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BP 6174 BILINGUAL-BICULTURAL EDUCATION/ENGLISH LANGUAGE LEARNERS

Title has been updated. Original Title: BILINGUAL-BICULTURAL EDUCATION LIMITED ENGLISH PROFICIENCY

Note: Under the federal ~~No Child Left Behind and Bilingual Education Acts~~ Every Student Succeeds Act, which amends the English Language Acquisition, Language Enhancement, and Academic Achievement Act, districts have specific obligations toward ~~limited-English proficient students~~ English learners, including immigrant children and youth, and their families. School districts must develop programs for ~~limited-English proficient (LEP) students that emphasize English language instruction, and that have a primary goal of mainstreaming LEP students into regular classroom settings.~~ English language learners (ELL) that are designed and implemented to increase English language proficiency and academic achievement in meeting challenging academic standards and providing high-quality professional development to ELL classroom teachers. School districts are required to notify the families of students placed in an LEP program as soon as this occurs. Notification should include: (1) an explanation of why their child has been placed in the program; (2) a description of the program their child is in, as well as a description of all other types of available language programs; (3) notice of a parent's right to choose among instructional programs if more than one is available; (4) an explanation of how the current program will help their child to develop academically, learn English, and achieve the standards necessary for grade promotion and graduation; and (5) notice of a parent's right to have his or her child moved from an LEP program to a regular program if they so desire. School districts must provide required parent notifications in a uniform format that is comprehensible to families, and, to the extent possible, in a language that can be understood by families.

Note: AS 14.30.400 mandates districts to provide in accordance with state regulations a bilingual-bicultural education program for each school with eight or more students of limited English-speaking ability whose primary language is other than English. 4 AAC 34.055 requires each district enrolling limited-English-proficient students to take appropriate steps to develop their English skills and to provide meaningful participation in the academic program. For districts enrolling eight or more LEP ELL students in a single school, the district must submit to the Department of Education and Early Development an annual plan of service for LEP-ELL pupils. The following sample policy may be revised to reflect district philosophy and needs. The plan should be filed by April 15 and the district should implement the plan of service the year following its submission. The district may designate the effective dates of the plan, which can encompass up to five school years. Any changes to an existing plan of service must be filed with EED before implementing the changes.

English Language Learners Program And Plan of Service

In accordance with the School Board's philosophy mission to provide a quality

educational program to all students, students who are English language learners (ELL) ELL will be identified, assessed and provided appropriate services, which may include bilingual/bicultural or English as a second language instruction. In addition, the district shall provide an appropriate planned instructional program for identified students whose dominant language is not English. The purpose of the program is to increase the English proficiency of eligible students so that they can attain meet the same challenging academic standards adopted by the School Board and achieve academic success. Students who have limited English proficiency (LEP) will be identified, assessed and provided appropriate services, which may include bilingual/bicultural or English as a Second Language instruction. that all students are expected to meet.

The district shall submit an annual plan of service if eight or more ELL students are enrolled in a single school. The plan of service shall provide:

1. A statement of the district's educational goals and instructional methodology;
2. The district's plan of identification of all students who are or who may be ELL students, including the use of a state-approved assessment for identification of English language proficiency;
3. The district's procedure for assessing the educational progress of ELL students;
4. The district's program of services and instructional model for ELL students;
5. An identification of instructional staff and educational resources;
6. The district's process for monitoring the academic progress of former ELL students for two years after they are no longer identified as ELL students;
7. The district's program evaluation that addresses the effectiveness of the program in meeting students' English-language development needs, in achieving student academic progress goals, and reflecting any identified need for program modification; and
8. Parent and community involvement.

The Superintendent or designee shall implement and supervise an LEP-ELL program that ensures appropriate LEP-ELL instruction and complies with federal and state laws and regulations. Students shall have access to and be encouraged to participate in all academic and extracurricular activities of the district.

Students in limited-English proficiency programs shall receive instruction in the core curriculum through their primary language when possible and appropriate in order to sustain academic progress. Academic instruction provided in English shall, whenever necessary, be specially designed and presented so as to facilitate complete understanding of the total academic content. Students shall also receive instruction which promotes positive self-concepts and cross-cultural understanding.

(cf. 6141.3 - Multicultural Education)

Students who are taught core academic subjects in non-English-speaking classes shall spend as much time as possible in classrooms with students who speak fluent English.

The LEP-ELL program shall be designed to provide instruction that meets each student's individual needs, based on assessment of English proficiency in listening, speaking, reading and writing. Adequate content area support shall be provided while the student is learning English, to assure achievement of academic standards. Students participating in LEP-ELL programs shall be required, with accommodations, to meet established academic standards and graduation requirements adopted by the School Board.

