

ILLINOIS REGISTER

STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

- 1) The Heading of the Part: Transitional Bilingual Education
- 2) Code Citation: 23 Ill. Adm. Code 228
- 3) Section Number: 228.10 Emergency Action:
Amendment
- 4) Statutory Authority: Implementing Article 14C and authorized by Section 2-3.39(1) of the School Code.
- 5) Effective Date of Rule:
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: These emergency amendments will not expire before the end of the 150-day period.
- 7) Date Filed with the Index Department:
- 8) A statement that a copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The State Board of Education was made aware in March that the current screening instrument is being discontinued before the start of the 2017-18 school year. As a result, the normal agency rulemaking process would not allow the rules to be in place in time for registration.

It is essential for school districts to obtain a baseline assessment of potential English learners (ELs) in order to ensure the student receives the best possible services. Without a screening instrument, school districts will not be able to properly place these students. Additionally, using the emergency rulemaking process allows school districts to train their staff on the screening instrument before registration begins. If an EL is not properly screened by those trained in administering the instrument and placed in the proper setting, then it is less likely that the child will receive the necessary services and support while in school. Having the screening tool in place at the start of the 2017-18 school year allows schools to accurately assess potential ELs to make sure they are placed in a setting wherein the child will receive the appropriate supports as she or he is engaged in learning.

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Additionally, failing to adopt this rulemaking may also lead to school districts not meeting the federal requirement to administer a valid and reliable English language proficiency assessment to identify all ELs in a timely manner.

- 10) A Complete Description of the Subjects and Issues Involved: The proposed amendments update the definitions of "Prescribed Screening Instrument" and "English Language Proficiency Assessment" in the rules for Transitional Bilingual Education. The screening instrument is an assessment schools use to identify ELs and determine appropriate program placements for them. In March 2017 the Division of English Language Learning was made aware that the current screening instrument would no longer be available for use by school districts. ISBE has chosen WIDA Screener (2016) as the prescribed screening instrument and ACCESS for ELLs 2.0[®] as the English language proficiency assessment. Both assessment tools were created and maintained by the World-class Instructional Design and Assessment (WIDA) Consortium, Wisconsin Center for Education Research.

When parents move into a school district, they complete a home language survey that indicates what languages are spoken at home. Districts are required to screen students who come from a home where a language other than English is spoken. Potential ELs are assessed using the prescribed screener at the time they are initially enrolled in the district. Students who test below the state cut score for English proficiency are eligible for bilingual/English as a second language services and are placed in a Transitional Bilingual Education program or Transitional Program of Instruction. Each year after, these students take the state English language proficiency assessment (ACCESS for ELLs 2.0) to determine their proficiency level. When ELs reach the state proficiency level, they are transitioned into a general education classroom.

- 11) Are there any proposed amendments to this Part pending? Yes.

Section Numbers:
228.10

Proposed Actions:
Amendment

Illinois Register Citations:
41 Ill. Reg. _____; _____

- 12) Statement of Statewide Policy Objectives: These amendments align with the State Board goal of ensuring that all kindergartners are assessed for readiness, 90% or more of third-grade students are reading at or above grade level, 90% or more of fifth-grade students meet or exceed expectations in mathematics, 90% or more of ninth-grade students are on track to graduate with their cohort, and 90% or more of students graduate from high school ready for college and career.

- 13) Information and questions regarding these amendments shall be directed to:

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The full text of the emergency amendment begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 228

TRANSITIONAL BILINGUAL EDUCATION

Section

228.5 Purpose and Applicability

228.10 Definitions

EMERGENCY

228.15 Identification of Eligible Students

228.20 Student Language Classification Data

228.25 Program Options, Placement, and Assessment

228.27 Language Acquisition Services for Certain Students Exiting the Program

228.30 Establishment of Programs

228.35 Personnel Qualifications; Professional Development

228.40 Students' Participation; Records

228.50 Program Plan Approval and Reimbursement Procedures

228.60 Evaluation

AUTHORITY: Implementing Article 14C and authorized by Section 2-3.39(1) of the School Code [105 ILCS 5/Art. 14C and 2-3.39(1)].

SOURCE: Adopted May 28, 1976; codified at 8 Ill. Reg. 5176; Part repealed, new Part adopted at 11 Ill. Reg. 5969, effective March 23, 1987; amended at 17 Ill. Reg. 104, effective December 18, 1992; amended at 26 Ill. Reg. 898, effective January 15, 2002; amended at 27 Ill. Reg. 9996, effective June 20, 2003; amended at 30 Ill. Reg. 17434, effective October 23, 2006; amended at 34 Ill. Reg. 11581, effective July 26, 2010; amended at 35 Ill. Reg. 3735, effective February 17, 2011; amended at 35 Ill. Reg. 16870, effective September 29, 2011; amended at 37 Ill. Reg. 16803, effective October 2, 2013; amended at 38 Ill. Reg. 19757, effective September 29, 2014; amended at 39 Ill. Reg. 11125, effective July 23, 2015; amended by emergency rulemaking at 41 Ill. Reg. _____, effective _____ for a maximum of 150 days.

