

Regulation 6174: 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)↵

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

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~~Identification and Assessments~~↵

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~~Each LEA must properly identify and assess all students who have a home language other than English. (EC sections 313, 60810)↵~~

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~~At or before the time of a student's initial California enrollment, an LEA shall conduct, in writing, a home language survey (HLS) to identify whether the primary or native language of the student is a language other than English. (5 CCR Section 11518.5[a])↵~~

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~~If a parent or guardian HLS response indicates a primary or native language other than English, and the LEA determines the student is eligible for initial assessment, the LEA shall promptly~~

~~notify the parent or guardian, in writing, prior to the administration of the English Language Proficiency Assessments for California (ELPAC) initial assessment. (5 CCR Section 11518.5[e])~~

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~~The LEA shall administer the ELPAC initial assessment to each student eligible for the initial assessment, locally produce the official score in accordance with the directions of the test contractor, and notify the parent or guardian, in writing, of the results of the initial assessment within 30 calendar days after the student's initial date of California enrollment.~~

~~(EC Section 313; 5 CCR Section 11518.5[d])~~

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~~Each LEA must annually assess the English language proficiency (ELP) and academic progress of each EL. A LEA shall administer the ELPAC summative assessment during the annual summative assessment window. (EC sections~~

Long-term English learner means:

1. For the purpose of setting the local control and accountability plan (LCAP) priorities, a student who has not attained English language proficiency within seven years of initial classification as an English learner (Education Code 52052)
2. For the purpose of English language proficiency assessment, an English learner in grades 6- 12 who has been enrolled in school in the United States for six years or more and who either: (Education Code 313.1)
 - a. Has remained at the same English language proficiency level for two or more consecutive years, or has regressed to a lower proficiency level; or
 - b. Is a student in grades 6-9 who has scored far below basic or below basic on the prior year's English language arts standards-based achievement test, or a score determined by the Superintendent of Public Instruction on any successor test

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

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, 11518.5)

Any student in kindergarten or grades 1-12, not including transitional kindergarten, 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). Prior to administering the ELPAC, the Superintendent or designee shall notify the student's parent/guardian in writing that the student will be administered the initial ELPAC. (Education Code 313, ~~6081052164.1~~; 5 CCR sections ~~11306, 11518.15[a]~~)

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~~When administering an initial or summative ELPAC assessment to a pupil with a disability, the LEA shall provide designated supports or accommodations, in accordance with the pupil's individualized education plan (IEP) or Section 504 plan. When a pupil's IEP or Section 504 plan specifies that the pupil has a disability that precludes assessment such that there are no appropriate accommodations for assessment in one or more of the listening, speaking, reading, and writing domains, the pupil shall be assessed in the remaining domains in which it is possible to assess the pupil. (5 CCR Section 11518.25)~~

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~~When a pupil's IEP team determines that the pupil has a significant cognitive disability such that the pupil is unable to participate in the initial or summative assessment, or a Section of either test, even with resources, the pupil shall be assessed as specified in the pupil's IEP. (5 CCR Section 11518.30)~~

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11518.5)

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 11518.5-11518.37.

Based on the initial assessment, the student shall be classified either as Initial Fluent English Proficient or as an English learner. The Superintendent or designee shall notify the student's parent/guardian, in writing, of the results of the ELPAC initial assessment within 30 calendar days after the student's date of initial enrollment, or, if administered prior to the student's initial date of enrollment, up to 60 calendar days prior to such enrollment, but not before July 1 of the school year of the student's initial enrollment. The notice shall indicate whether the student met the ELPAC initial assessment criterion for proficiency and include the district's contact information for use if the parent/guardian has questions or concerns regarding the student's classification. (5 CCR 11518.5)

Each year after a student is identified as an English learner and until ~~they are~~ 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)↵

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~~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.~~↵

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The Superintendent or designee shall notify parents/guardians of their child's results on the **summative assessment of 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))

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 ~~notno~~ 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, ~~for English language development instruction~~, 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 ~~their~~ 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~~When the student has been identified for special education, the manner in which the program meets the requirements of the student's ~~IEP~~
-individualized education program
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

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 in accordance with Board Policy 3580 - District Records.

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.

