

HOUSE No. 542

By Mr. Sanchez of Boston, petition of Jeffrey Sanchez and others relative to an English language learner's program in the public schools. Education.

The Commonwealth of Massachusetts

PETITION OF:

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In the Year Two Thousand and Seven.

AN ACT RELATIVE TO ENHANCING ENGLISH OPPORTUNITIES FOR ALL STUDENTS IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Section 1I of Chapter 69 of the General Laws, is
2 hereby amended by striking out the thirteenth paragraph and
3 inserting in place thereof the following paragraph:—
4 Each school district required to provide an English language
5 learners program under Chapter 71A shall file the following infor-
6 mation with the department annually:—
7 (a) the type of English language learners programs provided;
8 (b) with regard to limited English proficient students (i) the
9 number enrolled in each type of English language learners program;
10 (ii) the number enrolled in English as a second language who are not
11 enrolled in another English language learners program; (iii) the
12 results of basic skills, curriculum assessment, achievement and lan-
13 guage proficiency testing, whether administered in English or in the
14 native language; (iv) the absentee, suspension, expulsion, dropout
15 and promotion rates; and (v) the number of years each limited

16 English proficient student has been enrolled in an English language
17 learners program;

18 (c) the number of students each year who have enrolled in institu-
19 tions of higher education and were formerly enrolled in an English
20 language learners program;

21 (d) the academic progress in regular education of students who
22 have completed an English language learners program;

23 (e) for each limited English proficient student receiving special
24 education, the number of years in the school district prior to special
25 education evaluation and the movement in special education pro-
26 grams by program placement;

27 (f) the number of limited English proficient students enrolled in
28 programs of occupational or vocational education;

29 (g) the name, national origin, native language, certificates held,
30 language proficiency, grade levels and subjects taught by each
31 teacher of an English language learners program, bilingual aides or
32 paraprofessionals, bilingual guidance or adjustment counselors and
33 bilingual school psychologists;

34 (h) the per pupil expenditures for each full time equivalent student
35 enrolled in an English language learners program;

36 (i) the sources and amounts of all funds expended on students
37 enrolled in English language learners programs, broken down by
38 local, state and federal sources, and whether any such funds
39 expended supplanted, rather than supplemented, the local school dis-
40 trict obligation; the participation of parents through parent advisory
41 councils; and

42 (j) whether there were any complaints filed with any federal or
43 state court or administrative agency, since the program's inception,
44 concerning the compliance with federal or state minimum legal
45 requirements; the disposition of such complaint and the monitoring
46 and evaluation of any such agreement or court order relative to such
47 complaint.

1 SECTION 2. Said Section 11 of said Chapter 69, as so appearing,
2 is hereby further amended by adding the following paragraph:—

3 The commissioner annually shall analyze and publish data
4 reported by school districts under this section regarding English lan-
5 guage learners programs and limited English proficient students.
6 Publication shall include, but need not be limited to, availability on

7 the department's worldwide web site. The commissioner shall
8 submit annually a report to the joint committee on education, arts
9 and humanities on such data on a statewide and school district basis,
10 including, but not limited to, by language group and type of English
11 language learners program.

1 SECTION 3. The fifth paragraph of said Section 59C of said
2 Chapter 71, as so appearing, is hereby amended by inserting after the
3 fourth sentence the following sentence:—

4 In school districts with language minority student populations, the
5 plan to improve student performance shall include a description of
6 the opportunities to be provided by the school to ensure the progress
7 of limited English proficient students in developing oral comprehen-
8 sion, speaking, reading and writing of English, and also in meeting
9 academic standards and curriculum frameworks established under
10 Sections 1D and 1E of Chapter 69.

1 SECTION 4. Chapter 71A, as appearing in the 2006 Official Edi-
2 tion, is hereby amended by striking out Section 1, and inserting in
3 place thereof the following section:—

4 Section 1. As used in this chapter, the following words shall,
5 unless the context requires otherwise, have the following mean-
6 ings:—

7 “Academic standards”, academic standards established under
8 Section 1D of Chapter 69 of the General Laws.

