

TO: Roger Breed, Ed.D.
Commissioner of Education

FROM: Mary Ann Losh, Administrator, Equity & Instructional Strategies
Nancy Rowch, Director, Title III

SUBJECT: Implementation Guide for Rule 15

PROPOSED BOARD ACTION

Report on the Guide for Implementation of Rule 15 – (92 NAC 15), Regulations and Procedures for the Education of Students with Limited English Proficiency in Public Schools.

BACKGROUND INFORMATION

At the December 2011 State Board of Education meeting Rule 15 was approved. At that time, the development of a guide to assist in implementation was requested. NDE convened a group of practitioners in January, February, and March to assist with this task. The North Central Comprehensive Center provided assistance in facilitating the guide development. The guide will be available for use in school year 2012-13.

Estimated Cost

Costs associated with guide development were estimated at \$10,000.

Supporting Documentation Included: Rule 15: A Guide for Implementation

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Nebraska Department of Education

Rule 15:
A Guide for Implementation

April 2012

It is our hope that educators across Nebraska use the information in this guide to improve learning programs and instruction for every LEP student. A sincere “Thank You” is extended to the following individuals who shared their experiences and knowledge to create this guide.

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Overview of Rule 15

Purpose of the Implementation Guide

In December 2010, the Commissioner of Education, Roger Breed, identified four service projects to accomplish in 2011, one of which was the development of a rule governing the provision of services to LEP students. He recognized the growing LEP population in Nebraska and wanted to ensure consistency among school districts in identifying, serving, and exiting limited English proficient students from high-quality language instruction educational programs.

Rule 15, Regulations and Procedures for the Education of Students with Limited English Proficiency in Public Schools was signed by the governor on [INSERT DATE]. *Rule 15: A Guide for Implementation* is a companion document to the rule and provides guidance to district administrators, teachers, and Educational Service Unit (ESU) personnel who are responsible for the education of limited English proficient students across the state. The guide aims to make the rule readily understandable and to clarify its provisions so districts can more easily implement the rule's provisions. Districts can use the guide when developing and reviewing services for LEP students.

The following are important milestones in the development of Rule 15:

- Meetings with the Nebraska Department of Education (NDE) and external stakeholders were conducted – March through May 2011
- NDE staff met regularly with the State Board of Education to provide updates on the development of the rule – March through May 2011
- A public hearing was held to receive oral and written testimony – November 2011
- The State Board of Education approved Rule 15 – December 2011
- A committee was convened to write an implementation guide – January through March 2012

We hope that districts will use this guide to establish, review, and improve services for limited English proficient students. The guide will be updated as needed by the Nebraska Department of Education.

Where do I start?

As you begin, it is important to thoroughly read Rule 15; then, use this guide as a resource.

LEP students face the dual challenge of learning English and learning academic content at the same time—no easy task. Successful programs vary from urban to rural districts and from high- to low-incidence LEP populations. Successful language instruction educational programs address the teaching of English in a systematic way and have a foundation in research for LEP students. Districts must provide appropriate professional development, an avenue for reviewing the LEP program, and capabilities for making changes, as needed. *Rule 15: A Guide for Implementation* addresses the range of needs of districts across the state.

Implementing Rule 15 is a task shared by many district staff. Leadership from administrators is paramount to implementing the rule. In addition, other staff members have key roles in ensuring that limited English proficient students are identified and served as it relates to their language and academic needs.

Throughout this document, the phrases “limited English proficient” and “English language learner” and their respective acronyms, “LEP” and “ELL” are similar in meaning. Both terms are used interchangeably.

Throughout the guide, there are references to the annual state English-language proficiency assessment and the state content assessment for reading. Although the guide does not reference them by name, they respectively refer to the English Language Development Assessment (ELDA) and the Nebraska State Accountability Assessment for Reading (NeSA-R).

In addition to this guide, districts can access a variety of resources for assistance in implementing Rule 15. For example, Educational Service Units have expertise in professional development, data analysis, and resource support. Many Nebraska schools have expertise to share with districts who are establishing a new language instruction educational program or who are in the process of reviewing an existing program. Not only is it helpful to consult with those districts, but the Nebraska Department of Education also provides consultation on how to carry out the provisions of Rule 15.

Rule 15: Section-by-Section

Rule 15 consists of the following nine sections:

- Section 001 – General Provisions
- Section 002 – Definitions
- Section 003 – Identification of Students with Limited English Proficiency
- Section 004 – Language Instruction Educational Programs
- Section 005 – Staffing
- Section 006 – Assessment and Accommodations for LEP Students
- Section 007 – Exit Requirements
- Section 008 – LEP Program Review
- Section 009 – Compliance as a Condition for School Accreditation

Section 002 of Rule 15 defines three terms – Language instruction educational program, limited English proficient, and native language. Appendix A provides these definitions plus additional common terms and acronyms that will help you understand any unfamiliar language used in this guide.

At the heart of implementation are sections 003 through 008. In the section-by-section descriptions that follow, you will see these features:

1. Quality Indicators appear in Rule 15 but are not a requirement of school districts; they may be used to help design local programs for students who are Limited English Proficient
2. Scenario(s) to help you start thinking about implementation
3. Narrative text to explain “What Rule 15 Says”
4. Recommendations for Implementation
5. Checklists to review implementation of each section
6. Frequently Asked Questions and Answers (FAQs)

Several appendices are also included in this guide:

- Appendix A includes definitions for common terms and acronyms.
- Appendix B includes the tools and templates referenced at the end of each section. These tools and templates can be customized to meet the needs of your school district.
- Appendix C lists Nebraska Department of Education websites and resource links, as well as additional websites you may want to use to implement Rule 15.
- Appendix D combines each section's implementation checklist into one document for easy use and tracking.
- Appendix E is the final language of *Rule 15, Regulations and Procedures for the Education of Students with Limited English Proficiency in Public Schools*.

