

Kermit ISD
Language Proficiency
Assessment Committee (LPAC)

and

Bilingual/ESL Program Handbook



2021-2022

**Kermit Independent School District
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KERMIT ISD BILINGUAL & ESL PROGRAM

VISION STATEMENT

The vision of Kermit ISD is to provide quality education for all ELL students.

MISSION STATEMENT

The mission of the Kermit ISD Bilingual and English as a Second Language program is to provide all English Language Learners a second language acquisition while preserving and developing their native language in a culturally sensitive environment. During the student's academic career, through various learning environments, including general and ESL settings, students will develop a second language while gaining essential knowledge and skills through research based instructional strategies.

GOALS

1. Kermit ISD will review, revise and communicate current district vision and mission statements for the Bilingual/ESL Program.
2. Kermit ISD will determine, identify and acquire the resources that are needed to support EL students' academic growth and acquisition of state learning standards.
3. Kermit ISD will develop a professional development plan for teachers using the newly acquired curriculum resources.
4. Kermit ISD will provide professional development during in-service time scheduled throughout the school year for all teachers and staff.
5. Kermit ISD will increase Bilingual/ESL parental involvement at the elementary, intermediate and secondary levels.

LPAC

Language Proficiency Assessment Committee

Framework Manual



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Foreword

19 Texas Administrative Code (TAC) Chapter 89. Adaptations for Special Populations. Subchapter BB. Commissioner's Rules Concerning the State Plan for Educating English Language Learners (ELLs) states that all school districts that are required to provide bilingual education and/or English as a second language (ESL) programs establish and operate a Language Proficiency Assessment Committee (LPAC). The LPACs are charged with reviewing all pertinent information on all identified English language learners upon their initial enrollment and at the end of each school year. Districts are required to have on file policy and procedures for the selection, appointment, and training of members of the LPACs.

The ***LPAC Framework Manual 2021-2022*** includes clarification of the legal requirements for LPACs, and provides documents and forms to facilitate the training of LPAC members. The forms included with the manual are for use by districts and are not required forms for the implementation of a Bilingual/ESL program. This manual integrates state and federal Every Student Succeeds Act (ESSA) requirements regarding the identification, program placement, parent notification, annual review, and assessment of English language learners as they attain language and academic proficiency.

Three major topics are covered in this manual

- LPAC Membership and Training
- LPAC Responsibilities
- Coordination with Other Programs

*Education service centers will provide school districts and charter schools with training on the content and procedures of this manual

Language Proficiency Assessment Committee (LPAC)

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Introduction: Framework for the Language Proficiency Assessment Committee (LPAC) Process

What: The Language Proficiency Assessment Committee (LPAC) plays a pivotal role in the education of English Language Learners (ELLs). The LPAC's role extends beyond the responsibilities established under the Texas Administrative Code, 19 TAC Chapter 89, Subchapter BB Commissioner's Rules Concerning State Plan for Educating English Language Learners (ELLs). As an advocate for the ELL, the LPAC becomes the voice that initiates, articulates, deliberates, and determines the best instructional program for the student. It functions as a link between the home and the school in making appropriate decisions regarding placement, instructional practices, assessment, and special programs that impact the student.

Why: LPAC Framework Manual 2021-2022 integrates the parental notification requirements of Every Student Succeeds Act (ESSA) as they relate to the LPAC process.

Who: Each member of the LPAC understands:

- training is necessary to carry out his/her responsibilities;
- the instructional and support programs available to the student;
- the timelines of meetings and documentation;
- the decision-making process that needs to be followed at meetings;
- the need to maintain confidentiality and respect for the student's language and culture; and
- that each student is considered as an individual.

Thus, the LPAC becomes a critical component of the Bilingual or ESL program.

