



REGION ONE EDUCATION SERVICE CENTER

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# BILINGUAL EXCEPTIONS / ESL WAIVERS

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# SESSION OBJECTIVES

## Content Objective

- Today I will explore certification requirements under TAC Chapter 89 to determine if our district/charter school must submit a **Bilingual Exception and/or ESL Waiver** by November 1st.

## Language Objective

- Today I will discuss with my peers different scenarios that will help us decide if we must apply for a **Bilingual Exception and/or ESL Waiver** by November 1st.



# ENGLISH LEARNER PROGRAM MODELS IN TEXAS

TEC 29.066;  
TAC 89.1210

## Six State-Approved Program Models for ELs

Districts must serve English learners (ELs) through BE or ESL

### Bilingual Education (BE) Program Models

### English as a Second Language (ESL) Program Models

1+ EL = ESL program required  
20+ ELs @ same grade and primary language district-wide = BE program required in elementary\*

Transitional  
Early Exit

Transitional  
Late Exit

Dual  
Language  
Immersion  
One Way

Dual  
Language  
Immersion  
Two Way

ESL  
Content-  
Based

ESL  
Pull-Out

\*Elementary = PK through 5<sup>th</sup> grade (or through 6<sup>th</sup> grade if clustered with elementary)



# STATE-APPROVED BILINGUAL PROGRAM MODELS §89.1210 (C)(1)

**Transitional bilingual/early exit** is a bilingual program model in which students identified as English learners are served in both English and another language and are prepared to meet reclassification criteria to be successful in English-only instruction not earlier than two or later than five years after the student enrolls in school.

Instruction in this program is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061(b)(1), for the assigned grade level and content area.



## STATE-APPROVED BILINGUAL PROGRAM MODELS §89.1210 (C)(1)

**Transitional bilingual/late exit** is a bilingual program model in which students identified as English learners are served in both English and another language and are prepared to meet reclassification criteria to be successful in English-only instruction not earlier than six or later than seven years after the student enrolls in school.

Instruction in this program is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061(b)(2), for the assigned grade level and content area.



## STATE-APPROVED BILINGUAL PROGRAM MODELS §89.1210 (C)(1-4)

**Dual language immersion/one-way** is a bilingual/biliteracy program model in which students identified as English learners are served in both English and another language and are prepared to meet reclassification criteria in order to be successful in English-only instruction not earlier than six or later than seven years after the student enrolls in school.

Instruction provided in a language other than English in this program model is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061.

Instruction provided in English in this program model may be delivered either by a teacher appropriately certified in bilingual education or by a different teacher certified in ESL in accordance with TEC, §29.061.



## STATE-APPROVED BILINGUAL PROGRAM MODELS §89.1210 (C)(1-4)

**Dual language immersion/two-way** is a bilingual/biliteracy program model in which students identified as English learners are integrated with students proficient in English and are served in both English and another language and are prepared to meet reclassification criteria in order to be successful in English-only instruction not earlier than six or later than seven years after the student enrolls in school.

Instruction provided in a language other than English in this program model is delivered by a teacher appropriately certified in bilingual education under TEC, §29.061, for the assigned grade level and content area.

Instruction provided in English in this program model may be delivered either by a teacher appropriately certified in bilingual education or by a different teacher certified in ESL in accordance with TEC, §29.061, for the assigned grade level and content area.





