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**ESL Policy 3.207 Revision**

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**The Background:**

The current ESL policy was passed in August of 2008. Implementation began in 2009. The ESL Task Force felt that for better understanding we needed to refine this policy. We have simplified the program and better defined the categories of English Learners. This subgroup of student present special challenges for the local education agencies. The policy underwent a major revision in 2008 and these simple revisions are the result of better guidance from the U.S. Department of Education and practices common in other states.

During the 2008 revision, the ESL Task Force discussed moving staffing ratio near the funding ratio, but since certified English as a Second Language (ESL) teachers were in short supply, we did not want to force districts out of compliance. Currently, the supply of ESL teachers is improved.

**The Master Plan Connection:**

These revisions will impact both resources and teaching. They will provide through better definition of the categories of English Learners improved placement in proper classrooms. The new teacher-student ratio will have a slight impact. Many districts which are successful in the accountability pieces are already at the proposed ratio.

**The Recommendation:**

The State Department of Education recommends acceptance of this item on first reading. The SBE staff concurs with this recommendation.

**PROPOSED REVISIONS TO TENNESSEE’S ENGLISH AS A SECOND LANGUAGE (ESL) PROGRAM POLICY**  
**3.207**  
**Report to the State Board of Education**

<b>Current</b>	<b>Proposed Revision</b>	<b>Justification</b>
Does not specify the need to keep and transfer the Home Language Survey (HLS) documents.	Page 2 of the document instructs that the HLS documents be maintained and sent with a student who transfers.	Instructions from the USDOE indicate this is the first legal document that it maintain for Office of Civil Rights compliance.
Service delivery models have been up to 9 models for the past 3 years.	Change “service delivery” to “program.” Remove 5 of the models. Insert a paragraph to explain the service delivery.	Tennessee’s ESL Task Force felt that that five of these were program models rather than service delivery models. All delivery models fall under the program models.
Tennessee requires an ESL staffing ratio of one full-time ESL endorsed teacher for no more than 45 identified ELLs unless an alternate staffing ratio is approved by the Department of Education.	Tennessee requires an ESL staffing ratio of one full-time ESL endorsed teacher for no more than 40 identified ELLs unless an alternate staffing ratio is approved by the Department of Education.	Experienced ESL educators on the ESL Task Force support reducing the ratio of ESL students per full-time ESL teacher. The Basic Education Program (BEP) increased the per pupil funding to districts based on the number of ELLs also provide substantially more funds for local educational agencies to implement lower ESL student/teacher ratios in the 2007-2008 school year.. As a first step to improve the education of the State’s ELLs, the ESL Task Force recommended an incremental decrease in the current ESL student/teacher ratio by 5 students per ESL teacher. The last revision in 2008 changed this from 50 to 45. Funding is closer to 30 students per ESL teacher. Districts that want to implement an alternate staffing model have the option to propose such a model for State Department of Education approval. The ESL Task Force did not want to overwhelm districts with this change which explains the gradual reduction.
Tennessee does not allow adequate accommodations to Transition students (recently exited ELs).	Accommodation will be granted to this group to aid the districts in reaching the accountability outcomes.	An transition student is not on par with native English speaking students upon exit from the ESL program. The vocabulary will take from 7 to 10 years to become competitive and this group of students need assessment accommodations.
Advanced, beginning and intermediate ELLs are not defined well in the document.	The definitions include a concise definition of these terms for districts.	This will aid the districts in decision about which students are in the most need of assistance. This grants discretion to the district for students who are at a level that mainstreaming them is possible and encouraged.

# TENNESSEE STATE BOARD OF EDUCATION

## ESL PROGRAM

## POLICY 3.207

The English as a Second Language (ESL) Program Policy is designed to set minimum standards for Tennessee school districts in providing services to non-English language background (NELB) students who are also limited English proficient (LEP). These students are often referred to as English Language Learners (ELLs) or English Learners (ELs).

