: ______________________________________________________

6.2 Eligibility

To be eligible for state funding, a student in the bilingual or ESL education program must meet the following requirements:

- have a language other than English indicated on the home language survey;
- be considered LEP because the student tested below the cutoff scores on the test appropriately administered for the student’s grade level. The following guidelines should be used in determining whether a student is considered LEP:158
  - grades prekindergarten (PK) through 1: student scores below cutoff score on an oral language proficiency test (OLPT) approved by the Texas Education Agency (TEA), and
  - grades 2 through 12:

158 19 Texas Administrative Code (TAC) §89.1225(f)
student scores below cutoff score on an approved OLPT, and/or

- student scores below cutoff scores on the English reading and English language arts sections of a norm-referenced standardized test in English (selected from the List of Approved Tests for Assessment of Limited English Proficient Students);

- be recommended for placement in the program by a language proficiency assessment committee (LPAC); and

- have a record of parental approval to place the LEP student in a bilingual or ESL education program. For LEP students in grades 9 through 12, check LPAC documentation for services recommended by the LPAC to meet student needs.

Each student must be served according to the following guidelines: On a student’s initial enrollment and at the end of each school year, the LPAC must review all pertinent information on the LEP student so identified according to the guidelines on the previous page. The LPAC must designate, subject to parental approval, the initial instructional placement of each LEP student in the required program; classify the student’s level of English proficiency according to the results of appropriate tests; designate the level of academic achievement of the LEP student; and recommend the student’s exit from the bilingual or ESL education program.\(^{159}\) A student must not be exited from the bilingual or ESL education program in grades PK through the end of first grade.\(^{160}\)

**Important:** Students with a grade level of EE (early education) **cannot** generate bilingual/ESL eligible days present.

### 6.2.1 Students Who Are Eligible to Be Served in the Bilingual or ESL Education Program but Are Not Eligible for Funding

The following students **may be served** by your district’s bilingual or ESL education program. However, these students are **not eligible for bilingual or ESL education program funding**.

- Students in PK through grade 1 who score at or above the cutoff score on the OLPT
- Students in grades 2 through 12 who score at or above the cutoff score on the OLPT **and** at or above the 40th percentile on the reading and language arts sections of a standardized achievement test
- Students:
  - who have exited (been transitioned out of) the bilingual or ESL education program,
  - whose parents approve of the students’ continuing to participate in the program, and
  - whose schools wish to continue to provide bilingual or ESL education program services to the students

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\(^{159}\) 19 TAC §89.1220(g)

\(^{160}\) 19 TAC §89.1225(i)
6.2.2 Parent Denial of Services and Eligibility of Students to Receive Bilingual/ESL Summer School Services

If a student’s parent has denied bilingual/ESL education services and the only summer school program available is a bilingual/ESL summer school program, then the student is **not** eligible to generate bilingual/ESL ADA in the summer school program.\(^\text{161}\)

6.3 Enrollment Procedures

This subsection explains the procedures for enrolling a student in the bilingual or ESL education program.

1. A student enrolls in your district, and the student’s parent completes a home language survey (see 6.11.1 Home Language Survey Requirements). Students in grades 9 through 12 may complete the home language survey themselves.

   If a language other than English is indicated on any portion of the survey, your district must test the student for English proficiency.

2. District personnel test the student for English proficiency.

   a. If your district is required to provide a bilingual education program, it must administer an OLPT in the home language of each student who is eligible to be served in the bilingual education program. If the home language of the student is Spanish, your district must administer the Spanish version of the TEA-approved OLPT that is administered in English. If the home language of the student is other than Spanish, your district must determine the student’s level of proficiency using informal oral language assessment measures.

   b. If the student is in PK, kindergarten, or grade 1, trained district personnel administer the OLPT in English. If the student tests below the cutoff score (determined by the exam instrument used), the student is considered LEP.

   c. If the student is in grades 2 through 12, trained district personnel administer the OLPT.

      If the student tests below the cutoff score (determined by the exam instrument used), the student is considered LEP.

      Regardless of whether the student tests below the cutoff score on the OLPT, district personnel also administer the TEA-approved standardized achievement test. If the student scores below the 40th percentile on either the reading or the language arts section of the test, the student is considered LEP.

      **Important:** The standardized achievement test should not be administered if the student’s ability in English is so limited that the test is not valid.\(^\text{162}\)

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\(^{161}\) 19 TAC §89.1250(2)(B)

\(^{162}\) 19 TAC §89.1225(f)
If the student is considered LEP, continue to the next enrollment step. If the student is not considered LEP, the student does not qualify for bilingual/ESL funding.

3. The LPAC recommends placement of the student in either the bilingual or ESL education program, but district personnel do not yet assign the student a bilingual or ESL program type code in the attendance accounting system.

4. The LPAC must give written notice to the student’s parents informing them that the student has been classified as LEP and requesting approval (through completion of an approval form) to place the student in the required bilingual or ESL education program. The notice must include information about the benefits of the bilingual or ESL education program for which the student has been recommended and state that it is an integral part of the school program.\footnote{19 TAC §89.1220(i)}

The parental approval form must contain a space for the parent’s or legal guardian’s signature and a space for the date the form was signed, as signed and dated documentation of parental approval is required for bilingual/ESL eligible days present to be claimed for funding purposes.

5. Once parental approval has been received, district personnel assign the student the appropriate bilingual or ESL program type code and parental permission code\footnote{To find the appropriate codes to use, please consult the program type code tables available at the following link: \url{http://ritter.tea.state.tx.us/peims/standards/wedspre/index.html}. Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes. Search for the C093 code table for parental permission codes.} in the attendance accounting system.

A student may be recorded absent on the effective date of a program change. However, as with all other students who are absent, no bilingual/ESL ADA may be earned by the student for that date.

6.3.1 Students Who Move to Your District

Within 4 weeks (20 school days) of his or her initial enrollment in the district, a student must be identified as LEP and enrolled in the required bilingual or ESL education program.\footnote{19 TAC §89.1225(g)} However, even though the student may be served in the bilingual or ESL education program, the student should not be coded with the bilingual or ESL program type code\footnote{To find the appropriate code to use, please consult the program type code tables available at the following link: \url{http://ritter.tea.state.tx.us/peims/standards/wedspre/index.html}. Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes.} unless all documentation, including the signed and dated parental approval form, is on file. Funds for bilingual/ESL students must not be claimed until all documentation is in place.

When a bilingual/ESL student moves to your school district, your district (the receiving district) should immediately begin serving the student in the bilingual or ESL education program while it waits for documentation (LPAC records and assessment information) from the sending district. If your district does not receive this documentation within 4 weeks (20 school days) of the student’s enrollment in your district, your district must go through the standard identification and assessment procedures in order to
code the student as LEP, ESL, and/or bilingual. Your district should make diligent, documented attempts to get the required documentation from the sending district to avoid possible miscoding.

6.4 Eligibility of Your District’s Bilingual or ESL Education Program for State Funding

For your district to claim bilingual/ESL eligible days present for funding, your district must show that its bilingual and ESL education programs meet the following state requirements.167

1. A student is served in a full-time bilingual instructional program by staff members certified or on permit to teach bilingual education. The amount of instruction in each language (the student’s home language and English) must be commensurate with the student’s level of proficiency in both languages and the student’s level of academic achievement. LEP students must be provided instruction in language arts, mathematics, science, health, and social studies both in their home language and in English. The appropriate bilingual program type code should be recorded for each student served in a bilingual program.

2. A student is provided instruction in ESL by staff members certified or on permit to teach ESL or bilingual education. In PK through grade 8, the amount of time accorded to instruction in ESL Texas Essential Knowledge and Skills (TEKS) may vary from the amount of time accorded to instruction in English language arts in the general education program for non-LEP students to a full-time instructional setting using second language acquisition methods. In high school, the ESL program must be consistent with graduation requirements.168 The LPAC may recommend appropriate services that may include content courses provided through sheltered instructional approaches by trained teachers, enrollment in ESL courses, additional state elective English courses, and special assistance provided through locally determined programs. The appropriate ESL program type code should be recorded for each student served in an ESL program.

3. A student is served in a program approved by the TEA under an exception to the Spanish bilingual program or under a waiver to the ESL program. A student is served in a program approved by the TEA under an exception to a language other than Spanish for as long as the State Board for Educator Certification does not have a certificate for that language. A TEA-approved exception or waiver remains valid for the current year only.169 The appropriate bilingual or ESL program type code should be recorded for each student served in program under a bilingual exception or ESL waiver.