Section 003 – Identification of Students with Limited English Proficiency

Quality Indicator

A home language survey and a valid and reliable English language proficiency assessment are administered by school district personnel. As a result, districts can appropriately identify and place students in a language instruction educational program so that all students have an equal opportunity to achieve academically, regardless of the student's native language. Timely parental notification allows parents to make informed decisions regarding student program placement.

Scenarios

Scenario 1 – Juanito and his family come to the school to enroll him in 4th grade. The building registrar, Mrs. Smith, gives the parents the Home Language Survey (HLS) to complete. On the Home Language Survey, Juanito's parents indicate that he speaks Spanish at home. Mrs. Smith then contacts the English-language Learner (ELL) teacher so a language proficiency assessment can be given to Juanito to see if he is limited English proficient. The teacher administers the Language Assessment Scales (LAS). Juanito scores as a fluent speaker on the speaking/listening portion of the test but scores as a limited reader and writer on subtests, resulting in a composite level of "limited English proficient." The district then writes a letter to the parents in Spanish telling them that Juanito qualifies for services in the ELL program.

Scenario 2 – Vladimir and his family come to the school to enroll him in the 9th grade. Vladimir attended another Nebraska school district for the first semester. Vladimir's mother shares with the counselor that he received ELL services at his last school. The counselor does not administer the Home Language Survey or a language proficiency assessment but acknowledges that he is eligible for ELL services. The counselor then requests ELL records from the previous Nebraska district.

What Rule 15 Says

When new students enter Nebraska schools, a Home Language Survey must be administered to determine if the student is a potential LEP student. If the student is coming from a Nebraska school district and is currently identified as LEP, the school district does not have to administer a Home Language Survey. The district must obtain documentation from the previous district of the student's LEP status within 30 school days.

Administer a Home Language Survey as part of the admission process to:

- All incoming kindergarten students
- All students new to the district unless transferring from another Nebraska district

The Home Language Survey should be completed by a parent/guardian or can be completed by a student who is emancipated or has reached the age of majority.

The three questions required by Rule 15 for the Home Language Survey include:

- What language did the student first learn to speak?
- What language is spoken most often by the student?
- What language does the student most frequently use at home?

If the Home Language Survey indicates that the student speaks a language other than English, then a language proficiency assessment must be administered to determine if the student qualifies as an LEP student. If the student is coming from a Nebraska school district and is currently identified as LEP, then the school district does not have to administer a language proficiency assessment. The district must obtain documentation from the previous district of the student's LEP status within 30 school days.

Select a language proficiency assessment that meets the following requirements:

- The instrument must assess English proficiency in listening, speaking, reading, and writing
- The instrument is determined by the district to be valid and reliable in measuring English-language acquisition
- The instrument must yield composite scores or levels that indicate whether a student is proficient in English

The student will be identified as LEP if both of these indicators are met:

- The HLS indicates the student has a home language other than English
- The student performance on the assessment instrument indicates the student is not proficient in English

If both indicators are met, the student qualifies for LEP services. The school district must notify the parent, guardian, or other person enrolling the student of the student's LEP status.

Recommendations for Implementation

Administering the Home Language Survey

1. Design a HLS that includes the three questions required in Rule 15
2. Include the Home Language Survey in the district's registration materials
3. Train designated personnel (at the building level or district office registrar) in the process of survey administration
4. Explore options for interpreting and translating enrollment forms including the HLS
5. Administer the English-language proficiency assessment if any of the three questions indicate a language other than English
6. File the original HLS in the cumulative folder

Administering the English-Language Proficiency Assessment

1. Request technical assistance from the ESU, NDE, or other school districts if the district does not yet have an English-language proficiency assessment
2. Check the validity and reliability of the language proficiency assessment
3. Follow the testing protocol as outlined in the testing administration manual of the chosen assessment
4. Provide professional development for school district personnel in administering the English-language proficiency assessment
5. Train the assessment personnel to interpret the results of the English-language proficiency assessment
6. Communicate the results of the assessment to teachers and others who are implementing the language instruction educational program (LIEP)
7. Designate the student as LEP eligible in the school district database (e.g., Infinite Campus, PowerSchool) if the assessment results indicate that the student is LEP

Maintaining Documentation

8. Maintain documentation that can be made available to other districts when a student transfers within Nebraska. Such documentation includes:
 - Home Language Survey
 - English-language assessment results
 - Parent notification of LEP eligibility
 - Documentation of the district's request of records from a previous Nebraska district

Checklist

	Indicator of Section 003 Implementation	Process in Place	Notes
1.	Design an HLS that includes the three questions required in Rule 15.		
2.	Include the Home Language Survey in the district’s registration materials.		
3.	Train designated personnel (at the building level or district office registrar) in the process of survey administration.		
4.	Explore options for interpreting and translating enrollment forms including the HLS.		
5.	Administer the English-language proficiency assessment if any of the three questions indicate a language other than English.		
6.	File the original HLS in the cumulative folder.		
7.	Request technical assistance from the ESU, NDE, or other school districts if the district does not yet have an English-language proficiency assessment.		
8.	Check the validity and reliability of the language proficiency assessment.		
9.	Follow the testing protocol as outlined in the testing administration manual of the chosen assessment.		
10.	Provide professional development for school district personnel in administering the identified English-language proficiency assessment.		
11.	Train the assessment personnel to interpret the results of the English-language proficiency assessment.		
12.	Communicate the results of the assessment to teachers and others who are implementing the language instruction educational program.		
13.	Designate the student as LEP eligible in the school district database (e.g., Infinite Campus, PowerSchool) if the assessment results indicate that the student is LEP.		
14.	Maintain documentation that can be made available to other districts when a student transfers within Nebraska.		