Identification and Placement

Note: [4 AAC 34.055](#) requires the district's plan of service to provide the district's plan for the identification of pupils who are limited English proficient.

Note: Under [4 AAC 34.090](#), "limited English proficient" means an individual who (a) is between 3 and 21 years old; (b) is enrolled or preparing to enroll in an elementary or secondary school; (c) falls into one or more of the following categories of individuals: (i) an individual not born in the United States or whose native language is a language other than English, or (ii) is an American Indian, 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; and (d) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the: (i) the ability to obtain a proficiency level of proficient or advanced achievement levels that meet standards as described in [4 AAC 06.739](#), on the ~~subtests~~ state assessment in reading English and language arts or in reading and language arts under [4 AAC 06.737](#) or [4 AAC 06.755](#); (ii) the ability to obtain a passing score on the subtests in reading and language arts under [4 AAC 06.755](#); (iii) the ability to successfully achieve in classrooms where the language of instruction is English; or (iv) (iii) the opportunity to participate fully in society.

The Superintendent or designee shall maintain procedures which provide for the careful identification, assessment and placement of students of limited English proficiency in accordance with state regulations and the district's service plan. On an annual basis, the district shall administer a state approved assessment for identification of English language proficiency to all students who may be eligible for services have limited English proficiency, but who have not already been identified as ELL students.

An individual student's participation in the bilingual/bicultural program is voluntary on the part of the parent/guardian.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

Standardized Assessment

Note: ~~4 AAC 06.775, adopted by the Department of Education and Early Development in 2003, requires the participation of all LEP students in the statewide student assessment system. This includes standard norm-referenced testing, standards-based testing, and the high school graduation qualifying exam.~~ [4 AAC 06.776](#) requires the participation of all ELL students in the statewide student assessment system. This includes standard norm-referenced testing, standards-based testing, and a college and career readiness assessment. Under federal law, all LEP ELL students served by programs funded under Title III must be assessed annually. Further, states may not exempt LEP students from any portion of an annual ELP assessment, nor "bank" the proficient scores of ELP students in particular domains in any given year until such time as a student is proficient in all domains.

Students identified as limited English proficient shall participate, either with or without an accommodation, in statewide student assessments. The Superintendent or designee shall

appoint a team that includes parents and teachers to determine the necessary accommodations for students with limited English proficiency, if practicable, a teacher with experience in teaching students with limited English proficiency to determine the necessary accommodations for students with limited English proficiency.

“Accommodations” include a change in the manner in which a test included in the statewide student assessment system is given to a student, and that does not alter what is measured by the assessment. The team will document the accommodation decision.

Note: Accommodations are to be determined under DEED’s Participation Guidelines for Alaska Students in State Assessments. “Modifications” may not be provided by the team. “Modifications” means a change to either the content or the administration of a test included in the statewide student assessment system, if the change alters what is measured by that test. 4 AAC 06.776.

Reassignment

Note: Pursuant to 4 AAC 34.055, the district’s service plan must identify the procedure for assessing the educational progress of LEP ELL pupils. Additionally, a student’s parent/guardian may request placement in a regular school program. In 2003, the regulation was amended to provide an objective standard for when LEP services are no longer required. The regulation provides an objective standard for when ELL services are no longer required. A student will remain eligible for services until the student obtains on tier B or tier C of the approved annual assessment a: 1) composite score of 5.0 or higher; and 2) score of 4.0 or higher in each of the tested domains of reading, writing, speaking and listening.

Students of limited English proficiency shall be reassigned as fluent-English proficient when they have acquired the English language skills of comprehension, speaking, reading, and writing necessary to receive instruction and achieve academic progress in English only, at a level substantially equivalent to that of students of the same age or grade whose primary language is English. A student will remain eligible for services until the student:

- 1) Is not assessed as an LEP student for two consecutive annual assessments of English proficiency; and
- 2) In the statewide assessment system, obtains a proficiency level of proficient or advanced on the subtests in reading and writing, or reading and language arts.

obtaining assessment scores as established by law.

The Superintendent or designee shall provide subsequent monitoring and support of reassigned students.

Parent/Guardian and Community Involvement

Note: 4 AAC 34.055 requires the district’s plan of service to provide for the involvement of parents/guardians and community members in the bilingual-bicultural educational program.