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167 19 TAC §89.1210
168 under 19 TAC Chapter 74
169 Texas Education Code (TEC), §29.061; 19 TAC §89.1207
6.5 Eligible Days Present

This subsection describes the procedure for reporting bilingual/ESL eligible days present in the attendance accounting system. District personnel must do the following:

- identify each student who is being served in the bilingual or ESL education program and is eligible for funding, according to 6.2 Eligibility, with the appropriate bilingual or ESL program type code in the attendance accounting system.

- record the total number of eligible bilingual/ESL days present for each 6-week reporting period in the Student Detail Report for every student eligible for the program.

- at the end of each 6-week reporting period, compute a Campus Summary Report (see Section 2). Personnel must summarize the total eligible bilingual/ESL days present, for every student in the program, by grade level on this report. There will be a separate Campus Summary Report for each instructional track for each campus in your district. The Campus Summary Report must include the total eligible bilingual/ESL days present for each grade level on that campus, the total eligible bilingual/ESL days present for all grades, and the campus bilingual/ESL ADA.

- at the end of each 6-week reporting period, compute a District Summary Report (see Section 2). Personnel add the information from all Campus Summary Reports for each track in your district to comprise the District Summary Report for each track. This report must include eligible bilingual/ESL days present for each grade level in your district, the total eligible bilingual/ESL days present for all grades, and your district’s bilingual/ESL ADA.

6.5.1 Eligible Days Present and Students Placed in a Disciplinary Setting

Bilingual or ESL education program eligible days present must not be claimed when a student receiving bilingual or ESL education program services is placed in a disciplinary setting (for example, in-school suspension or disciplinary alternative education program) for more than 5 consecutive days if the same amount and type of bilingual or ESL education program services are not provided by a bilingual or ESL education program teacher. After 5 consecutive days without bilingual or ESL education program services being provided, district personnel should remove the student from the Public Education Information Management System (PEIMS) 400 record for bilingual education or ESL program contact hours effective the first day of placement in the disciplinary setting.

170 To find the appropriate code to use, please consult the program type code tables available at the following link: http://ritter.tea.state.tx.us/peims/standards/wedspre/index.html. Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes.
6.6 Requirement to Serve Eligible Students

Your district must place a student in a bilingual or ESL education program as soon as your district identifies the student as LEP (through the home language survey and test scores) and the LPAC has recommended such placement, regardless of whether or not parental approval has been received.

Your district must place the student in the bilingual or ESL education program on the date the LPAC recommends that service begin but may count the student for bilingual education funding only after parental approval is received (and all other requirements having to do with the home language survey, test scores, and documentation of LPAC recommendation have been met)\footnote{19 TAC §89.1220(j)}. If a parental denial is received, your district must discontinue serving the student. Review parental permission codes for clarification.

6.7 Bilingual and ESL Education Services Your District Is Required to Provide

Each district that is required to offer bilingual and ESL education programs must offer the following for students of limited English proficiency:

1. bilingual education in PK through the elementary grades;

2. bilingual education, instruction in English as a second language, or other TEA-approved transitional language instruction in middle school; and

3. instruction according to LPAC recommendation:
   a. Under the graduation requirements adopted by the State Board of Education in March 2010, LEP students who successfully complete English for Speakers of Other Languages (ESOL) I and ESOL II may satisfy the English I and English II graduation requirement(s). Students who are identified as LEP and are at the beginning or intermediate level of English language proficiency, as defined by 19 TAC §74.4(d), relating to English Language Proficiency Standards, may be enrolled in ESOL I or ESOL II.

   b. For all other LEP students in grades 9 through 12, LPAC documentation must reflect appropriate services to meet the student’s needs. For example, LPAC documentation may indicate that a student will enroll in state elective English courses to strengthen his or her English skills, enroll in ESL courses for local credit, participate in tutorials, or be assigned to teachers with training in sheltered instruction or training in ESL methods.

   All LEP students in grades 9 through 12 who are served according to LPAC recommendations are to be coded as ESL for funding purposes.

\footnote{19 TAC §89.1220(j)}
**Important:** Students not served in a state-required program must be served in a program approved by the TEA under an exception or a waiver.

### 6.8 Withdrawal/Reclassification/Exit Procedures

This subsection explains the procedures for withdrawing a student from the bilingual or ESL education program.

1. A student is withdrawn from the bilingual or ESL education program if:
   - the LPAC classifies the student as English proficient when the student attains the required exit criteria as stated in the TEC, §29.056(g) (see 6.8.2 Exit Criteria); or
   - the parent requests in writing to remove his or her child from the program and place the child in a general education classroom; or
   - the student withdraws from (leaves) the district (not exits from the bilingual or ESL education program).

2. Once a student has met the criteria for exiting the bilingual or ESL program, your district must notify the student’s parent of the student’s reclassification as English proficient and obtain parental approval for his or her exit from the bilingual or ESL education program.\(^{172}\)

#### 6.8.1 Effective Date of Withdrawal

For a student who withdraws from the district, the date the student withdraws is considered the effective date of change. District personnel record the effective date in the attendance accounting system, and eligible bilingual/ESL days are no longer accumulated from that date forward.

For a student who has been classified by the LPAC as English proficient at the end of the school year, the first day of the following school year is considered the effective date of change. District personnel record the effective date in the attendance accounting system, and eligible bilingual/ESL days are no longer accumulated from that date forward. It is rare to change LEP-related codes during the school year.

\(^{172}\) 19 TAC §89.1240(b)
### 6.8.2 Exit Criteria

The following chart shows the criteria for transferring a LEP student out of the bilingual or ESL education program at different grade levels. **IMPORTANT:** The exit criteria shown in this chart are accurate as of the publication date of this handbook but are subject to change. Visit the TEA Bilingual Education web page at [http://www.tea.state.tx.us/index2.aspx?id=4098](http://www.tea.state.tx.us/index2.aspx?id=4098) for the most current exit criteria.

#### 2014–2015 English Proficiency Exit Criteria Chart

At the end of the school year, a district may transfer (exit, reclassify, transition) a LEP student out of a bilingual or ESL education program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instruction program as determined by satisfactory performance in all three assessment areas below and the results of a subjective teacher evaluation.¹

For State of Texas Assessments of Academic Readiness (STAAR) English reading and English writing, the performance level for program exit is Level II (Satisfactory Academic Performance) or above.

<table>
<thead>
<tr>
<th>Current School Year</th>
<th>1st</th>
<th>2nd</th>
<th>3rd</th>
<th>4th</th>
<th>5th</th>
<th>6th</th>
<th>7th</th>
<th>8th</th>
<th>9th</th>
<th>10th</th>
<th>11th</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oral = Listening &amp; Speaking</td>
<td>Scored Fluent on English OLPT²</td>
<td>Scored Fluent on English OLPT²</td>
<td>Scored Fluent on English OLPT²</td>
<td>Scored Fluent on English OLPT²</td>
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</tr>
<tr>
<td>Norm-Referenced Standardized Achievement Test² (Rdg./Lang.) 40th percentile or above</td>
<td>Norm-Referenced Standardized Achievement Test² (Rdg./Lang.) 40th percentile or above</td>
<td>STAAR</td>
<td>STAAR</td>
<td>STAAR</td>
<td>STAAR</td>
<td>STAAR</td>
<td>STAAR</td>
<td>STAAR</td>
<td>STAAR²</td>
<td>STAAR²</td>
<td></td>
</tr>
<tr>
<td>Agency-Approved Writing Test²</td>
<td>Agency-Approved Writing Test²</td>
<td>STAAR</td>
<td>Agency-Approved Writing Test²</td>
<td>Agency-Approved Writing Test²</td>
<td>Agency-Approved Writing Test²</td>
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<td>Agency-Approved Writing Test²</td>
<td>Agency-Approved Writing Test²</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Subjective Teacher Evaluation

Assessments, anecdotal notes, portfolios, etc.

¹ 19 TAC §89.1225(h)
³ For STAAR, “English Reading” and “English Writing” refer to the grade-level tests in grades 3–8 and to the applicable end-of-course English I and II assessments.
⁴ Exception: Texas English Language Proficiency Assessment System (TELPAS) Reading and Writing Advanced High will be used for all students with the Texas Assessment of Knowledge and Skills (TAKS) as their graduation requirement under state policy.

Note: LEP students may be exited only after the end of first grade based on 19 TAC §89.1225(i).

Note: LEP students for whom the LPAC has recommended linguistic accommodations on the STAAR reading or writing test must not be considered for exit.
6.8.3 Exit Procedures and Criteria for LEP Students Receiving Special Education Services

Information is available in the document entitled “Process for Considering Special Exit Criteria from Bilingual/English as a Second Language (ESL) Services under 19 TAC §89.1225(k).”

