

CHAPTER 60
PROGRAMS FOR STUDENTS OF LIMITED ENGLISH PROFICIENCY

[Prior to 9/7/88, see Public Instruction Department[670] Ch 57]

281—60.1(280) Scope. These rules apply to the identification of students and provision of programs for limited English proficient students and to the application procedures for securing fiscal support.

281—60.2(280) Definitions. As used in these rules, the following definitions apply:

“Educational and instructional model” means an instructional model, strategy, method, or skill that provides a framework of instructional approaches to guide decision making about teaching and learning. Based on the needs of particular students, “educational and instructional model” may include but is not limited to a specific set of instructional services or a fully developed curriculum or other supplementary services.

“English as a second language” refers to a structured language acquisition program designed to teach English to students whose native language is other than English, until the student demonstrates a functional ability to speak, read, write, and listen to English language at the age- and grade-appropriate level.

“Fully English proficient” refers to a student who 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.

“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.

“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.

“Research-based” means based on a body of research showing that the educational and instructional model, or other educational practice, has a high likelihood of improving teaching and learning. To determine whether research meets this standard for purposes of this chapter, research reports must be reviewed for the following:

1. The specific population studied;
2. Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable results and provide a basis for valid inferences relevant to education activities and programs;
3. Whether the research employs systematic, empirical methods that draw on observation or experiment;
4. Reliance on measurement or observational methods that provide reliable and valid data;
5. Inclusion of rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions or inferences drawn;
6. Description of the magnitude of the impact on student learning results; and
7. Inclusion of the level of the review of the study.

“Transitional bilingual instruction” refers to a program of instruction in English and the native language of the student until the student demonstrates a functional ability to speak, read, write, and listen to the English language at the age- and grade-appropriate level.

[ARC 8383B, IAB 12/16/09, effective 1/20/10; ARC 1776C, IAB 12/10/14, effective 1/14/15; ARC 6079C, IAB 12/15/21, effective 1/19/22]

281—60.3(280) School district responsibilities.

60.3(1) *Student identification and assessment.* A school district shall use the following criteria in determining a student's eligibility:

a. In order to determine the necessity of conducting an English language assessment of any student, the district shall, at the time of registration, ascertain the place of birth of each student and whether there is a prominent use of any language(s) other than English in the home. If the student's registration form indicates the prominent use of another language in the student's home, the district shall determine the first language acquired by the student and the languages spoken by the student and by others in the student's home. School district personnel shall be prepared to conduct oral or native language interviews with those adults in the student's home who may not have sufficient skills in English.

b. Students identified as prominently using a language other than English in the home shall be assessed by the district. The assessment shall include (1) an assessment of the student's English proficiency in the areas of speaking, listening, reading, and writing; and (2) an assessment of the student's academic skills in relation to their grade or age level. A consistent plan of evaluation which includes ongoing evaluation of student progress shall be developed and implemented by the district for the above areas for each student so identified.

60.3(2) *Staffing.* Teachers in an English as a second language (ESL) program must possess a valid Iowa teaching license. Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.

60.3(3) *Limited English proficient student placement.* Placement of students identified as limited English proficient shall be in accordance with the following:

a. Mainstream classes. Students will be placed in classes with chronological peers or, when absolutely necessary, within two years of the student's age.

b. Limited English proficient program placement.

(1) Students enrolled in a program for limited English proficient students shall receive language instruction with other limited English proficient students with similar language needs.

(2) When students of different age groups or educational levels are combined in the same class, the school shall ensure that the instruction given is appropriate to each student's level of educational attainment.

(3) A program of transitional bilingual instruction may include the participation of students whose native language is English.

(4) Exit from program. An individual student may exit from an ESL or Transitional Bilingual Education (TBE) program after an assessment has shown both that the student can function in English (in speaking, listening, reading, and writing) at a level commensurate with the student's grade or age peers and that the student can function academically at the same level as the English speaking grade level peers. These assessments shall be conducted by utilizing state, local, or nationally recognized tests as well as teacher observations and recommendations.

(5) Professional development. All district instructional staff and area education agency staff responsible for implementing the educational and instructional models defined in rule 281—60.2(280) shall receive such professional development as may be necessary to implement those educational and instructional models. Such professional development may be part of a district or area education agency professional development plan, an attendance center professional development plan, an individual professional development plan, or some combination thereof. The necessity for such professional development shall be determined based on the framework in rule 281—83.6(284). Providers of professional development required by this subrule shall meet the standards in 281—subrule 83.6(3). In determining whether providers meet the standards in 281—subrule 83.6(3), the following nonexhaustive factors may be considered, as they are relevant to the particular professional development to be provided:

1. English as a second language endorsement or equivalent;
2. Five years of English as a second language teaching experience; or
3. A graduate degree in teaching English to speakers of other languages or in a related field.

60.3(4) *Medium of instruction.* Instruction in all secular subjects taught in both public and nonpublic schools shall be in the English language, except when the use of a world language is deemed appropriate because the student is limited English proficient. When the student is limited English proficient, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional bilingual instruction until the student is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language.

