

# 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 standards for Tennessee school districts in providing services to non-English language background (NELB) students who are also English learners (ELs).

States, districts, 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, and the obligations found in the Department of Education's guidance document, *Legal Obligations and Best Practices Pertaining to English Learners*.

This ESL Program policy establishes the minimum required compliance components for ESL programs in Tennessee and provides a framework for implementing effective educational programs for ELs.

### **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

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

- a. To comply with Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act of 1974, all school districts must have anti-discriminatory policies that preclude denial of equal education opportunities to individuals based on race, color, or national origin. To comply with anti-discriminatory policies, district practices must not result in the inappropriate placement of ELs in or the exclusion from special opportunity programs or activities based on English language proficiency or national origin. The Supreme Court decision, *Plyler v. Doe*<sup>1</sup>, prohibits school districts from denying undocumented immigrant children a free public education and rejects the denial or exclusion of educational services for immigrant children due to financial burden.

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

- a. To comply with the Every Student Succeeds Act (ESSA), the most recent reauthorization of the Elementary and Secondary Education Act (ESEA) of 1965, each state must have a uniform process for the identification of NELB students who are ELs. In Tennessee, this is a two (2)-step process.

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<sup>1</sup> *Plyler v. Doe*, 457 U.S. 202 (1982).

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- b. Step 1: School districts administer the Home Language Survey to all students in the district. The Home Language Survey consists of three questions that will be asked of every parent or guardian enrolling his/her child in the school district. These questions are:
  - i. What is the first language this child learned to speak?
  - ii. What language does this child speak most often outside of school?
  - iii. What language do people usually speak in this child's home?
- c. 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 home language survey.
- d. Step 2: Unless an NELB student has documentation from a previous state or district that he or she has met the definition of fluent English proficient (FEP), school districts must assess all NELB students with the state-approved English language proficiency screener to determine whether the student is an EL. All NELB students who are determined to be an EL shall be provided ESL services through an allowable service delivery model.
- e. Each LEA shall use the following criteria to determine entrance into the ESL program:
  - i. Kindergarten students who are screened in the first (1<sup>st</sup>) semester and 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 using the W-APT in the second (2<sup>nd</sup>) semester and who score 27 or below on speaking and listening; 14 or below on reading; or 17 or below on writing 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.
  - ii. Students in grades one through twelve (1-12) who are screened using the WIDA screener and who score below 5.0 composite or 4.5 or below on any domain shall be entered into the ESL program.

### 3. PARENTAL NOTIFICATION AND RIGHTS

- a. School districts shall communicate information related to testing, placement, and ESL services to all parents of NELB students in the language and method that the parent can understand, to the extent practicable. Parents of ELs must be informed of the right to refuse placement of their children in ESL programs. If the parent refuses direct ESL services for the student, the general education classroom teacher shall be responsible for providing appropriate accommodations as required in the student Individualized

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Learning Plan (ILP). Parents must be informed of the ESL program type to be used, length of time expected for completion of ESL services, how the child was assessed, and options related for program types if available.

### 4. SERVICE DELIVERY MODELS

- a. An ESL program may be provided through various service delivery models. All service delivery models used by districts shall be aligned to the Consolidated State Performance Report (CSPR). All models must address how academic deficits that are the result of students' limited English proficiency will be remediated. All ESL services shall be 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:
  - i. Sheltered English Instruction;
  - ii. Structured English Immersion;
  - iii. Specially Designed Academic Instruction in English (SDAIE);
  - iv. Content Based Instruction (CBI);
  - v. Push-in instruction;
  - vi. Pull-out instruction;
  - vii. Other model approved by the department.

### 5. SERVICE DELIVERY

- a. Elementary students at the pre-functional, beginning, or intermediate level shall receive one (1) to two (2) hours per day of direct ESL service from a teacher who holds an ESL endorsement.
- b. Elementary students at the high intermediate to advanced level shall have services tailored to their needs including, fewer hours of ESL direct instruction based on their individualized learning plan (ILP), skills based interventions, and other services that are differentiated for each EL. ELs at the high intermediate to advanced level shall 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. ELs at the high school level shall receive ESL instruction from a teacher who holds an ESL endorsement. Two (2) ESL credits may be counted toward the four (4) English credits required for graduation. It is recommended that the two (2) ESL credits be substituted for English III and IV. Additional ESL courses shall be counted as elective humanities credits. It is recommended that ELs achieve the intermediate level on the English

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language proficiency test before taking a regular English course. Due to course requirements for graduation, there can be more flexibility in service hours to alleviate issues related to scheduling classes.

