

603 CMR 14.00: EDUCATION OF ENGLISH LEARNERS

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14.01: Authority, Scope and Purpose

- (1) 603 CMR 14.00 is promulgated by the Board of Education pursuant to M.G.L. c. 69, § 1B, and M.G.L. c. 71A.
- (2) 603 CMR 14.00 applies to publicly funded elementary and secondary education programs, including all Massachusetts public school districts, charter schools, and collaborative education programs.
- (3) The requirements set forth in 603 CMR 14.00 are in addition to, or in some instances clarify or further elaborate, those contained in M.G.L. c. 71A, which governs the provision of education to public school students who are English learners, as that term is defined in M.G.L. c. 71A.
- (4) For purposes of 603 CMR 14.00, the term “School District” shall include charter schools and collaborative education programs and the term “superintendent” shall include charter school leaders and directors of collaborative education programs.

14.02: Identification and Assessment of Students

- (1) Each school district shall establish procedures, in accordance with the Department of Education guidelines, to identify those students who may be English learners and assess their level of English proficiency upon their enrollment in the school district.
- (2) The parent or guardian of any student enrolled in the school district may request that the school district assess the child’s level of English proficiency.
- (3) The school district shall notify the parent or guardian and place in the student’s school record the following information:
 - (a) the school district’s determination as to whether the student is an English learner; and
 - (b) the student’s program placement.
- (4) Each school district shall establish criteria, in accordance with Department of Education guidelines, to identify students who may no longer be English learners.

14.03: Census

- (1) Each school district shall report annually to the Department of Education, the following information as of the last day of the school year for each student who is an English learner:
 - (a) the school in which the student is enrolled;
 - (b) the student’s grade level;
 - (c) the language in which the student possesses a primary speaking ability; and
 - (d) the type of English learner program in which the school district has enrolled the student.
- (2) When reporting information under 603 CMR 14.03(1)(d), the school district shall specify whether the English learner is enrolled in a sheltered English immersion program or in a bilingual education program

14.04: Placement of Students with Parental Waivers

- (1) A school district shall provide a student who is an English learner with sheltered English immersion instruction and place the student in an English language classroom, as those terms are defined in M.G.L. c. 71A, unless the school district has granted the student a waiver in accordance with M.G.L. c. 71A, § 5.
- (2) A school district may place English learners who are granted parental waivers under M.G.L. c. 71A, § 5, in a bilingual education program.
- (3) Upon designation of a student as an English learner, the school district shall provide the student's parent or guardian with the school district's waiver policy and timelines, developed in accordance with M.G.L. c. 71A, § 5, and in a language that the parent or guardian can understand.

14.05: English Literacy and Fluency Requirements for Teachers of English Language Classrooms

- (1) School district superintendents shall provide annually to the Department of Education a written assurance that teachers of English language classrooms, as that term is defined in M.G.L. c. 71A, are literate and fluent in English.
- (2) For purposes of the assurance required by 603 CMR 14.05(1), a teacher is literate in English if the teacher:
 - (a) possesses a teaching license issued pursuant to M.G.L. c. 71, § 38G; or,
 - (b) possesses a vocational teacher approval or a vocational technical educator license; or,
 - (c) earns a passing score on the Communication and Literacy Skills portion of the Massachusetts Tests for Educator Licensure; or,
 - (d) possesses a bachelor's degree from a college or university where the language of instruction was English.
- (3) For purposes of the assurance required by 603 CMR 14.05(1), a teacher's fluency in English shall be determined through one or more of the following methods:
 - (a) classroom observation and assessment by the teacher's supervisor, principal, or superintendent; or
 - (b) an interview and assessment by the teacher's supervisor, principal, or superintendent; or
 - (c) the teacher's demonstration of fluency in English through a test accepted by the Commissioner of Education; or
 - (d) another method determined by the superintendent and accepted by the Commissioner.

14.06: Parental Right of Enforcement

- (1) The parent or legal guardian (hereafter "parent") of an English learner shall have legal standing to sue for enforcement as provided in M.G.L. c. 71A, § 6 and 603 CMR 14.06. A parent who alleges that a school district employee has failed willfully and repeatedly to implement M.G.L. c. 71A shall exhaust the review process set forth in 603 CMR 14.06(2) through (10) prior to filing a claim in court pursuant to M.G.L. c. 71A, § 6.
- (2) The parent shall submit a written request to the superintendent for review of the parent's allegation. The request for review shall provide the basis for the parent's allegation, including the name(s) of the school district employee(s) involved and a description of the actions that the employee(s) took or failed to take that resulted in willful and repeated violations of M.G.L. c. 71A. Except in extenuating circumstances, the parent shall submit the request within 30 calendar days of the last incident at issue. The superintendent shall provide the school district employee with a copy of the written request within ten calendar days after it is filed and in advance of the meeting with the superintendent.

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(3) The superintendent or his or her designee shall review the allegation by conducting an investigation and issuing a written decision. As part of that investigation, the superintendent shall meet with the school employee(s) at issue. The school employee(s) may be represented by an attorney or other representative at the meeting, and may provide a written response to the allegations. The superintendent shall provide the parent and the employee with a written decision within 60 calendar days of the request for review, unless extenuating circumstances require a delay.

