

Notice of Adoption for N.J.A.C. 6A:15, Bilingual Education

The following is the accessible version of the notice of adoption for N.J.A.C. 6A:15. The notice of proposal document includes three sections – [comments and responses](#) and [amendments made upon adoption](#).

Education

State Board of Education

Bilingual Education

Readoption with Amendments: N.J.A.C. 6A:15

Adopted Recodification with Amendments: N.J.A.C. 6A:15-1.5 as 1.15

Proposed: February 21, 2023, at 55 N.J.R. 275(a).

Adopted: July 12, 2023, by the State Board of Education, Angelica Allen-McMillan, Ed.D., Acting Commissioner, Department of Education, and Acting Secretary, State Board of Education.

Filed: July 14, 2023, as R.2023 d.095, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 18A:4-15 and 18A:35-15 through 26.

Effective Dates: July 14, 2023, Readoption;
 August 7, 2023, Amendments and Recodification.

Expiration Date: July 14, 2030.

Summary of Public Comments and Agency Responses:

The following is a summary of the comments received from the public and the Department of Education's (Department) responses. Each commenter is identified at the end of the comment by a number that corresponds to the following list:

1. Dr. JoAnne M. Negrin, Supervisor of English as a Second Language (ESL), World Languages, Bilingual Education, and Performing Arts, Vineland School District
2. Julie Mitschow, Nutley School District
3. Sarah Jung, ESL teacher, Norwood School District

4. Nina Peckman, Staff attorney, Advocates for Children of New Jersey
5. Erin Sweeney, Esq., Equal Justice Works Fellow, and Cindy Lio, State and Local Policy Director, Kids in Need of Defense
6. Jesse Burns, Executive Director, Dr. Rozella G. Clyde, and Deborah Lee, League of Women Voters of New Jersey Education Committee
7. Ashley Warren, Ed.D., Vice President of Membership, Foreign Language Educators of New Jersey
8. Frank Angiola, ESL teacher, Hillcrest School District
9. Dr. Kimberly Tew, Assistant Superintendent of Curriculum and Instruction, Princeton School District
10. Dineen Gruchaz, Principal, Community Park School
11. Sheba Koshy, ESL teacher
12. Jacob Bailey, Fourth grade teacher, Village Elementary School
13. Odenis Goris, Dual language immersion elementary teacher
14. Kay Li
15. María José Spender, Spanish kindergarten dual language immersion teacher, West Windsor-Plainsboro Regional School District
16. Helen Kelmanovich, Spanish kindergarten dual language immersion teacher, West Windsor-Plainsboro Regional School District
17. Lilia Ruffo, Spanish first grade paraprofessional dual language immersion, West Windsor-Plainsboro Regional School District
18. Ashley Warren, Ed.D., Supervisor of World Languages, Dual Language Immersion, and English Language Learning, West Windsor-Plainsboro Regional School District

19. Joseph Grillo, Parent
 20. Stacy Burke, ESL teacher, Maurice Hawk Elementary School
 21. Nora Tang
 22. Marla Fruhling, Third grade teacher, West Windsor-Plainsboro Regional School District
 23. Jean Public
 24. Debra J. Bradley, Esq., Director of Government Relations, New Jersey Principals and Supervisors Association
 25. Robert F. Johnson, Director of Special Education, Middle Township School District
 26. Katherine Stotler, Supervisor of World Language and English Language Learners, Bernards Township School District
 27. Michele Schreiner, Supervisor of English Language Learning and World Languages, Egg Harbor Township School District
 28. Jonathan Pushman, Director, Governmental Relations, New Jersey School Boards Association
 29. Laura Arredondo, Supervisor, World Languages and English Language Learner Programs, Hunterdon Central Regional High School
 30. Kathleen Fernandez, Executive Director, New Jersey Teachers of English to Speakers of Other Languages/New Jersey Bilingual Educators (NJTESOL/NJBE), Lady Jimenez Torres, New Jersey Consortium for Immigrant Children, and Elizabeth Athos and Jessica Levin, Education Law Center
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1. Comment: The commenters applauded the State’s efforts to ensure that multilingual learners (MLs) are viewed with an asset-based lens. (1, 6, and 24)
Response: The Department thanks the commenters for the support.

2. Comment: The commenter stated that the Department should provide Statewide translation and interpretation services. The commenter also remarked that the Department's stated commitment to ensuring that school districts and families are provided with information and communications in multiple languages and an accessible form is not being realized across the State. The commenter stated that there is an urgent issue of lack of compliance with Federal law and guidance, as well as existing State requirements. The commenter also stated that many school districts are not providing quality interpretation or translation services, except for special education testing. The commenter further stated that this crucial work must start with a clear requirement at N.J.A.C. 6A:15 that all information brought to the attention of English-speaking parents by the Department and school districts must also be provided to parents who do not speak English as their primary language. (6)

Response: The Department agrees that essential information and communication from school districts must be available in the language in which the parent possesses a primary speaking ability. Such communication is critical to achieve meaningful family engagement. The amendments at N.J.A.C. 6A:15-1.1(c) will ensure that the Department provides culturally and linguistically responsive technical assistance to each school district in the implementation of language instruction educational programs (LIEPs). Additionally, MLs' parents are also entitled, pursuant to Titles I and III of the Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Act (IDEA), to translation and interpretation of particular information. Therefore, the Department proposed new N.J.A.C. 6A:15-1.14(a)1 to include a non-exhaustive list of parent communications that school districts must provide in the language in which the parent possesses a primary speaking

ability. The allocation of resources for the Department to provide Statewide translation resources is outside the scope of this rulemaking.

3. Comment: The commenters applauded the State's efforts to ensure that MLs are viewed with an asset-based lens. (1, 6, and 24)

Response: The Department thanks the commenters for the support.

4. Comment: The commenter stated that many of the proposed amendments at N.J.A.C. 6A:15 demonstrate progress, but expressed concern regarding the practical application and impact of the proposed amendments. The commenter also stated that several of the proposed amendments, although well-intended, in reality serve to concentrate the deficit lens through which the students are viewed. (1)

Response: The Department recognizes that the proposed amendments at N.J.A.C. 6A:15 are a critical first step in shifting to asset-based instruction. The Department intends to complement the proposed policy changes with guidance materials to ensure that the implementation of the proposed amendments is equitable for the learning needs of MLs, while providing school districts the flexibility to meet the chapter's requirements. The Department will seek feedback from the State Advisory Board on Bilingual Education regarding any materials that are developed as guidance to accompany the proposed amendments to this chapter.

5. Comment: The commenter stated that the Department and school districts should establish a pathway where families can register complaints regarding issues that impact MLs, comparable to the process that exists for special education. The commenter also stated that the Department has not proposed any amendment to implement this crucial

recommendation even though it is contained in Federal guidance. The commenter further stated that N.J.A.C. 6A:15 cannot truly protect the rights of MLs and their families if a complaint process is not captured in the chapter. The commenter stated that changes are essential to align N.J.A.C. 6A:15 with existing legal requirements and to rectify long-standing inequities in the education of New Jersey's MLs. (6)

Response: The procedural requirements for special education that the commenter cited are Federally mandated for students with disabilities, pursuant to 20 U.S.C. § 1415. MLs and their families have the right to submit complaints through the Federal and State complaint processes pursuant to the ESSA. The [Title III webpage](#) of the Department's website explains parental and student rights. In lieu of adding an additional complaint process, the Department remains committed to ensuring that all MLs and their families receive the services that are required by law and necessary for MLs to thrive in school. To ensure that school districts comply with the requirements at N.J.A.C. 6A:15, the Department monitors all school district programs through the New Jersey Quality Single Accountability Continuum (NJQSAC) process, adheres to the procedures required pursuant to the ESSA, and conducts a review of each school district's LIEP plan when it is submitted every three years.

6. Comment: The commenter requested a mechanism be made available for complaints registered with the Department regarding LIEPs that are not implemented with high-quality, like the complaint mechanism at N.J.A.C. 6A:14 for students with disabilities. The commenter stated that the importance of a complaint mechanism is because parents of MLs are much less likely to advocate for their children's rights in the school system, and, if necessary, in the courts, than parents of other student populations. (1)

Response: MLs and their families have the right to submit complaints through the Federal and State complaint process pursuant to ESSA. The Title III webpage of the Department's website explains the parental and student rights, the complaint procedure, and appeals process.

