**§89.1210. Program Content and Design.**

(a) Each school district required to offer a bilingual education or English as a second language (ESL) program shall provide each English learner the opportunity to be enrolled in the required program at his or her grade level. Each student's level of proficiency shall be designated by the language proficiency assessment committee in accordance with §89.1220(g) of this title (relating to Language Proficiency Assessment Committee). The school district shall accommodate the instruction, pacing, and materials to ensure that English learners have a full opportunity to master the essential knowledge and skills of the required curriculum, which includes the Texas Essential Knowledge and Skills and English language proficiency standards (ELPS). Students participating in the bilingual education program may demonstrate their mastery of the essential knowledge and skills in either their primary language or in English for each content area.

(1) A bilingual education program of instruction established by a school district shall be a full-time program of dual-language instruction (English and primary language) that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills under Texas Education Code (TEC), §29.055(a).

(2) An ESL program of instruction established by a school district shall be a program of intensive instruction in English in which ESL teachers recognize and address language differences in accordance with TEC, §29.055(a).

(b) The bilingual education program and ESL program shall be integral parts of the general educational program required under Chapter 74 of this title (relating to Curriculum Requirements) to include foundation and enrichment areas, ELPS, and college and career readiness standards. In bilingual education programs, school districts shall purchase instructional materials in both program languages with the district's instructional materials allotment or otherwise acquire instructional materials for use in bilingual education classes in accordance with TEC, §31.029(a). Instructional materials for bilingual education programs on the list adopted by the commissioner of education, as provided by TEC, §31.0231, may be used as curriculum tools to enhance the learning process. The school district shall provide for ongoing coordination between the bilingual/ESL program and the general educational program. The bilingual education and ESL programs shall address the affective, linguistic, and cognitive needs of English learners as follows.

(1) Affective.

(A) English learners in a bilingual program shall be provided instruction using second language acquisition methods and/or their primary language to introduce basic concepts of the school environment, and content instruction both in their primary language and in English, which instills confidence, self-assurance, and a positive identity with their cultural heritages. The program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds in accordance with TEC, §29.055(b).

(B) English learners in an ESL program shall be provided instruction using second language acquisition methods in English to introduce basic concepts of the school environment, which instills confidence, self-assurance, and a positive identity with their cultural heritages. The program shall be designed to incorporate the students' primary languages and learning experiences and shall incorporate the cultural aspects of the students' backgrounds in accordance with TEC, §29.055(b).

(2) Linguistic.

(A) English learners in a bilingual program shall be provided intensive instruction in the skills of listening, speaking, reading, and writing both in their primary language and in English, provided through the ELPS. The instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects.

(B) English learners in an ESL program shall be provided intensive instruction to develop proficiency in listening, speaking, reading, and writing in the English language, provided through the ELPS. The instruction in academic content areas shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects.

(3) Cognitive.

(A) English learners in a bilingual program shall be provided instruction in language arts, mathematics, science, and social studies both in their primary language and in English, using second language acquisition methods in either their primary language, in English, or in both, depending on the specific program model(s) implemented by the district. The content area instruction in both languages shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills in all subjects.

(B) English learners in an ESL program shall be provided instruction in English in language arts, mathematics, science, and social studies using second language acquisition methods. The instruction in academic content areas shall be structured to ensure that the students master the required essential knowledge and skills and higher-order thinking skills.

(c) The bilingual education program shall be implemented through at least one of the following program models.

(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. The goal of early-exit transitional bilingual education is for program participants to use their primary language as a resource while acquiring full proficiency in English. This model provides instruction in literacy and academic content through the medium of the students' primary language along with instruction in English that targets second language development through academic content.

(d) The ESL program shall be implemented through one of the following program models.

(2) 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. The goal of ESL pull-out is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading. Instruction shall be provided by the ESL teacher in a pull-out or inclusionary delivery model.

*Statutory Authority: The provisions of this §89.1210 issued under the Texas Education Code, §§29.051-29.056, 29.0561, 29.057-29.064, and 29.066.*

*Source: The provisions of this §89.1210 adopted to be effective September 1, 1996, 21 TexReg 5700; amended to be effective March 5, 1999, 24 TexReg 1383; amended to be effective April 18, 2002, 27 TexReg 3107; amended to be effective May 28, 2012, 37 TexReg 3822; amended to be effective July 15, 2018, 43 TexReg 4731; amended to be effective April 14, 2020, 45 TexReg 2415.*