LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE (LPAC)

The language proficiency assessment committee (LPAC) [see EHBE] shall select the appropriate assessment option for each limited English proficient (LEP) student. The LPAC assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA.

The LPAC must document in the student's permanent record file the reason for:

1. A postponement authorized in 19 Administrative Code 101.1005;
2. An exemption authorized in 19 Administrative Code 101.1007; and
3. An exclusion of the student's test results from the determination of District accreditation and performance ratings authorized in 19 Administrative Code 101.1010.

The District shall make a reasonable effort to determine a student's previous testing history.

19 TAC 101.1003

ENGLISH LANGUAGE PROFICIENCY TESTS

In kindergarten through grade 12, LEP students shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill the state requirements for the assessment and federal requirements under the No Child Left Behind Act. *19 TAC 101.1001*

EXEMPTIONS, POSTPONEMENTS, AND TESTING ALTERNATIVES

DEFINITIONS

"Immigrant" is defined as a student who has resided outside the 50 United States for at least two consecutive years. *19 TAC 101.1007(b)*

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. *Education Code 39.027(g)*

"Unschooled asylee or refugee" means a student who:

1. Initially enrolled in a school in the United States as:
   a. An asylee as defined by 45 CFR 400.41; or
   b. A refugee as defined by 8 U.S.C. 1101;
2. Has a visa issued by the United States Department of State with a Form I-94 Arrival/Departure record, or a successor

document, issued by the United States Citizenship and Immigration Services that is stamped with “Asylee,” “Refugee,” or “Asylum”; and

3. As a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Education Code 28.002, as determined by the LPAC established under Education Code 29.063.

Education Code 39.027(a-1); 19 TAC 101.1010(a)

GENERALLY

FIRST YEAR

An LEP student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to one year after initial enrollment in a school in the United States if the student has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an LEP student. *Education Code 39.027(a)(1)*

SUBSEQUENT YEARS

An LEP student granted the initial exemption period above may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of the state assessment for up to:

1. An additional two years if the student is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available; or

2. An additional four years if the student’s initial enrollment in a school in the United States was as an unschooled asylee or refugee.

The LPAC must determine that the student lacks the academic language proficiency in English necessary for an assessment in English to measure the student’s academic progress in a valid, reliable manner.

Education Code 39.027(a)(1)–(2), (a-1), (g)

REFUSAL OF SERVICES

An LEP student whose parent or guardian has declined bilingual education/ESL services is not eligible for an exemption, an exit-level test postponement, or an exclusion of test results from the determination of District accreditation and performance ratings for unschooled asylees or refugees under 19 Administrative Code 101.1010. The student shall take the assessments of academic skills in English and the English language proficiency assessments required by 19 Administrative Code Chapter 101, Subchapter AA. *19 TAC 101.1007(d)*

EXEMPTIONS

Certain immigrant LEP students who have had inadequate schooling outside the United States may be eligible for an exemption from the assessment during a period not to exceed their first three school years of enrollment in United States schools. *19 TAC 101.1007(b)*

The immigrant student may be granted an LEP exemption if the LPAC determines that the student has not had the schooling outside the United States necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed. *19 TAC 101.1007(b)(2)*

In grades 2–12, an immigrant LEP student who achieves a rating of advanced high on the state-administered English language proficiency assessment in reading during the student's first school year of enrollment in United States schools is not eligible for an exemption in the second or third school year of enrollment in United States schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in United States schools is not eligible for an exemption in the third school year of enrollment in United States schools. *Education Code 39.027(e); 19 TAC 101.1007(b)(1)*

FEDERAL ACCOUNTABILITY TESTING

Exempt students shall be administered assessments in subjects and grades required by federal law and regulations in accordance with linguistically accommodated testing procedures delineated in the test administration materials. *19 TAC 101.1007(c)*

EXIT-LEVEL ASSESSMENT POSTPONEMENT

LEP students are not eligible for an exemption from exit-level testing requirements for graduation on the basis of limited English proficiency. However, LEP students who are recent immigrants may be granted a postponement of the administration of the exit-level assessment during their first 12 months of enrollment in U.S. schools. A postponement is not permitted if a student would otherwise not be afforded the opportunity to take the exit-level assessments at least one time before the student's scheduled graduation date. *19 TAC 101.1005*

ASSESSMENT IN SPANISH

During the second and third school years of enrollment in U.S. schools, an immigrant student whose schooling outside the United States was inadequate and for whom a Spanish-version assessment is available is not eligible for an LEP exemption and must take the assessment in either English or Spanish unless the LPAC makes the determinations at 19 Administrative Code 101.1007(b)(4).

