

DEPARTMENT OF EDUCATION

14 DE Admin. Code 920

Statutory Authority: 14 Delaware Code,
Section 122(d) (14 Del.C. §122(d))

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)

920 Educational Programs for Students with Limited English Proficiency

A. Type of Regulatory Action Required

Amendment to Existing Regulation

B. Synopsis of Subject Matter of the Regulation

The Secretary of Education intends to amend 14 DE Admin. Code 920 Educational Programs for Students with Limited English Proficiency. The purpose of these amendments is to align the regulation with the federal statute No Child Left Behind. The title of the regulation has also been changed to Educational Programs for English Language Learners (ELLs) to reflect the new terminology.

C. Impact Criteria

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation should help to improve student achievement as measured against state achievement standards for English Language Learners (ELLs).

2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation should help to ensure an equitable education for English Language Learners (ELLs).

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation addresses educational programs for English Language Learners (ELLs) not health and safety issues.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation should help to ensure that English Language Learners (ELLs) educational rights are protected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation will preserve the necessary authority and flexibility of decision making at the local board and school level.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amended regulation may place some additional reporting and administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority and accountability for addressing the subject to be regulated will remain in the same entity

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amended regulation will be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are federal funds available to districts and charter school who are have special programs that serve English Language Learners (ELLs).

920 Educational Programs for Students with Limited English Proficiency

~~1.0 General: Each district shall identify upon enrollment every student with limited English proficiency, and each district shall make available to every student who has been determined to be eligible for limited English proficiency~~

services a program of instruction until such time as the student becomes fully proficient in English in accordance with 5.0 below.

~~2.0 Student with Limited English Proficiency Defined.~~ For the purpose of this section, a student with limited English proficiency is one who, by reason of foreign birth or ancestry, speaks a language other than English, and either comprehends, speaks, reads or writes little or no English, or who has been identified as a pupil of limited English proficiency by a valid English language proficiency assessment approved by the Department of Education for use statewide.

~~3.0 Determination of Eligibility for Limited English Proficiency Programs.~~ Each school district shall implement a system for the timely and reliable identification of students with limited English proficiency and determination of such students' eligibility for limited English proficiency programs. This system shall include a home language survey and an assessment of English language proficiency.

~~3.1 A home language survey or the questions contained in the survey shall be administered as part of the registration process for all registering students and shall elicit from the student's parent or guardian the student's first acquired language and the language(s) spoken in the student's home.~~

~~3.2 Any student for whom a language other than English is reported on the home language survey as the student's first acquired language or as a language used in the student's home shall be administered an English language proficiency assessment. Such assessment shall be conducted in conformance with the following standards:~~

~~3.2.1The assessment shall be based on a standardized instrument, validated for this purpose and approved by the Department of Education for use statewide;~~

~~3.2.2The assessment shall measure English proficiency in reading, writing, speaking and oral comprehension, except that reading and writing proficiency will generally not be assessed for students below grade 2;~~

~~3.2.3The assessment shall be conducted by qualified personnel trained in the administration of the assessment instrument;~~

~~3.2.4The assessment shall be conducted as soon as practicable, but not later than 25 school days after enrollment.~~

~~3.3 Any student who achieves a score on the English language proficiency assessment that is lower than the eligibility cut-off score in reading, writing, or oral English established by the Department of Education shall be entitled to a program of instruction for students with limited English proficiency. Reading and writing proficiency will not be considered for students below grade 2.~~

~~3.4 For each student enrolled in the 2000-2001 school year, each district shall conduct a home language survey, to the extent practicable, of every enrolled student as in 3.1 and, as applicable pursuant to 3.2, an English language proficiency assessment in accordance with 3.2.1 through 3.2.3. Beginning with the 2000-2001 school year, each district shall conduct such a home language survey, and as appropriate, an English language proficiency assessment of every new student at the time of enrollment in a school.~~

~~4.0 Specially Designed Program.~~ Each enrolled student who is eligible for services pursuant to 3.3 above, shall be provided with a program of instruction for students with limited English proficiency.

~~4.1 A program of instruction for students with limited English proficiency shall include: formal instruction in English language development; and instruction in academic subjects which is designed to provide students with limited English proficiency with access to the District's curriculum.~~

~~4.2 In selecting program(s), each district may choose from a variety of programs that are research-based and best practice in the education of limited English proficient students. Beginning with the 2001-2002 school year, programs of instruction for students with limited English proficiency are to be reviewed by the Department of Education. Such programs include bilingual programs as well as programs that are delivered exclusively in English.~~

~~4.2.1Bilingual programs shall include:~~

~~4.2.1.1Standards-based instruction for students with limited English proficiency, using the student's native language and English;~~

~~4.2.1.2Instruction in reading and writing in the student's native language; and~~

~~4.2.1.3English as a second language instruction.~~

~~4.2.2Programs delivered exclusively in English shall include:~~

~~4.2.2.1Standards-based instruction for students with limited English proficiency, using English in a manner that takes into account the student's level of English proficiency;~~

4.2.2.2 Instruction which builds on the language skills and academic subject knowledge the student has acquired in his or her native language; and

4.2.2.3 English as a second language instruction.

4.2.3 Programs shall be implemented consistent with the goal of prompt acquisition of full English proficiency. Programs shall include instruction in academic subjects which is equivalent in scope to the instruction that is provided to students who are not limited in English proficiency.

