

***674 -English Learner Programs [Note: This is a new title for this policy, based upon new language in the Every Student Succeeds Act (ESSA)]. The ESSA, passed in December 2015, adopts the term "English Learner (EL) in place of "limited English proficient."

Helping Idaho students continually progress in their mastery of the English language is an integral part of the education process. All students, including ~~limited English proficient (LEP)~~English learner (EL) students, represent a broad range of abilities and interests. For this reason student progress alone cannot serve as the only criterion for the placement and retention of students in special programs for LEP-EL students; neither can it be the only criterion used to judge the success of a school program.

The schools in this district are required to make a reasonable effort to address the special language deficiencies of LEP-EL students. The programs and practices used in this district will be reasonably calculated to effectively implement the educational theory adopted by each school. However, there is no guarantee for the success of every individual student in meeting pre-specified criteria of English language proficiency.

DEFINITIONS

An LEP-EL student is defined as a student who:

- Who is aged 3 through 21;
- Who is enrolled or preparing to enroll in an elementary school or secondary school;
- Who was not born in the United States or whose ~~Has a~~ native language is a language other than English; or -who is a Native American or Alaska Native, or a resident of the outlying areas and comes from an environment where a language other than English is dominant ~~has had a significant impact on the individual's level of English language proficiency;~~ or 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; and
- Whose difficulties speaking, reading, writing or understanding the English language may be sufficient to deny the individual (i) the ability to meet Idaho's challenging academic standards; (ii) the opportunity to achieve successfully in classrooms where the language of instruction is English; or (iii) to fully participate in our society.

"IRI" means the Idaho Reading Indicator.

"ISAT" means the Idaho Standards Achievement Test.

“L1 EL student” means a student who qualifies as EL and who is new to a U.S. school within the last twelve (12) months.

“LIEP” means language instruction educational program(s).

ENTRANCE PROCEDURES FOR EL STUDENTS

The following procedure will be used for the identification of ~~LEP-EL~~ students:

1. Within thirty (30) days following commencement of the school year, or when a student first enrolls in this district, students should be identified as potential ~~LEP-EL~~ through appropriate screening and/or teacher observation.
2. a. The district will administer the statewide Home Language Survey (HLS) to all newly enrolling students to determine whether a language other than English is spoken in the home.
3. If a student is identified as a potential EL, the district will use additional resources and data to determine whether the student has already been identified as an EL in another district. If the following resources indicate that the student either has screened out of EL eligibility or has previously exited from EL programming, then the student does not qualify for EL placement:
 - i. Idaho’s English Learner Management System (ELMS)
 - ii. Cumulative file review for WIDA assessments
 - iii. Cumulative file review for English Learner Plans
 - iv. Cumulative file review for EL exit forms
 - v. Communication with previous district (if necessary)
4. If the student is identified as a potential EL student, the district will proceed with English Language Proficiency (ELP) Screener Assessment, either WIDA Kindergarten W-APT or WIDA Screener, depending on the student’s grade level and time of year of enrollment. The district will use statewide EL entrance criteria to determine whether a student qualifies for EL or whether they screen out of EL eligibility.
5. Screener assessment and program placement will occur within thirty (30) days of the student’s enrollment in the district.
6. If the student’s assessment score qualifies him/her for participation in the district’s language instructional education program, the district will notify the parents by letter in a language understandable to the parents (to the extent practicable) indicating that their child was identified as needing specific English language development services. Parents/guardians will be given an opportunity to waive any English language development services, but not annual assessment.

Identification of Native American Students

All procedures for ELs apply if the Native American student's HLS indicates that a language other than English is spoken in the home. Native American students can be considered for English language services, but will not be identified solely on the basis of being Native American.

EL PROGRAMS

The programs and practices used with ~~LEP-EL~~ students will be reasonably calculated to effectively implement the educational theory adopted by this district and will:

- a. Be recognized as sound by some experts in the field; or
- b. Be recognized as legitimate educational strategies; and
- c. Be modified if it is determined that this district's programs prove to ~~by-be~~ unsuccessful after a legitimate trial period.

EL students are entitled to instructional programs that lead to proficiency in English. Once students have been placed in an alternative language program, they will be provided with services until they are proficient enough in English to participate meaningfully in the regular educational program. Factors to take into account will include:

- a. Whether the students are able to keep up with their non-~~LEP-EL~~ peers in the regular educational program;
- b. Whether the students are able to participate successfully in essentially all aspects of the school's curriculum without the use of simplified English materials;
- c. Whether the students' retention-in-grade and dropout rates are similar to those of their non-~~LEP-EL~~ peers.
- d. ~~LEP-EL~~ students will not be placed in special education programs that do not address the students' inability to speak or understand English, but will be placed in programs that meet their needs.
- e. ~~LEP-EL~~ students will not be categorically excluded from gifted/talented programs or other specialized programs.

