

DATE:	August 3, 2023
SUBJECT:	Adopted Revisions to 19 Texas Administrative Code (TAC) Chapter 89, Subchapter BB
CATEGORY:	Emergent Bilingual Student Programs
NEXT STEPS:	Share with all appropriate staff who serve emergent bilingual students

The purpose of this letter is to provide an overview of the adopted revisions to 19 Texas Administrative Code (TAC) Chapter 89, Adaptations for Special Populations, Subchapter BB, and to outline required actions on the part of local educational agencies (LEAs). Note the adopted revisions are effective on August 9, 2023, and are not retroactive for actions taken by school systems prior to that date.

The adopted revisions to the rule include alignment of language to the Texas Education Code (TEC) Subchapter B, Bilingual Education and Special Language Programs; changes to the Home Language Survey (HLS) itself and how it is administered; and changes to the criteria used by Language Proficiency Assessment Committees (LPACs) when making reclassification determinations for students identified as emergent bilingual (EB). Below is a brief description of the revisions:

### Terminology

To align to TEC, §29.052, the term *emergent bilingual* will replace the term *English Learner* wherever it appears in state policy and resources, per Senate Bill 2066, 87<sup>th</sup> Regular Session, 2021. Please note, “English Learner” is the term used in federal policy and resources.

Definitions have been refined to provide additional clarification on how to better serve emergent bilingual students in bilingual education programs or special language programs, also known as English as a Second Language (ESL) programs.

### Home Language Survey

19 TAC §89.1215(b), to be effective August 9, 2023, states school districts shall administer a home language survey, translated into the primary language whenever possible, and shall ask the three questions listed below:

- (1) What language(s) is/are used in the child’s home most of the time?
- (2) What language(s) does the child use most of the time?
- (3) If the child had a previous home setting, what language(s) was/were used for communication in that home setting? If no previous home setting, answer Not Applicable (N/A).

Per the rule, LEAs will be required to use the [Texas Education Agency \(TEA\) produced form](#) available in English and Spanish. Translations of the form in multiple other languages will be made available on [txel.org](http://txel.org), as translation work is completed.

Note that these changes apply only for surveys administered to parents of students enrolling on or after August 9, 2023.

### Reclassification Criteria

[TEC, §29.056\(g\)](#), states that the LPAC may reclassify an EB student as English proficient at the end of the school year in which the student meets the reclassification criteria and it is determined that the student can successfully participate in an English instructional program with no second language acquisition supports. 19 TAC §89.1226(i) describes the specific performance criteria an EB student must demonstrate on the Texas English Language Proficiency Assessment System (TELPAS) and the State of Texas Assessment of Academic Readiness (STAAR) reading test, as well as the teacher subjective letter using the state’s standardized rubric.

LPACs making reclassification determinations on or after the **August 9, 2023** effective date of approved revisions to 19 TAC §89.1226(i) referenced in this letter will make those determinations for EB students, as appropriate, following the new TEA reclassification criteria. Emergent bilingual students must demonstrate a composite rating of reading, writing, listening, and speaking on the Texas English Language Proficiency Assessment Systems (TELPAS).

Refer to the [TAA dated April 20, 2023](#) regarding the additional 45 calendar days in the fall of the 2023-2024 school year for some 2022-2023 reclassification decisions.

School Year	TELPAS Rating	LPAC Decision	Reclassification Criteria
2022-2023	<b>Advanced High</b> in all language domains; listening, speaking, reading, and writing	LPAC made EOY decisions to potentially reclassify pending assessment scores.	2022-2023 Reclassification Criteria Chart including closing all EOY LPACs up until the first 45 calendar days of Fall 2023
2023-2024	<b>Composite Rating</b> to include listening, speaking reading, and writing	LPAC will make EOY decisions based on the academic and linguistic progress during 2023-2024.	2023-2024 Reclassification Criteria Chart to conduct EOY LPACs in Spring 2024

Please email any questions related to the implementation of these updates to commissioner rule to the Emergent Bilingual Support Division at [emergentbilingualsupport@tea.texas.gov](mailto:emergentbilingualsupport@tea.texas.gov).