

The Texas Education Agency (TEA) proposes amendments to §§89.1201, 89.1203, 89.1205, 89.1207, 89.1210, 89.1215, 89.1220, 89.1226-

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand existing regulations by updating terminology and adding into rule current program practices to provide clarity and alignment.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability.

which establishes the criteria for a district's Public Education Information Management System (PEIMS) reporting requirements.

CROSS REFERENCE TO STATUTE. The amendments implements Texas Education Code (TEC), §§29.051, 29.052, 29.053, 29.054, 29.055, 29.056, 29.0561, 29.057, 29.058, 29.059, 29.060, 29.061, 29.062, 29.063, 29.064, and 29.066.

<rule>

§89.1201. Policy.

(a) It is the policy of the state that every student in the state who has a home [primary] 11 (o)-7 (hvi4.2 (c)7ua)4.2 (ge)4.2 ()12 (ot)6.9

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~~and §89.1201. Policy.~~ (e)4.2c9.93n5ho 9.910go[(r)9.3 di rera,

- (4) Certified English as a second language teacher--A teacher appropriately certified in ESL as well as for the grade level and content area. The term "certified English as a second language teacher" as used in this subchapter is synonymous with the term "professional transitional language educator" used in TEC, §29.063.
- (5) Content-based language instruction (CBLI) --An integrated approach to language instruction in which language is developed within the context of content delivery that is linguistically sustaining and is used across all programs for EB [emergent bilingual] students to develop the home or partner language and English .
- (6) Dual language immersion (DLI) program--A state-approved bilingual program [~~model~~] in accordance with TEC, §29.066 , that uses English and a partner language. The two state-approved DLI program models are one-way DLI and two-way DLI .
- (7) Dual-language instruction--An educational approach that focuses on the use of English and the student's home or partner [primary] language for instructional purposes as described in TEC, §29.055, to include both DLI and transitional bilingual education (TBE) programs .
- (8) Emergent bilingual (EB) --A student identified by the Language Proficiency Assessment Committee [language proficiency assessment committee] (LPAC) who is in the process of acquiring English and has another language as the student's [~~primary or~~] home language. This term is interchangeable with English learner as used in federal regulations and replaces the term "limited English proficient student" formerly used in TEC, Chapter 29, Subchapter B.
- (9) English as a second language (ESL) program--

(18) ~~(16)~~ Paired teaching--A teaching partnership permissible in a DLI program model when half the content area instruction is in the partner language and half is in English (50/50 language allocation). One teacher provides content area instruction in the partner language while the second teacher provides content area instruction delivered in English. The teacher instructing in the partner language shall [

a waiver for the ESL program and the approval of [a] temporary alternative methods [~~language program~~] as defined in §89.1203(1) of this title (relating to Definitions) that align [~~aligns~~] as closely as possible to the required bilingual or ESL program.

(b) Funding. Emergent bilingual (EB) students with parental approval for program participation under a bilingual [~~education~~] exception or an ESL waiver will be included in the bilingual education allotment (BEA) designated for temporary alternative methods [~~an alternative language program~~] .

(c) Duration. The approval of a bilingual exception or an ESL waiver [~~an exception to the bilingual education program~~] shall be valid only during the school year for which it was granted , which includes summer school .

(d) Application requirements. The bilingual eu.3 (ng37 (e) 196 0 39)12 (T)2tMC BT/P88 1(T)2.5 s euplil64.2 (rTj0.5 (.)3 ()12 (w 1.4

~~[(E) an assurance that at least 10% of the total bilingual education allotment shall be used to fund the comprehensive professional development plan required under subparagraph (D) of this paragraph when applying for a bilingual education exception, an ESL waiver, or both;]~~

~~[(F) an assurance that the school district will take actions to ensure that the program required under §89.1205(e) of this title will be provided the subsequent year, including its plans for recruiting an adequate number of appropriately certified teachers to eliminate the need for subsequent waivers as required by TEC, §29.054(b)(4); and]~~

~~[(G) an assurance that the school district shall satisfy the additional reporting requirements described in §89.1265(e) of this title.]~~

~~[(2) Documentation. A school district submitting an ESL waiver shall maintain written records of all documents supporting the submission and assurances listed in paragraph (1) of this subsection, including:]~~

~~[(A) a description of the proposed alternative language program designed to meet the affective, linguistic, and cognitive needs of the emergent bilingual students;]~~

~~[(B)~~

[education programs

literacy and academic content through the medium of the students' home [~~primary~~] language and English using content-based language instruction methods.

