



ADMINISTRATIVE PROCEDURE

CATEGORY: **Instruction, Special Programs**

SUBJECT: **English Learner Program Compliance**

A. PURPOSE AND SCOPE

1. To outline administrative procedures concerning:
 - a. Initial identification and instructional program placement of students with primary home languages other than English,
 - b. The parental election and parent notification processes, and
 - c. Reclassification of English Learners to fluent English proficient status.
2. **Related Procedures:**

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|---------------------------------------------------|------|
| General Instructional Programs | 4000 |
| Instructional Programs for English Learners | 4250 |

B. LEGAL AND POLICY BASIS

1. **Reference:** California Education Code sections 300-313, 52161-52165, 60810-60812; *Lau v. Nichols* (1974 Federal court decision); *Castaneda v. Pickard* (1981 Federal court decision)

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Office of Language Acquisition.
2. **Definitions.**
 - a. **Biliteracy Program:** An instructional program for English Learners in which students learn in both English and their primary language. An approved Parental Exception Waiver is required for each year of participation in the program.
 - b. **Biliterate:** A term to describe those students who are fully proficient in both English and a second language.
 - c. **California English Language Development Test (CELDT):** A state-mandated test of English proficiency consisting of four sections – Listening, Speaking, Reading, and Writing.
 - d. **English Learner (EL):** A student with a language other than English indicated on the Home Language Survey and who is determined, by the CELDT assessment to be less than fully proficient in English. ELs qualify for enriched English instructional services until they are able to demonstrate full academic proficiency in English and are meeting or approaching grade level standards in core subject areas.
 - e. **English Language Development (ELD):** A program or course of instruction that targets each EL’s specific linguistic needs according to his/her assessed level of English language proficiency and the English Language Development Standards.
 - f. **Exit Criteria:** Acceptable standards on multiple measures (including, but not limited to, the CELDT and California Standards Test of English Language Arts) are required to reclassify an EL to fluent English proficient status.

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- g. **Home Language Survey (HLS):** A questionnaire completed by parents/guardians when students first enroll in the district to identify language(s) used in each student's home.
 - h. **English as a Second Language (ESL):** A term used (mainly by secondary schools) to describe a course of English Language Development appropriate for ELs at the earlier levels of English proficiency.
 - i. **English Only:** A term used to describe students with no language(s) other than English on the Home Language Survey. Typically these students are native speakers of English.
 - j. **Initially Fluent English Proficient (IFEP):** A student who had a language other than English shown on his/her Home Language Survey and was initially assessed as fluent English proficient.
 - k. **Language Proficiency Levels:** Five states of English language proficiency ranging from very little English ability to nearly proficient in English. The levels are used to describe the following skill areas: listening, speaking, reading, and writing. The levels are: Beginning (B), Early Intermediate (EI), Intermediate (I), Early Advanced (EA), and Advanced (A).
 - l. **Limited-English Proficiency:** An inclusive term that describes English skill levels of non- and limited-English proficient ELs.
 - m. **Overall Proficiency Level (OPL):** A combination of a student's CELDT-assessed English proficiency in listening, speaking, reading, and writing.
 - n. **Parental Exception Waiver Process:** The process by which a parent/guardian applies and is approved or denied for an instructional program that includes instruction in the student's primary language (i.e., Bilingual).
 - o. **Primary Language (or Primary Home Language):** Any language other than English listed on the student's Home Language Survey as being used in the home.
 - p. **Mainstream English Cluster (MEC):** An enriched English program for ELs at the higher levels of English language proficiency. A "cluster" of these ELs comprises approximately one-third of the grade level class. ELs in this program receive specialized instructional services, appropriate for their proficiency levels, from specially trained teacher(s).
 - q. **Reclassified Fluent English Proficient (RFEP):** A former EL who has met established multiple criteria demonstrating he/she has attained or is approaching attainment of full academic proficiency in English and can participate equally with average native speakers of English in grade-level core academic subjects.
 - r. **Regular English Program:** A program designed for native and fluent speakers of English.
 - s. **Structured English Immersion (SEI):** An enriched English program for ELs at the earlier levels of English language proficiency. ELs are either grouped together in full grade-level SEI classrooms or clustered together according to proficiency level in grade-level English classrooms. ELs in an SEI cluster should comprise about one-third

of the class. ELs in this program receive specialized instructional services, appropriate for their proficiency levels, from specially trained teacher(s).

