

# TENNESSEE STATE BOARD OF EDUCATION

## ENGLISH AS A SECOND LANGUAGE (ESL) PROGRAM POLICY

3.207

The English as a Second Language (ESL) Program Policy is designed to set minimum requirements for ESL programs in Tennessee and provide a framework for implementing effective educational programs for English learners (ELs).

States, local education agencies (LEAs), and schools are required to provide specialized programs for limited English proficient (LEP) students to comply with Title VI of the Civil Rights Act of 1964, the Equal Educational Opportunities Act (EEOA), and the guidelines published by the Tennessee Department of Education.

### POLICY SECTIONS

1. Anti-Discrimination Policies and Practices
2. Identification and Entrance Criteria for English Learners
3. Parental Notification and Rights
4. Service Delivery Models
5. Service Delivery
6. Staffing Ratios
7. Exit Criteria for WIDA Access Assessment
8. Exit Criteria for WIDA ALT Access Assessment

#### **1. ANTI-DISCRIMINATION POLICIES AND PRACTICES**

- (a) LEAs must have anti-discriminatory policies that preclude denial of equal education opportunities to individuals based on race, color, or national origin. In addition, LEAs must ensure that LEP students can meaningfully participate in their educational programs and services. LEA practices must not result in the inappropriate placement of ELs in or the exclusion from special opportunity programs (for example, related arts) or activities based on English language proficiency or national origin.
- (b) LEAs shall not deny enrollment to a student on the basis of the students' or their parents' or guardians' actual or perceived citizenship or immigration status.

#### **2. IDENTIFICATION AND ENTRANCE CRITERIA FOR ENGLISH LEARNERS**

- (a) Each LEA must use the following two (2)-step process for the identification of non-English language background (NELB) students and qualification for ESL services

Step 1: LEAs administer the Home Language Survey (HLS) to all students upon initial enrollment. A HLS is to be completed only once in a student's educational career. If the student had previously been in another school or LEA, the new school should try to obtain the original HLS from the sending school or LEA. The HLS consists of three (3) questions that will be asked of every parent or guardian enrolling his/her child in the LEA. These questions are:

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- (1) What is the first language this child learned to speak?
- (2) What language does this child speak most often outside of school?
- (3) What language do people usually speak in this child's home?

If the answer to *any* of the above questions is a language other than English, the child will be classified as NELB and assessed for English proficiency using the state's approved screening assessment for ESL. If needed, the parents should be interviewed to clarify any discrepancies in the HLS.

Step 2: Unless an NELB student has documentation from a previous state or LEA that he or she has met the definition of fluent English proficient (FEP), LEAs must assess all NELB students with the state-approved English language proficiency screener to determine whether the student qualifies for ESL services. All NELB students who are determined to be an EL shall be provided ESL services through an allowable service delivery model.

- (b) Each LEA shall use the following criteria to determine entrance into the ESL program:
- (1) Kindergarten students and first (1<sup>st</sup>) grade students who are screened in their first (1<sup>st</sup>) semester are screened using the W-APT screener. Kindergarten students who are screened in their first (1<sup>st</sup>) semester who score 27 composite or below on the W-APT screener shall be entered into the ESL program and shall receive a minimum of one (1) hour of ESL service each day from a teacher who holds an ESL endorsement. Kindergarten students who are screened in their second (2<sup>nd</sup>) semester and first (1<sup>st</sup>) grade students who are screened in their first (1<sup>st</sup>) semester who score 27 or below on speaking and listening; 14 or below on reading; or 17 or below on writing on the W-APT screener shall be entered into the ESL program and shall receive a minimum of one (1) hour of ESL service each day from a teacher who holds an ESL endorsement. Due to the COVID-19 Public Health Emergency, students may alternately receive a minimum of five (5) hours of ESL service per week from a teacher who holds an ESL endorsement if the LEA or public charter school is operating under an approved Continuous Learning Plan pursuant to State Board Rule 0520-01-17 during the 2020-21 school year.
  - (2) First (1<sup>st</sup>) grade students who are screened in their second (2<sup>nd</sup>) semester and students who are screened in grades two through twelve (2-12) are screened using the WIDA screener. First (1<sup>st</sup>) grade students who are screened in their second (2<sup>nd</sup>) semester and students who are screened in grades two through twelve (2-12) who score below 4.5 composite or 4.0 or below on any domain on the WIDA screener shall be entered into the ESL program and shall qualify for ESL services.
- (c) Special Considerations Due to the COVID-19 Public Health Emergency in Spring 2020. LEAs shall have a provisional method that uses existing data and information for

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identifying students as NELB students and for determining entrance into an ESL program if the student has not completed either the W-APT screener or WIDA screener. The Tennessee Department of Education may provide best practice guidance for identifying NELB students for districts to reference. Students identified as NELB students and enrolled in ESL services using a provisional method shall be given provisional NELB status. Formal NELB identification and screening for ESL support using the W-APT screener or WIDA screener shall take place as soon as possible once school resumes for any student who has been given a provisional NELB status.