In addition, the Department oversees all schools and programs through the NJQSAC, the Department's requirements pursuant to the ESSA, and its review of each district board of education's LIEP plan when it is submitted every three years.

7. Comment: The commenter stated that full-time bilingual education is defined at N.J.A.C. 6A:15-1.2 as a full-time LIEP in all courses or subjects. The commenter also stated that a part-time bilingual program is defined as an instructional program alternative in which students receive core instruction in English language arts (ELA) and mathematics with a certified bilingual teacher. The commenter further stated that many full-time bilingual programs, including programs that are recognized by the Department as instructional models for other school districts, are not designed so all courses or subjects are taught by a certified bilingual teacher. The commenter questioned whether school districts would need an elementary music teacher with a bilingual endorsement or a teacher with a bilingual endorsement for a secondary elective. (1)

Response: The Department thanks the commenter for the input. School districts do not need a teacher with a bilingual/bicultural endorsement for classes such as music. N.J.S.A. 18A:35-20 requires students with limited English-speaking ability to participate fully with English-speaking pupils in the regular classes for courses or subjects in which verbalization is not essential to understanding the subject matter, including, but not limited to, art, music, and physical education.

8. Comment: The commenter stated that the definition at N.J.A.C. 6A:15-1.2 of “bilingual resource program” is unclear. (1)

Response: The Department disagrees with the commenter because the definition specifies that students receive daily instruction from a teacher with a bilingual/bicultural endorsement. The Department will issue guidance related to this chapter’s proposed amendments to illustrate for school districts how this program design can be implemented with fidelity. A bilingual resource program is an alternative program that can only be implemented through the waiver process at N.J.A.C. 6A:15-1.15; therefore, any school district seeking to implement an instructional program alternative will have to secure the Department’s approval.

9. Comment: The commenter asked whether proposed amendments at N.J.A.C. 6A:15-1.2 to the definition of “dual language immersion program,” which is a full-time LIEP for the purposes of this chapter, necessitate modification of a successful dual language immersion program that is delivered as a one-way program in which the majority of the students have the same primary language and they are together learning a new partner language. The commenter stated that the proposed amendments are very specific about what a dual language program looks like and its student makeup. The commenter stated that one-way dual language immersion programs are not mentioned in the chapter and, therefore, could be interpreted as being discouraged or not permitted. (1)

Response: If the program is not designed to meet the chapter’s full-time LIEP requirement, then program modifications are not needed as a result of N.J.A.C. 6A:15-1.2 and the rest of this chapter. Rather than discourage the implementation of dual language immersion programs, the proposed amendments elevate a dual language immersion

program as a viable option to meet the chapter's requirements. The proposed requirements for a dual language immersion program are parallel to a bilingual education program, as such programs meet the requirements of a full-time LIEP. The proposed amendments at N.J.A.C. 6A:15-1.2 to the definition of "dual language immersion program" will create a program design that will enable MLs to maintain their primary language and enhance their literacy in it while acquiring English. The Department acknowledges there are model dual language immersion programs throughout the State, including programs in which a majority of the students are native English speakers. Dual language immersion programs that are not designed to meet the chapter's LIEP requirements fall outside the scope of this rulemaking.

10. Comment: The commenter expressed support for dual language education. The commenter stated that studies have shown that bilingual students are more empathetic and are able to pick up on social cues and that dual language immersion students outperform their peers in English proficiency by a full year. The commenter also stated that dual language immersion programs are proven to be beneficial to students of all backgrounds and proficiencies in the target language and in English. The commenter further stated that bilingual education at a young age has proven to be beneficial to a child's development, both socially and academically. The commenter stated that the research findings were crucial in deciding to enroll the commenter's child in a dual language immersion program. (19)

Response: The Department agrees with the commenter that dual language immersion programs are a valuable program design for all students.

11. Comment: The commenters suggested that the definition of "dual language immersion

program” at N.J.A.C. 6A:15-1.2 be replaced with the following: ““Dual language immersion’ refers to programs that provide literacy and content instruction to all students through two languages and that promotes bilingualism and biliteracy, grade-level academic achievement, and sociocultural competence. In a dual language immersion program, teachers provide daily instruction in English and a minimum of 50 percent of instruction in the partner language. Dual language programs can be either ‘one-way’ or ‘two-way’ depending on the program model and student population. One-way dual language programs serve students who are mostly proficient in their primary language but not in English at the time of enrollment or who are mostly monolingual/dominant in English at the time of enrollment. Two-way programs include approximately equal numbers of students who, at the time of enrollment, are monolingual/dominant in English and are monolingual/dominant in the partner language. The programs may also serve students who have proficiency in both languages at the time of enrollment.”

The commenters stated that, by adopting the suggested definition, the Department would be acknowledging the variety of dual language immersion programs that exist within New Jersey and globally. The commenters also stated that the Department’s proposed amendments to the definition for “dual language immersion program” do not reference one-way dual language immersion programs, which the commenters stated are shown to be powerful and effective language programs for MLs and monolingual learners. The commenters indicated that they drafted the recommended definition after considering relevant research. (7, 9, 10, 14, 15, 16, 17, 18, 21, and 22)

Response: The Department appreciates the commenters’ suggestion regarding the definition of “dual language immersion programs,” but disagrees that the suggested

changes are necessary. The existing definition, as proposed for amendment, applies to dual language immersion programs that meet the requirements at N.J.S.A. 18A:35-15 for bilingual education in New Jersey for MLs only.

The Department's proposed amendments to the definition of "bilingual education" at N.J.A.C. 6A:15-1.2 will enable MLs to maintain their primary language and enhance their literacy in it while acquiring English. This is similar to a one-way bilingual program, which has the goals of bilingualism, biliteracy, and biculturalism. One-way programs for monolingual English speakers are outside of the scope of this chapter, which sets forth requirements related to only MLs. MLs are students whose primary language is not English, who are identified through the process set forth in this chapter, and who are developing proficiency in multiple languages (for example, English and a primary language).

12. Comment: The commenters suggested that the definition of "dual language immersion program" be changed to replace "classes in dual language immersion programs shall be comprised of at least 50 percent MLs" with "classes in two-way dual language immersion programs shall be comprised of approximately 50 percent MLs." The commenters stated that a mandatory minimum does not apply to one-way programs and that the Department's proposed amendments will create unnecessary challenge for two-way dual language immersion programs. (7, 9, 10, 12, 15, 16, 17, 18, 19, 21, and 22)

Response: The Department disagrees with the suggested change to the definition of "dual language immersion programs." The existing definition, as proposed for amendment, does not impact one-way programs for monolingual English learners or for school districts that choose to implement one- or two-way dual language immersion programs

that are designed for instructional best practice and not for meeting the chapter's requirements, including LIEPs, for MLs.

13. Comment: The commenter opposed the amendments at N.J.A.C. 6A:15, in particular, provisions related to dual language immersion programs. The commenter stated that the proposed amendments will be detrimental to dual language immersion programs across the State. (13)

Response: The Department disagrees. The definition of "dual language immersion program" at N.J.A.C. 6A:15-1.2, as proposed for amendment, will not impact existing one- or two-way dual language immersion programs that are designed for students whose primary language is English. The definition sets forth the requirements for a school district to meet the bilingual education requirements for MLs at N.J.S.A. 18A:35-15.

14. Comment: The commenter asked the Department to reconsider the proposed amendments at N.J.A.C. 6A:15 and to provide flexibility in the chapter's provisions, such as removing the requirement of a minimum of 50 percent of instruction in the primary language of MLs enrolled. The commenter asked the Department to not dismantle one-way dual language immersion programs, which provide the necessary freedom for educators to tailor a curriculum appropriate for each student's needs. (19)

Response: The definition of "dual language immersion program" at N.J.A.C. 6A:15-1.2 specifically sets forth the requirements for a school district to meet the bilingual education provisions for MLs at N.J.S.A. 18A:35-15. The proposed amendments to the definition and throughout the chapter do not impact one-way programs, which are not designed to meet the requirements at N.J.A.C. 6A:15.

15. Comment: The commenter stated that the definition of “dual language immersion,” as proposed for amendment, will require students to speak a third language besides the target language and English at home. The commenter also stated that the amended definition will take away the opportunity for families who speak only English at home to join. The commenter further stated that solely defining dual language immersion as “two-way” suggests that one-way programs are not reasonable and must be dismantled. The commenter also stated that flexibility is needed around mandatory minimums in existing dual language immersion programs. (21)

Response: The Department disagrees. The definition of “dual language immersion program” at N.J.A.C. 6A:15-1.2 specifically sets forth the requirements for a school district to meet the bilingual education provisions for MLs at N.J.S.A. 18A:35-15. The proposed amendments to the definition and throughout the chapter do not impact one-way programs. School districts will not be prohibited from implementing a one-way dual language immersion program for native English speakers.