Frequently Asked Questions

1. When a new student enrolls and has previously attended another Nebraska district, is it possible to check his or her LEP status on NSSRS?

LEP status is included in NSSRS, however, it cannot be viewed by a district for students who are transferring from another Nebraska district. That information must be obtained from the previous district.

2. If a new student enrolls from another Nebraska school district and the student hasn't exited from LEP services, must the district administer an English-language proficiency assessment?

No. If the student is coming from another Nebraska school district and is currently identified as LEP, then the school district does not have to administer the Home Language Survey or an English-language proficiency assessment. The district must obtain documentation from the previous district of the student's LEP status within 30 school days.

3. If a student enters from another state, must the district administer an English-language proficiency assessment?

Yes, if the Home Language Survey indicates that the student speaks a language other than English.

4. Can a district add additional questions to the HLS?

Yes; however, Rule 15 only requires three questions be asked on the HLS. Districts may not ask questions regarding the student's legal documentation status.

5. Where can the Home Language Survey be found in other languages?

An HLS that has been translated into multiple languages is available on TransAct. (See Appendix C for a link to TransACT.)

6. What if a parent refuses to complete the HLS or answers that English is spoken even though other information indicates another language is spoken in the home? Can any other instrument or data be used to qualify the student (e.g., grades)?

In this case, the student cannot be given the English-language proficiency assessment and will not be labeled as LEP. Other instruments or data may not be used to qualify the student.

7. What if a parent refuses to have his or her child placed in a language instruction educational program?

The parent has the right to refuse language instruction educational services; however, the school must provide appropriate educational services that meet the unique needs of the child. As long as the child is identified as LEP by the district, the student must still be administered the state's English-language proficiency assessment.

8. What if the previous Nebraska school district does not send information regarding the student's LEP status?

Districts should document they made a request for records.

9. Is a district required to administer a Home Language Survey if there are no LEP students?

Yes. Without administering the Home Language Survey, district staff do not know if a language other than English is spoken by the student. The HLS should be completed by all students new to the district. Only an English-language proficiency assessment will determine if the student is LEP.

Tools and Templates

- Sample Home Language Survey
- Flow Chart for Identifying Students New to the District

Not for Distribution

Section 004 – Language Instruction Educational Programs

Quality Indicator

Language instruction educational programs assist all LEP students in acquiring the English language to successfully participate in classrooms where the language of instruction is English. The language instruction educational program is research-informed and values the cultural and linguistic diversity of the student.

Scenario

Scenario 1 – Smith School District had never enrolled LEP students. With the implementation of Rule 15, the district decided to develop a plan in case LEP students would enroll in the district. In the plan, the district identified the key staff at each level—elementary and secondary— that would work with any newly enrolled LEP students. The identified staff formed an ELL team that looked into program models, resources and various language development strategies. The team made sure that they had selected a program model that was systematic, researched-based and would enable students to meet academic standards in English. The team knew that this plan would need to be modified based on the specific needs of the LEP students. This pre-planning served the district well because in the following school year, the district enrolled six LEP students. The team was ready to implement the program.

Scenario 2 – Duncan Community Schools enrolled three new ELL students in the high school, a first for this district. A team of core content teachers and administrators met to discuss how they could best meet the language and content needs of these newcomers. As a result of the meeting, it was decided that the language arts teacher has a free period in which she will bring the three students together for ESL instruction. They will utilize a paraprofessional to provide support for the students in designated content classrooms. Because the language arts teacher does not have an ESL endorsement, she will attend a workshop provided by the ESU on appropriate ESL methods and second-language acquisition. Although not required under Rule 15, but as part of best practice, the language arts teacher will meet with the other content teachers to share what she has learned.

Scenario 3 – The Bingham School District enrolled its first ELL student. The student is in 3rd grade and is a non-English speaker. The district administrator has decided that the 3rd grade teacher will provide the ELL program for the student. The teacher has not had specialized ESL training in the past. The district staff contacted the Educational Service Unit and received guidance on ESL strategies including the use of comprehensible language, visuals, specific vocabulary instruction, and the inclusion of language objectives as part of content instruction. The teacher is allowed time to participate in webinars in ESL as well as given materials such as a

bilingual dictionary, picture vocabulary cards, and leveled readers. The district staff meets regularly to review the language instruction educational services and discuss the professional development that may still be needed.

Scenario 4 – Deer Park Public Schools has chosen to provide for ELL student needs through a variety of program models. One elementary school has a significant LEP student population. For that building, the district has hired an endorsed ESL teacher who provides services for students in a variety of ways, including co-teaching language arts with some grades and in some cases, pulling students out of the general education classroom for additional instruction. Another elementary building has only a few ELL students. The district provides support through teacher training and materials so that the students can have their language needs met by the classroom teachers. At the middle and high school levels, the district places LEP students in ESL and content classes appropriate for their language levels. Beginning-level ELL students receive several periods of ESL instruction per day that are devoted to speaking, listening, reading and writing instruction in English taught by teachers who have received specialized training.

