



Washington Office of Superintendent of
PUBLIC INSTRUCTION

*Washington State
Multilingual Learners:
Policies and Practice Guide*

2023

CHAPTER 1: BASIC REQUIREMENTS

Washington State serves approximately 145,000 students identified as multilingual learners. Districts implement transitional bilingual instruction programs– also called English language development programs - guided by state and federal laws, policies, sound educational theory, and effective, culturally responsive instructional practices. The OSPI Multilingual Education Program has compiled this guide over time and in conjunction with stakeholders, which outlines the policies and practices for all district transitional bilingual instruction programs.

Providing services for Multilingual Learners (MLs) is a basic education requirement under Civil Rights law and includes the following required elements:

- Appropriate identification, screening, notification, and reporting practices
- Meaningful access to all content instruction provided by a trained and supported teachers
- Designated English language development (ELD) which is planned and delivered by a teacher with appropriate knowledge, skills, and expertise in language acquisition and instructional methods for teaching MLs.

OSPI offers several supplemental grant opportunities to support the work of implementing a robust and effective TBIP which are listed in the table below.

Opportunity	Opens	Description
TBIP (FP 219 in EGMS)	May	LEAs with any number of MLs apply annually. Funding is distributed through apportionment. No carryover allowed.
Title III (Consolidated Grant Application in EGMS)	May/June	Includes all Federal Title Programs. Funding is distributed through claims process. Title III funds are supplemental to Basic Ed and TBIP funds. Carryover allowed.
Title III Consortium (FP 231 in EGMS)	May/June	Districts qualifying for less than \$10,000 in Title III can join a consortium with other districts. One district serves as the lead. Members must meet and negotiate an agreement for the use of funds. Funding is distributed to the lead district through claims process.
Dual & Heritage (FP 978, 979 in iGrants)	Sept./Oct.	The purpose of these grant programs is to provide seed funds to build capacity for effective, sustainable K–12 dual and heritage language programs.
Tribal (FP 748 in iGrants)	August	The purpose of these grant programs is to provide seed funds to build capacity for effective, sustainable K–12 Tribal language programs.

Program Review and Support (PRS)

Beginning with the 2023–24 school year, Consolidated Program Review (CPR) is now named Program Review & Support (PRS). This process continues the oversight of federal and state programs. The name change reflects the partnership between OSPI and Local Education Agencies (LEAs) that focuses on student outcomes.

Program Support Assessment

In previous years, OSPI used a regional selection process to identify LEAs to participate in the Program Review. Going forward, OSPI will select LEAs to participate in a review based solely on the score an LEA receives from the Program Support Assessment. LEAs who score the highest are selected to take part in the Program Review process.

The annual assessment includes data related to federal ESEA and state programs. The following components for Multilingual Education are included in the Program Support Assessment:

- 7.1** Identification and Notification Procedures for Multilingual Learners
- 7.2** Staff Qualifications
- 7.3** English Language Development Services
- 7.4** Professional Learning
- 7.5** Use of TBIP Funds
- 7.6** Program Evaluation
- 7.7** Family and Community Engagement
- 7.8** Monitoring of Exited MLs
- 7.9** Title III Funded Language and Literacy Services
- 7.10** Use of Title III Funds and Supplemental ML program
- 7.11** Immigrant Grant
- 7.12** Dual Language and Heritage Language Grants

LEA Selection for Program Review

LEAs are selected for Program Review based on the Program Review Assessment and on the following data, which are weighted, highest to lowest, in the following order:

1. Last time the LEA participated in Program Review (or CPR)
2. Sum of federal Elementary and Secondary School Emergency Relief (ESSER) funds
3. Sum of federal funds
4. Percentage of schools identified for supports as part of the Washington State Improvement Framework (WSIF)
5. ESEA and state program data
6. Items not fully implemented in previous Program Review (or CPR)

Charter Schools and State Tribal Education Compact Schools

In addition to being included in the annual Program Support Assessment, charter schools and State-Tribal Education Compact Schools are selected by way of a modified selection process:

- In the second year of operation or participation, the school is selected to participate in a Limited Review.
- A Full Review occurs in their fourth year.
- Starting the sixth year and beyond, their selection is based solely on the annual Program Support Assessment.

LEAs selected to participate in Program Review are notified in July. The list of selected LEAs will be available on this webpage in the resources section above.

Federal Definitions

Multilingual Learner

A student who:

- A. is aged 3 through 21;
- B. is enrolled or preparing to enroll in an elementary school or secondary school;
- C. (i) was not born in the United States or whose native language is a language other than English;
(ii)(I) is a Native American or Alaska Native, or a native resident of the outlying areas;
and
(II) comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant and whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual
 - (i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);
 - (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
 - (iii) the opportunity to participate fully in society.