Educational justifications for excluding a particular EL student from a specialized program may include:

- a. Time for the program would unduly hinder the student's participation in an alternative language program; and
- b. The specialized program requires proficiency in English language skills for meaningful participation.

Adequate staff and necessary resources will be provided for a successful EL program. All EL programs will be periodically evaluated or modified as appropriate to ensure that these programs are successful. Success is measured by EL students overcoming their language barriers sufficiently well and sufficiently promptly to participate meaningfully in this district's education programs.

STATEWIDE ASSESSMENTS FOR EL STUDENTS

EL students in this district will take the ISAT, ACCESS 2.0 and IRI tests, except as provided herein.

ISAT: L1 EL students are exempt from the English Language Arts ISAT. L1 EL students still must take the Math ISAT and the Science ISAT for grades 5th and 7th.

IRI: All EL students in this district, including L1 EL students, are required to take the IRI.

EXITING PROCEDURES FOR EL STUDENTS

The following procedures and criteria will be used to exit students from EL programs:

1. The district will review annual EL proficiency assessment data to determine which students have met Idaho's EL exit criteria using the WIDA ACCESS 2.04 or Alternate ACCESS assessments.
2. When students meet the exit criteria on the English language proficiency assessment, district staff will redesignate students to "exited year 1 monitoring" status in the school's information system. The exiting process for eligible students must be completed before the end of the school year in which the student met the exit criteria. In other words, the district will use the results from the spring ACCESS 2.0 and Alternate ACCESS assessment to update students' EL status in the school information system and inform parents by the end of the school year.
3. The district will use the statewide exit form. The form will be shared and explained to parents/families in a language they can understand to inform them of their child's program exit and into a monitoring status for two (2) years.

The district may use additional objective criteria related to English proficiency to decide if an EL student who scores proficient on the ACCESS 2.0 or Alternate ACCESS assessment is ready for exit or requires additional language assistance services. However, these additional criteria will not serve as a substitute for a proficient score on assessments, as established by the Idaho Department of Education. Students will not be exited from ~~LEP~~ EL programs unless they can read, write, and comprehend English well enough to participate meaningfully in this district's education programs. Alternative programs will not be a means to segregate national origin minority students.

REPORTING

This district will report annually to the Idaho Department of Education on an appropriate form the following:

- a. Total number of children participating in the LEP-EL program;
- b. Progress made by students enrolled in the program;
- c. Number of students exited from the program and the criteria upon which this decision was made;
- d. Proposed changes, if any, for the subsequent year.

If this district does not have EL students enrolled, it will certify that fact to the Idaho Department of Education under the signature of the superintendent of schools or the chairman of the board of trustees.

PARENTAL NOTIFICATION

The district will inform parents annually regarding their child's placement in a LIEP within thirty (30) calendar days after the beginning of the school year or within the first two (2) weeks of placement in the LIEP for students who enroll after the start of the school year. The letter will include the following:

- The reason for EL identification;
- The child's current level of English language proficiency, how it was assessed, and the status of the child's academic placement;
- Type of LIEP the child is being placed into and other available district LIEP options;
- How the program will meet the educational needs of the child;
- Exit requirements; expected graduation rate, and expected rate of transition to a classroom not tailored for EL students;
- In the case of a child with a disability, how the LIEP meets the goals in the child's Individual Education Plan (IEP); and
- Information for parents on how to withdraw their child from the district LIEP services or to choose another program or method of instruction.

The notice will be provided, to the extent practicable, in a uniform format that is in a language understandable by the parents.

The district will also annually inform parents/guardians of their right to waive district LIEP services. However, parental waiver of EL services does not exempt the child from annual ACCESS 2.0 assessment or the removal of any EL designation.



LEGAL REFERENCE:

Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (20 U.S.C. §§6301 *et seq.*)

Title VI of the Civil Rights Act of 1964

42 USC Section 2000d, *et seq.*

Lau v. Nichols, 414 U.S. 563, 94 S. Ct. 786 (1974)

Castaneda v. Pickard, 648 F.2d 989 (5th Cir. 1981)

Idaho Migrant Council, Inc. v. Board of Education, Civil No. 79-1068 (1983) (Consent Decree)

Office for Civil Rights Memorandum to OCR Senior Staff from Williams, September 27, 1991

Office for Civil Rights Memorandum to OCR Senior Staff from Williams, April 6, 1990

Office for Civil Rights, Dear Colleague Letter, January 7, 2015

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