What Rule 15 Says

Section 004 describes the requirements for a language instruction educational program. This program, which is designed to support the LEP student in English-language acquisition, must be:

- A systematic approach to teaching English
- A research-based approach that is supported by experts in the field of second-language acquisition
- An approach that has the effect of developing the English proficiency of LEP students, enabling them to meet academic standards using the English language

Recommendations for Implementation

Before choosing and implementing the program model, the following will guide you through the planning process:

1. Determine the language and academic needs of the LEP students using language and content assessments, as well as other available data.
2. Analyze available resources (i.e., staffing, training, community resources).
3. Research, plan, and implement the language instruction educational program to meet the language and academic needs of the students identified.
4. Plan for professional development on the selected LIEP once the program model is selected.
5. Align the LIEP curriculum with the Nebraska K-12 Guidelines for English Language Proficiency, which address the four domains of listening, speaking, reading, and writing. (See Appendix C for a link to the K-12 Guidelines.)

6. Choose and implement a program model which is systematic, a research- based approach, and enables students to meet academic standards using the English language. (See the chart below).

Program Model/Description
<p>Newcomer Program</p> <ul style="list-style-type: none">• Students acquire beginning English-language skills in addition to core academic skills• Helps students acculturate to the U.S. school system and community• May utilize native language• Designed to meet the needs of recent immigrants• Designed to meet the needs of students with interrupted formal education (SIFE)• Typically implemented at the secondary level; however, may also be appropriate for elementary• Intended as a short-term program• Classes are composed of only LEP students• Taught by an ESL endorsed or trained teacher
<p>Structured Immersion or Sheltered Instruction</p> <ul style="list-style-type: none">• Specialized instruction/curriculum in English with an ELL teacher• May include some native language support• Classes include students from any language background• Focus is on learning academic content while developing English-language skills• Use of comprehensible language, physical movement, and visuals• Instructional approach makes academic instruction in English understandable to ELL students• Teachers are ESL endorsed or trained and typically are also endorsed in the content area• Typically all LEP students
<p>ESL Pull-Out/ESL Push-In</p> <ul style="list-style-type: none">• Goal is fluency in English• Often implemented in districts or buildings where there are low numbers of LEP students• Could make use of co-teaching or coaching• Teachers receive professional development in ESL strategies to meet the language and academic needs of the students and may be a resource to other staff members• Students served in mainstream classrooms receive instruction in English with some native language support, as needed• In ESL Pull-Out programs, students spend most of the day in the mainstream classroom• In ESL Push-In programs, the English-language instruction is provided within the mainstream classroom

Dual Language Program

- Serves both native-English speakers and speakers of another language concurrently
- Instruction is provided in both languages
- Both groups become bi-literate, learn academic content in two languages, and develop cross-cultural understanding
- Class comprised of ELL and English-speaking students
- District commitment to long-term programming so as to provide the opportunity for proficiency in both languages
- Utilizes bilingual teachers with content endorsement/expertise
- Generally offered as one of several program options available with choice by parents

Transitional Bilingual

- Instruction provided in both English and native language
- Generally only ELL students with the same native language
- Some bilingual programs transition to English-only sheltered instruction in 2 to 3 years while others provide additional years of bilingual support
- Generally offered as one of several program options available with choice by parents

Checklist

	Indicator of Section 004 Implementation	Process In Place	Notes
1.	Determine the language and academic needs of your LEP students using language and content assessments, as well as other available data.		
2.	Analyze available resources (i.e., staffing, training, community resources).		
3.	Research, plan, and implement the language instruction educational program to meet the language and academic needs of the students identified.		
4.	Plan for professional development on the selected LIEP once the program model is selected.		
5.	Align the LIEP curriculum with the Nebraska K-12 Guidelines for English Language Proficiency, which addresses the four domains of listening, speaking, reading, and writing.		
6.	Choose and implement a program model which is systematic, a research-based approach, and enables students to meet academic standards using the English language.		

Frequently Asked Questions

1. When should the district consider a dual-language program?

Dual language has strong research on long-term student achievement; however, it takes considerable planning and commitment. A dual-language program requires planning, parent involvement, community support, special staffing, and upfront costs for teacher training and curriculum materials. A dual-language program is generally offered by districts that have a large number of LEP students who speak the same language and is one of several programs that parents can select. Before making a final decision, visit dual-language programs and talk to people who have implemented one. Consider district resources as you make this decision.

2. Why should the district be concerned about planning for an ELL program if there are no LEP students?

LEP students are coming to the state in increasing numbers. Even small districts are enrolling LEP students. When students arrive at school, there is an expectation that districts are prepared to teach them English. Some pre-planning can help districts prepare for this possibility.

3. Rule 15 requires a language instruction educational program with a research-based approach supported by experts. How does a district know who the experts are?

An expert in the field of language acquisition is an individual or individuals who have conducted extensive research in the field and have published evidence that has been reviewed and approved by peers for publication and supports the implementation of specific strategies and programs.

As part of Appendix C, there are a variety of resources listed. Refer specifically to the following resources for information on research-based approaches: Center on Instruction, What Works Clearinghouse, and the National Clearinghouse for English Language Acquisition.

4. Can a district have more than one program model?

Yes, depending on the needs of the students and the resources available at the school district. For example, a district may have sheltered content classes in addition to an ESL pull-out model. The ESL pull-out classes address the language needs. With staff trained in sheltered content, this additional model provides a mechanism for the students to learn the core curriculum through specialized strategies.

5. Does the district’s reading program meet the requirements of a language instruction educational program?

Not by itself. A reading program does not address all of the language domains (listening, speaking, reading, and writing). In addition, it would not be aligned to the Nebraska K-12 Guidelines for English Language Proficiency.

6. Can the district put the LEP student in the mainstream classroom without any specialized language acquisition support?

No. This approach would be commonly referred to as “sink or swim,” which would not be allowed. In Rule 15, teachers who have responsibility for the English-language instruction of LEP students must participate in professional development to meet the language and academic needs of the student.