(2) Transitional bilingual/late exit is a bilingual program model in which [~~students~~] identified EB [~~as emergent bilingual~~] students are served in both English and the students' home [~~primary~~] language and are prepared to meet reclassification criteria to be successful in English instruction with no second language acquisition supports not earlier than six or later than seven years after the student enrolls in school. Instruction in this program is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061(b)(2), for the assigned grade level and content area. The goal of late-exit transitional bilingual education is for program participants to use their home [~~primary~~] language as a resource while acquiring full proficiency in English. This model provides instruction in literacy and academic content through the medium of the students' home [~~primary~~] language and English through content-based language instruction.

(3) Dual language immersion/one-way is a bilingual/biliteracy program model in which [~~students~~] identified EB [~~as emergent bilingual~~] students are served in both English and the program's partner language and are prepared to meet reclassification criteria in order to be successful in English instruction with no second language acquisition supports not earlier than six or later than seven years after the student enrolls in school. Instruction provided in the partner language and English is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061. When the instructional time for both the partner language and English is 50%, a paired-teaching arrangement may be utilized in which instruction provided in English 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. The goal of one-way dual language immersion is for program participants to attain bilingualism and biliteracy innn w(n)-7.>.9 (e)1(r)7 (w)lfay(a)4.2 (.2 (p
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The school district shall ensure that EB [~~emergent bilingual~~] students enrolled in bilingual [~~education~~] and ESL programs have a meaningful opportunity to participate with non-EB [~~non-emergent bilingual~~] peers in all extracurricular activities.

(g) The required bilingual [~~education~~] or ESL program shall be provided to every EB [~~emergent bilingual~~] student with parental approval until such time that the student meets reclassification criteria as described in §89.1226(i) of this title (~~Training, Testing, and Classification of Students) or graduates from high school. Parental approval is~~

meeting methods, such as phone or video conferencing and the use of electronic signatures that adhere to district policy.

(g)

program recommended by the LPAC, the school district shall place the student in the recommended program. Only EB [~~emergent bilingual~~] students with parental approval for bilingual or ESL program participation will be included in the bilingual education allotment (BEA).

(k) The LPAC shall monitor the academic progress of each student, including any student who previously had a 4 (c)455 a

(2) in Grades 2-

(k) [(4)] For EB [emergent bilingual] students who are also eligible for special education services, the standardized process for [emergent bilingual] student reclassification is followed in accordance with applicable provisions of subsection (i) of this section. However, annual meetings to review student progress and make recommendations for reclassification shall [must] be made in all instances by the LPAC, in conjunction with the ARD committee, in accordance with §89.1230(b) of this title (relating to Eligible Students with Disabilities). Additionally, the LPAC, in conjunction with the ARD committee, shall determine participation and designated support or accommodation decisions on state criterion-referenced and English language proficiency assessments that differentiate between language proficiency and disabling conditions in accordance with §89.1230(a) of this title.

(l) [(m)] For an EB [emergent bilingual] student with a significant cognitive disability, the LPAC, in conjunction with the ARD committee, may recommend that the state's criterion-referenced and English language proficiency assessments used for reclassification are not appropriate because of the nature of the student's disabling condition. In these cases, the LPAC, in conjunction with the ARD committee, may recommend that the student take the state's alternate criterion-referenced and alternate English language proficiency assessments. Additionally, the LPAC, in conjunction with the ARD committee, may utilize the individualized reclassification process to determine appropriate performance standard requirements for the state standardized reading assessment and English language proficiency assessment by language domain under subsection (i)(1) of this section and utilize the results of a subjective teacher evaluation using the state's standardized alternate rubric.