60.3(5) *Research-based educational and instructional models.* Districts shall utilize research-based educational and instructional models as defined in rule 281—60.2(280) with limited English proficient students so that such students may acquire English proficiency and meet high academic standards.

[ARC 8383B, IAB 12/16/09, effective 1/20/10; ARC 1776C, IAB 12/10/14, effective 1/14/15; ARC 4528C, IAB 7/3/19, effective 8/7/19]

281—60.4(280) Department responsibility. The department of education shall provide technical assistance to school districts, including advising and assisting schools in planning, implementation, and evaluation of programs for limited English proficient students.

60.4(1) to 60.4(3) Rescinded IAB 2/2/94, effective 3/9/94.

281—60.5(280) Nonpublic school participation. English as a second language and transitional bilingual programs offered by a public school district shall be made available to students attending an accredited nonpublic school located within the district. The district obtains funding for such students in accordance with Iowa Code sections 257.31(5) “j” and 280.4.

[ARC 8383B, IAB 12/16/09, effective 1/20/10]

281—60.6(280) Funding. Additional weighting for students in programs provided under this chapter is available in accordance with Iowa Code sections 257.31(5) “j” and 280.4.

60.6(1) *Weighting.* A weighting is included in the weighted enrollment of the school district of residence for a period not exceeding five years to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum.

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.

b. A student may be included for weighting up to five years, which need not be consecutive.

c. A student’s eligibility for additional weighting is transferable to another district of residence.

60.6(2) *Supplemental aid or modified supplemental amount.* In addition to weighting, the school budget review committee (SBRC) may grant supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting or for costs in excess of the weighting to provide instruction to limited English proficient students above the costs of regular instruction.

a. A school district of residence may apply to the SBRC by the date specified in rule 289—6.3(257) for supplemental aid or a modified supplemental amount for an unusual need for funding beyond the amount generated from weighting for students identified as limited English proficient who are provided instruction beyond the regular instruction. The eligible supplemental aid or modified supplemental amount will be calculated as the total actual limited English proficient program (more commonly referred to as “English language learner program”) expenditures for the previous year, reduced by the limited English proficient funding generated in the previous budget year based on the limited English proficient count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. A district of residence may apply to the SBRC for supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting no later than December 1 following the date specified in Iowa Code section 257.6(1) for the certified enrollment. The supplemental aid or modified supplemental amount will be calculated by multiplying the number of resident students identified as limited English proficient who are provided instruction beyond the regular instruction, and who are being served beyond the five years of weighting on the certified enrollment, by the weighting provided under subrule 60.6(1), multiplied by the district cost per pupil in the current year.

c. The SBRC will act on the requests described in paragraphs 60.6(2) “*a*” and “*b*” no later than its March regular meeting. If the SBRC grants the district’s request for supplemental aid or a modified supplemental amount, the department of management will increase the district’s budget authority by that amount.

The SBRC may require the district to appear at a hearing to discuss its request for supplemental aid or a modified supplemental amount.

60.6(3) *Appropriate expenditures.* Appropriate expenditures for the limited English proficiency program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures are delineated in 281—Chapter 98.

60.6(4) *Inappropriate expenditures.* Inappropriate expenditures are delineated in 281—Chapter 98.

60.6(5) *Financial management.* Limited English proficient funding is categorical funding and follows the general provisions in 281—Chapter 98.

60.6(6) *Annual reporting.* Districts shall include and identify the detail of financial transactions related to limited English proficient resources, expenditures, and carryforward balances on their certified annual report. School districts shall use the account coding appropriate to the limited English proficient program as defined by Uniform Financing Accounting for Iowa School Districts and AEAs. Each district shall submit its certified annual report following the close of the fiscal year but no later than September 15.

[ARC 8383B, IAB 12/16/09, effective 1/20/10; ARC 5648C, IAB 6/2/21, effective 7/7/21; ARC 6079C, IAB 12/15/21, effective 1/19/22]

These rules are intended to implement Iowa Code sections 256.7(31) “*c*,” 257.31(5) “*j*” and 280.4.

[Filed 9/12/80, Notice 5/28/80—published 10/1/80, effective 11/5/80]

[Filed 1/16/81, Notice 11/12/80—published 2/4/81, effective 3/11/81]

[Filed 8/19/88, Notice 6/29/88—published 9/7/88, effective 10/12/88]

[Filed 1/14/94, Notice 9/29/93—published 2/2/94, effective 3/9/94]

[Filed ARC 8383B (Notice ARC 8051B, IAB 8/26/09), IAB 12/16/09, effective 1/20/10]

[Filed ARC 1776C (Notice ARC 1675C, IAB 10/15/14), IAB 12/10/14, effective 1/14/15]

[Filed ARC 4528C (Notice ARC 4403C, IAB 4/24/19), IAB 7/3/19, effective 8/7/19]

[Filed ARC 5648C (Notice ARC 5464C, IAB 2/24/21), IAB 6/2/21, effective 7/7/21]

[Filed ARC 6079C (Notice ARC 5876C, IAB 8/25/21), IAB 12/15/21, effective 1/19/22]