9 “Commissioner”, the commissioner of education.

10 “Curriculum frameworks”, curriculum frameworks established
11 under Section 1E of Chapter 69 of the General Laws.

12 “Department”, the department of education.

13 “English as a second language”, a part-time program supporting
14 the development of English language and skills for limited English
15 proficient students transitioning or assigned to regular education
16 classes.

17 “English language learners program”, any of the following, or any
18 combination hereof:— transitional bilingual education, two-way
19 bilingual education, structured English immersion, English as a
20 second language, or other full time innovative program designed to
21 accelerate English language proficiency and academic achievement
22 approved by the department under Section 2A.

23 “Limited English proficient student”, (1) a student who was not
24 born in the United States whose native language is other than Eng-
25 lish and who is not able to perform ordinary class work in English;
26 or (2) a student who was born in the United States of non-English
27 speaking parents and who is not able to perform ordinary class work
28 in English.

29 “Office of language acquisition”, the office of language acquisi-
30 tion established in Section 1A of Chapter 69.

31 “Modified bilingual-world language bilingual education”, a full-
32 time program of whole school instruction for limited English profi-
33 cient students and fully English proficient students that incorporates
34 both the language and the culture of the language minority group to
35 include it in all aspects of the school curricula in an English
36 speaking classroom where teachers are trained in English as a
37 second language techniques.

38 “Structured English immersion”, a fulltime program of academic
39 instruction and English language learning for limited English profi-
40 cient students in which primarily English is the medium of class-
41 room instruction and the native language of such student is used for
42 support and clarification.

43 “Transitional bilingual education”, a fulltime program of instruc-
44 tion (1) in all those courses or subjects which are required by the stu-
45 dent’s school district which shall be given in the native language of
46 the limited English proficient students who are enrolled in the pro-
47 gram and also in English, (2) in the reading and writing of the native
48 language of the limited English proficient students who are enrolled
49 in the program and in the oral comprehension, speaking, reading and
50 writing of English, and (3) in the history and culture of the country,
51 territory or geographic area which is the native land of the parents of
52 the limited English proficient students who are enrolled in the pro-
53 gram and in the history and culture of the United States.

54 “Two-way bilingual education”, a fulltime program in which the
55 curriculum is structured so that limited English proficient students of
56 the same language group and fully English proficient students
57 develop full literacy in 2 languages by being taught in the same
58 classroom in which the medium of instruction is both English and
59 the language of the limited English proficient students.

1 SECTION 5. Said Chapter 71A, as so appearing, is hereby further
2 amended by striking out Section 2 and inserting in place thereof the
3 following section:—

4 Section 2. Each school district shall determine annually, not later
5 than the first day of March, under regulations promulgated by the
6 department, the number of limited English proficient students within
7 their school system in grades kindergarten through 12. At the begin-
8 ning of any school year, the school committee shall establish a
9 policy requiring that the district offer at least 1 English language
10 learners program for all limited English proficient students. Every
11 school district shall assess, using uniform assessment instruments
12 prescribed by the department, the language dominance, level of Eng-
13 lish proficiency, and ability to perform regular education classroom
14 work in English of a newly enrolled student who may be of limited
15 English proficiency and the academic level of such student, for the
16 purpose of placing the student in an English language learners pro-
17 gram. Every limited English proficient student enrolled in a public
18 school system shall participate in an English language learners pro-
19 gram established by the school district in which the student resides,
20 unless the parents or legal guardian of the student decide otherwise
21 in accordance with Section 3. An English language learners program
22 shall consist of any of the following, or any combination thereof:—
23 transitional bilingual education, two-way bilingual education, struc-
24 tured English immersion, English as a second language, or other
25 innovative program designed to accelerate English language profi-
26 ciency approved by the department under Section 2A. No school dis-
27 trict with 20 or more limited English proficient students in any 1
28 language group may offer only English as a second language.

