

# **2016–2017 Student Attendance Accounting Handbook**

**Texas Education Agency  
November 2016**

## Section 6 Bilingual/English as a Second Language (ESL)

This section addresses unique provisions for bilingual and ESL education programs. These provisions must be applied in conjunction with the general rules in Sections 1, 2, and 3. If students are served by multiple programs, review and apply the provisions of each applicable program.

The term “limited English proficient (LEP) student,” as used in Section 6 of the handbook, is interchangeable with the terms “English language learner (ELL),” used in 19 Texas Administrative Code Chapter 89, and “student of limited English proficiency,” used in the Texas Education Code, Chapter 29, Subchapter B.

**Important:** See Section 3 for general attendance requirements that apply to all program areas, including bilingual/ESL.

### 6.1 Responsibility

List in the following spaces the name and phone number of the district personnel to whom all bilingual and ESL education program coding questions should be directed:

Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

### 6.2 Eligibility

To be eligible for state funding, a student in the bilingual or ESL education program must meet the following requirements:

- have a language other than English indicated on the home language survey;
- be considered ELL because the student tested below the cutoff scores on the test appropriately administered for the student’s grade level. The following guidelines should be used in determining whether a student is considered ELL:<sup>160</sup>
  - grades prekindergarten (PK) through 1: student scores below cutoff score on an oral language proficiency test (OLPT) approved by the Texas Education Agency (TEA), and
  - grades 2 through 12:
    - student scores below cutoff score on an approved OLPT, and/or

<sup>160</sup> 19 Texas Administrative Code (TAC) [§89.1225\(f\)](#)

- student scores below cutoff scores on the English reading and English language arts sections of a norm-referenced standardized test in English (selected from the *List of Approved Tests for Assessment of English Language Learners*);
- be recommended for placement in the program by a language proficiency assessment committee (LPAC); and
- have a record of parental approval to place the ELL in a bilingual or ESL education program. For ELL in grades 9 through 12, check LPAC documentation for services recommended by the LPAC to meet student needs.

Each student must be served according to the following guidelines: On a student’s initial enrollment and at the end of each school year, the LPAC must review all pertinent information on the ELL student. The LPAC must designate, subject to parental approval, the initial instructional placement of each ELL in the required program; classify the student’s level of English proficiency according to the results of appropriate tests; designate the level of academic achievement of each ELL student; and recommend the student’s exit from the bilingual or ESL education program.<sup>161</sup> A student must not be exited from the bilingual or ESL education program in grades PK through the end of first grade.<sup>162</sup>

**Important:** Students with a grade level of EE (early education) **cannot** generate bilingual/ESL eligible days present.

### ***6.2.1 Students Who Are Eligible to Be Served in the Bilingual or ESL Education Program but Are Not Eligible for Funding***

The following students **may be served** by your district’s bilingual or ESL education program. However, these students are **not eligible for bilingual or ESL education program funding**.

- Students in PK through grade 1 who score at or above the cutoff score on the OLPT
- Students in grades 2 through 12 who score at or above the cutoff score on the OLPT **and** at or above the 40th percentile on the reading and language arts sections of a standardized achievement test
- Students:
  - who have exited (been transitioned out of) the bilingual or ESL education program,
  - whose parents approve of the students’ continuing to participate in the program, and
  - whose schools wish to continue to provide bilingual or ESL education program services to the students

### ***6.2.2 Parent Denial of Services and Eligibility of Students to Receive Bilingual/ESL Summer School Services***

If a student’s parent has denied bilingual/ESL education services and the only summer school program available is a bilingual/ESL summer school program, then the student is **not** eligible to generate

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<sup>161</sup> 19 TAC [§89.1220\(g\)](#)

<sup>162</sup> 19 TAC [§89.1225\(i\)](#)

bilingual/ESL ADA in the summer school program.<sup>163</sup> The student must not participate in the summer school program or earn bilingual/ESL eligible days present (be assigned a bilingual or ESL program type code in the attendance accounting system) in the summer program unless the parents explicitly allow, in writing, placement of the student in the bilingual or ESL education program.

## 6.3 Enrollment Procedures

This subsection explains the procedures for enrolling a student in the bilingual or ESL education program.

1. A student enrolls in your district, and the student's parent completes a home language survey (see [6.11.1 Home Language Survey Requirements](#)). Students in grades 9 through 12 may complete the home language survey themselves.