4.2.4 Instruction shall be delivered by teachers who meet Department of Education certification requirements and who are trained in the delivery of instruction to students with limited English proficiency.

4.2.5 Where a bilingual program is offered, the parent or guardian of an eligible student may opt for the eligible student to be served in a program for students with limited English proficiency carried out exclusively in English.

5.0 ~~Reclassification Procedures.~~ At least once each school year, each eligible student shall be considered for reclassification as a fully English proficient student who no longer needs a program for students with limited English proficiency.

5.1 ~~Reclassification shall include an assessment of English proficiency in accordance with the standards in 3.2.1 –3.2.4 above.~~

5.2 Any student who achieves a score on the English language proficiency assessment which is lower than the eligibility cut-off score in reading, writing, or oral English established by the Department of Education shall be regarded as a student with limited English proficiency and shall continue to be eligible for a program of instruction for students with limited English proficiency. Reading and writing proficiency will not be considered for students below grade 2.

5.3 Any student who achieves a score on the English language proficiency assessment at or above the eligibility cut-off score in reading, writing, and oral English established by the Department of Education shall be reclassified as fully English proficient and considered ineligible for a program of instruction for students with limited English proficiency. Reading and writing proficiency will not be considered for students below grade 2.

5.4 Before removing any student from a program for students with limited English proficiency, the district shall assess the student's level of performance in academic subject areas. Any reclassified student found to have incurred academic deficits while in the program for students with limited English proficiency shall be provided with supplemental instructional services in the relevant subject areas.

6.0 ~~Monitoring Performance of Ineligible and Reclassified Students.~~ For at least two school years following the determination of ineligibility or reclassification, a district shall monitor the academic performance of each student who has been: assessed pursuant to 3.2 above and found ineligible for a program; or reclassified as fully English proficient pursuant to 5.3 above. Students who experience academic performance problems during this period shall, based on further assessment, be considered for entry/reentry into a program of instruction for students with limited English proficiency and shall be provided with supplemental instructional services as necessary and appropriate.

7.0 ~~Program Evaluation.~~ Each district shall prepare an annual evaluation of its program(s) for students with limited English proficiency. Such evaluation shall be available for review upon request and shall be submitted to the Department of Education beginning with the 2001-2002 school year. This evaluation may be part of the district's annual evaluation required for other district programs. At a minimum, this program evaluation shall:

7.1 Consider the validity of the assessment processes carried out pursuant to 3.2 and 3.3, and 5.1, 5.2, 5.3, and 5.4 above, in terms of predicting student success in the regular instructional program;

7.2 Consider the effectiveness of each program of instruction for students with limited English proficiency in achieving the goal and standards in 4.2. above; and

7.3 Describe any modifications that have been proposed or implemented, based on the evaluation data.

8.0 ~~Student Information Reports.~~ Each district shall provide the Department of Education annually with the language background, the current English proficiency level of each LEP student enrolled in the district, and the type of program in which the LEP student receives services, and related information. Such reporting shall take place in a manner prescribed by the Department of Education. A district shall provide such other information as the Department of Education may request, in order to assure adherence to this regulation.

9.0 ~~Communications with Language Minority Parents/ Guardians.~~ Each district shall ensure that communications with parents/guardians, including notices of eligibility for a program for students with limited English proficiency, notices about the student's educational performance and progress in such programs, and school information that is

made available to other parents/guardians, are provided to each language minority parent/guardian in a language the parent/guardian can understand to the extent practicable.

~~10.0 Accountability. Students with limited English proficiency and students reclassified as fully English proficient shall be included in the Delaware Student Testing Program (DSTP). Alternative assessment measures may be used as provided in Department of Education guidelines, including the Guidelines for the Inclusion of Students with Disabilities and Students with Limited English Proficiency, as the same may, from time to time, be amended hereafter.~~

~~10.1 Differential analysis of the results of the DSTP and any alternative assessment measures shall be conducted on the performance of students with limited English proficiency and students reclassified as fully English proficient. Such data shall be made available with other accountability data for each district and the state as a whole.~~

~~10.2 The Department of Education and each district shall ensure that consequences and benefits under Delaware's system of statewide accountability are dispensed in a manner that is equitable to students with limited English proficiency and students reclassified as fully English proficient. This shall be based on assessments which accurately measure the student's performance in the area being assessed and are reflective of the curriculum which was delivered to the student.~~

~~4 DE Reg. 467 (9/1/00)~~

This regulation shall apply to any district or charter school applying for or receiving funds to provide services or programs for English Language Learners (ELLs).

