
FROM SEIDLITZ EDUCATION

A review of accepted changes to TAC §89, Subchapter BB.

Commissioner's Rules Concerning State Plan for Educating English Learners

Any time we learn of changes to our regulatory environment regarding English learners (ELs) in Texas we are eager to rapidly acquire an understanding of the essence of the changes and the impact on our local second language programs. **The Texas Education Agency, effective July 15, 2018, revised Chapter 89, Subchapter BB.** After a careful review of the changes, we prepared this informative overview for our clients and friends.

While the entire text of Chapter 89, Subchapter BB is extensively revised, **there are five significant topics covered in the revision that we believe will immediately affect local and district operations and planning of second-language programs upon adoption: definitions, program content and design, professional development, documentation/recordkeeping, and language proficiency assessment committee.** Our best advice is to review the full text of the revised rules, and to consider the ramifications of the revisions to your local programs. We continue to provide our insights regarding the revisions in additional communications, trainings, and resources.

All professional development and resources from Seidlitz Education will continue to align with, and support, the rules set forth by the Texas Education Agency in Chapter 89, Subchapter BB.

DEFINITIONS

In section 89.1203, the number of defined terms increases from three to ten. This section is now a resource that is more comprehensive; including terms that have been scattered throughout the rules and governing code. Language is clarified for consistency. The following three terms are likely to be used commonly by teachers and administrators on an ongoing basis and are worth reviewing at this time:

- **English learner** – English Language Learner (ELL) is replaced by English learner (EL). This change aligns Texas with the growing national trend of identifying students eligible for second-language programs.
- **Exit** – This term is clarified to describe the point at which an EL is identified as non-LEP in the Texas Student Data System Public Education Information Management System (TSDSPEIMS) and reflects that the student is transferring out of bilingual or ESL services.
- **Reclassification** – This term refers to the action taken by the Language Proficiency Assessment Committee (LPAC) to determine that a student has met the Exit Criteria to be reclassified as non-LEP. The act of reclassification does not necessarily equate to ending participation in (exiting from) program services. A reclassified student may continue to participate in a program but will no longer generate a bilingual allotment.

The revisions to program and program model descriptions provide more focused language regarding program elements and implementation. All Seidlitz Education trainings provide information and assistance for teachers to implement second language acquisition methods and the ELPS in planning and instruction.

PROGRAM CONTENT AND DESIGN

In section 89.1210, the revision reorganizes/changes the language and clarifies the requirements for bilingual and ESL programs in Texas as well as the associated state-approved program models. The revisions to program and program model descriptions provide more focused language regarding program elements and implementation. All Seidlitz Education trainings provide information and assistance for teachers to implement second language acquisition methods and the ELPS in planning and instruction.

- In section 89.1210 (b), the program descriptions for bilingual and ESL programs are combined for efficiency and clarity.
- In section 89.1210 (b)(2)(A,B), the requirement to meet the linguistic needs of ELs now specifies that intensive instruction will be “provided through the ELPS.”
- In sections 89.1210 (b)(1)(b) and (b)(3)(b), the requirement to meet the affective and cognitive needs of ELs now specifies that instruction shall be provided “using second language acquisition methods.” This language replaces and broadens previous references to sheltered instruction approaches.
- In sections 89.1210 (c)(1-4) and (d)(1-2), the certification requirements for teachers in each of the state-approved program models are identified as aligning with the requirements under TEC §29.061. In response to public comments in the adoption process, further clarification is provided regarding appropriate certification for teachers in dual language programs (both one-way and two-way dual language program models).

“Instruction provided in a language other than English in this program model is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061. Instruction provided in English in this program model may be delivered either by a teacher appropriately certified in bilingual education or by a different teacher certified in ESL in accordance with TEC, §29.061.”

Also, in response to public comments, further clarification is provided regarding certification requirements for teachers serving ELs through an ESL program in which two different teachers are assigned to deliver instruction in language arts and reading, such as a reading teacher and a language arts teacher.

“When implementing an ESL program model, and the English language arts and reading (ELAR) TEKS are divided between two people, an English language arts (ELA) teacher and a reading teacher, ESL certification is required for both the ELA teacher and the reading teacher.”

The revised statute now includes the subject area of reading specifically when stating the certification requirements for both content-based and pull-out ESL program models. The new language regarding ESL program certification requirements apply at all grade levels, including middle and high school.

