

Vineland School District's Parent Advisory Committee v. Bd. of Educ. of Vineland, OAL Dkt. No. EDU 6143-05 and EDU 6428-05 (CONSOLIDATED), Commissioner's Decision (June 26, 2006).

Waiver granted by the Department of Education permitting a board of education to provide an alternative program rather than a full-time bilingual program to third- and fourth-grade students at a particular school because of the low number of limited English proficient (LEP) students in those grades could not be upheld, where the Department did not take into account the overall configuration of the district's LEP population, including, for example, whether the students in question could reasonably be assigned to a different school, and where the Board's desire to implement the program was rooted in educational philosophy rather than the impracticality of providing the traditional full-time program, as required under N.J.S.A. 18A:35-18(b). Executive Committee of Vineland School District's Parent Advisory Committee v. Bd. of Educ. of Vineland, OAL Dkt. No. EDU 6143-05 and EDU 6428-05 (CONSOLIDATED), Commissioner's Decision (June 26, 2006).

Where a waiver granted under N.J.S.A. 18A:35-18(b) was overturned, the matter was remanded to determine whether the alternative program in question complied with statutory and regulatory requirements for full-time bilingual education and to consider the merits of petitioners' allegations of violation of State requirements for parent involvement and maintenance of a parent advisory committee on bilingual education; however, allegations based on the No Child Left Behind Act are not justiciable by the Commissioner of Education. Executive Committee of Vineland School District's Parent Advisory Committee v. Bd. of Educ. of Vineland, OAL Dkt. No. EDU 6143-05 and EDU 6428-05 (CONSOLIDATED), Commissioner's Decision (June 26, 2006).

6A:15-1.6 Approval procedures

(a) Each school district providing a bilingual program, ESL program, or English language services shall submit a plan every three years to the Department of Education for approval. At its discretion, the Department may request modifications, as appropriate.

1. Plans submitted by each district board of education for approval shall include information on the following:
 - i. Identification of students;
 - ii. Program description;
 - iii. The number of certified staff hired for the program;
 - iv. Bilingual and ESL curriculum development;
 - v. Evaluation design;
 - vi. Review process for exit; and
 - vii. A budget for the bilingual and ESL program or English language services. The budget must indicate how the bilingual categorical aid funds are directly related to the bilingual/ESL program instructional services and materials.

(b) The Department will establish procedures for monitoring and evaluation of district bilingual/ESL programs by means of its district and school accountability process.

Amended by R.2003 d.388, effective October 6, 2003. See: 35 N.J.R. 1500(a), 35 N.J.R. 4718(a).
 In (c), substituted "Specialized Populations" for "Bilingual Education".

Amended by R.2008 d.306, effective October 20, 2008. See: 40 N.J.R. 2161(a), 40 N.J.R. 6200(b).

Added new (a)liii; recodified former (a)liii through (a)lv as (a)liv through (a)lvi; in (a)lv, deleted "and" from the end; in (a)lvi, substituted "; and" for a period at the end; added (a)lvii; deleted former (b)2 and (b)3; recodified former (b)4 as (b)2; added new (b)3; deleted (b)5; and in (c), substituted "Department" for "Office of Specialized Populations".

Amended by R.2014 d.050, effective March 17, 2014. See: 45 N.J.R. 399(a), 46 N.J.R. 501(a).

In the introductory paragraph of (a), inserted a comma following the second occurrence of "program", and inserted the last sentence; deleted former (b); recodified (c) as (b); and rewrote (b).

6A:15-1.7 Supportive services

(a) Students enrolled in bilingual, ESL, and English language services programs shall have full access to educational services available to other students in the school district.

(b) To the extent that is administratively feasible, supportive services to LEP students, such as counseling, tutoring, and career guidance, should be provided by bilingual personnel who are familiar with and knowledgeable of the unique needs and background of the LEP students and their parents.

Amended by R.2003 d.388, effective October 6, 2003. See: 35 N.J.R. 1500(a), 35 N.J.R. 4718(a).

In (b), inserted "it" preceding "is administratively feasible". Amended by R.2008 d.306, effective October 20, 2008. See: 40 N.J.R. 2161(a), 40 N.J.R. 6200(b).

In (b), deleted the former first sentence, and inserted "to LEP students, such as counseling, tutoring, and career guidance," and "bilingual".

6A:15-1.8 Inservice training

(a) The district board of education shall develop a plan for inservice training for bilingual, ESL, and mainstream teachers based on their needs, and include instructional strategies to help LEP students meet the CCCS and the WIDA English language development standards. All bilingual and ESL teachers shall receive training in the use of the ESL curriculum.

(b) The Professional Development Plan of the school district shall include the needs of bilingual and ESL teachers, which shall be addressed through inservice training.

Amended by R.2008 d.306, effective October 20, 2008. See: 40 N.J.R. 2161(a), 40 N.J.R. 6200(b).

In (a), substituted "WIDA English Language Proficiency Standards" for "ESL Standards for Pre-K through 12 Students"; and in (b), substituted "Development Plan of the district" for "Improvement Plan of the Annual Report (N.J.S.A. 18A:7A-11(e))".

Amended by R.2014 d.050, effective March 17, 2014. See: 45 N.J.R. 399(a), 46 N.J.R. 501(a).