16. Comment: The commenter asked whether it would be beneficial to change the term “English as a second language (ESL) program” at N.J.A.C. 6A:15-1.2 to ensure continuity in the Department’s approach with the language and terms that describe students learning English as MLs. The commenter stated that “ESL” is not inclusive of students for whom English is a third or fourth language. The commenter offered the following suggestions for a new term: “English language services,” “English language instruction,” or “English as an additional language.” (2)

Response: The Department thanks the commenter for the suggestion to use asset-based terms. The Department recognizes the limitations inherent in the term “ESL” and acknowledges that

many New Jersey students are learning English as a third or fourth language. At this time, the Department disagrees with changing the term as it is widely used and understood by the education community as the program for English language acquisition.

17. Comment: The commenter asked whether it is possible to offer flexibility in the amount of time required for a period of ESL instruction. The commenter stated that it is challenging to serve the number of students across a school district with various English proficiency levels. The commenter also stated that providing school districts flexibility in scheduling ESL class periods would allow ESL teachers to serve more students. (3)

Response: The Department understands the challenges that may be present in scheduling students with varying English language proficiency levels. The Department disagrees with the commenter's suggestion because an ESL class period must be the same amount of time as other instructional class periods in the school district to provide sufficient time to teach the English language development (ELD) standards to MLs.

18. Comment: The commenter expressed appreciation for the change to ML from English language learner (ELL) and the acknowledgment that a student's primary language is an essential component of learning content in English and maintaining/sharing cultural knowledge. (6)

Response: The Department thanks the commenter for the support.

19. Comment: The commenter opposed changing ELL to ML. The commenter asked whether other students, such as students studying foreign language in high school, will also be identified as MLs, for example. The commenter stated that most educators and parents understand the current term. (25)

Response: The Department disagrees. The shift to ML is an asset-based approach to

understanding that students who are in the process of learning English enter New Jersey school districts with a primary language. New Jersey has a specific identification process for students who are identified for an LIEP.

20. Comment: The commenter stated that the definition of “sheltered English instruction” at N.J.A.C. 6A:15-1.2 needs to include the amount and intervals of training. The commenter stated that allowing school districts to decide how much training is necessary is not in the students’ best interest and creates inconsistencies and inequities across the school districts. (4)

Response: The Department agrees that school districts implementing sheltered English instruction as their LIEP program alternative need direction on how much training to provide teachers who are instructing a class with MLs. The Department already provides, on its website, guidance regarding the number of hours for training. The number of hours is a recommendation and best practice, but not a requirement. This model provides for more than a one-day training and is consistent with section 8101(42) of the Elementary and Secondary Education Act (ESEA), which requires that professional development be sustained (not stand-alone, one-day, or short-term), intensive, collaborative, job-embedded, data driven, and classroom-focused. In addition, the Department monitors the number of trainings that school districts annually provide to teachers when reviewing a school district’s request for a program waiver from bilingual education. Developed in partnership with Stockton University, the Department also offers a [free online module training](#) available to all New Jersey teachers.

21. Comment: The commenters stated that the requirement at proposed new N.J.A.C. 6A:15-1.3(a)3i to test preschool MLs in the July prior to students entering kindergarten is impractical, especially in large school districts due to the cost of paying teachers to screen students for identification. The commenters also stated that most school districts place and

schedule incoming kindergarten students prior to July. (1 and 8)

Response: The Department agrees with the commenters and proposes to amend N.J.A.C. 6A:15-1.3(a)3i at adoption to delete “[b]eginning in the July.” The proposed regulation will still require the district board of education to administer an English language proficiency (ELP) to preschool MLs, prior to the start of their kindergarten year, to determine the MLs’ English proficiency level. The proposed amendment recognizes that not all preschool MLs attend school in July and August and will account for school district operations.

22. Comment: The commenter applauded the Department’s inclusion of preschool MLs in the chapter, as proposed for amendment. (6)

Response: The Department thanks the commenter for the support.

23. Comment: The commenter recognized the flexibility the Department provides to school districts, in general, to implement programs in a manner that best fits the size and demographics of the school district’s ML population. However, the commenter stated that few New Jersey school districts have an administrator on staff who has expertise in language acquisition and administrators who do not have the experience or knowledge in second language acquisition may observe research-based programming and not understand the strategies being implemented in the classroom. The commenter requested that the chapter be amended to establish what a high-quality program for MLs should look like and how it is implemented. (1)

Response: The Department thanks the commenter for the suggestions. MLs in New Jersey are a diverse group of students. Therefore, the Department provides school districts with the flexibility to design high-quality programs that address the linguistic and academic needs of their specific ML population. The Department will include, in

guidance related to this chapter’s proposed amendments, research-based considerations for school districts to use as a guide when reviewing their specific ML demographic data and the language needs of their individual MLs, which will drive the design of high-quality LIEPs required at N.J.A.C. 6A:15-1.4.

24. Comment: The commenter stated that school districts should offer instruction in students’ primary languages, where feasible, and that by doing that enables students to master content at the same time they develop their language capacity. (6)

Response: The Department agrees with the commenter that instruction in a primary language that enables a student to master the content at the same time the student is developing proficiency in English has academic value. N.J.A.C. 6A:15-1.4 sets forth school district requirements for bilingual programs, including that they must be linguistically and culturally responsive.

25. Comment: The commenter requested the Department maintain at N.J.A.C. 6A:15-1.4(a)1 the examples of “tutoring, after school programs, summer programs, and remedial services.” The commenter stated that, although replacing the examples with “individualized and targeted supports” is intended to clarify that all instructional opportunities must be designed to meet the specific needs of each ML, it would be valuable to include examples as guidance for school districts. (30)

Response: The Department declines to make the requested change at N.J.A.C. 6A:15-1.4(a)1 because “individualized and target supports” refers to a broader range of instructional opportunities for MLs and does not limit the possible supports to a few examples. The Department will consider the comments received during the rulemaking process when developing the supplemental guidance that will be provided to school

districts following the adoption of the chapter, as proposed for amendment.

26. Comment: The commenter recommended that the Department amend N.J.A.C. 6A:15-1.2 and 1.4(c) to develop a clear and comprehensive definition of language accommodations, including first and target language supports that provide access to content concepts. The commenter suggested additional amendments at N.J.A.C. 6A:15-1.4(c) to require language accommodations, including, but not limited to, language objectives and strategies, in every classroom with MLs to provide access to grade-level content. The commenter stated that the additional requirement at N.J.A.C. 6A:15-1.7 for teachers to receive professional development does not address the commenter’s recommendation for a clear and binding definition of “language accommodations.” (30)

Response: The Department disagrees that the commenter’s recommended changes are necessary as pursuant to N.J.A.C. 6A:8-3.1(a), “District boards of education shall ensure that curriculum and instruction are designed and delivered in such a way that all students are able to demonstrate the knowledge and skills specified by the NJSLs and shall ensure that appropriate instructional adaptations are designed and delivered for students with disabilities, for ELLs ...” The Department has issued resources to support all school districts in providing language supports to students. Over the coming months, the Department will review and revise the resource, as necessary, to include updated evidence-based research as well as develop new supplemental guidance that will be provided to school districts following the adoption of the chapter, as proposed for amendment.

27. Comment: The commenter opposed the requirement for a bilingual curriculum at N.J.A.C. 6A:15-1.4 and with equating a bilingual curriculum with an ESL curriculum. The commenter stated that an ESL curriculum is its own subject area with its own set of

standards and high-stakes assessment of English language acquisition. The commenter also stated that bilingual is a means of delivery of the New Jersey Student Learning Standards (NJSLS) and the only thing that differentiates a bilingual classroom from an English-medium classroom is the language of instruction. The commenter further stated that the requirement for a bilingual curriculum is a deficit-oriented approach and will lead to separate and unequal situations in school districts, which will encourage an “othering” of bilingual students. The commenter stated that a better approach would be to provide the same high-quality curriculum, differentiated by language. (1)

Response: The Department agrees to replace “bilingual education curriculum” with “curriculum for bilingual education programs” at new N.J.A.C. 6A:15-1.4(d)4. The Department will also replace “addresses” with “is aligned to.” The changes upon adoption will clarify that the Department intended to require curricula for bilingual education programs to be based on the NJSLS and ELD standards and that a new, separate curriculum for students in a bilingual education is not needed. The NJSLS-based curriculum for bilingual education programs integrates the history and culture of the country, territory, or geographic area that is the native land of the parents and families of MLs enrolled in the program, alongside the history and culture of the United States. School districts are not required to develop a separate bilingual curriculum, as it is expected that instruction in bilingual education programs is aligned with the NJSLS and ELD standards.

