

To: Indiana Local Education Agencies

From: Dr. Jennifer McCormick, Superintendent of Public Instruction
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Date: August 9, 2019

Subject: English Learner Program Staffing

The passage of the *Every Student Succeeds Act* (ESSA) in 2015 provided new clarity for state and local education agencies on their responsibilities and requirements for serving English learners (ELs) in public schools, building on the previously-established legal standards for ELs established by Title VI of the Civil Rights Act of 1964, *Lau v. Nichols* (1974), and *Castañeda v. Pickard* (1981). In response to ESSA and its increased spotlight on ELs, the Indiana Department of Education (IDOE) conducted an internal review of its practices to ensure compliance with ESSA, Title VI of Civil Rights Act of 1964, and the Equal Educational Opportunities Act (EEOA) and to fulfill its responsibility to ensure that all LEAs meet their federal requirements to properly identify, assess, and support English learners through an effective English language development program. As part of this review, IDOE releases this memorandum as a renewed commitment to guide and support LEAs in EL program staffing. Properly certified English learner teachers, in sufficient quantity, are a must in order to meet the needs of Indiana's diverse learners.

In January 2015, the U.S. Departments of Justice and Education jointly released a [Dear Colleague Letter](#) with policy guidance on EL program staffing in compliance with civil rights law. The Dear Colleague Letter emphasized local education agencies' obligation to provide "the personnel and resources necessary to effectively implement their chosen EL programs" and further clarified, "Where formal qualifications have been established, e.g., the SEA requires authorization or certification to teach in particular EL programs, or a school district generally requires its teachers in other subjects to meet formal requirements, a school district must either hire teachers who already have the necessary formal qualifications to teach EL students or require that teachers already on staff be trained or work towards attaining the necessary formal qualifications and obtain the formal qualifications within a reasonable period of time." In other words, since Indiana requires formal qualifications for 4th grade teachers, middle school science teachers, high school English teachers, and all other various subjects, it must also ensure that we have properly certified English learner teachers for all English learners, whether a school has one English learner or hundreds.

According to a 2012 national evaluation of Title III implementation by the U.S. Department of Education, Indiana was one of nine states not requiring EL licensure. While Indiana does have a formal qualification for EL teachers--the English As a New Language (ENL) Professional Educator License--EL teacher licensure has been required variably across Indiana schools and EL programs. Not only would changing this requirement align us with other states, but we would finally be working to attain compliance with civil rights law. Currently Indiana schools staff their EL programs at an average of 83 students to 1 ENL-licensed teacher (83:1). Nearly half of Indiana's local education agencies reported having zero ENL-licensed teachers on staff during the 2018-2019 school year while more than 90% of Indiana LEAs reported having at least one English learner enrolled. Of the 1,259 ENL-licensed teachers working in Indiana LEAs this year, over half of them are concentrated in fifteen LEAs. In light of the recently-clarified legislation and policy guidance from the U.S. Department of Education, IDOE is issuing additional guidance for Indiana schools regarding requirements for EL program staffing.

Every English learner enrolled in an Indiana local education agency is entitled to receive English language instruction via an ENL-certified teacher who acts as the "EL Teacher of Record." While this position may look different across various local contexts, IDOE has defined minimum expected [responsibilities](#) for the EL Teacher of Record to assist local education agencies as they ensure local compliance with federal requirements. It is important to note that recent Office of Civil Rights findings have cited that all English learner students are required to receive English language development services at least 30-45 minutes per day, 4-5 days a week in frequency and duration beyond standard English Language Arts instruction. *Castañeda v. Pickard* (1981) established additional expectations for LEAs as they implement their federally-required English language development programs, clarifying that these programs must be resourced and staffed in a way "reasonably calculated to implement effectively." Where too few ENL-licensed teachers are asked to oversee English language development for an unreasonably large caseload of students, a local education agency fails to meet its federal requirements under *Castañeda*. To comply with this requirement and to ensure EL Teachers of Record are able to effectively carry out their responsibilities, IDOE recommends that the EL Teacher of Record caseload not exceed thirty English learners.

