

# **N.J.A.C. 6A:15, BILINGUAL EDUCATION**

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## **CHAPTER 15. BILINGUAL EDUCATION**

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **6A:15-1.1 General requirements**

- (a) The purpose of this chapter is to:
  - 1. Ensure all English language learners (ELLs) as defined in this chapter are provided with a free, appropriate public education pursuant to N.J.S.A. 18A:35-15 to 26;
  - 2. Ensure the rights of ELLs are protected;
  - 3. Ensure the provision of bilingual education and related services;
  - 4. Assist district boards of education in providing educational services to ELLs; and
  - 5. Ensure the evaluation of the effectiveness of the education of ELLs.
- (b) The rules of this chapter shall apply to all district boards of education providing educational programs and services to ELLs.
- (c) The Department shall:
  - 1. Administer the provisions of this chapter;
  - 2. Provide technical assistance to each district board of education in the implementation of bilingual, ESL, and English language services programs; and
  - 3. Coordinate and monitor in conjunction with the county offices of education the local, State and Federal programs designed to meet the educational needs of ELLs.

#### **6A:15-1.2 Definitions**

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

“Bilingual education program” means a full-time program of instruction in all courses or subjects that a child is required by law or rule to receive, given in the native language of ELLs enrolled in the program and also in English; in the aural comprehension, speaking, reading, and writing of the native language of ELLs enrolled in the program, and in the aural comprehension, speaking, reading, and writing of English; and in the history and culture of the country, territory, or geographic area that is the native land of the parents of ELLs enrolled in the program, and in the history and culture of the United States.

“Bilingual part-time component” means a program alternative in which students are assigned to mainstream English program classes, but are scheduled daily for their developmental reading and mathematics instruction with a certified bilingual teacher.

“Bilingual resource program” means a program alternative in which students receive, on an individual basis, daily instruction from a certified bilingual teacher in identified subjects and with specific assignments.

“Bilingual tutorial program” means a program alternative in which students receive 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.

"District board of education" means the provider of publicly funded preschool, elementary, and secondary education programs, including a district board of education, charter school board of trustees, State agency, or other public education agency that acts as the school district of

residence for the location, identification, evaluation, determination of eligibility, and provision of a free and appropriate public education to ELLs, except as defined otherwise.

“Dual-language bilingual education program” means a full-time program of instruction in elementary and secondary schools that provides structured English language instruction and instruction in a second language in all content areas for ELLs and for native English speaking students enrolled in the program.

“Educational needs” means the particular educational requirements of ELLs; the fulfillment of which will provide them with equal educational opportunities.

“English as a second language (ESL) program” means a daily developmental second-language program of at least one period of instruction based on student language proficiency that teaches aural comprehension, speaking, reading, and writing in English using second language teaching techniques, and incorporates the cultural aspects of the students' experiences in their ESL instruction. A period is the time allocated in the school schedule for instruction in core subjects.

“English language development standards” means the 2012 Amplification of the English Language Development Standards, Kindergarten-Grade 12, incorporated herein by reference, as amended and supplemented, developed by the World-Class Instructional Design and Assessment (WIDA) Consortium. They are the standards and language competencies ELLs in preschool 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.

The [standards](#) are published by the Board of Regents of the University of Wisconsin System, on behalf of the WIDA Consortium ([www.wida.us](http://www.wida.us)) and are available for review at

<http://www.wida.us/standards/eld.aspx>.

“English language learner” or “ELL” means a student whose native language is other than English. The term refers to students with varying degrees of English language proficiency in any one of the domains of speaking, reading, writing, or listening and is synonymous with limited English speaking ability as used in N.J.S.A. 18A:35-15 to 26.

“English language proficiency test” means a test that measures English language skills in the areas of aural comprehension, speaking, reading, and writing.

“English language services” means services designed to improve the English language skills of ELLs. The services, provided in school districts with less than 10 ELLs, are in addition to the regular school program and are designed to develop aural comprehension, speaking, reading, and writing skills in English.

“Exit criteria” means the criteria that must be applied before a student may be exited from a bilingual, ESL, or English language services education program.

“High-intensity ESL program” means a program alternative in which students 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.

“Instructional program alternative” means a part-time program of instruction that may be established by a district board of education in consultation with and approval of the Department. All students in an instructional program alternative receive English as a second language.

“Native language” means the language first acquired by the student, the language most often

spoken by the student, or the language most often spoken in the student’s home regardless of the language spoken by the student.