# STATE-APPROVED BILINGUAL EDUCATION PROGRAM MODELS

Program Model Type	Goal	Instruction
Transitional bilingual / early exit	<ul style="list-style-type: none"> <li>Primary language used as a resource</li> <li>Full proficiency in English is acquired to participate equitably in school</li> </ul>	<ul style="list-style-type: none"> <li>Literacy and academic content in primary language <u>and</u> English</li> <li>Teacher(s) certified in <u>grade level/content area and in bilingual education</u></li> <li>Primary language instruction decreases as English is acquired</li> </ul>
Transitional bilingual / late exit		
Dual language immersion / one-way	<ul style="list-style-type: none"> <li>Full proficiency in primary language is attained</li> <li>Full proficiency in English is attained to participate equitably in school</li> <li>Full proficiency includes grade-level literacy skills in both languages</li> </ul>	<ul style="list-style-type: none"> <li>Literacy and academic content in primary language <u>and</u> English</li> <li>Teacher(s) certified in <u>grade level/content area and in bilingual education</u> (or paired with an ESL certified teacher)</li> <li>At least half of instruction delivered in the students' primary language for the duration of the program</li> </ul>
Dual language immersion / two-way		



Program Model	Departmentalization	Paired Teaching
Transitional Bilingual Education Program Models <ul style="list-style-type: none"> <li>• Early-Exit</li> <li>• Late-Exit</li> </ul>	Local decision to use more than one content-area teacher to deliver core content instruction  <u>All teachers</u> must be certified in bilingual education	Local decision to use two content-area teachers to deliver core content instruction  <u>Both teachers</u> must be certified in bilingual education
Dual Language Program Models <ul style="list-style-type: none"> <li>• One-Way</li> <li>• Two-Way</li> </ul>		



## STATE-APPROVED ESL PROGRAM MODELS §89.1210 (D)(1-2)

**An ESL/content-based** program model is an English acquisition program that serves students identified as English learners through English instruction by a teacher appropriately certified in ESL under TEC, §29.061(c), through English language arts and reading, mathematics, science, and social studies.

**An ESL/pull-out program** model is an English acquisition program that serves students identified as English learners through English instruction provided by an appropriately certified ESL teacher under the TEC, §29.061(c), through English language arts and reading.



## STAFFING §89.1245

- a) School districts shall take all reasonable affirmative steps to assign appropriately certified teachers to the required bilingual education and English as a second language (ESL) programs in accordance with the Texas Education Code (TEC), §29.061, concerning bilingual education and special language program teachers.
- b) School districts that are unable to employ a sufficient number of teachers, including part-time teachers, who meet the requirements of subsection (a) of this section for the bilingual education and ESL programs shall apply on or before November 1 for an exception to the bilingual education program as provided in §89.1207(a) of this title (relating to Bilingual Education Exceptions and English as a Second Language Waivers) or a waiver of the certification requirements in the ESL program as provided in §89.1207(b) of this title as needed.



# BILINGUAL EXCEPTIONS §89.1207

## §89.1207 (a) (1)

A school district that is unable to provide a bilingual education program as required by §89.1205(a) of this title (relating to Required Bilingual Education and English as a Second Language Programs) because of an insufficient number of appropriately certified teachers shall request from the commissioner of education an exception to the bilingual education program and the approval of an alternative program. The approval of an exception to the bilingual education program shall be valid only during the school year for which it was granted.



# ESL WAIVERS §89.1207

## §89.1207 (b) (1)

A school district that is unable to provide an ESL program as required by §89.1205(c) of this title because of an insufficient number of appropriately certified teachers shall request from the commissioner of education a waiver of the certification requirements for each teacher who will provide instruction in ESL for English Learners. The approval of a waiver of certification requirements shall be valid only during the school year for which it was granted.



## ASSURANCES §89.1207 (A)(1)(C-G) AND §89.1207 (B)(1)(C-G)

**Request for BE exceptions/ESL waivers shall include an assurance that:**

(C) appropriately certified teachers available in the school district will be assigned to grade levels beginning at prekindergarten followed successively by subsequent grade levels to ensure that the linguistic and academic needs of the English learners with beginning levels of English proficiency are served on a priority basis;

(D) the school district will implement a comprehensive professional development plan that:

(i) is ongoing and targets the development of the knowledge, skills, and competencies needed to serve the needs of English learners;

(ii) includes the not appropriately and non-certified teachers that are assigned to implement the proposed alternative program; and

(iii) may include additional teachers who work with English learners.



