

## **Regulation 6174: Education For English Learners**

**Original Adopted Date: 2/14/2024**

### **Definitions**

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

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

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

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

### **Identification and Assessments**

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

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

Administration of the ELPAC, including the use of variations and accommodations in test administration when authorized, shall be conducted in accordance with test publisher instructions and 5 CCR 11518.5-11518.37.

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

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

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

The parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title I or Title III funds shall receive notification of the assessment of the student's English proficiency. Such notice shall be provided no later than 30 calendar days after the beginning of the school year or, if the student is identified for program participation during the school year, within two weeks of the student's placement in the program. The notice shall include all of the following: (Education Code 313.2, 440; 20 USC 6312)

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

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

### **Language Acquisition Programs**

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

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

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

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

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

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

### **Reclassification/Redesignation**

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

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

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the ELPAC

2. Evaluation by the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions related to the student, including, but not limited to, a review of the student's curriculum mastery and academic performance
3. Parent/guardian involvement, including:
  - a. Notice to parents/guardians of language reclassification and placement, including a description of the reclassification process and the parent/guardian's opportunity to participate
  - b. Encouragement of parent/guardian participation in the district's reclassification procedure, including seeking parent/guardian opinion and consultation during the reclassification process
  - c. Provision of an interpreter for the parent/guardian, when necessary
4. Comparison of student performance on an objective assessment of basic skills in English against an empirically established range of performance in basic skills, based on the performance of English proficient students of the same age, which demonstrates whether the student is sufficiently proficient in English to participate effectively in a curriculum designed for students of the same age whose native language is English

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

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

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

### **Advisory Committees**

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

The ELAC shall be responsible for assisting in the development of a schoolwide needs assessment, recommending ways to make parents/guardians aware of the importance of regular school attendance, and advising the principal and school staff in the development of a detailed master plan for English learners for the individual school and submitting the plan to the Board for consideration for inclusion in the district master plan. (Education Code 52176)

When the district has more than 50 English learners, the Superintendent or designee shall establish a District English Learner Advisory Committee (DELAC), the majority of whose membership shall be

composed of parents/guardians of English learners who are not employed by the district. Alternatively, the district may use a subcommittee of an existing districtwide advisory committee on which parents/guardians of English learners have membership in at least the same percentage as English learners represent of the total number of students in the district. (Education Code 52176)

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

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

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

### **LCAP Advisory Committee**

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

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

---

### **Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
5 CCR 11300-11316	English learner education
5 CCR 11510-11517.5	California English Language Development Test
5 CCR 11517.6-11519.5	English Language Proficiency Assessments for California

5 CCR 853	Administration of CAASPP
5 CCR 854.9	CAASPP and unlisted resources for students with disabilities
Ed. Code 200	Prohibition of discrimination
Ed. Code 300-340	<a href="#">English language education for immigrant children</a>
Ed. Code 310	<a href="#">Language acquisition programs</a>
Ed. Code 313-313.5	<a href="#">Assessment of English proficiency</a>
Ed. Code 33050	<a href="#">Nonwaivable provisions</a>
Ed. Code 42238.02	<a href="#">Local Control Funding Formula</a>
Ed. Code 430-446	<a href="#">English Learner and Immigrant Pupil Federal Conformity Act</a>
Ed. Code 44253.1-44253.11	<a href="#">Qualifications of teachers of English learners</a>
Ed. Code 48345	Interdistrict instruction collaboration agreements
Ed. Code 48980	<a href="#">Parent/Guardian notifications</a>
Ed. Code 48985	<a href="#">Notices to parents in language other than English</a>
Ed. Code 52052	<a href="#">Accountability; numerically significant student subgroups</a>
Ed. Code 52060-52077	<a href="#">Local control and accountability plan</a>
Ed. Code 52160-52178	<a href="#">Bilingual Bicultural Act of 1976</a>
Ed. Code 56305	<a href="#">CDE manual on English learners with disabilities</a>
Ed. Code 60603	<a href="#">Definition; recently arrived English learner</a>
Ed. Code 60640	<a href="#">California Assessment of Student Performance and Progress</a>
Ed. Code 62002.5	<a href="#">Continuation of advisory committee after program sunsets</a>
<b>Federal</b>	<b>Description</b>
20 USC 1412	State eligibility
20 USC 1701-1721	<a href="#">Equal Educational Opportunities Act</a>
20 USC 6311	State plan
20 USC 6312	Local educational agency plan
20 USC 6801-7014	Limited English proficient and immigrant students
20 USC 7801	<a href="#">Definition of English learner</a>
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	83 Ops.Cal.Atty.Gen. 40 (2000)
California Department of Education Publication	<a href="#">Summative English Language Proficiency Assessments for California, Assessment Fact Sheet, July 2023</a>
California Department of Education Publication	<a href="#">English Learner, Federal Program Monitoring Instrument</a>