Immigrant Children and Youth

Definition of Immigrant Children and Youth under Title III (ESEA Title III, Sec. 3201(5))



The term “immigrant children and youth” refers to individuals who:

- Are aged 3 through 21.
- Were not born in any state. “State” means the 50 states, the District of Columbia, and the Commonwealth of Puerto Rico (Section 3127 of ESEA). Children born to U.S. citizens abroad (e.g., children born on a military base overseas) may be considered immigrants if they meet all the criteria in the definition of immigrant.
- Have not been attending one or more schools in any one or more states for more than 3 full academic years. A full academic year is 10 months of school attendance, kindergarten through 12th grade. If a student has been in different schools in different school districts and even in different states, the number of months that the student has been in school in any one or more states must not add up to a total of more than 3 full academic years.

Federal Laws & Cases

Elementary and Secondary Education Act

[Title III, Part A](#) – The Language Instruction for Limited English Proficient and Immigrant Students purpose is to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging state academic content and student academic achievement standards as all children are expected to meet. This statement of purpose is explained in greater detail in [Section 3102](#).

Castañeda v. Pickard

English language development instruction must be designed to meet individual needs for sustained progress toward reaching English proficiency in the least amount of time (*Castañeda v. Pickard*, 1981, U.S. Court of Appeals). The Castañeda framework provides a three-pronged test to guide districts in designing, evaluating, and improving their English language development program for multilingual learners:

- Program design must be based on sound educational theory and/or high-quality research findings.
- Program must be sufficiently staffed and funded.
- District must evaluate the effectiveness of the services provided and make adjustments to ensure students are achieving language proficiency and academic success.

Lau v. Nichols

Eligible multilingual learners must be provided appropriate supports for meaningful access to rigorous content (Lau v. Nichols, 1974, U.S. Supreme Court).

Plyler v. Doe

The U.S. Supreme Court ruled in Plyler v. Doe (457 U.S. 202 (1982)) that undocumented children and young adults have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents. Like other children, undocumented students are obliged under state law to attend school until they reach a mandated age.

Federal Guidance & Supportive Documents

The following documents provide federal guidance for Title III programs:

[Non-Regulatory Guidance: English Learners and Title III of the Elementary and Secondary Education Act \(ESEA\), as amended by the Every Student Succeeds Act \(ESSA\)](#) - The US Education Department issued this guidance to provide States and local educational agencies (LEAs) with information to assist them in meeting their obligations under Title III of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Every Student Succeeds Act of 2015 (ESSA). This guidance also provides members of the public with information about their rights under this law and other relevant laws and regulations.

[2015 Dear Colleague Letter - Joint Guidance from the U.S. Departments of Education and Justice](#)
The Departments (The Office for Civil Rights at the U.S. Department of Education and the Civil Rights Division at the U.S. Department of Justice) issued joint guidance to assist State Education Agencies (SEAs), school districts, and all public schools in meeting their legal obligations to ensure that EL students can participate meaningfully and equally in educational programs and services. This guidance provides an outline of the legal obligations of SEAs and school districts to EL students under the civil rights laws.

The U.S. Department of Education created [Fact sheets in English](#) and [Fact Sheets in Other Languages](#) to provide an overview of the guidance provided in the Dear Colleague Letter.

Guidelines for private school participation in federal programs are outlined in the following:

- [Private School Participation in Federal Programs](#)
- [Elementary and Secondary Education Act, Title XIII, Part F, Secs. 8501-8506](#)
- [Office of Non-Public Education Non-Regulatory Guidance: Title IX, Part E, Uniform Provisions Subpart 1 - Private Schools](#)
- [Non-Regulatory Guidance: Equitable Service Requirements Under Title VIII](#)
- [EDGAR 34 CFR 76](#). See parts 76 and 80.

Washington State Definition and Laws

Washington State Definition Multilingual Learners

A student who meets the following two conditions is eligible for the Transitional Bilingual Instructional Program:

- The primary language of the student is other than English; and
- The student's English skills impact student's access to core content instruction.

Washington State defines "primary language" as the language most often used by a student (not necessarily by parents, guardians, or others) for communication in the student's place of residence or the language that the student first learned.

Washington State Law - RCW and WAC

[RCW 28A.150.220: Basic education—Minimum instructional requirements—Program accessibility—Rules](#) - Defines basic education requirements for every school district, which includes supplemental instruction and services for eligible and exited multilingual learners through the TBIP.

Chapter 28A.180 RCW - Transitional Bilingual Instructional Program

Washington's Basic Education Act includes this statute that provides the mandate for transitional bilingual education programs in public schools.

Chapter 392-160 WAC - Transitional Bilingual Instructional Program

State regulations that direct the administration of the Transitional Bilingual Instructional Program.