

# REGULATION

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Bilingual and ESL Education

## R 2423 BILINGUAL AND ESL EDUCATION

### A. Definitions

1. "Bilingual education program" means a full-time program of instruction in all those courses or subjects which a child is required by law or rule to receive, given in the native language of the limited English proficient pupils enrolled in the program and also in English; in the aural comprehension, speaking, reading, and writing of the native language of the limited English proficient pupils enrolled in the programs, in the aural comprehension, speaking, reading, and writing of English; and in the history and culture of the country, territory, or geographic area which is the native land of the parents of limited English proficient pupils enrolled in the program, and in the history and culture of the United States. All pupils in bilingual education programs receive English as a second language instruction.
2. "Bilingual part-time component" means a program alternative in which pupils are assigned to mainstream English program classes, but are scheduled daily for their developmental reading and mathematics instruction with a certified bilingual teacher.
3. "Bilingual resource program" means a program alternative in which pupils receive daily instruction from a certified bilingual teacher in identified subjects and with specific assignments on an individual pupil basis.
4. "Bilingual tutorial program" means a program alternative in which pupils are provided one period of instruction from a certified bilingual teacher in a content area required for graduation and a second period of tutoring in other required content areas.

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5. "Dual language bilingual education program" means a full-time program of instruction in elementary and secondary schools which provide structured English language instruction and instruction in a second language in all content areas for LEP pupils and for native English speaking pupils enrolled in the program.
6. "Educational needs" means the particular educational requirements of pupils of limited English proficiency, the fulfillment of which will provide them with equal educational opportunities.
7. "English as a second language (ESL) program" means a daily developmental second language program of up to two periods of instruction based on pupil language proficiency which teaches aural comprehension, speaking, reading, and writing in English using second language teaching techniques, and incorporates the cultural aspects of the pupil's experiences in their ESL instruction. A period is the time allocated in the school schedule for instruction in core subjects.
8. "English language fluency" means the ability to speak the language with sufficient structural accuracy; use vocabulary to participate effectively in most formal and informal conversations on practical, social, and school topics; read material for information; and complete forms and write essays and reports on familiar topics. Language fluency is not the same as language proficiency, which is the full command of language skills.
9. "English language proficiency test" means a test which measures English language skills in the areas of aural comprehension, speaking, reading, and writing.
10. "English language services" means services designed to improve the English language skills of pupils of limited English proficiency. These services, provided in school districts with less than ten pupils of limited English proficiency, are in addition to the regular school program and have as their goal the development of aural comprehension, speaking, reading, and writing skills in English.

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11. "ESL standards for Pre-Kindergarten through grade twelve pupils" means the WIDA English Language Proficiency Standards for English Language Learners in Pre-Kindergarten through Grade Twelve, 2007 edition, developed by the World-Class Instructional Design and Assessment (WIDA) Consortium. These are the standards and language competencies limited English proficient pupils in Pre-Kindergarten programs and elementary and secondary schools need to become fully proficient in English and to have unrestricted access to grade-appropriate instruction in challenging academic subjects.
12. "Exit criteria" means the criteria which must be applied before a pupil may be exited from a bilingual, ESL, or English language services education program.
13. "High-intensity ESL program" means a program alternative in which pupils receive two or more class periods a day of ESL instruction. One period is the standard ESL class and the other period is a tutorial or ESL reading class.
14. "Instructional program alternative" means a part-time program of instruction that may be established by a Board of Education in consultation with and approval of the New Jersey Department of Education. All pupils in an instructional program alternative receive English as a second language.
14. "Limited English proficient (LEP) pupils" means pupils from Pre-Kindergarten through grade twelve whose native language is other than English and who have sufficient difficulty speaking, reading, writing, or understanding the English language as measured by an English language proficiency test, so as to be denied the opportunity to learn successfully in the classrooms where the language of instruction is English. This term means the same as limited English speaking ability, the term used in N.J.S.A. 18A:35-14 to 26.
16. "Native language" means the language first acquired by the pupil, the language most often spoken by the pupil, or the language most often spoken in the pupil's home, regardless of the language spoken by the pupil.

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17. "Parent(s)" means the natural parent(s) or the legal guardian(s), foster parent(s), surrogate parent(s), or person acting in the place of a parent with whom the pupil legally resides. Where parents are separated or divorced, parent means the person(s) who has legal custody of the pupil, provided such parental rights have not been terminated by a court of appropriate jurisdiction.
18. "Review process" is the process established by the Board of Education to assess limited English proficient pupils for exit from a bilingual, ESL, or English language services program.
19. "Sheltered English instruction" is an instructional approach used to make academic instruction in English understandable to LEP pupils. Sheltered English classes are taught by regular classroom teachers who have received training on strategies to make subject area content comprehensible for LEP pupils.