- D. IMPLEMENTATION:** Each site, using a system and resources determined by the principal, is required to properly identify, assess, and report all newly enrolled students who have a language other than English shown on their Home Language Survey. Students from this group who are identified and assessed as ELs must be placed in one of two appropriate programs – Structured English Immersion (SEI) or Mainstream English Cluster (MEC). Parents/guardians have the right to seek placement of their child in a Biliteracy Program through the Parental Exception Waiver process. Parents/guardians of students who have a language other than English shown on their Home Language Survey must be notified in writing of their children’s initial language assessment results and instructional program placement, as well as the opportunity to seek a waiver through the Parental Exception Waiver process. In addition, they must be afforded the opportunity to learn about all program options available for their children.
1. **Home Language Survey (HLS).** Upon initial enrollment in the district, the parent/guardian of each student is to answer questions about language usage in the home by completing the HLS. If a language other than English is indicated on the HLS, the student must be assessed with the California English Language Development Test (CELDT) within 30 calendar days of enrollment. This information is entered in the district data system *and* a signed, dated copy of the completed HLS should be filed in each student’s cumulative folder.
 2. **Initial Identification of English Learners.**
 - a. **Initial English Assessment.** Students with home languages other than English are designated as ELs or Initially Fluent English Proficient (IFEP) based on CELDT results. All portions of the CELDT must be scored on-site for these initially identified students, and the results must be entered into the district data system and provided to the assigned English teacher. Completed CELDT student answer documents used for initial assessment/identification are to be delivered to the Assessment Services Department on a monthly basis. Students enrolling in the district with a valid CELDT score from another California school do not need to be reassessed for the purpose of initial identification. However, the CELDT scores must be entered into the district data system.
 - b. **Language Proficiency Codes.** Each designated language proficiency level has a corresponding language proficiency code. These levels are based on CELDT assessment. All possible codes and the corresponding student designations are listed in the table below.

| Student Designation | Code | Specific Overall English Language Proficiency Level (OPL) Descriptor | Explanation |
|---------------------|------|----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| English Learner | B | Beginning | Reflects overall English proficiency level based on most recent CELDT assessment. |
| | EI | Early Intermediate | |
| | I | Intermediate | |
| | EA | Early Advanced | |
| | A | Advanced | |
| | ILEP | Initially Limited English Proficient | Only for ELs who have insufficient CELDT data to calculate a more descriptive proficiency level. |
| Fluent | IFEP | Initially Fluent English | Assessed as fluent in English at |

| Student Designation | Code | Specific Overall English Language Proficiency Level (OPL) Descriptor | Explanation |
|----------------------------|-------------|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| English Proficient | IFEP | Proficient | enrollment and had home language(s) other than English indicated on Home Language Survey. |
| | RFEP | Reclassified Fluent English Proficient | Former EL who has been reclassified to fluent English proficient status. |
| | (None) | English Only | Native English speaker whose parent/guardian indicated no other home language(s) on Home Language Survey. |
| Not Assessed | NASP | Not (unable to be) Assessed/ Special Education | Student lacking any language skills that would permit assessment or deaf/hard of hearing student not in need of EL services. |
| | TEST | Not Yet Assessed | Needs to be assessed with CELDT; language other than English is listed on Home Language Survey; might possibly be designated an English Learner upon CELDT assessment. |

- c. **Initial Primary Language Assessment.** Any newly enrolled (to the district) student designated an EL based on CELDT results must be further assessed in the language other than English indicated on the student’s HLS. This assessment must occur within 90 calendar days after the student’s enrollment date. Results of the initial primary language assessment must be entered on-site into the district’s data system, and the actual student test booklets/forms should be filed in the student’s cumulative folder. The district uses the primary language assessment instruments listed below.
- (1) **Spanish.** The Spanish Idea Proficiency Tests (IPT) is used for Spanish speaking ELs. Students in grades K-2 take only the Spanish Oral IPT; students in grades 3-6 are further assessed in Spanish reading and writing if they are assessed as being orally fluent with the Spanish Oral IPT. Students in grades 7-12 take all portions of the Spanish IPT – Oral, Reading, and Writing.
 - (2) **Cambodian, Chinese, Hmong, Lao, Somali, Tagalog, Vietnamese.** The San Diego Observation Assessment Instrument (SDOAI) is used to assess oral language proficiency of ELs in grades K-12 entering the district from homes where the Cambodian, Chinese, Hmong, Lao, Somali, Tagalog, or Vietnamese language is shown on the Home Language Survey. Use of the SDOAI depends on the availability of bilingual personnel. The Primary Language Informal Assessment (described immediately below) must also be conducted for students in grades 3-12 taking the SDOAI.
 - (3) **Additional Languages.** The district’s Primary Language Informal Assessment serves to gather information about a student’s primary language usage/ability in cases where no bilingual person or no formal language assessment tool is available for the particular language shown on the HLS. The Informal

