

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

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**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 Reg. 5176; Part repealed, new Part adopted at 11 Ill.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; emergency amendment at 41 Ill. Reg. 6687, effective May 24, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 12876, effective September 26, 2017; emergency amendment at 45 Ill. Reg. 4558, effective March 24, 2021, for a maximum of 150 days; emergency expired August 20, 2021; amended at 45 Ill. Reg. 13388, effective October 8, 2021; amended at 46 Ill. Reg. 13258, effective July 13, 2022.

**Section 228.5 Purpose and Applicability**

- a) This Part establishes requirements for school districts' provision of services to students in preschool through grade 12 who have been identified as English learners in accordance with Article 14C of the School Code [105 ILCS 5/14C] and this Part.
- b) The requirements of Article 14C of the School Code and this Part shall apply to every school district in Illinois and each charter school established in accordance with Article 27A of the School Code [105 ILCS 5/Art. 27A], regardless of whether the district or charter school chooses to seek funding pursuant to Section 228.50 of this Part.

(Source: Amended at 39 Ill. Reg. 11125, effective July 23, 2015)

**Section 228.10 Definitions**

"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, 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:

"English Language Development Standards Framework, 2020 Edition " (2020) 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 WIDA (formerly World-Class Instructional Design and Assessment) Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, Suite 785, Madison WI 53706 and posted at <https://wida.wisc.edu/teach/standards/eld/2020> (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, Suite 785, Madison WI 53706 and posted at <https://wida.wisc.edu/teach/early> (no later amendments to or editions of these standards are incorporated).

"English Language Proficiency Assessment" means the ACCESS for ELLs<sup>®</sup> (WIDA Consortium, Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, Suite 785, Madison WI 53706).

"English Learner" 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.

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 refer to 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, the student's parents or legal guardians, or 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 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 Screener (2016) for students in the second semester of grade 1 or in grades 2 through 12 (WIDA Consortium at the Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, Suite 785, Madison WI 53706-1706) and accessible at: <https://wida.wisc.edu/assess/screener>; or

WIDA Screener for Kindergarten (2020) for students in kindergarten or the first semester of grade 1 (WIDA Consortium at the Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, Suite 785, Madison WI 53706-1706); or

Through the 2022-2023 school year, Measure of Developing English Language (MODEL™) (2008) for students in kindergarten or the first semester of grade 1 (WIDA Consortium at the Wisconsin Center for Education Research (WCER), University of Wisconsin-Madison, 1025 West Johnson Street, Suite 785, Madison WI 53706-1706); or

If the State Superintendent determines that exigent circumstances exist due to an issue related to the health and safety of students, and, as a result of such circumstances, students are participating in remote learning, then the prescribed screening instrument shall be a provisional screener identified by the State Superintendent and posted at [www.isbe.net](http://www.isbe.net). If the State Superintendent determines that an exigent circumstance no longer exists before the annual English Language Proficiency exam, then all students given the provisional screener shall be screened using either the WIDA Screener, WIDA Screener for Kindergarten, or the Measure of Developing English Language (MODEL™). If a student is provisionally screened and takes the annual English Language Proficiency Assessment before having an opportunity to take the WIDA Screener or the (MODEL™), then the scores of the annual English Language Proficiency Assessment will serve as a prescribed screening instrument.

"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 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] or a charter school established under Article 27A of the School Code.

"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 at 46 Ill. Reg. 13258, effective July 13, 2022)

**Section 228.15 Identification of Eligible Students**

- a) Each school district shall administer a home language survey with respect to each student in preschool, kindergarten or any of grades 1 through 12 who is entering the district's schools or any of the district's preschool programs for the first time, for the purpose of identifying students who have a language background other than English. The survey should be administered as part of the enrollment process or, for preschool programs, by the first day the student commences participation in the program. The survey shall include at least the following questions, and the student shall be identified as having a language background other than English if the answer to either question is yes:
  - 1) Whether a language other than English is spoken in the student's home and, if so, which language; and
  - 2) Whether the student speaks a language other than English and, if so, which language.
- b) The home language survey shall be administered in English and, if feasible, in the student's home language.
- c) The home language survey form shall provide spaces for the date and the signature of the student's parent or legal guardian.
- d) The completed home language survey form shall be placed into the student's temporary record as defined in 23 Ill. Adm. Code 375 (Student Records).
- e) The district shall screen the English language proficiency of each student identified through the home language survey as having a language background other than English by using the prescribed screening instrument applicable to the student's grade level (i.e., kindergarten or any of grades 1 through 12), as set forth in Section 228.10, or the prescribed screening procedures identified by the preschool program. This screening shall take place within 30 days either after the student's enrollment in the district or, for preschool programs, after the student commences participation in the program, for the purpose of determining the student's eligibility for bilingual education services and, if eligible, the appropriate placement for the student. For kindergarten, all students identified through the home language survey, including students previously screened when enrolled in preschool, must be screened using the prescribed screening instrument for kindergarten.
  - 1) The prescribed screening instrument does not need to be administered to a student who, in his or her previous school district:

