



NORTH DAKOTA DEPARTMENT OF **PUBLIC INSTRUCTION**

Guidance on English Learner Programming

English Language Learners in North Dakota
Office of Indian/Multicultural Education
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Introduction

All school districts in North Dakota are required to be prepared for English Learners (ELs) who may enroll in their schools. Upon enrollment of a multilingual learner student, appropriate programming must be developed and implemented to ensure students' access the core instructional program.

This guidance will help schools prepare the required policy and plans, choose an appropriate program model, assure ELs are included in the core educational program and assist parents of ELs to participate in their children's education.

English Learner Program Policy

North Dakota state legislation requires every school district within the state to have an EL policy, whether or not they have ELs currently enrolled. The policy must assure the district utilizes the statewide identification criteria and procedures and upon identification, all EL students have access to a research-based language instructional education program (LIEP) within 30 days of the first day of enrollment until they meet the reclassification criteria. The policy must commit to providing resources for a core LIEP using state and local funds. The district must provide an assurance that the policy has been approved by the local school board as reported in the MIS01 Fall Report of the State Automated Reporting System (STARS). A sample [EL School Board Policy](#) can be found under Sample Documents on the EL page of the North Department of Public Instruction (NDDPI) website.

Please note: the sample policy specifies an EL "plan" which the district must have in place to validate the policy.

English Learner Program Plan Requirements

North Dakota school districts must report to the NDDPI plans to identify, support, and assess **ALL** ELs in accordance with state and Federal laws, as noted in the [Student Rights](#) guidance document.

EL Program Plan or Lau Plan

The equity plan for EL students is often called the Lau Plan (named after the Supreme Court case of Lau v. Nichols), EL program plan, or EL handbook. The plan is developed by a minimum of the EL Coordinator and EL Director of a district. It should be shared with all staff and stakeholders, kept on file for easy access, and reviewed annually for accuracy and improvement. A high-quality EL program plan, should include details on the following components:

- EL student identification,
- Language assessment procedures,
- Placement of EL students,
- LIEP/program models implemented in the district and their effectiveness documentation,
- EL staff,
- EL program exit criteria,
- Monitoring procedures, and
- Program evaluation plans.

Other information often included in a program plan include basic district demographics, EL trend data, definitions and acronyms used in the plan, the district's school board approved EL policy, and parent/family engagement activities. Defining the core LIEP helps to justify the need for federal grants, which operate with a supplement not supplant requirement. Sample plans from school districts in North Dakota can be found in the EL Coordinator O365 Team.

Identification Plan

The identification plan is a narrative describing the specific procedures the district uses to identify English learners. The plan must incorporate the statewide identification criteria and procedures, including the use of the statewide Home Language Survey (HLS). Additional details regarding identifying EL students are available in the [Identification and Screening Guidance](#) document, which can be found on the NDDPI website or the EL

Coordinator MS Team. The identification plan is submitted to the NDDPI via the MIS01 Fall Report in the STARS.

Assessment Plan

The assessment plan must detail the assessments used or to be used to screen potential ELs for program eligibility, including the ND ELP screener assessment. The narrative must also explain how the district ensures ALL ELs participate in the annual assessment of English language proficiency (ACCESS for ELLs) and the state academic achievement assessment (NDSA). The district shall include the procedures used to administer the annual ELP and academic achievement assessments to ALL ELs. The assessment plan is an internal document kept on file at the district or each school. If districts have identified English learners enrolled, the assessment plan should be included in the EL program (Lau) plan. The district provides an annual assurance of the plan in the MIS01 Fall Report in the STARS.

If a district does not employ someone qualified to administer the ELP assessment, they can hire a consultant to fulfill this requirement. Test administrators for the ELP assessment are required to have specialized training. Details on the training requirements are in the Identification and Screening guidance document which can be found on the NDDPI website or the EL Coordinator O365 Team.

Program Model

School districts with currently enrolled EL students are required to report the type of program models used with each EL student in their respective LIEP. The program models chosen must be research-based and must fit the unique needs of the culturally and linguistically diverse student population. The LIEP must be designed to ensure students develop ELP while also preparing students to meet the challenging state academic achievement standards. If a language other than English is used to deliver core instruction, the language should be reported in the MIS01 section of the STARS. A table with descriptions of the most common EL program models can be found in the [Resources](#) section of the EL webpage on the NDDPI website.

