

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

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

### FINAL

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

#### REGULATORY IMPLEMENTING ORDER

##### I. Summary of the Evidence and Information Submitted

The Secretary of Education intends to amend 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLs) by replacing Delaware Student Testing Program (DSTP) with Delaware Comprehensive Assessment System (DCAS). This regulation was reviewed as part of the 5 year review cycle.

Notice of the proposed regulation was published in the *News Journal* and the *Delaware State News* on June 2, 2010, in the form hereto attached as Exhibit "A". Comments were received from Governor's Advisory Council for Exceptional Citizens and the State Council for Persons with Disabilities endorsing the amendments.

##### II. Findings of Facts

The Secretary finds that it is appropriate to amend 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLS) in order to provide language that is consistent with the new state assessment system.

##### III. Decision to Amend the Regulation

For the foregoing reasons, the Secretary concludes that it is appropriate to amend 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLS). Therefore, pursuant to 14 **Del.C.** §122, 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLS) attached hereto as Exhibit "B" is hereby amended. Pursuant to the provision of 14 **Del.C.** §122(e), 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLS) hereby amended shall be in effect for a period of five years from the effective date of this order as set forth in Section V. below.

##### IV. Text and Citation

The text of 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLS) amended hereby shall be in the form attached hereto as Exhibit "B", and said regulation shall be cited as 14 **DE Admin. Code** 920 Educational Programs for English Language Learners (ELLS) in the Administrative Code of Regulations for the Department of Education.

##### V. Effective Date of Order

The actions hereinabove referred to were taken by the Secretary pursuant to 14 **Del.C.** §122 on July 20, 2010. The effective date of this Order shall be ten (10) days from the date this Order is published in the *Delaware Register of Regulations*.

**IT IS SO ORDERED** the 20th day of July 2010.

#### DEPARTMENT OF EDUCATION

Lillian M. Lowery, Ed.D., Secretary of Education

Approved this 20<sup>th</sup> day of July 2010

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

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 Home Language Survey**

- 2.1 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, guardian or Relative Caregiver the student's first acquired language and the language(s) spoken in the student's home or by the student.
- 2.2 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.
  - 2.2.1 The English language proficiency assessment shall be based on the English Language Proficiency 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 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**

- 3.1 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.

- 3.2 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.
- 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.
- 3.4 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 English Language Proficiency Assessment**

- 4.1 Every student identified as an ELL will be administered an English language proficiency assessment annually.
- 4.2 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.
  - 4.2.1 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 Annual Evaluation**

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 Data and Information Required**

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.

**9 DE Reg. 398 (9/1/05)**

#### **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, 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.

**9 DE Reg. 398 (9/1/05)**

#### **8.0 Inclusion in Delaware Student Testing Program**

ELLs and students transitioned as fully English proficient shall be included in the ~~Delaware Student Testing Program (DSTP)~~ Delaware Comprehensive Assessment System (DCAS) 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.

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

**9 DE Reg. 398 (9/1/05)**

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