Assessment is also used in conjunction with the SDOAI fir students in grades 3-12. It is a simple questionnaire that, in many cases, can be conducted directly with the student.

3. **Instructional Program Placement.** State law requires that all children in California public schools be placed in English language classrooms. Newly enrolling students who have been assessed and found to be ELs are placed in either the Structured English Immersion (SEI) program or the Mainstream English Cluster (MEC), depending on their level of English language proficiency as measured with the CELDT. Generally, ELs at the earlier levels of English proficiency participate in an SEI program, while ELs at the higher levels (but not assessed as fully proficient in English) participate in MEC. Parents/guardians are then notified of assessment results. Parents/guardians may at any time request that their children be placed in the MEC program. Such requests must be granted. Program placement information must be entered and/or verified in the district's data system.
4. **Parent Notification of Initial Assessment.** Parents/guardians must be informed of the placement of their children in the SEI or MEC program and must be notified of the opportunity to apply to participate in a bilingual program. The district's "Parent Notification of Initial English Language Proficiency Assessment and Placement" forms are used for this purpose, with distribution to:
 - a. Parent/guardian,
 - b. English teacher,
 - c. EL Coordinator, and
 - d. Student's cumulative folder.

The date of parent notification or consultation must be entered in the district's data system. Additional opportunities for informing parents/guardians of their right to request bilingual programs may include providing program brochures with parental notification forms, inviting parents/guardians to informational meetings, conferencing with parents/guardians upon initial enrollment, or making other personal contacts.

5. **Parent Exception Waiver Process – Requesting the Biliteracy Program.** Parents/guardians must be informed of the placement of their children in a mostly English program and be notified of the opportunity to apply for the Biliteracy Program by requesting a Parental Exception Waiver. Procedures for informing parents and granting parental exceptions (as permitted by Education Code sections 310 and 311) must be established at each school site and must include:
 - a. Informing parents/guardians. Parents/guardians of ELs must be fully informed regarding all program options and the process for obtaining and granting Parental Exception Waivers. A full written (and upon request spoken) description of the English program options (SEI, MEC), the Biliteracy Program option, and any other available district educational opportunities must be provided to parents/guardians. This description needs to address the educational materials used in the different options. Parents/guardians can be informed using a variety of strategies and tools, such as:
 - (1) District parent notification forms (as noted above, these provide basic information).
 - (2) District and site-developed brochures and program descriptions.

- (3) Parent/guardian meetings. Schools should establish parent/guardian meetings to fully inform parents/guardians of the program options.
 - (4) Parent conferences. Conferring with parents/guardians upon initial enrollment or other personal contacts.
 - (5) School staff. The English Learner Support Teacher (ELST) or EL Coordinator should be prepared to properly inform parents/guardians of program options, answer questions, and provide "Parental Exception Waiver" forms.
- b. **Visiting the School to Request a Waiver.** Parents/guardians must personally visit the school to request a "Parental Exception Waiver" form. In the case where visiting the school will present a hardship, parents/guardians may send the waiver form to the school, along with the completed "hardship" form. Each school should have "Parental Exception Waiver" forms readily available and be prepared to answer any questions.
- c. **Thirty- (30) Days in English Requirement.** Parents/guardians must also be informed that, even with an approved "Exception Waiver" form, a student may not be placed in the Biliteracy Program before completing a 30-day placement in a mostly English language classroom. This 30-day placement in an English classroom is required only for the initial enrollment in a California school and need not be repeated each subsequent year.
- d. **Renewal.** Parental Exception Waivers are valid for that school year only and must be renewed annually. To continue in the Biliteracy Program, parents/guardians renew their choice each year by visiting the school and submitting a new Parental Exception Waiver for the principal's consideration. Schools should schedule informational parent meetings and notify parents/guardians of the renewal requirement each spring, to better plan for the next school year.
- e. **Criteria for Approval.** Parental Exception Waivers for ELs may be granted under any one of the following conditions:
- (1) *Students who already know English:* The student scores at or above the state average for his/her grade level or at or above the 5th grade average, whichever is lower, on a standardized test of English vocabulary, comprehension, reading and writing.
 - (2) *Older students:* The student is 10 years or older, and the principal and staff believe that the Biliteracy Program would be better in helping the student learn English and accessing core curricula.
 - (3) *Students with special needs:* The student has already been placed for at least 30 calendar days in an English language classroom (anywhere in the state of California) and it is the informed belief of the principal and staff that the child has educational, physical, emotional, or psychological needs that are better met through the Biliteracy Program. Note: A "Special Needs" form must be completed and filed for any student for whom an "Exception Waiver" has been granted under this circumstance.
- f. **Approval/Denial of Parental Exception Waiver Requests.**