28. Comment: The commenter asked why ELP levels are not included at N.J.A.C. 6A:15-1.4(d). The commenter stated that a school district with more than 20 MLs in one language classification who have an ELP level of three and a half or four do not really need bilingual programs. The commenter also stated that parents in one school district

want their children exited from a program as soon as possible so that they are not labeled or separated. (11)

Response: The Department disagrees that ELP levels should be a part of the requirement at N.J.A.C. 6A:15-1.4(d) because school districts in New Jersey must have flexibility in program design and class configuration. The Department recognizes that a bilingual education program benefits a school district's instructional program and ensures that the focus on primary language provides MLs with an opportunity to strengthen their primary language and earn the State Seal of Biliteracy upon high school graduation.

29. Comment: The commenter opposed the deletion of existing N.J.A.C. 6A:15-1.4(e). The commenter also stated that the Department proposed to delete this subsection because the proposed amendments at N.J.A.C. 6A:15-1.4(a) also capture the requirement that instructional opportunities must be designed to assist MLs to fully comprehend all subject matter and that all MLs must have access to all courses necessary to meet or exceed the NJSLs. The commenter objected to N.J.A.C. 6A:15-1.4(a), as proposed for amendment, because it will isolate MLs even more. The commenter stated that by not clarifying existing N.J.A.C. 6A:15-1.4(e), the Department is allowing school districts to separate the ELLs from school activities that aid in their confidence with the language and their chance to socialize. The commenter also stated that "with required services and courses" will allow school districts to interpret what is required even though the Department emphasizes the NJSLs. The commenter further stated that scheduling is difficult and school districts will misinterpret this change to the detriment of the student's school experience. The commenter stated that N.J.A.C. 6A:15-1.4, as proposed for amendment, leaves to interpretation who is responsible for ensuring the student will fully comprehend

all subject matter. (11)

Response: The Department disagrees. N.J.A.C. 6A:15-1.5(a), as proposed for amendment, does not allow school districts to interpret what are required services and courses. Instead, the proposed amendment holds school districts accountable for the requirements at N.J.A.C. 6A:8-5.1, which sets forth the 120 credits by content area that make up the State's minimum graduation course requirements. The requirements include comprehensive health and physical education, visual and performing arts, and career awareness programs. The Department proposed to delete existing N.J.A.C. 6A:15-1.4(e) because N.J.A.C. 6A:15-1.4(a), as proposed for amendment, requires school districts to provide MLs with required services and courses. Therefore, deleting N.J.A.C. 6A:15-1.4(e) does not change existing requirements; rather, it connects them more fully to the NJSLS and existing graduation requirements.

30. Comment: The commenter recommended that the Department not delete existing N.J.A.C. 6A:15-1.4(e) because it is important to make clear that MLs must have access to all non-academic, as well as academic, courses. (30)

Response: The Department agrees with the commenter that it is important that MLs have access to all non-academic and academic courses. However, the Department is proposing to delete existing N.J.A.C. 6A:15-1.4(e) because N.J.A.C. 6A:15-1.4(a), as proposed for amendment, will require school districts to provide MLs with required services and courses. The proposed amendments at N.J.A.C. 6A:15-1.5(a) also capture the requirement that instructional opportunities must be designed to assist MLs to fully comprehend all subject matter and that all MLs must have access to all courses necessary to meet or exceed the NJSLS.

31. Comment: The commenter stated that proposed N.J.A.C. 6A:15-1.4(k) will create a substantial staffing constraint at a time of critical shortage. The commenter also stated that many bilingual ELA teachers have a combination of an instructional certificate with ESL and bilingual/bicultural education endorsements. The commenter further stated that teachers with an ESL endorsement are no longer authorized to teach ELA to MLs and, therefore, it will become even more difficult to staff programs. The commenter stated the proposal is the antithesis of asset-based language. (1)

Response: The Department appreciates the commenter's concerns. Proposed new N.J.A.C. 6A:15-1.4(k) does not require teachers to have an ELA endorsement to teach an ESL course that counts toward ELA graduation credits.

32. Comment: The commenter stated that the proposed amendments at N.J.A.C. 6A:15-1.4(k), which allow a district board of education to develop and adopt a policy that sets forth how MLs may meet the world language or ELA requirements by applying credits earned in ESL, will create inconsistencies across the more than 600 school districts in New Jersey. The commenter asked what happens to students who transfer to another school district in their junior or senior year and find out that the requirements from one school district do not count in the new school district and, as a result, negatively impact the student's ability to graduate. (1)

Response: The Department agrees that school districts must be provided with sample language for how to develop a policy that enables students to maximize this allowance, regardless of which school district the student attends. The Department will develop supplemental guidance that will be provided to school districts following the adoption of the chapter, as proposed for amendment.

33. Comment: The commenters expressed concern with how MLs may meet the world language or ELA course requirements for high school graduation because graduation is a high-stakes event linked to post-secondary success. The commenters stated that the Department needs to adopt a uniform approach for all school districts across the State to follow N.J.A.C. 6A:15-1.4(k). The commenters also stated that students who are grappling with a new language(s) at the high school level need to be valued and recognized for their work in ESL classes. The commenters further stated that credits awarded by one public high school should count equally for ELA or a world language at any other public high school in New Jersey to ensure that the credits continue to be counted if a student transfers between New Jersey school districts. The commenters stated that the State should not place MLs at a further disadvantage because one high school had a policy that allows students to apply ESL course credit toward course credits required to graduate, while the high school to which a student transfers does not allow such credits to apply. (24 and 27)

Response: The Department agrees that supporting students' pathways toward graduation and post-secondary success is important. The Department also agrees that MLs must be provided clear notice about how they may meet their graduation requirements and whether they may apply credits earned in ESL courses to their world language or ELA credit requirements.

The Department has reexamined the policy set forth at proposed N.J.A.C. 6A:15-1.4(k) and at existing N.J.A.C. 6A:8-5.1(a)2i, which requires all district boards of education to establish a process to approve individualized student learning opportunities that meet or exceed the NJSLS. The Department's review revealed a misalignment

between proposed N.J.A.C. 6A:15-1.4(k) and existing N.J.A.C. 6A:8-5.1(a)2, which already requires district boards of education to implement processes to enable students to pursue a variety of individualized learning opportunities. The purpose of N.J.A.C. 6A:15 is to ensure that educational programs (that is, programs required pursuant to N.J.A.C. 6A:15 and 6A:8) are designed to help students thrive and to honor their multilingual skills as an asset rather than to focus on only deficit-based remediation.

To ensure that MLs are fully afforded the rights set forth at N.J.A.C. 6A:15 and 6A:8, the Department will make a change to clearly align proposed N.J.A.C. 6A:15-1.4(k) with N.J.A.C. 6A:8-5.1(a)2. The Department will change proposed N.J.A.C. 6A:15-1.4(k) to replace “may develop and adopt a policy that sets forth how MLs may meet” with “shall establish a process for how MLs in high school.” The changes are parallel to the existing requirement at N.J.A.C. 6A:8-5.1(a)2 that district boards of education must set forth processes for all students to demonstrate they are meeting or exceeding the NJSLs through individualized learning opportunities. As long as the ESL coursework is aligned to the NJSLs in world language or ELA, the Department considers ESL coursework as an acceptable individualized learning opportunity for MLs. As district boards of education must already establish processes to approve individualized learning opportunities for all students, school districts would not be harmed by the change upon adoption at N.J.A.C. 6A:8-5.1(a)2. Additionally, the practice of applying ELA credits to meet the required world language or ELA graduation course credits is a common practice in many high schools throughout the State.