29 In any school district with 50 or more limited English proficient
30 students in any 1 language group at the elementary school level, the
31 school committee shall establish a policy requiring that the district
32 offer at least 2 full time English language learners programs for
33 those students. In any school district with 50 or more limited English
34 proficient students in any 1 language group at the middle school
35 level, the school committee shall establish a policy requiring that the
36 district offer at least 2 fulltime English language learners programs
37 for those students. In any school district with 50 or more limited
38 English proficient students in any 1 language group at the high
39 school level, the school committee shall establish a policy requiring

40 that the district offer at least 2 fulltime English language learners
41 programs for those students. The policy shall be consistent with the
42 school district's course enrollment standards. In determining the
43 types of English language learners programs to be offered, the policy
44 determination of the school committee shall reflect that strong con-
45 sideration was given to the programs requested by the parents or
46 legal guardians of limited English proficient students.

1 SECTION 6. Said Chapter 71A is hereby further amended by
2 inserting after Section 2 the following two sections:—

3 Section 2A. At least once every 3 years, each school district with
4 any limited English proficient students shall submit a district plan to
5 the commissioner for approval in accordance with regulations pro-
6 mulgated by the department. The office of language acquisition shall
7 make recommendations to the commissioner on whether any such
8 plan shall be approved. The district shall provide any limited English
9 proficient student with an appropriate English language learners pro-
10 gram to assist such student in becoming proficient in using the Eng-
11 lish language and to enable the student to participate effectively in
12 the district's regular or advanced educational programs and extracur-
13 ricular activities. To the extent practical, districts shall make avail-
14 able reasonable enrichment opportunities for interested limited
15 English proficient students, either during or outside the regular
16 school day, including, but not limited to, as part of an English lan-
17 guage learners program or through foreign language courses or after
18 school programs, to help them maintain their native language skills.
19 The district plan shall define and address all elements and goals of
20 the program or programs to be chosen by the district. Prior to devel-
21 oping a district plan, the district shall notify parents or legal
22 guardians of limited English proficient students within the district
23 that such a plan is being developed, and shall involve such parents or
24 legal guardians in the development and review of such plan.

25 In a school district with 20 or more limited English proficient stu-
26 dents in any 1 language group, the district plan shall include, but not
27 be limited to, the following:—

28 (1) A description of programs and services currently being pro-
29 vided by the district to limited English proficient students.

30 (2) A description of the range of English language learners pro-
31 grams and services the district will make available to all limited

32 English proficient students with a rationale for each option pro-
33 posed, and a justification for any proposed changes in existing pro-
34 grams and services.

35 (3) A description of the opportunities the district will make avail-
36 able to limited English proficient students for instruction in main-
37 taining or developing proficiency in their native language, including,
38 but not limited to, as part of an English language learners program or
39 through foreign language classes or after school programs.

40 (4) A description of how English language learners programs or
41 services will be provided to ensure that a student has the opportunity
42 to: — (a) become proficient in using the English language for oral
43 communication and literacy in English; (b) master curriculum con-
44 tent according to the district's curriculum guidelines, state academic
45 standards and curriculum frameworks; and (c) be able to participate
46 in the district's regular or advanced educational programs and
47 extracurricular activities.

48 (5) A description of the qualifications and certification status of
49 all staff who will provide English language learners programs and
50 services to limited English proficient students.

51 (6) A description of the uniform assessment instruments, pre-
52 scribed by the department, to be utilized by the district to determine
53 the language dominance, level of English proficiency and ability to
54 perform regular education classroom work in English of a newly
55 enrolled student who may be of limited English proficiency and the
56 academic level of such student, for the purpose of placing such stu-
57 dent in a program established under this chapter. Such description
58 shall include the qualifications of staff administering such assess-
59 ments.

