

EDUCATION FOR ENGLISH LEARNERS**Definitions**

English learner means a student who is age 3-21 years, who is enrolled or is preparing to enroll in an elementary or secondary school, and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student the ability to meet state academic standards, the ability to successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society. An English learner may include a student who was not born in the United States or whose native language is a language other than English; a student who is Native American or Alaska Native, or a native resident of the outlying areas, who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or a student who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant. (Education Code 306; 20 USC 7801)

Designated English language development means instruction provided during a time set aside in the regular school day for focused instruction on the state-adopted English language development standards to assist English learners to develop critical English language skills necessary for academic content learning in English. (5 CCR 11300)

Integrated English language development means instruction in which the state-adopted English language development standards are used in tandem with the state-adopted academic content standards. Integrated English language development includes specially designed academic instruction in English. (5 CCR 11300)

Native speaker of English means a student who has learned and used English at home from early childhood and English has been the primary means of concept formation and communication. (Education Code 306)

Identification and Assessments

Note: Education Code 52164.1 and 5 CCR 11307 require the district to administer a home language survey to all enrolled students. A sample home language survey form in English and Spanish is available on the California Department of Education's (CDE) web site.

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

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

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Any student who is identified as having a primary language other than English as determined by the home language survey, and who has not previously been identified as an English learner by a California public school or for whom there is no record of results from an administration of an English language proficiency test, shall be initially assessed for English proficiency using the English Language Proficiency Assessments for California (ELPAC). (Education Code 313, 52164.1; 5 CCR 11518.5)

Each year after a student is identified as an English learner and until the student is redesignated as English proficient, the summative assessment of the ELPAC shall be administered to the student during a four-month period after January 1 as determined by the California Department of Education. (Education Code 313)

Note: 5 CCR 11518.35 specifies "universal tools" that may be used with all students in ELPAC administration, and "designated supports" and "accommodations" that may be used with students with disabilities when specified in their individualized education program or Section 504 plan.

The Individuals with Disabilities in Education Act (20 USC 1412) requires that students with disabilities be included in all state assessments, including the ELPAC as appropriate. Pursuant to 5 CCR 11518.30, students with the most significant cognitive disabilities who cannot participate in the assessment, even with appropriate accommodations, must be given an alternate assessment of English proficiency. 34 CFR 200.16 provides that, if an English learner with a disability is unable to take the assessment with accommodations, the state accountability system must include the student's score on any part(s) of the test for which it is possible to assess the student (i.e., speaking, reading, listening, writing).

Pursuant to Education Code 56305, CDE has developed a manual, California Practitioners' Guide for Educating English Learners with Disabilities, which provides guidance on identifying, assessing, supporting, and reclassifying English learners with disabilities.

Administration of the ELPAC, including the use of variations and accommodations in test administration when authorized, shall be conducted in accordance with test publisher instructions and 5 CCR 11518.5-11518.35.

(cf. 6159 - Individualized Education Program)

(cf. 6162.51 - State Academic Achievement Tests)

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

Note: The remainder of this section specifies notifications that must be sent to parents/guardians regarding assessment results and available programs for English learners. CDE has developed sample notification letters, available on its web site in multiple translations, to notify parents/guardians of the initial identification of a student as an English learner or as initially fluent English proficient and to notify them of the results of an annual assessment.

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

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The Superintendent or designee shall notify parents/guardians of their child's results on the ELPAC within 30 calendar days following receipt of the results from the test contractor or, if the results are received from the test contractor after the last day of instruction for the school year, within 15 working days of the start of the next school year. (Education Code 52164.1; 5 CCR 11518.15)

(*cf.* 5145.6 - Parental Notifications)

Note: The following paragraph is for use by districts that receive federal funds under either Title I or Title III for services to English learners, and may be adapted for use by other districts. Pursuant to Education Code 440 and 20 USC 6312, districts receiving Title I or Title III funds are required to provide parents/guardians with notification of their child's identification as an English learner and placement in a language acquisition program.

The parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title I or Title III funds shall receive notification of the assessment of the student's English proficiency. Such notice shall be provided not later than 30 calendar days after the beginning of the school year or, if the student is identified for program participation during the school year, within two weeks of the student's placement in the program. The notice shall include all of the following: (Education Code 313.2, 440; 20 USC 6312)

1. The reason for the identification of the student as an English learner and the need for placement in a language acquisition program
2. The level of English proficiency, how the level was assessed, and the status of the student's academic achievement
3. A description of the language acquisition program in which the student is, or will be, participating, including a description of all of the following:
 - a. The methods of instruction used in the program and in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction
 - b. The manner in which the program will meet the educational strengths and needs of the student
 - c. The manner in which the program will help the student develop English proficiency and meet age-appropriate academic standards for grade promotion and graduation
 - d. The specific exit requirements for the program, the expected rate of transition from the program into classes not tailored for English learners, and the expected rate of graduation from secondary school if applicable
 - e. Where the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP

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Note: Education Code 313.2 requires that the notice contain information in regard to (1) whether the student is a long-term English learner, or English learner at risk of becoming a long-term English learner, and (2) the manner in which the program for English language development instruction will meet the educational strengths and needs of such students and help them develop English proficiency and achieve academic standards. Districts may send an alternate notice if the definitions of long-term English learners and those at risk of becoming long-term English learners used by the district are broader than those defined in Education Code 313.1, the notice states that the definitions utilized by the district are broader, and the notice contains the information specified in item #4 below.

4. As applicable, the identification of a student as a long-term English learner or at risk of becoming a long-term English learner, as defined in Education Code 313.1, and the manner in which the program for English language development instruction will meet the educational strengths and needs of such students and help such students develop English proficiency and meet age-appropriate academic standards
5. Information about the parent/guardian's right to have the student immediately removed from a program upon the parent/guardian's request
6. Information regarding a parent/guardian's option to decline to enroll the student in the program or to choose another program or method of instruction, if available
7. Information designed to assist a parent/guardian in selecting among available programs, if more than one program or method is offered

Language Acquisition Programs

Note: Pursuant to 5 CCR 11311, districts are required to establish a process for schools to receive and respond to requests from parents/guardians of enrolled students, and those enrolled for attendance in the next school year, to establish a language acquisition program other than, or in addition to, those already available at the school. Each school is required to follow the process even when the district provides the language acquisition program at another school site. The following section includes the components of the process required by 5 CCR 11311 and may be expanded to reflect district practice.

Whenever parents/guardians of enrolled students, and those enrolled for attendance in the next school year, request that the district establish a specific language acquisition program in accordance with Education Code 310, such requests shall be addressed through the following process: (5 CCR 11311)

1. The school shall make a written record of each request, including any request submitted verbally, that includes the date of the request, the names of the parent/guardian and student making the request, a general description of the request, and the student's grade level on the date of the request. As needed, the school shall assist the parent/guardian in clarifying the request. All requests shall be maintained for at least three years from the date of the request.

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2. The school shall monitor requests on a regular basis and notify the Superintendent or designee when the parents/guardians of at least 30 students enrolled in the school, or at least 20 students in the same grade level, request the same or a substantially similar type of language acquisition program. If the requests are for a multilingual program model, the district shall consider requests from parents/guardians of students enrolled in the school who are native English speakers in determining whether this threshold is reached.
3. If the number of parents/guardians described in item #2 is attained, the Superintendent or designee shall:
 - a. Within 10 days of reaching the threshold, notify the parents/guardians of students attending the school, the school's teachers, administrators, and the district's English learner parent advisory committee and parent advisory committee, in writing, of the requests for a language acquisition program
 - b. Identify costs and resources necessary to implement any new language acquisition program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent/guardian and community engagement to support the proposed program goals
 - c. Within 60 calendar days of reaching the threshold number of parents/guardians described in item #2 above, determine whether it is possible to implement the requested language acquisition program and provide written notice of the determination to parents/guardians of students attending the school, the school's teachers, and administrators
 - d. If a determination is made to implement the language acquisition program, create and publish a reasonable timeline of actions necessary to implement the program. If a determination is made that it is not possible to implement the program, provide a written explanation of the reason(s) the program cannot be provided.