If a language other than English is indicated on any portion of the survey, your district must test the student for English proficiency.

2. District personnel test the student for English proficiency.
  - a. If your district is required to provide a bilingual education program, it must administer an OLPT in the home language of each student who is eligible to be served in the bilingual education program. If the home language of the student is Spanish, your district must administer the Spanish version of the TEA-approved OLPT that is administered in English. If the home language of the student is other than Spanish, your district must determine the student's level of proficiency using informal oral language assessment measures.
  - b. If the student is in **PK, kindergarten, or grade 1**, trained district personnel administer the OLPT in English. If the student tests below the cutoff score (determined by the exam instrument used), the student is considered an ELL as determined by the LPAC.
  - c. If the student is in **grades 2 through 12**, trained district personnel administer the OLPT.

If the student tests below the cutoff score (determined by the exam instrument used), the student is considered an ELL as determined by the LPAC.

Regardless of whether the student tests below the cutoff score on the OLPT, district personnel also administer the TEA-approved standardized achievement test. If the student scores below the 40th percentile on either the reading or the language arts section of the test, the student is considered an ELL as determined by the LPAC.

**Important:** The standardized achievement test should not be administered if the student's ability in English is so limited that the test is not valid.<sup>164</sup>

**If the student is considered an ELL**, continue to the next enrollment step. If the student is **not** considered an ELL, the student does not qualify for bilingual/ESL funding.

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<sup>163</sup> 19 TAC [§89.1250\(2\)\(B\)](#)

<sup>164</sup> 19 TAC [§89.1225\(f\)](#)

3. The LPAC recommends placement of the student in either the bilingual or ESL education program, but district personnel **do not yet** assign the student a bilingual or ESL program type code in the attendance accounting system.
4. The LPAC must give written notice to the student's parents informing them that the student has been classified as an ELL and requesting approval (through completion of an approval form) to place the student in the required bilingual or ESL education program. The notice must include information about the benefits of the bilingual or ESL education program for which the student has been recommended and state that it is an integral part of the school program.<sup>165</sup>

The parental approval form must contain a space for the parent's or legal guardian's signature and a space for the date the form was signed, as signed and dated documentation of parental approval is required for bilingual/ESL eligible days present to be claimed for funding purposes.

5. Once parental approval has been received, district personnel assign the student the appropriate bilingual or ESL program type code and parental permission code<sup>166</sup> in the attendance accounting system.

A student may be recorded absent on the effective date of a program change. However, as with all other students who are absent, no bilingual/ESL ADA may be earned by the student for that date.

To be eligible for state bilingual/ESL funding, the district must have all required documentation for each eligible student on file.

### **6.3.1 Students Who Move to Your District**

Within 4 weeks (20 school days) of his or her initial enrollment in the district, a student must be identified as an ELL and enrolled in the required bilingual or ESL education program.<sup>167</sup> However, even though the student may be served in the bilingual or ESL education program, the student should not be coded with the bilingual or ESL program type code<sup>168</sup> unless all documentation, including the signed and dated parental approval form, is on file. Funds for bilingual/ESL students must not be claimed until all documentation is in place.

When a bilingual/ESL student moves to your school district, your district (the receiving district) should immediately begin serving the student in the bilingual or ESL education program while it waits for documentation (LPAC records and assessment information) from the sending district. If your district does not receive this documentation within 4 weeks (20 school days) of the student's enrollment in your district, your district must go through the standard identification and assessment procedures in order to code the student as an ELL in a bilingual education or an ESL program. Your district should make diligent,

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<sup>165</sup> 19 TAC [§89.1220\(i\)](#)

<sup>166</sup> To find the appropriate codes to use, please consult the program type code tables available at the following link: [http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS\\_Latest\\_Release/](http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS_Latest_Release/). Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes. Search for the C093 code table for parental permission codes.

<sup>167</sup> 19 TAC [§89.1225\(g\)](#)

<sup>168</sup> To find the appropriate code to use, please consult the program type code tables available at the following link: [http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS\\_Latest\\_Release/](http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS_Latest_Release/). Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes.

documented attempts to get the required documentation from the sending district to avoid possible miscoding.

To be eligible for the state bilingual/ESL funding, the district must have all required documentation for each eligible student on file.