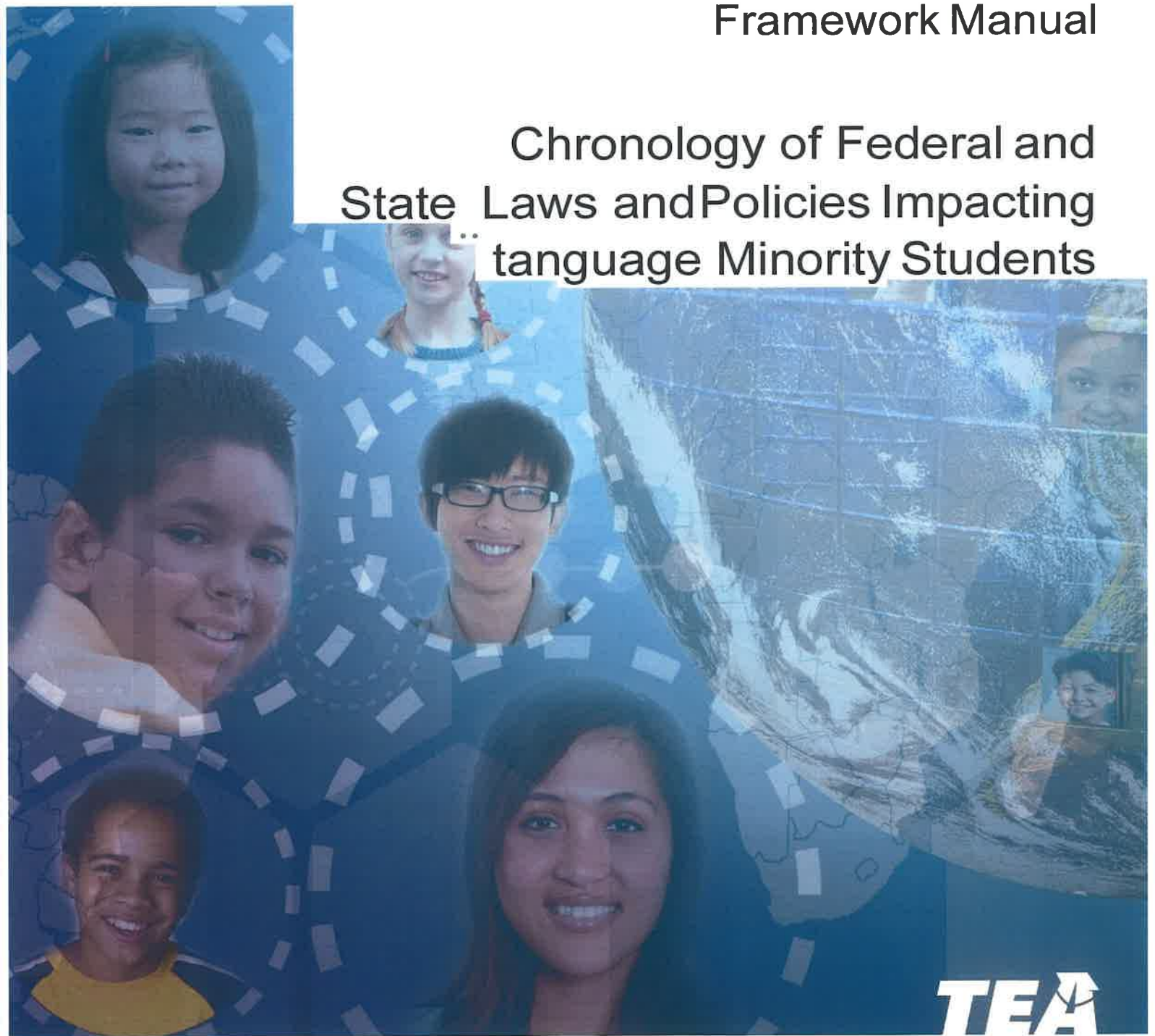
How: The intent of the LPAC Framework Manual 2021-2022 is to establish a framework for the LPAC process and to describe the steps necessary to implement a consistent and standardized process successfully across a school district and across the state. The Framework for the LPAC Process delineates the steps that must be followed in the identification, processing, placement, and monitoring of the ELL in his/her intensive language instructional program as well as the determination for exiting and follow-up of the student as he/she transitions into the mainstream all-English program.

Location: The Framework for the LPAC Process can be accessed through the Education Service Center, Region 20's website. www.esc20.net/lpac

LPAC

Language Proficiency Assessment Committee Framework Manual

Chronology of Federal and State Laws and Policies Impacting Language Minority Students



Chronology of Federal and State Law and Policy Impacting Language Minority Students

How has federal policy for language minority students evolved in the U.S.?

