Board Briefing: Understanding Bilingual Exceptions & ESL Waivers

Under **Texas Administrative Code (19 TAC §89.1205)**, school districts are legally mandated to offer specific language program models to Emergent Bilingual (EB) students. When a district cannot fully staff these mandated programs with appropriately certified teachers, it must file a waiver request with the Texas Education Agency (TEA). These requests are split into two categories depending on the grade level and program type:

1. Bilingual Exception

- When it is required: A district must file a Bilingual Exception if it reaches an enrollment threshold of 20 or more Emergent Bilingual students in the same grade level (Pre-K through Elementary) district-wide who speak the same home language (typically Spanish), but the district does not have enough certified Bilingual Education teachers to staff those classrooms.
- The District's Obligation: While operating under an exception, the district must still provide a modified program (such as an ESL program taught by an ESL-certified teacher) to meet the students' needs. The district must also submit a comprehensive action plan to the TEA detailing its active recruitment efforts and financial strategies to help current teachers obtain their bilingual certifications.

2. ESL Waiver

- When it is required: A district must file an ESL Waiver if it cannot provide the required ESL program to one or more EB students because the assigned classroom teacher does not hold the proper Texas ESL certification. This applies to both elementary and secondary grade levels.
- The District's Obligation: Classrooms under a waiver must still implement supportive instructional strategies. The district must outline a professional development plan to the TEA showing how it is actively training and funding those uncertified teachers so they can successfully pass their Texas ESL Certification exams before the waiver expires.