The district shall notify parents/guardians at the beginning of each school year or upon the student's enrollment regarding the process to request a language acquisition program, including a dual-language immersion program, for their child. The notice shall also include the following: (5 CCR 11309, 11310)

1. A description of the programs provided, including structured English immersion
2. Identification of any language to be taught in addition to English when the program includes instruction in a language other than English
3. The manner in which the program is designed using evidence-based research and includes both designated and integrated English language development

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4. The manner in which the district has allocated sufficient resources to effectively implement the program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development, and opportunities for parent/guardian and community engagement to support the program goals
5. The manner in which the program will, within a reasonable period of time, lead to language proficiency and achievement of the state-adopted content standards in English and, when the program includes instruction in another language, in that other language
6. The process to request establishment of a language acquisition program not offered at the school
7. For any dual-language immersion program offered, the specific languages to be taught. The notice also may include the program goals, methodology used, and evidence of the proposed program's effectiveness.

Reclassification/Redesignation

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

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

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

Note: Education Code 313 and 52164.6 and 5 CCR 11303 require that the district's reclassification process include, at a minimum, the criteria specified in items #1-4 below. Additional guidance is available on CDE's web site. The district may expand the following list to reflect any additional criteria it has established.

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

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the ELPAC

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Note: Pursuant to Education Code 313.3, as added by AB 1808 (Ch. 32, Statutes of 2018), CDE is required to develop, by June 30, 2020, a standardized teacher observation protocol for use in evaluating a student's English language proficiency, as required by item #2 below, as well as professional development tools to train teachers on the use of the protocol.

2. Participation of the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions related to the student
3. Parent/guardian involvement, including:
 - a. Notice to parents/guardians of language reclassification and placement, including a description of the reclassification process and the parent/guardian's opportunity to participate
 - b. Encouragement of parent/guardian participation in the district's reclassification procedure, including seeking parent/guardian opinion and consultation during the reclassification process

Note: Pursuant to Education Code 313, the fourth criterion requires comparison of student performance on an objective assessment of basic skills that provides an empirically established range of performance of English proficient students of the same age. A letter from CDE to district superintendents (Reclassification Guidance for 2017-18) dated April 28, 2017 clarifies that the Smarter Balanced Summative Assessment may be used as a local measure of the fourth criterion, or districts may select another local assessment. CDE correspondence provides examples of appropriate measures and is available on CDE's web site.

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

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

Advisory Committee

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

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

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

1. The development of a plan for education programs and services for English learners, taking into consideration the school site plans for English learners
2. The districtwide needs assessment on a school-by-school basis
3. Establishment of a district program, goals, and objectives for programs and services for English learners
4. Development of a plan to ensure compliance with applicable teacher or aide requirements
5. Administration of the annual language census
6. Review of and comment on the district's reclassification procedures

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

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

LCAP Advisory Committee

Note: The following section is applicable if the district's student enrollment includes at least 15 percent English learners, with at least 50 students who are English learners. Education Code 52063 requires that such districts establish an English learner parent advisory committee to review and comment on the district's local control and accountability plan; see BP 0460 - Local Control and Accountability Plan. 5 CCR 15495 requires this committee to include a majority of parents/guardians of English learners.

When there are at least 15 percent English learners in the district, with at least 50 students who are English learners, a district-level English learner parent advisory committee shall be established to review and comment on the district's local control and accountability plan (LCAP) in accordance with BP 0460 - Local Control and Accountability Plan. The committee shall be composed of a majority of parents/guardians of English learners. (Education Code 52063; 5 CCR 11301, 15495)

(cf. 0460 - Local Control and Accountability Plan)

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