“NJSLS” means the New Jersey Student Learning Standards as defined in N.J.A.C. 6A:8-1.3.

“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 student legally resides. When parents are separated or divorced, parent means the person(s) who has legal custody of the student, provided such parental rights have not been terminated by a court of appropriate jurisdiction.

“Review process” means the process established by the district board of education to assess ELLs for exit from bilingual, ESL, or English language services programs.

“Sheltered English instruction” means an instructional approach used to make academic instruction in English understandable to ELLs. Sheltered English classes are taught by regular classroom teachers who have received training on strategies to make subject-area content comprehensible for ELLs.

**6A:15-1.3 Identification of eligible English language learners**

- (a) The district board of education shall determine at the time of enrollment the native language of each ELL. Each district board of education shall:
  1. Maintain a census indicating all identified students whose native language is other than English; and
  2. Develop a screening process, initiated by a home-language survey, to determine

which students in kindergarten to 12th grade, 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 students who are proficient English speakers and need no further testing.

- (b) The district board of education shall determine the English language proficiency of all kindergarten to 12th-grade students who are not screened out and whose native language is other than English by administering a Department-approved English language proficiency test, assessing the level of reading in English, reviewing the previous academic performance of students, including their performance on standardized tests in English, and reviewing the input of teaching staff members responsible for the educational program for ELLs. Students who do not meet the Department standard on a Department-approved language proficiency test and who have at least one other indicator shall be considered ELLs. The district board of education shall also use age-appropriate methodologies to identify preschool ELLs to determine their individual language development needs.

#### **6A:15-1.4 Bilingual programs for English language learners**

- (a) The district board of education shall provide all kindergarten to 12th-grade ELLs enrolled in the school district pursuant to N.J.S.A. 18A:7F-46 with all required courses and support services defined in (b) through (h) below to prepare ELLs to meet the NJSLs for high school graduation. This may also include tutoring, after school programs, summer programs, and remedial services as needed by ELLs. All district boards of education shall also provide appropriate instructional programs to eligible preschool ELLs based on need according to the New Jersey Preschool Program Implementation Guidelines, 2015.

The guidelines provide developmentally appropriate recommendations for good practice and are intended for school districts that provide preschool programs.

- (b) The district board of education shall establish English language services designed to improve the English language proficiency of ELLs whenever there are at least one, but fewer than 10, ELLs enrolled in the school district. English language services shall be provided in addition to the regular school program.
- (c) The district board of education shall establish an ESL program that provides at least one period of ESL instruction based on student language proficiency whenever there are 10 or more ELLs enrolled in the school district.
  - 1. An ESL curriculum that addresses the WIDA English language development standards shall be developed and adopted by the district board of education to address the instructional needs of ELLs.
  - 2. The ESL curriculum shall be cross referenced to the school district's bilingual education and content area curricula to ensure that ESL instruction is correlated to all content areas taught.
- (d) The district board of education shall establish bilingual education programs whenever there are 20 or more ELLs in any one language classification enrolled in the school district, pursuant to N.J.S.A. 18A:35-18. Bilingual education programs shall:
  - 1. Be designed to prepare ELLs to acquire sufficient English skills and content knowledge to meet the NJSLs. All ELLs participating in bilingual programs shall also receive ESL instruction;
  - 2. Include a curriculum that addresses the NJSLs, the WIDA English language development standards, and the use of two languages. The bilingual education curriculum shall be adopted by the district board of education; and
  - 3. Include the full range of required courses and activities offered on the same basis and under the same rules that apply to all students within the school district.



- (e) ELLs shall be provided with equitable instructional opportunities to participate in all non-academic courses necessary to meet the NJSLs, including comprehensive health and physical education, the visual and performing arts, and career awareness programs. The instructional opportunities shall be designed to assist ELLs to fully comprehend all subject matter and demonstrate their mastery of content matter.
- (f) The district board of education shall offer sufficient courses and other relevant supplemental instructional opportunities in grades nine through 12 to enable ELLs to meet the NJSLs for graduation. When sufficient numbers of students are not available to form a bilingual class in a subject area, the district board of education shall develop plans in consultation with and approved by the Department to meet the needs of the students.
- (g) In addition to (a) through (f) above, the district board of education shall design additional programs and services to meet the special needs of eligible ELLs and 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.
- (h) A district board of education may establish dual-language bilingual education programs in its schools and may make provisions for the coordination of instruction and services with the school district's world languages program. Dual-language bilingual education programs shall also enroll students whose primary language is English, and shall be designed to help students achieve proficiency in English and in a second language while mastering subject-matter skills. To the extent necessary, instruction shall be in all courses or subjects of study that allow students to meet all grade promotion and graduation standards. Where possible, classes in dual-language bilingual programs shall be comprised of approximately equal numbers of ELLs and of students whose native language is English.
- (i) The district board of education may establish a program in bilingual education for any language classification with fewer than 20 pupils.

