

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
 CHAPTER 15 - REGULATIONS AND PROCEDURES FOR ~~THE EDUCATION OF STUDENTS WITH LIMITED ENGLISH PROFICIENCY~~ ENGLISH LEARNER PROGRAMS ~~FOR~~ IN NEBRASKA PUBLIC SCHOOLS

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001 General Provisions.

001.01 Statutory Authority. This Chapter is adopted pursuant to Sections 79-305, 79-318, ~~and~~ 79-703 of the Revised Statutes of Nebraska (R.R.S.), and 20 U.S.C. §6311.

001.02 Scope and Application of this Chapter. This Chapter contains provisions related to the education of ~~students with limited English proficiency~~ English learners in public schools in grades kindergarten through twelve. This Chapter applies to all accredited public school districts in Nebraska. All of the statements herein, with the exception of the Quality Indicators, are requirements of school districts. Quality Indicators may be used by school districts to help in designing local programs for ~~students who are limited~~ English-proficient learners.

001.03 Purpose. The goal of this Chapter is to enable each ~~limited-English-proficient student~~ learner to become English proficient in listening, speaking, reading, and writing.

001.04 Implementation of this Chapter. This Chapter will be used ~~initially during the 2012-2013 school year~~ in conjunction with 92 NAC 10 (NDE Rule 10) to determine future accreditation status for school districts.

001.05 Related Regulations. The requirements for the accreditation of public school districts are contained in 92 NAC 10. The requirements for teacher certification are contained in 92 NAC 21. The requirements for endorsements on teaching certificates are contained in 92 NAC 24.

002 Definitions as Used in this Chapter.

002.01 Language instruction educational program means an instructional program designed to assist ~~a limited English proficient student~~ an English learner in developing and attaining English proficiency while meeting state academic standards. It may make use of both English and a student's native language to enable the student to develop and attain English proficiency, and may include but is not limited to the participation of English proficient students if the course is designed to enable all participating students to become proficient in English and a second language.

002.02 Limited English proficient (LEP); English learner (EL): The term ~~'limited English proficient'~~ 'English learner', when used in this Chapter with respect to a student, means a student:

002.02A Who is enrolled or preparing to enroll in an elementary school or secondary school;

002.02B Who falls into at least one of the following categories:

002.02B1 Who was not born in the United States or whose native language is a language other than English;

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002.02B2 Who is a Native American or Alaska Native, or a native resident of the outlying areas and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

002.02B3 Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

002.02C Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual at least one of the following:

002.02C1 The ability to meet the ~~State's proficient level of achievement on State assessments challenging State academic standards adopted pursuant to 20 U.S.C. §6311(b);~~

002.02C2 The ability to successfully achieve in classrooms where the language of instruction is English; or

002.02C3 The opportunity to participate fully in society.

002.03 Native language when used with reference to a student of limited English proficiency, means

002.03A the language normally used by such student; or

002.03B the language normally used by the parents of the student.

003 Identification of ~~Students with limited English proficiency (LEP) English learners.~~

Quality Indicator: A home language survey and a valid and reliable English language proficiency assessment are administered by school district personnel. As a result, districts can appropriately identify and place students in a language instruction educational program so that all students have an equal opportunity to achieve academically, regardless of the student's native language. Timely parental notification allows parents to make an informed decision regarding student program placement.

003.01 Each school district shall administer a home language survey to be completed by the student's parent, guardian, or other person enrolling the student as part of the admission process for all kindergarten students and for all other students new to the district. A student who is emancipated or who has reached the age of majority and who is enrolling himself or herself may complete the survey instead. A sample survey is contained in Appendix A of this Chapter. The survey shall ask the following questions:

003.01A What language did the student first learn to speak?

003.01B What language is spoken most often by the student?

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003.01C ~~What language does the student most frequently use at home? What language is primarily used in the student's home regardless of the language spoken by the student?~~

003.02 If an answer to any one of the home language survey questions in Subsections 003.01A to 003.01C indicates that a student speaks a language other than English, the school district shall administer an English language proficiency assessment to the student in order to determine if the student may be ~~limited English proficient (LEP)~~ an English learner. The assessment shall assess listening, speaking, reading, and writing. The district shall determine the assessment to be valid and reliable in measuring English language acquisition. The English language proficiency assessment shall yield composite scores or levels that indicate whether the student is proficient or not proficient in English, as defined by the assessment instrument.

