

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 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.

“Limited English proficient” refers to a student who has a language background other than English, and the 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.

“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]

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 foreign 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]

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 four 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 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 four consecutive years.

c. If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, but returned to the same district by the date specified for counting students in the subsequent year, the student is considered to be served in consecutive years without regard to the break in instruction from the district.

d. If a student was present on the date specified in Iowa Code section 257.6 for counting students in one year, moved out of the district or dropped out of school, and did not return to the same district by the date specified for counting students in the subsequent year, but did return to the same district in a later year, the student is considered to be a new student eligible to begin in year one if the student meets the requirements in paragraph “a.”

60.6(2) *Modified allowable growth.* In addition to weighting, the school budget review committee (SBRC) may grant modified allowable growth for an unusual need to continue funding beyond the four 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 for modified allowable growth to the SBRC. The modified allowable growth will be calculated as the total actual budgeted expenditures for the current year, reduced by the limited English proficient funding generated in the current 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. In order to apply for modified allowable growth under this subrule, the district must complete and submit the application form no later than January 15 following the date specified in Iowa Code section 257.6, subsection 1, for the certified enrollment. The SBRC will act on these requests during its March regular meeting. If the SBRC grants the district’s request for modified allowable growth, the department of management will increase the district’s budget authority by that amount.

c. The SBRC may require the district to appear at a hearing to discuss its request for modified allowable growth.

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]

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]