## 6.4 Eligibility of Your District’s Bilingual or ESL Education Program for State Funding

For your district to claim bilingual/ESL eligible days present for funding, your district must show that its bilingual and ESL education programs meet the following state requirements.<sup>169</sup>

1. A student is served in a full-time bilingual instructional program by staff members certified or on permit to teach bilingual education. The amount of instruction in each language (the student’s home language and English) must be commensurate with the student’s level of proficiency in both languages and the student’s level of academic achievement. ELL students must be provided instruction in language arts, mathematics, science, health, and social studies both in their home language and in English. The appropriate bilingual program type code should be recorded for each student served in a bilingual program.
2. A student is provided instruction in ESL by staff members certified or on permit to teach ESL or bilingual education. In PK through grade 8, the amount of time accorded to instruction in ESL Texas Essential Knowledge and Skills (TEKS) may vary from the amount of time accorded to instruction in English language arts in the general education program for non-ELL students to a full-time instructional setting using second language acquisition methods. In high school, the ESL program must be consistent with graduation requirements<sup>170</sup>. The LPAC may recommend appropriate services that may include content courses provided through sheltered instructional approaches by trained teachers, enrollment in ESL courses, additional state elective English courses, and special assistance provided through locally determined programs. The appropriate ESL program type code should be recorded for each student served in an ESL program.
3. A student is served in a program approved by the TEA under an exception to the a bilingual program or under a waiver to the ESL program. A student is served in a program approved by the TEA under an exception to a language other than English for as long as the State Board for Educator Certification does not have a certificate for that language. A TEA-approved exception or waiver remains valid for the current year only.<sup>171</sup> The appropriate bilingual or ESL program type code should be recorded for each student served in program under a bilingual exception or ESL waiver.

## 6.5 Eligible Days Present

This subsection describes the procedure for reporting bilingual/ESL eligible days present in the attendance accounting system. District personnel must do the following:

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<sup>169</sup> 19 TAC [§89.1210](#)

<sup>170</sup> under 19 TAC [Chapter 74](#)

<sup>171</sup> Texas Education Code (TEC), [§29.061](#); 19 TAC [§89.1207](#)

- identify each student who is being served in the bilingual or ESL education program and is eligible for funding, according to [6.2 Eligibility](#), with the appropriate **bilingual or ESL program type code**<sup>172</sup> in the attendance accounting system.
- record the total number of eligible bilingual/ESL days present for each 6-week reporting period in the Student Detail Report for every student eligible for the program.
- at the end of each 6-week reporting period, compute a Campus Summary Report (see Section 2). Personnel must summarize the total eligible bilingual/ESL days present, for every student in the program, by grade level on this report. There will be a separate Campus Summary Report for each instructional track for each campus in your district. The Campus Summary Report must include the total eligible bilingual/ESL days present for each grade level on that campus, the total eligible bilingual/ESL days present for all grades, and the campus bilingual/ESL ADA.
- at the end of each 6-week reporting period, compute a District Summary Report (see Section 2). Personnel add the information from all Campus Summary Reports for each track in your district to comprise the District Summary Report for each track. This report must include eligible bilingual/ESL days present for each grade level in your district, the total eligible bilingual/ESL days present for all grades, and your district's bilingual/ESL ADA.

### ***6.5.1 Eligible Days Present and Students Placed in a Disciplinary Setting***

Bilingual or ESL education program eligible days present must **not** be claimed when a student receiving bilingual or ESL education program services is placed in a disciplinary setting (for example, in-school suspension or disciplinary alternative education program) for more than 5 consecutive days if the same amount and type of bilingual or ESL education program services are not provided by a bilingual or ESL education program teacher. After 5 consecutive days without bilingual or ESL education program services being provided, district personnel should remove the student from the Texas Student Data System Public Education Information Management System (TSDS PEIMS) 42400 record for bilingual education or ESL program contact hours effective the first day of placement in the disciplinary setting.

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<sup>172</sup> To find the appropriate code to use, please consult the program type code tables available at the following link: [http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS\\_Latest\\_Release/](http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS_Latest_Release/). Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes.

## 6.6 Requirement to Serve Eligible Students

Your district **must** place a student in a bilingual or ESL education program as soon as your district identifies the student as an ELL (through the home language survey and test scores) and the LPAC has recommended such placement, regardless of whether or not parental approval has been received.

Your district must place the student in the bilingual or ESL education program on the date the LPAC recommends that service begin but **may count the student for bilingual education funding only after parental approval is received** (and all other requirements having to do with the home language survey, test scores, and documentation of LPAC recommendation have been met)<sup>173</sup>. If a parental denial is received, your district must discontinue serving the student. Review parental permission codes for clarification.