Even when students can apply ESL credits toward world language or ELA credits, the Department has learned that it is not typically accounted for on a student’s transcript

or report card. A receiving school may be less likely to award credits for coursework that is not noted on a student's transcript or official student record. The Department views the need for uniformity regarding student transcript practices for transferring MLs to be of equal importance to the uniformity in coursework policies related to individualized learning opportunities. Therefore, the Department will change N.J.A.C. 6A:15-1.4(k) to add that the school district must verify on the student's record that the applicable ESL credits meet or exceed the NJSLs at the high school level. The change upon adoption will ensure that students do not lose credit when they transfer from one high school to another. The Department will also delete proposed N.J.A.C. 6A:15-1.4(k)1 upon adoption because the policy to ensure ESL coursework is aligned to grade-level NJSLs for ELA is now integrated at subsection (k).

34. Comment: The commenter expressed concern and requested clarification about the regulations at N.J.A.C. 6A:15-1.4(k) that require teachers to have an instructional certificate with an ELA endorsement and for ESLs to be aligned to the NJSLs in ELA to count toward graduation. The commenter requested further clarification on how the proposed change at N.J.A.C. 6A:15-1.4(k) will impact MLs with lower English language proficiency levels. The commenter stated that ESL currently supplants ELA at all levels and that an ESL teacher is considered certified to teach ELA to MLs. The commenter stated that the requirement that teachers have an ELA endorsement to teach an ESL course that counts toward ELA graduation credits would create an additional barrier to graduation for students who are already statistically least likely to graduate. (1)

Response: The Department appreciates the commenter's concerns. The Department agrees that the holder of an instructional certificate with an ESL endorsement is qualified

to teach an ELA course and does not need to have an ELA endorsement. Proposed N.J.A.C. 6A:15-1.4(k) does not require teachers to have an ELA endorsement to teach an ESL course that counts toward ELA graduation credits. In addition, the Department will make a change upon adoption at N.J.A.C. 6A:15-1.4(k) that will clarify that all ESL classes that count toward ELA course graduation requirements must be aligned to the grade-level NJSLs for ELA. School districts must use the ELD standards for ELA as a companion to the NJSLs for ELA to ensure that ELA instruction incorporates both ELA content standards and ELD standards, which should support MLs in acquiring both content and language based on their language proficiency levels. This change will ensure that all students receive high-quality, grade-level coursework that is aligned to the NJSLs and ELD standards, with consideration to the MLs' English language proficiency levels to prepare them for graduation.

35. Comment: The commenters stated that proposed N.J.A.C. 6A:15-1.4(k) does not treat all MLs equally across the State. The commenters also stated that families of MLs are mobile. The commenters asked what will happen to students' graduation timelines if they move from one school district that adopted the policy to a school district that does not adopt the policy. (24, 26, 27, 28, and 29)

Response: The Department agrees with the commenters. Please see the Response to Comment 33.

36. Comment: The commenter stated that ESL is a more developmentally appropriate course than ELA for MLs. (29)

Response: The Department agrees that MLs need to access the NJSLs in a manner that is culturally and linguistically appropriate for the student's ELP level. ESL coursework considers an ML's ELP. N.J.A.C. 6A:15-1.4(k), as proposed at adoption, requires school

districts to apply ESL coursework toward ELA course requirements, as long as the ESL course is aligned to the grade-level NJSLs for ELA.

37. Comment: The commenter requested that proposed new N.J.A.C. 6A:15-1.4(k) be amended to codify the Department’s current guidance regarding the application of ESL coursework to world language graduation credit requirements, applicable through the 2021-2022 school year. The commenter stated that the practice of awarding such credits has been successfully and fairly implemented across school districts. The commenter also stated that the proposed rule would reduce an ML’s ability to apply ESL coursework to world language or ELA credit requirements. (28)

Response: The Department agrees that codifying a policy for school districts to apply ESL coursework to graduation credit requirements is important. The change upon adoption at N.J.A.C. 6A:15-1.4(k), as described in the Department’s Response to Comment 35, provides clarifying language.

38. Comment: The commenter requested changes at N.J.A.C. 6A:15-1.4(k) to replace “may” with “shall” to require school districts to adopt a policy that sets forth how MLs may use ESL coursework to meet the world language or ELA course graduation requirements. The commenter also recommended adding the following language: “The policy shall, at a minimum: provide that MLs who take an additional English or ESL class may use that second English class to fulfill the world languages requirement and provide that ESL coursework that is aligned to grade-level NJSLs for ELA may be used to fulfill the ELA requirement.” The commenter stated that the shift from what it is currently a guarantee by the Department across all school districts, to the subject of a school district policy, may create burdens for MLs and their families and unfairly threaten the graduation prospects

of this vulnerable community. (28)

Response: The Department thanks the commenter for the suggestion. The Department will change N.J.A.C. 6A:15-1.4(k) upon adoption to require all school districts to adopt a policy in alignment with the procedures at N.J.A.C. 6A:8-5.1. Please see the Response to Comment 33 for details.

39. Comment: The commenter stated that the commenter is not aware of any Department guidance regarding the application of ESL coursework to ELA credit requirements for high school graduation. The commenter referenced a communication by the New Jersey Principals and Supervisors Association that states “MLs have been authorized to utilize their course work in ESL as credits toward either ELA graduation credit or the world languages credit requirement.” The commenter stated that the practice of awarding such credits is successful. (28)

Response: The Department is changing N.J.A.C. 6A:15-1.4(k) to require all school districts to adopt a policy in alignment with the procedures at N.J.A.C. 6A:8-5.1. Please see the Response to Comment 33 for details.

40. Comment: While the commenter expressed appreciation for the Department’s efforts related to the proposed amendments at N.J.A.C. 6A:15-1.5, the commenter expressed concern that the proposed amendments regarding the submission process for school districts’ three-year plans are inadequate to fully meet the Department’s stated commitment to transparency and accountability. The commenter stated that, without proper mechanisms in place to ensure compliance, MLs and their families will continue to be underserved by school districts that are not fulfilling their legal obligations. The commenter suggested that the Department institute formal and transparent measures to

ensure school districts comply with the chapter, including a process of robust evaluation of school districts' required three-year plans – not just when submitted but also midway and at the end of the three-year period – to determine fidelity of implementation and effectiveness in serving the school district's ELL population. The commenter also suggested that the Department develop and implement these accountability systems with the engagement of multiple stakeholders who have an interest in the chapter's proper implementation (including educators, parents and caregivers, Statewide and local advocacy groups, and community members). (30)

Response: The Department agrees that stakeholder input is an important component of ensuring compliance with N.J.A.C. 6A:15. Further, pursuant to ESSA § 1112(a)(1)(A), a school district's plan for use of Federal funds must be “developed with timely and meaningful consultation with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders (in a local educational agency that has charter schools), administrators (including administrators of programs described in other parts of this title), other appropriate school personnel, and with parents of children in schools served under this part.” In addition, the Department agrees to assess whether additional points under NJQSAC are necessary to determine fidelity of implementation of the school district's LIEP.

41. Comment: The commenter stated that the monitoring of the three-year plans submitted by school districts providing LIEPs needs improvement. The commenter also stated that the Department's proposed amendments at N.J.A.C. 6A:15-1.5 are inadequate to fully meet the Department's stated commitment to transparency and accountability in ensuring all MLs receive high-quality and equitable educational opportunities. The commenter

suggested that the Department institutes formal and transparent measures at N.J.A.C. 6A:15. The commenter also suggested that the Department includes a robust evaluation of the submissions of the three-year plans at mid-way and at the end of the three-year period. The commenter recommended that this process include multiple stakeholders who have an interest in the chapter's proper implementation. (6)

Response: The Department agrees that stakeholder input is an important component of ensuring compliance with N.J.A.C. 6A:15. However, the Department disagrees that the proposed amendments at N.J.A.C. 6A:15-1.5 are inadequate because the Department regularly engages stakeholders through the State Advisory Committee on Bilingual Education, which is comprised of advocacy groups, retired educators, current supervisors, parents, teachers, and chief school administrators. The Department agrees that transparency is an important part of the accountability process. The Department will post on the Department's website a list of school districts that have an approved three-year plan similar to the list of school districts approved for a [bilingual waiver](#).

