

**EDUCATION DEPARTMENT[281]**

**Notice of Intended Action**

**Proposing rule making related to limited English proficiency  
and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 60, “Programs for Students of Limited English Proficiency,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 256.7(5).

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 605.

*Purpose and Summary*

This proposed rule making implements 2021 Iowa Acts, House File 605, which creates two levels of weighting for students who are English learners.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on September 14, 2021. Comments should be directed to:

Thomas Mayes  
Department of Education  
Grimes State Office Building, Second Floor  
400 East 14th Street  
Des Moines, Iowa 50319-0146  
Phone: 515.242.5614  
Email: [thomas.mayes@iowa.gov](mailto:thomas.mayes@iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **281—60.2(280)**, definitions of “Fully English proficient” and “Limited English proficient,” as follows:

~~“Fully English proficient” refers to a student who is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom~~ has attained a level of English language skill in reading, writing, listening, and speaking to be proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency as required by Section 1111 of the federal Elementary and Secondary Education Act of 1965 as amended by the federal Every Student Succeeds Act, Pub. L. No. 114-95.

~~“Limited English proficient” refers to a student who has a language background other than English, and the student’s proficiency in English is such that the probability of the student’s academic success in an English-only classroom is below that of an academically successful peer with an English language background. Each limited English proficient student shall be identified as either an intensive student or an intermediate student.~~

ITEM 2. Adopt the following new definitions of “Intensive student” and “Intermediate student” in rule **281—60.2(280)**:

*“Intensive student”* means a limited English proficient student who, even with support, is not proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

*“Intermediate student”* means a limited English proficient student who, either with or without support, approaches being proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

ITEM 3. Amend paragraph **60.6(1)“a”** as follows:

*a.* A student may be included for weighting if the student meets the definition of a limited English proficient student as either an intensive student or an intermediate student and the student is being provided instruction related to limited English proficiency above the level of instruction provided to pupils in the regular curriculum.