Individualized Language Plans

School districts are required to write an annual Individualized Language Plan (ILP) for each EL student to provide important language related information to teachers and staff. The ILP should be written by the language support team including the EL teacher, classroom/content teacher(s), administrator, and teachers of other programs (Title I, GT, SpEd) if applicable. The ILP should identify the student's linguistic strengths, needs, and instructional strategies to support their English language development (ELD) so the student reaches ELP in a reasonable timeframe. The ILP typically includes the appropriate EL scaffolds and accommodations to be used in instruction and assessments. The ILP manager, often the EL teacher, is responsible for the creation and implementation of the plan and must hold a ND EL or Bilingual Endorsement. If a district does not employ a qualified EL teacher on staff, they have the option to hire a consultant to assess students and work with certified staff on a **regular** basis to ensure the goals and objectives of the ILP are met. A sample ILP can be found in the [Sample Documents](#) section of the EL webpage on the NDDPI website.

EL Staff

All school districts in North Dakota must identify an EL director and EL teacher/test administrator in the MIS01 Fall Report in the STARS.

The EL director serves as the first point of contact for the department and the administrative representative responsible for ensuring adequate resources are available and barriers are removed for implementation of the LIEP and ILPs. The EL director helps the district with decision making related to programming and the budget and acts as the supervisor for the district's EL program. The EL director must have authority to allocate resources to the EL program. It is expected the EL Director holds an administrative credential. If this is not the case, please contact the [EL Program Office](#) for possible exemption.

The EL teacher, test administrator, or EL Coordinator is required for all districts and must be certified and trained in test administration to screen potential EL students. This process must be done within 30 days of enrollment so pre-planning is critical. For this reason, the EL teacher/test administrator/coordinator is identified in the MIS01 Fall Report in the STARS. The annual ELP assessment must also be supervised by a certified EL teacher, except online ACCESS for grades 3-12 with keyboarded writing.

Staffing for the LIEP must be adequate to carry out the program model(s) selected. The district must employ an adequate number of certified EL teachers (and/or classroom/content teachers with dual certification in content and EL/Bilingual education) to effectively support EL students to reach English language proficiency in a reasonable timeframe.

Paraprofessionals may play an important role in **assisting** the EL teachers in carrying out the goals of the ILP, but they **must work under the direct supervision of licensed educators**. EL instruction must be delivered by qualified teachers rather than teacher aides.

English Learner Service

North Dakota Century Code requires the state to provide guidance on the caseload criteria for English learner instruction.

EL Service Levels

All English learners must be provided an LIEP until they meet English language proficiency. Districts **CANNOT** elect to discontinue services for students at higher ELP levels. The amount of service time will vary depending on factors such as the amount of literacy the student has in their first language, the current grade level and the student's level of English language proficiency as determined by the ND ELP assessments. Decisions must be carried out with attention to the student's language needs, least restrictive environment, and access to core content instruction. Limited segregation (i.e., newcomer center or sheltered courses), is only permissible in the short-term. Students should not be in sheltered instruction courses for their entire middle and high school career. The benefits of the program model selected must outweigh the adverse effects of segregation.

EL Caseload Criteria

The ND English Learner Program Advisory Committee (ELPAC) was tasked with developing guidance for EL caseload criteria. In this process the committee considered all types of EL students and the various sizes and staffing of EL programs across the state. The committee also took into consideration multiple responsibility factors included in EL program requirements such as: creating/implementing and/or executing an LIEP, writing ILPs, annually assessing the ELP of all ELs, supporting and coaching classroom/content teachers, facilitating communication with parents/families, and monitoring exited students.

The primary factors for districts to consider when making caseload decisions is the English proficiency level of the students and if they are meeting their growth targets. Other factors for districts to consider for individual teachers are their other professional or teaching responsibilities, EL program administrative duties, the number of buildings the EL teacher travels between and the amount of EL service recommended for each student. The recommendation for caseload criteria is a maximum of 40 students per full-time EL teacher, depending on the proficiency level of the students and does not include program administrative duties.

