

# CSBA Sample Board Policy

## Instruction

BP 6174(a)

## EDUCATION FOR ENGLISH LEARNERS

Note: The following policy may be revised to reflect district practice. State and federal law establish requirements for the identification, placement, and education of English learners.

Pursuant to Education Code 42238.02 and 42238.03, the local control funding formula provides additional funding based on the number and concentration of unduplicated counts of students who are English learners, foster youth, and/or eligible for free or reduced-price meals. Such funds must be used to increase or improve services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number or concentration of unduplicated students; see BP 3100 - Budget.

In addition, 20 USC 6801-7014 (Title III) provide grant funds that may be used to supplement, but not supplant, funding from other sources for the purpose of ensuring that English learners attain English proficiency and meet the same challenging academic standards that are applicable to all students. During the Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will expect to see evidence that the district has complied with state and federal requirements. See the CDE web site for FPM compliance monitoring instruments.

For further information regarding English learners, programs, and services, see CDE's publication The California English Learner Roadmap: Strengthening Comprehensive Educational Policies, Programs and Practices for English Learners, available on its web site.

The Governing Board intends to provide English learners with challenging curriculum and instruction that maximize the attainment of high levels of proficiency in English, advance multilingual capabilities, and facilitate student achievement in the district's regular course of study.

Note: Education Code 52060 requires the district's local control and accountability plan (LCAP) to include annual goals and specific actions, aligned to state and local priorities, for all students and for each "numerically significant" student subgroup as defined in Education Code 52052, including English learners; see BP/AR 0460 - Local Control and Accountability Plan. The CDE's Roadmap provides an alignment between principles outlined for English learners and the eight state priority areas required in the district's LCAP.

The district shall identify in its local control and accountability plan (LCAP) goals and specific actions and services to enhance student engagement, academic achievement, and other outcomes for English learners.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3100 - Budget)

Note: The following paragraph may be revised to reflect district strategies for parent/guardian and community involvement. Education Code 305 requires the district to solicit input on language acquisition programs as part of the parent and community engagement process during the development of the LCAP; see section on "Language Acquisition Programs" below. In addition, if district enrollment includes at least

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15 percent English learners, with at least 50 students who are English learners, Education Code 52063 requires the establishment of an English learner parent advisory committee to review and comment on the district's LCAP; see the accompanying administrative regulation and BP 0460 - Local Control and Accountability Plan.

The Superintendent or designee shall encourage parent/guardian and community involvement in the development and evaluation of programs for English learners.

(cf. 0420 - School Plans/Site Councils)  
 (cf. 1220 - Citizen Advisory Committees)  
 (cf. 6020 - Parent Involvement)

Note: Pursuant to Education Code 60811, in November 2012 the State Board of Education (SBE) adopted state academic content standards for English language development (ELD), aligned with the California Common Core State Standards for English language arts, for students whose primary language is a language other than English. In July 2014, the SBE adopted the English Language Arts/English Language Development Framework aligned to those standards. A supplementary resource, Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning, specifies the correspondence between the state ELD standards and the California Common Core State Standards for mathematics and the Next Generation Science Standards.

CDE's Roadmap encourages differentiated instruction and curriculum which are integrated across all subject areas and emphasize inquiry-based learning and critical thinking skills.

English learners shall be provided differentiated English language development instruction which is targeted to their English proficiency level, integrated across all subject areas, and aligned with the state content standards. The district's program shall be based on sound instructional theory, use standards-aligned instructional materials, emphasize inquiry-based learning and critical thinking skills, and provide students with access to the full educational program.

(cf. 6011 - Academic Standards)  
 (cf. 6141 - Curriculum Development and Evaluation)  
 (cf. 6161.1 - Selection and Evaluation of Instructional Materials)  
 (cf. 6161.11 - Supplementary Instructional Materials)  
 (cf. 6171 - Title I Programs)

Note: Commission on Teacher Credentialing (CTC) leaflet CL-622, Serving English Learners, describes requirements pertaining to the qualifications of teachers of English learners. A teacher who is assigned to provide English language development, specially designed academic instruction in English, and/or primary language instruction to English learners must hold an appropriate authorization from the CTC; see AR 4112.22 - Staff Teaching English Learners.

The Superintendent or designee shall ensure that all staff employed to teach English learners possess the appropriate authorization from the Commission on Teacher Credentialing.

(cf. 4112.22 - Staff Teaching English Learners)

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Note: The following paragraph reflects a requirement for districts that receive federal Title III funds to improve the education of English learners, and is recommended for use by all districts. 20 USC 6825 lists the required uses of such funds, including the provision of professional development of sufficient intensity and duration to have a positive and lasting impact on teachers' performance in the classroom. Pursuant to 20 USC 6825, such professional development must not include one-day or short-term workshops and conferences.