(m) [(n)] Notwithstanding §101.101 of this title (relating to Group-Administered Tests), all tests used for the purpose of identification and reclassification of students and approved by TEA shall [must] be re-normed at least every eight years.

§89.1227. Minimum Requirements for Dual Language Immersion Program Model.

(a) A one-way or two-way dual language immersion (DLI) program model [~~one-way or two-way~~] shall address all curriculum requirements specified in Chapter 74, Subchapter A, of this title (relating to Required Curriculum) [~~to include foundation and enrichment areas~~] in [~~both English and~~] the program's partner language and [~~the~~] English [~~language proficiency standards, and college and career readiness standards~~].

(b) A DLI program model shall be a full-time program of academic instruction in the program's partner language and English for all program participants, emphasizing the participation of identified emergent bilingual (EB) students. Access to the DLI program shall not be restricted based on race, creed, color, religious affiliation, age, or disability.

(c) A DLI program model shall provide equitable, authentic resources in English and the program's partner language to ensure development of bilingualism and biliteracy.

(d) The district shall develop a language allocation plan that ensures a minimum of 50% of content area instructional time is provided in the program's partner language for the duration of the program.

(e) Program implementation shall:

(1) begin at prekindergarten, Kindergarten, or Grade 1, as applicable, according to the district's earliest grade level provided;

(2) continue without interruption incrementally through the elementary grades;

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(1) equitable access, including the program's intention to maintain a ratio of 50% EB [~~emergent bilingual~~] students to 50% non-EB [~~non-emergent bilingual~~] students and have no more than two-thirds speakers of the partner language to one-third speakers of English in each classroom;

(2) support of program [~~goals and~~] benefits and goals as stated in §89.1210 of this title (relating to Program Content and Design) ;

(3) the district's commitment to providing equitable access to services for EB [~~emergent bilingual~~] students and to ensuring continuity of program for all program participants;

(4) the program's language allocation plan for the grade levels in which the program will be implemented; and

~~[(5) support of program goals as stated in §89.1210 of this title (relating to Program Content and Design); and]~~

(5) [(6)] expectations for students , families, and district and campus stak, a5 (to.9 (i)64.2 (1).6 (i)6sJ0 Tc 0 Tw 29.578253Td(-)-3 (D)

models, the [The] number of participating non-EB [~~non-emergent bilingual~~] students shall not exceed 40% of the number of students enrolled in those [~~the~~] bilingual or ESL [~~education~~] program models district-wide in accordance with TEC, §29.058.

§89.1235. Facilities.

(a) Bilingual [~~education~~] and English as a second language (ESL) programs shall be located in the public schools of the school district with equitable access to all educational resources rather than in separate facilities.

(b) In order to provide the required bilingual [education] or ESL programs, school districts may clust9.3 (f)-511.3 (f)-5oe0 ESL9 (di)

§89.1245. Staffing and Staff Development.

(a) School districts shall take all reasonable affirmative steps to assign appropriately certified teachers to the required bilingual ~~[education]~~ and English as a second language (ESL) programs in accordance with Texas Education Code (TEC), §29.061, concerning bilingual ~~[education]~~ and ESL program teachers. School districts that are unable to secure a sufficient number of appropriately certified bilingual ~~[education]~~ and/or ESL teachers to provide the required programs may request activation of the appropriate permits in accordance with Chapter 230 of this title (relating to Professional Educator Preparation and Certification).

(b) S

- (4) the number of students under the bilingual ~~[education]~~ exception ~~and/or~~ ~~[or]~~ ESL waiver who were/are temporarily served ~~with~~ ~~[in an]~~ alternative ~~methods~~ ~~[language program]~~ .
- (d) School districts shall report to parents their child's English proficiency development ~~[the progress of their child in acquiring English]~~ as a result of participation in the program offered to EB ~~[emergent bilingual]~~ students.
- (e) In alignment with the district improvement plan, each school year, the principal of each school campus, with the assistance of the campus level committee, shall develop, review, and revise the campus improvement plan described in TEC, §11.253, for the purpose of improving student performance for EB ~~[emergent bilingual]~~ students.