

Bill H.4032 An Act relative to language opportunity for our kids

Signed into law on November 22, 2017

NOTE: Given the intense interest in the new law we are providing this quick overview to our members. This is not intended to be a complete or formal legal statutory analysis. Provisions of the law are subject to regulations and guidance created by Department of Elementary and Secondary Education. Link to the bill: <https://malegislature.gov/Bills/190/H4032>.

Terms and Definitions

- Replaces term “Limited English Proficient students” with “English Learners” throughout current law.
- Updates the definitions for “bilingual education,” “dual language education or 2-way immersion,” “English as a Second Language,” and “Transitional Bilingual Education.”
- Does not change existing definition for “Sheltered English Immersion”

English Learner Programs (Takes effect May 1, 2018)

- Allows districts to have English Learner programs included Sheltered English Immersion or other alternative programs that meet state and federal requirements, including Two-Way Immersion, and transitional bilingual education.
- Removes the artificial one-year program goal for EL program participation, and replaces it with benchmarks for achieving English proficiency (see Student Benchmarks below).
- Specifies that EL programs shall be research based, include subject matter content and English language acquisition components, and be based on best practices in the field.
- Specifies that EL programs shall be based on linguistic and educational needs and the demographic characteristics of English learners in the school district.
- Districts may join together to offer programs.

English Learner Program Choice

- Parents may request any EL program offered by a district for their child, as long as it is appropriate to age/grade. Removes the obstacle of the parental waiver for participation in bilingual programs.
- Transfers to a program in a different school must be approved by the superintendent.
- Schools, on recommendation by a teacher or guidance counselor, may initiate student transfer to a different EL program, with notice to parents.

Establishing New English Learner Programs (Takes effect May 1, 2018)

- School districts that intend to open a new English Learner program (of any type) must submit a plan to DESE and the parent advisory council by Jan 1 of the preceding year.

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- The plan must include:
 - the new instructional program selected;
 - how the new sheltered English immersion or alternative instructional program meets the needs of the population to be served;
 - the number and expected qualifications of the program's educators; and (
 - the number, native language and English proficiency levels of students expected to be enrolled in the program.
- DESE reviews proposed new program and any current programs for compliance with federal and state law and notify districts within 90 days. If a proposed and/or current program does not comply, DESE must give the requirements for bringing the program into compliance, and districts have 30 days to adopt the steps.
- Districts may not start a new program that does not meet the standards.

Parent Request for New Language Programs

- A group of parents/guardians of 20+ students can request a school district to establish a new language instruction program, and the district must respond in 90 days with a plan for implementation or an explanation of denial.

Seal of Biliteracy

- Establishes a state Seal of Biliteracy for students who have attained a high level of proficiency in English and another language.
- The award criteria shall be developed by DESE, with consideration of the work Seal of Biliteracy Pilot Project, national standards, practices in other states, and other information.
- Criteria includes but is not limited to 10th grade MCAS for English and a nationally recognized assessment for other languages.
- Assessments must be available at no cost to low income students.

Student Benchmarks

- DESE must develop, with public comment:
 - (i) benchmarks for attaining English proficiency for English learners,
 - (ii) guidelines to assist school districts in the identification of English learners who do not meet benchmarks and
 - (iii) an English learning success template for use by districts to assist English learners who do not meet English proficiency benchmarks.
- Districts must adopt procedures to identify English learners who do not meet proficiency benchmarks and a process to:
 - (i) identify areas in which identified English learners needs improvement and establish personalized goals for the identified English learners to attain English proficiency;
 - (ii) assess and track the progress of English learners in the identified areas of improvement;
 - (iii) review resources and services available to identified English learners that may assist said learners in the identified areas of improvement; and

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- (iv) incorporate input from the parents or legal guardian of the identified English learner.
- Information must be provided to parents in their primary language.
- DESE must define the benchmarks, guidelines and learner success templates by September 1, 2018.

Standardized Testing

Most of the current law (Sec 7) stands with a few changes:

- Updates to make it consistent current assessment requirements in Ch 69 Sec1I.
- Stipulates that assessment results can't be used as the sole basis for evaluation of a school, district, EL program or individual educator.

Educator Qualifications

- Directs DESE to establish educator endorsements for all EL program types including Sheltered English Immersion, Two-Way Immersion, and Transitional Bilingual Education.
- DESE must establish the endorsements by May 1, 2018.

Parent Advisory Council

- Establishes an English Learner Parent Advisory Council for districts with 100+ or 5%+ ELs (or whichever is fewer).
- The PAC will advise the district, participate in planning and development of programs to increase EL opportunities, and participate in review on school improvement plans.
- PACs shall be composed of parents/guardians of EL students, and to the extent possible represent the native languages most commonly spoken.
- Upon request by the PAC, the PAC shall meet at least annually with the school committee, school council, or charter school board.
- PAC shall establish by-laws regarding officers and procedures.
- PACs shall be assisted by the director of language acquisition programs or other personnel designated by the superintendent.
- The department shall create regulations for implementation of PACs, including how to notify parents/guardians about the PACs and appoint volunteers.

Program Evaluation

- Changes EL program evaluation to every six years, in keeping with current practice.
- Evaluation shall include but is not limited to:
 - (i) a review of individual student records of English learners;
 - (ii) a review of the programs and services provided to English learners;
 - (iii) a review of the dropout, graduation, discipline and special education incidence rates of the English learner population in the district;
 - (iv) using the best available data, a review of the dropout, graduation, discipline and special education rates of English learners who exited the English learner education program within the 3 school years preceding the on-site visit for that 3-year period;

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(v) a description of the processes by which school-based teams, consisting of educators, administrators and support staff, monitor the progress of English learners and former English learners;

(vi) a review of the amount, frequency and effectiveness of English as a second language instruction;

(vii) a review of the administration and coordination of English learner education programs.

- The advisory council for bilingual education established under section 1G of chapter 15 shall annually review the results of the department's monitoring of English learner programs in school districts.

Data Reporting

- Adds Pre-K students to current requirement to annually count English learners.
- Requires districts to monitor performance of students who have exited English Learner programs to assess program effectiveness.
- Adds additional data that districts must annually report to ESE related to English learner education under Chapter 69 Sec 1I, and specifies disaggregation of data by school/district, native language, and EL program:
 - Program compliance with federal and state minimum requirements;
 - Opportunities for students to develop and maintain native language;
 - Plan to evaluate the effectiveness of EL programs in achieving proficiency and academic standards; readiness to join mainstream classes; evaluations and measures; steps taken to address an identified deficiency;
 - Record of parents withdrawing from/refusing participation in EL program; meetings with parents/guardians on students not making progress;
 - Training for staff to work with culturally and linguistically diverse students;
 - EL participation in regular and advanced programs & extracurriculars.

Special Commission on Data

- Establishes a special commission to study the current collection and dissemination of district and state-wide data on school-aged English learners and submit a findings and recommendations by July 31, 2017.
- Specifies the organizations from which the participants will be chosen, which includes a representative of MATSOL appointed by the Governor.