Tools and Templates

- Indicators of Quality Language Instruction Educational Programs

Section 005 - Staffing

Quality Indicator

A comprehensive language instruction educational program assists students in developing literacy and proficiency in the English language. Such programs are directed and taught by professional staff with an appropriate endorsement in English as a Second Language. Ongoing professional development is designed to assist teachers in learning strategies to meet the language and content needs of LEP students.

Scenarios

Scenario 1 – A group of refugees from Thailand has recently been relocated to the Clifton School District, located in an urban community. As a result, 30 new LEP students are enrolling at the high school. The administration decides to reallocate funds to hire a full-time ELL-endorsed teacher to help develop and implement a language instruction educational program to meet the needs of their new students. Professional development on strategies for working with LEP students will be provided for all teachers at the high school; although not required under Rule 15, the district feels that this is a best practice.

Scenario 2 – Tabahn is registered for 2nd grade at Clear Creek Elementary School. The home language survey indicates that Nuer is the dominant language used by the family. An English-language proficiency test determines that Tabahn is an LEP student. Clear Creek Elementary does not currently have any other LEP students or a language instruction educational program in place. It is determined that Tabahn's 2nd-grade teacher will be responsible for his English language instruction. She will attend professional development provided by the district on instructional strategies and resources needed to support the new LEP student in the classroom. Anticipating the arrival of additional students, the district has appointed the elementary principal to also attend professional development to learn the skills for meeting the language and academic needs of LEP students. The district will now have the ability to train other staff members as new students arrive.

Scenario 3 – Midwest Public Schools has enrolled five new ELL students in the high school. The district has not had ELL students previously. A team of core content teachers and administrators met to discuss how they can meet the language and content needs of these newcomers. The Spanish teacher was designated as the ESL teacher and will work with the students one period each day. Because he does not have an ESL endorsement, he will attend workshops provided by the ESU on appropriate ESL methods and second-language acquisition. It will be his responsibility to provide the language instruction educational program as long as

the students are enrolled in the district. In addition, he will conduct professional development for other staff members as part of best practice.

What Rule 15 Says

Section 005 is meant to ensure that there are qualified people working with LEP students. It addresses certification, endorsement, and training requirements for staff. The three staffing categories addressed include:

- Teachers assigned specifically to teach ESL

This refers to teachers who have the primary responsibility for teaching ESL classes. These teachers may already have an ESL endorsement or a provisional endorsement.

If they do not hold an ESL endorsement, they must have annual professional development in the district program model implemented. This category of staffing is typical in districts and schools with high incidence of ELL students.

All teachers must have a valid Nebraska teaching certificate.

- General classroom teachers who also are responsible for providing English-language instruction of LEP students

This refers to general classroom teachers who also are responsible for providing English-language instruction within the core curriculum classroom. If the teacher does not have an ESL endorsement, the teacher must participate annually in professional development to learn skills for meeting the language and academic needs of LEP students. This is typical in districts and schools with low incidence of ELL students.

All teachers must have a valid Nebraska teaching certificate.

- Teacher aides

Teacher aides (paraprofessionals) can be used to support the language instruction education program. These duties must be non-teaching in nature (Neb. Rev. Statute 79-101(12)), and aides must receive training for their duties.

Teacher Qualifications	Professional Development Requirements
Teacher in a LIEP ESL endorsement	No—No additional requirements under Rule 15 but it is always best practice to provide ongoing professional development
Teacher in a LIEP No ESL endorsement	Yes—Annual professional development in the language instruction educational program model implemented by the school district
Core curriculum classroom teacher responsible for the English-language instruction of LEP students	Yes—Annual professional development to meet the language and academic needs of LEP students
Core curriculum classroom teacher who is NOT providing English-language instruction for LEP students	No—Best practice would be to integrate ESL strategies into existing professional development offered by the district

Recommendations for Implementation

1. Identify the teacher(s) responsible for implementing the language instruction educational program.
2. Review the qualifications for teacher(s) responsible for implementing the LIEP. In addition to the requirement for Nebraska certification, schools may consider staff with:
 - Previous experience in teaching English-language learners
 - Experience in teaching literacy skills
 - Experience in language development
 - Interest in supporting students from diverse language and cultural backgrounds
 - Knowledge of second-language acquisition
3. Verify teacher certification as outlined in Rule 10 and Rule 24. All teachers in a language instruction educational program must have a valid Nebraska teaching certificate.
4. If the ESL teacher(s) do not have an ESL endorsement or provisional endorsement:
 - Develop a professional development plan aligned to the defined program model
 - Provide annual professional development in the specific model chosen by the district
 - Document professional development

5. If a teacher in the core curriculum classroom is responsible for the English-language instruction:
 - Develop a professional development plan which addresses training on the language and academic needs of LEP students
 - Provide annual professional development for teachers to learn skills for meeting the language and academic needs of LEP students
 - Document professional development

6. If using teacher aides:
 - Identify the certified teacher who supervises the teacher aide
 - Define the teacher aide role
 - Identify teacher aide assignments
 - Train teacher aide for assigned duties

Checklist

	Indicator of Section 005 Implementation	Process In Place	Notes
1.	Identify the teacher(s) responsible for implementing the language instruction educational program.		
2.	Review the qualifications for teacher(s) responsible for implementing the LIEP.		
3.	Verify teacher certification.		
4.	For ESL teachers without endorsements, provide and document professional development on the defined program model.		
5.	For teachers in the core curriculum classroom who are providing the English-language instruction, plan and provide professional development for language and academic needs. Document professional development.		
6.	Identify the certified teacher who supervises the teacher aide. Define the teacher aide role, identify teacher aide assignments, and provide training.		

