

SPECIAL PROGRAMS
BILINGUAL EDUCATION/ESL

EHBE
(LEGAL)

TITLE III
REQUIREMENTS

A district that receives funds under Title III of the No Child Left Behind Act shall comply with the statutory requirements regarding limited English proficient (LEP) and immigrant students. *20 U.S.C. 6801-7014*

STATE POLICY

It is the policy of the State that every student who has a home language other than English and who is identified as LEP shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.

DISTRICT
RESPONSIBILITY

Each district shall:

1. Identify LEP students based on criteria established by the State;
2. Provide bilingual education and ESL programs, as integral parts of the regular program;
3. Seek certified teaching personnel to ensure that LEP students are afforded full opportunity to master the essential knowledge and skills; and
4. Assess achievement for essential knowledge and skills in accordance with Education Code chapter 39 to ensure accountability for LEP students and the schools that serve them.

Education Code 29.051; 19 TAC 89.1201(a)

IDENTIFICATION OF
LEP STUDENTS

Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the Board the number of LEP students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to TEA before November 1 each year. *Education Code 29.053(b)*

LANGUAGE
PROFICIENCY
ASSESSMENT
COMMITTEES
(LPAC)

Each district that is required to offer bilingual and special language programs shall, by local Board policy, establish a language proficiency assessment committee (LPAC). The District shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of LEP students. The District shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

MEMBERSHIP OF
LPAC

The LPAC shall include:

1. A professional bilingual educator;
2. A professional transitional language educator;
3. A parent of a LEP student; and
4. A campus administrator.

The District may add other members to the committee in any of the required categories. If the District does not have an individual in one or more of the job classifications required, it shall designate another professional staff member to serve on the LPAC.

In districts and grade levels at which the District is not required to provide a bilingual education program, the LPAC shall be composed of one or more professional personnel and a District-designated parent of an LEP student.

No parent serving on the LPAC shall be an employee of the District.

All members of the LPAC, including parents, shall be acting for the District and shall observe all laws and rules governing confidentiality of information concerning individual students. The District shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)

DUTIES

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 TAC 89.1220(g)–(j), (l).

HOME LANGUAGE
SURVEY

Within four weeks of each student's enrollment, the District shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student. The home language survey shall be conducted in English and in the home language, and signed by the student's parents if the student is in kindergarten through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be retained in the student's permanent record.

If a student is identified through the home language survey as normally speaking a language other than English, the student shall be tested in accordance with 19 TAC 89.1225 or, for students with disabilities, 19 TAC 89.1230.

Education Code 29.056(a); 19 TAC 89.1215

LEP
CLASSIFICATION

The LPAC may classify a student as LEP if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;

3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c)

PARENTAL NOTICE
AND CONSENT

Within ten days of the LPAC's classification of a student as LEP, the LPAC shall give written notice to the student's parent. The notice must be in English and in the parent's primary language. The notice shall inform the parents of the benefits of the program for which the student is recommended and that it is an integral part of the school program.

Pending parent approval, the District shall place the student in the recommended program, but may count only those students with parent approval for bilingual education allotment.

Education Code 29.056(a), (d); 19 TAC 89.1220(k)

PARTICIPATION OF
NON-LEP
STUDENTS

With the approval of the District and a student's parents, a student who is not LEP may also participate in a bilingual education program. The number of participating students who are not LEP may not exceed 40 percent of the number of students enrolled in the program. *Education Code 29.058*

BILINGUAL AND ESL
PROGRAMS

Each district with an enrollment of 20 or more LEP students in any language classification in the same grade shall offer a bilingual education or special language program, as follows:

1. Kindergarten through elementary grades: the District shall offer bilingual education.
2. Post-elementary through grade 8: the District shall offer bilingual education, ESL, or other transitional language instruction approved by TEA.
3. Grades 9 through 12: the District shall offer instruction in ESL.

If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

Education Code 29.053(c), (d), 29.054

PROGRAM
CONTENT

The District's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills.

An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. The District shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and the District shall keep adequate records of the educational level and progress of each student enrolled in the program.

LEP students shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. The District shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

Education Code 29.055, 29.057(b); 19 TAC 89.1010(g)

FACILITIES

Bilingual education and special language programs shall be located in the District's regular schools rather than in separate facilities. The District may concentrate the programs at a limited number of schools, provided that the enrollment in those schools shall not exceed 60 percent LEP students. *Education Code 29.057; 19 TAC 89.1235*

COOPERATION
AMONG DISTRICTS

The District may join with one or more other districts to provide the required bilingual and special education programs. The availability of the programs shall be publicized throughout the districts involved.

The District may allow a nonresident LEP student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district of residence.

Education Code 29.059

SUMMER PROGRAM	<p>If the District is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for LEP children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.</p> <p>A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the Board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the Board.</p> <p>The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. The District shall comply with the requirements of 19 TAC 89.1250 in providing such a program.</p>
OTHER PROGRAM	<p>The District may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for LEP students and may join with other districts in establishing such programs.</p> <p>Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year.</p> <p><i>Education Code 29.060</i></p>
PERSONNEL	<p>Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. <i>Education Code 29.061(b), (c)</i></p> <p>If the District is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, the District may file an application for exception with TEA, in accordance with 19 TAC 89.1205(h).</p> <p><i>Education Code 29.054; 19 TAC 89.1205(g)</i></p>
LEP STUDENTS AND STATE ASSESSMENTS	<p>In grades 3–12, an LEP student shall participate in the assessment of academic skills in accordance with Commissioner’s rules at 19 TAC Chapter 101, subchapter AA. <i>19 TAC 101.5(d)</i> [See EKB]</p>
PROGRAM EXIT	<p>The District may transfer an LEP student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:</p> <ol style="list-style-type: none"><li data-bbox="560 1759 1438 1894">1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;

2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g)

NOTICE TO
PARENTS

The District shall notify parents of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program. 19 TAC 89.1240(b)

POST-EXIT
MONITORING

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561