- 1920s-1960s English immersion or “sink-or-swim” policies are the dominant method of instruction of language minority students. Few or no remedial services are available, and students are generally held at the same grade level until enough English is mastered to advance in subject areas.
- 1963 Success of a two-way bilingual program for Cuban refugee children in Dade County, Florida, inspires the implementation of similar programs elsewhere.
- 1964 *Civil Rights Act: Title VI* prohibits discrimination on the basis of race, color, or national origin in the operation of all federally assisted programs.
- 1968 *The Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1968*: Establishes federal policy for bilingual education for economically disadvantaged language minority students, allocates funds for innovative programs, and recognizes the unique educational disadvantages faced by non-English speaking students.
- 1978 Amendments to *Title VII* emphasize the strictly transitional nature of native language instruction, expand eligibility to students who are limited English proficient (LEP), and permit enrollment of English-speaking students in bilingual programs.
- 1982 Amendments to *Title VII* allow for some native language maintenance, provide program funding for ELLs with special needs, support family English literacy programs, and emphasize importance of teacher training.
- 1988 Amendments to *Title VII* include increased funding to state education agencies, expanded funding for “special alternative” programs where only English is used, established a three-year limit on participation in most *Title VII*, and created fellowship programs for professional training.
- 1994 Comprehensive educational reforms entail reconfiguration of *Title VII* programs. New provisions reinforce professional development programs, increase attention to language maintenance and foreign language instruction, improve research and evaluation at state and local level, supply additional funds for immigrant education, and allow participation of some private school students.
- 2001 *No Child Left Behind Act of 2001 (NCLB)*: The reauthorization of the Elementary and Secondary Education Act of 1965 appropriates funds to states to improve the education of English Language Learners by assisting children to learn English and meet challenging state academic content and student academic achievement standards. Legislation for ELLs is found under Title III of NCLB.

2015 Every Student Succeeds Act (ESSA): The reauthorization of the Elementary and Secondary Education Act of 1965 on December 10, 2015 replaces NCLB. ESSA strengthens and enhances the equitable services provisions and provides more State and district level accountability.

What court rulings have impacted the education of language minority students in the U.S.?

SUPREME COURT

- 1974 *Lau v. Nichols*
This suit by Chinese parents in San Francisco leads to the ruling that identical education does not constitute equal education under Title VI of the Civil Rights Act of 1964. School districts must take affirmative steps to overcome educational barriers faced by non-English speakers. This ruling established that the Office for Civil Rights, under the former Department of Health, Education, and Welfare, has the authority to establish regulations for Title VI enforcement.
- 1982 *Plyler v. Doe*
Under the Fourteenth Amendment of the U.S. Constitution, the state does not have the right to deny a free public education to undocumented immigrant children.

FEDERAL COURT

- 1971 *United States of America v. State of Texas, et al.*
This desegregation case centered on the issue of discrimination and whether the San Felipe and Del Rio school districts were providing Mexican American students an equal educational opportunity. On August 6, 1971, Judge William Wayne Justice ordered the consolidation of the two districts. As a result of the lawsuit, the federal court came down with a court order, Civil Action 5281, which eliminates discrimination on grounds of race, color, or national origin in Texas public and charter schools.
- 1974 *Serna v. Portales*
The 10th Circuit Court of Appeals found that Spanish surnamed students' achievement levels were below those of their Anglo counterparts. The court ordered Portales Municipal Schools to implement a bilingual/bicultural curriculum, revise procedures for assessing achievement, and hire bilingual school personnel.
- 1978 *Cintron v. Brentwood*
The Federal District Court for the Eastern District of New York rejected the Brentwood School District's proposed bilingual program on the grounds that it would violate "Lau Guidelines" by unnecessarily segregating Spanish-speaking students from their English-speaking peers in music and art. The court also objected to the program's failure to provide for exiting students whose English

language proficiency was sufficient for them to understand mainstream English instruction.

1978

Rios v. Reed

The Federal District Court for the Eastern District of New York found that the Pastchogue-Medford School District's transitional bilingual program was basically a course in English and that students were denied an equal educational opportunity by not receiving academic instruction in Spanish. The court wrote: "A denial of educational opportunities to a child in the first years of schooling is not justified by demonstrating that the educational program employed will teach the child English sooner than a program comprised of more extensive Spanish instruction."

1981

Castañeda v. Pickard

Reputed to be the most significant court decision affecting language minority students after Lau. In responding to the plaintiffs' claim that Raymondville, Texas Independent School District's language remediation programs violated the Equal Educational Opportunities Act (EEOA) of 1974, the Fifth Circuit Court of Appeals formulated a set of basic standards to determine school district compliance with EEOA.

The "Castañeda test" includes the following criteria: (1) *Theory*: The school must pursue a program based on an educational theory recognized as sound or, at least, as a legitimate experimental strategy; (2) *Practice*: The school must actually implement the program with instructional practices, resources, and personnel necessary to transfer theory to reality; (3) *Results*: The school must not persist in a program that fails to produce results.

1981

United States v. State of Texas et al., January 12, 1981

The U.S. District Court for the eastern district of Texas, Tyler division, instructs TEA to phase in mandatory bilingual education in grades K-12. This decision outlined specific requirements including: three year monitoring cycles, identification of ELLs, and a language survey for students entering school. It also established the need for exit criteria.