## 6.7 Bilingual and ESL Education Services Your District Is Required to Provide

Each district that is required to offer bilingual and ESL education programs must offer the following for students of limited English proficiency:

1. bilingual education in PK through the elementary grades;
2. bilingual education, instruction in English as a second language, or other TEA-approved transitional language instruction in middle school; and
3. instruction according to LPAC recommendation:
  - a. Under the graduation requirements adopted by the State Board of Education in March 2010, ELL students who successfully complete English for Speakers of Other Languages (ESOL) I and ESOL II may satisfy the English I and English II graduation requirement(s). Students who are identified as ELL and are at the beginning or intermediate level of English language proficiency, as defined by 19 TAC [§74.4\(d\)](#), relating to English Language Proficiency Standards, may be enrolled in ESOL I or ESOL II.
  - b. For all other ELL students in grades 9 through 12, LPAC documentation must reflect appropriate services to meet the student's needs. For example, LPAC documentation may indicate that a student will enroll in state elective English courses to strengthen his or her English skills, enroll in ESL courses for local credit, participate in tutorials, or be assigned to teachers with training in sheltered instruction or training in ESL methods.

All ELL students in grades 9 through 12 who are served according to LPAC recommendations are to be coded as ESL for funding purposes.

**Important:** Students not served in a state-required program must be served in a program approved by the TEA under an exception or a waiver.

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<sup>173</sup> 19 TAC [§89.1220\(j\)](#)

## 6.8 Withdrawal/Reclassification/Exit Procedures

This subsection explains the procedures for withdrawing a student from the bilingual or ESL education program.

1. A student is withdrawn from the bilingual or ESL education program if:
  - the LPAC classifies the student as English proficient when the student attains the required exit criteria as stated in the TEC, [§29.056\(g\)](#) (see [6.8.2 Exit Criteria](#)); or
  - the parent requests in writing to remove his or her child from the program and place the child in a general education classroom; or
  - the student withdraws from (leaves) the district (not exits from the bilingual or ESL education program).
2. Once a student has met the criteria for exiting the bilingual or ESL program, your district must notify the student's parent of the student's reclassification as English proficient and obtain parental approval for his or her exit from the bilingual or ESL education program.<sup>174</sup>

### 6.8.1 Effective Date of Withdrawal

For a student who withdraws from the district, the date the student withdraws is considered the effective date of change. District personnel record the effective date in the attendance accounting system, and eligible bilingual/ESL days are no longer accumulated from that date forward.

For a student who has been classified by the LPAC as English proficient at the end of the school year, the first day of the following school year is considered the effective date of change. District personnel record the effective date in the attendance accounting system, and eligible bilingual/ESL days are no longer accumulated from that date forward. It is rare to change ELL related codes during the school year.

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<sup>174</sup> 19 TAC [§89.1240\(b\)](#)

## 6.8.2 Exit Criteria

The following chart shows the criteria for transferring an ELL student out of the bilingual or ESL education program at different grade levels.

**IMPORTANT:** The exit criteria shown in this chart are accurate as of the publication date of this handbook but are subject to change. Visit the TEA Bilingual Education web page at <http://tea.texas.gov/bilingual/esl/education/> for the most current exit criteria.