## ASSURANCES §89.1207 (A)(1)(C-G) AND §89.1207 (B)(1)(C-G)

(E) at least 10% of the bilingual education allotment shall be used to fund the comprehensive professional development plan required under subparagraph (D) of this paragraph;

(F) the school district will take actions to ensure that the program required under §89.1205(a) of this title will be provided the subsequent year, including its plans for recruiting an adequate number of appropriately certified teachers to eliminate the need for subsequent exceptions and measurable targets for the subsequent year; and

(G) the school district shall satisfy the additional reporting requirements described in §89.1265(c) of this title (relating to Evaluation).





# BILINGUAL EXCEPTIONS AND ESL WAIVERS

- Due on or before November 1, 2021
- The application(s) include(s) an assurance that the superintendent has reviewed and approved the completed application prior to submission; the district Bilingual/ESL contact person may complete and submit the Exception/Waiver application
- LEAs retain list of names of teachers under an ESL program waiver (no longer submitted to TEA as part of the ESL program waiver application)



# DOCUMENTATION REQUIREMENTS

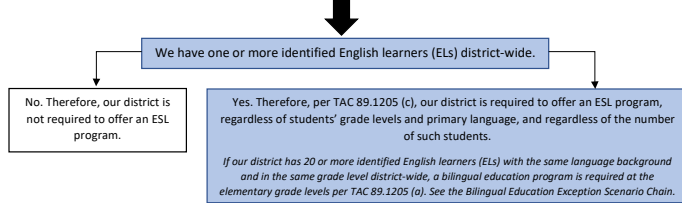
As per TAC Chapter 89.1207(a)(2)(D) for LEAs filing a Bilingual Education Exception and 89.1207(b)(2)(D) for LEAs filing an ESL Waiver, LEAs shall maintain written records of all documents supporting the application and assurances listed in the application:

- (A) a description of the proposed alternative instructional program designed to meet the affective, linguistic, and cognitive needs of the English learners;
- (B) the number of teachers for whom a bilingual education exception is needed by grade level and per campus;
- (C) a copy of the school district's comprehensive professional development plan; and
- (D) a copy of the bilingual allotment budget documenting that a minimum of 10% of the funds were used to fund the comprehensive professional development plan.



### English as a Second Language (ESL) Waiver Scenario Chain 2019-2020

Is our district (including charters and districts of innovation) required to provide an ESL program?

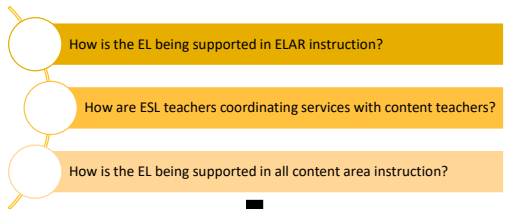


Which state-approved ESL program model do we offer?

ESL Programs	
ESL Content-Based	ESL Pull-Out
Goal	
Full proficiency in English to participate equitably in school	
Instruction	
<ul style="list-style-type: none"> <li>Targeted English language development in all content area instruction [English language arts and reading (ELAR), mathematics, science, and social studies]</li> <li>Linguistically and culturally responsive teaching</li> <li>ESL certified teacher(s) in all content areas</li> </ul>	<ul style="list-style-type: none"> <li>Targeted English language development in English language arts and reading (ELAR)</li> <li>Linguistically and culturally responsive teaching</li> <li>ESL certified teacher(s) in English language arts and reading</li> <li>Pull-out or inclusionary delivery model</li> </ul>

Do we have the appropriately certified teachers? Will an ESL Waiver need to be filed?