60 (7) A description of how the student's oral comprehension,
61 speaking, reading and writing of English will be assessed annually
62 by qualified personnel, using uniform assessment instruments pre-
63 scribed by the department, and how these assessments will be used
64 in conjunction with other evaluation information to determine when
65 the student has achieved a level of English language proficiency that
66 will enable the student to perform regular education class work.

67 (8) A description of how the school district will evaluate the
68 effectiveness of English language learners programs and services
69 provided to limited English proficient students in terms of helping

70 such students attain English language proficiency and master acad-
71 emic standards and curriculum frameworks.

72 (9) A description of the measures that will be used to ensure that
73 former limited English proficient students in regular education class-
74 rooms have the opportunity to continue their progress in all areas of
75 the curriculum, including compliance with the academic standards
76 and curriculum frameworks.

77 (10) A description of the measures that will be used to ensure that
78 limited English proficient students whose parents or legal guardians
79 have chosen to enroll them in a regular education classroom and not
80 in an English language learners program will be provided the oppor-
81 tunity to continue to progress in all areas of the curriculum,
82 including compliance with the academic standards and curriculum
83 frameworks.

84 (11) A description of the training to be provided for all staff in
85 working with culturally and linguistically diverse student popula-
86 tions. Such description shall also include a staff development plan
87 that describes how the district will build capacity among all staff in
88 the school district to serve limited English proficient students.

89 (12) A description and documentation of how principals, teachers,
90 parents or legal guardians of limited English proficient students,
91 parent advisory councils and the general public were included in the
92 development and review of the district plan.

93 (13) A description of how parents or legal guardians of limited
94 English proficient students will be informed when it is determined
95 through assessments prescribed by the department that their child
96 can participate fully in the English language curriculum without
97 native language or other language support services.

98 (14) A description of how parents or legal guardians of limited
99 English proficient students will be provided the opportunity to con-
100 tinue to remain involved in English language learners programs.

101 In a school district with fewer than 20 limited English proficient
102 students in any 1 language group, the district plan shall include, but
103 not be limited to, the following:—

104 (1) A description of the programs and services currently being
105 provided by the district to limited English proficient students.

106 (2) A description of the range of English language learners pro-
107 grams and services the district will make available to all limited
108 English proficient students with a rationale for each option pro-

109 posed, and a justification for any proposed changes in existing pro-
110 grams and services.

111 (3) A description of the qualifications and certification status of
112 all staff who will provide English language learners programs and
113 services to limited English proficient students.

114 (4) A description of the uniform assessment instruments, pre-
115 scribed by the department, to be utilized by the district to determine
116 the language dominance, level of English proficiency, and ability to
117 perform regular education classroom work in English of a newly
118 enrolled student who may be of limited English proficiency and the
119 academic level of such student, for the purpose of placing such stu-
120 dent in an English language learners program. Such description shall
121 include the qualifications of staff administering such assessments.

122 (5) A description of how the student's oral comprehension,
123 speaking, reading and writing of English will be assessed annually
124 by qualified personnel, using uniform assessment instruments pre-
125 scribed by the department, and how these assessments will be used
126 in conjunction with other evaluation information to determine when
127 the student has achieved a level of English language proficiency that
128 will enable the student to perform regular education class work.

129 A district plan shall be valid for 3 years. In the third year, a school
130 district shall submit an updated district plan to the commissioner for
131 approval in the manner provided herein for submission of a district
132 plan. In addition to the requirements of this section for a district
133 plan, the updated district plan shall also include documentation evi-
134 dencing the academic outcomes for limited English proficient stu-
135 dents served under the prior district plan.