### B. Identification of Eligible Limited English Proficient (LEP) Pupils

1. The ESL Coordinator will determine the native language of each LEP pupil at the time of enrollment of the pupil in the school district. The ESL Coordinator will:
  - a. Maintain a census indicating all pupils identified whose native language is other than English; and
  - b. Report annually to the New Jersey Department of Education as part of the Fall LEP Enrollment Summary, the number of all LEP pupils whose native language is other than English and, of that group, the number who are LEP pupils.
2. The Board approved screening process, initiated by a home language survey, shall determine which pupils in Kindergarten to grade twelve, of those whose native language is other than English, must be tested to determine English language proficiency. The screening shall be conducted by a bilingual/ESL or other certified teacher and shall be designed to distinguish those pupils that are proficient English speakers and need no further testing

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3. The district shall determine the English language proficiency of all Kindergarten to grade twelve pupils, who are not screened out, whose native language is other than English by the administration of a Department of Education approved English language proficiency test; assessing the level of reading in English, reviewing the previous academic performance of pupils as well as standardized tests in English and reviewing the input of teaching staff members responsible for the educational program for the limited English proficient pupils. Pupils who do not meet the New Jersey Department of Education standard on a Department-approved language proficiency test and who have at least one other indicator, are pupils of limited English proficiency. The district shall also use age-appropriate assessment methodologies to identify limited English proficient preschool pupils in order to determine their individual language development needs.

### C. Bilingual Programs for Limited English Proficient Pupils

1. All Kindergarten through twelfth grade LEP pupils enrolled in the district will receive required courses and support services outlined in a. through g. below to prepare LEP pupils to meet the Core Curriculum Content Standards for high school graduation. This may include tutoring, after-school programs, summer programs, and remedial services as needed by LEP pupils. The district shall also provide appropriate instructional programs to eligible pre-school LEP pupils based on need according to the New Jersey Preschool Teaching and Learning Expectations: Standards of Quality (2004). These standards are guidelines for good practice and are intended for districts that provide preschool programs.
  - a. English language services designed to improve English language proficiency of LEP pupils whenever there are one or more, but fewer than ten LEP pupils enrolled within the schools of the district. English language services shall be in addition to the regular school program.

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- b. An ESL program that provides up to two periods of ESL instruction based on pupil language proficiency whenever there are ten or more LEP pupils enrolled within the schools of the district.
  - (1) The ESL curriculum that addresses the WIDA English Language Proficiency Standards as amended and supplemented shall be developed and adopted by the Board to address the instructional needs of LEP pupils.
  - (2) The ESL curriculum will be cross referenced to the district's bilingual education and content area curricula to ensure that ESL instruction is correlated to all the content areas being taught.
  
- c. A bilingual education program will be established whenever there are twenty or more limited English proficient pupils in any one language classification enrolled in the district pursuant to N.J.S.A. 18A:35-18. The bilingual education program shall:
  - (1) Be designed to prepare LEP pupils to acquire sufficient English skills and content knowledge to meet the Core Curriculum Content Standards. All LEP pupils participating in the bilingual program will also receive ESL instruction;
  - (2) Include a bilingual program curriculum that addresses the Core Curriculum Content Standards, the WIDA English Language Proficiency Standards and the use of two languages. The bilingual education curriculum shall be adopted by the Board; and

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- (3) Include a full range of required courses and activities offered on the same basis and under the same rules that apply to all pupils within the district.
- d. LEP pupils will be provided equitable instructional opportunities to participate in all non-academic courses necessary to meet the Core Curriculum Standards, including comprehensive health and physical education, the visual and performing arts and career awareness programs. These instructional opportunities shall be designed to assist LEP pupils to fully comprehend all subject matter and demonstrate their mastery of the content matter.
- e. The district shall offer sufficient courses and other relevant supplemental instructional opportunities in grades nine through twelve to enable LEP pupils to meet the Core Curriculum Content Standards for graduation. When sufficient numbers of pupils are not available to form a bilingual class in a subject area, plans shall be developed in consultation with and approved by the New Jersey Department of Education to meet the needs of the pupils.
- f. Additional programs and services shall be designed to meet the special needs of eligible LEP pupils and will include, but not be limited to: remedial instruction through Title I programs; special education; school-to-work programs; computer training; and gifted and talented education services.
- g. The Board may establish dual language bilingual education programs in the schools and may make provisions for the coordination of instruction and services with the district's World Languages program. This program, if established by the Board, shall also enroll pupils whose primary language is English and shall be designed to help pupils achieve proficiency in English and in a second language, while mastering subject matter skills. Instruction shall to the extent necessary, be in all courses or subjects of study allowing pupils to meet all grade promotion and graduation standards. Where possible, these classes will be comprised of approximately equal numbers of pupils of limited English proficiency and of pupils whose native language is English.