To access this document, go to http://www.tea.state.tx.us/index2.aspx?id=4098&menu_id=720, and click on the link entitled “Process for Exiting LEP Students Receiving Special Education Services from Bilingual/ESL Programs.”

6.8.4 Continuation of Bilingual or ESL Education Program Services After a Student Has Met Exit Criteria

A student who has met the exit criteria for being transferred (transitioned/Exited/reclassified) out of the bilingual or ESL education program may continue to participate in the program, with school and parental approval. However, such a student is not eligible to generate bilingual/ESL ADA.

6.9 Evaluation of a Student Who Has Been Transferred (Transitioned/Exited/Reclassified) Out of the Bilingual or ESL Education Program

During the first 2 years after a student has met criteria to transfer out of a bilingual or ESL education program, the LPAC must monitor the student’s academic progress. During this time, the LEP codes of F and S are used to reflect the first and second years of monitoring. Program type codes other than 0 and parental permission codes should not be present, as the student is no longer LEP and no longer served.

If the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first 2 years after the student has been transitioned out of the program, the LPAC must consider reenrolling the student in a bilingual or ESL education program.

In determining whether to reenroll the student, the LPAC should evaluate the following:

- the total amount of time the student was enrolled in a bilingual or ESL education program
- the student’s grades each grading period in each subject in the foundation curriculum (reading/ELA, math, science, social studies)
- the type of additional interventions provided to the student
- the student’s performance on each assessment instrument administered
- the number of credits the student has earned toward high school graduation, if applicable
- any disciplinary actions taken against the student

After the LPAC reevaluates the student’s progress, the committee may 1) require intensive instruction for the student or 2) reenroll the student in a bilingual or ESL education program.
6.10 Teacher Certification Requirements

The following paragraphs describe the certification requirements for teachers of bilingual and ESL education program courses.

6.10.1 Students in Grades PK through 5

Students in grades PK through 5 (or through 6, if grade 6 is clustered with elementary grades) who are counted for funding in the bilingual education program must be served by bilingual-certified staff members.

Students in grades PK through 5 (or through 6, if grade 6 is clustered with elementary grades) who are counted for funding in the ESL education program must be served by ESL-certified staff members.

6.10.2 Students in Grades 6 through 8

Students in grades 6 through 8 (if grade 6 is not clustered with elementary grades [PK–5]) must be served by at least one teacher who is certified in ESL for that grade level and is responsible for meeting the linguistic needs of the LEP students.

6.10.3 Students in Grades 9 through 12

Students in grades 9 through 12 may be counted for funding in a bilingual or ESL education program even if they are served by staff members who are not bilingual/ESL-certified, but only if the staff members have received professional development in sheltered instruction. However, ESOL I and ESOL II must be taught by teachers who have an English or English Language Arts certification plus an ESL or Bilingual certification.

6.11 Documentation

For your district to claim bilingual/ESL eligible days present for funding, documentation must be complete. All documentation supporting student eligibility must be on file for every student accumulating eligible bilingual/ESL days present on the Student Detail Report. Documentation requirements are as follows.

6.11.1 Home Language Survey Requirements

Your district must conduct only one home language survey for each student.

Your district must administer home language surveys to students new to the district for whom a survey has never been completed (in Texas) or for whom a copy of the survey cannot be located within 20 school days. Your district should not administer the home language survey to a student for whom a survey is currently on file with the district.

Your district must require that the survey be signed by the student’s parent or guardian for students in PK through grade 8, or by the student for students in grades 9 through 12.
For a student moving from one district to another within Texas, the original copy of the home language survey or a copy of the original copy of the home language survey must be kept in the student’s record. If the original copy or a copy of the original copy is not included in the student’s record, then a new home language survey must be conducted by the receiving district.

6.11.2 Test Result Documentation Requirement

The following documentation must be on file for every student accumulating eligible bilingual/ESL days present: proof of a qualifying score on a TEA-approved OLPT, and/or qualifying scores on the English reading and English language arts sections of a TEA-approved norm-referenced measure. The official scores must be documented in the student’s record.

6.11.3 LPAC Recommendation and Parental Approval Requirements

The following documentation must be on file for every student accumulating eligible bilingual/ESL days present:

1. Written documentation of the recommendation for placement by the LPAC

2. Written documentation of the annual review and recommendation of the LPAC

3. A record of parental approval to place the LEP student in a bilingual or ESL education program. This record must include the parent’s signature and the date the parent signed the document indicating approval.

- A record of parental approval must be obtained during the initial identification of a LEP student for placement in a bilingual or ESL education program.

- Once the record of parental approval is obtained, it remains in effect until the LEP student is exited from the bilingual or ESL education program and is reclassified as non-LEP.

- The parental approval becomes invalid if the parent signs a parental denial form of bilingual/ESL services, which may occur at any time while the student continues to be identified as LEP.

- For a student whose parent has denied approval, the LPAC annual review must consider whether the student still qualifies for services. If so, an attempt to obtain parental approval should be made before the beginning of the next school year.

A district may identify a student as LEP, exit a student from a program, or place a student in a program without written approval of the student’s parent or guardian if:

1. the student is 18 years of age or has had the disabilities of minority removed;

2. reasonable attempts to inform and obtain permission from a parent or guardian have been made and documented;
3. approval is obtained from:

   A. an adult whom the district recognizes as standing in parental relation to the student, including a foster parent or employee of a state or local governmental agency with temporary possession or control of the student; or

   B. the student, if no parent, guardian, or other responsible adult is available; or

4. a parent or guardian has not objected in writing to the proposed entry, exit, or placement.173

A student receiving bilingual/ESL program services under any of the circumstances described in the preceding paragraph is not eligible for bilingual/ESL funding.

During the monitoring period (the 2-year period following the student’s exiting from the bilingual or ESL education program),174 if the LPAC determines the student will be reenrolled in a bilingual or ESL education program, parental approval must be acquired again.

6.11.4 Proof That a Student Has Been Served in an Eligible Bilingual or ESL Education Program

Proof (such as grade books, student Academic Achievement Records [AARs], class rosters, or all of these) must also exist that a student is:

- served in a full-time bilingual instructional program by staff members certified or on permit to teach bilingual education,

- provided instruction in ESL by staff members certified or on permit to teach ESL or bilingual education for the amount of time accorded to English language arts in the regular instructional program,

- provided sheltered instruction as recommended by the LPAC (students in grades 9 through 12 may receive services other than ESL), or

- served in a program approved by the TEA under an exception or a waiver.

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173 19 TAC §89.1220(m)
174 TEC, §29.0561
6.11.5 Other Required Documentation

The student’s record must contain documentation of all actions impacting the LEP student. This documentation must include the following:

1. the identification of the student as LEP;
2. the designation of the student’s level of language proficiency;
3. the recommendation of program placement;
4. parental approval of entry or placement into the program;
5. parental denial, if applicable;
6. the dates of entry into, and placement within, the program;
7. documentation of state assessment participation decisions and any linguistic accommodations, the justification for these decisions, and additional instructional interventions provided to the student to ensure adequate yearly progress;
8. documentation of the student’s eligibility to use the special provision for the end-of-course exam for English I/ESOL I;
9. the date of exit from the program and parental notification and approval of the student’s exit from the program;
10. the results of monitoring the student’s academic success; and
11. TELPAS writing collections kept for 2 years.

The documentation described in items 1–10 must be forwarded in the same manner as other student records to another school district in which the student enrolls. The student’s TELPAS writing collections should be forwarded as well. Student record documentation also should be forwarded if the student enrolls at another campus within your district.

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175 19 TAC §89.1220(l)
176 in accordance with 19 TAC Chapter 101, Subchapter AA, Commissioner’s Rules Concerning the Participation of Limited English Proficient Students in State Assessments
177 19 TAC §89.1220(l)
6.12 Quality Control

Your district should record the appropriate bilingual or ESL program type code\(^\text{178}\) for a student in the attendance accounting system as soon as the student meets all eligibility requirements. All documentation must be on file before the indicator is recorded. The sooner documentation is on file, the sooner funds may be earned for serving the student.

A student who withdraws from school should be coded with a bilingual or ESL program type code of 0 upon withdrawal.

A student who has been classified by the LPAC as English proficient at the end of the school year should be coded with a bilingual or ESL program type code of 0 at the beginning of the following school year.

At the beginning of each semester and at the end of each 6-week reporting period, the appropriate bilingual/ESL staff members should verify the Student Detail Report to ensure that a student’s coding is correct.

6.13 Examples

6.13.1 Example 1

A student’s home language survey indicates that Spanish is spoken in the student’s home most of the time. The student’s test scores on an approved OLPT are below the cutoff score, and the LPAC recommends placement in the bilingual education program. However, the student’s parent has denied placing the student in the bilingual or ESL education program.