- A) has been screened and identified as English language proficient as required in this subsection (e); or
  - B) has met the State exit requirements as described in Section 228.25(b)(2); or
  - C) has met all of the following criteria:
    - i) resides in a home where a language other than English is spoken, and
    - ii) has not been screened or identified as an English learner, and
    - iii) has been enrolled in the general program of instruction in the school he or she has previously attended, and
    - iv) has been performing at or above grade level as evidenced by having met or exceeded the Illinois Learning Standards in reading and math on the student's most recent State assessment administered pursuant to Section 2-3.64a-5 of the School Code [105 ILCS 5/2-3.64a-5] or its predecessor assessment or, for students for whom State assessment scores are not available, a nationally normed standardized test, provided that either assessment was not administered with accommodations for English learners. This provision applies only to a student who had been enrolled in any of the grades in which the State assessment is required to be administered in accordance with Section 2-3.64a-5 of the School Code or the grades in which any predecessor assessment was administered.
- 2) For purposes of eligibility and placement, a district must rely upon a student's score attained on the English language proficiency assessment prescribed under Section 228.25(b), if available from another school district or another state, provided that the score was achieved no sooner than the school year previous to the student's enrollment in the district.
- 3) If results are not available pursuant to subsection (e)(2), then a district must rely upon a student's score on the prescribed screening instrument if available from another school district or another state for the purposes of eligibility and placement for students entering any of grades 1 through 12,

if the student's score on the prescribed screening instrument was achieved no more than 12 months prior to the district's need to assess the student's proficiency in English.

- 4) Each student whose score on the prescribed screening instrument or procedures, as applicable, is identified as not "proficient" as defined by the State Superintendent of Education shall be considered to be an English learner and therefore to be eligible for, and shall be placed into a program of, bilingual education services.
  - A) For preschool programs using a screening procedure other than an established assessment tool where "proficiency" is defined as part of the instrument, "proficiency" is the point at which performance identifies a child as proficient in English, as set forth in the program's proposed screening process.
  - B) For any preschool student who scores at the "proficient" level, the school district may consider additional indicators such as teachers' evaluations of performance, samples of a student's work, or information received from family members and school personnel in order to determine whether the student's proficiency in English is limited and the student is eligible for services.
- f) Each district shall ensure that any accommodations called for in the Individualized Education Programs of students with disabilities are afforded to those students in the administration of the screening instrument or procedures, as applicable, discussed in this Section and the English language proficiency assessment prescribed under Section 228.25(b).
- g) The parent or guardian of any child resident in a school district who has not been identified as an English learner may request the district to determine whether the child should be considered for placement in a bilingual education program, and the school district shall make that determination upon request, using the process described in this Section.

(Source: Amended at 39 Ill. Reg. 11125, effective July 23, 2015)

**Section 228.20 Student Language Classification Data**

In order to meet the requirements of Section 14C-3 of the School Code, every school district shall update its individual student records in the Student Information System (SIS) authorized under 23 Ill. Adm. Code 1.75 (Public Schools Evaluation, Recognition and Supervision) *no later than the first day in March of each year* to reflect the following information [105 ILCS 5/14C-3]:

- a) whether the student has a language background other than English, as identified via the home language survey;
- b) whether the student has been identified as an English learner based on the results of the prescribed screening instrument or procedures, as applicable, or the English language proficiency assessment discussed in Section 228.15(e) or Section 228.25(b) of this Part; and
- c) the home language, birth date, and grade or achievement level of the student identified as an English learner.

(Source: Amended at 37 Ill. Reg. 16803, effective October 2, 2013)

