TITLE III REQUIREMENTS

A district that receives funds under Title III of the No Child Left Behind Act shall comply with the statutory requirements regarding limited English proficient and immigrant students. *20 U.S.C. 6801–7014*

STATE POLICY

It is the policy of the state that every student who has a home language other than English and who is identified as an English language learner shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.

DEFINITIONS

"Student of limited English proficiency (LEP)" means a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork in English.

"English language learner (ELL)" is a person who is in the process of acquiring English and has another language as the first native language.

The terms ELL and LEP student are used interchangeably.

"Parent" includes a legal guardian of a student.

DISTRICT RESPONSIBILITY

Each district shall:

1. Identify ELLs based on criteria established by the state;
2. Provide bilingual education and ESL programs, as integral parts of the regular program;
3. Seek certified teaching personnel to ensure that ELLs are afforded full opportunity to master the essential knowledge and skills; and
4. Assess achievement for essential knowledge and skills in accordance with Education Code Chapter 39 to ensure accountability for ELLs and the schools that serve them.

Education Code 29.052; 19 TAC 89.1201(a), .1203

IDENTIFICATION OF LEP STUDENTS

Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the Board the number of LEP students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to TEA before November 1 each year. *Education Code 29.053(b)*

LANGUAGE PROFICIENCY ASSESSMENT COMMITTEES (LPAC)

Each district that is required to offer bilingual and special language programs shall, by local Board policy, establish an LPAC. The District shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within 20 school days of the enrollment of LEP students. The District shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

MEMBERSHIP OF LPAC

The LPAC shall include:

1. A professional bilingual educator;
2. A professional transitional language educator;
3. A parent of a LEP student; and
4. A campus administrator.

The District may add other members to the committee in any of the required categories. If the District does not have an individual in one or more of the job classifications required, it shall designate another professional staff member to serve on the LPAC.

In districts and grade levels at which the District is not required to provide a bilingual education program, the LPAC shall be composed of one or more professional personnel, a campus administrator, and a District-designated parent of an LEP student.

No parent serving on the LPAC shall be an employee of the District.

All members of the LPAC, including parents, shall be acting for the District and shall observe all laws and rules governing confidentiality of information concerning individual students. The District shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)

DUTIES

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 Administrative Code 89.1220(g)–(i), (k).

HOME LANGUAGE SURVEY

Within four weeks of each student's enrollment, the District shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student. The home language survey shall be conducted in English and in the home language, and signed by the student's parents if the student is in prekindergarten through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be retained in the student's permanent record.

The District shall conduct only one home language survey of each student. The home language survey shall be administered to each student new to the District and to students previously enrolled who were not surveyed in the past.

The home language survey shall contain the following questions:

1. "What language is spoken in your home most of the time?"
2. "What language does your child speak most of the time?"

Additional information may be collected by the District and recorded on the home language survey.

The home language survey shall be used to establish the student's language classification for determining whether the District is required to provide a bilingual education or ESL program. If a student is identified through the home language survey as normally speaking a language other than English, the student shall be tested in accordance with 19 Administrative Code 89.1225 and additionally for students with disabilities, 19 Administrative Code 89.1230.

Education Code 29.056(a)(1); 19 TAC 89.1215

LEP CLASSIFICATION

The LPAC may classify a student as LEP if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c)

PARENTAL NOTICE AND CONSENT

Within ten days of the LPAC's classification of a student as LEP, the LPAC shall give written notice to the student's parent. The notice must be in English and in the parent's primary language. The notice shall inform the parents of the benefits of the program for

which the student is recommended and that it is an integral part of the school program.

The entry or placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent.

Pending parent approval, the District shall place the student in the recommended program, but may count only those students with parent approval for bilingual education allotment.

The District may identify, exit, or place a student in a program without written approval of the student's parent or guardian if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. Reasonable attempts to inform and obtain permission from a parent or guardian have been made and documented;
3. Approval is obtained from:
   a. An adult whom the District recognizes as standing in parental relation to the student, including a foster parent or employee of a state or local governmental agency with temporary possession or control of the student; or
   b. The student, if no parent, guardian, or other responsible adult is available; or
4. A parent or guardian has not objected in writing to the proposed entry, exit, or placement.