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- (1) Parental Exception Waiver Requests must be acted upon within 20 instructional days of submission to the school principal (however, not within the 30-day placement in an English language classroom) or no later than 10 days after the expiration of that 30-day English language classroom placement, whichever is later.
 - (2) Parents/guardians must be notified of the action taken.
 - (3) Applications that are denied must include a written explanation of the reason(s) for the denial and the process to appeal.
- g. **Program Placement.** The parental exception process is followed for all ELs at all district schools. Any parent/guardian of an EL who expresses an interest in a Biliteracy Program should be provided with complete program options information and invited to complete and submit a "Parental Exception Waiver" form even if the school does not currently offer such a program. Students with approved Parental Exception Waivers should be placed as follows:
- (1) *Schools with Biliteracy Programs:* Students should be placed in the appropriate grade level class. Students must be placed appropriately. If the number of students approved for biliteracy exceeds the appropriate class size, reorganization of students and classrooms might be warranted, or an additional class may be to be established.
 - (2) *Schools with no current Biliteracy Program:* Individual schools in which 20 students or more of a given grade level receive an approved waiver shall be required to offer such as class; otherwise they must allow the student to transfer to a district school in which such a class is offered or, if the transfer option is not elected, place the student in the appropriate SEI or MEC classroom.
- h. **Appeal Process.** In the event that a Parental Exception Waiver is denied, parent/guardian must be informed in writing as to the specific reason(s) for the denial and the process for appealing the decision. Each case must be decided on its own merits. The appeal process includes the following steps:
- (1) Appeal to school site principal:
 - (a) The principal provides to the parent/guardian a written explanation for the denial of the Parental Exception Waiver, including any relevant student information and achievement data. The rationale must focus on the individual student.
 - (b) If the parent/guardian contests the decision, a conference with the parent/guardian, principal, and other appropriate educational staff is held. Every attempt to resolve the situation should be made at the site level. At or immediately following the conference, parents/guardians are notified of the determination to uphold or change the original decision to deny the waiver.
 - (2) Appeal to Area Superintendent:
 - (a) If the parent/guardian is not satisfied with the principal's determination, the parent/guardian may submit a parental exception appeal letter to the

appropriate Area Superintendent. The letter should include the specific facts regarding the process and the rationale of the parent/guardian.

- (b) The site administrator also submits a copy of the denied "Parental Exception Waiver" form to the Area Superintendent, along with any relevant documentation related to the process and timelines followed, specific facts and allegations, and achievement data and other information used to support the decision denying the application.
 - (c) Area Superintendent makes a determination on behalf of the Superintendent whether the Parental Exception Waiver denial conforms with state and district requirements and whether the denial is upheld.
 - (d) Area Superintendent notifies the parent/guardian and principal in writing of the determination. If the denial is upheld, he/she informs the parent/guardian of the option to send a written request to Legal Services for a review panel hearing or a hearing at a regularly scheduled, closed session of the Board of Education
- (3) Appeal to Review Panel:
- (a) The review panel, made up of General Counsel, Area Superintendent, and principal, convene to review all documentation and to determine whether the denial should be upheld. When deemed necessary, the parent/guardian may be contacted by the panel for further information.
 - (b) The panel makes a determination whether the denial is upheld.
 - (c) Legal Services notifies parent/guardian of the panel's determination. If the denial is upheld and the parent/guardian still wishes to be heard before the Board of Education, the panel prepares and submits its finding to the Board prior to the hearing.
- (4) Appeal to the Board of Education:
- (a) The parent/guardian is scheduled for up to three (3) minutes to present his/her case at the Board's closed session.
 - (b) Translation services are provided upon request.
 - (c) The principal is notified in advance of the date and time of the hearing and of the opportunity to make a presentation at the closed session.
 - (d) Following the hearing, the Board of Education makes determination and notifies parents/guardians and principal of the decision. No further appeal of this decision is available.
- i. **Record Keeping.** Accurate records regarding Parental Exception Waivers requested, granted, rescinded, and denied must be maintained at the site. In addition, this information must be entered in the district's data system.
6. **Reclassification to Fluent English Proficient (Duration of Services).** A student qualifies for reclassification when his/her CELDT and California Standards Test of English Language Arts results demonstrate he/she has attained or is approaching attainment of full academic