#### Over-Arching Questions to Inform Individual English Learner Program Services



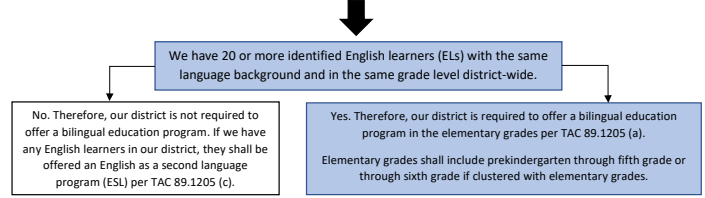
Elementary Levels:  
Continue to page 2

Secondary Levels:  
Continue to page 3

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### Bilingual Education Exception Scenario Chain 2019-2020

Is our district (including charters and districts of innovation) required to provide a bilingual education program?



What type of bilingual education program do we offer?

Transitional Bilingual Program	Dual Language Immersion Program
Goals	Goals
<ul style="list-style-type: none"> <li>Primary language used as a resource</li> <li>Full proficiency in English to participate equitably in school</li> </ul>	<ul style="list-style-type: none"> <li>Full proficiency in primary language</li> <li>Full proficiency in English to participate equitably in school</li> <li>Grade-level literacy skills in both languages</li> </ul>
Instruction	Instruction
<ul style="list-style-type: none"> <li>Literacy and academic content in primary language and English</li> <li>Teacher(s) certified in grade level/content area and in bilingual education</li> <li>Primary language instruction decreases as English is acquired</li> </ul>	<ul style="list-style-type: none"> <li>Literacy and academic content in primary language and English</li> <li>Teacher(s) certified in grade level/content area and in bilingual ed. (or paired with an ESL certified teacher)</li> <li>At least half of instruction delivered in the students' primary language at each grade level for the duration of the program</li> </ul>

Which state-approved bilingual education program model do we offer?

Transitional Bilingual Programs		Dual Language Immersion Programs	
How many years are English learners intended to participate before being prepared for reclassification, based on the instructional model?			
<b>Early Exit</b>	<b>Late Exit</b>	<b>One Way</b>	<b>Two Way</b>
Not earlier than two or later than five years after enrollment in school	Not earlier than six or later than seven years after enrollment in school	Identified English learners with the same primary language	Identified English learners with the same primary language AND English proficient students
<ul style="list-style-type: none"> <li>Instruction is designed to shift from majority primary language to majority English to align with goal for number of years until reclassification.</li> <li>If ELs have not been reclassified within five years of enrollment, the transitional bilingual program continues to be offered to these students through the duration of the elementary grades.</li> </ul>		<ul style="list-style-type: none"> <li>Instruction may begin with a majority percentage of the language other than English OR may begin at an equal half with English but will eventually attain an equal half of instruction in both languages and maintain that balance through the duration of the program.</li> <li>As ELs are reclassified as English proficient, it is intended for these students to remain in the dual language immersion program through its duration to support the goals to gain bilingualism, biliteracy, and sociocultural competence.</li> </ul>	

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# BILINGUAL EXCEPTIONS AND ESL WAIVERS

# SCENARIO CHAINS



## Bilingual Education Exception and ESL Waiver Resources

All applications are due on or before November 1, 2020.

### TEA Correspondence

To the Administrator Addressed correspondence regarding the 2020-2021 Bilingual Education Exception and ESL Waiver application was released on October 1, 2020.

### Application Requirements

- Local Education Agencies (LEAs), including school districts, districts of innovation, and open-enrollment charter schools that are **unable to provide the appropriately certified teachers to implement the bilingual education program** must request from the commissioner of education an exception for the bilingual education program and approval to offer an alternative language program as per 19 TAC §89.1207(a).
- Local Education Agencies (LEAs), including school districts, districts of innovation, and open-enrollment charter schools that are **unable to provide the appropriately certified teachers to implement the ESL program** must request from the commissioner of education a waiver for the ESL program and approval to offer an alternative language program as per 19 TAC §89.1207(b).
- All applications are due **on or before November 1, 2020**. Submit the completed application (Excel file) and the Alternative Language Program/Recruiting Activities Form (PDF) to TEA as attachments in an email to: [BilingualExceptions\\_ESLWaivers@tea.texas.gov](mailto:BilingualExceptions_ESLWaivers@tea.texas.gov). (Notice the underscore after the word Exceptions in the email address.)
- The district's Bilingual/ESL contact person may complete the exception/waiver application.
- The application includes an assurance that the superintendent has reviewed and approved the completed application prior to submission.