(4) A parent or school district employee who is dissatisfied with the written decision of the superintendent under 603 CMR 14.06(3) may submit a written request to the school committee for review of the issue within 30 calendar days of the date of the decision. The school committee shall provide the non-appealing party with a copy of the request for review by the school committee within ten days after it is filed and in advance of a meeting with the school committee.

(5) The school committee shall review the allegation and provide the parent and the employee with a written decision within 60 calendar days of the request, unless extenuating circumstances require a delay.

(6) The decision of the school committee shall be considered the final local decision on the matter.

(7) A parent or school district employee who is dissatisfied with the final local decision may submit a complaint to the Department of Education within 30 calendar days of the date of the final local decision. A copy of the final local decision shall be included with the complaint, and a copy of the complaint shall be provided to the non-appealing party.

(8) The Commissioner or his or her designee shall review the complaint to determine the mediation or other dispute resolution process in which the parties shall engage prior to Department of Education investigation of the complaint. Within 30 calendar days of the date of the complaint, the Commissioner or his designee shall notify the parties as to the dispute resolution process in which they shall participate.

(9) If, after engaging in the dispute resolution process for a reasonable period of time as determined by the Commissioner, the dispute is not resolved, the Commissioner shall direct the Department to investigate the parent or school employee's complaint and issue a written decision. The school district employee(s) may be represented by an attorney or other representative during the Department's investigation of the complaint, and may provide the Department with a written response to the parent's allegations.

(10) The decision of the Department shall be the final agency decision.

14.07: Assignment of English Learners to Teachers in School Districts

(1) Core academic teachers who provide sheltered English instruction to English learners in school districts, including charter schools and education collaboratives, must earn an SEI Teacher Endorsement as set forth in 603 CMR 7.00: *Educator Licensure and Preparation Program Approval* and 603 CMR 14.07. Principals, assistant principals, and supervisors/directors who supervise or evaluate such teachers, must earn an SEI Teacher Endorsement or SEI Administrator Endorsement as set forth in 603 CMR 7.00: *Educator Licensure and Preparation Program Approval* and 603 CMR 14.07.

(2) No later than August 1, 2012, the Department of Elementary and Secondary Education shall publish a schedule that establishes cohorts of core academic teachers of English learners, and principals, assistant principals, and supervisors/directors who supervise or evaluate such teachers, who must earn the SEI Teacher Endorsement or SEI Administrator Endorsement provided under 603 CMR 7.00: *Educator Licensure and Preparation Program Approval*, in each of the years from July 1, 2012 through June 30, 2016.

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(a) The cohorts established by the Department shall be based upon the incidence and performance of English learners in the school districts that employ these educators, provided further that educators employed in school districts with the highest incidence and lowest performance shall meet this requirement earlier and educators employed in school districts with the lowest incidence and highest performance shall meet this requirement later in this four-year period.

(b) The Department shall publish the cohort schedule on the Department's website and shall make it available upon request. Educators assigned to a cohort must meet the requirements for an SEI endorsement within the time designated for their cohort. Educators who fail to earn an SEI endorsement by the time designated for their cohort, shall not be eligible to advance or renew their educator license under 603 CMR 7.00: *Educator Licensure and Preparation Program Approval* and 603 CMR 44.00: *Educator License Renewal* until such educators earn an SEI endorsement. Provided however, upon a showing of hardship, the Department may grant an educator an extension of time beyond the time designated for his or her cohort to earn an SEI endorsement. Hardship shall consist of serious illness or injury, or other circumstances that are beyond the control of the educator and impede the educator's ability to complete the requirements for an SEI endorsement.

(3) Starting on July 1, 2016, any core academic teacher who is assigned to provide sheltered English instruction to an English learner shall either hold an SEI Teacher Endorsement, or is required to earn such endorsement within one year from the date of the assignment. Any school district that assigns an English learner to a core academic teacher who has a year to obtain an SEI endorsement, shall take all reasonable steps to ensure that such English learner is assigned to core academic teachers with an SEI endorsement in subsequent school years.

(4) Starting on July 1, 2016, no principal, assistant principal, or supervisor/director shall supervise or evaluate a core academic teacher who provides sheltered English instruction to an English learner unless such principal, assistant principal, or supervisor/director holds an SEI Teacher Endorsement or SEI Administrator Endorsement, or will earn either endorsement within one year of the commencement of such supervision or evaluation.

(5) For purposes of 603 CMR 14.07, "core academic teacher" shall mean early childhood and elementary teachers, teachers of students with moderate disabilities, teachers of students with severe disabilities, and teachers of the following academic subjects: English, reading or language arts, mathematics, science, civics and government, economics, history, and geography.

REGULATORY AUTHORITY

603 CMR 14.00: M.G.L. c. 69, § 1B, and M.G.L. c. 71A.

(PAGES 151 THROUGH 154 ARE RESERVED FOR FUTURE USE.)