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**Linguistically Diverse Students  
in North Dakota:**

**School District Responsibilities  
and Services Available**

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**Bilingual & Language Acquisition Programs**

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NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION  
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# ***What Requirements Must North Dakota Schools Follow for Students Who Come From Different Language Backgrounds?***

Federal Legislation that impacts schools with linguistically diverse students includes:

- Title VI of the Civil Rights Act of 1964 - Prohibits discrimination on the basis of race, color or national origin
  - All schools that receive federal funding must comply
- Elementary and Secondary Education Act - No Child Left Behind Act of 2001
  - All schools that receive Title Program funding must comply

State legislation includes:

- State Approval and Accreditation Standards - ND Century Code
- State English Language Learner Program ND Century Code

## **1. Identify Limited English Proficient Students**

Students who lack English language proficiency succeed better in programs that specifically address their needs. Federal and State Legislation require that school districts provide appropriate services. Based on the Civil Rights Act of 1964 and a number of court decisions, the Federal Office of Civil Rights has outlined components of a successful program for students learning English. Both Title I and Title III of *No Child Left Behind* state requirements for assessment and instruction of limited English proficient (LEP) students.

- Students enrolling in the district should be surveyed to determine if a language other than English is used in the community.
- Students who have been identified as having a primary or heritage language other than English should be assessed to determine their level of English language proficiency.

North Dakota uses the federal definition of limited English proficient in defining the population of students for whom school districts must assess and provide language support services.

*The term "limited English proficient", which is defined in section 9101 of Title IX when used with respect to an individual, means an individual -*

*who is aged 3 through 21;*

*who is enrolled or preparing to enroll in an elementary school or secondary school;*

- *who was not born in the United States or whose native language is a language other than English;*

- *who is a Native American or Alaska Native, or a native resident of the outlying areas; and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or*
- *who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and*
- *whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual -*
  - *the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);*
  - *the ability to successfully achieve in classrooms where the language of instruction is English; or*
  - *the opportunity to participate fully in society.*

*Title IX, Section 9109, No Child Left Behind Act, 2001*

## **2. Assess the English Language Proficiency of LEP Students**

School districts must assess annually the English language proficiency in speaking, reading, writing, listening, and comprehension of LEP students.

## **3. Assess the Academic Achievement of LEP Students**

- All LEP students must be included in the statewide academic achievement assessment program.
- LEP students have a right to accommodations.
- LEP students must make progress towards the same standards as all students.

## **4. Provide Students with Alternative Language Services**

- School districts must meet the educational needs of language minority students with an effective, research-based instructional program.
- Program must be designed to assure that students make adequate progress in developing English language proficiency.
- All identified LEP students in a district should be served in an alternative language program.

## **5. Provide Appropriate Staff**

- A district should provide adequate staff necessary to properly implement its chosen program.
- All programs must be under the supervision of a director.
- Instructional plans of all LEP students must be developed by a licensed teacher with an endorsement in ESL or bilingual education.

- Teacher aides and tutors must be under the supervision of qualified teachers. LEP students should not receive long-term instruction from aides rather than teachers.

#### **6. Provide Appropriate Instructional Materials and Resources**

- Materials and resources should be comparable in quality to those for non-LEP students.

#### **7. Develop Entrance and Exit Criteria**

- A district should establish exit criteria determining when a student speaks, reads, writes, and comprehends English sufficiently to participate meaningfully in the district's educational program.
- Exit criteria must be consistent with state definition of English language proficiency.
- LEP students should be evaluated to determine whether they qualify in order to exit services.
- A district should monitor the academic progress of former LEP students, including a formal review of grades on a regular basis.

#### **8. Evaluate District Program and Services**

- Districts that have alternative language programs for LEP students must monitor the programs to ensure that they effectively meet the needs of LEP students.
- A district should record data on former LEP students to assess whether they are keeping up with their non-LEP peers.