2016–2017 English Proficiency Exit Criteria Chart											
At the end of the school year, a district may transfer (exit, reclassify, transition) an ELL student out of a bilingual or ESL education program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instruction program as determined by satisfactory performance in all three assessment areas below and the results of a subjective teacher evaluation. <sup>1</sup>											
For State of Texas Assessments of Academic Readiness (STAAR) English reading and English writing, the performance level for program exit is Level II (Satisfactory Academic Performance) or above.											
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11 <sup>th</sup> /12 <sup>th</sup>
<b>Current School Year Oral = Listening &amp; Speaking</b>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>	Scored Fluent on English OLPT <sup>2</sup>
<b>English Reading<sup>3</sup></b>	Norm-Referenced Standardized Achievement Test <sup>2</sup> (Rdg./Lang.) 40th percentile or above	Norm-Referenced Standardized Achievement Test <sup>2</sup> (Rdg./Lang.) 40th percentile or above	STAAR	STAAR	STAAR	STAAR	STAAR	STAAR	STAAR <sup>4</sup>	STAAR <sup>4</sup>	Norm-Referenced Standardized Achievement Test <sup>2</sup> (Rdg./Lang.) 40th percentile or above
<b>English Writing<sup>3</sup></b>	Agency-Approved Writing Test <sup>2</sup>	Agency-Approved Writing Test <sup>2</sup>	Agency-Approved Writing Test <sup>2</sup>	STAAR	Agency-Approved Writing Test <sup>2</sup>	Agency-Approved Writing Test <sup>2</sup>	STAAR	Agency-Approved Writing Test <sup>2</sup>			Agency-Approved Writing Test <sup>2</sup>
<b>Subjective Teacher Evaluation</b>	Assessments, anecdotal notes, portfolios, etc.										
<sup>1</sup> 19 TAC §89.1225(h) <sup>2</sup> In the 2016–2017 <i>List of Approved Tests for Assessment of Limited English Proficient Students</i> available on the following web page: <a href="http://tea.texas.gov/bilingual/esl/education/">http://tea.texas.gov/bilingual/esl/education/</a> <sup>3</sup> For STAAR, “English Reading” and “English Writing” refer to the grade-level tests in grades 3–8 and to the applicable end-of-course English I and II assessments. <sup>4</sup> Exception: Texas English Language Proficiency Assessment System (TELPAS) Reading and Writing Advanced High will be used for all students with the Texas Assessment of Knowledge and Skills (TAKS) as their graduation requirement under state policy. Note: ELL students may be exited only after the end of first grade based on 19 TAC §89.1225(i). Note: ELL students for whom the LPAC has recommended linguistic accommodations on the STAAR reading or writing test should not be considered for exit.											

### ***6.8.3 Exit Procedures and Criteria for ELL Students Receiving Special Education Services***

Information is available in the document entitled “Process for Considering Special Exit Criteria from Bilingual/English as a Second Language (ESL) Services under 19 TAC [§89.1225\(k\)](#).”

To access this document, go to <http://tea.texas.gov/bilingual/esl/education/>, and click on the link entitled “Process for Exiting ELL Students Receiving Special Education Services from Bilingual/ESL Programs.”

### ***6.8.4 Continuation of Bilingual or ESL Education Program Services After a Student Has Met Exit Criteria***

A student who has met the exit criteria for being transferred (transitioned/exited/reclassified) out of the bilingual or ESL education program may continue to participate in the program, with school and parental approval. However, such a student is **not** eligible to generate bilingual/ESL ADA.

## **6.9 Evaluation of a Student Who Has Been Transferred (Transitioned/Exited/Reclassified) Out of the Bilingual or ESL Education Program**

During the first 2 years after a student has met criteria to transfer out of a bilingual or ESL education program, the LPAC must monitor the student’s academic progress. During this time, the ELL codes of F and S are used to reflect the first and second years of monitoring. Program type codes other than 0 and parental permission codes should not be present, as the student is no longer an ELL and no longer served.

If the student earns a failing grade in a subject in the foundation curriculum during **any** grading period in the first 2 years after the student has been transitioned out of the program, the LPAC must consider reenrolling the student in a bilingual or ESL education program.

In determining whether to reenroll the student, the LPAC should evaluate the following:

- the total amount of time the student was enrolled in a bilingual or ESL education program
- the student’s grades each grading period in each subject in the foundation curriculum (reading/ELA, math, science, social studies)
- the type of additional interventions provided to the student
- the student’s performance on each assessment instrument administered
- the number of credits the student has earned toward high school graduation, if applicable
- any disciplinary actions taken against the student

After the LPAC reevaluates the student’s progress, the committee may 1) require intensive instruction for the student or 2) reenroll the student in a bilingual or ESL education program.

## 6.10 Teacher Certification Requirements

The following paragraphs describe the certification requirements for teachers of bilingual and ESL education program courses.

### 6.10.1 Students in Grades PK through 5

Students in grades PK through 5 (or through 6, if grade 6 is clustered with elementary grades) who are counted for funding in the bilingual education program must be served by bilingual-certified staff members.

Students in grades PK through 5 (or through 6, if grade 6 is clustered with elementary grades) who are counted for funding in the ESL education program must be served by ESL-certified staff members.

### 6.10.2 Students in Grades 6 through 8

Students in grades 6 through 8 (if grade 6 is not clustered with elementary grades [PK–5]) must be served by at least one teacher who is certified in ESL for that grade level and is responsible for meeting the linguistic needs of the ELL students.