1.0 Definitions:

The following words and terms, when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

“Bilingual Programs” Bilingual programs are programs that provide instruction using the student's native language and English across all subject areas or provide instruction in English across all subject areas with support in the native language.

“English as a Second Language (ESL) Programs” English as a Second Language Programs are programs providing instruction in English across all subject areas. This program takes into account the student's level of English proficiency and builds on the language skills and academic subject knowledge the student has acquired in his or her native language.

“English Language Learners (ELLs)” English Language Learners are students with limited English proficiency (also referred to as (LEP) Limited English Proficient Students). ELLs are individuals who, by reason of foreign birth or ancestry, speak a language other than English, and either comprehend, speak, read or write little or no English, or who have been identified as English Language Learners by a valid English language proficiency assessment approved by the Department of Education for use statewide.

2.0 A home language survey or the questions contained in the survey shall be administered as part of the registration process for all registering students and shall elicit from the student's parent, guardian or Relative Caregiver the student's first acquired language and the language(s) spoken in the student's home or by the student.

2.1 Any student for whom a language other than English is reported on the home language survey or on the registration form as the student's first acquired language or as a language used in the student's home or by the student shall be administered an English language proficiency assessment. The assessment shall be conducted as soon as practicable, but not later than twenty five (25) school days after enrollment and shall be conducted by qualified personnel trained in the administration of the assessment instrument.

2.1.1 The English language proficiency assessment shall be based on the English Language Proficiency Standards for English Language Learners K-12 and shall assess listening, speaking, reading and writing. The assessment shall be validated for this purpose and approved by the Department of Education for use statewide.

2.1.2 Any student who achieves a score on the English language proficiency assessment that is lower than the eligibility cut-off score in listening, speaking, reading and writing established by the Department of Education shall be identified as an ELL and shall be entitled to a program of instruction for ELLs.

3.0 Programs of instruction for ELLs shall include formal instruction in English language development; and instruction in academic subjects which is designed to provide ELLs with access to the regular curriculum. In

selecting a program(s), each district shall choose programs that are research-based and that have been demonstrated to be effective in the education of ELLs.

3.1 Programs shall be implemented consistent with the goal of prompt acquisition of full English proficiency. Programs shall include instruction in academic subjects which is equivalent in scope to the instruction that is provided to students who are not limited in English proficiency.

3.2 Instruction shall be delivered by individuals who meet Department of Education licensure and certification requirements and who are trained in the delivery of instruction to ELLs.

3.3 The student's parent, guardian or Relative Caregiver has a right to refuse placement of their child(ren) in either the Bilingual or the ESL program and also has the right to withdraw an identified student from either program. Parents, guardians or Relative Caregivers of eligible students who refuse placement of their student in either program or withdraw students from either program shall do so in writing.

4.0 Every student identified as an ELL will be administered an English language proficiency assessment annually.

4.1 Any student who achieves a score on the annual English language proficiency assessment that is higher than the eligibility cut-off score in listening, speaking, reading and writing established by the Department of Education shall be transitioned as fully English proficient and placed in a regular classroom.

4.1.1 For at least two school years following the identification of the student as fully English Proficient, the district or charter school shall monitor the academic performance of the student. Students who experience academic difficulty in the regular classroom during the transition period shall, based on further assessment re-enter a Bilingual or ESL program or shall be provided with additional instructional services as necessary and appropriate.

5.0 Each district and charter school receiving funds to provide services or programs for ELL's shall prepare an annual evaluation of its program(s). This evaluation shall be part of the district's annual evaluation process under and in compliance with the Consolidated Application.

6.0 Each district and charter school shall enter such data and information concerning ELLs as instructed by the Department of Education and as otherwise required by the Department into the statewide database.

7.0 Each district and charter school shall ensure that communication with parents, guardians and Relative Caregivers, including notices of eligibility for programs for ELLs, notices about the student's educational performance and progress in such programs, and school information that is made available to other parents, guardians and Relative Caregivers shall be provided in English or to the extent practicable in a language the parent, guardian or Relative Caregiver can understand.

8.0 ELLs and students transitioned as fully English proficient shall be included in the Delaware Student Testing Program (DSTP) as provided for in the Department of Education document *Guidelines for the Inclusion of Students with Disabilities and Students with Limited English Proficiency*, as the same may from time to time be amended hereafter.

9 DE Reg. 30 (7/1/05) (Prop.)