#### **9. Provide Appropriate Parental Notice**

- Districts should provide the parents of LEP students with notices containing the same information that is provided to the parents of their non-LEP peers.
- Districts must provide parents information on their child's language instructional program, academic achievement, and progress toward learning English.
- School districts must inform parents of the child's participation in a language instructional program no later than 30 days after the beginning of a school year.
- Parents of children who enter school after the start of the school year must be informed of the child's participation in the program within two weeks.
- Notices must be furnished in the language the parents know best.

**10. Districts Must not Discriminate or Segregate in Providing Services**

- A district should carry out its chosen alternative language program in the least segregative manner consistent with achieving its stated goals.
- The quality of instructional materials, facilities, and curriculum should be comparable to non-LEP students.
- A limited segregation of LEP students is permissible where the benefits accrued in remedying language barriers that impede their academic potential outweighs the adverse effects of segregation.
- A district may not exclude LEP students from programs for the gifted and talented.

**11. Districts must not Over-Refer or Under-Refer LEP Students for Special Education Services**

- A district should ensure that LEP students are being placed in the special education program because of actual qualifying conditions and not simply because of cultural differences or lack of English-language skills.
- Interpreters and other staff who assist in the assessment of LEP students should be trained to carry out the evaluation.

**NORTH DAKOTA LEVELS OF ENGLISH LANGUAGE PROFICIENCY  
FOR LIMITED ENGLISH PROFICIENT STUDENTS**

(Levels apply to learners who come from an environment where a language other than English is dominant or has had a significant impact on the individual's level of English language proficiency.)

<u>Levels</u>	<b>Methods for determining levels</b>		
	Language Proficiency Test Score	Performance Based Assessment Check List	Team Decision
<b>I A - Low Preliterate</b> Learner may have minimal understanding of a language other than English and does not have literacy skills in any language. Classroom curriculum would be impossible.			
<b>I B – Preliterate</b> Learner speaks a language other than English. Learner does not speak English and has no literacy skills in either language. Classroom curriculum would be impossible.			

<b>II A - Low Beginning</b> Learner has some literacy skills in a language other than English. Learner has a minimal amount of basic interpersonal communication skills and negligible reading, writing, speaking, listening, and comprehending skills in English. Classroom curriculum would be impossible.			
<b>II B - Mid Beginning</b> Learner has some basic interpersonal communication skills and developing academic skills in reading, writing, speaking, listening, and comprehending English. Grade level classroom curriculum would be nearly impossible to extremely difficult.			
<b>II C - High Beginning</b> Learner has some basic interpersonal communication skills in English and very limited reading, writing, and academic speaking and comprehending skills. Grade level classroom curriculum would be extremely difficult.			

<p><b>III A - Low Intermediate</b> Learner has basic interpersonal communication skills and limited reading, writing, and academic speaking and comprehending skills. Grade level classroom curriculum would be extremely difficult to slightly difficult.</p>			
<p><b>III B - Mid Intermediate</b> Learner is proficient in basic interpersonal communication skills. Learner can read, write, and comprehend academic material at a lower grade level. Oral English vocabulary is limited in academic areas. Grade level classroom curriculum would be difficult.</p>			
<p><b>III C - High Intermediate</b> Learner is proficient to advanced in basic interpersonal communications skills. Learner is gaining grade level skills in reading, writing, and comprehending academic English materials. Academic oral vocabulary may be limited. Highly cognitive, abstract, and context-reduced language activities would be the most difficult. Idioms and culturally related language would be difficult. Grade level classroom curriculum would be difficult to challenging.</p>			