*Your school district must not serve the student in either program and must not claim the student for bilingual/ESL state funds. The student should be recorded in the PEIMS as LEP with a parental permission code of “C” for parental denial and a bilingual or ESL program type code of 0.*

6.13.2 Example 2

A student in grade 3 has a home language survey on file that indicates Spanish is spoken in the student’s home most of the time. The student’s test scores on the standardized English achievement test are in the 42nd percentile in reading and in the 45th percentile in language arts. The LPAC has recommended placement in the ESL program.

*If the student’s parent approves, your district may serve the student in the ESL program. However, your district must not claim the student for bilingual/ESL state funds. Funds must not be collected even though the LPAC recommended placement in the program and the home language survey indicates a language other than English because the student has scored above the cutoff score on the standardized achievement test.*

\(^{178}\) To find the appropriate code to use, please consult the program type code tables available at the following link: [http://ritter.tea.state.tx.us/peims/standards/wedspre/index.html](http://ritter.tea.state.tx.us/peims/standards/wedspre/index.html). Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes.
6.13.3 Example 3
A LEP student is assessed in March to determine if he or she could be reclassified as English proficient. The LPAC meets in April to recommend that the student be reclassified as non-LEP. Your school district will continue to receive funding for the student until the end of the school year.

Your school district should not pull the student from the classroom before the end of the school year. The student should continue to be served in the bilingual or ESL education program until the end of the school year. Your district should place the student in an all-English classroom at the beginning of the following school year.

6.13.4 Example 4
A student’s parent denies placement of his or her child in a bilingual or ESL education program. Therefore, the student is entered in the PEIMS as LEP with parental denial. The following school year, the student is still considered as LEP with parental denial.

Your school district does not change the status of the student as LEP with parental denial until the student meets the testing criteria to no longer be considered LEP. Your district should continue to code the student as LEP with parental denial until all criteria are met.

6.13.5 Example 5
The only summer school program your district is offering is a bilingual or ESL education program. Parents who have previously denied placement of their child in the bilingual or ESL education program would like their child to participate in the summer school program.

The student must not participate in the summer school program or earn bilingual/ESL eligible days present (be assigned a bilingual or ESL program type code in the attendance accounting system) in the summer program unless the parents explicitly allow, in writing, placement of the student in the bilingual or ESL education program.
Chapter 89. Adaptations for Special Populations

Subchapter BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners

Statutory Authority: The provisions of this Subchapter BB issued under the Texas Education Code, §§29.051, 29.053, 29.054, 29.056, 29.0561, 29.060, and 29.066, unless otherwise noted.

§89.1201. Policy.

(a) It is the policy of the state that every student in the state who has a home language other than English and who is identified as an English language learner shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program, as required in the Texas Education Code (TEC), Chapter 29, Subchapter B. To ensure equal educational opportunity, as required in the TEC, §1.002(a), each school district shall:

1. identify English language learners based on criteria established by the state;
2. provide bilingual education and ESL programs, as integral parts of the regular program as described in the TEC, §4.002;
3. seek certified teaching personnel to ensure that English language learners are afforded full opportunity to master the essential knowledge and skills required by the state; and
4. assess achievement for essential knowledge and skills in accordance with the TEC, Chapter 39, to ensure accountability for English language learners and the schools that serve them.

(b) The goal of bilingual education programs shall be to enable English language learners to become competent in listening, speaking, reading, and writing in the English language through the development of literacy and academic skills in the primary language and English. Such programs shall emphasize the mastery of English language skills, as well as mathematics, science, and social studies, as integral parts of the academic goals for all students to enable English language learners to participate equitably in school.

(c) The goal of ESL programs shall be to enable English language learners to become competent in listening, speaking, reading, and writing in the English language through the integrated use of second language methods. The ESL program shall emphasize the mastery of English language skills, as well as mathematics, science, and social studies, as integral parts of the academic goals for all students to enable English language learners to participate equitably in school.

(d) Bilingual education and ESL programs shall be integral parts of the total school program. Such programs shall use instructional approaches designed to meet the special needs of English language learners. The basic curriculum content of the programs shall be based on the essential knowledge and skills required by the state.

Source: The provisions of this §89.1201 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1203. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) English language learner--A person who is in the process of acquiring English and has another language as the first native language. The terms English language learner and limited English proficient student are used interchangeably.

(2) Dual language immersion--An educational approach in which students learn two languages in an instructional setting that integrates subject content presented in English and another language. Models vary depending on the amount of each language used for instruction at each grade level.
§89.BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners

The program must be based on instruction that adds to the student's first language. The implementation of a dual language immersion program model is optional.

(3) School district--For the purposes of this subchapter, the definition of a school district includes an open-enrollment charter school.

Source: The provisions of this §89.1203 adopted to be effective May 28, 2012, 37 TexReg 3822.

§89.1205. Required Bilingual Education and English as a Second Language Programs.

(a) Each school district that has an enrollment of 20 or more English language learners in any language classification in the same grade level district-wide shall offer a bilingual education program as described in subsection (b) of this section for the English language learners in prekindergarten through the elementary grades who speak that language. "Elementary grades" shall include at least prekindergarten through Grade 5; sixth grade shall be included when clustered with elementary grades.

(b) A school district shall provide a bilingual education program by offering dual language instruction in prekindergarten through the elementary grades, using one of the four bilingual program models described in §89.1210 of this title (relating to Program Content and Design).

(c) School districts are authorized to establish a bilingual education program at grade levels in which the bilingual education program is not required under subsection (a) of this section.

(d) All English language learners for whom a school district is not required to offer a bilingual education program shall be provided an English as a second language program as described in subsection (e) of this section, regardless of the students' grade levels and home language, and regardless of the number of such students.

(e) A school district shall provide English as a second language instruction by offering an English as a second language program using one of the two models described in §89.1210 of this title.

(f) School districts may join with other school districts to provide bilingual education or English as a second language programs.

Source: The provisions of this §89.1205 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective March 5, 1999, 24 TexReg 1383; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective September 17, 2007, 32 TexReg 6311; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1207. Exceptions and Waivers.

(a) Bilingual education program.

(1) Exceptions. A school district that is unable to provide a bilingual education program as required by §89.1205(a) of this title (relating to Required Bilingual Education and English as a Second Language Programs) shall request from the commissioner of education an exception to the bilingual education program and the approval of an alternative program. The approval of an exception to the bilingual education program shall be valid only during the school year for which it was granted. A request for a bilingual education program exception must be submitted by November 1 and shall include:

(A) a statement of the reasons the school district is unable to offer the bilingual education program with supporting documentation;

(B) a description of the proposed alternative modified bilingual education or intensive English as a second language programs designed to meet the affective, linguistic, and cognitive needs of the English language learners, including the manner through which the students will be given opportunity to master the essential knowledge and skills required by Chapter 74 of this title (relating to Curriculum Requirements);

(C) an acknowledgement that certified teachers available in the school district will be assigned to grade levels beginning at prekindergarten followed successively by subsequent grade levels to ensure that the linguistic and academic needs of the English
language learners with beginning levels of English proficiency are served on a priority basis;

(D) a description of the training program the school district will provide to improve the skills of the certified teachers that are assigned to implement the proposed alternative program and an assurance that at least 10% of the bilingual education allotment shall be used to fund this training program; and

(E) a description of the actions the school district will take to ensure that the program required under §89.1205(a) of this title will be provided the subsequent year, including its plans for recruiting and training an adequate number of certified teachers to eliminate the need for subsequent exceptions and measurable targets for the subsequent year.

(2) Approval of exceptions. Bilingual education program exceptions will be granted by the commissioner if the requesting school district:

(A) meets or exceeds the state average for English language learner performance on the required state assessments;

(B) meets the requirements and measurable targets of the action plan described in paragraph (1)(E) of this subsection submitted the previous year and approved by the Texas Education Agency (TEA); or

(C) reduces by 25% the number of teachers under exception for bilingual Spanish programs when compared to the number of exceptions granted the previous year.

(3) Denial of exceptions. A school district denied a bilingual education program exception must submit to the commissioner a detailed action plan for complying with required regulations for the following school year.

(4) Appeals. A school district denied a bilingual education program exception may appeal to the commissioner or the commissioner's designee. The decision of the commissioner or commissioner's designee is final and may not be appealed further.

(5) Special accreditation investigation. The commissioner may authorize a special accreditation investigation under the Texas Education Code (TEC), §39.057, if a school district:

(A) is denied a bilingual education program exception for more than three consecutive years; or

(B) is granted an exception based on meeting or exceeding the state average for English language learner performance on the required state assessments but has excessive numbers of allowable exemptions from the required state assessments.