136 In a school district with 20 or more limited English proficient stu-
137 dents in any 1 language group, no district plan or updated district
138 plan shall be submitted to the commissioner until after a public
139 hearing, with due notice to interested parties, has been held on such
140 plan. The district shall make any such plan available for public
141 inspection at least 10 days prior to any public hearing. Due notice
142 shall include notification published in a newspaper of general circu-
143 lation in the district, and other reasonable steps to notify parents of
144 limited English proficient students within the district and other inter-
145 ested parties of such hearing, not less than 15 days prior to any such
146 hearing. Any such notification shall include a brief description of the
147 plan, the date, time and place of the hearing, and shall indicate the

148 place where the plan is available for public inspection. Notices to
149 parents or legal guardians of limited English proficient students
150 required by this section shall, to the maximum extent possible, be in
151 a language understandable by the parents or legal guardians.

152 If the commissioner determines that a district is not in compliance
153 with this section, or that a district plan cannot be approved as sub-
154 mitted, the office of language acquisition shall provide advice and
155 technical assistance to the district and shall set a date certain for the
156 submission of a revised district plan. Regulations promulgated by
157 the department to implement this chapter shall include, but not be
158 limited to, measures to deal with districts that fail to submit district
159 plans, or that submit district plans that the commissioner does not
160 approve.

161 The district shall send report cards and progress reports,
162 including, but not limited to, progress in becoming proficient in
163 using the English language, and other school communications to the
164 parents or legal guardians of students enrolled in English language
165 learners programs in the same manner and frequency as report cards
166 and progress reports of other students enrolled in the district. The
167 reports shall, to the maximum extent possible, be written in a lan-
168 guage understandable to the parents and legal guardians of such stu-
169 dents.

170 Limited English proficient students in any English language
171 learners program shall be taught to the same academic standards and
172 curriculum frameworks as all students, and shall be provided the
173 same opportunities to master such standards and frameworks as
174 other students. Districts shall regularly assess mastery of academic
175 standards and curriculum frameworks; provided, that such assess-
176 ments may be conducted in a language other than English so long as
177 the student remains in an English language learners program.

178 In order to encourage innovation and best practices, school dis-
179 tricts may develop innovative programs designed to accelerate Eng-
180 lish language proficiency. Any such program shall provide limited
181 English proficient students with the opportunity to develop oral
182 comprehension, speaking, reading, and writing of English and to
183 meet academic standards and curriculum frameworks.

184 Such programs may include, but not be limited to, modified bilin-
185 gual world language bilingual education. All such programs shall be
186 submitted to the department for review and approval. The office of

187 language acquisition shall review and make recommendations on all
188 such programs.

189 The office of educational quality and accountability shall conduct
190 onsite visits to school districts with approved district plans, estab-
191 lished under this section, at least once every 5 years for the purpose
192 of evaluating the effectiveness of such plan and to validate evidence
193 of educational outcomes.

194 The evaluation shall include, but not be limited to, a review of
195 individual student records of all limited English proficient students,
196 a review of the programs and services provided to limited English
197 students to determine if they are in accordance with the district plan,
198 and a review of the drop out rate of limited English proficient stu-
199 dents formerly enrolled in the district's English language learners
200 program or programs within the prior 3 years.

201 In the event a review and evaluation undertaken under this section
202 demonstrates that a district is substantially out of compliance with
203 the district plan, or is failing to adequately improve educational out-
204 comes for limited English proficient students enrolled in English
205 language learners programs, the commissioner may recommend to
206 the board of education that any school within the district be declared
207 underperforming under Sections 1J and 1K of Chapter 69.