42. Comment: The commenter requested that the Department establish, at N.J.A.C. 6A:15-1.5 or by adding another section, a complaint investigation system for violations of laws protecting ELLs, comparable to that which exists for special education at N.J.A.C. 6A:14-9.2. The commenter acknowledged the Department's previous response at proposal level, which stated that a process already exists through the Department's website for ESEA complaints. The commenter stated that there is an urgent need for a clear and dedicated avenue to address violations of the chapter. The commenter referenced the number of concerns documented in the 2021 report by NJTESOL/NJBE and the recent Newark Public Schools settlement with the United States Department of

Justice as evidence of the need. (30)

Response: The Department disagrees that a formal complaint process is necessary as the current system does allow for parents and other stakeholders to alert the Department about alleged violations of N.J.A.C. 6A:15. The Department works directly with parents, stakeholders, and school districts to address concerns that are submitted to the Department. Parents and stakeholders may submit complaints directly to the Office of Supplemental Educational Programs through email (ML@doe.nj.gov and parents@doe.nj.gov). The Office of Supplemental Educational Programs formally responds to all received complaints through email.

43. Comment: The commenters recommended changes at recodified N.J.A.C. 6A:15-1.8(b)1 and 2 in regards to teachers of dual language immersion programs to add the following: “in accordance with N.J.A.C. 6A:9B-11.5(a)2ii, demonstrate advanced language proficiency in the language of their instruction as measured by: (1) passing a Department-approved, nationally recognized test of oral and written proficiency in the target language; or (2) establishing themselves as a speaker of the target language who was primarily educated at the undergraduate level in that language.” The commenters stated that the changes are necessary due to the school staffing crisis in New Jersey and across the nation in the areas of English language learning, world languages, and bilingual/bicultural education. The commenters also stated that the Department’s proposed amendments at N.J.A.C. 6A:15-1.8(b) create unnecessary barriers such as licensure fees, additional applications, and lengthy coursework for educators seeking to work in dual language immersion programs. (7, 9, 10, 12, 14, 15, 16, 17, 18, and 22)

Response: The Department agrees that decreasing barriers to certification is one way to

increase the number of applicants seeking an instructional certificate to teach in dual language immersion programs. The commenters' recommended language is already included at proposed new N.J.A.C. 6A:15-1.8(b)2, which states that all teachers in a dual language immersion program must demonstrate fluency in the language of their instruction, pursuant to N.J.A.C. 6A:9B-11.5. The proposed rule will allow the flexibilities recommended by the commenter. The Department disagrees with the commenters because the Department's proposed amendments at N.J.A.C. 6A:15-1.8(b) do not create new requirements related to licensure fees, additional application, and lengthy coursework.

44. Comment: The commenter stated that the proposed amendments to the chapter and the nationwide teacher shortage would cause the dual language immersion program in the commenter's school district to be decimated. The commenter also stated that the school district would be unable to staff the program with the new certification requirements and does not have the student numbers for a dual language immersion program that is designed as a two-way bilingual education program. (9)

Response: The Department supports dual language immersion programs and disagrees that the certification requirements at N.J.A.C. 6A:15-1.8(b)2 would cause programs to be decimated. The proposed paragraph references N.J.A.C. 6A:9B-11.5, which contains existing requirements for the bilingual/bicultural education endorsement to an instructional certificate. The proposed paragraph also applies only to dual language immersion programs that are intended to meet the chapter's requirements. The proposed amendments throughout the chapter do not impact two-way dual language immersion programs that are not intended to meet the chapter's requirements.

45. Comment: The commenter stated that the proposed one-way, late-exit programs are effective for primary language development, but school districts are penalized when students spend more than four years in ML status. The commenter also stated there is no mention of one-way programs in the proposed amendments. (1)

Response: The Department disagrees. School districts are not penalized when students remain in ML status for longer than four years. The length of time a student receives services is not a factor in the State accountability system. Rather, schools are identified as needing additional support and are accountable for the improvement of their students' performance. Federal reporting requires the Department to report the total number of students who are in ML status for longer than five years. In addition, the ESSA indicator of progress toward English proficiency is based on a five-year growth-to-target model. This is only one indicator that factors into the comprehensive and targeted school improvement identification. However, low performance or students in ML status for more than four years alone will not cause a school to be identified. The Department uses this indicator to provide school districts with technical assistance and support related to evaluating their LIEP and assessing the most appropriate program design for the MLs they serve. The proposed amendments apply only to bilingual education and dual language immersion programs that are intended to meet the chapter's requirements. The proposed amendments to the definition of "bilingual education" at N.J.A.C. 6A:15-1.2 clarify that, by using a student's primary language while the student is acquiring English, educators will be delivering bilingual programs that are similar to one-way bilingual or dual language immersion programs.

46. Comment: The commenters expressed concern with the impact of the proposed

amendment at recodified N.J.A.C. 6A:15-1.8 to change the ESL certificate to an endorsement. The commenters state there is no mention of a path toward certification in N.J.A.C. 6A:15, as proposed for amendment. Referring to N.J.A.C. 6A:9B, the commenters stated that an ESL endorsement consists of 30 credits, an undergraduate major, or a master's degree in ESL is required, in addition to grade level or subject area certification. The commenters also stated that the proposed amendment will increase the already acute shortage of teachers qualified to teach MLs, especially at the secondary level. The commenters further stated that most universities in New Jersey do not currently offer the opportunity to pursue certification in ESL or bilingual education at the undergraduate level. (1 and 20)

Response: The proposed amendments at recodified N.J.A.C. 6A:15-1.8(c) are for clarity and consistency with N.J.A.C. 6A:9B, State Board of Examiners and Certification.

N.J.A.C. 6A:9B-11.6 refers to an instructional certificate with an ESL endorsement. The addition of “instructional” and “endorsement” will align the regulation with N.J.A.C. 6A:9B-11.6 and do not establish a new requirement for teachers of ESL classes.

47. Comment: The commenters opposed the proposed rules at N.J.A.C. 6A:15-1.8(e) that require bilingual paraprofessionals to hold a bilingual paraprofessional credential because it is another barrier for staffing that will have a profound impact and prevent school districts from adequately staffing dual language immersion programs. (12 and 14)

Response: The Department thanks the commenters for raising the issue regarding implementation. The Department previously proposed to delete new N.J.A.C. 6A:15-1.8(e), which stated that all instructional support staff who provide bilingual instructional support services in preschool through grade 12 shall hold a bilingual language paraprofessional

credential, pursuant to N.J.A.C. 6A:9B-14.22. The now-deleted proposed rule was intended to highlight the recently adopted requirements at N.J.A.C. 6A:9B-14.22. The new credential will be available in the near future, but it will not be mandatory for bilingual paraprofessionals. The new credential is intended to acknowledge the work of bilingual paraprofessional and will provide a role to further support bilingual students in classrooms and increase students' access to content and instruction.

48. Comment: The commenter stated that parents play a critical role in the educational success of their children. The commenter also stated that, for parents to participate in education decisions affecting their children, they must be given access to education documents and materials they can understand. The commenter contended that many New Jersey parents are not provided with the information to which they are entitled and this creates inequity. The commenter stated that the existing chapter is limited to parents of MLs and falls short of Federal guidance that requires translation and interpretation services to parents who speak world languages other than English. The commenter offers the U.S. Department of Justice and U.S. Department of Education, Dear Colleague Letter: English Learner Students and Limited English Proficient Parents as a reference on how schools can better support parents whose primary language is not English. (4)

Response: The Department recognizes the importance of school district engagement of all families with students in New Jersey schools. The Department agrees that essential information and communication from the school district must be available in the language in which the parent possesses a primary speaking ability. Such communication is critical to achieving meaningful family engagement. Additionally, ML parents are also entitled, pursuant to Titles I and III of the ESSA and the IDEA, to translation and

interpretation of particular information. Accordingly, the Department proposed new N.J.A.C. 6A:15-1.14(a)1 to include a non-exhaustive list of parent communications that school districts must provide in the language in which the parent possesses a primary speaking ability. By complying with ESSA, IDEA, and N.J.A.C. 6A:15, as proposed for amendment, LEA requirements will meet the Federal guidance and expectations.

49. Comment: The commenter stated that additional amendments are required at N.J.A.C. 6A:15-1.14(a) to expand and clarify translation requirements regarding all school records. (4)

Response: The Department agrees with the commenter's request for additional specificity regarding what a school district is required to provide in multiple languages. At proposal level, the Department added, at new N.J.A.C. 6A:15-1.14(a)1, a non-exhaustive list of parent communications that school districts must provide in the language in which the parent possesses a primary speaking ability.