Frequently Asked Questions

1. An LEP student enrolls and the district doesn't have any ESL-endorsed teachers. What should be done?

Consider the qualifications of available staff. Select teachers who can best support the learner in literacy and language development and provide professional development that relates to classroom strategies that are aligned to the language-acquisition level of students.

2. Does a teacher working with LEP students need to be ESL endorsed?

Currently, Nebraska does not require an ESL endorsement; however, an ESL endorsement is approved by the state. For teachers who do not have an ESL endorsement, professional development to support ESL teachers or classroom teachers responsible for English-language instruction is required under Rule 15. Districts have the option of requiring an ESL endorsement.

3. If a secondary LEP student is enrolled in several courses, do all of those teachers have to be trained in teaching language?

No. The teacher responsible for the English-language instruction must participate in professional development; but the other content area teachers are not required to have training. In following best practice, the district might choose to offer professional development to the other content teachers so they can use strategies to make content more comprehensible.

4. What are the annual professional development requirements?

Teachers designated as ESL teachers who do not have an ESL endorsement should be trained in the district program model. Classroom teachers who are responsible for the English-language instruction of LEP students should be provided training in skills for meeting both the academic and language needs of the learners. The number of professional development hours is not specified.

5. What is an appropriate role for teacher aides in the classroom?

According to Rule 15, teacher aides may be assigned duties with LEP students if those duties are nonteaching in nature, and if aides are specifically prepared for such duties. Teacher aides do not teach; instead, they reinforce previously taught concepts. (See Appendix A.)

6. How can Educational Service Units assist small schools who may have few LEP students?

ESU services vary based upon requests by member districts. As part of core services, professional development in ESL programs, instructional strategies, and support in locating resources could be available. Some ESUs may also be able to provide consultation or contracted services.

Tools and Templates

- Professional Development Topics

Not for Distribution

Section 006 – Assessments and Accommodations for LEP Students

Quality Indicator

All LEP students participate in the state language proficiency and content assessments so that each student has the opportunity to demonstrate mastery of learning. As a result, parents and school staff address the academic and language needs of the student. The district provides appropriate accommodations to ensure meaningful participation in the assessments.

Scenario

Scenario 1 – The Cervantes School District is preparing for state mandated tests by forming a district assessment team. They begin by reviewing the district LEP data on the student record system to ensure that all LEP students are entered accurately for inclusion in all state assessments. The team ensures that staff is trained in administering the English-language proficiency assessment and coordinates the administration of the test. Prior to state content assessments, the team determines the appropriate accommodations on an individual student basis according to the state-approved guidance. In addition, the team provides training in accommodation implementation and test administration practices.

What Rule 15 Says

Districts must ensure all LEP students participate in the assessments required by Section 005 of 92 NAC 10. Additionally, LEP students will be provided appropriate accommodations. Districts shall require all LEP students to participate in the annual state English-language proficiency assessment.

Recommendations for Implementation

1. Assure that LEP-eligible students are accurately identified in NSSRS.
2. Assure all LEP-eligible students in grades K-12 participate in the state English-language proficiency assessment.
3. Coordinate the assessment schedule for the state content and English-language proficiency assessments with the classroom teacher(s) and other relevant staff.
4. Determine the appropriate accommodations based on individual student needs for each LEP student on the state content assessments. Refer to the *NDE Guide for Including and Accommodating English-Language Learners (ELLs) in the Nebraska State Accountability (NeSA) Tests*. (See Appendix C.)
5. Determine the appropriate accommodations for the English-language proficiency assessment based on the student’s Individual Education/504 Plan as outlined in the test administration manual.
6. Confirm completion of assessments to verify all LEP-eligible students have participated as required by Rule 15.

Checklist

	Indicator of Section 006 Implementation	Process in Place	Notes
1.	Assure that LEP-eligible students are accurately identified in NSSRS.		
2.	Assure all LEP-eligible students in grades K-12 participate in the state English-language proficiency assessment.		
3.	Coordinate the assessment schedule for the state content and English-language proficiency assessments with the classroom teacher(s) and other relevant staff.		
4.	Determine the appropriate accommodations based on individual student needs for each LEP student on the state content assessments. Refer to the <i>NDE Guide for Including and Accommodating English-Language Learners (ELLs) in the Nebraska State Accountability (NeSA) Tests</i> . (See Appendix C.)		
5.	Determine the appropriate accommodations for the English-language proficiency assessment based on the student’s Individual Education/504 Plan as outlined in the test administration manual.		
6.	Confirm completion of assessments to verify all LEP-eligible students have participated as required by Rule 15.		

Frequently Asked Questions

1. Do newcomers have to participate in the state reading test?

No, districts may exempt a recently arrived LEP student from the state reading test for one and only one, annual administration of the state’s content assessment for reading. Recently arrived LEP students are defined as those who have attended schools in the United States for less than 12 months. Refer to the NDE Guide for Including and Accommodating English-Language Learners (ELLs) in the Nebraska State Accountability (NeSA) Tests for guidance. However, a recently arrived LEP student must participate in all other state assessments.

2. Who must participate in the annual English-language proficiency assessment?

All K–12 students who are identified as LEP eligible in NSSRS are required to participate. This includes LEP-eligible students whose parents/guardians have waived LEP services.

3. Are students who are on monitor status (have met the state’s exit criteria) required to participate in the state English-language proficiency assessment?

No, students who have met the criteria for exiting the LEP program do not take the state’s annual English-language proficiency assessment.

4. How do we select appropriate accommodations?

Refer to the NDE Guide for Including and Accommodating English-Language Learners (ELLs) in the Nebraska State Accountability (NeSA) Tests for guidance. Considerations when selecting accommodations for LEP students include the examination of several background characteristics. For example, consider the level of oral-language proficiency in English and the native language, literacy levels in English and the native language, language of instruction in the student’s current and past schooling, years of formal schooling, and age or grade level.