**Section 228.25 Program Options, Placement, and Assessment**

- a) Program Options and Placement
  - 1) When an attendance center has an enrollment of 20 or more English learners of the same language classification the school district must establish a transitional bilingual education (TBE) program for each language classification represented by those students. (See Section 14C-3 of the School Code and Section 228.30(c) of this Part.) A further assessment of those students to determine their specific programmatic needs or for placement in either a full-time or a part-time program may be conducted. This subsection (a)(1) applies only to students enrolled in kindergarten or any of grades 1 through 12 in an attendance center.
  - 2) When an attendance center has an enrollment of 19 or fewer English learners of any single language classification other than English, the school district shall conduct an individual student language assessment to determine each student's need for home language instruction and may provide a transitional bilingual program in the languages other than English common to these students. If the district elects not to provide a transitional bilingual program, the district shall provide a locally determined transitional program of instruction (TPI) for those students. (Section 14C-3 of the School Code) (See Section 228.30(d) of this Part.) This subsection (a)(2) applies only to students enrolled in kindergarten or any of grades 1 through 12 in an attendance center.
  - 3) When a preschool program of the school district has an enrollment of 20 or more English learners of any single language classification other than English in an attendance center or a non-school-based facility, the school district shall establish a TBE program for each language classification represented by the students. If the preschool program of an attendance center or non-school-based facility has 19 or fewer English learners of any single language classification other than English, then the school district shall meet the requirements of subsection (a)(2) when determining placement and the program to be provided.
- b) English Language Proficiency Assessment
  - 1) School districts must annually assess the English language proficiency, including aural comprehension (listening), speaking, reading, and writing skills, of all English learners in kindergarten and any of grades 1 through 12 (See Section 14C-3 of the School Code) using the English language proficiency assessment prescribed by the State Superintendent of

Education. This assessment shall be administered during a testing window designated by the State Superintendent to determine individual students' continuing need and eligibility for bilingual education services. The annual assessment shall be based on the English Language Development Standards Kindergarten-Grade 12 (2020), published by the Board of Regents of the University of Wisconsin System on behalf of the WIDA Consortium, University of Wisconsin-Madison, 1025 West Johnson Street, Suite 785, Madison WI 53706, and posted at <https://wida.wisc.edu/sites/default/files/resource/WIDA-ELD-Standards-Framework-2020.pdf>. No later amendments to or editions of these standards are incorporated by this Section.

- 2) The State Superintendent shall inform school districts no later than July 1 of the scores to be used to determine whether a student is identified as “proficient” and modify the State Board's website accordingly.
  - A) Each student whose score on the English language proficiency assessment is identified as "proficient" shall exit the program of bilingual education services, subject to the provisions of Section 14C-3 of the School Code.
  - B) Each student whose score is identified as "proficient" in accordance with subsection (b)(2)(A) shall be identified as a former English learner.
- 3) Each student who is not enrolled in a program under this Part but who has been identified as an English learner shall be required to participate in the assessment each year until that student achieves a "proficient" score.

(Source: Amended at 46 Ill. Reg. 13258, effective July 13, 2022)

**Section 228.27 Language Acquisition Services for Certain Students Exiting the Program**

In accordance with Section 1703(f) of the Equal Educational Opportunities Act (EEOA), a school district must provide services that will enable English learners to "overcome barriers that impede equal participation by these students in the district's instructional programs" (see 20 USC 1703). Section 14C-3 of the School Code, however, authorizes school districts to discontinue services to students who have been enrolled and participated in the TBE or TPI program for three consecutive years. In instances where a school district chooses to discontinue TBE or TPI program services as permitted under Section 14C-3 of the School Code for those students who have not achieved English proficiency as determined by the process set forth in Section 228.25(b) of this Part, the district shall submit a plan to the State Superintendent that describes the actions it will take to meet its obligations under Section 1703(f) of the EEOA. Any amendments to the plan shall be submitted to the State Superintendent no later than 30 days following adoption of the changes. The plan shall at least include:

- a) the process and criteria the district will use to make a determination of when to exit eligible students from the TBE or TPI program (e.g., after a certain amount of time in the program, once a prescribed academic or proficiency level is achieved);
- b) The language acquisition services and methods to be provided, including how the services and methods differ from the general program of instruction in content, instructional goals, and the use of English and home language instruction;
- c) How the program will meet the educational needs of the students and build on their academic strengths;
- d) How the program will specifically help the students learn English and meet academic achievement standards for grade promotion and graduation;
- e) The names and qualifications of the staff who will implement the program; and
- f) How sufficient resources, including equipment and instructional materials, shall be made available to support the program.

(Source: Amended at 37 Ill. Reg. 16803, effective October 2, 2013)

**Section 228.30 Establishment of Programs**

- a) Administrative Provisions
- 1) Program Facilities – Other than for preschool education programs, TBE and transitional program of instruction (TPI) programs *shall be located in the regular public schools of the district rather than in separate facilities.* (Section 14C-6 of the School Code) If such a location is not feasible, the substitute location shall be comparable to those made available to a majority of the district's students with respect to space and equipment. If housed in a facility other than a public school (including a charter school), the school district shall provide a written explanation in its annual application to the State Superintendent of Education as to why the use of a public school building is not feasible.
  - 2) Course Credit – Students enrolled in approved programs shall receive full credit for courses taken in these programs, which shall count toward promotion and fulfillment of district graduation requirements. Courses in ESL shall count toward English requirements for graduation. Students who change attendance centers or school districts shall do so without loss of credit for coursework completed in the program.
  - 3) *Extracurricular Activities – Each district shall ensure to students enrolled in a TBE program a meaningful opportunity to participate fully in the extracurricular activities of the public schools in the district.* (Section 14C-7 of the School Code)
  - 4) Inclusion of Students Whose First or Home Language is English – Students whose first or home language is English may be included in a program under this Part if all English learners are served.
  - 5) Joint Programs – A school district may join with one or more other school districts to provide joint programs or services in accordance with the provisions of Section 10-22.31a of the School Code. The designated administrative agent shall adhere to the procedures contained in 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing) as they pertain to cooperative agreements.
  - 6) Preschool and Summer School – *A school district may establish preschool or summer school programs for English learners or join with other school districts in establishing these programs for English learners. Summer school TBE programs shall not substitute for programs required during the regular school year.* (Section 14C-11 of the School Code) A school