50. Comment: The commenter stated that, in alignment with Federal law and guidance, the Department and school districts must ensure meaningful communication with parents in a language they can understand. The commenter stated that the Federal requirements apply to State educational agencies, as well. The commenter requested that the Department amend N.J.A.C. 6A:15 to make it clear that the Department is also subject to the provision to make information accessible to all parents in a language they can comprehend. The commenter stated the Department can prioritize translation actions, such as the 2019 version of the Parental Rights in Special Education (PRISE) handbook. (30)

Response: The Department agrees that it has a responsibility under Federal law, and ethically, to ensure meaningful communication with parents. However, the Department declines to amend N.J.A.C. 6A:15, as requested, because the chapter governs district

boards of education providing educational programs and services to MLs and not to the Department. Whenever possible, the Department posts on its website written guidance in multiple languages. For example, translations of the 2023 version of the [PRISE handbook](#) are expected to be released in July 2023 and will be available in four languages other than English. Additionally, the Department works with each school district to ensure that it is providing parents with resources and access, including translation and interpreter services, when needed. The Department also is committed to exploring how to implement a State-level process to issue communications in multiple languages and formats that are accessible to families.

51. Comment: The commenter requested the Department add additional requirements at N.J.A.C. 6A:15 that specify the obligations of school districts to ensure meaningful communication with families, including that translations and interpretations must be provided by qualified and appropriately trained individuals. (30)

Response: The Department agrees that school district communications to parents in the parents' primary language must apply to all information, not only official notifications set forth at N.J.A.C. 6A:15-1.12. At proposal level, the Department amended N.J.A.C. 6A:15-1.14 to include a non-exhaustive list of parent communications that school districts must provide in the language in which the parent possesses a primary speaking ability. Additionally, the Department has a parent portal in Spanish that provides families with important information regarding their child's education.

52. Comment: The commenter requested that the Department provide supports to school districts in implementing the translation requirements at N.J.A.C. 6A:15. The commenter also requested that the Department take enforcement action against school districts that

violate the translation mandates. The commenter asked the Department to clarify that the translation provision apply to all staff who communicate with family members. (30)

Response: The Department works with each school district to ensure that it is providing resources and access to parents, including translation and interpreter services, when needed. To ensure that school districts comply with the requirements at N.J.A.C. 6A:15, the Department monitors all school district programs through the NJQSAC, adheres to the procedures required pursuant to the ESSA, and conducts a review of each school district's plan when it is submitted every three years.

53. Comment: The commenter applauded the Department for expanding bilingual education rights to preschool children. However, the commenter stated that no changes have been proposed to address the hardship and significant inequities experienced by children whose parents do not speak English as their primary language. The commenter shared a scenario of a parent who indicated that a school district would not provide the parent with information in a way the parent could understand. The commenter stated the school district failed to comply with State regulations regarding enrollment. (4)

Response: The Department agrees that every parent should be able to enroll their child in a New Jersey school district without any barriers, including language. The Department has specified a non-exhaustive list at N.J.A.C. 6A:15-1.14(a) of parent communications that school districts must provide in the language that the parent possesses a primary speaking ability. The list includes communication related to registration and enrollment. In addition to State requirements at N.J.A.C. 6A:22, Student Residency, the U.S. Department of Justice and U.S. Department of Education's [Office of Civil Rights](#) require all school districts provide enrollment and registration information to parents in a

language they can understand.

54. Comment: The commenter stated that the Department and school districts should provide essential information and communications in the primary languages of parents and caregivers who do not speak English. The commenter referenced the Brookings Institute report “Collaborating to Transform and Improve Educational Systems: A Playbook for Family Engagement, statement that “[s]chools with strong family engagement are 10 times more likely to improve student learning outcomes.” (6)

Response: The Department agrees with the commenter. Proposed new N.J.A.C. 6A:15-1.14(a)1 includes a non-exhaustive list of essential information and communication that each district board of education must provide in the primary language a parent possesses for the maximum practicable engagement.

55. Comment: The commenter stated that the bilingual waiver, as set forth at new N.J.A.C. 6A:15-1.15, should be the last recourse for school districts in providing appropriate programs for MLs. (6)

Response: The Department appreciates the commenter’s support.

56. Comment: The commenter stated that school districts should offer instruction in students’ primary languages, where feasible, and that by doing so, it enables students to master content at the same time they develop their language capacity. (6)

Response: The Department agrees with the commenter that instruction in a primary language that enables a student to master the content at the same time the student is developing proficiency in English has academic value. N.J.A.C. 6A:15-1.4 sets forth school district requirements for bilingual programs, including that they must be

linguistically and culturally responsive.

57. Comment: The commenter suggested the Department consider and remedy barriers to career pathways and recruitment of bilingual and/or Black, Indigenous, and people of color (BIPOC) educators, mental health professionals, counselors, and administrators, who are underrepresented in New Jersey's preschool-through-grade-12 educational system. The commenter stated the Department must invest in the recruitment and training of diverse education professionals who reflect the racial, ethnic, and linguistic demographics of New Jersey's student population. The commenter requested that the Department act with urgency to invest in recruitment and retention beyond guidance and professional development. The commenter stated the Department must articulate and invest in infrastructure that supports the development of career pathways with specific focus on the recruitment of BIPOC individuals to work in education. (6)

Response: While career pathways, recruitment, and funding are outside of the chapter's scope, the Department agrees that increasing the diversity of education professionals is a priority. The Department is committed to achieving, by 2025, the goal that all students, regardless of race, will have access to an ethno-racially diverse novice (teachers with four years of experience or less) educator workforce that more closely reflects the diversity of the State's student population and that is culturally responsive.

58. Comment: The commenter requested that the Department articulate and invest in infrastructure that supports career pathways and recruitment of bilingual and/or BIPOC educators, mental health professionals, counselors, and administrators who are underrepresented in New Jersey's preschool-to-grade-12 educational system. The commenter stated this is an urgent need. The commenter added that the elimination of

barriers to licensure of ESL/bilingual educators, such as edTPA, is necessary. (30)

Response: While career pathways, recruitment, and funding are outside of the chapter's scope, the Department agrees that increasing the diversity of education professionals is a priority. The Department is committed to achieving, by 2025, the goal that all students, regardless of race, will have access to an ethno-racially diverse novice (teachers with four years of experience or less) educator workforce that more closely reflects the diversity of the State's student population and that is culturally responsive.

59. Comment: The commenter stated that N.J.A.C. 6A:8-5.1 grants permission to use a second period of ESL as the world language requirement. (1)

Response: Comments regarding N.J.A.C. 6A:8 are out of the scope of the proposed readoption with amendments at N.J.A.C. 6A:15.

60. Comment: The commenter stated that the requirement at N.J.A.C. 6A:8-5.1(a)2ii(2) for an ML who has arrived in high school has to achieve the level of language proficiency designated as Novice-High by the ACTFL is deficit-based and suggests a student's transcripts should count toward graduation credits rather than one of the optional language assessments. (1)

Response: Comments related to N.J.A.C. 6A:8, which sets forth the requirements for granting of credits to fulfill the world languages requirement through successful completion of assessments that verify student achievement in meeting or exceeding the NJSLS at the high school level, are out of the scope of the proposed amendments related to N.J.A.C. 6A:15.

61. Comment: The commenter requested that the Department and school districts dedicate

funding to ensure that communication is in a language and format comprehensible to parents and family members. (30)

Response: Funding is outside of the chapter's scope. However, the Department is committed to helping school districts by identifying model school districts that effectively communicate to parents and families.

62. Comment: The commenter requested that the Department identify funding sources available to school districts for the purpose of identifying and providing services to MLs as set forth at N.J.A.C. 6A:15. (28)

Response: Funding is outside of the chapter's scope. The Department's [Maximizing Federal Funds webpage](#) provides school districts with details on Federal funding streams, list of allowable uses, and how to combine multiple streams to support various parts of an initiative to meet one purpose.

63. Comment: The commenter expressed concerns about the cost of education and the use of taxpayers' monies to fund an education for undocumented immigrants. (23)

Response: The Department disagrees. According to the *Plyler v. Doe* (1982) decision, all states are required to provide education for all children, regardless of immigration status. The services and supports set forth at N.J.A.C. 6A:15 are required pursuant to State and Federal laws, N.J.S.A. 18A:35-15 to 26, and the Elementary and Secondary Education Act of 1965, as amended by the ESSA, respectively.

64. Comment: The commenter stated there is a lack of clarity with respect to the terms of certification and endorsement at N.J.A.C. 6A:9B-9.3. The commenter states that all subject areas, including ELA, mathematics, social studies, and science are referred to as

endorsements. (1)

Response: N.J.A.C. 6A:9B-9.3 falls outside the scope of this rulemaking. Any reference at N.J.A.C. 6A:15 to certification and endorsements aligns to N.J.A.C. 6A:9-2.1, which states that each certificate must be issued with at least one endorsement.