(6) Sanctions. Based on the results of a special accreditation investigation, the commissioner may take appropriate action under the TEC, §39.102.

(b) English as a second language program.

(1) Waivers. A school district that is unable to provide an English as a second language program as required by §89.1205(d) of this title because of an insufficient number of certified teachers shall request from the commissioner a waiver of the certification requirements for each teacher who will provide instruction in English as a second language for English language learners. The approval of a waiver of certification requirements shall be valid only during the school year for which it was granted. A request for an English as a second language program waiver must be submitted by November 1 and shall include:

(A) a statement of the reasons the school district is unable to provide a sufficient number of certified teachers to offer the English as a second language program;

(B) a description of the manner in which the teachers in the English as a second language program will meet the affective, linguistic, and cognitive needs of the English language
learners, including the manner through which the students will be given opportunity to master the essential knowledge and skills required by Chapter 74 of this title;

(C) an assurance that certified teachers available in the school district will be assigned to grade levels beginning at prekindergarten followed successively by subsequent grade levels in the elementary school campus and, if needed, secondary campuses, to ensure that the linguistic and academic needs of the English language learners with the lower levels of English proficiency are served on a priority basis;

(D) the name of each teacher not on permit who is assigned to implement the English as a second language program and for each teacher under a waiver, the estimated date for the completion of the English as a second language supplemental certification, which must be completed by the end of the school year for which the waiver was requested;

(E) a description of the training program that the school district will provide to improve the skills of the certified teachers that are assigned to implement the proposed English as a second language program and an assurance that at least 10% of the bilingual education allotment shall be used to fund this training; and

(F) a description of the actions the school district will take to ensure that the program required under §89.1205(d) of this title will be provided the subsequent year, including its plans for recruiting and training an adequate number of certified teachers to eliminate the need for subsequent waivers.

(2) Approval of waivers. English as a second language waivers will be granted by the commissioner if the requesting school district:

(A) meets or exceeds the state average for English language learner performance on the required state assessments; or

(B) meets the requirements and measurable targets of the action plan described in paragraph (1)(F) of this subsection submitted the previous year and approved by the TEA.

(3) Denial of waivers. A school district denied an English as a second language program waiver must submit to the commissioner a detailed action plan for complying with required regulations for the following school year.

(4) Appeals. A school district denied an English as a second language waiver may appeal to the commissioner or the commissioner's designee. The decision of the commissioner or commissioner's designee is final and may not be appealed further.

(5) Special accreditation investigation. The commissioner may authorize a special accreditation investigation under the TEC, §39.057, if a school district:

(A) is denied an English as a second language waiver for more than three consecutive years; or

(B) is granted a waiver based on meeting or exceeding the state average for English language learner performance on the required state assessments but has excessive numbers of allowable exemptions from the required state assessments.

(6) Sanctions. Based on the results of a special accreditation investigation, the commissioner may take appropriate action under the TEC, §39.102.

Source: The provisions of this §89.1207 adopted to be effective September 17, 2007, 32 TexReg 6311; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1210. Program Content and Design.

(a) Each school district required to offer a bilingual education or English as a second language program shall provide each English language learner the opportunity to be enrolled in the required program at his or her grade level. Each student's level of proficiency shall be designated by the language proficiency assessment
The school district shall modify the instruction, pacing, and materials to ensure that English language learners have a full opportunity to master the essential knowledge and skills of the required curriculum. Students participating in the bilingual education program may demonstrate their mastery of the essential knowledge and skills in either their home language or in English for each content area.

(b) The bilingual education program shall be a full-time program of instruction in which both the students' home language and English shall be used for instruction. The amount of instruction in each language within the bilingual education program shall be commensurate with the students' level of proficiency in each language and their level of academic achievement. The students' level of language proficiency and academic achievement shall be designated by the language proficiency assessment committee. The Texas Education Agency (TEA) shall develop program guidelines to ensure that the programs are developmentally appropriate, that the instruction in each language is appropriate, and that the students are challenged to perform at a level commensurate with their linguistic proficiency and academic potential.

(c) The bilingual education program shall be an integral part of the regular educational program required under Chapter 74 of this title (relating to Curriculum Requirements). In bilingual education programs using Spanish and English as languages of instruction, school districts shall use state-adopted English and Spanish instructional materials and supplementary materials as curriculum tools to enhance the learning process; in addition, school districts may use other curriculum adaptations that have been developed. The bilingual education program shall address the affective, linguistic, and cognitive needs of English language learners as follows.

(1) Affective. English language learners shall be provided instruction in their home language to introduce basic concepts of the school environment, and instruction both in their home language and in English, which instills confidence, self-assurance, and a positive identity with their cultural heritages. The program shall address the history and cultural heritage associated with both the students' home language and the United States.

(2) Linguistic. English language learners shall be provided instruction in the skills of listening, speaking, reading, and writing both in their home language and in English. The instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects.

(3) Cognitive. English language learners shall be provided instruction in language arts, mathematics, science, and social studies both in their home language and in English. The content area instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects.

(d) The bilingual education program shall be implemented with consideration for each English language learner's unique readiness level through one of the following program models.

(1) Transitional bilingual/early exit is a bilingual program model that serves a student identified as limited English proficient in both English and Spanish, or another language, and transfers the student to English-only instruction. This model provides instruction in literacy and academic content areas through the medium of the student's first language, along with instruction in English oral and academic language development. Non-academic subjects such as art, music, and physical education may also be taught in English. Exiting of a student to an all-English program of instruction will occur no earlier than the end of Grade 1 or, if the student enrolls in school during or after Grade 1, no earlier than two years or later than five years after the student enrolls in school. A student who has met exit criteria in accordance with §89.1225(h), (j), and (k) of this title (relating to Testing and Classification of Students) may continue receiving services, but the school district will not receive the bilingual education allotment for that student.

(2) Transitional bilingual/late exit is a bilingual program model that serves a student identified as limited English proficient in both English and Spanish, or another language, and transfers the student to English-only instruction. Academic growth is accelerated through cognitively challenging academic work in the student's first language along with meaningful academic content taught through the student's second language, English. The goal is to promote high levels
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(3) Dual language immersion/two-way is a biliteracy program model that integrates students proficient in English and students identified as limited English proficient. This model provides instruction in both English and Spanish, or another language, and transfers a student identified as limited English proficient to English-only instruction. Instruction is provided to both native English speakers and native speakers of another language in an instructional setting where language learning is integrated with content instruction. Academic subjects are taught to all students through both English and the other language. Program exit will occur no earlier than six years or later than seven years after the student enrolls in school. A student who has met exit criteria in accordance with §89.1225(h), (j), and (k) of this title may continue receiving services, but the school district will not receive the bilingual education allotment for that student. The primary goals of a dual language immersion program model are:

(A) the development of fluency and literacy in English and another language for all students, with special attention given to English language learners participating in the program;

(B) the integration of English speakers and English language learners for academic instruction, in accordance with the program design and model selected by the school district board of trustees. Whenever possible, 50% of the students in a program should be dominant English speakers and 50% of the students should be native speakers of the other language at the beginning of the program; and

(C) the promotion of bilingualism, biliteracy, cross-cultural awareness, and high academic achievement.

(4) Dual language immersion/one-way is a biliteracy program model that serves only students identified as limited English proficient. This model provides instruction in both English and Spanish, or another language, and transfers a student to English-only instruction. Instruction is provided to English language learners in an instructional setting where language learning is integrated with content instruction. Academic subjects are taught to all students through both English and the other language. Program exit will occur no earlier than six years or later than seven years after the student enrolls in school. A student who has met exit criteria in accordance with §89.1225(h), (j), and (k) of this title may continue receiving services, but the school district will not receive the bilingual education allotment for that student. The primary goals of a dual language immersion program model are:

(A) the development of fluency and literacy in English and another language for all students, with special attention given to English language learners participating in the program;

(B) the integration of English speakers and English language learners for academic instruction, in accordance with the program design and model selected by the school district board of trustees; and

(C) the promotion of bilingualism, biliteracy, cross-cultural awareness, and high academic achievement.

(e) English as a second language programs shall be intensive programs of instruction designed to develop proficiency in listening, speaking, reading, and writing in the English language. Instruction in English as a second language shall be commensurate with the student's level of English proficiency and his or her level of academic achievement. In prekindergarten through Grade 8, instruction in English as a second language may vary from the amount of time accorded to instruction in English language arts in the general education program for English proficient students to a full-time instructional setting using second language methods. In high school, the English as a second language program shall be consistent with graduation requirements.
under Chapter 74 of this title. The language proficiency assessment committee may recommend appropriate services that may include content courses provided through sheltered instructional approaches by trained teachers, enrollment in English as a second language courses, additional state elective English courses, and special assistance provided through locally determined programs.