### 6.10.3 Students in Grades 9 through 12

Students in grades 9 through 12 may be counted for funding in a bilingual or ESL education program even if they are served by staff members who are not bilingual/ESL-certified, but only if the staff members have received professional development in sheltered instruction. However, ESOL I and ESOL II **must** be taught by teachers who have an English or English Language Arts certification plus an ESL or Bilingual certification.

## 6.11 Documentation

For your district to claim bilingual/ESL eligible days present for funding, documentation must be complete. All documentation supporting student eligibility must be on file for every student accumulating eligible bilingual/ESL days present on the Student Detail Report. Documentation requirements are as follows.

### 6.11.1 Home Language Survey Requirements

Your district must conduct only one home language survey for each student.

Your district must administer home language surveys to students new to the district for whom a survey has never been completed (in Texas) or for whom a copy of the survey cannot be located within 20 school days. Your district should not administer the home language survey to a student for whom a survey is currently on file with the district.

Your district must require that the survey be signed by the student's parent or guardian for students in PK through grade 8, or by the student for students in grades 9 through 12.

For a student moving from one district to another within Texas, the original copy of the home language survey or a copy of the original copy of the home language survey must be kept in the student's record. If the original copy or a copy of the original copy is not included in the student's record, then a new home language survey must be conducted by the receiving district.

### **6.11.2 Test Result Documentation Requirement**

The following documentation must be on file for every student accumulating eligible bilingual/ESL days present: proof of a qualifying score on a TEA-approved OLPT, and/or qualifying scores on the English reading and English language arts sections of a TEA-approved norm-referenced measure. The official scores must be documented in the student's record.

### **6.11.3 LPAC Recommendation and Parental Approval Requirements**

The following documentation must be on file for every student accumulating eligible bilingual/ESL days present:

1. Written documentation of the recommendation for placement by the LPAC
2. Written documentation of the annual review and recommendation of the LPAC
3. A record of parental approval to place an ELL student in a bilingual or ESL education program. This record must include the parent's signature and the date the parent signed the document indicating approval.
  - A record of parental approval must be obtained during the initial identification of an ELL student for placement in a bilingual or ESL education program.
  - Once the record of parental approval is obtained, it remains in effect until the ELL student is exited from the bilingual or ESL education program and is reclassified as a non-ELL student.
  - The parental approval becomes invalid if the parent signs a parental denial form of bilingual/ESL services, which may occur at any time while the student continues to be identified as an ELL.
  - For a student whose parent has denied approval, the LPAC annual review must consider whether the student still qualifies for services. If so, an attempt to obtain parental approval should be made before the beginning of the next school year.

A district may identify a student as an ELL, exit a student from a program, 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 Adopted entry, exit, or placement.<sup>175</sup>

A student receiving bilingual/ESL program services under any of the circumstances described in the preceding paragraph is not eligible for bilingual/ESL funding.

During the monitoring period (the 2-year period following the student's exiting from the bilingual or ESL education program),<sup>176</sup> if the LPAC determines the student will be reenrolled in a bilingual or ESL education program, parental approval must be acquired again.

#### ***6.11.4 Proof That a Student Has Been Served in an Eligible Bilingual or ESL Education Program***

Proof (such as grade books, student Academic Achievement Records [AARs], class rosters, or all of these) must also exist that a student is:

- served in a full-time bilingual instructional program by staff members certified or on permit to teach bilingual education,
- provided instruction in ESL by staff members certified or on permit to teach ESL or bilingual education for the amount of time accorded to English language arts in the regular instructional program,
- provided sheltered instruction as recommended by the LPAC (students in grades 9 through 12 may receive services other than ESL), or
- served in a program approved by the TEA under an exception or a waiver.

#### ***6.11.5 Other Required Documentation***

The student's record must contain documentation of all actions impacting the ELL. This documentation must include the following<sup>177</sup>:

1. the identification of the student as an ELL;
2. the designation of the student's level of language proficiency;
3. the recommendation of program placement;
4. parental approval of entry or placement into the program;
5. parental denial, if applicable;

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<sup>175</sup> 19 TAC [§89.1220\(m\)](#)

<sup>176</sup> TEC, [§29.0561](#)

<sup>177</sup> 19 TAC [§89.1220\(l\)](#)

6. the dates of entry into, and placement within, the program;
7. documentation of state assessment participation decisions and any linguistic accommodations, the justification for these decisions<sup>178</sup>, and additional instructional interventions provided to the student to ensure adequate yearly progress;
8. documentation of the student's eligibility to use the special provision for the end-of-course exam for English I/ESOL I;
9. the date of exit from the program and parental notification and approval of the student's exit from the program;
10. the results of monitoring the student's academic success; and
11. TELPAS writing collections kept for 2 years.