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~~Parents or legal guardians of students enrolled in the school may choose a language acquisition program that best suits their child. "Language acquisition program" refers to educational programs designed to ensure English acquisition as rapidly and as effectively as possible and provide instruction to students on the state-adopted academic content standards, including the ELD standards. The language acquisition programs shall be informed by research and must lead to grade level proficiency and academic achievement in both English and another language. (EC sections 306[c], 310[a]; 5 CCR Section 11309[c])~~

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~~Schools in which parents or legal guardians of 30 students or more per school, or the parents or legal guardians of 20 students or more in any grade request a language acquisition program designed to provide language instruction must be required to offer a program to the extent possible. (EC Section 310[a])~~

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~~When the parents of 30 pupils or more are enrolled in a school, or when the parents of 20 pupils or more in the same grade level are enrolled in a school, request the same or substantially similar type of a language acquisition program, the LEA shall respond by taking actions to demonstrate the timelines and requirements in 5 CCR Section 11311[h] are met by the LEA.~~

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~~In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide in written form an~~

~~explanation of the reason(s) the program cannot be provided and may offer an alternate option that can be implemented at the school. (5 CCR Section 11311[h][3][B])~~

3. If the number of parents/guardians described in ~~item~~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~~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~~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

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
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

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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 deficit 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 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)~~

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~~The procedures used to determine whether an English learner shall be reclassified as fluent English proficient shall include, but not be limited to, and academic deficits in other areas of the core curriculum. (5 CCR 11302)~~

Advisory Committees

~~A school-level English Learner Advisory Committee (ELAC) shall be established when there are more than 20 English learners at the school. Parents/guardians of English learners, elected by parents/guardians of English learners at the school, shall constitute committee membership in at least the same percentage as English learners represent of the total number of students in the school. The school may designate for this purpose an existing school-level advisory committee provided that it meets these criteria for committee membership. (Education Code 313, 52164.652176; 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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- ~~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~~
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- ~~3. Parent/guardian involvement, including:~~
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 - ~~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~~
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 - ~~b. Encouragement of parent/guardian participation in the district's reclassification procedure, including seeking parent/guardian opinion and consultation during the reclassification process~~
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- ~~4. Student performance on an objective assessment of basic skills in English that shows whether the student is performing at or near grade level~~
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~~The Superintendent or designee shall monitor the progress of reclassified students to ensure their correct classification and placement. (5 CCR 11304)~~

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~~The Superintendent or designee shall monitor students for at least two years following their~~

~~reclassification to determine whether any additional academic support is needed.~~

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~~Advisory Committee~~

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~~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 each school with more than 20 English learners. Parents 11308)~~

The ELAC shall be responsible for assisting in the development of a schoolwide needs assessment, recommending ways to make parents/guardians aware of the importance of regular school attendance, and advising the principal and school staff in the development of a detailed master plan for English learners for the individual school and submitting the plan to the Governing Board for consideration for inclusion in the district master plan. (Education Code 52176)

When the district has more than 50 English learners, the Superintendent or designee shall establish a District English Learner Advisory Committee (DELAC), the majority of whose membership shall be composed of parents/guardians of English learners who are not employed by the district. Alternatively, the district may use a subcommittee of an existing districtwide advisory committee on which parents/guardians of English learners ~~shall constitute~~ ~~committee~~ have membership in at least the same percentage as English learners represent of the total number of students in the ~~school~~ district. (Education Code 52176; ~~5 CCR 11308~~)

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~~The district's English language advisory committee)~~

The DELAC shall advise the **Governing** Board of Education on at least the following tasks: (5 CCR 11308)

- ~~The development of a plan~~ Developing a district master plan, including policy(ies), for education programs and services for English learners, taking into consideration the school site plans for English learners
- ~~The~~ Conducting a districtwide needs assessment on a school-by-school basis
- ~~Establishment of~~ Establishing a district program, goals, and objectives for programs and services for English learners
- ~~Development of~~ Developing a plan to ensure compliance with applicable teacher or instructional aide requirements

5. ~~Administration of~~ **Administering** the annual language census
6. ~~Review of and comment~~ **Reviewing and commenting** on the district's reclassification procedures
7. **Reviewing and commenting on the required written parental notifications**

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

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LCAP

Local Control and Accountability Plan (LCAP) Advisory Committee↵

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~~ **Learner Parent Advisory Committee** shall be established to review and comment on the district's ~~local control and accountability plan (LCAP)~~ **LCAP**. Such advisory committee shall provide input regarding the district's existing language acquisition programs and language programs, and, where possible, the establishment of other such programs, in accordance with ~~BP~~ **Board Policy 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)~~↵

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~~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. If the DELAC acts as the ELAC pursuant to Education Code 52063 and 52062, the DELAC shall also review and comment on the development or annual update of the LCAP. (Education Code 52062, 52063; 5 CCR 11301, 15495)~~

The DELAC may also serve as the LCAP ELAC, as specified in Board Policy 0460 - Local Control and Accountability Plan