5. Can students who have exited the language instruction educational program still be allowed accommodations on the state content assessments?

Yes, for the two-year monitoring period students may be allowed approved accommodations, if needed. Common accommodations for monitored students include extra time and the use of a bilingual dictionary.

6. Can LEP students take state assessments in their native languages?

Yes, in certain cases a student may be assessed in his or her native language. Refer to the NDE Guide for Including and Accommodating English-Language Learners (ELLs) in the Nebraska State Accountability (NeSA) Tests for specific guidance.

7. If a student is identified as LEP and a student with disabilities, are IEP accommodations allowed for LEP students for state content assessments?

Yes. Assessment accommodations indicated on an LEP student's IEP must be followed. In addition, other approved accommodations for LEP students may be used.

8. Are IEP accommodations allowed on the annual English-language proficiency assessment?

Yes. Refer to the test administration manual for procedures for students with disabilities.

Tools and Templates

None

Section 007 – Exit Requirements

Quality Indicator

District exit criteria are established to determine that the LEP student has attained English language proficiency in speaking, reading, writing, and understanding at a level sufficient to participate successfully in the classroom.

Scenarios

Scenario 1 – Mumin, a 3rd grade student from Somalia, scores as proficient on the state English-language proficiency assessment and does not meet the standard on the state’s content assessment for reading. The district staff looks at the scores and decides that Mumin is not quite ready to exit the ELL program and keeps him in for another year. At the end of the next year, he still scores proficient on the English-language proficiency assessment and still does not meet the standard on the state reading assessment. This time, district staff feels that Mumin has made a lot of progress over the year and is ready to exit the ESL program keeping in mind that not all native-English speakers meet the standard on the content assessment for reading.

Scenario 2 – Lin, a 4th grade student from China, scores at the proficient level on the state English-language proficiency assessment, but she does not meet the standard on the state reading assessment. The classroom teacher reports that she does very well in the classroom, even though some scaffolding is still required. The staff decides to exit Lin based on the results of the state English-language proficiency assessment.

Scenario 3 – Nyawech, an 8th-grade student from Sudan, scores at the intermediate level on the state English-language proficiency assessment, but she meets the standard on the state reading assessment. The staff feels that Nyawech did not put much effort into the language assessment. She no longer receives direct ESL services and was upset when pulled out of the content classes to take this assessment. They decide to exit her based on the state reading assessment score.

Scenario 4 – Basel is a 9th-grade student from Saudi Arabia who has been receiving LEP services since 2nd grade. He has a verified learning disability and has an IEP with goals for reading and writing. He has never met the criteria for exiting the LEP program. His 8th-grade English-language proficiency assessment composite score was “intermediate” and his 8th-grade state reading score was “below the standard.” Basel’s team of 9th-grade teachers is questioning whether ELL services continue to be appropriate. Basel’s ELL teacher has documented his lack of progress in English reading and writing despite her differentiated approaches to teach these skills over several years. The team of teachers, including one member of Basel’s IEP team,

meets and determines LEP services are no longer appropriate based on the data collected. Basel can be exited from the language instruction educational program according to Rule 15.

What Rule 15 Says

When a student reaches a certain level of English-language proficiency, the school exits the student from LEP services. This determination can be made using either the results of the state English-language proficiency assessment or the state content assessment for reading. Please refer to section 008.02 of Rule 15 for a description of the process of continuing to monitor students after exiting them from the language instruction educational program.

In order for a kindergarten through 2nd grade student to exit, the student must

- Have a composite score of proficient on the annual English-language proficiency assessment, AND
- Have a teacher’s recommendation.

In order for a student in 3rd through 12th grade to exit, the student must

- Have a composite score of proficient on the annual English-language proficiency assessment, OR
- Have a score that meets or exceeds the standards on the Nebraska State Accountability Reading Assessment.

A school district may recommend that a student with verified disabilities exit the language instruction educational program if a designated committee documents the student’s educational needs are not affected by his or her degree of proficiency in the English language.

The committee must:

- Be knowledgeable of the language and educational needs of the student
- Include at least one member of the student’s IEP team
- Maintain documentation that the student’s educational needs are not affected by his or her degree of proficiency in the English language

Recommendations for Implementation

1. Make *Rule 15: A Guide for Implementation* available to and train all key personnel, including those responsible for reviewing the assessment data and exiting students from the LIEP.
2. Establish a procedure and timeline for reviewing results of state assessments for determining exit status.
3. For students in K-2, develop a systematic approach to document the data used to support the recommendation for exiting the language instruction educational program.

4. Identify the key personnel who will be involved in determining an appropriate exit recommendation for an LEP student who also has a verified disability. The committee must include assessment and educational personnel who are knowledgeable about the language and educational needs of the student and must include one member of the student’s IEP team.
5. Develop a process for documenting the data that supports exiting an LEP student with a verified disability whose educational needs are being met through special education. Designate a consistent location for maintaining the documentation.

Checklist

	Indicator of Section 007 Implementation	Process in Place	Notes
1.	Make <i>Rule 15: A Guide for Implementation</i> available to and train all key personnel, including those responsible for reviewing the assessment data and exiting students from the LIEP.		
2.	Establish a procedure and timeline for reviewing results of state assessments for determining exit status.		
3.	For students in K–2, develop a systematic approach to document the data used to support the recommendation for exiting the language instruction educational program.		
4.	Identify the key personnel who will be involved in determining an appropriate exit recommendation for an LEP student who also has a verified disability. The committee must include assessment and educational personnel who are knowledgeable about the language and educational needs of the student and must include one member of the student’s IEP team.		
5.	Develop a process for documenting the data that supports exiting an LEP student with a verified disability whose educational needs are being met through special education. Designate a consistent location for maintaining the documentation.		