The School Board recognizes the need to involve parents/guardians and community members in the development, evaluation and improvement of district programs. The Superintendent or designee shall inform and involve parents/guardians and community members as required by law.

Note: ~~Under the No Child Left Behind Act, notice provisions are very specific as to content of the notice and when it must be given. Students placed in, or identified for, an LEP program before the beginning of the school year must receive notice no later than 30 days after school starts. For students newly identified after the beginning of the school year, parental notice is due within two weeks after the student's placement in the program.~~ The Every Student Succeeds Act continues the detailed requirements for parental notification set forth in the No Child Left Behind Act. This includes provisions that are very specific as to content of the notice and when it must be given. Students placed in, or identified for, an ELL program before the beginning of the school year must receive notice no later than 30 days after school starts. For students newly identified after the beginning of the school year, parental notice is due within two weeks after the student's placement in the program. School districts are required to notify the families of students placed in an ELL program as soon as this occurs. Notification should include: (1) an explanation of why their child has been placed in the program; (2) a description of the program their child is in, as well as a description of all other types of available language programs; (3) notice of a parent's right to choose among instructional programs if more than one is available; (4) an explanation of how the current program will help their child to develop academically, learn English, and achieve the standards necessary for grade promotion and graduation; (5) the specific exit requirements for the program, the expected rate of transition to non-ELL programs and the expected secondary graduation rate for the program; (6) in the case of a child with a disability, how the program meets the objectives in the child's IEP; and (7) notice of a parent's right to have his or her child moved from an ELL program to a regular program if they so desire. School districts must provide required parent notifications in a uniform format that is comprehensible to families, and, to the extent possible, in a language that can be understood by families. A sample parental notification is provided at E 6174.

The district shall notify parents of students qualifying for ~~LEP~~ ELL programs regarding the instructional program and parental options, as required by law. The notice should state the reasons for identifying the student as ~~limited English proficient~~ an English language learner, including the student's level of proficiency and how the district determined that level. The student's overall academic achievement should also be included in the notice. The notice must describe the ~~LEP~~ ELL program's instructional methods and explain specific exit requirements and how the student will transition from the program. Finally, the notice shall advise parents of their right to remove the child from the program, to choose an alternative program if available, and to obtain assistance in choosing a program. Parents will be regularly apprised of their student's progress. Communications with parents shall be in the language understood by the parents, whenever possible.

(cf. 1220 - Citizens Advisory Committees)

Program Evaluation

Note: [4 AAC 34.055](#) requires a district's plan of service to establish procedures for an annual evaluation which addresses the effectiveness of the program in meeting the English-language development needs of **LEP ELL** students and achieving student academic progress goals; and, reflecting any identified need for program modification. Additionally, districts must have a process for monitoring the success and academic progress of exited **LEP ELL** students **for two years after the student is no longer identified as an ELL student.**

The Superintendent or designee shall establish procedures for the annual evaluation of bilingual bicultural education programs in conformance with state and federal regulations.

Note: Federal Law ([20 U.S. Code section 1703 \(f\)](#)) prohibits districts from discriminating against a student on the basis of race, color, sex or national origin by failing to take appropriate action to overcome language barriers that impede bilingual-bicultural students' equal participation in instructional programs. Federal courts have approved bilingual-bicultural programs which (1) are based on sound educational theory, (2) use methods reasonably calculated to effectively implement such theory, and (3) "produce results indicating that language barriers confronting students are actually being overcome."

When evaluating the adequacy of bilingual-bicultural education, the School Board shall consider data which indicates the effectiveness of the programs in teaching English to students and in contributing to their academic achievement.

Legal Reference:

ALASKA STATUTES

[14.30.400](#) Bilingual-bicultural education

ALASKA ADMINISTRATIVE CODE

[4 AAC 06.775](#) Assessment of a student with limited English proficiency

[4 AAC 34.010-4 AAC 34.090](#) Bilingual-bicultural education

UNITED STATES CODE

[20 U.S.C. §§ 1702-03,](#)

Bilingual Education Act, [20 U.S.C. §§ 7401](#) et seq. As amended by the English Language Acquisition, Language Enhancement, and Academic Achievement Act, Title III [§§ 3001-3304](#) of HR1.

~~[20 U.S.C. § 6811](#), et. seq., English Language Acquisition, Language Enhancement, and Academic Achievement Act, as amended by the Every Student Succeeds Act ([P.L. 114-95](#) (December 10, 2015))~~

COURT DECISIONS

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

Teresa P. et al v. Berkeley Unified School District et al, 724 F.Supp. 698 (N.D.

Cal. 1989)

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