(f) The English as a second language program shall be an integral part of the regular educational program required under Chapter 74 of this title. School districts shall use state-adopted English as a second language instructional materials and supplementary materials as curriculum tools. In addition, school districts may use other curriculum adaptations that have been developed. The school district shall provide for ongoing coordination between the English as a second language program and the regular educational program. The English as a second language program shall address the affective, linguistic, and cognitive needs of English language learners as follows.

(1) Affective. English language learners shall be provided instruction using second language methods in English to introduce basic concepts of the school environment, which instills confidence, self-assurance, and a positive identity with their cultural heritages. The program shall address the history and cultural heritage associated with both the students' home language and the United States.

(2) Linguistic. English language learners shall be provided intensive instruction to develop proficiency in listening, speaking, reading, and writing in the English language. The instruction in academic content areas shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills.

(3) Cognitive. English language learners shall be provided instruction in English in language arts, mathematics, science, and social studies using second language methods. The instruction in academic content areas shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills.

(g) The English as a second language program shall be implemented with consideration for each English language learner's unique readiness level through one of the following program models.

(1) An English as a second language/content-based program model is an English program that serves only students identified as English language learners by providing a full-time teacher certified under the Texas Education Code (TEC), §29.061(c), to provide supplementary instruction for all content area instruction. The program integrates English as a second language instruction with subject matter instruction that focuses not only on learning a second language, but using that language as a medium to learn mathematics, science, social studies, or other academic subjects. Exiting of a student to an all-English program of instruction without English as a second language support will occur no earlier than the end of Grade 1 or, if the student enrolls in school during or after Grade 1, no earlier than two years or later than five years after the student enrolls in school. At the high school level, the English language learner receives sheltered instruction in all content areas. A student who has met exit criteria in accordance with §89.1225(h), (j), and (k) of this title may continue receiving services, but the school district will not receive the bilingual education allotment for that student.

(2) An English as a second language/pull-out program model is an English program that serves only students identified as English language learners by providing a part-time teacher certified under the TEC, §29.061(c), to provide English language arts instruction exclusively, while the student remains in a mainstream instructional arrangement in the remaining content areas. Instruction may be provided by the English as a second language teacher in a pull-out or inclusionary delivery model. Exiting of a student to an all-English program of instruction without English as a second language support will occur no earlier than the end of Grade 1 or, if the student enrolls in school during or after Grade 1, no earlier than two years or later than five years after the student enrolls in school. At the high school level, the English language learner receives sheltered instruction in all content areas. A student who has met exit criteria in accordance with §89.1225(h), (j), and (k) of this title may continue receiving services, but the school district will not receive the bilingual education allotment for that student.
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(h) Except in the courses specified in subsection (i) of this section, English as a second language strategies, which may involve the use of the students' home language, may be provided in any of the courses or electives required for promotion or graduation to assist the English language learners to master the essential knowledge and skills for the required subject(s). The use of English as a second language strategies shall not impede the awarding of credit toward meeting promotion or graduation requirements.

(i) In subjects such as art, music, and physical education, the English language learners shall participate with their English-speaking peers in regular classes provided in the subjects. The school district shall ensure that students enrolled in bilingual education and English as a second language programs have a meaningful opportunity to participate with other students in all extracurricular activities.

(j) The required bilingual education or English as a second language programs shall be provided to every English language learner with parental approval until such time that the student meets exit criteria as described in §89.1225(h) of this title or graduates from high school.

Source: The provisions of this §89.1210 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective March 5, 1999, 24 TexReg 1383; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1215. Home Language Survey.

(a) School districts shall conduct only one home language survey of each student. The home language survey shall be administered to each student new to the school district and to students previously enrolled who were not surveyed in the past. School districts shall require that the survey be signed by the student's parent or guardian for each student in prekindergarten through Grade 8, or by the student in Grades 9-12. The original copy of the survey shall be kept in the student's permanent record.

(b) The home language survey shall be administered in English and Spanish; for students of other language groups, the home language survey shall be translated into the home language whenever possible. The home language survey shall contain the following questions.

   (1) "What language is spoken in your home most of the time?"

   (2) "What language does your child speak most of the time?"

(c) Additional information may be collected by the school district and recorded on the home language survey.

(d) The home language survey shall be used to establish the student's language classification for determining whether the school district is required to provide a bilingual education or English as a second language program. 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 §89.1225 of this title (relating to Testing and Classification of Students).

Source: The provisions of this §89.1215 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1220. Language Proficiency Assessment Committee.

(a) School districts shall by local board policy establish and operate a language proficiency assessment committee. The school district shall have on file policy and procedures for the selection, appointment, and training of members of the language proficiency assessment committee(s).

(b) In school districts required to provide a bilingual education program, the language proficiency assessment committee shall be composed of the membership described in the Texas Education Code (TEC), §29.063. If the school district does not have an individual in one or more of the school job classifications required, the school district shall designate another professional staff member to serve on the language proficiency assessment committee. The school district may add other members to the committee in any of the required categories.

(c) In school districts and grade levels not required to provide a bilingual education program, the language proficiency assessment committee shall be composed of one or more professional personnel, a campus
administrator, and a parent of an English language learner participating in the program designated by the school district.

(d) No parent serving on the language proficiency assessment committee shall be an employee of the school district.

(e) A school district shall establish and operate a sufficient number of language proficiency assessment committees to enable them to discharge their duties within 20 school days of the enrollment of English language learners.

(f) All members of the language proficiency assessment committee, including parents, shall be acting for the school district and shall observe all laws and rules governing confidentiality of information concerning individual students. The school district shall be responsible for the orientation and training of all members, including the parents, of the language proficiency assessment committee.

(g) Upon their initial enrollment and at the end of each school year, the language proficiency assessment committee shall review all pertinent information on all English language learners identified in accordance with §89.1225(f) of this title (relating to Testing and Classification of Students), and shall:

1. designate the language proficiency level of each English language learner in accordance with the guidelines issued pursuant to §89.1210(b) and (e) of this title (relating to Program Content and Design);
2. designate the level of academic achievement of each English language learner;
3. designate, subject to parental approval, the initial instructional placement of each English language learner in the required program;
4. facilitate the participation of English language learners in other special programs for which they are eligible provided by the school district with either state or federal funds; and
5. classify students as English proficient in accordance with the criteria described in §89.1225(h) of this title, and recommend their exit from the bilingual education or English as a second language program.

(h) Before the administration of the state criterion-referenced test each year, the language proficiency assessment committee shall determine the appropriate assessment option for each English language learner as outlined in Chapter 101, Subchapter AA, of this title (relating to Commissioner's Rules Concerning the Participation of English Language Learners in State Assessments).

(i) The language proficiency assessment committee shall give written notice to the student's parent advising that the student has been classified as an English language learner and requesting approval to place the student in the required bilingual education or English as a second language program. The notice shall include information about the benefits of the bilingual education or English as a second language program for which the student has been recommended and that it is an integral part of the school program.

(j) Pending parent approval of an English language learner's entry into the bilingual education or English as a second language program recommended by the language proficiency assessment committee, the school district shall place the student in the recommended program, but may count only English language learners with parental approval for the bilingual education allotment.

(k) The language proficiency assessment committee shall monitor the academic progress of each student who has exited from a bilingual or English as a second language program during the first two years after exiting in accordance with the TEC, §29.0561.

(l) The student's permanent record shall contain documentation of all actions impacting the English language learner.

1. Documentation shall include:
   (A) the identification of the student as an English language learner;
   (B) the designation of the student's level of language proficiency;
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(C) the recommendation of program placement;
(D) parental approval of entry or placement into the program;
(E) the dates of entry into, and placement within, the program;
(F) assessment information as outlined in Chapter 101, Subchapter AA, of this title;
(G) additional instructional interventions provided to students to ensure adequate yearly progress;
(H) the date of exit from the program and parental approval; and
(I) the results of monitoring for academic success, including students formerly classified as English language learners, as required under the TEC, §29.063(c)(4).

(2) Current documentation as described in paragraph (1) of this subsection shall be forwarded in the same manner as other student records to another school district in which the student enrolls.

(m) A school district may identify, exit, or place a student in a program without written approval of the student's parent or guardian if:

(1) the student is 18 years of age or has had the disabilities of minority removed;
(2) reasonable attempts to inform and obtain permission from a parent or guardian have been made and documented;
(3) approval is obtained from:
   (A) an adult who the school district recognizes as standing in parental relation to the student, including a foster parent or employee of a state or local governmental agency with temporary possession or control of the student; or
   (B) the student, if no parent, guardian, or other responsible adult is available; or
(4) a parent or guardian has not objected in writing to the proposed entry, exit, or placement.