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2. The Board may establish a program in bilingual education for any language classification with fewer than twenty pupils.

## D. Waiver Process

The school district may request a waiver from establishing a bilingual education program, pursuant to N.J.S.A. 18A:35-18, to establish an instructional program alternative on an annual basis with the approval of the Department of Education when there are twenty or more pupils eligible for the bilingual education program in Kindergarten through grade twelve, and the district is able to demonstrate that due to age range, grade span, and/or geographic location of eligible pupils, it would be impractical to provide a full-time bilingual program.

1. Any instructional program alternatives shall be developed in consultation with and approved annually by the Department of Education after review of pupil enrollment and achievement data. All bilingual instructional program alternatives shall be designed to assist LEP pupils to develop sufficient English skills and subject matter skills to meet the Core Curriculum Content Standards.
2. The instructional program alternatives to be established shall include, but are not limited to: bilingual part-time component, bilingual resource program, bilingual tutorial program, sheltered English instruction program, and high-intensity ESL program.
3. In the event the district implements program alternatives, the district shall annually submit pupil enrollment and achievement data that demonstrate the continued need for these programs.

## E. Department of Education Approval of Bilingual, ESL, or English Language Services Programs

1. The school district's bilingual, ESL, or English language services program plans shall be submitted to the New Jersey Department of Education every three years for approval. The plans will include the following information:



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- a. Identification of pupils;
  - b. Program description;
  - c. Number of certified staff hired for the program;
  - d. Bilingual and ESL curriculum development;
  - e. Evaluation design;
  - f. Review process for exit; and
  - g. A budget for bilingual and ESL programs and/or English language services programs. The budget must indicate how the bilingual categorical aid funds are directly related to the bilingual/ESL program instructional services and materials.
2. The district shall annually submit data on the number of LEP pupils served, exit data for the LEP pupils enrolled in the district, and data on the number of immigrant pupils enrolled in the district.
  3. The district's bilingual/ESL programs will be monitored and evaluated by the New Jersey Department of Education.

## F. Supportive Services

Pupils enrolled in bilingual, ESL, or English language services programs shall have full access to educational services available to other pupils in the district. To the extent that it is administratively feasible supportive services to LEP pupils, such as counseling, tutoring, and career guidance, should be provided by bilingual personnel who are familiar with and knowledgeable of the unique needs and background of LEP pupils and their parents.

## G. In-service Training

1. In-service training will be provided for bilingual, ESL, and mainstream teachers based on their needs and to include instructional strategies to help LEP pupils meet the Core Curriculum Content Standards and the WIDA English Language Proficiency Standard. All ESL and bilingual teachers will receive training in the use of the ESL curriculum.

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2. The Professional Development Plan of the district all include the needs of bilingual and ESL teachers that shall be addressed through in-service training.

### H. Certification of Staff

All teachers in these programs will hold the following certifications:

1. Bilingual Classes - a valid New Jersey instructional certificate with an endorsement for the appropriate grade level and/or content area, as well as an endorsement in bilingual education.
2. ESL Classes - a valid New Jersey instructional certificate in English as a second language.
3. English Language Services - a valid New Jersey instructional certificate.

### I. Bilingual, ESL, and English Language Services Program Enrollment, Assessment, Exit and Re-entry

1. All LEP pupils from Kindergarten through twelfth grade shall be enrolled in the bilingual, ESL, or English language services program.
2. Pupils enrolled in a bilingual, ESL, or English language services program shall be assessed annually with a Department of Education approved English language proficiency test to determine their progress in achieving English language proficiency goals and readiness for exiting the program.
3. LEP pupils enrolled in one of these programs shall be placed in a monolingual English program when they have demonstrated readiness to function successfully in an English only program. This process shall be initiated by the pupil's level of English proficiency as measured by a Department of Education established standard on an English language proficiency test, and the readiness

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of the pupil shall be further assessed on the basis of multiple indicators which shall at a minimum, include classroom performance, the pupil's reading level in English, the judgment of the teaching staff member or members responsible for the educational program of the pupil, and performance on achievement tests in English according to P.L. 1991, c.12.