<p><b>IV A - Low Transitional</b> Learner has mastery of most basic interpersonal communication skills. Learner is near grade level in academic English skills in reading, writing, comprehending, and expressing the English language. Highly cognitive abstract language and context-reduced activities at grade level would be difficult. Idioms and culturally related language would be difficult. Grade level classroom curriculum would be challenging.</p>			
<p><b>IV B - Mid Transitional</b> Learner has mastery of basic interpersonal communication skills and is gaining proficiency in cognitive academic language skills in reading, writing, listening, and comprehending English. Learner is developing language learning strategies, meta-linguistic strategies, and abstract, context-reduced language. Learner is also gaining familiarity with many idioms and culturally related language patterns and phrases. Grade level classroom curriculum would be challenging to manageable.</p>			
<p><b>IV C - High Transitional</b> Learner has mastery of basic interpersonal communication skills and nearly all cognitive academic language skills in reading, writing, comprehending, and expression. Learner is becoming adept at language learning strategies, meta-linguistic strategies, and abstract, context-reduced language. Learner is developing familiarity with many idioms and culturally related language patterns and phrases. Classroom curriculum would be manageable.</p>			

**V - Proficient**

The learner has age-appropriate mastery of basic, interpersonal communication skills in listening speaking, reading, and writing English and age-appropriate mastery of cognitive, academic language proficiency in listening, speaking, reading, and writing English. The learner uses cognitive abstract language and participates in context-reduced activities (e.g., taking accurate notes from a lecture presentation) in English at age-appropriate or grade level. The learner communicates clearly in oral and in written English, using non-verbal clues, idiomatic expressions, and extended discourse, according to the appropriate cultural and social situation and with the appropriate level of formality (register). Learner would not be impeded from academic classroom curriculum by language demands.

## Progress From Level to Level

Students progress from level to level in the following ways:

- Meet expected gains as demonstrated by the state approved language proficiency test.
- Team recommendation. (School LEP teams are composed of classroom teacher, ESL/bilingual resource teacher, and others who provide services, such as program director, teacher assistants, parents, etc.)
- Portfolio of classroom work including checklist of skills demonstrating competence in language areas. (Portfolio criteria for levels will be developed by state task force.)

# Definition of Academic Language Proficiency

*Draft, June 7, 2003*

*Language acquisition occurs over time with learners moving through developmental stages and gradually growing in proficiency. Individual learners, however, move through these stages at variable rates. Rates of acquisition are influenced by multiple factors including an individual's educational background, first language background, learning style, cognitive style, motivation, and personality. In addition, socio-cultural factors, such as the influence of the English or native language community in the learner's life, may play a role in acquisition. In many instances, learners "pick up" conversation skills related to social language more quickly than they acquire academic language skills. Educational programs must recognize the length of time it takes to acquire the English language skills necessary for success in school. This means that English for Speakers of Other Languages (ESOL) learners must be given the time it takes to attain full academic proficiency in English, often 5-7 years. (TESOL, 1997, p. 7)*

It should also be noted that five to seven years represents the average time it takes to achieve English language proficiency. It may take more or less time, depending upon individual and socio-cultural factors. Under certain circumstances, English language proficiency during the K-12 time frame may never be achieved.

Teachers for Speakers of Other Languages (TESOL) is the international professional association that represents over 15,000 ESL and EFL teachers, teacher educators, and researchers globally. In its "Statement of the Acquisition of Academic Proficiency in English" (1999), TESOL concludes that "*education policies that impose artificial time limits on programs and services for LEP students fail to account for these (varied) factors and may result in lower levels of academic achievement for such students in English and academic subjects.*"

To help achieve academic proficiency in English, TESOL (1999) makes the following recommendations.

Education policies for LEP students must be grounded in sound pedagogical principles and not politics or ideologies. TESOL recommends that national, state, and local education policy makers incorporate the following elements into their programs and policies for LEP students:

- no time limits for services that move towards standards-based education,
- sustained professional development for ESL and grade/content level teachers,
- ongoing student assessment that uses fair, reliable, and valid qualitative and quantitative measures,
- accountability for stakeholders (e.g., students, teachers) at different levels of implementation (e.g., school, district, state),

- native language support to help students achieve academic success,
- cultural and linguistic diversity in school curriculum and programs,
- emphasis on academic and content-based English language instruction,
- active parental involvement in a student's education.