- In sections 89.1210(c)(1-4) and (d)(1-2), the term of participation in each of the program models is governed by the EL meeting reclassification criteria (as determined by the LPAC).

PROFESSIONAL DEVELOPMENT AND TRAINING

In sections 89.1207 and 89.1245 the requirements, rationale, and rules for professional development are clearly described. For districts required to develop a Comprehensive Professional Development Plan, Seidlitz Education can assist you in this process:

- **Comprehensive Professional Development Plan** – Sections 89.1207 (a)(1)(d) and (e) expand to define and explain the requirement that any district requesting either a bilingual exception or an ESL waiver must submit a comprehensive professional development plan to include three assurances: the plan is ongoing and targets the knowledge, skills, and competencies needed to serve the needs of ELs, the plan includes non-certified teachers or not appropriately certified teachers that are assigned to implement the proposed program, and the plan may include additional teachers who work with ELs. At least 10% of the bilingual education allotment must be used to fund this plan. (Note: there is a new definition in section 89.1203 that defines the bilingual education allotment).
- **Staffing and Staff Development** – In section 89.1245, the revisions reorganize language and clarify rules for required staffing and professional development. The revision continues to prescribe that resources for training will provide for instruction that meets the affective, linguistic, and cognitive needs of ELs.

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DOCUMENTATION AND RECORDKEEPING

In sections 89.1215 and 89.1265 new requirements regarding record-keeping and documentation are identified and explained. These changes impact several operational components of your programs.

- **Home Language Survey (HLS)** – In section 89.1215 important changes to language will impact our enrollment procedures. In section 1215 (a) new language establishes that the HLS is ONLY given to students enrolling for the first time in Texas schools. In section 1215 (b), the state is adding a requirement for the HLS to be available in English, Spanish, and Vietnamese to address the increased presence of students speaking Vietnamese as a primary language. In section 1215 (d), a new set of requirements for the securing of student records (including the HLS) from the sending district is identified. This section also identifies a four-week testing and identification timeframe for securing the student’s records from the sending district.
- **Evaluation** – In section 89.1265, the requirement for the district to conduct an annual program evaluation in accordance with TEC §29.062 is added. This evaluation shall be presented to the board of trustees before November 1st of each year.

89.1265 (b) is revised to include the following language:

“...the number of teachers and aides trained and the frequency, scope, and results of the professional development in approaches and strategies that support second language acquisition.”

A new requirement is added in section 89.1265 (c) for any district that filed a bilingual exception or ESL waiver in the previous year and/or will file one in the current year. This requirement addresses the number of teachers for whom either an exception or waiver was filed previously or currently as well as the frequency and scope of the comprehensive professional development plan required under section 89.1207 discussed above.

TESTING AND CLASSIFICATION OF STUDENTS

Several changes to testing and classification of students will impact the way we identify, enter, and exit students from bilingual and ESL programs. These changes will affect your calendar and the functioning of LPACs. (Note: section 89.1225 will expire at the end of the 2018-2019 school year and will be replaced by the new section 89.1226)

- **Timeframe** – In section 89.1225 (b), the timeframe for identification, testing, and placement of ELs is now four weeks (instead of the previous timeframe of 20 school days).
- **Identification and Entry** – The requirement of norm-referenced testing for identification previously included in sections 1225 (e) and (f) (2)(C), is now covered in a new section 89.1225 (g). Students being screened for identification will be identified as LEP if their level of English is so limited that the English oral language test or norm-referenced assessments cannot be administered. The collaboration between LPAC and ARD committees in the identification process previously included in section 1225 (f)(4) is now covered in a new section 89.1225 (h).
- **Parent Notification** – With regard to parent notification of EL classification and seeking parental approval for program placement, new language has been added to 89.1220 (h). The timeframe for parental notification is now specified as “not later than the 10th calendar day after the date of the student’s classification in accordance with TEC, §29.056.”
- **Exit** – Sections 89.1225 (i-o) describe the exit process from both bilingual and ESL program services. The timing (only at the end of the school year) and the process for exiting bilingual or ESL programs are clarified. A new section, 89.1225 (k), includes the rule that a student may NOT be exited from a bilingual or ESL program if the LPAC has recommended designated supports or accommodations on the state reading or writing assessment instrument.