1982

United States v. State of Texas et al., July 12, 1982

The U.S. Court of Appeals, Fifth Circuit reverses the previous judgment of U.S. v. State of Texas et al., January 12, 1981 because of state legislation enacted in 1981.

1983

Keyes v. School District #1

A U.S. District Court found that a Denver public school district had failed to adequately implement a plan for language minority students, which is the second element of the "Castañeda Test."

1987

Gomez v. Illinois

The Seventh Circuit Court of Appeals ruled that State Education Agencies are also required under EEOA to ensure that language minority student's educational needs are met.

Noteworthy Legislation in Texas Regarding Bilingual Education

- 1969 HB 103
The 61st legislature passed the state's first bilingual education bill. This Act acknowledged English as the primary language of instruction in school and allowed but did not require school districts to provide bilingual instruction through Grade 6.
- 1973 SB 121
The 63rd legislature passed the Texas Bilingual Education and Training Act. This Act directed each school district in which 20 or more ELLs in the same grade shared the same language classification the previous year to institute a program of bilingual instruction beginning with the 1974-75 school year.
- 1978 In November, the State Board of Education adopted the rules governing the implementation of special language programs for ELLs.
- 1981 SB 477
This Act strengthened the guidelines necessary to implement the state bilingual plan and established the Language Proficiency Assessment Committees (LPAC).
- 2005 HB 1
The 79th legislature 3rd called session amended Chapter 29.0561 to specify monitoring criteria during the two(2) years after students exit the special language program.
- 2007 SB 1871
The 80th legislature enacted the data collection of special language program models; four (4) for bilingual education and two (2) for ESL.
- 2009 HB 3
The 81st legislature eliminated versions of grade 6 for reading and math Spanish tests.

<http://programs.esc20.net/default.aspx?name=lpac.resosource>

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. 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 committee in accordance with §89.1220(g) of this title (relating to Language Proficiency Assessment Committee). 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 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.

(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 fulltime 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.

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.
- (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.

Annual Review for Exit/Reclassification



§89.1225. Testing and Classification of Students.

- (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.

**Process for Considering Special Exit Criteria from
Bilingual/English as a Second Language (ESL) Services
Under 19 TAC §89.1225(k)¹**

2018-2019 School Year Grades

1–12

Under Texas Administrative Code (TAC) §89.1225(h), districts are required to use the exit criteria represented in the chart titled *2017-2018 English Proficiency Exit Criteria Chart* found at <http://tea.texas.gov/bilingual/esl/education/> to exit English language learners (ELLs) from bilingual or ESL programs. The exit criteria under TAC §89.1225(h) apply to the vast majority of **ELLs who receive special education services**. In rare cases, an ELL receiving special education services may qualify to be exited using criteria permitted under TAC §89.1225(k), which give special consideration to an ELL for whom assessments and/or standards under TAC §89.1225(h) are not appropriate because of the nature of a student's particular disabling condition. Students considered for special exit criteria under TAC §89.1225(k) should only be only those designated to take STAAR Alternate 2, as determined by the ARD committee in conjunction with the LPAC.

This document outlines the process to follow when considering whether a student qualifies to exit using the criteria authorized by TAC §89.1225(k).

Step 1: Schedule Meeting to Evaluate Whether Student Potentially Qualifies for Exit

At or near the beginning of the school year, a meeting is to be scheduled between key admission, review, and dismissal (ARD) committee and Language Proficiency Assessment Committee (LPAC) members to discuss whether the student qualifies to exit using criteria under §TAC 89.1225(k). ○ Through this process, a determination is made about the assessments and/or English language proficiency assessment standards to be used in the exiting process.

- This process applies **ONLY** when one or more assessments and/or English language proficiency assessment standards under TAC §89.1225(h) are not appropriate for the student in a particular language domain for reasons directly associated with the student's disability. In following this process, refer also to the document titled *Guidance Related to ARD Committee and LPAC Collaboration* found at <http://tea.texas.gov/index2.aspx?id=2147496923>.
- This process is to be used to address the needs of an individual student, not groups of students. Very few students qualify to exit using the TAC §89.1225(k) criteria.
- This process must be conducted by key admission, review, and dismissal (ARD) committee members (including a diagnostician when applicable) and key LPAC members who are familiar with the student's current progress and needs, including one or more teachers with in-depth knowledge of the student's second language acquisition and academic achievement.

¹ Title 19 Texas Administrative Code Chapter 89 Adaptations for Special Populations; Subchapter BB. Commissioner's Rules Concerning State Plan for Educating Limited English Proficient Students

Step 2: Discuss Evidence of Need for Use of §89.1225(k) Exit Criteria

At the meeting, the participants discuss the second language acquisition of the student within the context of the individual student's disability to consider whether the TAC §89.1225(k) exit criteria are warranted.