The documentation described in items 1–10 must be forwarded in the same manner as other student records to another school district in which the student enrolls.<sup>179</sup> The student's TELPAS writing collections should be forwarded as well. Student record documentation also should be forwarded if the student enrolls at another campus within your district.

## 6.12 Quality Control

Your district should record the appropriate bilingual or ESL program type code<sup>180</sup> for a student in the attendance accounting system as soon as the student meets all eligibility requirements. All documentation must be on file before the indicator is recorded. The sooner documentation is on file, the sooner funds may be earned for serving the student.

A student who withdraws from school should be coded with a bilingual or ESL program type code of 0 upon withdrawal.

A student who has been classified by the LPAC as English proficient at the end of the school year should be coded with a bilingual or ESL program type code of 0 at the beginning of the following school year.

At the beginning of each semester and at the end of each 6-week reporting period, the appropriate bilingual/ESL staff members should verify the Student Detail Report to ensure that a student's coding is correct.

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<sup>178</sup> in accordance with 19 TAC Chapter 101, [Subchapter AA](#), Commissioner's Rules Concerning the Participation of Limited English Proficient Students in State Assessments

<sup>179</sup> 19 TAC [§89.1220\(I\)](#)

<sup>180</sup> To find the appropriate code to use, please consult the program type code tables available at the following link: [http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS\\_Latest\\_Release/](http://www.texasstudentdatasystem.org/TSDS/TEDS/TEDS_Latest_Release/). Search for the C175 code table for bilingual program type codes and the C176 code table for ESL program type codes.

## 6.13 Examples

### 6.13.1 Example 1

A student's home language survey indicates that Spanish is spoken in the student's home most of the time. The student's test scores on an approved OLPT are below the cutoff score, and the LPAC recommends placement in the bilingual education program. However, the student's parent has denied placing the student in the bilingual or ESL education program.

*Your school district must not serve the student in either program and must not claim the student for bilingual/ESL state funds. The student should be recorded in the TSDS PEIMS as an ELL with a parental permission code of "C" for parental denial and a bilingual or ESL program type code of 0.*

### 6.13.2 Example 2

A student in grade 3 has a home language survey on file that indicates Spanish is spoken in the student's home most of the time. The student's test scores on the standardized English achievement test are in the 42nd percentile in reading and in the 45th percentile in language arts. The LPAC has recommended placement in the ESL program.

*If the student's parent approves, your district may serve the student in the ESL program. However, your district must not claim the student for bilingual/ESL state funds. Funds must not be collected even though the LPAC recommended placement in the program and the home language survey indicates a language other than English because the student has scored above the cutoff score on the standardized achievement test.*

### 6.13.3 Example 3

An ELL student is assessed in March to determine if he or she could be reclassified as English proficient. The LPAC meets in April to recommend that the student be reclassified as a non-ELL. Your school district will continue to receive funding for the student until the end of the school year.

*Your school district should not pull the student from the classroom before the end of the school year. The student should continue to be served in the bilingual or ESL education program until the end of the school year. Your district should place the student in an all-English classroom at the beginning of the following school year.*

### 6.13.4 Example 4

A student's parent denies placement of his or her child in a bilingual or ESL education program. Therefore, the student is entered in the TSDS PEIMS as an ELL with parental denial. The following school year, the student is still considered as an ELL with parental denial.

*Your school district does not change the status of the student as an ELL with parental denial until the student meets the testing criteria to no longer be considered an ELL. Your district should continue to code the student as LEP with parental denial until all criteria are met.*

### **6.13.5 Example 5**

The only summer school program your district is offering is a bilingual or ESL education program. Parents who have previously denied placement of their child in the bilingual or ESL education program would like their child to participate in the summer school program.

*The student must not participate in the summer school program or earn bilingual/ESL eligible days present (be assigned a bilingual or ESL program type code in the attendance accounting system) in the summer program unless the parents explicitly allow, in writing, placement of the student in the bilingual or ESL education program.*