Education Code 29.056(a), (d); 19 TAC 89.1220(j), (m), .1240(a)

PARTICIPATION OF NON-LEP STUDENTS

With the approval of the District and a student's parents, a student who is not LEP may also participate in a bilingual education program. The number of participating students who are not LEP may not exceed 40 percent of the number of students enrolled in the program. *Education Code 29.058; 19 TAC 89.1233*

BILINGUAL AND ESL PROGRAMS

Each district with an enrollment of 20 or more LEP students in any language classification in the same grade level district-wide shall offer a bilingual education or special language program, as follows:

1. Kindergarten through elementary grades: the District shall provide a bilingual education program by offering dual language instruction using one of the four bilingual program models described in 19 Administrative Code 89.1210(d). [See BILINGUAL EDUCATION PROGRAM MODELS, below]

2. Post-elementary through grade 8: the District shall offer bilingual education, ESL, or other transitional language instruction approved by TEA.

3. Grades 9 through 12: the District shall provide ESL instruction by offering an ESL program using one of the two models described at 19 Administrative Code 89.1210(g). [See ESL PROGRAM MODELS, below]

If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

Education Code 29.053(c), (d), .054; 19 TAC 89.1205

PROGRAM CONTENT

The District's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills. The amount of instruction in each language within the bilingual education program shall be commensurate with the students' level of proficiency in each language and their level of academic achievement.

The bilingual education program shall address the affective, linguistic, and cognitive needs of ELLs as described at 19 Administrative Code 89.1210(c).

An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. Instruction in ESL shall be commensurate with the student's level of English proficiency and his or her level of academic achievement.

The District shall provide for ongoing coordination between the ESL program and the regular educational program. The ESL program shall address the affective, linguistic, and cognitive needs of ELLs as described at 19 Administrative Code 89.1210(f).

The bilingual education and ESL programs shall be an integral part of the regular educational program required under 19 Administrative Code Chapter 74 (Curriculum Requirements).

The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

The District shall modify the instruction, pacing, and materials of bilingual and ESL programs to ensure that ELLs have a full opportunity to master the essential knowledge and skills of the required

curriculum. Students participating in the bilingual education program may demonstrate their mastery of the essential knowledge and skills in either their home language or in English for each content area.

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. The District shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and the District shall keep adequate records of the educational level and progress of each student enrolled in the program.

LEP students shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. The District shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

Education Code 29.055, .057(b); 19 TAC 89.1210(a)

BILINGUAL EDUCATION PROGRAM MODELS

The bilingual education program shall be implemented with consideration for each ELL's unique readiness level through one of the following program models:

1. Transitional bilingual/early exit;
2. Transitional bilingual/late exit;
3. Dual language immersion/two-way; or
4. Dual language immersion/one-way.

19 TAC 89.1210(d)

ESL PROGRAM MODELS

The ESL program shall be implemented with consideration for each ELL's unique readiness level through one of the following program models:

1. ESL/content-based program model; or
2. ESL/pull-out program model.

19 TAC 89.1210(g)

DUAL LANGUAGE IMMERSION PROGRAM (DLIP)

"Dual language immersion" is an educational approach in which students learn two languages in an instructional setting that integrates subject content presented in English and another language. Models vary depending on the amount of each language used for instruction at each grade level. The program must be based upon instruction that adds to the student's first language. The implemen-

tation of a dual language immersion program (DLIP) model is optional. *19 TAC 89.1203*

The District may adopt a DLIP for students enrolled in elementary school grades. *Education Code 28.005(c), .0051(c)*

IMPLEMENTATION

Program implementation should:

1. Begin at prekindergarten, kindergarten, or grade 1, as applicable;
2. Continue without interruption incrementally through the elementary grades whenever possible; and
3. Consider expansion to middle school and high school whenever possible.

19 TAC 89.1227

MINIMUM REQUIREMENTS

A DLIP must:

1. Address all curriculum requirements specified at 19 Administrative Code Chapter 74, Subchapter A (Required Curriculum) to include foundation and enrichment areas, English language proficiency standards, and college and career readiness standards.
2. Be a full-time program of academic instruction in English and another language.
3. Provide a minimum of 50 percent of instructional time in the language other than English.
4. Be developmentally appropriate and based on current best practices research.

