# Administrative Regulation 6174: Education For English Learners

English learner means a student who is age 3-21 years, who is enrolled or is preparing to enroll in an elementary or secondary school, and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the student the ability to meet state academic standards, the ability to successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society. An English learner may include a student who was not born in the United States or whose native language is a language other than English; a student who is Native American or Alaska Native, or a native resident of the outlying areas, who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or a student who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant. (Education Code 306; 20 USC 7801)

Designated English language development means instruction provided during a time set aside in the regular school day for focused instruction on the state-adopted English language development standards to assist English learners to develop critical English language skills necessary for academic content learning in English. (5 CCR 11300)

Schools shall provide all English learners with daily Designated ELD instruction, whether a student is enrolled in an English language classroom or Dual Language classroom. With the exception of schools with a low English learner enrollment, each ELD class will have no more than two contiguous English Proficiency levels. Elementary schools shall provide an amount of ELD instruction necessary to enable English learners to meet the annual targets of achievement. Such instruction shall be offered no less than 30 minutes of daily live interaction. Secondary schools shall provide at least one class period of ELD daily.

Integrated English language development means instruction in which the state-adopted English language development standards are used in tandem with the state-adopted academic content standards. Integrated English language development includes specially designed academic instruction in English. (5 CCR 11300)

Native speaker of English means a student who has learned and used English at home from early childhood and English has been the primary means of concept formation and communication. (Education Code 306)

#### **Identification and Assessments**

Upon enrollment in the district, each student's primary language shall be determined through the use of a home language survey. (Education Code 52164.1; 5 CCR 11307, 11518.5)

Any student who is identified as having a primary language other than English as determined by the home language survey, and who has not previously been identified as an English learner by a California public school or for whom there is no record of results from an administration of an English language proficiency test, shall be initially assessed for English proficiency using the English Language Proficiency Assessments for California (ELPAC). Prior to administering the ELPAC, the Superintendent or designee shall notify the student's parent/guardian in writing that the student will be administered the initial ELPAC. (Education Code 313, 52164.1; 5 CCR 11518.5)

Administration of the ELPAC, including the use of variations and accommodations in test

administration when authorized, shall be conducted in accordance with test publisher instructions and 5 CCR 11518.5- 11518.35.

Based on the initial assessment, the student shall be classified either as initially fluent in English proficient or as an English learner. The Superintendent or designee shall notify the student's parent/guardian, in writing, of the results of the ELPAC initial assessment within 30 calendar days after the student's date of initial enrollment, or, if administered prior to the student's initial date of enrollment, up to 60 calendar days prior to such enrollment, but not before July 1 of the school year of the student's initial enrollment. The notice shall indicate whether the student met the ELPAC initial assessment criterion for proficiency and include the district's contact information for use if the parent/guardian has questions or concerns regarding the student's classification. (5 CCR 11518.5)

Each year after a student is identified as an English learner and until the student is redesignated as English proficient, the summative assessment of the ELPAC shall be administered to the student during a four-month period after January 1 as determined by the California Department of Education. (Education Code 313)

The Superintendent or designee shall notify parents/guardians of their child's results on the summative assessment of the ELPAC within 30 calendar days following receipt of the results from the test contractor or, if the results are received from the test contractor after the last day of instruction for the school year, within 15 working days of the start of the next school year. (Education Code 52164.1; 5 CCR 11518.15)

The parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title I or Title III funds shall receive notification of the assessment of the student's English proficiency. Such notice shall be provided not later than 30 calendar days after the beginning of the school year or, if the student is identified for program participation during the school year, within two weeks of the student's placement in the program. The notice shall include all of the following: (Education Code 313.2, 440; 20 USC 6312)

- 1. The reason for the identification of the student as an English learner and the need for placement in a language acquisition program
- 2. The level of English proficiency, how the level was assessed, and the status of the student's academic achievement
- 3. A description of the language acquisition program in which the student is, or will be, participating, including a description of all of the following:
  - a. The methods of instruction used in the program and in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction
  - b. The manner in which the program will meet the educational strengths and needs of the student
  - c. The manner in which the program will help the student develop English proficiency and meet age-appropriate academic standards for grade promotion and graduation
  - d. The specific exit requirements for the program, the expected rate of transition from the program into classes not tailored for English learners, and the expected rate of graduation from secondary school if applicable

