

To: Indiana Local Education Agencies

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Subject: English Learner Program Staffing

The passage of the *Every Student Succeeds Act* (ESSA) in 2015 provided new clarity for state and local education agencies on their responsibilities and requirements for serving English learners (ELs) in public schools, building on the previously-established legal standards for ELs established by Title VI of the Civil Rights Act of 1964, *Lau v. Nichols* (1974), and *Castañeda v. Pickard* (1981). In response to ESSA and its increased spotlight on ELs, the Indiana Department of Education (IDOE) conducted an internal review of its practices to ensure compliance with ESSA, Title VI of Civil Rights Act of 1964, and the Equal Educational Opportunities Act (EEOA) and to fulfill its responsibility to ensure that all LEAs meet their federal requirements to properly identify, assess, and support English learners through an effective English language development program. As part of this review, IDOE releases this memorandum as a renewed commitment to guide and support LEAs in EL program staffing. Properly certified English learner teachers, in sufficient quantity, are a must in order to meet the needs of Indiana’s diverse learners.

In January 2015, the U.S. Departments of Justice and Education jointly released a [Dear Colleague Letter](#) with policy guidance on EL program staffing in compliance with civil rights law. The Dear Colleague Letter emphasized local education agencies’ obligation to provide “the personnel and resources necessary to effectively implement their chosen EL programs” and further clarified, “Where formal qualifications have been established, e.g., the SEA requires authorization or certification to teach in particular EL programs, or a school district generally requires its teachers in other subjects to meet formal requirements, a school district must either hire teachers who already have the necessary formal qualifications to teach EL students or require that teachers already on staff be trained or work towards attaining the necessary formal qualifications and obtain the formal qualifications within a reasonable period of time.” In other words, since Indiana requires formal qualifications for 4th grade teachers, middle school science teachers, high school English teachers, and all other various subjects, it must also ensure that we have properly certified English learner teachers for all English learners, whether a school has one English learner or hundreds.

According to a 2012 national evaluation of Title III implementation by the U.S. Department of Education, Indiana was one of nine states not requiring EL licensure. While Indiana does have a formal qualification for EL teachers--the English As a New Language (ENL) Professional Educator License--EL teacher licensure has been required variably across Indiana schools and EL programs. Not only would changing this requirement align us with other states, but we would finally be working to attain compliance with civil rights law. Currently Indiana schools staff their EL programs at an average of 83 students to 1 ENL-licensed teacher (83:1). Nearly half of Indiana's local education agencies reported having zero ENL-licensed teachers on staff during the 2018-2019 school year while more than 90% of Indiana LEAs reported having at least one English learner enrolled. Of the 1,259 ENL-licensed teachers working in Indiana LEAs this year, over half of them are concentrated in fifteen LEAs. In light of the recently-clarified legislation and policy guidance from the U.S. Department of Education, IDOE is issuing additional guidance for Indiana schools regarding requirements for EL program staffing.

Every English learner enrolled in an Indiana local education agency is entitled to receive English language instruction via an ENL-certified teacher who acts as the "EL Teacher of Record." While this position may look different across various local contexts, IDOE has defined minimum expected [responsibilities](#) for the EL Teacher of Record to assist local education agencies as they ensure local compliance with federal requirements. It is important to note that recent Office of Civil Rights findings have cited that all English learner students are required to receive English language development services at least 30-45 minutes per day, 4-5 days a week in frequency and duration beyond standard English Language Arts instruction. *Castañeda v. Pickard* (1981) established additional expectations for LEAs as they implement their federally-required English language development programs, clarifying that these programs must be resourced and staffed in a way "reasonably calculated to implement effectively." Where too few ENL-licensed teachers are asked to oversee English language development for an unreasonably large caseload of students, a local education agency fails to meet its federal requirements under *Castañeda*. To comply with this requirement and to ensure EL Teachers of Record are able to effectively carry out their responsibilities, IDOE recommends that the EL Teacher of Record caseload not exceed thirty English learners.

IDOE has an obligation to ensure that all local education agencies comply with the federal civil rights requirements, and will begin implementing the clarified expectations on EL teacher qualifications effective immediately. Local education agencies will submit their plan to ensure every English learner receives English language instruction via an ENL-certified EL Teacher of Record beginning with the 2019-2020 school year as part of the English learner (Lau) Plan. In cases where no ENL-certified teacher is employed by the local education agency or

where the ENL-certified EL Teacher of Record has an unreasonably large caseload, the LEA will report its plan to comply with the federal requirements to ensure teachers attain ENL licensure within a reasonable period of time--defined by federal guidance as no more than two years.

Because of the wide variance in EL program staffing across the state, IDOE has chosen to honor the experience of EL teachers who have been teaching and leading effectively in EL programs and meet certain additional requirements. Certified teachers who do not currently hold a valid ENL license but meet these additional requirements may either enroll in coursework as part of an approved educator preparation program for the Indiana ENL license or demonstrate their proficiency by fulfilling the requirements of the [EL Teacher of Record Rubric](#) as verified locally by an LEA administrator.

Local education agencies may fund coursework and professional learning for their teachers through Title I, A, Title II, Title III, the Non-English Speaking Program (NESP), or other federal, state, and local funding streams. IDOE will provide additional financial support and technical assistance for Indiana schools as they implement these clarified expectations throughout the 2019-2020 school year and beyond.

### **Additional Supporting Resources**

The following additional resources can be found on the [IDOE English Learner Policy and Guidance webpage](#):

Meeting Indiana English Learner (EL) Teacher of Record Requirements

EL Teacher of Record Responsibilities

EL Teacher of Record Reporting

EL Teacher of Record FAQ