

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE ENGLISH LANGUAGE PROFICIENCY ACT

1 CCR 301-10

2224-R-1.00 Statement of Basis and Purpose

The English Language Proficiency Act, article 24 of title 22, was repealed and reenacted. The rules for the administration of the English Language Proficiency Act are repealed and reenacted with the rules that continue to be appropriate and with additional rules added only when necessary to implement the English Language Proficiency Act, in accordance with section 22-24-106 (3), C.R.S.

The Colorado State Board of Education and the Colorado Department of Education have the responsibility for implementing “The English Language Proficiency Act”. These rules are intended to assist Local Education Providers in meeting the requirements of the Act.

The statutory basis for these emergency rules adopted on September 11, 2014 is found in section 22-2-106(1)(a) and (c), C.R.S. state board duties; section 22-2-107(1)(c), C.R.S. state board powers; and section 22-24-101 through 22-24-108, C.R.S., the English Language Proficiency Act; including the English Language Proficiency Program, the English Language Proficiency Excellence Award Program, and the Professional Development and Student Support Program.

The English Language Proficiency Program, section 22-24-104, C.R.S., is established to assist Local Education Providers in administering and implementing English Language Proficiency Programs for English Language Learners in kindergarten and grades one through twelve.

The English Language Proficiency Act Excellence Award Program, section 22-24-107, C.R.S., requires the State Board of Education to promulgate rules that create the criteria or measures that the Department must apply to identify the Local Education Providers and Charter Schools that achieve the highest English language and academic growth among English Language Learners and that achieve the highest academic achievement for English Language Learners who transition out of the English Language Proficiency Program.

The Professional Development and Student Support Program, referred to as the “Support Program”, section 22-24-108, C.R.S., provides moneys to Local Education Providers to offset the cost of reporting the number of students who exit the program; providing effective professional development activities related to teaching English Language Learners for all educators who may work with English Language Learners in the classroom; and expanding programs to students who, at any time, have been identified as English Language Learners in achieving greater content proficiency.

2224-R-2.00 Definitions

2.00 (1) "Charter School" means a Charter School authorized by a District pursuant to part 1 of article 30.5 of this title or an Institute Charter School authorized by the State Charter School Institute pursuant to part 5 of article 30.5 of title 22.

- 2.00 (2) "Department" means the Colorado Department of Education.
- 2.00 (3) "District" means a school District organized and existing pursuant to article 30 of title 22 or a Board of Cooperative Services organized and existing pursuant to article 5 of this title.
- 2.00 (4) "English Language Learner" means a student who is linguistically diverse and who is identified pursuant to section 22-24-105 (2) C.R.S. as having a level of English language proficiency that requires language support to achieve standards in grade-level content in English.
- 2.00 (5) "English Language Proficiency Program" means a program implemented by a Local Education Provider that is designed to develop English language proficiency for an English Language Learner while enabling the English Language Learner to achieve and maintain grade-level performance in academic content areas.
- 2.00 (6) "Evidence-Based" means the instruction or item described is based on reliable, trustworthy, and valid evidence that the instruction or item shows promise or has demonstrated a record of success in achieving objectives that are relevant to English language development, English language proficiency, and achievement in grade-level content for English Language Learners.
- 2.00 (7) "Facility School" means an approved Facility School as defined in section 22-2-402 (1), C.R.S.
- 2.00 (8) "Local Education Provider" means a District, the State Charter School Institute, or a Facility School.
- 2.00 (9) "State Charter School Institute" means the State Charter School Institute created pursuant to part 5 of article 30.5 title 22.

2224-R-3.00 The English Language Proficiency Program

3.00 (1) Local Education Providers - Duties

3.00 (1) (a) Evidence-Based Programs

Local Education Providers must provide Evidence-Based English Language Proficiency Programs for English Language Learners to enable them to develop and acquire English language proficiency while achieving and maintaining grade-level performance in academic content areas.

