

603 CMR 14.00: EDUCATION OF ENGLISH LEARNERS

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14.01: Scope and Purpose

- (1) 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.
- (2) 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.
- (3) For purposes of 603 CMR 14.00, the term "school district" shall include charter schools and collaborative education programs; the term "superintendent" shall include charter school leaders and directors of collaborative education programs; the term "Department" shall mean the Department of Elementary and Secondary Education; and the term "Commissioner" shall mean the Commissioner of Elementary and Secondary Education or his or her designee.

14.02: Identification and Assessment of Students

- (1) Each school district shall establish procedures, in accordance with the Department 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 guidelines, to identify students who may no longer be English learners.

14.03: Census

- (1) Each school district shall report annually to the Department, 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 student's English proficiency level;
 - (d) the language in which the student possesses a primary speaking ability; and
 - (e) 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)(e), the school district shall specify whether the English learner is enrolled in a sheltered English immersion program or in an alternative instructional program as defined in M.G.L. c. 71A, § 4.

14.04: Placement of Students in English Learner Education Programs

- (1) Each school district shall provide a student who is an English learner with an appropriate English learner education through a sheltered English immersion program or an alternative instructional program that meets the requirements of federal and state law.
- (2) All English learner education programs must be research-based and include subject matter content and an English language acquisition component. Both sheltered English immersion and alternative instructional programs shall be based on best practices in the field and the linguistic and educational needs and demographic characteristics of English learners in the school district.
- (3) Each school district shall commence language assistance services upon a student's identification as an English learner.
- (4) By January 1st, each school district that intends to offer a new sheltered English immersion program or alternative instructional program in the next academic year shall submit to the Department and the school district's English learner parent advisory council a description of:
 - (a) the new instructional program selected, its objectives, and research basis as it relates to the student population to be served;
 - (b) how the new program will meet the needs of the student population to be served as compared to any existing program;
 - (c) the resources the district intends to dedicate to effective implementation and ongoing operation of the new program, including the number and expected qualifications of the program's educators;
 - (d) the student population to be served, including the number of students, their grade level, native language, and English proficiency levels;
 - (e) any current English learner program(s), including data concerning its impact on student learning and English language acquisition;
 - (f) how the school district intends to measure and evaluate program success over time; and
 - (g) any other information requested by the Department.
- (5) The Department shall review the information submitted by the school district pursuant to 603 CMR 14.04(4). If the Department finds that a current or proposed English learner education program fails to meet the requirements of federal or state law, it shall notify the school district in writing within 90 days of receiving the information submitted pursuant to 603 CMR 14.04(4). The notice shall cite the requirements with which the program would not comply and include corrective steps that the school district shall take to bring the program into compliance. The school district shall have 30 days to submit a revised proposal that incorporates such corrective steps. The Department shall review the revised proposal to determine if the school district has incorporated the corrective steps identified by the Department, and shall notify the school district in writing if it may commence a proposed English learner education program with or without conditions. A school district that was required to take corrective steps shall not commence a proposed English learner education program unless it has received written notification from the Department that it may do so.
- (6) A request by a student's parent or guardian to enroll the student in or transfer the student into a specific English learner education program offered by the school district shall be reviewed by the superintendent or the superintendent's designee. The school district shall respond to such requests in no more than 20 school days after receipt of the request.
- (7) A parent or guardian of an English learner may withdraw the student from an English learner education program in accordance with state and federal law.

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

- (1) School district superintendents shall provide annually to the Department 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:

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- (a) possesses a teaching license issued pursuant to M.G.L. c. 71, § 38G;
 - (b) possesses a vocational teacher approval or a vocational technical educator license;
 - (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;
 - (b) an interview and assessment by the teacher's supervisor, principal, or superintendent;
 - (c) the teacher's demonstration of fluency in English through a test accepted by the Commissioner; or
 - (d) another method determined by the superintendent and accepted by the Commissioner.

14.06: Parental Right of Enforcement

- (1) The parent or 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.
- (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 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.

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(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 investigation of the complaint. Within 30 calendar days of the date of the complaint, the Commissioner or his or her 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 and 603 CMR 14.07.

(2) Individuals who were assigned to a cohort by the Department in each of the years from July 1, 2012 through June 30, 2016 and who failed 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) As of 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) As of 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.

