

## Chapter PI 13

### LIMITED-ENGLISH PROFICIENT PUPILS

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**Note:** Chapter PI 13 as it existed on May 31, 1985 was repealed and a new chapter PI 13 was created effective June 1, 1985. Chapter PI 13 was repealed and recreated by emergency rule effective October 1, 2002.

**Note:** Chapter PI 13 as it existed on November 30, 2002 was repealed and a new chapter PI 13 was created effective December 1, 2002.

#### Subchapter I — General Provisions

**PI 13.01 Authority.** This chapter is adopted under ss. 115.95 to 115.996, and 118.30 (2) (b) 2., Stats.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.02 Applicability and purpose.** This chapter establishes requirements for school districts whose population includes LEP pupils as follows:

(1) Subchapter II establishes specific requirements for all school districts whose pupil population includes one or more LEP pupils, including procedures for the identification, assessment, and classification of LEP pupils and criteria and procedures to be used by a school district and charter school in determining whether to administer a test under ss. 118.30 or 121.02 (1) (r), Stats., to an LEP pupil.

(2) Subchapter III establishes specific requirements for school districts required to offer bilingual-bicultural education programs under s. 115.97 (2), (3), or (4), Stats.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.03 Definitions.** In this chapter:

(1) "Alternate assessment" means any department-approved, standards-based alternative to a test administered under ss. 118.30 or 121.02 (1) (r), Stats.

(2) "Bilingual-bicultural education program" has the meaning defined under s. 115.955 (2), Stats.

(3) "Bilingual counselor" means a person licensed under s. PI 3.50.

(4) "Bilingual counselor's aide" means a person who is employed to assist a counselor and who meets all of the following:

(a) Understands, speaks, reads, and writes English and the language of the group with whom the bilingual counselor's aide will be working.

(b) Has a high school diploma or its equivalent.

(c) Demonstrates knowledge of and skills in working with the culture of the group with whom the bilingual counselor's aide will be working.

(5) "Bilingual teacher" means a person licensed under ss. PI 3.47 prior to July 1, 2004 or s. PI 34.33 (3) on or after July 1, 2004.

(6) "Bilingual teacher's aide" means a person who is employed to assist a teacher and who meets all of the following:

(a) Understands, speaks, reads, and writes English and the language of the group with whom the bilingual teacher's aide will be working.

(b) Has a high school diploma or its equivalent.

(c) Knows the culture of the group with whom the bilingual teacher's aide will be working.

(6m) "Charter school" means a charter school established under s. 118.40 (2r), Stats.

(7) "Department" means the Wisconsin department of public instruction.

(8) "Fully English proficient" means a former LEP pupil who can now read, write, speak and comprehend English within the academic classroom setting.

(9) "LEP pupil" means a limited-English proficient pupil defined under s. 115.955 (7), Stats., who has difficulty with reading, writing, speaking or comprehending in English within the academic classroom setting.

(10) "Test" means the examination administered to pupils enrolled in the 3<sup>rd</sup>, 4<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> grades under ss. 118.30 and 121.02 (1) (r), Stats.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

#### Subchapter II — School Board Requirements Relating to LEP Pupils

**PI 13.04 Applicability and purpose.** This subchapter establishes identification, assessment, classification, and reporting requirements for all school districts whose pupil population includes one or more LEP pupils. This subchapter also establishes criteria and procedures to be used by a school district and charter school in determining whether to administer a test under ss. 118.30 or 121.02 (1) (r), Stats., to an LEP pupil.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.05 School board policy.** Each school board whose pupil population includes one or more LEP pupils shall adopt a policy regarding the identification, language assessment, classification and reclassification, support services, academic achievement and assessment, parental notification of testing under s. PI 13.09, and the design of the educational program or support for LEP pupils.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.06 Identification of LEP pupils.** Each school board shall identify potential LEP pupils within the school district as part of the enrollment process using a home language survey and department-approved English proficiency assessment under s. PI 13.07. The school board shall identify pupils meeting any of the following criteria:

(1) Pupils who communicate in a language other than English.

(2) Pupils whose families use a language other than English.

(3) Pupils who use a language other than English in daily non-school surroundings.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.07 English proficiency assessment.** Each school board shall determine the English proficiency level of a pupil identified under s. PI 13.06 and shall place the pupil in an appropriate education program. The school board shall use a department-approved assessment instrument, maintain all assessment records, and report information to the department under s. PI 13.09 (4). The assessment procedures used under this section may include supplemental indicators or data that include any of the following:

(1) Prior academic records from within or outside the United States.

(2) Course grades which, in relation to the pupil's grade level, indicate that lack of progress is due to limited English language skills.

(3) Information on everyday classroom performance.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.08 Classification of LEP pupils.** The school board shall classify each pupil assessed under s. PI 13.07 and a charter school shall classify each pupil tested under s. PI 13.09 as one of the following:

(1) **LEVEL 1 – BEGINNING PREPRODUCTION.** A pupil shall be classified level 1 if the pupil does not understand or speak English with the exception of a few isolated words or expressions.

