



# **Illinois State Board of Education**

**March, 2011**

**Guidance Document**

## **Section 228.27 Plan for Language Support Services**

*This document is intended to provide non-regulatory guidance on the subject matter listed above.  
For specific questions, please contact the person(s) identified in the document.*

Dr. Christopher Koch, State Superintendent

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## **Questions and Answers Regarding a Section 228.27 Plan For Language Support Services**

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### **Section 228.27 Language Acquisition Services for Certain Students Exiting the Program**

In accordance with Section 1703(f) of the Equal Educational Opportunities Act (EEOA), a school district must provide services that will enable limited English proficient [**LEP**]<sup>1</sup> students to "overcome barriers that impede equal participation by these students in the district's instructional programs" (see 20 USC 1703). Section 14C-3 of the School Code, however, authorizes school districts to discontinue services to students who have been enrolled and participated in the TBE or TPI program for three consecutive years. In instances where a school district chooses to discontinue TBE or TPI program services as permitted under Section 14C-3 of the School Code for those students who have not achieved English proficiency as determined by the process set forth in Section 228.25(b) of this Part, the district shall submit a plan to the State Superintendent that describes the actions it will take to meet its obligations under Section 1703(f) of the EEOA. Any amendments to the plan shall be submitted to the State Superintendent no later than 30 days following adoption of the changes. The plan shall at least include:

- a) the process and criteria the district will use to make a determination of when to exit eligible students from the TBE or TPI program (e.g., after a certain amount of time in the program, once a prescribed academic or proficiency level is achieved);
- b) The language acquisition services and methods to be provided, including how the services and methods differ from the general program of instruction in content, instructional goals, and the use of English and home language instruction;
- c) How the program will meet the educational needs of the students and build on their academic strengths;
- d) How the program will specifically help the students learn English and meet academic achievement standards for grade promotion and graduation;
- e) The names and qualifications of the staff who will implement the program; and
- f) How sufficient resources, including equipment and instructional materials, shall be made available to support the program.

(Source: Added at 34 Ill. Reg. 11581, effective July 26, 2010)

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<sup>1</sup> Limited English proficient (LEP) is the term used by the federal government to identify students whose first language is other than English **and** who are unable to perform ordinary class work in English. Increasingly, English language learner (ELL) is the term preferred over LEP. English Language Learners (ELLs) are students whose first language is not English and who are in the process of learning English. ELL is used interchangeably with LEP in this document.

### **1. What is the Section 228.27 Plan?**

A Section 228.27 Plan addresses a district's plan for continuing services for English Language Learner (ELL) students who leave a transitional bilingual education (TBE) program or a transitional program of instruction (TPI) without having achieved English proficiency through a proficient score on the ACCESS for ELLs® (ACCESS). Section 228.27 identifies school district requirements under both state law and the federal mandate in the Equal Educational Opportunities Act (EEOA).

### **2. When are districts required to develop a Section 228.27 Plan?**

Section 228.27 Plans are only required of those districts that choose to discontinue TBE and TPI program parameters for students who have not yet achieved English language proficiency after those students have been in the TBE or TPI program for three years. Section 14C-3 of the School Code allows districts not to continue TBE or TPI services after a student is in such a program for three years, but federal law (Section 1703(f) of the EEOA) clearly requires school districts to provide services that will enable LEP students to overcome barriers to educational achievement. Thus, despite the school code explicitly permitting school districts to exit non-proficient students from TBE/TPI program parameters after three years, school districts that do in fact exit non-proficient students must provide these students services in accordance with the Section 228.27 Plans until such students achieve English proficiency on ACCESS.

### **3. Is a Section 228.27 Plan required of all districts?**

No. It is not required if the district continues TBE/TPI services for ELL students until they achieve proficiency on the ACCESS. The State Board of Education recommends as a best practice that school districts continue TBE and TPI program parameters beyond three years until (ELL) students achieve the proficient score on the ACCESS. Please note that for each student who remains in the program beyond three (3) years, the district has to obtain the consent of the student's parent or guardian. See 105 ILCS 14C-3. The requirements set forth in Article 14C and Part 228 of the 23 Illinois Administrative Code continue to apply in the situation where a public school district appropriately extends services beyond the three (3) years.