## I. Characteristics

The term "limited English proficient," which is defined in section 9101 of Title IX by the United States Department of Education (USDE) in the Elementary and Secondary Education Act (ESEA), No Child Left Behind (NCLB), (2001) when used with an individual, means an individual

- 1) who is aged 3 through 21; AND
- 2) who is enrolled or preparing to enroll in an elementary or secondary school; AND
- 3)
  - who was not born in the United States or whose native language is a language other than English; OR
  - who is Native American or Alaskan native or a native resident of the outlying areas; AND who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; OR
  - who is migratory and whose native language is other than English and who comes from an environment where a language other than English is dominant.

## II. General Proficiency

An LEP student (as defined above, according to Title IX of NCLB) can be considered to have proficiency when, his/her abilities in speaking, reading, writing, or understanding the English language allow the student

- 1) to meet North Dakota's proficient level of achievement on State assessments; OR
- 2) to successfully achieve in classrooms where the language of instruction is English; OR
- 3) the opportunity to participate fully in society

## III. Specific English Language Abilities/Level

The following criteria represent Level V (the proficient level) of the North Dakota levels of English Language Proficiency, as developed by the NDLEP Task Force (2001) and are used in the adaptations of the ND state content standards for LEP students. The other four levels are:

I - Preliterate, II - Beginning, III - Intermediate, and IV - Transitional/Basic. The criteria identified below are sequenced throughout the five levels.

- The learner has age-appropriate mastery of basic, interpersonal communication skills in listening speaking, reading, and writing English.
- The learner has age-appropriate mastery of cognitive, academic language proficiency in listening, speaking, reading, and writing English.

- The learner functions at age- or grade-appropriate level in academic skills in listening, speaking, reading, and writing English.
- The learner uses cognitive abstract language and participates in context-reduced activities (e.g., taking accurate notes from a lecture presentation) in English at age-appropriate or grade-level.
- The learner communicates clearly in oral and in written English, using non-verbal clues, idiomatic expressions, and extended discourse, according to the appropriate cultural and social situation and with the appropriate level of formality (register).

In sum, the proficient English language learner successfully uses age- or grade-appropriate social and academic language, as well as social and cultural rules governing language-mediated communication.

Teachers for Speakers of Other Languages (1997). *ESL Standards for Pre-K-12 Students*. Alexandria, VA: Author.

Teachers for Speakers of Other Languages (1999). TESOL statement on the acquisition of academic proficiency of English. Alexandria, VA: Author. Available at <http://www.tesol.org/assoc/statements/acqproficiency.html#1>

In addition to the above definition, the following information is provided on the definition of full academic English language proficiency. Students are reclassified as fully English proficient by the following criteria; a student is reclassified as "Proficient" based on:

- A score of 538.05 on Woodcock Munoz.
- Team recommendation. (School LEP teams are composed of classroom teacher, ESL/bilingual resource teacher, and others who provide services, such as program director, teacher assistants, parents, etc.)
- Portfolio of classroom work demonstrating competence in language areas. (Portfolio criteria checklists and scoring guides for full English language proficiency will be developed by state task force.)
- Reaching a level of "proficiency" in English Language Arts on the statewide achievement-testing program.

## ***Funding and Services for Linguistically Diverse Students***

The Department of Public Instruction is pleased to provide a variety of programs and support services for school districts with students who come from different language backgrounds. This support can include financial support for costs incurred by school districts to educate limited English proficient students and training and technical assistance to aid school districts in helping students master English and achieve to high academic standards. Programs available include:

### **State English Language Learner Program**

- Provides fiscal support for language programs for students who are learning English as a second language.

### **Title III English Language Acquisition, Language Enhancement, and Academic Achievement**

- Provides fiscal support for language programs for LEP and immigrant students.
- Provides materials and technical assistance for schools with bilingual and LEP students.

### **Refugee School Impact Grant - "Success Through Extra-Curricular Enrichment Program"**

- Provides technical assistance and fiscal support for extra-curricular and after school activities for refugee students.