The district shall provide effective professional development to teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), administrators, and other school or community-based organization personnel to improve the instruction and assessment of English learners and enhance staff's ability to understand and use curricula, assessment, and instructional strategies for English learners. Such professional development shall be of sufficient intensity and duration to produce a positive and lasting impact on teachers' performance in the classroom. (20 USC 6825)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: The following paragraph is **optional**. The CDE's Roadmap indicates the importance of a supportive and collaborative environment in order for teachers to effectively address the complex needs of English learners.

Staff development shall also address the sociocultural needs of English learners and provide opportunities for teachers to engage in supportive, collaborative learning communities.

To support students' English language development, the Superintendent or designee may provide an adult literacy training program that leads to English fluency for parents/guardians and community members.

**Identification and Assessment**

Note: The CDE's Roadmap emphasizes the importance of early identification of English learners, as early childhood is a crucial period of time for language development. Education Code 313 requires any district that has one or more students who are English learners to assess the English language proficiency of those students using a state assessment designated by the SBE. The state English Language Proficiency Assessments for California are aligned with the 2012 state standards for ELD. They include an initial test for identifying students who may be English learners and an annual summative assessment for determining English learners' level of English proficiency and progress in acquiring the skills of listening, speaking, reading, and writing in English. CDE also provides a home language survey to be used to identify students who should be tested for English proficiency. See the accompanying administrative regulation for further information about test administration and identification and reclassification criteria.

The Superintendent or designee shall maintain procedures for the early identification of English learners and an assessment of their proficiency and needs in the areas of listening, speaking, reading, and writing in English.

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Once identified as an English learner, a student shall be annually assessed for language proficiency until he/she is reclassified based on criteria specified in the accompanying administrative regulation.

Note: In addition to testing the level of English proficiency of English learners, districts are required pursuant to Education Code 60640 to administer the California Assessment of Student Performance and Progress to English learners; see BP/AR 6162.51 - State Academic Achievement Tests. As needed, English learners may be provided with the testing resources (i.e., universal tools, designated supports, and accommodations) specified in 5 CCR 854.1-854.3, as renumbered by Register 2018, No. 4, during test administration.

Education Code 60640 also authorizes districts to administer a primary language assessment to English learners in grades 2-11 for the purpose of assessing students' competency in reading, writing, and listening in their primary language. The Standards-Based Test in Spanish may be used for this purpose until a test is available that is aligned with the most recent state ELD standards. The new California Spanish Assessment is expected to be operational in the 2018-19 school year.

English learners' academic achievement in English language arts, mathematics, science, and any additional subject required by law shall be assessed using the California Assessment of Student Performance and Progress. As necessary, the test shall be administered with testing variations in accordance with 5 CCR 854.1-854.3. English learners who are in their first 12 months of attending a school in the United States shall be exempted from taking the English language arts assessment to the extent allowed by federal law. (Education Code 60603, 60640; 5 CCR 854.1-854.3)

(cf. 6162.51 - State Academic Achievement Tests)

Note: The following paragraph is optional. The CDE's Roadmap highlights the importance of formative assessments in order to continually adapt methodologies and instruction to meet the needs of English learners.

Formative assessments may be utilized to analyze student performance and appropriately adapt teaching methodologies and instructions.

(cf. 6162.5 - Student Assessment)

**Language Acquisition Programs**

Note: Education Code 305-310 authorize parents/guardians to select a language acquisition program that best suits their child. At a minimum, the district must offer a structured English immersion program. It also may offer a dual-language immersion program, transitional and developmental program for English learners, or other language acquisition program as defined in Education Code 306. Pursuant to 20 USC 6312 and 34 CFR 100.3, parents/guardians have a right to decline or opt their child out of a language acquisition program. The following section may be revised to reflect programs offered by the district. Also see the accompanying administrative regulation.

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The district shall offer research-based language acquisition programs that are designed to ensure English acquisition as rapidly and as effectively as possible and that provide instruction to students on the state-adopted academic content standards, including the English language development standards. (Education Code 306; 5 CCR 11300)

At a minimum, the district shall offer a structured English immersion program which includes designated and integrated English language development. In the structured English immersion program, nearly all of the classroom instruction shall be provided in English, but with the curriculum and presentation designed for students who are learning English. (Education Code 305-306; 5 CCR 11309)

Note: The following **optional** paragraph may be revised to reflect district practice. The Education Code does not define the term "nearly all" for purposes of ensuring that nearly all instruction in the structured English immersion program is provided in English pursuant to Education Code 306. The following paragraph defines "nearly all" as to provide that all classroom instruction be conducted in English except for clarification, explanation, and support as needed. The district could instead establish a minimum percentage of classroom instructional time to be conducted in English or specify the types of courses to be conducted in English and the courses (e.g., science, algebra) to be taught in the student's primary language.