19 TAC 89.1227

ENROLLMENT

Student enrollment in a DLIP is optional. The program must fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or handicapping condition. The District must obtain written parental approval for student participation in the program sequence and model established by the District.

A district implementing a DLIP must develop a policy on enrollment and continuation for students in the program. The policy must address:

1. Eligibility criteria;
2. Program purpose;
3. Grade levels in which the program will be implemented;

4. Support of program goals as stated in 19 Administrative Code 89.1210 (Program Content and Design); and

5. Expectations for students and parents.

19 TAC 89.1228

EVALUATION

A district implementing a DLIP must conduct annual formative and summative evaluations collecting a full range of data to determine program impact on student academic success.

The success of a DLIP is evident by students in the program demonstrating high levels of language proficiency in English and the other language and mastery of the Texas essential knowledge and skills for the foundation and enrichment areas. Indicators of success may include scores on statewide student assessments in English, statewide student assessments in Spanish (if appropriate), norm-referenced standardized achievement tests in both languages, and/or language proficiency tests in both languages.

19 TAC 89.1267

SCHOOL DISTRICT RECOGNITION

An exceptional DLIP may be recognized by the Board using the following criteria:

1. The District must exceed the minimum requirements stated in 19 Administrative Code 89.1227.

2. The District must not receive the lowest performance rating in the state accountability system.

3. The District must not be identified for any stage of intervention for the District's bilingual and/or ESL program under the performance-based monitoring system.

4. The District must meet the adequate yearly progress participation and performance criteria in reading and mathematics for the ELL student group under Elementary and Secondary Education Act (ESEA) regulations.

STUDENT RECOGNITION

A student participating in a DLIP may be recognized by the program and the Board using the following criteria:

1. The student must meet or exceed statewide student assessment passing standards in all subject areas at the appropriate grade level.

2. The student must meet or exceed expected levels of language proficiency on a recognized language proficiency test from the list of tests approved by the Commissioner.

19 TAC 89.1269

FACILITIES

Bilingual education and special language programs shall be located in the District's regular schools rather than in separate facilities. The District may concentrate the programs at a limited number of schools, provided that the enrollment in those schools shall not exceed 60 percent LEP students. Recent immigrant ELLs enrolled in newcomer centers shall return to home campuses no later than two years after initial enrollment in a newcomer program. *Education Code 29.057; 19 TAC 89.1235*

COOPERATION AMONG DISTRICTS

The District may join with one or more other districts to provide the required bilingual and special education programs. The availability of the programs shall be publicized throughout the districts involved.

The District may allow a nonresident LEP student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district of residence.

Documentation in a student's permanent record shall be forwarded in the same manner as other student records to another school district in which the student enrolls.

Education Code 29.059; 19 TAC 89.1220(l)

SUMMER PROGRAM

If the District is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for LEP children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.

A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the Board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the Board.

The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. The District shall comply with the requirements of 19 Administrative Code 89.1250 in providing such a program.

OTHER PROGRAM

The District may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for LEP students and may join with other districts in establishing such programs.

Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year.

Education Code 29.060

PERSONNEL

Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. *Education Code 29.061(b), (c)*

If the District is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, the District may file an application for exception with TEA, in accordance with 19 Administrative Code 89.1207. *Education Code 29.054; 19 TAC 89.1207*

LEP STUDENTS AND STATE ASSESSMENTS

In grades 3–12, an LEP student shall participate in the state assessment in accordance with Commissioner's rules at 19 Administrative Code 101.5 and 19 Administrative Code Chapter 101, Subchapter AA. *19 TAC 101.5(c)* [See EKBA]

PROGRAM EXIT

The District may transfer an LEP student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;

2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and

3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g)

NOTICE TO PARENTS

The District shall notify parents of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program. *19 TAC 89.1240(b)*

POST-EXIT MONITORING

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561

PEIMS REPORTING REQUIREMENTS

A district that is required to offer bilingual education or special language programs shall include the following information in the District's Public Education Information Management System (PEIMS) report:

1. Demographic information on students enrolled in District bilingual education or special language programs;
2. The number and percentage of students enrolled in each instructional model of a bilingual education or special language program offered by the District; and
3. The number and percentage of students identified as LEP students who do not receive specialized instruction.

Education Code 29.066(a)