Rewrote (a), and in (b), inserted "school", and substituted ", which" for "that".

6A:15-1.9 Certification

(a) All teachers of bilingual classes shall hold a valid New Jersey instructional certificate with an endorsement for the appropriate grade level and/or content area, as well as an

endorsement in bilingual education, pursuant to N.J.S.A. 18A:6-38 et seq. and 18A:35-15 to 26.

(b) All teachers of ESL classes shall hold a valid New Jersey certificate in ESL pursuant to N.J.S.A. 18A:6-38 et seq. and N.J.A.C. 6A:9-11.5.

(c) All teachers providing English language services shall hold a valid New Jersey instructional certificate.

Amended by R.2008 d.306, effective October 20, 2008.

See: 40 N.J.R. 2161(a), 40 N.J.R. 6200(b).

In (b), updated the N.J.A.C. reference.

Amended by R.2014 d.050, effective March 17, 2014.

See: 45 N.J.R. 399(a), 46 N.J.R. 501(a).

In (b), substituted "ESL" for "English as a second language (ESL)".

Case Notes

Dismissal of basic skills instructor due to lack of bilingual education endorsement affirmed. Board of Education of the City of Passaic County v. Gonzales, 97 N.J.A.R.2d (EDU) 488.

6A:15-1.10 Bilingual, ESL, and English language services program enrollment, assessment, exit, and reentry

(a) All LEP students from kindergarten through grade 12 shall be enrolled in the bilingual, ESL or English language services education program established by the school district board of education as prescribed in N.J.A.C. 6A:15-1.4(b) through (e) and 1.5(a), and P.L. 1995, c. 59 and c. 327.

(b) Students enrolled in the bilingual, ESL, or English language services program shall be assessed annually using a Department-approved English language proficiency test to determine their progress in achieving English language proficiency goals and readiness for exiting the program.

(c) LEP students enrolled in the bilingual, ESL, or English language services program shall be placed in a monolingual English program when they have demonstrated readiness to function successfully in an English-only program. The process to determine the readiness or inability of the individual student to function successfully in the English-only program shall be initiated by the student's level of English proficiency as measured by a Department-established standard on an English language proficiency test, and the readiness of the student shall be further assessed on the basis of multiple indicators that shall include, at a minimum: classroom performance; the student's reading level in English; the judgment of the teaching staff member or members responsible for the educational program of the student; and performance on achievement tests in English.

(d) A parent or guardian may remove a student who is enrolled in a bilingual education program pursuant to provisions in P.L. 1995 c.327.

(e) Newly exited students who are not progressing in the mainstream English program may be considered for reentry to bilingual and ESL programs as follows:

1. After a minimum of one-half an academic year and within two years of exit, the mainstream English classroom teacher may recommend retesting with the approval of the principal.

2. A waiver of the minimum time limitation may be approved by the executive county superintendent upon request of the chief school administrator if the student is experiencing extreme difficulty in adjusting to the mainstream program.

3. The recommendation for retesting shall be based on the teacher's judgment that the student is experiencing difficulties due to problems in using English as evidenced by the student's inability to: communicate effectively with peers and adults; understand directions given by the teacher; and/or comprehend basic verbal and written materials.

4. The student shall be tested using a different form of the test or a different language proficiency test than the one used to exit the student.

5. If the student scores below the State-established standard on the language proficiency test, the student shall be reenrolled into the bilingual or ESL program.

(f) When the review process for exiting a student from a bilingual, ESL, or English language services program has been completed, the district board of education shall notify by mail the student's parent(s) or legal guardian of the placement determination. If the parent(s), guardian, or teaching staff member disagrees with the placement, he or she may appeal the placement to the Commissioner, pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3, after exhausting the school district's appeal process.

Amended by R.2003 d.388, effective October 6, 2003.

See: 35 N.J.R. 1500(a), 35 N.J.R. 4718(a).

Rewrote (d); in (f), amended N.J.A.C. reference.

Amended by R.2008 d.306, effective October 20, 2008.

See: 40 N.J.R. 2161(a), 40 N.J.R. 6200(b).

In (a), substituted "kindergarten" for "pre-kindergarten"; added new (b); recodified former (b) and (c) as new (c) and (d); deleted former (d); and in (e)1, substituted "one-half an academic year," for "one full semester".

Amended by R.2014 d.050, effective March 17, 2014.

See: 45 N.J.R. 399(a), 46 N.J.R. 501(a).

Section was "Bilingual, ESL and English language services program enrollment, assessment, exit and reentry". In (b), inserted a comma following "ESL", and substituted "using" for "with"; rewrote (c), (e)1, and (f); in (e)2, inserted "executive"; and in (e)4, substituted the second occurrence of "student" for "students".

6A:15-1.11 Graduation requirements for limited English proficient students

All LEP students shall satisfy requirements for high school graduation according to N.J.A.C. 6A:8-5.1(a).

Amended by R.2000 d.358, effective September 5, 2000.

See: 32 N.J.R. 1712(a), 32 N.J.R. 3332(b).

Updated N.J.A.C. reference.

Amended by R.2003 d.388, effective October 6, 2003.

See: 35 N.J.R. 1500(a), 35 N.J.R. 4718(a).

Rewrote the section.