district that offers a summer school program or preschool program shall provide transitional bilingual education programs or transitional programs of instruction for English learners in accordance with Article 14C and this Part.

b) Instructional Specifications

- 1) Student-Teacher Ratio – The student-teacher ratio in the ESL and home language components of programs serving students in kindergarten or any of grades 1 through 12 as of September 30 of each school year shall not exceed 90% of the average student-teacher ratio in general education classes for the same grades in that attendance center. Decreases in the ratio for general education during the course of a school year due to student mobility shall not require corresponding adjustments within the bilingual program. Further, additional students may be placed into bilingual classes during the course of a school year, provided that no bilingual classroom may exhibit a student-teacher ratio that is greater than the average for general education classes in that grade and attendance center as a result of these placements. Preschool programs established pursuant to Section 2-3.71 of the School Code that provide bilingual education services shall meet the requirements of 23 Ill. Adm. Code 235.30 (Early Childhood Block Grant) rather than the requirements of this subsection (b)(1).
- 2) Grade-Level Placement – *Students enrolled in a program of transitional bilingual education shall be placed in classes with students of approximately the same age or grade level, except as provided in subsection (b)(3). (Section 14C-6 of the School Code)*
- 3) Multilevel Grouping – *If students of different age groups or educational levels are combined in the same class, the school district shall ensure that the instruction given each student is appropriate to that student's level of educational attainment. (Section 14C-6 of the School Code)* Evidence of compliance with this requirement shall be:
  - A) individualized instructional programs; or
  - B) grouping of students for instruction according to grade level.
- 4) Beginning with the 2022-2023 school year, instruction in Spanish language arts, when provided under subsection (c) or (d), shall be aligned to the Illinois Spanish Language Arts standards that are appropriate to the

ages or grade levels of the students served, which are set forth in 23 Ill. Adm. Code 1. Appendix D.

- 5) Language Grouping – School districts may place English learners who have different home languages in the same class, provided that, in classes taught in the home language:
    - A) instructional personnel or assistants representing each of the languages in the class are used; and
    - B) the instructional materials are appropriate for the languages of instruction.
  - 6) Program Integration – *In courses or subjects in which language is not essential to an understanding of the subject matter, including, but not necessarily limited to, art, music, and physical education, English learners shall participate fully with their English-speaking classmates.* (Section 14C-7 of the School Code)
- c) Specific Requirements for Transitional Bilingual Education (TBE) Programs
- 1) Each full-time TBE program shall consist of at least the following components:
    - A) *Instruction in subjects that are required by law (see 23 Ill. Adm. Code 1) or by the student's school district, to be given in the student's home language and in English; core subjects such as math, science and social studies must be offered in the student's home language, except as otherwise provided in subsection (c)(3);*
    - B) Instruction in the language arts in the student's home language;
    - C) Instruction in English as a second language, which must align to the applicable English language development standards set forth in Section 228.10; *and*
    - D) *Instruction in the history and culture of the country, territory, or geographic area that is the native land of the students or the parents of English learners who are enrolled in the program and in the history and culture of the United States.* (Section 14C-2(f) of the School Code).
  - 2) Programs may also include other services, modifications, or activities such

as counseling, tutorial assistance, learning settings, or special instructional resources that will assist English learners in meeting the Illinois Learning Standards (see 23 Ill. Adm. Code 1, Appendix D) and for preschool programs established pursuant to Section 2-3.71 of the School Code, the Illinois Early Learning and Development Standards – Children Age 3 to Kindergarten Enrollment Age (see 23 Ill. Adm. Code 235, Appendix A).