3.00 (1) (b) Identification

Each Local Education Provider will identify English Language Learners who are enrolled in public schools of the Local Education Provider using state approved assessment for English language proficiency.

3.00 (1) (c) Reporting

Each Local Education Provider will annually report to the Department the number of English Language Learners who exit the English Language Proficiency Program.

3.00 (2) Eligibility for Funding

Funding to Local Education Providers is on a per-pupil basis using the number, as certified by the Local Education Provider. To be eligible for funding English Language Learners must be in an English Language Proficiency Program.

3.00 (3) Certification

Every year through the October count process developed by the Department, each Local Education Provider will report to the Department a count of students certified by Local Education Providers as eligible for funding under the Act. Annual allocations to Local Education Provider will be based on the number of students certified and determined by the Department to be eligible.

The Local Education Provider will annually certify to the Department the number of English Language Learners who are enrolled in the public schools of the Local Education Provider and are eligible for funding. Students are eligible for up to a total of five budget years regardless of whether the student transfers enrollment among Local Education Providers during the five years.

The five budget years in which a student receives funding are not required to be consecutive if a student exits an English Language Proficiency Program and is subsequently re-identified for inclusion. A student is not eligible for funding in a school year in which the student does not receive educational support through an English Language Proficiency Program.

If a student has been identified for inclusion and received state funding, the Department must include the budget years for which the student received funding in calculating the five-year limit.

3.00 (4) Fund Distribution

Upon certification of the numbers of eligible students by Local Education Providers the Department will determine the amount of the allocation for each Local Education Provider based on the amount of the general assembly appropriation and the funding provisions of the Act. The allocation for each Local Education Provider will be based on a statewide count of students eligible for certification and funding under the Act. Any District choosing not to receive State monies under the Act will continue to be subject to the duties of the Local Education Provider.

- 3.00 (4) (a)** Seventy-five percent of the amount annually appropriated to the Department pursuant to this subsection (3) to Local Education Providers to provide services to English Language Learners who:

- 3.00 (4) (a) (i) Speak a language other than English and do not comprehend or speak English; and
- 3.00 (4) (a) (ii) Comprehend or speak some English but whose primary comprehension or speech is in a language other than English.
- 3.00 (4) (b) A student will not be funded pursuant to this paragraph (b) for more than four hundred dollars per year or an amount equal to twenty percent of the state average per pupil revenues for the preceding budget year as determined by the Department, whichever is greater.
- 3.00 (4) (c) The Department will distribute the remainder of the amount annually appropriated to Local Education Providers to provide services to English Language Learners who comprehend and speak English and one or more other languages but whose English language development and comprehension is:
 - 3.00 (4) (c) (i) At, or below the mean of students enrolled in the Local Education Provider or below the mean or equivalent on a nationally standardized test; or
 - 3.00 (4) (c) (ii) Below the acceptable proficiency level based on the assessments identified by the Department.
- 3.00 (4) (d) A student will not be funded for more than two hundred dollars per year or an amount equal to ten percent of the state average per pupil revenue, as defined in section 22-54-103 (12), C.R.S. for the preceding budget year as determined by the Department, whichever is greater.

3.00 (5) Program Administration

The Local Education Provider will administer and provide programs for all identified English Language Learner students. This responsibility includes students who enter the Local Education Provider after October count each year and who therefore are not included in the Local Education Provider's reported count for that year. Nothing in these Rules will be construed to prohibit the use of moneys made available under the Act by a Local Education Provider for bilingual programs, English-as-a-second-language programs, or any other methods of English language development, providing said funds are used to achieve the purposes of the Act.

2224-R-4.00 The English Language Proficiency Act Excellence Award Program

4.00 (1) Award Timeline

By December 1 of each year, when data and appropriations are available, the Department will identify the Local Education Providers and Charter Schools that achieve the highest English language and academic growth among English Language Learners and that achieve the highest academic

achievement for English Language Learners who transition out of the English Language Proficiency Program.