14.08: Career Vocational Technical Teachers and Administrators

(1) Career vocational technical teachers who provide sheltered English instruction to English learners in school districts, including charter schools, education collaboratives, agricultural high schools, and regional vocational technical school districts, must earn an SEI Teacher Endorsement as set forth in 603 CMR 4.00: *Vocational Technical Education*, 603 CMR 7.00: *Educator Licensure and Preparation Program Approval* and 603 CMR 14.08. 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 4.00, 603 CMR 7.00 and 603 CMR 14.08.

(2) The cohort of all career vocational technical teachers who instructed English learners during the 2017-2018 school year, and principals, assistant principals, and supervisors/directors who supervised or evaluated such teachers, must earn the appropriate SEI Endorsement by July 1, 2021. Members of the cohort who fail to earn an SEI endorsement by July 1, 2021 shall not be eligible to advance or renew their license under 603 CMR 4.00: *Vocational Technical Education*, 603 CMR 7.00: *Educator Licensure and Preparation Program Approval* and 603 CMR 44.00: *Educator License Renewal*, until such members earn an SEI endorsement; provided however, upon a showing of hardship, the Department may grant a member of the cohort an extension of time beyond July 1, 2021. Hardship shall consist of serious illness or injury, or other circumstances that are beyond the control of the individual and impede the individual's ability to complete the requirements for an SEI endorsement.

(3) Starting on July 1, 2021, any career vocational technical teacher who is assigned to provide sheltered English instruction to an English learner shall either hold the 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 career vocational technical education teacher who has a year to obtain the SEI Teacher Endorsement shall take all reasonable steps to ensure that such English learner is assigned to career vocational technical teachers with the SEI Teacher Endorsement in subsequent school years.

(4) Starting on July 1, 2021, no principal, assistant principal, or supervisor/director shall supervise or evaluate a career vocational technical teacher who provides sheltered English instruction to an English learner, unless such principal, assistant principal, or supervisor/director holds the SEI Teacher Endorsement or the 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 14.08, "career vocational technical teacher" shall mean a teacher of a career vocational technical subject in a career vocational technical education program at the secondary level; "career vocational technical education program" shall include programs approved under M.G.L. c. 74; programs that meet the definition of career and technical education listed in the Carl D. Perkins Career and Technical Education Improvement Act of 2006, 20 U.S.C. § 2302(5); and any other programs that may be designated by the Commissioner; "career vocational technical subjects" shall include automotive technology, carpentry, culinary arts, engineering, exploratory, masonry, information technology, and any other subjects listed by the Department in guidance.

14.09: English Learner Parent Advisory Councils

(1) Each school district serving 100 or more English learners or in which English learners comprise at least 5% of the student population, whichever is less, shall establish an English learner parent advisory council in accordance with M.G.L. c. 71A, § 6A. Nothing in 603 CMR 14.09 shall prevent any other school district or charter school from creating an English learner parent advisory council if it chooses to do so.

(2) Each school designated as underperforming or chronically underperforming and operating a program for English learners shall establish an English learner parent advisory council in accordance with M.G.L. c. 69, § 1J(x).

(3) A school district or school required to establish an English learner parent advisory council shall annually notify parents and guardians of English learners of the opportunity to participate in the council and shall provide the notification in a language that the parent or guardian can understand.

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(4) All parents and guardians of English learners who volunteer to participate in the English learner parent advisory council shall be appointed to the council by the superintendent or the superintendent's designee. Nothing in 603 CMR 14.09 shall prevent a school district from recruiting volunteer parents and guardians of English learners to participate in the English learner parent advisory council.

(5) The duties of the English learner parent advisory council shall include those listed in M.G.L. c. 71A, § 6A and any other duties as may be identified by the school district consistent with guidance from the Department. English learner parent advisory councils shall carry out their duties in accordance with state law and guidelines established by the Department. An English learner parent advisory council shall establish bylaws regarding officers and operational procedures. The school district shall, without charge, and upon reasonable notice and consistent with the availability of staff and resources, assist the English learner parent advisory council in carrying out its duties.

REGULATORY AUTHORITY

603 CMR 14.00: M.G.L. c. 69, § 1B; c. 69, §§ 1J and 1K, as amended by St. 2010, c. 12, § 3; c. 71, § 38G; c. 71A, as amended by St. 2017, c. 138.

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