003.03 If the home language survey indicates that the student has a home language other than English and the student has a composite score or level on the English language proficiency assessment indicating that the student is not proficient in English, the student shall be determined by the school district to have met the definition of ~~limited English proficient~~ an English learner in Subsection 002.02 of this Chapter.

003.04 On an annual basis, ~~the~~ school district shall notify the parent, or guardian, or other person enrolling the student within thirty (30) calendar days after the beginning of the fall term or within the first two (2) weeks of enrollment if the student was not enrolled at the beginning of the fall term, that the student qualifies for services as ~~a student with limited English proficiency-~~ an English learner.

003.05 If a student has been identified as ~~LEP~~ an English learner in his or her previous Nebraska school district and has not met the exit requirements in Section 007 of this Chapter, the enrolling school district shall continue to identify the student as ~~LEP EL~~. The school district shall not be required to administer ~~a home language survey or~~ an English language proficiency assessment upon enrollment. The school district shall obtain documentation of the previous ~~LEP EL~~ determination ~~within thirty (30) school days of the student's enrollment. in order to provide timely notification consistent with provisions in this Chapter.~~

004 Language Instruction Educational Programs.

Quality Indicator: Language instruction educational programs assist all ~~LEP students~~ English learners in acquiring the English language to successfully participate in classrooms where the language of instruction is English. The language instruction educational program is ~~research-informed~~ effective and values the cultural and linguistic diversity of the student.

004.01 For each student who is determined to be ~~limited English proficient~~ an English learner pursuant to Subsection 003.03 of this Chapter or who is otherwise determined by the school district to meet the definition of ~~LEP~~ English learner in Subsection 002.02 of this Chapter, the district shall implement a language instruction educational program that meets the following requirements:

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~~004.01A~~ Is designed to provide a systematic approach to teaching the English language to ~~LEP students~~ English learners;

~~004.01B~~ ~~Is a research based approach the effectiveness of which has been demonstrated and which is based on educational theories that are recognized as sound by experts in the field~~ Is educationally sound in theory and effective in practice as recognized by experts in the field of language acquisition; and

~~004.01C~~ Is designed ~~for the purpose, and has the effect, of developing the English proficiency of LEP students so that students can~~ to help English learners increase English proficiency and meet academic standards ~~using the English language; and~~

~~004.01D~~ Is designed to allow for meaningful access to programs and activities that are available to all students including, if appropriate, special education.

005 Staffing.

Quality Indicator: A comprehensive language instruction educational program assists students in developing literacy and proficiency in the English language. Such programs are directed and taught by professional staff with an appropriate endorsement in English as a Second Language. Ongoing professional development is designed to assist teachers in learning strategies to meet the language and content needs of ~~LEP students~~ English learners.

005.01 Each school district shall ensure that all teachers of language instruction educational programs possess valid Nebraska teaching certificates. In addition, the school district shall ensure that each teacher(s) specifically responsible for the English language instruction of English learners regardless of the program model:

005.01A Shall hold an endorsement or a provisional endorsement in English as a Second Language; or

005.01B Shall participate annually in professional development ~~in the language instruction educational program model implemented by the school district for the students designed to teach skills and strategies for meeting the language and academic needs of the English learners~~ he or she teaches.

~~005.02~~ ~~Each school district shall ensure that teachers in the core curriculum classrooms who have responsibilities for the English language instruction of LEP students:~~

~~005.02A~~ ~~Hold a valid Nebraska teaching certificate; and~~

~~005.02B~~ ~~Participate annually in professional development to learn skills for meeting the language and academic needs of the LEP students they teach.~~

005.032 Pursuant to Neb. Rev. Stat. §79-802(3), teacher aides may be assigned duties in connection with ~~LEP students~~ English learners that are nonteaching in nature if the employing school district has assured itself that the aides have been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of their work. A teacher aide shall not teach, as defined in Neb. Rev. Stat. §79-101(12).

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006 Standards, Assessments and Accommodations for ~~LEP Students~~ English Learners.

Quality Indicator: All ~~LEP students~~ English learners have access to Nebraska standards and participate in the state language proficiency and content assessments so that each student has the opportunity to demonstrate mastery of learning. As a result, parents and school staff address the academic and language needs of the student. The district provides appropriate accommodations to ensure meaningful participation in the assessments.