- Consideration must be IEP-based and must include documented evidence that, because of the nature of the student's disability, the student is not expected to be able to attain English language proficiency in one or more domains and no longer appears to benefit from second language acquisition support in English to address second language acquisition cognitive, linguistic, and affective needs (or is expected to reach that point during the school year).
- Evidence must include both historical formal and informal assessment data and direct teacher input. Ongoing informal assessment data may come from checklists, inventories, and other formative evaluations designed to identify the levels of academic functioning and English language proficiency of the student. The input of a diagnostician may be requested, as necessary, to help determine whether the TAC §89.1225(k) exit criteria are warranted. Direct teacher input should provide further insight into the student's classroom performance and needs, and should include, if applicable, documentation of response to intervention, anecdotal notes, and other evidence drawn from sources such as classroom-based observations and classroom activities.

Step 3: Specify Assessments and English Language Proficiency Test Standards

If, after reviewing the evidence, the meeting participants conclude that the student no longer benefits from second language acquisition support in English (or is expected to reach that point during the school year), the participants review the assessment information in the IEP and make exit criteria recommendations based on the information below.

Caution should be exercised when considering exit of students in Grades 1-2. It may be premature in these grades to consider program exit due to developmental factors related to emergent language and literacy. Additionally, in early grades it is often difficult to know the effect of the student's disability on long-term prospects for second language acquisition.

ACADEMIC CONTENT ASSESSMENTS OF READING AND WRITING IN GRADES 1-2

- Norm-referenced standardized achievement tests are not required for students in grades 1-2 eligible under TAC §89.1225(k).

ACADEMIC CONTENT ASSESSMENTS OF READING AND WRITING IN GRADES 3-12

Selection of appropriate academic content assessments

Students considered for exit criteria under TAC §89.1225(k) should be only those designated to STAAR Alternate 2, as determined by the ARD committee in conjunction with the LPAC.

Reminder: State-established standards must be used for all state assessments.

Modification of performance standards on academic content assessments not permitted

STAAR Alternate 2 is an assessment based on alternate academic achievement standards. Further modification of performance standards on academic content assessments is not permitted.

State-established standards must be used for all state assessments.

ENGLISH LANGUAGE PROFICIENCY ASSESSMENTS IN GRADES 1-12

○ Modification of English language proficiency assessment standards on a domain-bydomain basis

Any modified standards must be supported by historical data and evidence that the student is not expected to be able to attain English language proficiency because of factors directly related to the student's disability and that the student no longer appears to benefit from second language acquisition support in English to address second language acquisition cognitive, linguistic, and affective needs (or is expected to reach that point during the school year).

○ Selection of appropriate English language proficiency assessments

- **Listening:** TELPAS listening or other OLPT from state-approved list
- **Speaking:** TELPAS speaking or other OLPT from state-approved list
- **Reading:** TELPAS reading or other English language reading proficiency test from state-approved list
- **Writing:** TELPAS writing or other English language writing proficiency test from state-approved list

Step 4: Prepare Documentation

Key members of the ARD committee and LPAC document the evidence, recommendation, assessments, and any modified English language proficiency test standards.

Step 5: Discuss Recommended Exit Criteria in Formal ARD Committee Meeting Key members of the ARD committee and LPAC present the documentation at a formal ARD committee meeting. ○ The meeting should take place as early in the current school year as possible or at the end of the year to be applied the next school year. The meeting must occur prior to the student's participation in the identified assessments. ○ Based on discussion at the formal ARD committee meeting, the IEP is updated with documentation of the modified exit criteria if the committee as a whole determines that exit is anticipated.

Step 6: Determine and Document Whether Student Has Met Modified Exit Criteria At the end of the year, the ARD committee, with key LPAC members, meets to review the assessment results and subjective teacher evaluation required under TAC §89.1225(h) to determine whether the student has met the modified exit criteria. ○ The subjective teacher evaluation must reflect the status of the student following the administration of the assessments.

○ This meeting is to be held at the end of the school year, as required by TAC Section 89.1220(g). This means that an additional ARD committee meeting is necessary for students whose annual ARD committee meeting is held at a different time. ○ If the decision is made to exit the student based on the assessment results and subjective teacher evaluation, the ARD committee finalizes and documents the change in placement or program and delineates instructional services including

the monitoring period for exited students. Furthermore, as required under TAC §89.1220(l)(1)(H) relating to exit from bilingual education or ESL services, the LPAC also documents the exit decision in the student's permanent record file.

Required Summer School Programs



§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).
 - (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.

Program Evaluation



§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.