- 3) Beginning September 1, 2013, students may be placed into a part-time program, or students previously placed in a full-time program may be placed in a part-time program, in accordance with the requirements of this subsection (c)(3) and only when the placement is instructionally beneficial for the student.
  - A) The placement will be deemed instructionally beneficial for the student when an assessment of the student's English language skills has been performed in accordance with the provisions of either Section 228.15(e) or Section 228.25(b) and the assessment results indicate that the student has sufficient proficiency in English to benefit from a part-time program.
    - i) Evidence of sufficient proficiency shall be achievement of the minimum score to be used for this purpose set by the State Superintendent either on the prescribed screening instrument required in Section 228.15(e) or the English language proficiency assessment required in Section 228.25(b). The State Superintendent shall inform districts of the minimum score to be used for the prescribed screening instrument or the English language proficiency assessment, and post the minimum score on the State Board's website. If the minimum score is modified, the State Superintendent shall inform school districts no later than July 1 of the scores to be used and modify the State Board's website accordingly.
    - ii) Preschool programs shall use as evidence of sufficient proficiency either a minimum score for an established screening instrument or a minimum level of performance documented through established screening procedures.
  - B) If the student's score either on the prescribed screening instrument required in Section 228.15(e) or the English language proficiency assessment required in Section 228.25(b) is below the minimum identified pursuant to subsection (c)(3)(A), the student may be

placed in a part-time program only if one of the following conditions is met and the placement is instructionally beneficial for the student:

- i) **Native Language Proficiency**  
A native language proficiency test documents that the student has minimal or no proficiency in the home language and a parent provides written confirmation that English is the primary language spoken in the home.
- ii) **Academic Performance in Subjects Taught in English**  
A student's grades, teacher recommendations and State or local assessment results in the previous school year indicate that the student has performed at or above grade level in one or more core subject areas (i.e., reading, English language arts, mathematics, physical sciences, social sciences) that were taught exclusively in English.
- iii) **Academic Performance**  
A student in a departmentalized setting has student grades, teacher recommendations and State or local assessment results in the previous school year that indicate that the student has performed at or above grade level in at least two core subject areas that were taught in a U.S. school in the student's native language or via sheltered instruction in English.
- iv) **Students with Disabilities**  
A student with a disability has an Individualized Education Program developed in accordance with 23 Ill. Adm. Code 226.Subpart C that identifies a part-time transitional bilingual education program as the least restrictive environment for the student.
- v) **Limited Native Language Instruction**  
A student's native language has no written component or written instructional materials are not available and cannot be developed. In this case, native-language instruction may be limited to those components that exist in the language or to those components for which materials are available. Oral native language instruction or support shall be provided based on the student's needs. School districts shall maintain evidence of their attempts to secure written instructional

materials, as applicable, and present that evidence to State Board staff upon request.

- C) A part-time program shall consist of components of a full-time program that are selected for a particular student based upon an assessment of the student's educational needs. Each student's part-time program shall provide daily instruction in English and in the student's home language as determined by the student's needs.
- 4) *Parent and Community Participation – Each district or cooperative shall establish a parent advisory committee consisting of parents, legal guardians, transitional bilingual education teachers, counselors, and representatives from community groups.* This committee shall participate in the planning, operation, and evaluation of programs. The majority of committee members shall be parents or legal guardians of students enrolled in these programs. Membership on this committee shall be representative of the languages served in programs to the extent possible. (Section 14C-10 of the School Code)
- A) The committee shall:
- i) meet at least four times per year;
  - ii) maintain on file with the school district minutes of these meetings;
  - iii) review the district's annual program application to the State Superintendent of Education; and
  - iv) *autonomously carry out their affairs, including the election of officers and the establishment of internal rules, guidelines, and procedures.* (Section 14C-10 of the School Code)
- B) Each district or cooperative shall ensure that training is provided annually to the members of its parent advisory committee. This training shall be conducted in a language that the parent members can understand and shall encompass, but need not be limited to: information related to instructional approaches and methods in bilingual education; the provisions of State and federal law related to students' participation and parents' rights; and accountability measures relevant to students in bilingual programs.

- d) Specific Requirements for Transitional Program of Instruction (TPI)
- 1) Program Structure – The level of a student's proficiency in English, as determined by an individual assessment of the student's language skills on the basis of either the prescribed screening instrument or, as applicable, the procedures required in Section 228.15(e) or the English language proficiency assessment required in Section 228.25(b) in conjunction with other information available to the district regarding the student's level of literacy in that student's home language, will determine the structure of the student's instructional program.
  - 2) Program Components – A transitional program of instruction must include instruction or native language support in the student's home language to the extent necessary, as determined by the district on the basis of the prescribed screening instrument or procedures, as applicable, required in Section 228.15(e) or the English language proficiency assessment required in Section 228.25(b), to enable the student to keep pace with age or grade peers in achievement in the core academic content areas. A transitional program of instruction shall include instruction in ESL, which must align to the applicable English language development standards set forth in Section 228.10. A transitional program of instruction also may include, but is not limited to:
    - A) language arts in the students' home language; and
    - B) instruction in the history and culture of the country, territory, or geographic area that is the native land of the students or of their parents and in the history and culture of the United States.

