

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 **Del.C.** §122(b))  
14 **DE Admin. Code** 920

### PROPOSED

### PUBLIC NOTICE

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

#### 920 Educational Programs for English Language Learners (ELLs)

##### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

##### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

Pursuant to 14 **Del.C.** §122(b), the Secretary of Education intends to amend 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLs). This regulation is being amended to include the statutory authority, to make minor corrections, update definitions and terminology, and to comply with 29 **Del.C.** §10407 which requires regulations to be reviewed on a recurring basis every four years.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before December 4, 2019 to Department of Education, Office of the Secretary, Attn: Regulation Review, 401 Federal Street, Suite 2, Dover, Delaware 19901 or email to [DOERegulations.comment@doe.k12.de.us](mailto:DOERegulations.comment@doe.k12.de.us). A copy of this regulation may be viewed online at the Registrar of Regulation's website, [http://regulations.delaware.gov/services/current\\_issue.shtml](http://regulations.delaware.gov/services/current_issue.shtml), or obtained at the Department of Education, located at the address listed above.

##### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amended regulation should help improve student achievement as measured against state achievement standards.
2. Will the amended regulation help ensure that all students receive an equitable education? The amended regulation intends to ensure all students receive an equitable education.
3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amended regulation does not address students' health and safety.
4. Will the amended regulation help to ensure that all students' legal rights are respected? The amended regulation continues to ensure that all students' legal rights are respected.
5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amended regulation does not change the 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 does not place any unnecessary reporting or administrative requirements or mandates on decision makers.
7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The amended regulation does not change the decision making authority and accountability for addressing the subject to be regulated.
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 is consistent with and not an impediment to the implementation of other state educational policies.
9. Is there a less burdensome method for addressing the purpose of the regulation? There is no 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 no material costs to implementing this amended regulation.

#### 920 Educational Programs for English ~~Language~~ Learners (~~ELLs~~) (ELs)

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~~) (ELs).

## 1.0 Definitions

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

**"ACCESS"** means a suite of secure, large-scale, summative English language proficiency assessments.

**"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.~~

**"Department"** means the Delaware Department of Education.

**"English Language Learners (ELLs)" or "ELs"** ~~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~~ means individuals who, among other things, have English language speaking, reading, writing, or understanding difficulties sufficient to deny the individual the ability to meet challenging state academic standards as defined using Delaware's standardized entrance and exit procedures

**"ESSA Plan"** means a document that reflects the goals of the Delaware education system that are in compliance with applicable federal requirements outlined in the Elementary and Secondary Education Act (ESEA) of 1965, reauthorized in December 2015 as the Every Student Succeeds Act (ESSA).

**"Home Language Survey"** means a questionnaire that is given to a student's parent, guardian or relative caregiver to help schools and local education agencies identify students who are potential ELs, and who will require assessment of their English language proficiency to determine whether they are eligible for a LIEP.

**"Language Instruction Education Program" or "LIEP"** means programs providing instruction in English across all subject areas. This program takes into account the student's level of English proficiency and supports the acquisition of increased English language skills with the goal of attaining English language proficiency and supports the learner in meeting challenging academic standards.

**"WIDA English Language Development (ELD) Standards" or "WIDA"** means the social, instructional, and academic language that students need to engage with peers, educators, and the curriculum in schools.

## 2.0 Home Language Survey

- 2.1 A state standardized 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~~ relative caregiver the student's first acquired language and the language(s) ~~language or languages~~ spoken in the student's home or by the student.
- 2.2 ~~Any~~ For 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 survey.~~ the school or district shall follow Delaware's statewide entrance criteria as outlined in Delaware's approved ESSA Plan and further described in Delaware's English Learner Guidebook. The ~~When appropriate, an initial screening assessment of English language proficiency shall be conducted as soon as practicable, but not later than twenty-five~~ twenty-five (25) school days after enrollment and shall be conducted by qualified personnel trained in the administration of the assessment instrument.
- 2.2.1 The English language proficiency screening assessment shall be based on the WIDA English Language Proficiency Development Standards for English Language Learners K to 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.
- 2.2.2 Any student who achieves a score on the English language proficiency screening 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 ~~EL~~ and shall be entitled to a program of instruction for ELLs ~~ELs~~.

## 3.0 Programs of Instruction for ELLs ~~ELs~~

- 3.1 Programs of instruction for ~~ELLs~~ ELs shall include formal instruction ~~in~~ to increase English language ~~development proficiency~~; and instruction in academic subjects which is designed to provide ~~ELLs~~ ELs with access to the regular curriculum. All instruction for ELs must be aligned to the WIDA English Language Development Standards as adopted by the State Board of Education. In selecting ~~a program(s)~~ programs, each district or charter school shall choose programs that ~~are research-based and that have been demonstrated to be effective in the education of~~ ELLs ELs.
- 3.2 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~~ ELs.
- 3.3 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~~ ELs.
- 3.4 The student's parent, guardian or ~~Relative Caregiver~~ relative caregiver has a right to refuse placement of their ~~child(ren) in either the Bilingual or the ESL program~~ child or children in a LIEP, and also has the right to withdraw an identified student from either program. Parents, guardians or ~~Relative Caregivers~~ 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 English Language Proficiency Assessment**

- 4.1 Every student identified as an ~~ELL~~ EL will be administered ~~an~~ the ACCESS English language proficiency assessment annually.
- 4.2 Any student who achieves a score on the annual ACCESS 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~~ reclassified as fully English proficient ~~and placed in a regular classroom~~.
- 4.2.1 For at least two school years following the ~~identification of the student as fully English Proficient~~ reclassification, 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 assessment~~, reenter a Bilingual or ESL program LIEP or shall be provided with additional instructional services as necessary and appropriate.

#### **5.0 Annual Evaluation**

Each district and charter school ~~receiving funds to provide services or programs for ELL's with ELs~~ shall ~~prepare an annual evaluation of~~ annually evaluate its ~~program(s)~~ program and make programmatic changes as necessary. This evaluation shall be part of the district's annual evaluation process under and in compliance with the Consolidated Application.

#### **6.0 Data and Information Required**

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

**9 DE Reg. 398 (09/01/05)**

#### **7.0 Communication**

Each district and charter school shall ensure that communication with parents, guardians and Relative Caregivers, including notices of eligibility for programs for ~~ELLs~~ ELs, 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~~ relative caregivers shall be provided in English or to the extent practicable in a language the parent, guardian or ~~Relative Caregiver~~ relative caregiver can understand.

**9 DE Reg. 398 (09/01/05)**

#### **8.0 Inclusion in Delaware Student Testing Program System of Student Assessments**

~~ELLs~~ ELs and students ~~transitioned~~ reclassified as fully English proficient shall be included in the Delaware Comprehensive Assessment System (DCAS) System of Student Assessments (DeSSA) 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 Department's Accessibility Guidelines for the Delaware System of Student Assessments, or any amended version thereafter.

**4 DE Reg. 467 (09/01/00)**

**9 DE Reg. 398 (09/01/05)**

**14 DE Reg. 103 (08/01/10)**