Section 228.10 Definitions

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"English as a Second Language" or "ESL" means specialized instruction designed to assist students whose home language is other than English in attaining English language proficiency. ESL instruction includes skills development in listening,

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speaking, reading, and writing. (ESL is not to be confused with English language arts as taught to students whose home language is English.)

"English Language Development Standards" means either the:

"2012 Amplification of English Language Development Standards Kindergarten-Grade 12" (2012) for students in kindergarten and grades 1 through 12 published by the Board of Regents of the University of Wisconsin System on behalf of the World-class Instructional Design and Assessment (WIDA) Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 and posted at <http://wida.us/standards/eld.aspx> (no later amendments to or editions of these standards are incorporated); or

"Early English Language Development Standards Ages 2.5-5.5 2013 Edition" (2013) for students in preschool education programs published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 and posted at <http://www.wida.us/standards/eeld.aspx> (no later amendments to or editions of these standards are incorporated).

"English Language Proficiency Assessment" means the ACCESS for ELLs® (WIDA Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706 (2006)).

"English Learners" means any student in preschool, kindergarten or any of grades 1 through 12, whose home language background is a language other than English and whose proficiency in speaking, reading, writing, or understanding English is not yet sufficient to provide the student with:

the ability to meet the State's proficient level of achievement on State assessments;

the ability to successfully achieve in classrooms where the language of instruction is English; or

the opportunity to participate fully in the school setting.

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For the purposes of this Part, the terms "limited English proficient student" and "students with limited English proficiency", as used in Article 14C of the School Code, are understood to be "English learners".

"Home Language" means that language normally used in the home by the student and/or by the student's parents or legal guardians.

"Language Background other than English" means that the home language of a student in preschool, kindergarten or any of grades 1 through 12, whether born in the United States or born elsewhere, is other than English or that the student comes from a home where a language other than English is spoken by the student, ~~or by~~ his or her parents or legal guardians, or ~~by~~ anyone who resides in the student's household.

"Preschool Program" means instruction provided to children who are ages 3 up to but not including those of kindergarten enrollment age as defined in Section 10-20.12 of the School Code [105 ILCS 5/10-20.12] in any program administered by a school district, regardless of whether the program is provided in an attendance center or a non-school-based facility.

"Prescribed Screening Instrument" means the:

WIDA ~~ACCESS Placement Test (W-APT™) (2013)~~ Screener (2016) for students in the second semester of grade 1 or in grades 2 through 12 (WIDA Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706) and accessible at:

<https://www.wida.us/assessment/Screener/> and
<http://www.wida.us/assessment/W-APT/>;

Measure of Developing English Language (MODEL™) (2008) for students in kindergarten ~~through~~ or the first semester of grade 1 (WIDA Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, MD#23, Madison WI 53706); ~~this instrument also may be used for students in the second semester of grade 1 through grade 12.~~

"Prescribed Screening Procedures" means the procedures that a school district determines to be appropriate to assess a preschool student's level of English language proficiency (minimally in the domains of speaking and listening), in

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order to determine whether the student is eligible to receive bilingual education services. The procedures may include, without limitation, established screening instruments or other procedures provided that they are research-based. Further, screening procedures shall at least:

Be age and developmentally appropriate;

Be culturally and linguistically appropriate for the children being screened;

Include one or more observations using culturally and linguistically appropriate tools;

Use multiple measures and methods (e.g., home language assessments; verbal and nonverbal procedures; various activities, settings, and personal interactions);

Involve family by seeking information and insight to help guide the screening process without involving them in the formal assessment or interpretation of results; and

Involve staff who are knowledgeable about preschool education, child development, and first and second language acquisition.

"School District" means a public school district established under Article 10 or Article 34 of the School Code [105 ILCS 5/~~Art. 10 or 34~~] or a charter school established under Article 27A of the School Code [105 ILCS 5/~~Art. 27A~~].

"Sheltered Content Instruction" means instruction that is generally intended for English learners who demonstrate intermediate or advanced English proficiency and consists of adapting the language used in the particular subject to the student's English proficiency level to assist the student in understanding the content of the subject area and acquiring the knowledge and skills presented.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. _____, effective _____ for a maximum of 150 days)