Source: The provisions of this §89.1220 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective March 5, 1999, 24 TexReg 1383; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective September 17, 2007, 32 TexReg 6311; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1225. Testing and Classification of Students.

(a) For identifying English language learners, school districts shall administer to each student who has a language other than English as identified on the home language survey:

(1) in prekindergarten through Grade 1, an oral language proficiency test approved by the Texas Education Agency (TEA); and
(2) in Grades 2-12, a TEA-approved oral language proficiency test and the English reading and English language arts sections from a TEA-approved norm-referenced assessment, or another test approved by the TEA, unless the norm-referenced standardized achievement instrument is not valid in accordance with subsection (f)(2)(C) of this section.

(b) School districts that provide a bilingual education program shall administer an oral language proficiency test in the home language of the student who is eligible to be served in the bilingual education program. If the home language of the student is Spanish, the school district shall administer the Spanish version of the TEA-approved oral language proficiency test that was administered in English. If the home language of the student is other than Spanish, the school district shall determine the student's level of proficiency using informal oral language assessment measures.

(c) All the oral language proficiency testing shall be administered by professionals or paraprofessionals who are proficient in the language of the test and trained in language proficiency testing.
(d) The grade levels and the scores on each test that shall identify a student as an English language learner shall be established by the TEA. The commissioner of education shall review the approved list of tests, grade levels, and scores annually and update the list.

(e) Students with a language other than English shall be administered the required oral language proficiency test in prekindergarten through Grade 12 and norm-referenced standardized achievement instrument in Grades 2-12 within 20 school days of their enrollment.

(f) For entry into a bilingual education or English as a second language program, a student shall be identified as an English language learner using the following criteria.

(1) In prekindergarten through Grade 1, the student's score on the English oral language proficiency test is below the level designated for indicating limited English proficiency under subsection (d) of this section.

(2) In Grades 2-12:

   (A) the student's score on the English reading and/or English language arts sections of the TEA-approved norm-referenced standardized achievement instrument at his or her grade level is below the 40th percentile; or

   (B) the student's ability in English is so limited that the administration, at his or her grade level, of the reading and language arts sections of a TEA-approved norm-referenced standardized achievement instrument or other test approved by the TEA is not valid.

(3) In the absence of data required in paragraph (2)(B) of this subsection, evidence that the student is not academically successful as defined in subsection (j) of this section is required.

(4) The admission review and dismissal (ARD) committee in conjunction with the language proficiency assessment committee shall determine an appropriate assessment instrument and designated level of performance for indicating limited English proficiency as required under subsection (d) of this section for students for whom those tests would be inappropriate as part of the individualized education program (IEP). The decision for entry into a bilingual education or English as a second language program shall be determined by the ARD committee in conjunction with the language proficiency assessment committee in accordance with §89.1220(g) of this title (relating to Language Proficiency Assessment Committee).

(g) Within 20 school days of their initial enrollment in the school district, students shall be identified as English language learners and enrolled into the required bilingual education or English as a second language program. Prekindergarten and kindergarten students preregistered in the spring shall be identified as English language learners and enrolled in the required bilingual education or English as a second language program within 20 school days of the start of the school year in the fall.

(h) For exit from a bilingual education or English as a second language program, a student may be classified as English proficient at the end of the school year in which a student would be able to participate equally in a general education, all-English instructional program. This determination shall be based upon all of the following:

(1) TEA-approved tests that measure 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 the Texas Education Code (TEC), §39.023(a), or a TEA-approved English language arts assessment instrument administered in English, or a score at or above the 40th percentile on both the English reading and the English language arts sections of a TEA-approved norm-referenced standardized achievement instrument for a student who is enrolled in Grade 1 or 2; and

(3) TEA-approved criterion-referenced written tests when available, or other TEA-approved tests when criterion-referenced tests are not available, and the results of a subjective teacher evaluation.
(i) A student may not be exited from the bilingual education or English as a second language program in prekindergarten or kindergarten. A school district must ensure that English language learners are prepared to meet academic standards required by the TEC, §28.0211.

(j) For determining whether a student who has been exited from a bilingual education or English as a second language program is academically successful, the following criteria shall be used at the end of the school year:

(1) the student meets state performance standards in English on the criterion-referenced assessment instrument required in the TEC, §39.023, for the grade level as applicable; and

(2) the student has passing grades in all subjects and courses taken.

(k) The ARD committee in conjunction with the language proficiency assessment committee shall determine an appropriate assessment instrument and performance standard requirement for exit under subsection (h) of this section for students for whom those tests would be inappropriate as part of the IEP. The decision to exit a student who receives both special education and special language services from the bilingual education or English as a second language program is determined by the ARD committee in conjunction with the language proficiency assessment committee in accordance with applicable provisions of subsection (h) of this section.

(l) Notwithstanding §101.101 of this title (relating to Group-Administered Tests), all tests used for the purpose of identification, exit, and placement of students and approved by the TEA must be re-normed at least every eight years.

Source: The provisions of this §89.1225 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective September 17, 2007, 32 TexReg 6311; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1227. Minimum Requirements for Dual Language Immersion Program Model.

(a) A dual language immersion program model must address all curriculum requirements specified in Chapter 74, Subchapter A, of this title (relating to Required Curriculum) to include foundation and enrichment areas, English language proficiency standards, and college and career readiness standards.

(b) A dual language immersion program model shall be a full-time program of academic instruction in English and another language.

(c) A minimum of 50% of instructional time must be provided in the language other than English.

(d) Implementation should:

(1) begin at prekindergarten, kindergarten, or Grade 1, as applicable;

(2) continue without interruption incrementally through the elementary grades whenever possible; and

(3) consider expansion to middle school and high school whenever possible.

(e) A dual language immersion program model shall be developmentally appropriate and based on current best practices research.

Source: The provisions of this §89.1227 adopted to be effective May 28, 2012, 37 TexReg 3822.

§89.1228. Dual Language Immersion Program Model Implementation.

(a) Student enrollment in a dual language immersion program model is optional.

(b) A dual language immersion program model must fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or disability.

(c) A school district must obtain written parental approval for student participation in the program sequence and model established by the school district.
A school district implementing a dual language immersion program model must develop a policy on enrollment and continuation for students in this program model. The policy must address:

1. Eligibility criteria;
2. Program purpose;
3. Grade levels in which the program will be implemented;
4. Support of program goals as stated in §89.1210 of this title (relating to Program Content and Design); and
5. Expectations for students and parents.

Source: The provisions of this §89.1228 adopted to be effective May 28, 2012, 37 TexReg 3822.

§89.1230. Eligible Students with Disabilities.

(a) School districts shall implement assessment procedures that differentiate between language proficiency and handicapping conditions in accordance with Subchapter AA of this chapter (relating to Commissioner's Rules Concerning Special Education Services) and shall establish placement procedures that ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability.

(b) Admission, review, and dismissal committee members shall meet in conjunction with language proficiency assessment committee members to review the educational needs of each English language learner who qualifies for services in the special education program.

Source: The provisions of this §89.1230 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective March 5, 1999, 24 TexReg 1383; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1233. Participation of English Proficient Students.

School districts may enroll students who are not English language learners in the bilingual education program in accordance with the Texas Education Code, §29.058.

Source: The provisions of this §89.1233 adopted to be effective March 5, 1999, 24 TexReg 1383; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1235. Facilities.

Bilingual education and English as a second language programs shall be located in the regular public schools of the school district rather than in separate facilities. In order to provide the required bilingual education or English as a second language programs, school districts may concentrate the programs at a limited number of facilities within the school district provided that the enrollment in those facilities shall not exceed 60% English language learners. Recent immigrant English language learners enrolled in newcomer centers shall return to home campuses no later than two years after initial enrollment in a newcomer program.

Source: The provisions of this §89.1235 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1240. Parental Authority and Responsibility.

(a) The parents shall be notified that their child has been classified as an English language learner and recommended for placement in the required bilingual education or English as a second language program. They shall be provided information describing the bilingual education or English as a second language program recommended, its benefits to the student, and its being an integral part of the school program to ensure that the parents understand the purposes and content of the program. The entry or placement of a student in the bilingual education or English as a second language program must be approved in writing by the student's parent. The parent's approval shall be considered valid for the student's continued participation in the required bilingual education or English as a second language program until the student meets the exit
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criteria described in §89.1225(h) of this title (relating to Testing and Classification of Students), graduates from high school, or the parent requests a change in program placement.

(b) The school district shall notify the student's parent 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 approval as required under the Texas Education Code, §29.056(a). Students meeting exit requirements may continue in the bilingual education or English as a second language program with parental approval but are not eligible for inclusion in the school district bilingual education allotment.