Contact the English Learner Support Division with any questions related to the Bilingual Education Exception and/or ESL Waiver requirements and application process at 512-463-9414 or [EnglishLearnerSupport@tea.texas.gov](mailto:EnglishLearnerSupport@tea.texas.gov).

### Application and Instructions

The 2020-2021 Bilingual Education Exception and ESL Waiver Application is no longer available.

### Resources

- [Bilingual Education Exception Scenario Chain \(PDF\) and Explanatory Video - Bilingual Programs](#) (running time 18:34)
- [English as a Second Language \(ESL\) Waiver Scenario Chain \(PDF\) and Explanatory Video - ESL Programs](#) (running time 13:00)
- [Frequently-Asked-Questions \(FAQ\): Bilingual Education Exception and ESL Waiver](#) (updated August 2020)
- [Allowable Use of Bilingual Education Allocation \(BEA\) Funds Comprehensive Professional Development Plan](#)



### Bilingual Education Exception and English as a Second Language (ESL) Waiver

#### Frequently Asked Questions (FAQs)

##### General

- [Determining Need for Exception/Waiver](#)
- [Charters/DOIs](#)
- [Intern/Probationary Certificates and Emergency Permits](#)
- [Content/Grade Level Certification](#)
- [Passed the Exam\(s\)](#)
- [Special Education Teachers](#)
- [Students in Early Education](#)
- [Dual Language Immersion in Secondary](#)
- [Long-Term Substitutes](#)

##### Coding

- [Timing for Alternative Language Program Codes](#)
- [Teachers without Bilingual or ESL Certification](#)
- [Obtaining Appropriate Certification Mid-Year](#)
- [Bilingual Programs in Development and Languages Other than Spanish](#)

##### Funding and Assurances

- [Funding for Alternative Language Programs](#)
- [Comprehensive PD Plan and BEA Funding](#)
- [Comprehensive PD Plans – BE and ESL](#)

#### 1. How do we know if a bilingual education exception needs to be filed? How do we know if an ESL waiver needs to be filed?

TAC Chapter 89.1207 provides bilingual education exception and ESL waiver requirements for all Local Education Agencies (LEAs), which includes all school districts, districts of innovation, and open-enrollment charter schools. The purpose of filing an exception/waiver is to inform the TEA on the needs for appropriately certified teachers in bilingual education and ESL programs across the state.

The following resources walk districts through the process of identifying whether their district needs to file a bilingual education exception or ESL waiver. These resources can be found under "Resources" at the bottom of the [TEA Bilingual Education Exception and ESL Waiver Application webpage](#).

- [Bilingual Education Exception Scenario Chain](#)
- [English as a Second Language \(ESL\) Waiver Scenario Chain](#)

#### 2. Do bilingual education and ESL certification requirements apply to charter schools and districts of innovation (DOI)?

Yes, open-enrollment charter schools and districts of innovation must comply with bilingual education and ESL program certification requirements even if their general certification requirements differ. For the purposes of this FAQ, the term "district" includes all LEAs in alignment with the definition in TAC 89.1203.

Released August 2020  
Texas Education Agency

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# BILINGUAL EXCEPTION/ESL WAIVER FAQ DOCUMENT (08/20)

## INFO ON EMERGENCY PERMITS:

[HTTPS://TEA.TEXAS.  
GOV/SITES/DEFAULT  
/FILES/CH230F.PDF](https://tea.texas.gov/sites/default/files/ch230f.pdf)

# ¡Mil Gracias!

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