The recommended caseload criteria and service time guidance would indicate that districts with approximately **20 EL students should consider hiring a full-time specialized EL teacher on site** to instruct ELs, facilitate communication with EL parents and prepare mainstream staff to make instruction comprehensible for ELs in the regular classroom. Districts with very large numbers of ELs may choose to make use of co-teaching methods or hire content specialists who also hold their EL endorsement to teach language development in the context of academic content courses.

The ELPAC has developed the following guidelines for recommended **daily** service time for ELs provided by an EL endorsed teacher.

English Language Proficiency Level	Recommended LIEP Service Time
Newcomer	4-6 units of English language instruction educational services
Level 1 – Entering	3-4 units of English language instruction educational services
Level 2 – Beginning	2-3 units of English language instruction educational services
Level 3 – Developing	1-2 units of English language instruction educational services
Level 4 – Expanding	1 unit of English language instruction educational services
Level 5 – Bridging and Level 6 – Reaching	up to 1 unit of English language instruction educational services

A unit is defined as a class period. In the elementary grades, this might be 30 minutes per unit. At the secondary level a unit would typically be a class period. A class taught in a 75-90 minute block may count as two units at the secondary level.

An EL newcomer is defined as a recent immigrant who has little or no English proficiency and who may have had limited formal education in their native countries. Due to the needs of this subgroup of EL students, newcomer programs have been developed to bridge the gap between newcomers' needs and more traditional LIEPs. Kindergarten students who have little or no exposure to English before entering school may qualify for newcomer programs but be sure to consider the best environment for the student. Most kindergarten classrooms contain students with significant developmental and academic diversity in which a newcomer may thrive.

Instructional Materials and Resources

Materials, resources, and instructional facilities for ELs must be comparable to those available for non-EL students. The general fund must supply EL staff with the materials they need to provide a core LIEP. Additional materials to supplement the core LIEP may be purchased with Title III or other supplemental funds (supplement not supplant clause). The NDDPI does not make recommendations on specific language development materials from publishing companies. However, WIDA has a protocol (PRIME) that measures the representation of WIDA's English language development standards within published materials. More information can be found at <http://prime.wceruw.org/>). The NDDPI also has resources listed in the [Resource Center](#) on the NDDPI website. There are also EL instructional resources available through the ND State Library.

English Learners' Participation in Assessment

All EL students must participate in the annual English language proficiency assessment (ACCESS for ELLs). Additional training requirements for ELP test administrators can be found on the [WIDA website](#). ELs must also participate in the state academic achievement assessment program including the North Dakota State Assessment (NDSA).

English Learners' Participation in Special Programs

Meeting the EL criteria does not disqualify a student from other special programs. Special programs may include Title I, gifted/talented, and special education. Schools should take steps to ensure that EL students have equal access, and are represented proportionately, in all special programs.

Title I

EL students often meet the eligibility criteria for Title I reading or math services and some may require special education services. EL students who qualify for the LIEP **and** other services must be provided both/all.

Targeted criteria must use universal assessments (i.e., an assessment that is given to all students) to determine eligibility. English language proficiency scores (WIDA Screener, and/or ACCESS) cannot be used to disqualify a student from additional services.

In order to ensure the linguistic and academic needs of an EL student are met, a team consisting of an EL teacher, general education teacher, Title I teacher, and special education teacher (as applicable) should meet to determine the appropriate services. This may include a student going to multiple teachers in multiple programs for services. If a student is eligible for multiple services, the services cannot be combined into one service time, unless specifically redundant in lessons.

Gifted/Talented Programs

Selection criteria for gifted/talented programs must not discriminate on the basis of language. EL students cannot be categorically excluded from gifted and talented or other specialized programs. If the district has a process for locating and identifying gifted/talented students, it must also locate and identify gifted/talented EL students who could benefit from the program. Many gifted/talented programs use assessments to determine eligibility. These assessments must account for linguistically and culturally diverse students. The exclusion of EL students from specialized programs such as gifted/talented programs may have the effect of excluding students from programs on the basis of national origin, in violation of 34 C.F.R. § 100.3(b)(2), unless the exclusion is educationally justified by the needs of the particular student or by the nature of the specialized program.