- d. High school students at the pre-functional and beginning level shall have a minimum of one (1) hour of ESL service per day from a teacher who holds an ESL endorsement.
- e. Students who score below 3.5 on any domain of the WIDA screener shall receive a minimum of one (1) hour of ESL service each day from a teacher who holds an ESL endorsement.
- f. Students who score 3.5 or above on all domains shall have ESL service tailored to their individual needs as determined by the district.
- g. All teachers providing instruction to EL students shall be trained on the WIDA English language proficiency standards.
- h. In content area classes, teachers must accommodate instruction and assessments to make content area standards and curriculum accessible to EL students. Students may not be retained due to language ability.<sup>2</sup>
- i. Response to Intervention and Instruction (RTI<sup>2</sup>) shall not be used in place of ESL direct services.
- j. Beginning in the 2018-19 school year, all ELs will have an ILP with growth trajectories. Teachers shall monitor growth through benchmarking, formative assessments, and/or summative assessments. If an EL is not experiencing the growth expectations identified in his or her ILP, the student shall receive interventions so she or he may move more rapidly toward English language proficiency. Interventions 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 is based on the following criteria:

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<sup>2</sup> Title VI of the Civil Rights Act of 1964; *Lau v. Nichols*, 414 U.S. 563 (1974).

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- i. Districts will 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.
  - ii. Districts will adequately staff their ESL programs to meet federal compliance requirements, including but not limited to, communication to parents, identification of English language learners, and monitoring of transitional ELs.
- b. To meet the two (2) criteria of effective and compliant ESL programs, districts shall implement ESL programs based on the following staffing ratio standards:
- i. ESL class sizes shall not exceed state-mandated grade level class size requirements; and
  - ii. The district-wide ESL program staffing ratio shall be based on an average of no more than thirty-five (35) identified EL students per full-time ESL teacher unless an alternate staffing ratio is approved by the Department of Education. An alternative staffing ratio can only be approved when the district is showing adequate academic growth with the EL population and can prove that ELs are receiving the recommended hours of service.
- c. Districts seeking approval for a waiver for an alternate district-wide staffing ratio shall provide the following information annually to the Department of Education:
- i. The number of ELs served;
  - ii. The proficiency levels of ELs;
  - iii. Evidence that no school in the district is a Focus school based on the EL accountability subgroup;
  - iv. The most recent analysis for the EL subgroup for achievement assessments in reading/language arts, mathematics, and science;
  - v. The proposed staffing ratio that will be used in place of the recommended 35 to 1 ratio; and
  - vi. The justification for the alternate staffing ratio.

### 7. EXIT CRITERIA

- a. English learners who participated in the 2016-17 administration of the WIDA ACCESS and scored 4.2 or higher for composite and 4.0 or higher for literacy may be exited from ESL direct services beginning in the 2017-18 school year. English learners who participate in the 2017-18 administration and subsequent administrations who score 5.0 or higher for both composite and literacy on the WIDA ACCESS may be exited from ESL direct service. Students who exit ESL direct services shall be considered transitional ELs for four (4) school years.

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- 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. During this transition period, students must be monitored and served as needed. Students in the third and fourth years of transition are referred to as T3 and T4 respectively. During this transition period, ESL service is not required; however, T3 and T4 students will be included in the district's EL subgroup with T1 and T2 students for accountability purposes.
  
- c. Transitional EL students are considered proficient and shall be served in the general education classroom and shall be monitored for two (2) years. If a transitional student demonstrates difficulty in the general education classroom, he or she shall receive intervention. Accommodations shall be utilized to support the student. If intervention is unsuccessful, the district shall implement its local policy or procedure to reclassify the student as an EL.
  
- d. If a student was exited from ESL services by another state, the exit shall stand as valid.

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### APPENDIX A

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

Beginning/intermediate English Learners (EL) – A student who has been administered the English language proficiency assessment or the screener and score pre-functional, beginning, or intermediate.

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 that 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 a public school to identify students who are potential ELs and who would be eligible for ESL services.

Individualized 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.

Long Term English Learners (LTELs) – A student that completes a sixth (6<sup>th</sup>) year of ESL services without qualifying for exit from ESL services by the seventh (7<sup>th</sup>) year.

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, but does 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.

Students with Limited or Interrupted Formal Education (SLIFEs /SIFEs) – An EL who has missed more than two (2) years of formal education and who requires basic literacy instruction in order to advance into age-appropriate general education..

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