California Department of Education Publication	<a href="#">Monitoring Reclassified Students, December 2019</a>
California Department of Education Publication	<a href="#">California Practitioners' Guide for Educating English Learners with Disabilities, 2019</a>
California Department of Education Publication	<a href="#">English Language Proficiency Assessments for California Information Guide, July 2023</a>
California Department of Education Publication	<a href="#">California Digital Learning Integration and Standards Guidance, May 2021</a>
California Department of Education Publication	<a href="#">Reclassification Guidance for 2020-21 and Statewide Testing Window Extension, CDE Correspondence, June 14, 2021</a>
California Department of Education Publication	<a href="#">Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning, December 2015</a>
California Department of Education Publication	<a href="#">Accessibility Resources Matrix, 2022</a>
California Department of Education Publication	<a href="#">Next Generation Science Standards for California Public Schools, Kindergarten through Grade Twelve, rev. March 2015</a>
California Department of Education Publication	<a href="#">English Language Development Standards for California Public Schools: Kindergarten Through Grade Twelve, 2012</a>
California Department of Education Publication	<a href="#">California English Learner Roadmap: Strengthening Comprehensive Educational Policies, Programs and Practices for English Learners, 2017</a>
California Department of Education Publication	<a href="#">Common Core State Standards for Mathematics, 2013</a>
California Department of Education Publication	<a href="#">English Language Arts/English Language Development Framework for California Public Schools: Kindergarten through Grade Twelve, 2014</a>
Commission on Teacher Credentialing Publication	<a href="#">Bilingual Authorization Educator Preparation Preconditions, Program Standards, and Bilingual Teaching Performance Expectations, December 2021</a>
Court Decision	Valeria O. v. Davis (2002) 307 F.3d 1036
Court Decision	California Teachers Association v. State Board of Education et al. (9th Circuit, 2001) 271 F.3d 1141
Court Decision	McLaughlin v. State Board of Education (1999) 75 Cal.App.4th 196
Court Decision	Teresa P. et al v. Berkeley Unified School District et al (1989) 724 F.Supp. 698
CSBA Publication	<a href="#">English Learners in Focus, Issue 3: Ensuring High-Quality Staff for English Learners, Governance Brief, July 2016</a>
CSBA Publication	<a href="#">English Learners in Focus, Issue 4: Expanding Bilingual Education in California after Proposition 58, Governance Brief, March 2017</a>



CSBA Publication	<a href="#">English Learners in Focus: The English Learner Roadmap: Providing Direction for English Learner Success, Governance Brief, February 2018</a>
CSBA Publication	<a href="#">English Learners in Focus, Issue 1: Updated Demographic and Achievement Profile of California's English Learners, Governance Brief, September 2016</a>
CSBA Publication	<a href="#">English Learners in Focus, Issue 2: The Promise of Two-Way Immersion Programs, Governance Brief, September 2014</a>
The Education Trust- West Publication	<a href="#">Unlocking Learning: Science as a Lever for English Learner Equity, January 2017</a>
The Education Trust- West Publication	<a href="#">Unlocking Learning II: Math as a Lever for English Learner Equity, March 2018</a>
U.S. Department of Education Publication	<a href="#">English Learners and Title III of the Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA), September 2016</a>
U.S. Department of Education Publication	<a href="#">English Learner Tool Kit for State and Local Educational Agencies (SEAs and LEAs), rev. November 2016</a>
U.S. Department of Education Publication	<a href="#">Innovative Solutions for Including Recently Arrived English Learners in State Accountability Systems: A Guide for States, January 2017</a>
U.S. Department of Education Publication	<a href="#">Dear Colleague Letter: English Learner Students and Limited English Proficient Parents, January 7, 2015</a>
Website	<a href="#">California Department of Education, English Language Proficiency Assessments for California (ELPAC)</a>
Website	<a href="#">California Digital Learning Integration and Standards Guidance</a>
Website	<a href="#">CSBA District and County Office of Education Legal Services</a>
Website	<a href="#">National Clearinghouse for English Language Acquisition</a>
Website	<a href="#">The Education Trust-West</a>
Website	<a href="#">California Department of Education, English Learners</a>
Website	<a href="#">California Association for Bilingual Education</a>
Website	<a href="#">CSBA</a>
Website	<a href="#">U.S. Department of Education</a>

## Cross References

Code	Description
0200	<a href="#">Goals For The School District</a>
0415	<a href="#">Equity</a>
0420	<a href="#">School Plans/Site Councils</a>