006.01 Each school district shall ensure that all ~~LEP students~~ English learners have meaningful access to academic content standards and participate in the assessments required by Section 005 of 92 NAC 10. Each school district shall provide appropriate linguistic accommodations for ~~LEP students~~ English learners participating in the assessments.

006.02 Each school district shall ensure that all ~~LEP students~~ English learners have meaningful access to the state's English language proficiency standards and participate in the annual state English language proficiency assessment.

006.03 Each school district shall ensure that all English learners with disabilities be provided with appropriate linguistic accommodations as well as any accommodations as documented in the Individual Education Plan (IEP) or 504 Plan.

007 Exit Requirements.

Quality Indicator: ~~District~~ Exit criteria are established to determine that the ~~LEP student~~ English learner has attained English language proficiency in speaking, reading, writing, and understanding at a level sufficient to participate successfully in the classroom.

007.01 Each school district shall require the following in order for a student to exit the language instruction educational program:

~~007.01A The student in grades K-2 receives a composite score of proficient on the annual state English language proficiency assessment and his or her teacher(s) recommend that the student exit the language instruction educational program; or~~

007.01BA The student in grades ~~3K~~-12 receives a ~~composite~~ score of proficient on the annual state English language proficiency assessment; or

~~007.01C The student achieves a proficiency level of "meets the standards" or "exceeds the standards" on the Nebraska State Accountability Reading test; or~~

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007.01~~DB~~ For ~~LEP students~~ English learners with verified disabilities, if a school district committee of assessment and educational personnel determine that the educational needs of a student with verified disabilities are not affected by his or her degree of proficiency in the English language; the committee may recommend that the student exit the language instruction educational program. The committee shall be knowledgeable about the language and educational needs of the student, shall include at least one member of the student's IEP team, and must maintain documentation that the student's educational needs are not affected by his or her degree of proficiency in the English language.

008 LEP Language Instruction Program Review.

Quality Indicator: The LEP language instruction program review process focuses on improving student learning. The process includes an annual review by a designated school district team who provides input to the district superintendent in order to guide the planning, implementation, evaluation and modifications of the district's language instruction educational program.

008.01 The school district shall conduct an annual review of the school district's program(s) for ~~LEP students~~ English learners and issue an annual report. This review shall be conducted by a designated team of staff. The review may be conducted as part of the district's school improvement process adopted pursuant to 92 NAC 10-009. The review and report shall include the following:

008.01A An examination of the program implementation practices, including the process for identifying ~~LEP students~~ English learners, the implementation of the language instruction educational programs, staffing, standards and assessment, ~~and~~ accommodations and the exit requirements.

008.01B An analysis of ~~LEP student~~ data including performance on the annual English language proficiency assessment and performance on state content assessments. Other assessments ~~and relevant~~ data may be included.

008.01C An analysis of additional district, school, and program data; which shall include graduation rates, drop-out rates, and years spent receiving language services; and which may include participation in extra-curricular programs, activities, and other relevant data.

008.02 The school district shall monitor the academic progress of former ~~LEP students~~ English learners for at least ~~two (2)~~ four (4) years to compare their academic performance to non-~~LEP EL~~ students.

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008.03 The school district shall make modifications to its language instruction educational program based on the review of the program implementation practices and data analysis when necessary in the judgment of the district to assist students in overcoming any language barriers in order to participate meaningfully in the core curriculum.

008.04 The school district shall ensure that the review team submits the written report of its annual review to the district's Superintendent. The report shall be kept on file and available to the public, with personally identifiable student information redacted, upon request for so long as the report is retained pursuant to the district's records retention schedule.

009 Compliance as a Condition for School Accreditation.

009.01 ~~Starting with the 2012-2013 school year, e~~Each school district shall comply with the provisions of this Chapter as a condition for accreditation under 92 NAC 10. Failure of a school district to comply with this Chapter shall be treated as if it were a violation of a provision of 92 NAC 10, and may subject the district to loss of accreditation as provided in that Chapter.

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Appendix A: Sample Home Language Survey

Student Name: _____ Birth Date: _____ Gender: __Male__ Female

Parent/Guardian Name: _____

Address: _____

Home Telephone: _____ Work Telephone: _____

School: _____ Grade: _____ Date: _____

What language did your child first learn to speak? _____

What language is spoken most often by your child? _____

~~What language does your child most frequently use at home?~~ What language is primarily used in the student's home regardless of the language spoken by the student?