States, districts, and schools are required to provide specialized programs for LEP students to comply with Title VI of the Civil Rights Act of 1965 and T.C.A 4-21-90. This ESL policy has two purposes. First, it establishes the minimum required compliance components for ESL programs in Tennessee. Second, it provides a framework for implementing effective educational programs for ELLs. The policy includes these components: anti-discriminatory policies and practices, identification of English Language Learners, parental notification and rights, service delivery models, and staffing ratios. The appendix includes the definitions of many of the terms used in this policy.

### **Anti-Discrimination Policies and Practices**

To comply with Title VI of the Civil Rights Act of 1965, T.C.A 4-21-90, and the Equal Educational Opportunities Act of 1974, all school districts must have anti-discriminatory policies which preclude denial of equal education opportunities to individuals based on race, color, or national origin. To comply with anti-discriminatory policies, district practices must not result in the inappropriate placement of ELLs in or exclusion from special opportunity programs or activities based on English language proficiency or national origin. The Supreme Court decision, Plyler v. Doe, 1982, prohibits school districts from denying undocumented immigrant children a free public education and rejects the denial or exclusion of educational services for immigrant children due to financial burden.

### **Identification of English Language Learners**

To comply with the ESL program policy, school districts must identify ELLs by following these two steps.

**STEP 1:** School districts administer the Home Language Survey to all students in the district. The Home Language Survey consists of three questions that will be asked of every parent enrolling his/her child in the school district. These questions are:

1. What is the first language this child learned to speak?
2. What language does this child speak most often outside of school?
3. What language do people usually speak in this child's home?

When these questions are answered, the copy of the original answers must be kept on file and be transferred with the cumulative folder if the student transfers. If the answer to *any* of the above questions is a language other than English, the child will be classified as Non-English Language Background (NELB) and assessed for English proficiency using an approved screening assessment for ESL.

**STEP 2:** Unless an NELB student has documentation from a previous district of meeting the definition of Fluent English Proficient (FEP) in all four domains of language, school districts assess all NELB students with the state approved English language proficiency test to determine whether they are limited English proficient (LEP). All NELB students who are determined to be LEP must be identified as ELL, and ESL services must be provided through an allowable service delivery model.

In content area classes, teachers must modify instruction and assessment to make content area curriculum accessible to ESL students. Students may not be retained due to language ability. (1964 Title VI of the Civil Rights Act; Lau v. Nichols, 1974).

### **Parental Notification and Rights**

School districts shall communicate information related to testing, placement and ESL services to all parents on Non-English Language Background (NELB) students in the language that the parent can understand, to the extent practicable. Parents of ELLs must be informed of the right to refuse placement of their children in ESL programs. Parents must be advised of studies related to emergent English language learners.

### **Service Delivery Models**

An alternative language program for ELLs, known as English as a Second Language, is defined in Tennessee Rules and Regulations as "English instruction especially designed for speakers of other languages" [Rule 0520-1-3-.056. a. 1 and 2 ii.]. An ESL program may be provided through various service delivery models including:

- ESL pull-out programs,
- Push-in or inclusion models,
- Structured immersion grades or classes, or
- Scheduled ESL class periods.

Instruction may be delivered in Newcomer Centers or classes, traditional setting, resource centers. ESL is ideally delivered through content based materials. Sheltered classes in academic subjects are a modification that is supported by research. These classes are most appropriate at the middle and high school levels. Structured immersion segregates students and is only appropriate for one year, two years in situations where students are illiterate in their first language.

The Department of Education must approve other models based on the available evidence of their effectiveness. All models must address how academic deficits that are the result of students' limited English proficiency will be remediated. No Child Left Behind demands that all ESL service be based on research based educational practices.

At the elementary level, an effective, endorsed, highly qualified ESL teacher must provide direct services one to two hours per day for prefunctional, beginning and intermediate English Language Learners. Students at the advanced level may have programs more tailored to their needs including, but not limited to, visits in classroom without or with limited numbers of ELLs for subjects for which they are most proficient. They should receive up to one hour of direct service each day until these transitions begin to take place.