proficiency in English listening, speaking, reading, and writing and the student can participate equally with average native speakers of English in core academic subject areas at his/her grade level.

- a. Specific requirements are listed on the district's "English Learner Reclassification Profile."
- b. When an EL meets the established multiple reclassification criteria, the site is to complete and submit the "Student Reclassification Profile" to the Office of Language Acquisition for approval.
- c. If approved, department staff will enter the approval information in the district's data system and return the original profile to the site. At this point, the student's OPL status will be changed to RFEP.
- d. Site staff then notifies/consults with the parents/guardians and enters the corresponding data in the district's data system. A district "Reclassification to Fluent English Proficient" parent letter is available for this purpose. A copy of the letter should be filed in the RFEP student's cumulative folder.
- e. School sites are to use the district's data system to record and monitor follow-up reviews of RFEP students. State law requires a minimum of three (3) follow-up reviews, conducted after a student is reclassified, to ensure satisfactory progress. Each site must establish a procedure for conducting follow-up monitoring of RFEP students.
- f. For students that were reclassified before 2001, follow-up dates automatically show reviews conducted at six-month intervals following the date of reclassification. A comment of "See Cum" indicates that follow-up review documentation is available in the student's cumulative folder.
- g. RFEP students have demonstrated that they are ready to participate in a "regular" program designed for native and fluent speakers of English. This does not necessarily mean the student will change classrooms or teachers on the exact date of reclassification. Elementary students will typically finish the school year with the same teacher and classmates, while course schedules for secondary students will be adjusted (as necessary) at the semester break. Parents/guardians of RFEP students participating in the Biliteracy Program have the option of re-applying for that program on an annual basis but, because the student is no longer an EL, placement is not guaranteed.

E. FORMS AND AUXILIARY REFERENCES

1. English Learner Reclassification Profile, PS #2991
2. Home Language Survey, PS #3043
3. Master Plan for English Learners, available from the Office of Language Acquisition
4. Parental Exception Waiver form (English) – PS #3010, (Spanish) – PS #3012
5. (Parental Exception) Special Needs Inventory (English) – PS #3015, (Spanish) – PS #3017

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6. (Parental Exception) Affidavit (Unable to Visit School) form (English) – PS#3013, (Spanish) – PS #3014
 7. Parent Letter: Reclassification to Fluent English Proficient (English) – PS #2995, (Spanish) – PS # 2996, (Tagalog) – PS #2997, (Hmong) – PS #3004, (Lao) – PS #3005, (Vietnamese) – PS #3006, (Cambodian) – PS #3009, (Somali) – PS #3863
 8. Parent Letter: Reclassification to Fluent English Proficient *from the Biliteracy Program* (English) – PS #3018, (Spanish) – PS #3019
 9. Parent Notification of Initial English Language Proficiency Assessment and Placement (K-12) (English) – PS #3020, (Spanish) – PS #3021, (Vietnamese) – PS #3022, (Lao) – PS #3023, (Cambodian) – PS #3026, (Somali) – PS #3504
 10. Parent Notification of Primary Language Proficiency Assessment (K-12) (English) – PS #3865, (Spanish) – PS #3866, (Vietnamese) – PS #3867, (Lao) – PS #3868, (Cambodian) – PS #3869, (Somali) – PS #3870

F. REPORTS AND RECORDS

1. EL records are to be kept in student cumulative files.

G. APPROVED BY



General Counsel, Legal Services
As to form and legality

H. ISSUED BY



Chief of Staff