(2) **LEVEL 2 – BEGINNING PRODUCTION.** A pupil shall be classified level 2 if all of the following criteria are met:

(a) The pupil understands and speaks conversational and academic English with hesitancy and difficulty.

(b) The pupil understands parts of lessons and simple directions.

(c) The pupil is at a pre-emergent or emergent level of reading and writing in English, significantly below grade level.

(3) **LEVEL 3 – INTERMEDIATE.** A pupil shall be classified level 3 if all of the following criteria are met:

(a) The pupil understands and speaks conversational and academic English with decreasing hesitancy and difficulty.

(b) The pupil is post-emergent, developing reading comprehension and writing skills in English.

(c) The pupil's English literacy skills allow the pupil to demonstrate academic knowledge in content areas with assistance.

(4) **LEVEL 4 – ADVANCED INTERMEDIATE.** A pupil shall be classified level 4 if all of the following criteria are met:

(a) The pupil understands and speaks conversational English without apparent difficulty, but understands and speaks academic English with some hesitancy.

(b) The pupil continues to acquire reading and writing skills in content areas needed to achieve grade level expectations with assistance.

(5) **LEVEL 5 – ADVANCED.** A pupil shall be classified level 5 if all of the following criteria are met:

(a) The pupil understands and speaks conversational and academic English well.

(b) The pupil is near proficient in reading, writing, and content area skills needed to meet grade level expectations.

(c) The pupil requires occasional support.

(6) **LEVEL 6 – FORMERLY LEP NOW FULLY ENGLISH PROFICIENT.** A pupil shall be classified level 6 if all of the following criteria are met:

(a) The pupil was formerly limited-English proficient and is now fully English proficient.

(b) The pupil reads, writes, speaks and comprehends English within the academic classroom setting.

**History:** CR 01-069; cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.09 Testing of LEP pupils. (1) POLICIES.** Each school board policy under s. PI 13.05 shall include procedures regarding the testing of LEP pupils. A charter school whose popu-

lation includes one or more LEP pupils shall adopt a policy regarding the testing of LEP pupils. The policy under this subsection shall include all of the following assurances:

(a) Test administration to an LEP pupil shall be made on an individual basis and information on both academic and English proficiency data shall be documented.

(b) Test results may not be used as the sole criterion in re-classifying an LEP pupil from a bilingual-bicultural education program or in determining grade promotion, eligibility for courses or programs, eligibility for graduation or eligibility for participation in postsecondary education opportunities.

(c) Exemption of an LEP pupil from taking a test may not be used as the sole criterion in determining grade promotion, eligibility for courses or programs, eligibility for graduation or eligibility for participation in postsecondary education opportunities.

(2) **TEST OR ALTERNATE ASSESSMENT ADMINISTRATION.** (a) A school board and charter school shall make case-by-case determinations as to whether an LEP pupil shall take a test or alternate assessment. A school board and charter school may not exempt LEP pupils from academic assessments based on their LEP status.

(b) A school board and charter school shall administer a test to an LEP pupil unless a determination has been made that the results of the test, with allowable accommodations made for the pupil as needed, will not be a valid and reliable indicator of the pupil's academic knowledge and skills.

(c) A school board and charter school that exempts an LEP pupil from taking a test shall provide a department-approved alternate assessment for that pupil.

(d) A school board and charter school shall administer tests, alternate assessments or both to an LEP pupil as follows:

1. Except as specified under subd. 2., pupils at English proficiency levels 1 or 2 under s. PI 13.08 (1) or (2), shall participate in an alternate assessment even if these pupils participate in a test.

2. a. Except as provided in this subd. 2. b., pupils at English proficiency levels 1 or 2 under s. PI 13.08 (1) or (2) who have attended school in the first grade or any higher grade in the United States, not including Puerto Rico, for 3 or more full consecutive school years shall participate in academic assessment of reading or English language arts using tests written in English.

b. A school district or charter school may continue, for no more than 2 additional consecutive school years, to assess a pupil described in this subd. 2. a. with an alternate assessment, rather than the tests under this subd. 2. a., if the school district or charter school determines, on a case-by-case basis, that the pupil has not reached a level of English language proficiency sufficient for the tests written in English to yield valid and reliable information about what the pupil knows and can do.

3. Pupils at English proficiency levels 3 through 5 under s. PI 13.08 (3) through (5), shall participate in a test but may also participate in an alternate assessment.

(e) An alternate assessment provided under this subsection shall be approved by the department and shall be provided in each assessed subject area as the test.

(3) **TEST ACCOMMODATIONS.** A school board and charter school that includes an LEP pupil in a test shall provide testing accommodations, if the pupil needs such accommodations. Any accommodations made shall maintain the validity of the test and may include, but are not limited to, one or more of the following:

(a) Provide the assistance of a qualified translator to translate instructions or read items from tests that do not assess English language competency.

(b) Provide small group or individual testing opportunities.

(c) Provide more practice tests or examples before the actual test is administered.

(d) Allow LEP pupils to use dictionaries and other educational aids while taking the test unless this use would invalidate the test.

