



REQUIREMENTS FOR ENGLISH LANGUAGE LEARNER EDUCATION IN SEVERAL STATES

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STUDENTS ELIGIBLE FOR BILINGUAL EDUCATION

In Connecticut, a public school student is eligible for bilingual education if the student's dominant language is other than English and his or her English proficiency is not sufficient to ensure the student has an equal educational opportunity in the regular school program ([CGS § 10-17e\(1\)](#)).

ISSUE

Summarize Connecticut and federal education requirements for public school students whose first language is not English (a.k.a. English language learners (ELLs)) and compare those with a sample of states with significant ELL populations. For each, include whether there is a legal maximum length of time students can be in bilingual education, English language immersion, or similar program.

SUMMARY

This report outlines federal requirements for ELL students and the state law requirements in Connecticut and three other states, California, Massachusetts, and New York.

Federal law requires that, when needed, schools must provide equal educational opportunities specifically for language-minority students. While it requires that ELL students be kept in a language program until they can read, write, and comprehend English well enough to participate meaningfully in school, the law does not dictate that all states offer a specific program to accomplish this.

Connecticut's law requires eligible ELL students to receive up to 30 months of bilingual education if they are in a school with at least 20 students who speak the same non-English native language and need assistance learning English. Once the 30 months ends, the district must provide language transition support services to the students if they do not meet the English language mastery standard. These services could include English as a second language (ESL) programs, sheltered English programs, English immersion programs, tutoring and homework assistance, or other programs taught in English.

Like Connecticut, New York law requires bilingual education programs, but California and Massachusetts have each passed ballot measures that removed the bilingual education requirement. These two states instead require English immersion, another approach for ELL students.

In bilingual education, both English and the students' native language are used to teach content and develop the student's English proficiency. In English immersion, only English is used for both teaching content and developing English proficiency.

FEDERAL REQUIREMENTS

Both the U.S. Supreme Court and Congress have spoken in general terms about school districts' responsibility to educate students whose first language is not English. In 1974 the Supreme Court ruled that school districts must take special steps to assure that students with limited English language proficiency have an opportunity to participate equally in educational programs (*Lau v. Nichols*, 414 U.S. 563 (1974)).

That same year, Congress passed the Equal Educational Opportunities Act. It prohibits states from denying:

educational opportunity to an individual on account of his or her race, color, sex, or national origin, by . . . the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs [20 U.S.C. § 1703\(f\)](#).

However, this law does not specify what type of "appropriate action" a school district must take when instructing a student who does not primarily speak English.

CONNECTICUT REQUIREMENTS

Under Connecticut law, every local or regional board of education must (1) identify which students are eligible for bilingual education and (2) offer an appropriate bilingual education program up to a maximum of 30 months for those students. If necessary, the bilingual program may be followed by language transition support services.

Eligible Students

By law, students eligible for bilingual education are those (1) whose dominant language is not English and (2) who are not proficient enough in English to ensure equal opportunity in the regular school program. When identifying these students, boards of education must:

1. annually determine the number of district students eligible for bilingual education in the following school year and classify them according to their dominant language;
2. provide a program of bilingual education if at least 20 students in any school dominant in any one language other than English;
3. hold a meeting with the parents and guardians of eligible children to explain the benefits of the language program options available in the school district, and;
4. place any eligible child into the bilingual education program at the parents' or guardians' request ([CGS § 10-17f](#)).

Providing an Appropriate Education Program

Connecticut local or regional boards of education must provide programs to an ELL student in a particular order. An eligible student first enrolls in a bilingual education program for a maximum of 30 months, which does not have to be consecutive. If the student does not meet the state English mastery standard at the end of 30 months, then the board must provide language transition support services to the student, which may include: ESL programs, sheltered English programs, English immersion programs, or tutoring and homework assistance ([CGS § 10-17f\(d\)](#)).

This order of programming is important because of how the law defines these programs. The law defines a bilingual education program as one that:

1. makes use of both English and an eligible student's native language,
2. enables eligible students to achieve English proficiency and academic mastery of subject matter content and higher order skills to meet grade promotion and graduation requirements,
3. provides for the continuous increase in the use of English and corresponding decrease in the use of the native language for the purpose of instruction within each year and from year to year and provides for the use of English for more than half of the instructional time by the end of the first year,

4. may develop the native language skills of eligible students, and
5. may include the participation of English-proficient students if the program is designed to enable all enrolled students to become more proficient in English and a second language ([CGS § 10-17e\(2\)](#)).

The second level of support, language transition support services, could be offered in various forms. For example, an ESL program is one that uses only English as the instructional language for eligible students and enables such students to achieve English proficiency and academic mastery of the subject matter content and higher order skills, including critical thinking, so as to meet appropriate grade promotion and graduation requirements ([CGS § 10-17e\(3\)](#)). Although not defined in statute, sheltered English program and English immersion program are very similar to ESL in that they provide instruction using only English.

In 2010, the State Board of Education approved a state policy on the education of ELL students in Connecticut. The policy provides numerous more details than does the law (for complete policy see, [Position Statement on the Education of Students Who Are English Language Learners](#)).

NEW YORK

New York law is very similar to Connecticut's regarding the initial three-year window of bilingual education. New York provides for up to three years of bilingual education or English as a second language but differs from Connecticut in that either of these can be extended for up to three more years for a total of six years from the student's date of enrollment in school (NYS Code [Art. 65, § 3204](#)).

The law requires the bilingual programs to be designed to:

1. provide content instruction for children of limited English proficiency using the child's native language and English;
2. provide native language instruction;
3. provide English as a second language instruction;
4. develop skills in listening, speaking, reading and writing the English language; and
5. assist in the learning of content areas through instruction in English.

As in Connecticut, New York requires students to demonstrate proficiency in English before they exit the bilingual program. This is done through the New York State English as a Second Language Achievement Test (NYSESLAT). All ELL students take the NYSESLAT each year.

CALIFORNIA AND MASSACHUSETTS

Some states, including California and Massachusetts, have passed ballot measures to eliminate bilingual education as the primary method for teaching English to non-English speaking students and instead require English-only immersion. Consequently Connecticut law requires more bilingual education than does either California or Massachusetts.

California voters passed Proposition 227 in 1998 and Massachusetts voters approved Question 2 in 2002. Both ballot measures changed the law to require English immersion in the classroom. These approaches are allowed under federal law and the goals for students remain the same: ensure that ELL students acquire proficiency in English as rapidly and effectively as possible and attain parity with English language speakers.

The two states' laws are very similar. Both laws require the ELL student be "taught English by being taught in English" and require the student to be placed in a sheltered English immersion program ([Mass. Gen. Laws, Ch. 71A, § 4](#))([Cal. Ed. Code § 305](#)). Under California law, sheltered English immersion is defined as English language acquisition for young children in which nearly all classroom instruction is in English with the curriculum and presentation designed for children who are learning the language)([Cal. Ed. Code § 306](#)).

Both states allow parents to seek a waiver from the immersion classes and instead have a student transferred to a bilingual program, but relatively few ELL students are in bilingual programs. One report estimated that after the California ballot measure took effect, the number of elementary school students in bilingual education dropped from 39% of all ELLs to 13%. (Recently, the California legislature passed and the governor signed a bill (SB [1174](#)) that will place the question of restoring bilingual education on the ballot in 2016.)

Massachusetts law specifically says that schools with 20 students or more of a specific grade who receive a waiver are required to offer a bilingual program. In cases where there are fewer than 20 such students in a class, the students must be permitted to transfer to another public school that offers bilingual education ([Mass. Gen. Laws, Ch. 71A, § 5](#)).

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