208 Section 2B. School districts shall assess annually all limited Eng-
209 lish proficient students in the oral comprehension, speaking, reading,
210 and writing of English by means of English proficiency uniform
211 assessment instruments intended for limited English proficient stu-
212 dents, which have been prescribed by the department. Except as pro-
213 vided in this section, any limited English proficient student may
214 remain in an English language learners program for a period of 2
215 years, or until such time as the student achieves a level of English
216 language proficiency that will enable the student to perform success-
217 fully in classes in which instruction is given only in English as deter-
218 mined by scores on English proficiency assessments as set forth in
219 this section, whichever occurs first. Only full-day kindergarten shall
220 be counted toward the time limitations set forth in this section.
221 School districts shall develop an intensive English learning success
222 plan for any limited English proficient student whom the district
223 determines fails to achieve scores on English proficiency assess-
224 ments that, in the determination of the department, reflect sufficient
225 progress toward achieving English language proficiency following

226 the student's first year in any English language learners program.
227 Any such plan shall be developed with the participation and
228 approval of the student's parents or legal guardian. The plan shall
229 concentrate on the needs of the student to master English language
230 literacy skills and shall specify such instruction or services as inten-
231 sive English classes, intensive tutoring, after or before school pro-
232 grams, summer programs, literacy mentoring, and other academic
233 supports that will assist the student in the rapid acquisition of Eng-
234 lish necessary to access academic standards and curriculum frame-
235 works at grade level. Any student who fails to achieve scores on
236 English proficiency assessments that, in the determination of the
237 department, reflect sufficient proficiency that will enable the student
238 to perform successfully in classes in which instruction is given only
239 in English, may remain in such intensive plan for up to 1 additional
240 year, with the approval of the student's parents or legal guardian.

241 Any limited English proficient student enrolled in a two-way
242 bilingual education program who has achieved sufficient scores on
243 English proficiency assessments that, in the determination of the
244 department, reflect a level of English proficiency appropriate to the
245 student's grade level, may remain enrolled in such programs for
246 longer than 3 years.

247 If later evidence suggests, as determined by the school district,
248 that a limited English proficient student transferred from an English
249 language learners program to a regular education program prior to
250 his third year in such English language learners program is still dis-
251 advantaged by a lack of English proficiency and may benefit from
252 being reenrolled, under an intensive English learning success plan,
253 in an English language learners program offered by the district, such
254 student, with the approval of the student's parents or legal guardian,
255 may be so reenrolled for a length of time equal to that which
256 remained at the time he was transferred.

257 Nothing in this chapter shall be construed to prohibit, limit,
258 restrict or prevent, an educational agency, as defined in 20 U.S.C.
259 1720 from complying with the provisions of 20 U.S.C. 1703 (f).

260 In the event of any conflict between this chapter and an individual
261 educational plan developed for a school age child with a disability
262 under Chapter 71B, the provisions of such plan shall prevail.

1 SECTION 7. Said Chapter 71A, as so appearing, is hereby further
2 amended by striking out Section 3, and inserting in place thereof the
3 following section:—

4 Section 3. School districts shall notify, in writing, the parents or
5 legal guardian of a limited English proficient student of the English
6 language learners program that are available within the district, and
7 shall recommend a specific program for the student. Such notice
8 shall be sent by mail not later than 10 days after the enrollment of
9 the student in the school district. The notice shall contain a simple,
10 non technical description of the purposes, method and content of the
11 various programs, reasons for the school district's recommendation
12 of a specific program, and shall inform the parents or legal guardian
13 that they have the right to visit English language learners program
14 classes in the school district, and to come to the school for a confer-
15 ence to explain the nature of the various English language learners
16 programs. The notice shall further inform such parents or legal
17 guardian that they have the absolute right, if they so desire, to
18 choose any English language learners program for the student from
19 among those provided by the school district, to prevent the student
20 from being placed in an English language learners program, or to
21 withdraw the student from a program, in the manner as hereinafter
22 provided in this section. The notice shall also inform such parents or
23 legal guardian of the existence of any parent advisory council estab-
24 lished within the district under this section. Any such notice shall be
25 written in English and in the language of which the parents or legal
26 guardians so notified possesses a primary speaking ability.

