



CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

March 7, 2014

Dear County Superintendents, District Superintendents, and Direct-Funded Charter School Administrators:

LOCAL CONTROL FUNDING FORMULA: PROGRAMS AND SERVICES FOR ENGLISH LEARNERS

The California Department of Education (CDE) provides this letter in an effort to clarify concerns regarding the implementation of programs and services for English learners (ELs) in the context of the Local Control Funding Formula (LCFF) in 2013–14.

Assembly Bill 97 requires the State Board of Education (SBE) to adopt LCFF regulations by January 31, 2014, and a template by March 31, 2014. The State Board adopted these regulations on an emergency basis at its January 2014, meeting. They may be viewed at <http://www.cde.ca.gov/re/lr/rr/lcffemergencyregs.asp>. In preparation for the Local Control Accountability Plan, local educational agencies (LEAs) should review their approach to planning and budgeting, and using funds aligned to the state priorities included in California *Education Code (EC)* Section 52060(d).

One of these priorities is the implementation of the academic content and performance standards adopted by the SBE, including how the programs and services will enable ELs to access the common core academic content standards and the English Language Development (ELD) Standards as part of their core instructional program. LEAs should continue to provide assistance to local schools and districts to achieve the following goals:

- Ensure ELs acquire full proficiency in English as rapidly and effectively as possible and attain parity with native speakers of English.
- Ensure ELs, within a reasonable period of time, achieve the same rigorous grade-level academic standards that are expected of all students.

Meeting these two goals will help close the achievement gap between ELs and their native English-speaking peers. In order to accomplish these goals, and in accordance with Education Section 300 et. seq., all ELs are to be provided with appropriate services in one of three settings:

- **Structured English Immersion (SEI)**—A classroom setting where ELs who have not yet acquired reasonable fluency in English, as defined by the school district, receive instruction through an English language acquisition process, in which nearly all classroom instruction is in English but with a curriculum and presentation designed for children who are learning the language.
- **English Language Mainstream (ELM)**—A classroom setting for ELs who have acquired reasonable fluency in English, as defined by the school district. In addition to ELD instruction, ELs continue to receive additional and appropriate educational services in order to recoup any academic deficits that may have been incurred in other areas of the core curriculum as a result of language barriers.
- **Bilingual Education/Native Language Instruction (BE/NLI)**—A language acquisition process in which ELs receive ELD instruction targeted to their English proficiency level and academic subjects are taught in the primary language, as defined by the school district. Placement in a bilingual education/native language instruction program is triggered by the parents through a parental waiver.

The 1974 U.S. Supreme Court decision in *Lau v. Nichols* 414 U.S. 563 (1974), as codified in the Equal Education Opportunities Act and other federal laws, require that each educational agency “take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” “Appropriate action” is determined using the three part analysis developed in *Castañeda v. Pickard* (5th cir. 1981) 648 F.2d 989 as follows:

- **Use sound theory.** The educational theory upon which instruction is based must be recognized as sound by at least some experts in the field.
- **Provide adequate support.** The school system must provide the procedures, resources, and personnel necessary to apply the theory in the classroom. The resulting program must be implemented effectively.
- **Achieve results.** After a reasonable period of time, application of the program must actually overcome English language barriers confronting the students and must not leave them with substantive academic deficits.

For additional information on programs and services for ELs, please see the California State Board of Education Policy #98-04 Web page at <http://www.cde.ca.gov/be/ms/po/policy98-04-oct1998.asp>.

The CDE provides this information to assist you in the implementation of programs and services for ELs as the State moves forward with LCFF.

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If you have any questions regarding this issue, please contact Elena Fajardo, Administrator, Language Policy and Leadership Office, by phone at 916-319-0247 or by e-mail at efajardo@cde.ca.gov.

Sincerely,

/s/

Lupita Cortez Alcalá, Deputy Superintendent
Instruction and Learning Support Branch

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