For the purpose of determining the amount of instruction to be conducted in English in the structured English immersion program, "nearly all" means that all classroom instruction shall be conducted in English except for clarification, explanation, and support as needed.

Note: Items #1-2 below are **optional** and may be revised to reflect district practice.

In addition, language acquisition programs offered by the district may include, but are not limited to, the following. (Education Code 305-306)

1. The district may offer a dual-language immersion program that provides integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding.

(cf. 61421 - World/Foreign Language Instruction)

2. The district may offer a transitional or developmental program for English learners that provides literacy and academic instruction in English and a student's native language and that enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order thinking skills, including critical thinking, in order to meet state academic content standards.

Note: The following paragraph is for use by districts that maintain any of grades K-3.

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The district's language acquisition programs for grades K-3 shall comply with class size requirements specified in Education Code 42238.02. (Education Code 310)

(cf. 6151 - Class Size)

In establishing the district's language acquisition programs, the Superintendent or designee shall consult with parents/guardians and the community during the LCAP development process. He/she shall also consult with administrators, teachers, and other personnel with appropriate authorizations and experience in establishing a language acquisition program. (Education Code 305)

At the beginning of each school year or upon a student's enrollment, parents/guardians shall be provided information on the types of language acquisition programs available to students enrolled in the district, including, but not limited to, a description of each program, the process to be followed in making a program selection, identification of any language to be taught in addition to English when the program includes instruction in another language, and the process to request establishment of a language acquisition program. (Education Code 310; 5 CCR 11310)

(cf. 5145.6 - Parental Notifications)

Note: Pursuant to 5 CCR 11311, as added by Register 2018, No. 20, districts are required to establish a process with specified components for schools to receive and respond to requests from parents/guardians of enrolled students, and those enrolled for attendance in the next school year, to establish a language acquisition program other than, or in addition to, those already available at the school. See the section "Language Acquisition Programs" in the accompanying administrative regulation.

Parents/guardians of English learners may choose a language acquisition program that best suits their child. To the extent possible, any language acquisition program requested by the parents/guardians of 30 or more students at the school or by the parents/guardians of 20 or more students at any grade level shall be offered by the school. (Education Code 310; 5 CCR 11311)

### Reclassification

When an English learner is determined based on state and district reclassification criteria to have acquired a reasonable level of English proficiency pursuant to Education Code 313 and 52164.6, or upon request by the student's parent/guardian, the student shall be transferred from a language acquisition program into an English language mainstream classroom.

### Program Evaluation

Note: The following section may be revised to reflect indicators agreed upon by the Governing Board and Superintendent or designee for measuring the effectiveness of the district's educational program for English learners.

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Education Code 52061 requires that the annual update of the LCAP include a review of progress toward the goals included in the LCAP, an assessment of the effectiveness of the specific actions described in the LCAP toward achieving the goals, and a description of changes the district will make as a result of this review and assessment.

Pursuant to Education Code 313.2, the CDE is required to annually determine the number of students in each district and school who are, or are at risk of becoming, long-term English learners and to report that information to districts and schools. Definitions of "long-term English learner" and "English learner at risk of becoming a long-term English learner" are contained in Education Code 313.1.

20 USC 6311 requires the inclusion of a performance indicator on English language proficiency within the state accountability system under Title I.

To evaluate the effectiveness of the district's educational program for English learners, the Superintendent or designee shall report to the Board, at least annually, regarding:

1. Progress of English learners towards proficiency in English
2. The number and percentage of English learners reclassified as fluent English proficient
3. The number and percentage of English learners who are or are at risk of being classified as long-term English learners in accordance with Education Code 313.1
4. The achievement of English learners on standards-based tests in core curricular areas
5. For any language acquisition program that includes instruction in a language other than English, student achievement in the non-English language in accordance with 5 CCR 11309
6. Progress toward any other goals for English learners identified in the district's LCAP
7. A comparison of current data with data from at least the previous year in regard to items #1-6 above
8. A comparison of data between the different language acquisition programs offered by the district

The Superintendent or designee shall also provide the Board with regular reports from any district or schoolwide English learner advisory committees.