### **6A:15-1.5 Waiver process provided by statute**

- (a) A school district may request a waiver from N.J.A.C. 6A:15-1.4(d) to establish annually an instructional program alternative with the approval of the Department when there are 20 or more students eligible for the bilingual education program in grades kindergarten through 12, and the school district is able to demonstrate that it would be impractical to provide a full-time bilingual program due to the age range, grade span, and/or geographic location of eligible students.
1. Instructional program alternatives shall be developed in consultation with and approved annually by the Department after review of student enrollment and achievement data. All bilingual instructional program alternatives shall be designed to assist ELLs to develop sufficient English skills and subject-matter skills to meet the NJSLS.
  2. The instructional program alternatives that shall be established include, but are not limited to: the bilingual part-time component; the bilingual resource program; the bilingual tutorial program; the sheltered English instruction program; and the high-intensity ESL program.
  3. District boards of education implementing program alternatives annually shall submit student enrollment and achievement data that demonstrate the continued need for the programs.

### **6A:15-1.6 Approval procedures**

- (a) Each school district providing a bilingual program, ESL program, or English language services shall submit a plan every three years to the Department of Education for

approval. At its discretion, the Department may request modifications, as appropriate.

1. Plans submitted by each district board of education for approval shall include information on the following:
  - i. Identification of students;
  - ii. Program description;
  - iii. The number of certified staff hired for the program;
  - iv. Bilingual and ESL curriculum development;
  - v. Evaluation design;
  - vi. Review process for exit; and
  - vii. A budget for the bilingual and ESL program or English language services.
- (b) The Department will establish procedures for monitoring and evaluation of district bilingual/ESL programs by means of its district and school accountability process.

#### **6A:15-1.7 Supportive services**

- (a) Students enrolled in bilingual, ESL, and English language services programs shall have full access to educational services available to other students in the school district.
- (b) To the extent that is administratively feasible, supportive services to ELLs, 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 the ELLs and their parents.

#### **6A:15-1.8 Inservice training**

- (a) The district board of education shall develop a plan for inservice training for bilingual, ESL, and mainstream teachers; administrators who supervise bilingual/ESL programs;

and administrators and any personnel who observe and evaluate teachers of ELLs. The plan shall include instructional strategies and appropriate assessments to help ELLs meet the NJSLs and the WIDA English language development standards. All bilingual and ESL teachers shall receive training in the use of the ESL curriculum.

- (b) The Professional Development Plan of the school district shall include the needs of bilingual and ESL teachers, which shall be addressed through inservice training.

### **6A:15-1.9 Certification**

- (a) All teachers of bilingual classes shall hold 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, pursuant to N.J.S.A. 18A:6-38 et seq. and 18A:35-15 to 26.
- (b) All teachers of ESL classes shall hold a valid New Jersey certificate in ESL pursuant to N.J.S.A. 18A:6-38 et seq. and N.J.A.C. 6A:9B-10.5.
- (c) All teachers providing English language services shall hold a valid New Jersey instructional certificate.

### **6A:15-1.10 Bilingual, English as a second language, and English language services program enrollment, assessment, exit, and reentry**

- (a) All ELLs from kindergarten through grade 12 shall be enrolled in the bilingual, ESL, or English language services education program established by the school district board of education as prescribed in N.J.A.C. 6A:15-1.4(b) through (e) and 1.5(a), and P.L. 1995, c. 59 and c. 327.
- (b) Students enrolled in the bilingual, ESL, or English language services program shall be

assessed annually using a Department-approved English language proficiency test to determine their progress in achieving English language proficiency goals and readiness for exiting the program.

