

ENGLISH LANGUAGE LEARNERS

The District shall provide suitable research-based language instructional programs for all identified English language learners in grades Kindergarten through 12 in accordance with the requirements of state and federal statutes and Massachusetts Department of Elementary and Secondary Education (DESE) regulations and guidance.

The District shall identify students whose dominant language may not be English through home language surveys that identify a primary home language is other than English (PHLOTE), observations, intake assessments, and recommendations of parents, teachers and other persons. Identified students shall be assessed annually to determine their level of proficiency in the English language.

The District shall certify to the DESE each year those students whose dominant language is not English, including specification of the number of non-English languages identified as dominant languages and the number and percent of students who speak each non-English language as their dominant language.

The District shall provide additional information as required by the DESE to comply with the No Child Left Behind Act.

G.L.c. 71A School District Program Waivers for English Learners *Requirements and Procedures*

General Laws Chapter 71A, as amended (known as “Question 2”), requires that publicly-funded students in Massachusetts who are English learners (i.e., limited English proficient) be instructed through the use of sheltered English immersion, unless the student is placed in a two-way bilingual program or wishes to “opt out” and be placed in a general classroom not tailored for English learners. English learners who wish to participate in a transitional bilingual program or receive some other type of language support may not do so unless they have received a waiver from the requirements of G.L.c. 71A.

Section 5 of G.L.c. 71A provides for waivers for individual students under certain conditions if the parent or guardian **annually** applies for the waiver by visiting the student’s school and providing written informed consent. At the time of the visit, parents are to be provided with “*a full description in a language they can understand*” of the educational materials to be used in the different educational program choices and all the educational opportunities available to the student. Foreign language classes for students who are not limited English proficient, two-way bilingual classes for students in grades kindergarten through grade 12, and services delivered according to an Individualized Education Program (IEP) or 504 Plan for students with disabilities are not subject to the requirements of G.L.c. 71A. Therefore, these students do not need waivers to participate in such classes or services.

The decision to issue a waiver is made by the superintendent or his/her designee, under guidelines established by, and subject to the review of, the local school committee. The district’s

guidelines may, but are not required to, contain an appeals process for parents whose waiver requests are denied by school officials. However, the final decision on waiver requests remains with the district. Each school district must establish and implement its waiver guidelines by the commencement of the 2003-2004 school year.

Individual schools in which 20 students or more of a given grade level receive a waiver shall be required to offer such students classes in bilingual education or other generally recognized educational methodologies permitted by law.

For students under age 10, G.L.c. 71A allows waivers with parental consent under the following conditions:

- a. The student has been placed in an English language classroom for at least 30 calendar days before the parent or guardian applies for the waiver;
- b. Documentation by school officials in no less than 250 words that the student's special and individual physical or psychological needs, separate from lack of English proficiency, make an alternative course of education better suited to the student's overall educational development and rapid acquisition of English;
- c. Inclusion of such documentation in the student's permanent school record; and
- d. Authorizing signatures on the waiver application of both the school superintendent and the school principal.

For students age 10 and older, G.L.c. 71A allows waivers, with parental consent, when it is the informed belief of the school principal and educational staff that an alternate course of action would be better suited to the student's overall educational progress and rapid acquisition of English.

LEGAL REFS.: 20 U.S.C. 3001 et seq. (language instruction for limited English proficient and immigrant students contained in No Child Left Behind Act of 2001)
42 U.S.C. 2000d (Title VI of the Civil Rights Act of 1964)
603 CMR 14.00
General Laws Chapter 71A