(Source: Amended at 46 Ill. Reg. 13258, effective July 13, 2022)

**Section 228.35 Personnel Qualifications; Professional Development**

- a) Each individual assigned to provide instruction in a student's home language shall meet the requirements for bilingual education teachers set forth in 23 Ill. Adm. Code 25 (Educator Licensure) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision), as applicable.
- b) Each individual assigned to provide instruction in ESL shall meet the requirements for ESL or English as a New Language teachers set forth in 23 Ill. Adm. Code 25 and 23 Ill. Adm. Code 1, as applicable.
- c) **Preschool Programs**
  - 1) Each individual assigned to provide instruction to students in a preschool program shall meet the requirements of 23 Ill. Adm. 235.20(c) (Application Procedure and Content for New or Expanding Programs).
  - 2) By July 1, 2016, each individual assigned to provide instruction to students in a preschool program also shall meet the applicable requirements of subsection (a) or (b), depending on the assignment, except as provided in subsection (c)(3).
  - 3) During school years 2014-15 and 2015-16, any school district unable to meet the requirements of subsection (c)(2) shall submit a plan to the State Superintendent of Education by September 15 of each year that demonstrates how the program is actively working toward recruiting and hiring fully qualified staff and serves preschool-age English learners. The plan shall be developed and monitored jointly by school administrators responsible for the preschool program and the bilingual education program. Using a format prescribed by the State Superintendent of Education, the plan shall include, but is not limited to:
    - A) Past and current efforts undertaken by the district to recruit and hire fully qualified staff (early childhood, bilingual or special education) to include, as applicable, steps taken to support current preschool teachers in their efforts to obtain the early childhood education or bilingual education endorsement and/or to retain fully qualified staff;
    - B) Reasons why individuals meeting the requirements of subsection (a) or (b) were not hired, if applicable;

- C) Professional development activities focused on the needs of preschool-age English learners; and
  - D) How the educational program for English learners will meet the needs of those students without fully qualified staff, to include information relative to the components set forth in Section 228.27(b) through (f).
- 4) Staff who are employed to assist in instruction in a preschool program but do not hold a professional educator license shall meet the requirements of 23 Ill. Adm. 235.20(c).
- d) Administrators

Beginning July 1, 2014, each individual assigned to administer a program under this Part shall meet the applicable requirements of this subsection (d).

- 1) Except as provided in subsections (d)(2) and (3), any person designated to administer either a TBE or a TPI program must hold a valid administrative or a supervisory endorsement issued on a professional educator license by the State Board of Education in accordance with applicable provisions of 23 Ill. Adm. Code 25 (Educator Licensure) and 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision) and must meet the requirements of 23 Ill. Adm. Code 1.783 (Requirements for Administrators of Bilingual Education Programs), as applicable.
- 2) A person designated to administer a TBE or TPI program in a district with fewer than 200 TBE/TPI students shall be exempt from all but the requirement for an administrative or a supervisory endorsement issued on a professional educator license, provided that he or she annually completes a minimum of eight hours of professional development. An assurance that this requirement has been met shall be provided annually in a school district's application submitted pursuant to Section 228.50. Documentation for this professional development activity shall be made available to a representative of the State Board of Education upon request.
- 3) A person who has been assigned to administer a TPI program in a district that experiences such growth in the number of students eligible for bilingual education that a TBE program is required shall become subject to the requirements of subsection (d)(1) at the beginning of the fourth school year of the TBE program's operation. A person who has been assigned to administer a program under subsection (d)(2) in a district where the number of students eligible for bilingual education reaches 200

shall become subject to the requirements of subsection (d)(1) at the beginning of the fourth school year in which the eligible population equals or exceeds 200 or more students. That is, each individual may continue to serve for the first three school years on the credentials that qualified him or her to administer the program previously operated.

- e) Professional Development for Staff
- 1) Each school district having a program shall annually plan professional development activities for the licensed and nonlicensed personnel involved in the education of English learners. This plan shall be included in the district's annual application and shall be approved by the State Superintendent of Education if it meets the standards set forth in subsections (e)(2) and (e)(3).
  - 2) Program staff beginning their initial year of service shall be involved in training activities that will develop their knowledge of the requirements for the program established under this Part and the employing district's relevant policies and procedures.
  - 3) Training activities shall be provided to all bilingual program staff at least twice yearly and shall address at least one of the following areas:
    - A) current research in bilingual education;
    - B) content-area and language proficiency assessment of English learners;
    - C) research-based methods and techniques for teaching English learners;
    - D) research-based methods and techniques for teaching English learners who also have disabilities; and
    - E) the culture and history of the United States and of the country, territory or geographic area that is the native land of the students or of their parents.
  - 4) In addition to any other training required under this subsection (e), each individual who is responsible for administering the prescribed screening instrument referred to in Section 228.15(e) or the annual English language proficiency assessment discussed in Section 228.25(b) shall be required to

complete on-line training designated by the State Superintendent of Education and to pass the test embedded in that material.