IDOE has an obligation to ensure that all local education agencies comply with the federal civil rights requirements, and will begin implementing the clarified expectations on EL teacher qualifications effective immediately. Local education agencies will submit their plan to ensure every English learner receives English language instruction via an ENL-certified EL Teacher of Record beginning with the 2019-2020 school year as part of the English learner (Lau) Plan. In cases where no ENL-certified teacher is employed by the local education agency or

where the ENL-certified EL Teacher of Record has an unreasonably large caseload, the LEA will report its plan to comply with the federal requirements to ensure teachers attain ENL licensure within a reasonable period of time--defined by federal guidance as no more than two years.

Because of the wide variance in EL program staffing across the state, IDOE has chosen to honor the experience of EL teachers who have been teaching and leading effectively in EL programs and meet certain additional requirements. Certified teachers who do not currently hold a valid ENL license but meet these additional requirements may either enroll in coursework as part of an approved educator preparation program for the Indiana ENL license or demonstrate their proficiency by fulfilling the requirements of the [EL Teacher of Record Rubric](#) as verified locally by an LEA administrator.

Local education agencies may fund coursework and professional learning for their teachers through Title I, A, Title II, Title III, the Non-English Speaking Program (NESP), or other federal, state, and local funding streams. IDOE will provide additional financial support and technical assistance for Indiana schools as they implement these clarified expectations throughout the 2019-2020 school year and beyond.

Additional Supporting Resources

The following additional resources can be found on the [IDOE English Learner Policy and Guidance webpage](#):

Meeting Indiana English Learner (EL) Teacher of Record Requirements

EL Teacher of Record Responsibilities

EL Teacher of Record Reporting

EL Teacher of Record FAQ

Meeting English Learner Teacher of Record Requirements

Every English learner (EL) is entitled to receive English language development instruction via a qualified teacher who acts as the “EL Teacher of Record.” In order to ensure compliance while valuing the experience and expertise of educators who serve ELs but do not yet hold their English as a New Language (ENL) Professional Educator License, IDOE has developed the following rubric to document the alternate qualifications of EL teachers who do not currently hold an ENL Professional Educator License.

In order to meet Indiana requirements to serve as an EL Teacher of Record, the candidate must meet at least one of these criteria:

- 1) The candidate holds a valid Indiana English as a New Language (ENL) Professional Educator License; **or**
- 2) The candidate meets the requirements of the Indiana EL Teacher of Record Rubric (as reviewed and verified by an LEA administrator), as detailed below, on or before September 1, 2022.

To be eligible to serve as an EL Teacher of Record under the Rubric, the candidate must meet the following prerequisites:

- The candidate holds an Indiana Professional Educator License with an initial issue date on or before September 1, 2019.
- The candidate has at least one year of P-12 teaching experience in or out of state.
- The candidate has a letter of recommendation from a supervising administrator.

A candidate who meets the above prerequisites may meet the requirements of the EL Teacher of Record Rubric by attaining a total of at least one hundred points on the attached rubric, with a minimum of fifteen points earned through second language acquisition coursework. The candidate and the local education agency are responsible for ensuring compliance with these requirements and maintaining documentation as part of local records.

Indiana EL Teacher of Record Rubric

Indicator	Description	Example Evidence	Calculation	Points
Second Language Acquisition Coursework	Undergraduate or graduate level content specific coursework in second language acquisition from an Accredited Institution. <i>Coursework must be part of an educator preparation track leading to ENL licensure.</i>	Transcripts from an Accredited Institution of Higher Education	15 points for each 3-credit hour course <i>Minimum of 15 points <u>must</u> come from this category</i>	
Years of Teaching Experience serving as the EL Teacher	The total number of years the teacher has provided/overseen direct English language development instruction to English learners with an educator rating of effective or higher.	Verification by local administrator(s) And/or Educator’s verified licensure renewal forms	10 points for each year providing/overseeing direct English language development instruction to English learners. <i>Maximum of 70 points may come from this category</i>	
Professional Development Activities	Professional Development activities that are specific to English learner students: <ul style="list-style-type: none"> • Attendance/presentation at a regional, state, or national professional conferences/seminars/workshops • WIDA trainings/webinars (other than required assessment administration trainings) 	Certificate of completion issued by the provider or LEA And/or Verification and review by the LEA	1 point for each professional growth point awarded <i>Maximum of 50 points may come from this category</i>	