- e. When the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP
- 4. As applicable, the identification of a student as a long-term English learner or at risk of becoming a long-term English learner, as defined in Education Code 313.1, and the manner in which the program for English language development instruction will meet the educational strengths and needs of such students and help such students develop English proficiency and meet age- appropriate academic standards
- 5. Information about the parent/guardian's right to have the student immediately removed from a program upon the parent/guardian's request
- 6. Information regarding a parent/guardian's option to decline to enroll the student in the program or to choose another program or method of instruction, if available
- 7. Information designed to assist a parent/guardian in selecting among available programs, if more than one program or method is offered

## **Language Acquisition Programs**

Whenever parents/guardians of enrolled students, and those enrolled for attendance in the next school year, request that the district establish a specific language acquisition program, including Dual Language Immersion programs, in accordance with Education Code 310, such requests shall be addressed through the following process: (5 CCR 11311)

- 1. The school shall make a written record of each request, including any request submitted verbally, that includes the date of the request, the names of the parent/guardian and student making the request, a general description of the request, and the student's grade level on the date of the request. As needed, the school shall assist the parent/guardian in clarifying the request. All requests shall be maintained for at least three years from the date of the request.
- 2. The school shall monitor requests on a regular basis and notify the Superintendent or designee when the parents/guardians of at least 30 students enrolled in the school, or at least 20 students in the same grade level, request the same or a substantially similar type of language acquisition program. If the requests are for a multilingual program model, the district shall consider requests from parents/guardians of students enrolled in the school who are native English speakers in determining whether this threshold is reached.
- 3. If the number of parents/guardians described in item #2 is attained, the Superintendent or designee shall:
  - a. Within 10 days of reaching the threshold, notify the parents/guardians of students attending the school, the school's teachers, administrators, and the district's English learner parent advisory committee and parent advisory committee, in writing, of the requests for a language acquisition program
  - b. Identify costs and resources necessary to implement any new language acquisition program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent/guardian and community engagement to support the proposed program goals
  - c. Within 60 calendar days of reaching the threshold number of parents/guardians described in item #2 above, determine whether it is possible to implement the requested language acquisition program and provide written notice of the

determination to parents/guardians of students attending the school, the school's teachers, and administrators

d. If a determination is made to implement the language acquisition program, create and publish a reasonable timeline of actions necessary to implement the program. If a determination is made that it is not possible to implement the program, provide a written explanation of the reason(s) the program cannot be provided.

The district shall notify parents/guardians at the beginning of each school year or upon the student's enrollment regarding the process to request a language acquisition program, including a dual-language immersion program, for their child. The notice shall also include the following: (5 CCR 11309, 11310)

- 1. A description of the programs provided, including structured English immersion
- 2. Identification of any language to be taught in addition to English when the program includes instruction in a language other than English
- 3. The manner in which the program is designed using evidence-based research and includes both designated and integrated English language development
- 4. The manner in which the district has allocated sufficient resources to effectively implement the program, including, but not limited to, certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development, and opportunities for parent/guardian and community engagement to support the program goals
- 5. The manner in which the program will, within a reasonable period of time, lead to language proficiency and achievement of the state-adopted content standards in English and, when the program includes instruction in another language, in that other language
- 6. The process to request establishment of a language acquisition program not offered at the school
- 7. For any dual-language immersion program offered, the specific languages to be taught. The notice also may include the program goals, methodology used, and evidence of the proposed program's effectiveness.

The district shall provide additional and appropriate educational services to English learners for the purposes of overcoming language barriers and academic deficits in other areas of the core curriculum. (5 CCR 11302)

### Reclassification/Redesignation

English learners shall be reclassified as fluent English proficient when they are able to comprehend, speak, read, and write English well enough to receive instruction in an English language mainstream classroom and make academic progress at a level substantially equivalent to that of students of the same age or grade whose primary language is English and who are in the regular course of study. (Education Code 52164.6)

The procedures used to determine whether an English learner shall be reclassified as fluent English proficient shall include, but not be limited to: (Education Code 313, 52164.6; 5 CCR 11303)

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the ELPAC. An ELPAC Overall level 4 is the statewide

standardized criterion used to determine whether a student has met Proficiency in English.