0420	<a href="#"><u>School Plans/Site Councils</u></a>
0460	<a href="#"><u>Local Control And Accountability Plan</u></a>
0460	<a href="#"><u>Local Control And Accountability Plan</u></a>
0470	<a href="#"><u>COVID-19 Mitigation Plan</u></a>
1220	<a href="#"><u>Citizen Advisory Committees</u></a>
1220	<a href="#"><u>Citizen Advisory Committees</u></a>
3100	<a href="#"><u>Budget</u></a>
3100	<a href="#"><u>Budget</u></a>
4112.22	<a href="#"><u>Staff Teaching English Learners</u></a>
4131	<a href="#"><u>Staff Development</u></a>
4231	<a href="#"><u>Staff Development</u></a>
4331	<a href="#"><u>Staff Development</u></a>
5020	<a href="#"><u>Parent Rights And Responsibilities</u></a>
5020	<a href="#"><u>Parent Rights And Responsibilities</u></a>
5126	<a href="#"><u>Awards For Achievement</u></a>
5126	<a href="#"><u>Awards For Achievement</u></a>
5148	<a href="#"><u>Child Care And Development</u></a>
5148	<a href="#"><u>Child Care And Development</u></a>
5148.3	<a href="#"><u>Preschool/Early Childhood Education</u></a>
5148.3	<a href="#"><u>Preschool/Early Childhood Education</u></a>
6000	<a href="#"><u>Concepts And Roles</u></a>
6011	<a href="#"><u>Academic Standards</u></a>
6020	<a href="#"><u>Parent Involvement</u></a>
6020	<a href="#"><u>Parent Involvement</u></a>
6120	<a href="#"><u>Response To Instruction And Intervention</u></a>
6141	<a href="#"><u>Curriculum Development And Evaluation</u></a>
6141	<a href="#"><u>Curriculum Development And Evaluation</u></a>
6142.1	<a href="#"><u>Sexual Health And HIV/AIDS Prevention Instruction</u></a>
6142.1	<a href="#"><u>Sexual Health And HIV/AIDS Prevention Instruction</u></a>
6142.2	<a href="#"><u>World Language Instruction</u></a>
6142.2	<a href="#"><u>World Language Instruction</u></a>
6142.91	<a href="#"><u>Reading/Language Arts Instruction</u></a>
6151	<a href="#"><u>Class Size</u></a>

6152.1	<a href="#"><u>Placement In Mathematics Courses</u></a>
6152.1	<a href="#"><u>Placement In Mathematics Courses</u></a>
6159	<a href="#"><u>Individualized Education Program</u></a>
6159	<a href="#"><u>Individualized Education Program</u></a>
6161.1	<a href="#"><u>Selection And Evaluation Of Instructional Materials</u></a>
6161.1	<a href="#"><u>Selection And Evaluation Of Instructional Materials</u></a>
6161.1-E(1)	<a href="#"><u>Selection And Evaluation Of Instructional Materials</u></a>
6161.11	<a href="#"><u>Supplementary Instructional Materials</u></a>
6162.5	<a href="#"><u>Student Assessment</u></a>
6162.51	<a href="#"><u>State Academic Achievement Tests</u></a>
6162.51	<a href="#"><u>State Academic Achievement Tests</u></a>
6164.5	<a href="#"><u>Student Success Teams</u></a>
6164.5	<a href="#"><u>Student Success Teams</u></a>
6164.6	<a href="#"><u>Identification And Education Under Section 504</u></a>
6164.6	<a href="#"><u>Identification And Education Under Section 504</u></a>
6170.1	<a href="#"><u>Transitional Kindergarten</u></a>
6171	<a href="#"><u>Title I Programs</u></a>
6171	<a href="#"><u>Title I Programs</u></a>
6172	<a href="#"><u>Gifted And Talented Student Program</u></a>
6172	<a href="#"><u>Gifted And Talented Student Program</u></a>
6173	<a href="#"><u>Education For Homeless Children</u></a>
6173	<a href="#"><u>Education For Homeless Children</u></a>
6173-E(1)	<a href="#"><u>Education For Homeless Children</u></a>
6173-E(2)	<a href="#"><u>Education For Homeless Children</u></a>
6173.1	<a href="#"><u>Education For Foster Youth</u></a>
6173.1	<a href="#"><u>Education For Foster Youth</u></a>
6173.2	<a href="#"><u>Education Of Children Of Military Families</u></a>
6173.2	<a href="#"><u>Education Of Children Of Military Families</u></a>
6175	<a href="#"><u>Migrant Education Program</u></a>
6175	<a href="#"><u>Migrant Education Program</u></a>
6190	<a href="#"><u>Evaluation Of The Instructional Program</u></a>