Dr. Jennifer McCormick
Superintendent of Public Instruction

DEPARTMENT OF EDUCATION

Working Together for Student Success

	<ul style="list-style-type: none">Local workshops, seminars, or professional learning communities with a targeted EL focus (verified by LEA)			
A total of 100 points , including at least 15 points through coursework , are required to meet these requirements.				
Candidate Name:		Total Points:		
Candidate Signature:		Date:		
Verifying Local Education Agency:				
Administrator Name:		Administrator Title:		
Administrator Signature:		Date:		

English Learner Teacher of Record FAQ

The following are frequently asked questions regarding the English Learner Teacher of Record (ToR) requirements. Please review the initial memo and accompanying guidance (Meeting EL ToR Requirements; EL ToR Responsibilities; EL ToR Reporting) for in-depth information.

It is important to note that recent Office of Civil Rights findings have cited that all English learner students are required to receive English language development services at least 30-45 minutes per day, 4-5 days a week in frequency and duration beyond standard English Language Arts instruction. To learn more about federal requirements for English learners, please see the [IDOE EL Guidebook](#), and the video modules of [EL101](#).

General FAQ:

1) My district does not have any English Learners, what are my requirements?

The local education agency (LEA) needs to ensure it has a plan to serve future English learners (ELs) that may enroll in the district through a qualified EL teacher. Per Section 1112 of ESSA, an LEA must enroll an identified English learner in EL services within 30 days of the beginning of the school year, or within 2 weeks if enrolling during the middle of the year. Since over 90% of all Indiana LEAs have at least one EL enrolled, a district or charter with zero current ELs is highly likely to receive an EL in the near future. An LEA with zero currently enrolled ELs must not wait to identify at least one teacher in the district to meet the EL ToR requirements, as the timelines above will not be reasonably met if the LEA waits to develop a service delivery plan after an EL enrolls.

2) An EL ToR for our district has left mid-school year. What are our obligations and options?

The LEA must provide evidence that they have taken action to replace the position with a qualified EL Teacher of Record within a reasonable period of time, just like the LEA would if a 4th grade teacher or a high school math teacher left. Even with a small number of identified ELs, the LEA should maintain two or more teachers who are qualified to serve as the EL ToR to ensure that services are continued in an appropriate manner while replacement staff are hired.

3) A classroom teacher was previously providing English Language Development via a Sheltered Instruction model after being properly trained (i.e. the SIOP model). Is this no longer valid?

This teacher may continue to provide English language development instruction, but can not serve as the teacher of record unless the qualifications of the ENL license or rubric are met. Although in-service training for classroom teachers of ELs, such as through the sheltered instruction model, are beneficial to provide in order to better meet the students' needs, this training alone does not compare to the rigor required of full ENL licensure.

4) All of the EL teachers in the district had been previously considered qualified by receiving ongoing professional development in language acquisition. What type of flexibility do we have in transitioning to the new requirements?

The state maintains ENL licensure, with program coursework and teacher licensure exams, that meet the definition of "sufficient frequency and duration." A district by district decision about the training needed to serve ELs would vary greatly, which is why LEAs need to rely upon the state licensure requirements like all other areas that have certification.

5) I have one qualified EL ToR in my building, and other EL teachers who do not meet the requirement. Can the one qualified EL ToR oversee the other EL teachers without those teachers also having to meet the EL ToR requirements?

In order to comply with requirements under *Castañeda v. Pickard* (1981), requiring that EL programs be staffed in a way "reasonably calculated to implement effectively," IDOE recommends that the EL Teacher of Record caseload not exceed thirty English learners. The other EL teachers should begin working towards attaining ENL licensure or meeting the requirements of the Indiana EL Teacher of Record Rubric to ensure compliance. In the meantime, the qualified ToR may collaborate with those teachers in order to ensure that all students are receiving proper ELD instruction in compliance with federal civil rights law.