- 2. Teacher evaluation that includes, but is not limited to, the student's academic performance. The term "teacher" refers to the classroom teacher and other certificated staff with direct responsibility for teaching or placement decisions of the student. (EC Section 313[f][2]; 5 CCR Section 11303[b]) Evaluation by the student's classroom teacher and any other certificated staff with direct responsibility for teaching of placement decisions related to the student, including, but not limited to, a review of the student's curriculum mastery and academic performance.
- 3. Parent/guardian involvement, including:
  - a. Notice to parents/guardians of language reclassification and placement, including a description of the reclassification process and the parent/guardian's opportunity to participate
  - b. Encouragement of parent/guardian participation in the district's reclassification procedure, including seeking parent/guardian opinion and consultation during the reclassification process
  - c. Provision of an interpreter for the parent/guardian, when necessary
- 4. Student performance on an objective assessment of basic skills in English that shows whether the student is performing at or near grade level based upon the performance against an empirically established range of performance in basic skills, based on the performance of English proficient students of the same age, which demonstrates whether the student is sufficiently proficient in English to participate effectively in a curriculum designed for students of the same age whose native language is English.

The student's language proficiency assessments, the participants in the reclassification process, and any decisions regarding reclassification shall be retained in the student's permanent record. (5 CCR 11305)

The Superintendent or designee shall monitor the progress of reclassified students to ensure their correct classification and placement. (5 CCR 11304)

The Superintendent or designee shall monitor students for at least four years following their reclassification to ensure correct classification and placement and to determine whether any additional academic support is needed. the students have not prematurely exited, any academic deficit incurred through participation in the English learner program has been remedied, and the students are meaningfully participating in the standard instructional program compared to students who had never participated in an English learner program. (5 CCR 11304;20 USC 6841)

## **Instructional Program**

The district offers research-based language acquisition programs designed to ensure English acquisition as rapidly and as effectively as possible and that provide instruction to student on the state-adopted academic content standards, including the English language development standards: Structured English Immersion; Two Way Dual Language Immersion and Developmental or One Way or Developmental Dual Language Immersion. A secondary program shall be implemented for recently arrived immigrant students with years of interrupted schooling, in which the school for one year will focus on accelerating English development and building academic skills.

All language acquisition programs will offer daily designated and integrated ELD until the student has met the reclassification criteria related to English proficiency.

Primary language support or primary language instruction depending on the selected instructional

program.

Additional support, if needed, to meet the reclassification criteria. Such support may take the form of during-school or extended learning opportunities and interventions.

### **Advisory Committees**

A school-level English Learner Advisory Committee (ELAC) shall be established when there are more than 20 English learners at the school. Parents/guardians of English learners, elected by parents/guardians of English learners at the school, shall constitute committee membership in at least the same percentage as English learners representing the total number of students in the school. The school may designate for this purpose an existing school-level advisory committee provided that it meets these criteria for committee membership. (Education Code 52176; 5 CCR 11308)

The ELAC shall be responsible for assisting in the development of a schoolwide needs assessment, recommending ways to make parents/guardians aware of the importance of school attendance, and advising the principal and school staff in the development of a detailed master plan for English learners for the individual school and submitting the plan to the Governing Board for consideration for inclusion in the district's master plan. Each ELAC shall have the opportunity to elect at least one member to the District English Learner Advisory Committee (DELAC). (Education Code 52176)

ELAC members shall receive training materials and training, which will assist them in carrying out their required advisory responsibilities. Training shall be planned in full consultation with committee members.

Schools shall set annual targets and actions to support the language and academic achievement of English learners in their School Plan. If schools do not meet these targets, they site shall describe the actions taken to modify their instructional and professional development programs, including the implementation of appropriate intervention programs, to support English learner's sustained language and academic success.