### 3. PARENTAL NOTIFICATION AND RIGHTS

- (a) LEAs shall communicate information related to testing, placement, and ESL services to all LEP parents in the language and method that the parent can understand, to the extent practicable. Parents shall be informed of the ESL program type to be used, length of time expected for completion of ESL services, how the child was assessed for entrance to services, and options related to program types if available. Parents of ELs shall be informed of the right to refuse placement of their children in ESL programs.
- (b) If the parent refuses direct ESL services for the student, the general education classroom teacher shall be responsible for providing appropriate accommodations, if required by the student's Individual Learning Plan (ILP). Appropriate accommodations shall additionally be provided on assessments, if required by the ILP.

### 4. SERVICE DELIVERY MODELS

- (a) An ESL program may be provided through various service delivery models. All service delivery models used by LEAs shall be evidence-based and effective. All models shall address how academic deficits that are the result of students' limited English proficiency will be remediated. All ESL services shall be aligned to the Tennessee (WIDA) English language development standards and founded on evidence-based educational practices. These service delivery models may be used in ESL classrooms, general education classrooms, or in newcomer centers for recently arrived ELs (RAELs). Models approved for use are:
  - (1) Sheltered English Instruction;
  - (2) Structured English Immersion;
  - (3) Specially Designed Academic Instruction in English (SDAIE);
  - (4) Content Based Instruction (CBI);
  - (5) Heritage Language;

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- (6) Virtual ESL classes;
- (7) Pull-out instruction; or
- (8) Other model approved by the Department.

### 5. SERVICE DELIVERY

- (a) ELs with more than one (1) domain score or the composite score below 3.5 on the WIDA ACCESS shall receive one (1) to two (2) hours per day of direct ESL service from a teacher who holds an ESL endorsement. Due to the COVID-19 Public Health Emergency, students may alternately receive a minimum of five (5) hours of direct ESL service per week during the 2020-21 school year from a teacher who holds an ESL endorsement if the LEA or public charter school is operating under an approved Continuous Learning Plan pursuant to State Board Rule 0520-01-17 during the 2020-21 school year.
- (b) ELs in grades one through twelve (1-12) scoring 3.5 or above on composite, reading, writing, and one (1) other domain on the WIDA ACCESS and ELs in kindergarten scoring between 20 and 27 on all domains of the W-APT may have services tailored to their needs including fewer hours of ESL direct instruction based on their ILP, skills-based interventions, and other services that are differentiated for each EL. These ELs may also continue to receive up to one (1) hour of direct ESL service each day from a teacher who holds an ESL endorsement until the student achieves English proficiency that allows transition to regular academic programs.
- (c) Two (2) high school ESL credits may be counted toward the four (4) English credits required for graduation. Additional ESL courses shall be counted as elective humanities credits. An EL must be provided appropriate supports in order to access the content of any class in which he/she is enrolled.
- (d) LEAs must ensure that all teachers providing instruction to ELs, including ELs whose parents have waived direct ESL services, are adequately trained on the Tennessee (WIDA) English language development standards.
- (e) In content area classes, teachers shall accommodate instruction and assessments to make content area standards accessible to ELs. Students may not be retained solely due to their language ability.
- (f) LEAs shall ensure that all ELs who may have a disability are located, identified, and evaluated for special education and related services in a timely manner, in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and T.C.A. § 49-10-101, et seq. When conducting special education evaluations, LEAs must consider the English language proficiency of ELs in determining the appropriate assessments and other evaluation materials to be used. ELs shall not be identified as

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students with disabilities solely because of their limited English language proficiency. LEAs must provide ELs with disabilities with both the language assistance and disability-related services to which they are entitled under federal law. Neither Response to Intervention and Instruction (RTI<sup>2</sup>) nor special education services shall be used in place of ESL direct services.

- (g) All ELs shall have an ILP with growth trajectories. Teachers shall monitor growth through benchmarking, formative assessments, and/or summative assessments at least every four and a half (4.5) weeks. If an EL is not experiencing the growth expectations identified in his or her ILP, the student shall receive differentiated support so that she or he may move more rapidly toward English language proficiency. Supports shall be implemented immediately after the educational team has determined the student is not on the expected growth trajectory.

