



To the Administrator Addressed

Commissioner Mike Morath

1701 North Congress Avenue • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • tea.texas.gov

DATE:	October 27, 2022
SUBJECT:	Bilingual Education Exceptions and/or ESL Waivers
CATEGORY:	English Learners/Emergent Bilingual Students
NEXT STEPS:	Share with appropriate staff to ensure accurate filing of exception and waiver applications

The 2022-2023 Bilingual Education Exception/English as a Second Language (ESL) Waiver application and instructions, including a video explanation, are now available on the [TEA Bilingual Exception and ESL Waiver Resources webpage](#).

All local educational agencies (LEAs), including all districts, charter schools, and districts of innovation, are required to identify and serve emergent bilingual (EB) students/English learners (ELs) through bilingual education or English as a second language (ESL) programs, per [19 TAC §89.1205](#).

Pursuant to [19 TAC §89.1207\(a\)\(1\) and \(b\)\(1\)](#), an LEA that does not have the appropriately certified teachers for their required bilingual education and/or ESL program(s) must apply to the Texas Education Agency (TEA) for a bilingual education exception and/or ESL waiver. The approval of an exception and/or a waiver shall be valid only during the school year for which it was granted. The application's narrative responses require LEAs to explain how the students under the bilingual education exception and/or ESL waiver will be served in a temporary alternative language program code that meets students' affective, linguistic, and cognitive needs and aligns as closely as possible to the required bilingual/ESL program.

LEAs that apply for a bilingual education exception and/or ESL waiver must develop an action plan for the 2022-2023 school year. The action plan should include 3-5 documentable activities the LEA will complete during the year. The activities should: 1) demonstrate support for teachers seeking certification; 2) reflect efforts to recruit certified teachers to the district; and 3) strengthen program implementation by preparing teachers under the bilingual exception or ESL waiver to better serve the needs of the district's emergent bilingual students. In addition, the LEAs should include a comprehensive professional development plan, targeting the competencies needed to serve EB students/ELs. At least 10 percent of the total Bilingual Education Allotment (BEA) funds shall be utilized to fund the professional development mentioned in the plan, regardless of whether the LEA is applying for a bilingual education exception and/or an ESL waiver.

All applications are due on or before November 1, 2022. Both parts of the application, the completed data submission (Excel file) and narrative responses (PDF), must be submitted to TEA as attachments to: BilingualExceptions_ESLWaivers@tea.texas.gov. LEAs should anticipate communication from TEA staff in the weeks and months after submission for the following reasons: 1) to request additional information; 2) to discuss the action plan, supports, and resources; and 3) to share the final decision.

Prior to filing a bilingual exception/ESL waiver, LEAs are encouraged to review the scenario chains for [bilingual programs](#) and [ESL programs](#) in order to calculate the need for an exception/waiver. Video explanations for these scenario chains have also been provided on the [TEA Bilingual Exception and ESL Waiver Resources webpage](#).

For answers to frequently asked questions, see the [Bilingual Exceptions/ESL Waivers FAQ](#). If you have additional questions or need additional information regarding bilingual education exceptions and/or ESL waivers, please contact the English Learner Support Division at EnglishLearnerSupport@tea.texas.gov.