When the district has more than 50 English learners, the Superintendent or designee shall establish a District English Learner Advisory Committee (DELAC), the majority of whose membership shall be composed of parents/guardians of English learners who are not employed by the district. Alternatively, the district may use a subcommittee of an existing districtwide advisory committee on which parents/guardians of English learners have membership in at least the same percentage as English learners representing the total number of students in the district. (Education Code 52176)

The DELAC shall advise the Board on at least the following tasks: (5 CCR 11308)

- 1. Developing a district master plan for education programs and services for English learners, taking into consideration the school site plans for English learners
- 2. Conducting a districtwide needs assessment on a school-by-school basis
- 3. Establishing a district program, goals, and objectives for programs and services for English learners
- 4. Developing a plan to ensure compliance with applicable teacher or instructional aide requirements
- 5. Administering the annual language census
- 6. Reviewing and commenting on the district's reclassification procedures
- 7. Reviewing and commenting on the required written parental notifications

In order to assist the advisory committee in carrying out its responsibilities, the Superintendent or designee shall ensure that committee members receive appropriate training and materials. This training shall be planned in full consultation with the members. (5 CCR 11308)

## **LCAP Advisory Committee**

When there are at least 15 percent English learners in the district, with at least 50 students who are English learners, a district-level English learner parent advisory committee shall be established to review and comment on the district's local control and accountability plan (LCAP) in accordance with BP 0460 - Local Control and Accountability Plan. Such advisory committee shall provide input regarding the district's existing language acquisition programs and language programs, and, where possible, the establishment of other such programs, in accordance with BP 0460 - Local Control and Accountability Plan. The committee shall be composed of a majority of parents/guardians of English learners. (Education Code 52063; 5 CCR 11301, 15495) If the DELAC acts as the ELAC pursuant to Education Code 52063 and 52062, the DELAC shall also review and comment on the development or annual update of the LCAP. (Education Code 52062, 52063; 5 CCR 11301, 15495)

The DELAC may also serve as the LCAP English learner advisory committee.

#### **Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

the subject matter of the policy.	
<b>State</b> 5 CCR 11300-11316	<b>Description</b> English learner education
5 CCR 11510-11517.5	California English Language Development Test
5 CCR 11517.6-11519.5	English Language Proficiency Assessments for California
5 CCR 853	Administration of CAASPP
5 CCR 854.9	CAASPP and unlisted resources for students with disabilities
Ed. Code 200	Prohibition of discrimination
Ed. Code 300-340	English language education for immigrant children
Ed. Code 310	Language acquisition programs
Ed. Code 313-313.5	Assessment of English proficiency
Ed. Code 33050	Nonwaivable provisions
Ed. Code 42238.02	Local Control Funding Formula
Ed. Code 430-446	English Learner and Immigrant Pupil Federal Conformity Act
Ed. Code 44253.1-44253.11	Qualifications of teachers of English learners
Ed. Code 48345	Interdistrict instruction collaboration agreements
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 52052	Accountability; numerically significant student subgroups

Ed. Code 52060-52077 Local control and accountability plan Ed. Code 52160-52178 Bilingual Bicultural Act of 1976 Ed. Code 56305 CDE manual on English learners with disabilities Ed. Code 60603 Definition; recently arrived English learner Ed. Code 60640 California Assessment of Student Performance and Progress Ed. Code 62002.5 Continuation of advisory committee after program sunsets **Federal Description** 20 USC 1412 State eligibility 20 USC 1701-1721 **Equal Educational Opportunities Act** 20 USC 6311 State plan 20 USC 6312 Local educational agency plan 20 USC 6801-7014 Limited English proficient and immigrant students 20 USC 7801 **Definition of English learner** 34 CFR 100.3 Prohibition of discrimination on basis of race, color or national origin **Management Resources** Description 83 Ops.Cal.Atty.Gen. 40 (2000) Attorney General Opinion California Department of Education Summative English Language Proficiency Assessments for **Publication** California, Assessment Fact Sheet, July 2023 California Department of Education Englisher Learner, Federal Program Monitoring Instrument **Publication** California Department of Education Monitoring Reclassified Students, December 2019 **Publication** California Department of Education California Practitioners' Guide for Educating English Learners **Publication** with Disabilities, 2019 California Department of Education **English Language Proficiency Assessments for California** Information Guide, July 2023 Publication California Department of Education California Digital Learning Integration and Standards **Publication** Guidance, May 2021 California Department of Education Reclassification Guidance for 2020-21 and Statewide Testing **Publication** Window Extension, CDE Correspondence, June 14, 2021 California Department of Education Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning, December 2015 Publication California Department of Education Accessibility Resources Matrix, 2022 **Publication** California Department of Education Next Generation Science Standards for California Public Schools, Kindergarten through Grade Twelve, rev. March **Publication** 2015