**EDUCATION FOR ENGLISH LEARNERS (continued)***Legal Reference:*EDUCATION CODE

300-340 English language education, especially:  
 305-310 Language acquisition programs  
 313-313.5 Assessment of English proficiency  
 430-446 English Learner and Immigrant Pupil Federal Conformity Act  
 33050 State Board of Education waiver authority  
 42238.02-42238.03 Local control funding formula  
 44253.1-44253.11 Qualifications for teaching English learners  
 48980 Parental notifications  
 48985 Notices to parents in language other than English  
 52052 Numerically significant student subgroups  
 52060-52077 Local control and accountability plan  
 52160-52178 Bilingual Bicultural Act  
 56305 CDE manual on English learners with disabilities  
 60603 Definition, recently arrived English learner  
 60640 California Assessment of Student Performance and Progress  
 60810-60812 Assessment of language development  
 62002.5 Continuation of advisory committee after program sunsets

CODE OF REGULATIONS, TITLE 5

854.1-854.3 CAASPP and universal tools, designated supports, and accommodations  
 854.9 CASSPP and unlisted resources for students with disabilities  
 11300-11316 English learner education  
 11510-11517.5 California English Language Development Test  
 11517.6-11519.5 English Language Proficiency Assessments for California

UNITED STATES CODE, TITLE 20

1412 Individuals with Disabilities Education Act; state eligibility  
 1701-1705 Equal Educational Opportunities Act  
 6311 Title I state plan  
 6312 Title I local education agency plans  
 6801-7014 Title III language instruction for English learners and immigrant students  
 7801 Definitions

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 Discrimination prohibited  
 200.16 Assessment of English learners

COURT DECISIONS

*Valeria O. v. Davis*, (2002) 307 F.3d 1036

*California Teachers Association v. State Board of Education et al.*, (9th Circuit, 2001) 271 F.3d 1141

*McLaughlin v. State Board of Education*, (1999) 75 Cal.App.4th 196

*Teresa P. et al v. Berkeley Unified School District et al*, (1989) 724 F.Supp. 698

ATTORNEY GENERAL OPINIONS

83 *Ops.Cal.Attv.Gen.* 40 (2000)

*Management Resources:*CSBA PUBLICATIONS

*English Learners in Focus: The English Learner Roadmap: Providing Direction for English Learner Success*, Governance Brief, February 2018

*English Learners in Focus, Issue 4: Expanding Bilingual Education in California after Proposition 58*, Governance Brief, March 2017

Management Resources continued: (see next page)



**EDUCATION FOR ENGLISH LEARNERS (continued)***Management Resources: (continued)*CSBA PUBLICATIONS (continued)English Learners in Focus, Issue 1: Updated Demographic and Achievement Profile of California's English Learners, Governance Brief, rev. September 2016English Learners in Focus, Issue 3: Ensuring High-Quality Staff for English Learners, Governance Brief, July 2016English Learners in Focus, Issue 2: The Promise of Two-Way Immersion Programs, Governance Brief, September 2014CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONSCalifornia English Learner Roadmap: Strengthening Comprehensive Educational Policies, Programs and Practices for English Learners, 2018Matrix One: Universal Tools, Designated Supports, and Accommodations for the California Assessment of Student Performance and Progress for 2017-18, rev. August 2017Reclassification Guidance for 2017-18, CDE Correspondence, April 28, 2017Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning, December 2015Next Generation Science Standards for California Public Schools, Kindergarten through Grade Twelve, rev. March 2015English Language Arts/English Language Development Framework for California Public Schools: Transitional Kindergarten Through Grade Twelve, 2014Common Core State Standards for Mathematics, rev. 2013English Language Development Standards for California Public Schools: Kindergarten Through Grade Twelve, 2012THE EDUCATION TRUST- WEST PUBLICATIONSUnlocking Learning II: Math as a Lever for English Learner Equity, March 2018Unlocking Learning: Science as a Lever for English Learner Equity, January 2017U.S. DEPARTMENT OF EDUCATION PUBLICATIONSAccountability for English Learners Under the ESEA, Non-Regulatory Guidance, January 2017Innovative Solutions for Including Recently Arrived English Learners in State Accountability Systems: A Guide for States, January 2017English Learner Tool Kit for State and Local Educational Agencies (SEAs and LEAs), rev. November 2016English Learners and Title III of the Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA), Non-Regulatory Guidance, September 23, 2016Dear Colleague Letter: English Learner Students and Limited English Proficient Parents, January 7, 2015WEBSITESCSBA: <http://www.csba.org>California Association for Bilingual Education: <http://www.gocabe.org>California Department of Education: <http://www.cde.ca.gov/sp/el>National Clearinghouse for English Language Acquisition: <http://www.ncela.us>The Education Trust-West: <https://west.edtrust.org>U.S. Department of Education: <http://www.ed.gov>

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