4. A parent(s) or legal guardian(s) may remove a pupil who is enrolled in a bilingual education program pursuant to provisions in N.J.S.A. 18A:35-22.1.
5. Pupils enrolled in a bilingual, ESL, or English language services programs shall be assessed annually to determine their progress in achieving English language proficiency goals and readiness for exiting the program.
6. Newly exited pupils who are not progressing in the mainstream English program may be considered for reentry to bilingual and ESL programs as follows:
  - a. After a minimum of one-half of an academic year and within two years of exit, the mainstream English classroom teacher, with the approval of the Building Principal, may recommend retesting.
  - b. A waiver of the minimum time limitation may be approved by the Executive County Superintendent upon request of the Superintendent if the pupil is experiencing extreme difficulty in adjusting to the mainstream program.
  - c. The recommendation for retesting will be based on the teacher's judgment that the pupil is experiencing difficulties due to problems in using English as evidenced by the pupil's inability to: communicate effectively with peers and adults; understand directions given by the teacher; and/or comprehend basic verbal and written materials.
  - d. The pupil shall be tested using a different form of the test or a different language proficiency test than the one used to exit the pupils.

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e. If the pupil scores below the State established standard on the language proficiency test, the pupil shall be re-enrolled into the bilingual or ESL program.

7. When the review process for exiting a pupil from a bilingual, ESL, or English language services program has been completed, the pupil's parent(s) or legal guardian(s) shall be informed by mail of the determination of placement. If the parent(s), legal guardian(s) or teaching staff member disagrees with the placement, he/she may appeal the decision in writing to the Principal, who will provide a written explanation for the decision within 10 working days. The Principal will copy the Superintendent on all correspondence. The complainant may appeal this decision in writing to the Board. The Board will review the appeal and respond in writing within forty-five calendar days. Upon exhausting an appeal to the Board, the complainant may appeal to the Commissioner of Education pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3.

### J. Graduation Requirements for Limited English Proficient Pupils

All LEP pupils must satisfy requirements for high school graduation according to N.J.A.C. 6A:8-5.1(a)

### K. Location of Programs

All bilingual, ESL, and English language services programs shall be conducted within classrooms approved by the Executive County Superintendent of Schools within the regular school buildings of the district per N.J.S.A. 18A:35-20.

### L. Notification to Parents/Legal Guardians

1. The district will notify the parent(s) or legal guardian(s) of the LEP pupil by mail that their child has been identified as eligible for enrollment in a bilingual, ESL, or English language services program.

a. The notice will inform the parent(s) or legal guardian(s) they have the option of declining enrollment if they choose by providing notice to the district no later than ten days after receiving the eligibility notice.

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- b. The notice shall be in writing and in the language of which the child of the parent(s) or legal guardian(s) so notified possesses a primary speaking ability, and in English.
  - c. Whenever the district determines, on the basis of a pupil's level of English proficiency, that a pupil should exit from a program of bilingual education, the district shall notify the parent(s) or legal guardian(s) of the pupil by mail.
2. The parent(s) or legal guardian(s) of pupils enrolled in a bilingual, ESL, or English language services program shall receive progress reports in the same manner and frequency as progress reports are sent to parent(s) and legal guardian(s) of other pupils enrolled in the school district.
3. Progress reports shall be written in English and in the native language of the parent(s) or legal guardian(s) of pupils enrolled in the bilingual or ESL program unless it can be demonstrated and documented in the three-year plan that this requirement would place an unreasonable burden on the district.
4. The district shall notify the parent(s) or legal guardian(s) when pupils meet the exit criteria and are placed in a monolingual English program. The notice shall be in English and in the language in which the parent(s) or legal guardian(s) possesses a primary speaking ability.

### M. Joint Programs

The school district may join with any other school districts, with the approval of the Executive County Superintendent of Schools, on a case-by-case basis to provide bilingual, ESL, or English language services program.

### N. Parental Involvement

1. The Superintendent will provide for maximum practicable involvement of parent(s) or legal guardian(s) of LEP pupils in the development and review of program objectives and dissemination of information to and from the Boards of Education and communities

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served by the bilingual, ESL, or English language services education program.

2. A district that implements a bilingual education program shall establish a parent advisory committee on bilingual education on which the majority will be parents or legal guardians of pupils of limited English proficiency.

Adopted: 03 May 2004

Revised: 25 January 2010