California Department of Education **English Language Development Standards for California Publication** Public Schools: Kindergarten Through Grade Twelve, 2012 California English Learner Roadmap: Strengthening California Department of Education Comprehensive Educational Policies, Programs and Practices **Publication** for English Learners, 2017 California Department of Education Common Core State Standards for Mathematics, 2013 **Publication** California Department of Education English Language Arts/English Language Development Framework for California Public Schools: Kindergarten Publication through Grade Twelve, 2014 Bilingual Authorization Educator Preparation Preconditions, Commission on Teacher Credentialing **Publication** Program Standards, and Bilingual Teaching Performance Expectations, December 2021 **Court Decision** Valeria O. v. Davis (2002) 307 F.3d 1036 Court Decision California Teachers Association v. State Board of Education et al. (9th Circuit, 2001) 271 F.3d 1141 **Court Decision** McLaughlin v. State Board of Education (1999) 75 Cal.App.4th 196 Court Decision Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698 **CSBA** Publication English Learners in Focus, Issue 3: Ensuring High-Quality Staff for English Learners, Governance Brief, July 2016 English Learners in Focus, Issue 4: Expanding Bilingual **CSBA** Publication Education in California after Proposition 58, Governance Brief, March 2017 **CSBA** Publication English Learners in Focus: The English Learner Roadmap: Providing Direction for English Learner Success, Governance Brief, February 2018 **CSBA** Publication English Learners in Focus, Issue 1: Updated Demographic and Achievement Profile of California's English Learners, Governance Brief, September 2016 **CSBA** Publication English Learners in Focus, Issue 2: The Promise of Two-Way Immersion Programs, Governance Brief, September 2014 The Education Trust- West Publication Unlocking Learning: Science as a Lever for English Learner Equity, January 2017 The Education Trust- West Publication Unlocking Learning II: Math as a Lever for English Learner Equity, March 2018 English Learners and Title III of the Elementary and U.S. Department of Education **Publication** Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA), September 2016 U.S. Department of Education English Learner Tool Kit for State and Local Educational Agencies (SEAs and LEAs), rev. November 2016 **Publication** 

U.S. Department of Education <u>Innovative Solutions for Including Recently Arrived English</u>

Publication Learners in State Accountability Systems: A Guide for States,

January 2017

U.S. Department of Education Dear Colleague Letter: English Learner Students and Limited

Publication English Proficient Parents, January 7, 2015

Website California Department of Education, English Language

Proficiency Assessments for California (ELPAC)

Website <u>California Digital Learning Integration and Standards</u>

**Guidance** 

Website CSBA District and County Office of Education Legal Services

Website National Clearinghouse for English Language Acquisition

Website <u>The Education Trust-West</u>

Website California Department of Education, English Learners

Website <u>California Association for Bilingual Education</u>

Website <u>CSBA</u>

Website U.S. Department of Education

#### **Cross References**

**Code** Description

0200 <u>Goals For The School District</u>

0415 Equity

0420 <u>School Plans/Site Councils</u>

0420 School Plans/Site Councils

0460 Local Control And Accountability Plan

0460 <u>Local Control And Accountability Plan</u>

0470 <u>COVID-19 Mitigation Plan</u>

1220 Citizen Advisory Committees

1220 <u>Citizen Advisory Committees</u>

3100 <u>Budget</u>

3100 <u>Budget</u>

4112.22 Staff Teaching English Learners

4131 <u>Staff Development</u>

4231 <u>Staff Development</u>

4331 <u>Staff Development</u>

5020 Parent Rights And Responsibilities

5020	Parent Rights And Responsibilities
5126	Awards For Achievement
5126	Awards For Achievement
5148	Child Care And Development
5148	Child Care And Development
5148.3	Preschool/Early Childhood Education
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6120	Response To Instruction And Intervention
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.91	Reading/Language Arts Instruction
6151	<u>Class Size</u>
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6162.5	Student Assessment
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6162.51	State Academic Achievement Tests
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6164.5	Student Success Teams
6164.6	Identification And Education Under Section 504

6164.6	Identification And Education Under Section 504
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6172	Gifted And Talented Student Program
6173	Education For Homeless Children
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6173-E PDF(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6175	Migrant Education Program
6175	Migrant Education Program
6190	Evaluation Of The Instructional Program