27 In any case where a district recommends that a student be placed
28 in an English language learners program, the parents or legal
29 guardian of such student shall have the right, either at the time of the
30 original notification under this section, or at the close of any
31 marking period thereafter, to choose an English language learners
32 program for the student from among those provided by the school
33 district, to prevent the student from being placed in an English lan-
34 guage learners program, or to withdraw the student from such pro-
35 gram by sending written notice of such decision by mail to the
36 school authorities of the school district in which the student is
37 enrolled. Such written notice shall be sent not later than 10 school
38 days after receipt of the notice sent by the school district, under this
39 section. In the case of a student who is to be withdrawn from an

40 English language learners program, the written notice shall be sent
41 not later than 10 school days after the close of any marking period.

42 Each school district operating an English language learners pro-
43 gram or programs for 20 or more limited English proficient students
44 in any 1 language group shall establish a parent advisory council.
45 The parent advisory council shall be comprised of parents or legal
46 guardians of students who are enrolled in English language learners
47 programs within the district. Each parent advisory council shall have
48 at least 1 representative from every language group in which a pro-
49 gram is conducted in a given district. Membership shall be restricted
50 to parents or legal guardians of students enrolled in English lan-
51 guage learners programs within the district. The duties of the parent
52 advisory council shall include, but not be limited to, advising the
53 school district on matters that pertain to the education of students in
54 English language learners programs, meeting regularly with school
55 officials to participate in the planning, development, implementa-
56 tion, and evaluation of the district plan required by this chapter, and
57 to participate in the review of school improvement plans established
58 under Section 59C of Chapter 71 as they pertain to limited English
59 proficient students. Any parent advisory council may, at its request,
60 meet at least once annually with the school council. The parent advi-
61 sory council shall establish by-laws regarding officers and opera-
62 tional procedures. In the course of its duties under this section, the
63 parent advisory council shall receive assistance from the director of
64 English language learners programs for the district or other appro-
65 priate school personnel as designated by the superintendent.

1 SECTION 8. Said Chapter 71A, as so appearing, is hereby further
2 amended by striking out Section 4, and inserting in place thereof the
3 following section:—

4 Section 4. A school district may allow a nonresident limited Eng-
5 lish proficient student to enroll in or attend its English language
6 learners programs, and the tuition for such student shall be paid by
7 the school district in which the student resides.

8 Any school district may join with any other school district or dis-
9 tricts to provide English language learners programs required or per-
10 mitted by this chapter.

1 SECTION 9. Said Chapter 71A, as so appearing, is hereby further
2 amended by striking out Section 5, and inserting in place thereof the
3 following section:—

4 Section 5. In order to ensure daily opportunities for speaking Eng-
5 lish and for contact with English speaking peers, limited English
6 proficient students shall participate fully with their English-speaking
7 peers in those regular education classrooms, subjects or activities in
8 which verbalization in English is not essential to understanding,
9 including, but not necessarily limited to, homeroom, art, music,
10 physical education, recess and lunch. Each school district shall
11 ensure that limited English proficient students have practical and
12 meaningful opportunity to participate fully in the extra-curricular
13 activities of the regular education programs in the district.

14 English language learners programs shall be located, whenever
15 feasible, in the regular public schools of the district rather than sepa-
16 rate facilities.

17 Students enrolled in an English language learners program, when-
18 ever possible, shall be placed in classes with students of approxi-
19 mately the same age and level of educational attainment. If students
20 of different age groups or educational levels are combined, the
21 school district so combining shall ensure that the instruction given
22 each student is appropriate to the student's level of educational
23 attainment and the school district shall keep adequate records of the
24 educational level and progress of each student enrolled in a program.
25 The maximum student-teacher ratio and age span shall be set by the
26 department and shall reflect the unique educational needs of children
27 enrolled in English language learners programs.