Transitional ELL students are considered proficient and may be mainstreamed in the regular classroom with careful monitoring for two years. Transition students will continue to receive appropriate accommodations on the TCAP assessments. Should a transition student begin to have difficulty in classes, s/he should receive intervention immediately. If this intervention is not successful, the student may be re-designated ESL.

At the high school level, districts shall use one course code for all ESL course work. Two ESL credits may be counted toward the four English credits required for graduation. Additional ESL courses shall be counted as elective credits. It is recommended that ELL students achieve the intermediate level on the English language proficiency test before taking a regular English course. Due to course requirements for graduation, there can be more flexibility related to classes. However, a pre-functional and beginning student should never have less than one hour of daily ESL service per day.

### **Staffing Ratios**

Appropriate staffing of ESL programs is based on two criteria. First, districts will provide adequate ESL faculty to implement the chosen service delivery model effectively, as documented by the progress in English language proficiency and academic content of their ESL students. Second, districts will adequately staff their ESL programs to meet federal compliance requirements, including but not limited to, communication to parents, identification of English language learners, and monitoring of transitional ELLs.

To meet the two criteria of effective and compliant ESL programs, districts shall implement ESL programs based on the following staffing ratio standards:

- ESL class sizes shall not exceed state mandated grade level class size requirements; and,
- The district-wide ESL program staffing ratio shall be based on an average of no more than 40 identified ELL students per full-time ESL endorsed

teacher unless an alternate staffing ratio is approved by the Department of Education.

Districts seeking approval for an alternate district-wide staffing ratio shall provide the following information annually to the Department of Education:

- The number of ELLs;
- The proficiency levels of ELLs;
- The most recent adequate yearly progress determinations for the ELL subgroup in Reading/Language Arts and mathematics;
- The proposed staffing ratio that will be used in place of the recommended 40 to 1 ratio; and,
- The justification for the alternate staffing ratio.

The alternate staffing ratio may be approved for one year.

Attachments:

Definition of Terms

## **Definitions for English as a Second Language Programs:**

Advanced English Language Learner (ELL) students – non-English language background students who have been administered the English language proficiency assessment and score advanced on the English proficiency assessment (Currently a score of 3 on the English Language Development Assessment.) and are thereby entitled to ESL services.

Beginning English Language Learner (ELL) students - non-English language background students who have been administered the English language proficiency assessment and score prefunctional or beginning on the English language proficiency assessment (Currently a composite score of 1 on the English Language Development Assessment.)and are thereby entitled to ESL services.

English Language Learners (ELL) [officially Limited English Proficient (LEP)]- non-English language background students whose level of oral, reading, and written proficiency in English does not allow them to fully benefit from the curriculum and have difficulty in regular classroom curriculum without specially designed modifications. ELL students have not yet met the definition of fluent English proficient (FEP).

English as a Second Language (ESL) - English as a Second Language courses which meet Tennessee Rules and Regulations [Rule 0520-1-3-.056.(a). 1 and 2 (iii)] as ‘English instruction especially designed for speakers of other languages’. In Tennessee, a teacher providing ESL instruction must have an ESL endorsement.

Fluent English Proficient (FEP) - non-English language background students who meet one of the following criteria:

1. Upon initial enrollment in a Tennessee public school, scored proficient or advanced on the state approved English language proficiency test;
2. initially qualified as ELL based on the state approved English language proficiency assessment, received ESL services, and have now scored a composite score of 4, with a score of 4 or 5 on the reading and writing subtest, or a composite score of 5 on the English Language Development Assessment (ELDA).

Home Language Survey - the questions asked of all students within the school district to determine whether or not students are non-English language background. The questions are:

1. What is the first language this child learned to speak?
2. What language does this child speak most often outside of school?
3. What language do people usually speak in this child's home?

Limited English Proficient (LEP) – this is the federal term used for ELL. Please see definition for English Language Learner.

Non-English Language Background (NELB) - a student whose answer to any of the questions on the home language survey is a language other than English.

Transitional LEP Students (T1, T2) - Non-English language background students, who were classified as ELL, have taken the English Language Development Assessment and scored a composite of 5 or a composite of 4 with the reading and writing subtest composite score being a 4 or 5.