### **4. When does a student achieve proficiency?**

A student identified as ELL is entitled to services (but, as noted above, not necessarily within TBE/TPI program parameters) until such student obtains a minimum Overall Composite Proficiency Level of 4.8 and a minimum Literacy Composite Proficiency Level of 4.2 on ACCESS. Thus, districts must continue to provide ELLs with appropriate services until they achieve these cut scores on ACCESS.

### **5. Are federal funds for ELL services available to a district to implement TBE and/or TPI services to students who participate in such a program after the third year?**

Yes, state and federal (Title III) funding for ELL services is available to districts to provide TBE and/or TPI services to ELL students, as defined in question #4 above, who participate in such

services after the third year. Notwithstanding the foregoing sentence, and in accordance with Section 228.50(c)(3), in order to be eligible to receive and retain State funding for a particular student, the district must offer at least 5 class periods of services per week to such student.

**6. Are federal funds for ELL services available to a district to implement services for students who are served under a Section 228.27 Plan?**

Yes, federal (Title III) funding for ELL services is available to districts that provide supplemental language support services to ELL students under a Section 228.27 Plan and receive state TBE and/or TPI funding. Title III funds cannot be used to supplant state, local or other federal funds that, in the absence of Title III funds, would have been available for ELL students. However, the ELL students served under the Section 228.27 Plan do not generate state TBE or TPI funding. This is yet, another reason to continue providing services within the TBE/TPI program parameters rather than under a Section 228.27 Plan.

**7. How does a district prepare a Section 228.27 Plan for submission to the State Superintendent?**

The Section 228.27 Plan must be completed on a template to be provided by the State Superintendent and must address at least the six areas included under 228.27(a-f). The Section 228.27 Plan must be on file with the State Superintendent by June 30, prior to the beginning of the grant period. For example, for the FY 2012 funding cycle, plans must be received no later than June 30, 2011. The plan will be reviewed during the annual state TBE and TPI and Title III funding application review process.

**8. How often does a district submit a Section 228.27 Plan to the State Superintendent?**

Section 228.27 Plans do not need to be submitted annually. Once the initial Plan has been submitted, a district does not need to resubmit it until changes are made. Any amendments to the plan must be submitted to the State Superintendent no later than 30 days after adoption of the change.

**9. What are some examples of educationally sound language acquisition services program models that could satisfy federal obligations?**

A number of different language acquisition models are considered to be educationally sound and supported by scientifically-based research. The Office of Civil Rights (OCR) and the Illinois State Board of Education (ISBE) do not require a particular educational approach to the instruction of ELL students. Thus, districts have substantial flexibility when developing programs to meet the needs of ELL students (see <http://www2.ed.gov/about/offices/list/ocr/qa-ell.html>). Here is a list of educationally sound language acquisition services that could satisfy districts' obligations to serve LEP students exited from the TBE/TPI program after three years.

- **Transitional Bilingual Education** - Instruction is in the students' native language to enable them to transition into English. The goal is to help students transition to mainstream, English-only classrooms as quickly as possible, and the linguistic goal of such programs is English acquisition only.