In grades 3–5, the LPAC shall determine whether an LEP student is administered the assessment of academic skills in English or in Spanish. An LEP student may be administered a Spanish version of the assessment for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.

The District may administer the assessment in Spanish to a student who is not identified as LEP but who participates in a two-way bilingual program if the LPAC determines the assessment in Spanish is the most appropriate measure of the student's academic progress. The student may not be administered the Spanish-version assessment for longer than three years.

Education Code 39.023(l), (m); 19 TAC 101.1007(a), (b)(4), (e)

ASYLEE AND REFUGEE TEST RESULT EXCLUSION

An eligible student who is enrolled as an unschooled asylee or refugee and who is beyond the third school year of enrollment in U.S. schools in grades 3–10 or who is beyond the first 12 months of enrollment in U.S. schools at the exit level is required to participate in assessments of academic skills in all subjects and grades required by state or federal law and regulations. However, the test results of the student may be excluded from the determination of District accreditation and performance ratings under Education Code Chapter 39 through the student's fifth school year of enrollment in U.S. schools in accordance with LPAC decision-making procedures outlined in the test administration materials.

REQUIRED FEDERAL TESTING

In subjects and grades in which testing is required by federal law and regulations, a student whose test results are excluded shall be administered assessments using linguistically accommodated testing procedures delineated in the test administration materials.

INADEQUATE SCHOOLING DEFINED

For purposes of LPAC determinations under this subsection, inadequate schooling outside the United States is defined as little or no formal schooling outside the United States such that the student lacked basic literacy in his or her primary language upon enrollment in school in the United States.

19 TAC 101.1010(b)–(c)

LEP STUDENTS IN SPECIAL EDUCATION

The ARD committee, in conjunction with the LPAC, shall make decisions regarding the selection of assessments and appropriate accommodations for LEP students who receive special education services. The ARD committee shall document the decisions in the student's individualized education program, and the LPAC shall document the decisions in the student's permanent record file. *19 TAC 101.1009(b)*

In rare cases, the ARD committee in conjunction with the LPAC may determine that it is not appropriate for an LEP student who receives special education services to participate in an English language proficiency assessment required by 19 Administrative Code 101.1001 for reasons associated with the student's particular disability. Specific documentation of the reason for the decision must be maintained in accordance with the documentation requirements found in 19 Administrative Code 101.1009(b). *19 TAC 101.1009(c)*

The provisions at 19 Administrative Code 107.1007(b) and (c) [see EXEMPTIONS, above] apply to the state's general and modified assessments of academic skills. *19 TAC 101.1009(d)*

An LEP student who receives special education services and whose parent or guardian has declined bilingual services is not eligible for an exemption under 19 Administrative Code 101.1007, an exit-level test postponement under 19 Administrative Code 101.1005, or an exclusion of test results from the determination of district accreditation and performance ratings for unschooled asylees or refugees under 19 Administrative Code 101.1010. *19 TAC 101.1009(e)*

GRADE ADVANCEMENT REQUIREMENTS

LEP students are subject to the grade advancement requirements of the Student Success Initiative authorized under Education Code 28.0211 [see EIE], unless the LEP students meet the exemption criteria under 19 Administrative Code 101.1007 [see EXEMPTIONS, above], qualify for the provisions for unschooled asylees or refugees under 19 Administrative Code 101.1010(c) [see ASYLEE AND REFUGEE TEST RESULT EXCLUSION, above], or are otherwise not subject to the requirements established for students receiving special education services under 19 Administrative Code 101.2003(d). *19 TAC 101.1011*