6) My LEA has a very low EL population; the neighboring LEA also has a very low EL population. Could we share one EL ToR to provide services?

If the EL ToR can meet all the requirements under IDOE's [English Learner Teacher of Record Responsibilities](#) *Castañeda v. Pickard* (1981) for all students at both LEAs, then the teacher may be split across more than one LEA serving as the EL ToR. Two or more LEAs may wish to

develop a cooperative agreement to share the costs of providing the EL ToR when the incidence rate in each district is very low, similar to how LEAs share costs related to the provision of special education services. However, each EL still must be provided with robust services, so the sharing of cost should not greatly diminish the rate in which services are provided (e.g. at least 30 minutes per day, 4-5 days a week of English language development for all English learners).

EL ToR Rubric FAQ:

7) What universities offer the appropriate coursework to complete EL ToR Rubric?

The IDOE Division of Licensing maintains a list of all [approved educator preparation programs](#) in the state, which includes those offering coursework required to attain the Indiana English as a New Language Professional Educator License. IDOE intends to release a Request for Proposal (RFP) to partner with Institution(s) of Higher Education to help offset the cost of coursework for educators working toward attaining licensure or meeting the Second Language Acquisition Coursework Indicator on the EL ToR Rubric.

8) How long do I have to complete the required coursework to meet the requirements of the EL ToR Rubric and remain in compliance?

All requirements of the EL Teacher of Record Rubric must be met and documented by the educator and a supervising administrator on or before September 1, 2022. After meeting the requirements of the EL ToR Rubric, an educator who maintains a valid Indiana Professional Educator License will remain qualified to act as EL Teacher of Record.

9) When do I need to start collecting and reporting evidence of progress of the EL ToR Rubric?

The IDOE will require that the LEAs submit evidence of candidate EL ToRs completing the EL ToR Rubric by September 2020. The evidence will be submitted on the LEA's Lau plan, which is annually submitted to IDOE to describe the LEA's service delivery model for EL services.

10) Do years as an EL teacher in another state count toward the EL ToR Rubric?

Yes, years of experience as an EL teacher in another state count toward the "Years of Teaching Experience serving as the EL Teacher" Indicator on the EL ToR Rubric.

ENL Licensure FAQ

11) What are the requirements to earn an ENL license?

The requirements vary by university, but the state requires ENL candidates to complete the ENL coursework and pass the licensure exam in ENL in order to become certified.

12) What universities offer the appropriate coursework to complete ENL licensure?

The IDOE Division of Licensing maintains a list of all [approved educator preparation programs](#) in the state, which includes those offering coursework required to attain the Indiana English as a New Language Professional Educator License.

13) I have just enrolled in coursework to attain ENL licensure. How long do I have to complete the coursework while also remaining in compliance?

The EL ToR must either have ENL licensure or meet the requirements of the rubric on or before September 1, 2022. If the teacher does not meet either by that date, then the individual must apply for an emergency license for ENL through the IDOE, and make appropriate progress each year of the emergency license in order to renew it (e.g. two ENL classes, or sit for the ENL exam) in order to serve as the EL ToR.

14) How can a district/school fund this coursework?

LEAs may be able to use Title IA, IIA, IIIA, IVA, and Non-English Speaking Program (NESP) funds to support teachers in completing coursework. IDOE intends to release a Request for Proposals (RFP) to partner with an Institution of Higher Education to help offset the cost of coursework for educators working toward attaining licensure or meeting the Second Language Acquisition Coursework Indicator on the EL ToR Rubric. The time and effort to provide the English language development services, including the cost of the EL teacher(s), must still be funded through local or state funding, such as tuition support and NESP.

15) What if my EL teacher has a valid ENL license or an equivalent from another state?

Indiana maintains reciprocity with several other states, in which IDOE honors other states' licensure requirements if they are similar to Indiana's requirements. For more information, visit here: <https://www.doe.in.gov/licensing/teacher>.