1 SECTION 10. Said Chapter 71A, as so appearing, is hereby fur-
2 ther amended by striking out Section 6 and inserting in place thereof
3 the following section:—

4 Section 6. The commissioner shall grant certificates to teachers of
5 bilingual education or English as a second language under Section
6 38G of Chapter 71; provided, that teachers of structured English
7 immersion, or innovative programs approved by the department
8 under Section 2A shall be certified in bilingual education or English
9 as a second language. No person shall be eligible for employment by
10 a school district as a teacher of bilingual education, or English as a
11 second language, except as provided in this section, unless he has

12 been granted a certificate by the commissioner under said Section
13 38G with respect to the type of position for which he seeks employ-
14 ment. Nothing in this section shall be construed to prevent a school
15 committee from prescribing additional qualifications.

16 In cases of shortages of certified teachers of bilingual education
17 or English as a second language, as determined by the commis-
18 sioner, the commissioner may grant a waiver to a teacher of bilin-
19 gual education or English as a second language who is not certified
20 with respect to the type of position for which he seeks employment,
21 if he presents the commissioner with satisfactory evidence indicating
22 he:(1) possesses a speaking and reading ability in a language, other
23 than English, in which English language learners programs are
24 offered and is proficient in written and oral English; (2) is of sound
25 moral character; (3) possesses a bachelor's degree or earned a higher
26 academic degree; (4) meets such requirements as to courses of study,
27 semester hours therein, experience and training as may be required
28 by the board of education that will enable him to become a certified
29 teacher of bilingual education, or English as a second language in
30 the state; and(5) is legally present in the United States and possess
31 legal authorization for employment. Any waiver shall be subject to
32 annual renewal by the commissioner; provided, that the waiver may
33 be renewed not more than 4 times. In granting a waiver under this
34 section, the commissioner shall give preference to persons who have
35 been certified as teachers in their country or place of national origin.

1 SECTION 11. Said Chapter 71A, as so appearing, is hereby fur-
2 ther amended by striking out Section 7 and inserting in place thereof
3 the following section:—

4 Section 7. A school district may establish, on a full or part-time
5 basis, preschool or summer school English language learners pro-
6 grams for limited English proficient students or join with the other
7 school districts in establishing such preschool or summer programs.
8 Preschool or summer programs shall not substitute for English lan-
9 guage learners programs required to be provided during the regular
10 school year. A school district may establish after school programs to
11 assist limited English proficient students in developing and main-
12 taining native language proficiency.

1 SECTION 12. Notwithstanding any general or special law to the
2 contrary, each school district shall, within 5 years of the effective
3 date of this act, have at least 1 teacher who is certified in English as
4 a second language, bilingual education or other English language
5 learners program under Section 38G of Chapter 71 or regulations
6 promulgated thereto.

1 SECTION 13. Notwithstanding any general or special law to the
2 contrary, any school district with 200 or more limited English profi-
3 cient students enrolled in the school system that appoints a person to
4 be its director of English language learners programs shall appoint a
5 person who is certified in English as a second language, bilingual
6 education or other English language learners program under Section
7 38G of Chapter 71 or regulations promulgate thereto.

1 SECTION 14. Notwithstanding any general or special law to the
2 contrary, any limited English proficient student, as defined in
3 Section 1 of Chapter 71A of the General Laws, who was enrolled in
4 a public secondary school in the Commonwealth directly from a
5 country other than the United States of America, and who was
6 unable to achieve proficiency in the English language, as determined
7 by English proficiency assessments established under Section 2B of
8 said Chapter 71A, prior to leaving such public secondary school, to
9 the extent possible shall be given access to English language and lit-
10 eracy skill instruction courses offered through the adult basic educa-
11 tion program established under Section 1H of Chapter 69 of the
12 General Laws.

1 SECTION 15. Notwithstanding any general or special law to the
2 contrary, within 5 years of the effective date of this act, if the depart-
3 ment of education implements any foreign language requirement on
4 school districts, such requirement shall be mandatory for elementary
5 schools.

1 SECTION 16. Sections 1 and 17 shall take effect on January 1,
2 2008.

1 SECTION 17. Sections 2 through 16, inclusive, and 18 through
2 27, inclusive, shall take effect on July 1, 2008.