4.00 (2) Award Procedures

The Department will develop and provide an application for funds to Local Education Providers and Charter Schools that qualify for the excellence award grant. The application will request contact information and an agreement to program reporting requirements detailed in section 4.00 (5) of the English Language Proficiency Act Excellence Award Program Rules.

4.00 (3) Criteria to Identify Highest Academic Growth

All eligible Local Educator Providers and Charter Schools accepting award will be in compliance with all state and federal legal requirements, unless they have received an exception to the requirements. The following criteria will be used by the Department to identify the Local Education Providers and Charter Schools that achieve the highest English language and academic growth among English Language Learners in an English Language Proficiency Program and that achieve the highest academic achievement for English Language Learners who transition out of an English Language Proficiency Program:

- 4.00 (3) (a)** High growth percentiles on the state's English Language Proficiency assessment for English Language Learners in an English Language Proficiency Program;
- 4.00 (3) (b)** High growth percentiles on the state's academic content assessments of reading and writing/English language arts, and math for English learners in an English Language Proficiency Program, section 22-7-409, C.R.S.; and
- 4.00 (3) (c)** High percentages of proficient and advanced on the state content assessments of reading and writing/English language arts and math (and when available science and social studies) for English Language Learners that have transitioned out of an English Language Proficiency Program, section 22-7-409, C.R.S.

4.00 (4) Duration and Amount of Grant Awards.

Subject to available appropriations, the Department will award grants to Local Education Providers and Charter Schools pursuant to the English Language Proficiency Act Excellence Award Program. The amount of the grant award will be based on the student enrollment of the local education providers and charter schools receiving the award and the concentration of English Language Learners enrolled by the local education provider and charter schools as a percentage of the total student enrollment. Each grant will have a term of one fiscal year.

4.00 (5) Reporting

- 4.00 (5) (a)** Each Local Education Provider and Charter School that receives a grant pursuant to this section, at the conclusion of each school year for which it receives a grant, must submit to the Department:
- (i) A data analysis and summary of the Local Education Provider's or Charter School's English Language Proficiency Program; and
 - (ii) A report of the Local Education Provider's or Charter School's use of the grant moneys received.
- 4.00 (5) (b)** The Department will provide the information received pursuant to 22 - 24-107 3(a), C.R.S. to Local Education Providers and will make the information available to the public through the data portal operated pursuant to section 22-11-502, C.R.S.

2224-R-5.00 The Professional Development and Student Support Program (Support Program)

5.00 (1) Fund Distribution

Subject to annual appropriation by the general assembly to the Department for distribution to Local Educator Providers the Department will determine the amount of the allocation for each Local Education Provider based on the amount of the general assembly appropriation and the funding provisions of the Act. The allocation for each Local Education Provider will be based on a statewide count of students eligible for certification and funding under the Act.

Seventy-five percent of the amount annually appropriated to the Department pursuant to this subsection (3) to Local Education Providers to provide services to English Language Learners and provide professional development activities for educators who work with English Language Learners who:

- 5.00 (1) (a)** Speak a language other than English and do not comprehend or speak English; and
- 5.00 (1) (b)** Comprehend or speak some English but whose primary comprehension or speech is in a language other than English.
- 5.00 (1) (c)** The Department will distribute the remainder of the amount annually appropriated to Local Education Providers to provide services to, and to provide professional development activities for educators who work with English Language Learners who comprehend and speak English and one or more other languages but whose English language development and comprehension is:
- (i) At, or below the mean of students enrolled in the Local Education Provider or below the mean or equivalent on a nationally standardized test; or
 - (ii) Below the acceptable proficiency level based on the assessments identified by the Department.

- 5.00 (1) (d)** Each District will annually distribute to each Charter School one hundred percent (100%) of the amount the district receives on behalf of English Language Learners enrolled in each Charter School for the October count year used to determine the allocation distribution to the District.
- 5.00 (1) (e)** The Charter School Institute will annually distribute to each Charter School one hundred percent (100%) of the amount the District receives on behalf of English Language Learners enrolled in each Charter School for the October count year used to determine the allocation distribution to the District.