- (c) ELLs enrolled in the bilingual, ESL, or English language services program shall be placed in a monolingual English program when they have demonstrated readiness to function successfully in an English-only program. The process to determine the readiness or inability of the individual student to function successfully in the English-only program shall be initiated by the student's level of English proficiency as measured by a Department-established standard on an English language proficiency test. The readiness of the student shall be further assessed on the basis of multiple indicators that shall include, at a minimum: classroom performance; the student's reading level in English; the judgment of the teaching staff member or members responsible for the educational program of the student; and performance on achievement tests in English.
- (d) A parent or guardian may remove a student who is enrolled in a bilingual education program pursuant to provisions in P.L. 1995 c. 327.
- (e) Newly exited students who are not progressing in the mainstream English program may be considered for reentry to bilingual and ESL programs as follows:
  1. After a minimum of one-half an academic year and within two years of exit, the mainstream English classroom teacher may recommend retesting with the approval of the principal.
  2. A waiver of the minimum time limitation may be approved by the executive county superintendent upon request of the chief school administrator if the student is experiencing extreme difficulty in adjusting to the mainstream program.
  3. The recommendation for retesting shall be based on the teacher's judgment that the student is experiencing difficulties due to problems in using English as

evidenced by the student's inability to: communicate effectively with peers and adults; understand directions given by the teacher; and/or comprehend basic verbal and written materials.

4. The student shall be tested using a different form of the test or a different language proficiency test than the one used to exit the student.
  5. If the student scores below the State-established standard on the language proficiency test, the student shall be reenrolled into the bilingual or ESL program.
- (f) When the review process for exiting a student from a bilingual, ESL, or English language services program has been completed, the district board of education shall notify by mail the student's parent(s) or legal guardian of the placement determination. If the parent(s), guardian, or teaching staff member disagrees with the placement, he or she may appeal the placement to the Commissioner, pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3, after exhausting the school district's appeal process.

#### **6A:15-1.11 Graduation requirements for English language learners**

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

#### **6A:15-1.12 Location**

All bilingual, ESL, and English language services programs shall be conducted within classrooms within the regular school buildings of the school district pursuant to N.J.S.A. 18A:35-20.

#### **6A:15-1.13 Notification**

(a) Each district board of education shall notify by mail the parents of ELLs of the fact that their child has been identified as eligible for enrollment in a bilingual, ESL, or English language services education program. The district board of education shall issue the notification within 30 days of the child's identification. Notice shall include a statement that the parents may decline their child's enrollment in a bilingual program, and they shall be given an opportunity to do so if they choose. The notice shall be in writing and in the language in which the parent(s) possesses a primary speaking ability, and in English, and shall include the following information:

1. Why the student was identified as an ELL;
2. Why the student needs to be placed in a language instructional educational program that will help him or her develop and attain English proficiency and meet the NJSLS;
3. The student's level of English proficiency, how the level of English proficiency was assessed, and the student's academic level;
4. The method of instruction the school district will use to serve the student, including a description of other instruction methods available and how those methods differ in content, instructional goals, and the use of English and a native language, if applicable;
5. How the program will meet the student's specific needs in attaining English and meeting State standards;
6. The program's exit requirements, the expected rate of transition into a classroom not tailored for ELLs, and, in the case of high school students, the expected rate of graduation; and
7. How the instructional program will meet the objectives of the individualized education program of a student with a disability.

- (b) Each district board of education shall send progress reports to parent(s) of students enrolled in bilingual, ESL, or English language services programs in the same manner and frequency as progress reports are sent to parent(s) of other students enrolled in the school district.
- (c) Progress reports shall be written in English and in the native language of parent(s) of students enrolled in the bilingual and ESL program unless the board of education can demonstrate and document in the three-year plan required in N.J.A.C. 6A:15-1.6 (a) that the requirement would place an unreasonable burden on the district board of education.
- (d) Each district board of education shall notify the parent(s) when students 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) possesses a primary speaking ability.

#### **6A:15-1.14 Joint programs**

With approval of the executive county superintendent on a case-by-case basis, a school district may join with another district board of education to provide bilingual, ESL, or English language services programs.

#### **6A:15-1.15 Parental involvement**

- (a) Each district board of education shall provide for the maximum practicable involvement of parent(s) of ELLs in the development and review of program objectives and dissemination of information to and from the district boards of education and communities served by the bilingual, ESL, or English language services education programs.
- (b) Each district board of education implementing a bilingual education program shall



establish a parent advisory committee on bilingual education of which the majority membership shall be parent(s) of ELLs.

**6A:15-1.16 State advisory committee on bilingual education**

- (a) The State Board of Education shall establish a State advisory committee on bilingual education. The Commissioner shall appoint the members of the committee with representation from parents, institutions of higher education, bilingual and ESL teachers, school board members, school administrators, and lay persons pursuant to N.J.S.A. 18A:35-24.
- (b) The committee shall advise the Department in the formulation of policies and procedures relating to P.L. 1974, c. 197 (N.J.S.A. 18A:35-15 to 26).