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# SUPERINTENDENT OF PUBLIC INSTRUCTION

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November 3, 2015

( ) Action Required  
( X ) Informational

## BULLETIN NO. 067-15 MIGRANT AND BILINGUAL EDUCATION

TO: Educational Service District Superintendents  
School District Superintendents  
School District Curriculum Directors  
School District Civil Rights Compliance Coordinators  
Bilingual Education Program Directors  
Special Education Directors

FROM: Randy I. Dorn, State Superintendent of Public Instruction

RE: Meaningful Participation by English Language Learners: Joint Guidance from the U.S. Department of Justice, Civil Rights Division, and the U.S. Department of Education, Office for Civil Rights

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On January 7, 2015, the U.S. Department of Education (ED) and U.S. Department of Justice released [joint guidance](#) reminding states, school districts, and schools of their obligations under federal law to ensure that English language learner (ELL) students have equal access to a high-quality education and the opportunity to achieve their full academic potential. This guidance will support districts in fulfilling the requirements pertaining to services for ELL students monitored through the Consolidated Program Review (CPR) process. More importantly, it supports educational systems in collaborating across programs to fulfill the shared responsibility of effective and equitable services for ELL students and their families.

In addition to the guidance, ED and the Department of Justice also released the following resources to help schools in serving ELL students and parents with limited English proficiency:

- A fact sheet in [English](#) and in [other languages](#) about schools' obligations under federal law to ensure that English learner (EL) students can participate meaningfully and equally in school.
- A fact sheet in [English](#) and in [other languages](#) about schools' obligations under federal law to communicate information to limited English proficient parents in a language they can understand.
- A [toolkit](#) prepared by ED's Office of English Language Acquisition (OELA) which was finalized in September 2015.

Toolkit chapters are:

- [Chapter 1: Identifying All English Learner Students](#)
- [Chapter 2: Providing English Learners with a Language Assistance Program](#)
- [Chapter 3: Staffing and Supporting an EL Program](#)
- [Chapter 4: Meaningful Access to Core Curricular, Extra Curricular Programs](#)
- [Chapter 5: Creating an Inclusive Environment and Avoiding Unnecessary Segregation](#)
- [Chapter 6: Addressing English Learners with Disabilities](#)
- [Chapter 7: Serving English Learners who Opt-Out of EL Programs](#)
- [Chapter 8: Monitoring and Exiting English Learners from EL Programs and Services](#)
- [Chapter 9: Evaluating the Effectiveness of a District's EL Program](#)
- [Chapter 10: Ensuring Meaningful Communication with Limited English Proficient Parents](#)

The January 7, 2015, [Dear Colleague Letter](#) includes specific guidance to school districts and schools regarding their obligations under federal law to ensure that English learner students have equal access to a high-quality education and the opportunity to achieve their full academic potential.

Below are a few excerpts from this guidance that may be of interest:

- **Services for English Language Learners (ELLs):**
  - “Students in EL programs must receive appropriate language assistance services until they are proficient in English and can participate meaningfully in the district’s educational programs without language assistance services.” (Page 12)
  - In their investigations, the U.S. Departments of Education and Justice will consider whether “A school district’s secondary program establishes a pathway for EL students to graduate high school on time and EL students have equal access to high-level programs and instruction to prepare them for college and career.” (Page 21)
  - The U.S. Departments of Education and Justice have found examples of compliance issues when school districts “...stop providing language assistance services when EL students reach higher levels of English proficiency but have not yet met exit criteria (including proficiency on a valid and reliable English language proficiency assessment); or...fail to address the needs of EL students who have not made expected progress in learning English and have not met exit criteria despite extended enrollment in the EL program.” (Page 14)
- **Staffing and Supporting ELL Programs**
  - “At a minimum, every school district is responsible for ensuring that there is an adequate number of teachers to instruct EL students and that these teachers have mastered the skills necessary to effectively teach in the district’s program for EL students.” (Page 14)
  - “School districts need to ensure that administrators who evaluate the EL program staff are adequately trained to meaningfully evaluate whether EL teachers are appropriately employing the training in the classroom and are adequately prepared to provide the instruction that will ensure that the EL program model successfully achieves its educational objectives.” (Page 15)

- “Paraprofessionals, aides, or tutors may not take the place of qualified teachers and may be used only as an interim measure while the school district hires, trains, or otherwise secures enough qualified teachers to serve its EL students. And if a school district uses paraprofessionals to provide language assistance services to EL students that supplement those provided by qualified teachers, it may do so only if the paraprofessional is trained to provide services to EL students and instructs under the direct supervision of a qualified teacher.” (Pages 16–17)
- The U.S. Departments of Education and Justice have found examples of compliance issues when school districts “...offer language assistance services based on staffing levels and teacher availability rather than student need; [or] provide inadequate training to general education teachers who provide core content instruction to EL students.” (Page 17)
- **Providing Special Education and English Language Services**
  - “School districts must provide EL students with disabilities with both the language assistance and disability-related services to which they are entitled under Federal law.” (Page 24)
  - “To implement this requirement, it is essential that the IEP team include participants who have the requisite knowledge of the child’s language needs.” (Page 27)
- **Opt Out of EL Programs**
  - “School districts may not recommend that parents decline all or some services within an EL program for any reason, including facilitating scheduling of special education services or other scheduling reasons.” (Page 30)
- **Evaluating the Effectiveness of a District’s EL Program**
  - “When evaluating the effectiveness of an EL program, the performance of EL students in the program and former EL students who exited the program should be compared to that of never-EL students. While the data need not demonstrate that current EL students perform at a level equal to their never-EL peers, a school district’s data should show that EL students are meeting exit criteria and are being exited from the program within a reasonable period of time, and that former EL students are participating meaningfully in classes without EL services and are performing comparably to their never-EL peers in the standard instructional program.” (Page 36)
- **Ensuring Meaningful Communication with Limited English Proficient Parents**
  - “School districts and SEAs have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents.” (Page 37)

As your school system reviews current practices and policies across departments, the Bilingual Education Program and Equity and Civil Rights offices at OSPI welcome your questions and ongoing dialogue about the guidance provided in these documents.

BULLETIN NO. 067-15 M&BE  
Page 4  
November 3, 2015

For questions regarding ELL programming funded through Title III and the State Transitional Bilingual Instructional Program, please contact the Bilingual Education Program at 360-725-6147, email [mea.moore@k12.wa.us](mailto:mea.moore@k12.wa.us), or access <http://www.k12.wa.us/MigrantBilingual/TBIP-Guidelines.aspx>.

For questions regarding civil rights obligations pertaining to ELL students, please contact the Equity and Civil Rights Office at 360-725-6162 or email [calandra.sechrist@k12.wa.us](mailto:calandra.sechrist@k12.wa.us).

#### K–12 EDUCATION

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