- **Developmental Bilingual** – Instruction is in the child's native language for an extended duration, accompanied by education in English. The goal is to develop bilingualism and biliteracy in both languages.
- **Dual Language/Two-Way Immersion** - Instruction is given in two languages to students, usually in the same classroom, who may be speakers of one language or the other, with the goal of the students becoming proficient in both languages.
- **English as a Second Language** - The language of instruction is mostly English but may include some support to students in their native language. Classes may be composed of students who speak many different languages but are not fluent in English. They may attend classes for one or more periods each day, to work strictly on English skills.
- **Content-Based English as a Second Language** – Instruction integrates language instruction with content area to meet the linguistic and academic needs of English learners. Classes may be composed of students who speak many different languages but are not fluent in English
- **Sheltered English Instruction** - Instruction is entirely in English. Teachers strive to deliver lessons in clear, direct, simple English and use a wide range of scaffolding strategies so that students develop English language skills and learn academic subjects. Classes may be composed of students who speak many different languages but are not fluent in English

**10. Are LEP students who exited from a TBE or TPI program after the completion of 3 years, without achieving a score of “proficiency” on the State English Language Proficiency Examination, classified by the State as “proficient” for AMAO reporting purposes?**

No, only students who have achieved the proficiency exit criterion on ACCESS may be deemed “proficient” for any and all purposes, including but not limited to, Title III AMAO determinations, reporting, and instructional purposes.

**11. Is a student who is not enrolled in a TBE or TPI program, but who was identified as having limited-English proficiency, required to participate in the State’s annual English Language Proficiency Examination until he/she achieves a “proficient” score?**

Yes, a student who, pursuant to Section 228.15(e), has been identified as LEP by a district, even if not enrolled in a TBE or TPI program (e.g., because a parent has refused services or the district has discontinued TBE or TPI services for the student after 3 years in the program), is required to participate in the State’s annual English Language Proficiency Examination until he/she receives a “proficient” score.

**12. What is the appropriate student population to be counted for purposes of “Adequate Yearly Progress” (AYP) under the Elementary and Secondary Education Act (ESEA) regulations for the Limited English Proficient (LEP) students’ subgroup?**

All students who have been identified as LEP by a district and who have not met the State's English "proficiency" definition. In addition, for up to two AYP determinations cycles, students who were previously LEP but who no longer meet the State's definition of LEP **may** be included by the district as part of the LEP subgroup when determining – and only for determining – whether the LEP subgroup has made AYP in reading/language arts and mathematics. Finally, with respect to an LEP student who has attended schools in the United States for less than 12 months (a "recently arrived" LEP student), a district must include the student in the State assessment in mathematics but may exempt the student from the State assessment in reading for one administration of that assessment. For purposes of calculating the participation rate for AYP, a "recently arrived" LEP student may be treated as having participated in the State's reading assessment as long as the student took either the reading assessment or an assessment of English language proficiency. The mathematics score and any reading score achieved by a "recently arrived" student need not be counted for the purposes of calculating AYP.

### **13. Are districts required to monitor the progress of former LEP students?**

Districts that receive Title III funds must monitor the education progress of former LEP students for each of the 2 years after such students are no longer receiving services under Title III. In addition, the EEOA requires a district to monitor the progress of former LEP students as part of its obligation to evaluate whether its ELL program is overcoming language barriers in a reasonable period of time and enabling students to participate equally in the district's educational program. When a district's monitoring suggests that a former LEP student may be struggling academically due to a language barrier, and general education and remediation services have proven inadequate as documented by a body of evidence, the district shall retest the student with the ACCESS or the W-APT to determine if the student qualifies as LEP again and needs additional ELL services. If the ACCESS or W-APT score qualifies the student as LEP, the district shall reenter the student into LEP status for Title I and Title III accountability and funding purposes, and shall provide the student with ELL services tailored to his/her individual language needs. The district shall maintain: (a) the documented body of evidence assembled during monitoring that indicates the former LEP student may be struggling due to a language barrier (e.g., grades, test scores, other assessments, any linguistic accommodations applied to standardized assessments, and type and duration of remediation services provided), (b) the ACCESS or W-APT scores used to reenter the student into LEP status, and (c) if applicable, documentation of any parent decision to decline reentering the student into ELL services. The district shall make this information available to ISBE during its monitoring of the district's ELL programs. If the parent or legal guardian declines the student's reentry into formal ELL services, the district shall monitor the reentered LEP student and take appropriate steps to ensure that his or her English-language and academic needs are met.