Summary of Agency-Initiated Changes:

1. The Department is changing the definition of “Sheltered English instruction” at N.J.A.C. 6A:15-1.2, upon adoption. The Department will replace “approach used” with “program alternative” to align to the other definitions that are LIEP alternatives, including “high-intensity ESL program” or “bilingual tutorial program.” The change will provide consistency across definitions of instructional program alternatives.
2. The Department is changing N.J.A.C. 6A:15-1.3(a)3 upon adoption to delete “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 MLs” because the process of conducting a records review is set forth at new N.J.A.C. 6A:15-1.3(a)2i. The description of the records review was inadvertently maintained at N.J.A.C. 6A:15-1.3(a)3. Including the records review process at N.J.A.C. 6A:15-1.3(a)2i safeguards against an overidentification of students as MLs. The Department also is deleting “and who have at least one other indicator” because the administration of the ELP assessment is the last step for identification of a student as an ML and there are no other indicators.
3. The Department is changing new N.J.A.C. 6A:15-1.4(b)4 upon adoption to replace “in addition to” with “as part of.” The Department is also changing new N.J.A.C. 6A:15-

1.4(b)5 to replace “alternative programs” with “program alternatives” to align with the defined term “instructional program alternative” at N.J.A.C. 6A:15-1.2.

4. The Department is changing new N.J.A.C. 6A:15-1.8(b) upon adoption to eliminate possible confusion regarding the regulation’s requirements. The change clarifies that the certificate requirements for dual language immersion programs applied only to programs designed to meet the LIEP requirements at N.J.S.A. 18A:35-18 and this chapter.

Although more than one teacher typically provides instruction in many dual language immersion programs, proposed N.J.A.C. 6A:15-1.8(b) stated that the certificate requirements applied to “all teachers” instructing in a dual language immersion program. Therefore, the Department seeks to clarify that all of the required endorsements may be held by one teacher or multiple teachers providing instruction. For example, a teacher with an instructional certificate and an elementary endorsement may also hold the additional required endorsement (that is, bilingual/bicultural education or world languages). Alternatively, a teacher who holds an elementary endorsement but not one of the additional required endorsements may partner with a teacher who holds an instructional certificate and a bilingual/bicultural or a world language endorsement. The changes upon adoption will afford school districts the staffing flexibility that was originally intended, while maintaining the minimum certificate requirements necessary to lead a LIEP program as required at N.J.S.A. 18A:35-18 and N.J.A.C. 6A:9B-9.3(b)1.

Finally, the Department is deleting N.J.A.C. 6A:15-1.8(b)3 upon adoption as it repeated the requirement at N.J.A.C. 6A:15-1.8(b)1.

5. The Department is changing new N.J.A.C. 6A:15-1.9(b) upon adoption for grammatical reasons. The Department also is deleting “goals” because its use does not align to the

language regarding the Department-established cut score that MLs meet to participate in classrooms where instruction is delivered in English. The annual ELP assessment measures the ESSA accountability indicator “Progress Toward English Language Proficiency.” All MLs must meet a Department-established cut score to determine readiness to exit the LIEP.

Federal Standards Statement

The rules readopted with amendments and a recodification are in compliance with, and do not exceed, Federal education requirements, including the ESSA and its implementing regulations, and will continue to advance the mission to ensure the provision of programs and services for MLs. There are no other Federal requirements that impact the rules readopted with amendments and a recodification.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:15.

Full text of the adopted amendments and recodification follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

Subchapter 1. General Provisions

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.

...

“Sheltered English instruction” means an instructional *[approach used]* ***program alternative*** to make academic instruction in English understandable to MLs. Sheltered English

classes are taught by classroom teachers who deliver instruction in English, may not hold a bilingual/ESL endorsement, but have received training on strategies for instructional adaptation, pursuant to N.J.A.C. 6A:8-1.3, to make academic content areas comprehensible for MLs.

...

6A:15-1.3 Identification of eligible multilingual learners

(a) The district board of education shall use, at the time of enrollment, the multi-step process set forth at (a)1 through 3 below to identify ML(s) enrolled in the school district.

1. – 2. (No change from proposal.)

3. The district board of education shall then determine the English language proficiency of all kindergarten to 12th-grade students who are found eligible through (a)1 or 2 above and whose primary language is other than English by administering an English language proficiency assessment *[, 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 MLs]*. Students who do not meet the Department-established cut score on the English language proficiency assessment *[and who have at least one other indicator]* shall be considered MLs and shall be offered entry into the district board of education's LIEP.

i. Preschool students who are identified, pursuant to the processes set forth at (a)1 and 2 above, as having a primary language other than English shall be identified as MLs. *[Beginning in the July prior]* ***Prior*** to the start of their kindergarten year, the district board of education shall administer

an ELP assessment to preschool MLs as part of the screener process to determine the ML's English language proficiency level.

ii. (No change from proposal.)

(b) (No change from proposal.)

6A:15-1.4 District board of education requirements, including LIEPs for multilingual learners

(a) (No change from proposal.)

(b) The district board of education shall provide all MLs with an LIEP.

1. – 3. (No change from proposal.)

4. Whenever there are at least one, but fewer than 10 MLs in kindergarten through 12th grade enrolled in a school district, the district board of education shall provide the MLs with English language services. English language services shall be provided*[, in addition to,]* **as part of** the regular school program.

5. Instructional **program** alternative*s* *[programs]* may be implemented pursuant to N.J.A.C. 6A:15-1.15.

(c) (No change from proposal.)

(d) The district board of education shall establish bilingual education or dual language immersion programs whenever there are 20 or more MLs in any one language classification enrolled in the school district in kindergarten through 12th grades, pursuant to N.J.S.A. 18A:35-18. Bilingual education or dual language immersion programs shall:

1. (No change from proposal.)

2. Include a curriculum that *[addresses]* **is aligned to** the NJSLs*[,]* **and** the ELD standards **and** includes primary language instruction delivered to further

master literacy in the primary language and as a support in the development of English proficiency;

3. (No change from proposal.)
4. Utilize a *[bilingual education]* curriculum ***for bilingual education programs*** that is adopted by the district board of education.

(e) – (j) (No change from proposal.)

(k) The district board of education *[may develop and adopt a policy that sets forth]* ***shall establish a process for*** how MLs ***in high school*** may meet the world language or ELA course graduation requirements, pursuant to N.J.A.C. 6A:8-5.1, by applying credits earned in an ESL course. ***The district board of education shall verify on a student’s record that the applicable ESL credits meet or exceed the NJSLs at the high school level.***

[1. If a district board of education’s policy allows students to apply ESL coursework toward their ELA course requirements, the applicable ESL coursework shall be aligned to grade-level NJSLs for ELA.]

6A:15-1.8 Certification

- (a) (No change from proposal.)
- (b) ***[All teachers of dual]* *Dual* language immersion programs *[shall]**, for the purpose of meeting the LIEP requirements at N.J.S.A. 18A:35-18 and this chapter, may be taught by one or more teachers. In these dual language immersion programs, the following endorsements to an instructional certificate shall be fulfilled by one or more teachers*:**

1. *[Hold a valid New Jersey instructional certificate with an] *An* endorsement for the appropriate grade level and/or academic content area ***being taught;** and *[an] *2. An* endorsement in bilingual/bicultural education or world languages*[*;]**.*
 - *[2.]* *i.* *[Demonstrate fluency] *A teacher of a language other than English has demonstrated linguistic competence* in the language of their instruction, pursuant to N.J.A.C. *[6A:9B-11.5; and] *6A:9B-10.5 or 11.5(a)2.*
 - *[3. Teach in the academic content area authorized by the endorsement to their instructional certificate.]*

(c) – (d) (No change from proposal.)

6A:15-1.9 LIEP placement, assessment, exit, and reentry

- (a) (No change from proposal.)
- (b) Students identified as MLs shall be assessed annually using ELP assessments to measure the progress *[in] *toward* English language proficiency *[goals]* and ***to determine*** readiness for exiting the LIEP. Students who meet the criteria for Statewide alternate assessments, pursuant to N.J.A.C. 6A:14-4.10(a)2, shall be assessed annually using an alternate ELP assessment.

(c) – (g) (No change from proposal.)