In determining whether a district has improperly excluded EL students from its gifted/talented or other specialized programs, the Office of Civil Rights (OCR) will carefully examine the district's explanation for the lack of participation by EL students. OCR will also consider whether the recipient has conveyed these reasons to students and parents.

Educational justifications for excluding a particular EL student from a specialized program should be comparable to those used in excluding a non-EL peer and include: (1) that time for the program would unduly hinder his/her participation in an alternative language program; and (2) that the specialized program itself requires proficiency in English language skills for meaningful participation.

Unless the particular gifted/talented program or program component requires proficiency in English language skills for meaningful participation, the district must ensure the evaluation and testing procedures do not specifically screen out EL students. To the extent feasible, tests used to place students in specialized programs should not be of a type that the student's proficiency in English will prevent him/her from qualifying for a program for which they would otherwise be qualified. **(OCR Memorandum, 1991)**

Special Education

Districts must make certain EL students only receive special education and related services due to a present disability and a need for specially designed instruction and not due to cultural or linguistic differences. Interpreters can be specially trained to assist in the evaluation of an EL student for special education services. When an EL student is evaluated for special services, an EL teacher or consultant must serve on the IEP team to help ensure cultural and linguistic differences are not the reason for the student's educational issues.

Service time in the LIEP cannot be counted towards special education service minutes but can be indicated in the "related services" section of the Individualized Education Plan (IEP). EL students with an IEP qualify for special education **and** EL accommodations for instruction and on the state academic achievement assessment (NDSA). EL students with an IEP also qualify for special education accommodations on the annual English language proficiency assessment (ACCESS for ELLs). Details regarding these accommodations can be found on [WIDA's website](#).

Program Evaluation

All school districts with enrolled English learners must annually evaluate their LIEPs to ensure they are effectively meeting the needs of their EL students. Districts are held accountable for each student's ELD growth and long-term goal. Schools are expected to ensure EL students make annual gains in their overall English language proficiency and exit from the program in a reasonable timeframe. The accountability data is available in the SLDS, on the INSIGHTS dashboard, and trajectories are available in the STARS for use in the evaluation process.

Districts can conduct EL program evaluation internally or hire an outside consultant. Districts should use academic, accountability, and program data to evaluate the programs. Other evaluation criteria may include school climate and school level support for ELs, effectiveness of professional development activities, maintenance of EL student data and effectiveness of parent involvement and communication. Be sure to document the evaluation process with items like communication, meeting minutes, sign-in sheets, evaluation reports, etc. The documentation should include data reviewed, strengths of the program, areas of improvement needed, and changes to be implemented.

Parent and Family Engagement

Parent and family engagement is required by state and federal law and supported by research as a critical factor in a student's school success. Parents of some ELs may be unfamiliar with the U.S. educational system, have work hours that do not align with a school schedule, or may not speak English. Schools should make every effort to overcome the barriers hindering parents/families from receiving information or participating in their child's education. Schools are required to provide information to parents in a language and format they understand. The [Parent Notification of Program Eligibility](#) must be provided to parents when a student is screened for EL identification and each year thereafter (if identified as an EL) until the student meets ELP and exits the program.

English Learner Program Funding

The North Dakota Legislature approved additional funds to districts for EL students who test at a level 1.0-3.9 based on a weighted factor to the per pupil payment. Levels 1.0-1.9 are funded at an additional .40, levels 2.0-2.9 are funded at an additional .20 and levels 3.0-3.9 are funded at an additional .07 for up to three years. In order for the student to qualify for payment, ELs must be identified as an EL, have a current ELP assessment score, and an ILP date in the STARS within the school year.

Supplemental EL funding is provided by Title III of the Elementary and Secondary Education Act (ESEA), reauthorized by Every Student Succeeds Act (ESSA). Title III funds must be supplemental to the state and local funds required to implement a core LIEP. More information can be found in the [Title III Guidance](#) on the NDDPI website.

Contact Information

For clarification or more information about the ELD Program in North Dakota, please contact the [EL Program Office](#) 701-328-2254.