- 5) Each district that operates either a TBE or a TPI program for students of Spanish language background in kindergarten and any of grades 1 through 12 shall provide annually at least one training session related to the implementation of the Spanish language arts standards required under Section 228.30(b)(4) for staff members of that program who are providing instruction in the Spanish language arts.

(Source: Amended at 38 Ill. Reg. 19757, effective September 29, 2014)

**Section 228.40 Students' Participation; Records**

- a) Notice of Enrollment and Withdrawal
  - 1) *Notice of Enrollment – No later than 30 days after the beginning of the school year or 14 days after the enrollment of any student in a transitional bilingual education program in the middle of a school year, the school district shall notify by mail the parents or legal guardians of the student that their child has been enrolled in a transitional bilingual education program or a transitional program of instruction. The notice shall be in English and in the home language of the student and shall convey, in simple, nontechnical language, all of the information called for in Section 14C-4 of the School Code [105 ILCS 5/14C-4].*
  - 2) *Withdrawal by Parents – Any parent or legal guardian whose child has been enrolled in a program shall have the absolute right to withdraw the child from the program immediately by submitting a written notice of his or her desire to withdraw the child to the school authorities of the school in which the child is enrolled or to the school district in which the child resides. (Section 14C-4 of the School Code)*
- b) Unless terminated as set forth in subsection (a)(2) of this Section, the duration of a student's participation in a program under this Part shall be as set forth in Section 14C-3 of the School Code.
  - 1) If a student participates in a TBE or TPI in preschool or kindergarten, then that participation does not count towards the three-year total specified in Section 14C-3 of the School Code.
  - 2) If a student exits a program after three years and is not proficient in English, then the school district shall meet the requirements of Section 228.27 of this Part.
- c) Maintenance of Records and Reporting Procedures
  - 1) Report Cards – The school shall send progress reports to parents or legal guardians of students enrolled in programs in the same manner and with the same frequency as progress reports are sent to parents or legal guardians of other students enrolled in the school district.
    - A) Progress reports shall indicate the student's progress in the program and in the general program of instruction.

- B) Progress reports shall indicate when the student has successfully completed requirements for transition from the program into the general program of instruction if that information has not been reported separately in writing to the parents or legal guardian.
  - C) Progress reports for all students enrolled in a program under this Part shall be written in English and in the student's home language unless a student's parents or legal guardian agrees in writing to waive this requirement. The parents' waiver shall be kept on file in accordance with subsection (c)(3) of this Section.
- 2) Annual Student Reports – Each district must submit electronically the information requested by the State Superintendent using the Student Information System (see 23 Ill. Adm. Code 1.75) no later than June 30 of each year. Each district also must complete the Program Delivery Report, provided by the State Superintendent of Education, in which information on each program is compiled.
  - 3) Records – School districts shall maintain records of each student enrolled in programs in the manner prescribed in 23 Ill. Adm. Code 375 (Student Records). These records shall include program entry/exit information, annual English language proficiency assessment scores and results from the prescribed screening instrument for students in kindergarten and any of grades 1 through 12 or the results from the prescribed screening procedures for students in preschool programs; other student information (e.g., language, grade level, and attendance); the rationale for a student's placement into a part-time program, where applicable, including documentation of the criteria, as set forth in Section 228.30(c)(3) of this Part, used to determine that a part-time program would be appropriate; and documentation of conferences and written communication with parents or legal guardians. Parents and legal guardians of students enrolled in programs shall have access to their students' records, as specified in 23 Ill. Adm. Code 375.

(Source: Amended at 37 Ill. Reg. 16803, effective October 2, 2013)