### 6. STAFFING RATIOS

- (a) Appropriate staffing of ESL programs shall be based on the following criteria:
  - (1) LEAs shall provide adequate ESL faculty to implement the chosen service delivery model effectively, as documented by the progress in English language proficiency and academic content of their ELs.
  - (2) LEAs shall adequately staff their ESL programs to meet state and federal requirements. This includes, but is not limited to, having sufficient staff to ensure meaningful communication with LEP parents, to identify ELs, and to monitor transitional ELs.
- (b) To meet the two (2) criteria of effective and compliant ESL programs, LEAs shall implement ESL programs based on the following staffing ratio standards:
  - (1) ESL class sizes shall not exceed state-mandated grade level class size requirements; and
  - (2) The LEA-wide ESL program staffing ratio shall be based on an average of no more than thirty-five (35) identified ELs per full-time equivalent ESL teacher unless an alternate staffing ratio is approved by the Department of Education. An alternative staffing ratio can only be approved when the LEA can show adequate academic growth and proficiency with the EL population and can prove that ELs are receiving the recommended hours of service.
- (c) LEAs seeking approval for a waiver for an alternate LEA-wide staffing ratio shall provide the following information annually to the Department of Education:

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- (1) The number of ELs served;
- (2) The proficiency levels of ELs;
- (3) The academic growth of ELs;
- (4) Evidence that no school in the LEA is an Additional Targeted Support and Intervention (ATSI) school based on the EL accountability subgroup;
- (5) The most recent analysis for the EL subgroup for achievement assessments in reading/language arts, mathematics, and science;
- (6) The proposed staffing ratio that will be used in place of the recommended 35 to 1 ratio; and
- (7) The justification for the alternate staffing ratio.

### 7. EXIT CRITERIA FOR WIDA ACCESS ASSESSMENT

- (a) Beginning with WIDA ACCESS results for the 2019-20 school year, English learners who score 4.4 composite or higher and 4.2 or higher for literacy on the WIDA ACCESS shall be exited from ESL direct services. Students who exit ESL direct services shall be considered transitional ELs for four (4) school years.
- (b) Students in the first (1<sup>st</sup>) and second (2<sup>nd</sup>) years of transition are referred to as T1 and T2 respectively. Students in the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) years of transition are referred to as T3 and T4 respectively. During this transition period, ESL direct service is not required for T3 and T4 students. However, T3 and T4 students will be included in the LEA's EL subgroup with T1 and T2 students for accountability purposes.
- (c) Transitional ELs shall be served in the general education classroom. T1 and T2 ELs shall be monitored for two (2) years. If a transitional student demonstrates difficulty in the general education classroom, academic interventions should be provided as it would be for students in general education. Accommodations shall be utilized to support the student. The LEA shall apply its written procedure for reclassification if academic or non-academic interventions are unsuccessful. All LEAs seeking to reclassify students must have a written procedure in place prior to reclassification. The same procedure must be followed in a consistent and equal manner for all students.
- (d) If a student was exited from ESL services by another state, the exit shall stand as valid.

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**8. EXIT CRITERIA FOR WIDA ALT ACCESS ASSESSMENT**

- (a) Only ELs who are taking alternate exams for TNReady, as determined by his or her IEP team, may be considered for exit from ESL services through the WIDA ALT assessment.

English learners who score a P1 composite or higher and P1 literacy or higher on the WIDA ALT shall be exited from ESL direct services. All students who exit ESL direct services shall be considered transitional ELs for four (4) school years and shall be monitored in the first and second years of transition (T1 and T2).

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**APPENDIX A**

**Definitions for English as a Second Language Programs**

English Learners (EL) [formerly Limited English Proficient (LEP)] – A student with limited English language proficiency that meets the entrance criteria for ESL services.

English as a Second Language (ESL) Services – English instruction and services designed for speakers of other languages and provided by a teacher with an ESL endorsement.

Fluent English Proficient (FEP) - A student who meets the proficiency requirements of the English language proficiency screener or assessment upon initial enrollment in a Tennessee public school or a student who initially qualified as an EL and has met the approved exit criteria for ESL services.

Home Language Survey – The questionnaire given to parents or guardians upon initial enrollment in public school to identify students who are potential ELs and who would be eligible for ESL services.

Individual Learning Plan (ILP) – A document that describes the academic and language needs of and goals for an EL. Each ILP shall include growth trajectories for English language proficiency based on individual student data.

Non-English Language Background (NELB) - A student whose answer to any of the questions on the home language survey is a language other than English. A NELB may or may not qualify for ESL services.

Recently Arrived English Learners (RAEL) – An EL who has arrived in the United States in the last twelve (12) months and who has not been enrolled in ESL services for a full calendar year.

Transitional ELs (T1, T2, T3 or T4) – A student who has met the exit criteria for ESL services with the number denoting the years since exit.