(c) The parent of a student enrolled in a school district that is required to offer bilingual education or English as a second language programs may appeal to the commissioner of education if the school district fails to comply with the law or the rules. Appeals shall be filed in accordance with Chapter 157 of this title (relating to Hearings and Appeals).

Source: The provisions of this §89.1240 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1245. Staffing and Staff Development.

(a) School districts shall take all reasonable affirmative steps to assign appropriately certified teachers to the required bilingual education and English as a second language programs in accordance with the Texas Education Code (TEC), §29.061, concerning bilingual education and special language program teachers. School districts that are unable to secure a sufficient number of certified bilingual education and English as a second language teachers to provide the required programs, shall request emergency teaching permits or special assignment permits, as appropriate, in accordance with Chapter 230 of this title (relating to Professional Educator Preparation and Certification).

(b) School districts that are unable to employ a sufficient number of teachers, including part-time teachers, who meet the requirements of subsection (a) of this section for the bilingual education and English as a second language programs shall apply on or before November 1 for an exception to the bilingual education program as provided in §89.1207(a) of this title (relating to Exceptions and Waivers) or a waiver of the certification requirements in the English as a second language program as provided in §89.1207(b) of this title as needed.

(c) Teachers assigned to the bilingual education program and/or English as a second language program may receive salary supplements as authorized by the TEC, §42.153.

(d) School districts may compensate teachers and aides assigned to bilingual education and English as a second language programs for participation in continuing education programs designed to increase their skills or lead to bilingual education or English as a second language certification.

(e) School districts that are unable to staff their bilingual education and English as a second language programs with fully certified teachers shall use at least 10% of their bilingual education allotment for preservice and inservice training to improve the skills of the teachers who provide instruction in the alternative bilingual education program, instruction in English as a second language, and/or content area instruction in special classes for English language learners.

(f) The commissioner of education shall encourage school districts to cooperate with colleges and universities to provide training for teachers assigned to the bilingual education and/or English as a second language programs.

(g) The Texas Education Agency (TEA) shall develop, in collaboration with education service centers (ESCs), bilingual education training guides for implementing bilingual education and English as a second language training programs. The materials shall provide a framework for:

(1) developmentally appropriate bilingual education programs for early childhood through the elementary grades;

(2) affectively appropriate instruction in bilingual education and English as a second language programs in accordance with §89.1210(c)(1) and (f)(1) of this title (relating to Program Content and Design);
§89.1250. Required Summer School Programs.

Summer school programs that are provided under the Texas Education Code (TEC), §29.060, for English language learners who will be eligible for admission to kindergarten or Grade 1 at the beginning of the next school year shall be implemented in accordance with this section.

(1) Purpose of summer school programs.
   (A) English language learners shall have an opportunity to receive special instruction designed to prepare them to be successful in kindergarten and Grade 1.
   (B) Instruction shall focus on language development and essential knowledge and skills appropriate to the level of the student.
   (C) The program shall address the affective, linguistic, and cognitive needs of the English language learners in accordance with §89.1210(c) and (f) of this title (relating to Program Content and Design).

(2) Establishment of, and eligibility for, the program.
   (A) Each school district required to offer a bilingual or English as a second language (ESL) program in accordance with the TEC, §29.053, shall offer the summer program.
   (B) To be eligible for enrollment:
      (i) a student must be eligible for admission to kindergarten or to Grade 1 at the beginning of the next school year and must be an English language learner; and
      (ii) a parent or guardian must have approved placement of the English language learner in the required bilingual or ESL program following the procedures described in §89.1220(g) of this title (relating to Language Proficiency Assessment Committee) and §89.1225(a)-(f) of this title (relating to Testing and Classification of Students).
   (C) Limited English proficiency shall be determined by evaluating students using an oral language proficiency test approved by the Texas Education Agency.

(3) Operation of the program.
   (A) Enrollment is optional.
   (B) The program shall be operated on a one-half day basis, a minimum of three hours each day, for eight weeks or the equivalent of 120 hours of instruction.
   (C) The student/teacher ratio for the program district-wide shall not exceed 18 to one.
   (D) A school district is not required to provide transportation for the summer program.
   (E) Teachers shall possess certification or endorsement as required in the TEC, §29.061, and §89.1245 of this title (relating to Staffing and Staff Development).
§89.BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners

(F) Reporting of student progress shall be determined by the board of trustees. A summary of student progress shall be provided to parents at the conclusion of the program. This summary shall be provided to the student's teacher at the beginning of the next regular school term.

(G) A school district may join with other school districts in cooperative efforts to plan and implement programs.

(H) The summer school program shall not substitute for any other program required to be provided during the regular school term, including those required in the TEC, §29.153.

(4) Funding and records for programs.

(A) A school district shall use state and local funds for program purposes. School districts may use federal funds, consistent with requirements for the expenditure of federal funds, for the program.

(i) Available funds appropriated by the legislature for the support of summer school programs provided under the TEC, §29.060, shall be allocated to school districts in accordance with this subsection.

(ii) Funding for the summer school program shall be on a unit basis in such an allocation system to ensure a pupil/teacher ratio of not more than 18 to one. The numbers of students required to earn units shall be established by the commissioner. The allotment per unit shall be determined by the commissioner based on funds available.

(iii) Any school district required to offer the program under paragraph (2)(A) of this subsection that has less than ten students district-wide desiring to participate is not required to operate the program. However, those school districts must demonstrate that they have aggressively attempted to encourage student participation.

(iv) Payment to school districts for summer school programs shall be based on units employed. This information must be submitted in a manner and according to a schedule established by the commissioner in order for a school district to be eligible for funding.

(B) A school district shall maintain records of eligibility, attendance, and progress of students.

Source: The provisions of this §89.1250 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective February 17, 2005, 30 TexReg 709; amended to be effective September 17, 2007, 32 TexReg 6311; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1265. Evaluation.

(a) All school districts required to conduct a bilingual education or English as a second language program shall conduct periodic assessment in the languages of instruction to determine program impact and student outcomes in all subject areas.

(b) Annual reports of educational performance shall reflect the academic progress in either language of the English language learners, the extent to which they are becoming proficient in English, the number of students who have been exited from the bilingual education and English as a second language programs, and the number of teachers and aides trained and the frequency, scope, and results of the training. These reports shall be retained at the district level.

(c) School districts shall report to parents the progress of their child as a result of participation in the program offered to English language learners in English and the home language at least annually.
(d) Each school year, the principal of each school campus, with the assistance of the campus level committee, shall develop, review, and revise the campus improvement plan described in the Texas Education Code, §11.253, for the purpose of improving student performance for English language learners.

Source: The provisions of this §89.1265 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective May 28, 2012, 37 TexReg 3822.

§89.1267. Standards for Evaluation of Dual Language Immersion Program Models.

(a) A school district implementing a dual language immersion program must conduct annual formative and summative evaluations collecting a full range of data to determine program impact on student academic success.

(b) The success of a dual language immersion program is evident by students in the program demonstrating high levels of language proficiency in English and the other language and mastery of the Texas essential knowledge and skills for the foundation and enrichment areas. Indicators of success may include scores on statewide student assessments in English, statewide student assessments in Spanish (if appropriate), norm-referenced standardized achievement tests in both languages, and/or language proficiency tests in both languages.

Source: The provisions of this §89.1267 adopted to be effective May 28, 2012, 37 TexReg 3822.

§89.1269. General Standards for Recognition of Dual Language Immersion Program Models.

(a) School district recognition. An exceptional dual language immersion program model may be recognized by the local school district board of trustees using the following criteria.

   (1) A school district must exceed the minimum requirements stated in §89.1227 of this title (relating to Minimum Requirements for Dual Language Immersion Program Model).

   (2) A school district must not receive the lowest performance rating in the state accountability system.

   (3) A school district must not be identified for any stage of intervention for the district's bilingual and/or English as a second language program under the performance-based monitoring system.

   (4) A school district must meet the adequate yearly progress participation and performance criteria in reading and mathematics for the English language learner student group under Elementary and Secondary Education Act (ESEA) regulations.

(b) Student recognition. A student participating in a dual language immersion program model may be recognized by the program and its local school district board of trustees using the following criteria.

   (1) The student must meet or exceed statewide student assessment passing standards, as required by the Texas Education Code, §39.024, in all subject areas at the appropriate grade level.

   (2) The student must meet or exceed expected levels of language proficiency on a recognized language proficiency test from the list of tests approved by the commissioner of education.

Source: The provisions of this §89.1269 adopted to be effective May 28, 2012, 37 TexReg 3822.