**Section 228.50 Program Plan Approval and Reimbursement Procedures**

- a) Reimbursement for programs provided by school districts pursuant to the provisions of Article 14C of the School Code and this Part is contingent upon the submission and approval of a program plan and request for reimbursement in accordance with the requirements of Section 14C-12 of the School Code and this Section.
- b) Program Plan Submission and Approval
  - 1) Applications for program approval shall be submitted, on forms provided by the State Superintendent of Education, at least 60 calendar days prior to the start of the proposed initial or continuing program.
  - 2) The State Superintendent of Education will waive the requirement in subsection (b)(1) of this Section only when an application is accompanied by a statement of facts showing that the waiver will enable the district to begin serving a student or students sooner than would otherwise be the case.
  - 3) School districts shall be granted at least 45 calendar days to complete and submit applications to the State Superintendent of Education. A district's failure to submit a completed application by the date specified on the form will delay its receipt of reimbursement pursuant to subsection (c) of this Section.
  - 4) Applications for a Transitional Bilingual Education Program and/or a Transitional Program of Instruction must contain at least the following information:
    - A) The number of students to be served by grade or grade equivalent and language group in a full-time or part-time program.
    - B) A summary description of the number and types of personnel who will provide services in the program.
    - C) A description of the full-time and/or part-time program to be provided to the students identified pursuant to subsection (b)(4)(A) of this Section in relation to the applicable program standards set forth in Section 228.30 of this Part.
    - D) Additional requirements for programs offering instruction in Spanish language arts in kindergarten and any of grades 1 through

12 to include a description of the methods by which the district will measure and monitor its students' progress with respect to the standards required under Section 228.30(b)(4) of this Part.

- E) A budget summary containing a projection of the program expenditures (e.g., instruction, support services, administration and transportation) and offsetting revenues for the upcoming fiscal year, and a detailed budget breakdown, including allowable program expenditures for which reimbursement is sought, other program expenditures, and total program costs. *At least 60 percent of the funding received from the State must be used for instructional costs* [105 ILCS 5/14C-12]. "Instructional costs" are limited to any of the costs described under Account Number 1000, as set forth in 23 Ill. Adm. Code 100.Appendix D (Expenditure Accounts).
  - F) In the case of a TBE program, an assurance that the district's Bilingual Parent Advisory Committee established pursuant to Section 14C-10 of the School Code and Section 228.30(c)(4) of this Part has had an opportunity to review the application.
  - G) Inclusion of certifications, assurances and program-specific terms of the grant, as the State Board of Education may require, to be signed by the applicant that is a party to the application and submitted with the application.
- 5) Applications that, upon review by the State Superintendent of Education staff, are found to contain the information required pursuant to this Section shall be recommended for approval by the State Superintendent of Education. If the application is found to be incomplete, State Board staff will send a written notice to applicants requesting that they supply the needed information. In order to permit accurate allocation of funds for the program among eligible recipients, the State Superintendent may establish a deadline by which applicants must supply the requested information.
- 6) The State Superintendent of Education will approve applications that demonstrate compliance with Article 14C of the School Code and this Part, except that the State Superintendent shall invoke subsection (b)(5) of this Section with respect to any requested information that is missing from any application submitted for approval.
- c) Account of Expenditures and Reimbursement Procedures

- 1) An account of each district's expenditures pursuant to Article 14C of the School Code and this Part shall be maintained as required in Section 14C-12 of the School Code. Accounting procedures shall be in accordance with applicable requirements of 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing).
- 2) The final annual report of district expenditures, which shall include the information specified in Section 14C-12 of the School Code, shall be submitted on forms provided by the State Superintendent of Education no later than July 20 of each year.
- 3) School districts shall submit claims for reimbursement of programs approved in accordance with this Part on forms provided by the State Superintendent of Education and in accordance with Section 14C-12 of the School Code, as limited by subsection (b)(4)(E) of this Section. No State reimbursement shall be available with respect to any student served for fewer than five class periods per week.
- 4) In the event that funds appropriated by the General Assembly are insufficient to cover the districts' excess costs, the funds will be distributed on a pro rata basis and in accordance with the timelines specified in Section 14C-12 of the School Code.
- 5) A request to amend a district's approved budget shall be submitted on forms provided by the State Superintendent of Education whenever a district determines that there is a need to increase or decrease an approved line item expenditure by more than \$1,000 or 20 percent, whichever is larger. A budget amendment must also be submitted for approval when a grantee proposes to use funds for allowable expenditures not identified in the approved budget. An amendment shall not be approved if it results in instructional costs comprising less than 60 percent of the total reimbursement requested.
- 6) Budget amendment requests will be approved if the rationale provided for each amendment includes facts demonstrating that:
  - A) there is a need (e.g., a change in the number of students served or personnel needed); and
  - B) the altered expenditures and their related program services will be in compliance with the requirements of Article 14C of the School Code and this Part.

(Source: Amended at 37 Ill. Reg. 16803, effective October 2, 2013)

**Section 228.60 Evaluation**

- a) Each school district's compliance with the requirements of Article 14C of the School Code and this Part shall be evaluated by State Board of Education staff, who shall use the criteria set forth in Article 14C of the School Code and this Part to determine compliance.
  
- b) Each school district's progress with regard to the academic achievement of English learners shall be evaluated annually in accordance with the provisions of 23 Ill. Adm. Code 1.40 (Adequate Yearly Progress).

(Source: Amended at 37 Ill. Reg. 16803, effective October 2, 2013)