(e) Allow pupils as much time as necessary to complete the test.

(f) Allow any other method approved by the department.

**(4) TEST RESULTS.** A school board and charter school that administers a test, an alternate assessment or both to an LEP pupil shall use or report the results as follows:

(a) The results of both the test and alternate assessment shall be used consistent with the board's policies developed under s. 118.33 (1) (f) and (6), Stats., in making instructional, promotion, and graduation decisions.

(b) The results of the test, not the alternate assessment if both are given, shall be reported to the department.

(c) The results of the alternate assessment, if a test is not given, shall be reported to the department.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

### Subchapter III — Bilingual–Bicultural Education Programs

**PI 13.10 Applicability and purpose.** This subchapter establishes specific requirements for school districts required to offer bilingual–bicultural education programs under s. 115.97 (2), (3), or (4), Stats. School districts that establish bilingual–bicultural education programs under s. 115.97 (2), (3), or (4), Stats., are eligible for reimbursement under ss. 115.97 (1) and 115.995, Stats.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.11 General requirements.** A school board that offers a bilingual–bicultural education program under this subchapter shall meet the requirements under this subchapter and subchapter II.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.12 School board policy.** The policy under s. PI 13.05 shall include all of the following assurances:

(1) The school board shall provide each LEP pupil with an effective instructional program and supportive services appropriate to meet the needs of the pupil.

(2) The school board shall provide each LEP pupil with full access to supportive services, such as language development and speech therapy available to other pupils in the school district as such services are appropriate to the individual needs of the pupil.

(3) The district shall provide programs and services that reflect the cultural background of the LEP pupils and may include instruction intended to improve the skills of such pupils in the use of their native language for the purpose of enabling them to become proficient or advanced in all subject areas.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.13 Program approved by department. (1)** Each school district establishing a bilingual–bicultural education program shall provide to the department a written description of the program that addresses the requirements under this subchapter. The description shall include information on all of the following:

(a) The program design, objectives, staffing, and evaluation procedures.

(b) Staff certification, professional development activities, parent involvement activities and instructional materials to be used in the program.

(2) Each school district establishing a bilingual–bicultural education program shall ensure bilingual teachers, bilingual teacher's aides, bilingual counselors, and bilingual counselor's aides meet the definitions under this chapter.

(3) Each school district's proposed program shall be reviewed and approved by the department prior to the implementation of the local program. A proposed program shall be approved if it meets the requirements of this chapter.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.14 Reimbursement. (1)** The school district shall submit, on appropriate financial claim forms, such information and data as required by the department for fiscal review and approval for reimbursement of the program.

**Note:** Copies of the required claim form may be obtained at no charge from financial aids and audit, department of public instruction, P.O. Box 7841, Madison, WI 53707-7841.

(2) The salaries of teachers and other staff members participating in bilingual–bicultural education programs shall be reimbursed according to the percentage of time such teachers and staff spend in the program and the number of eligible pupils in the program under s. PI 13.06. The reimbursement shall be computed as specified in s. 115.995, Stats.

(3) Supportive services as provided under s. PI 13.12 (2) may not be reimbursed under this section.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.15 Reporting requirements.** Annually on or before August 15, each school district providing a program under this subchapter shall report to the department the following information as provided under ss. 115.993 and 115.996, Stats.:

(1) The number of pupils, including both LEP pupils and other pupils, instructed the previous school year in the bilingual–bicultural education programs. The pupils shall be identified by language group, grade level, age, and English language proficiency level determined under s. PI 13.08.

(2) An itemized statement on oath of all disbursements on account of the bilingual–bicultural education program operated during the previous school year and a copy of the estimated budget for that program for the current school year.

(3) The number of pupils served in the bilingual–bicultural education program for each language group in each school district in which such programs are offered.

(4) The number of pupils in each school district and language group who as a result of participation in a bilingual–bicultural education program improved their English language ability to such an extent that the program is no longer necessary for such pupils.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.

**PI 13.16 Department responsibilities. (1)** The department shall, at least annually, review, approve and evaluate the programs conducted under this subchapter by the school districts. This shall include reviewing and evaluating all of the following:

(a) The school board policies and procedures used for identifying, counting, classifying and placing eligible LEP pupils in an appropriate educational program.

(b) The notification sent out to parents, guardians or legal custodians, including the initial written parental consent for their child's participation in the program.

(c) The procedures used for the establishment of the program.

(d) The procedures to be used for parent complaints.

(e) The curriculum, instruction and materials being offered in the program.

(f) The English language proficiency and academic progress of LEP pupils in the program.

(g) The program evaluation design, results, and use of the results.

(h) The extent to which any existing gaps in achievement or English proficiency are reduced and eliminated over time.

(2) Pursuant to s. 115.996, Stats., the department shall submit an annual report to the legislature on December 31 regarding the status of bilingual–bicultural education programs established under this subchapter. The report shall include the school district information reported under s. PI 13.15.

**History:** CR 01-069: cr. Register November 2002 No. 563, eff. 12-1-02.