Frequently Asked Questions

1. If a student has been misclassified as LEP, can the student be exited without waiting for the Nebraska language proficiency assessment or the state content assessment for reading?

If the misclassification was based solely on a data entry error, the district can call the NSSRS Helpdesk to correct that data.

In the case of a new student not proficient on an English-language proficiency placement assessment, who immediately demonstrates proficiency in the classroom setting, the student must exit LEP status through the Rule 15 exit procedures, (performance on the annual English-language proficiency assessment or the state content assessment for reading). Districts do have the option of providing ELL services through observation and consultation with the classroom teacher(s).

2. Must the district exit a student who has scored as “proficient” on the annual English-language proficiency assessment and met or exceeded the standards on the state content assessment for reading if the district feels that the student could benefit from continued ELL services?

Yes, the student must be exited from the language instruction educational program by demonstrating that language is no longer a barrier to participate successfully in the classroom. The student is no longer identified as LEP eligible on the student record system and is entered as “redesignated English fluent” for a period of two years. The district shall monitor the academic progress of the student for this two-year period.

3. The LEP student has been exited from the LIEP but is still struggling in the content classroom. What can be done to provide additional support?

The district should determine the source of the student’s difficulties and provide supports. For example, districts may offer additional services such as Title I, Response to Intervention (RtI), after school programs, tutoring, paraprofessional support to reinforce instruction, and assistance in completing assignments. Re-entering the LIEP is also a possibility; however, other educational services should be considered first.

4. What about students who do not have a verified learning disability and have not achieved exit criteria after receiving many years of ELL support? Can a district exit a student based on other documentation alone?

No. The student must remain identified as LEP as long as he or she has not reached proficiency on the annual state English-language proficiency assessment and has not met or

exceeded the standards on the annual state content assessment for reading. However, services may be individualized to meet the language and academic needs of the student.

5. Rule 15 allows districts to exit ELL students based on proficient scores on the annual English-language proficiency assessment or the state content assessment for reading. Does this mean that a district must exit a student as soon as he or she achieves a proficient score on one of these measures?

No. Since the rule states that the student must be proficient on the annual English-language proficiency assessment or the state content assessment for reading, the district may choose which assessment to use for exit criteria based on a review of the individual student's performance on the assessments. As a result, there may be students who meet both of the criteria in exiting the language instruction educational program.

6. Can a district establish an exit policy that requires LEP students to score proficient on the annual English-language proficiency assessment and meet the standard on the state content assessment?

No. A district may not require all LEP students meet both of the criteria in order to exit as part of the district's exit policy.

7. When an LEP student is verified as having a disability, is the student still eligible for ELL services?

Yes. LEP students with a verified disability are eligible to receive services from special education in addition to ELL services.

8. Is it possible for a student with a verified disability to be exited from an ELL program without meeting proficiency on state content assessments or English-language proficiency assessments?

Yes. The exit criteria contained in Sections 007.01A, 007.01B and 007.01C apply to the vast majority of LEP students who received special education. In rare cases, LEP students with disabilities may be permitted to exit the language instruction educational program when the student's educational needs are not affected by his or her degree of proficiency in English as permitted under Section 007.01D.

Tools and Templates

- Sample Process for Considering Exiting Students with Verified Disabilities from the Language Instruction Educational Program

Section 008 – LEP Program Review

Quality Indicator

The LEP program review process focuses on improving student learning. The process includes an annual review by a designated school district team who provides input to the district superintendent in order to guide the planning, implementation, evaluation and modifications of the district’s language instruction educational program.

Scenario

Scenario 1 – In the Red Rock School District, a program review team convenes once each year to review LEP program practices, procedures, and documents to ensure implementation of Rule 15. The team includes the elementary principal, a school counselor, an elementary ESL teacher, a secondary ESL teacher, a mainstream classroom teacher, and the curriculum director. Prior to meeting, team members receive a collection of relevant data to analyze. The data includes LEP student and former LEP student data from the annual English-language proficiency assessment, state content assessments, and other relevant assessments and data. Based on the data analysis, the team identifies the program strengths and weaknesses, examines the program goals, and determines needed modifications to the language instruction educational program. Finally, the team writes an executive summary and submits it to the superintendent. The district superintendent decides to incorporate this information as part of the district’s annual school improvement process review.

What Rule 15 Says

The school district must designate a team of staff members to conduct an annual review of the LEP program and write a report containing the results. The review and the report must include an examination of program implementation practices, including

- The process for identifying LEP students
- How the district implements language instruction educational programs
- How the program is staffed
- Assessment and accommodations of LEP students on state assessments
- The requirements to exit the program

The review must also include an analysis of student performance on:

- The annual state English-language proficiency assessment
- State content assessments
- Other relevant assessments and data may be included

Additionally, the academic progress of former LEP students must:

- Be monitored for at least two years
- Be compared to the academic performance of non-LEP students

The school district must:

- Make modifications to the language instruction educational program based on the results of data analysis and review of the program implementation practices
- Design the modifications to assist students in overcoming any language barriers that may prevent them from participating meaningfully in the core curriculum program

Finally, a written report of the annual review must:

- Be submitted to the district's superintendent
- Be kept on file to be available to the public
- Be free of any personally identifiable student information
- Be retained pursuant to the district's records retention schedule

Recommendations for Implementation

1. Establish a process, time line, and team with an appointed leader to conduct the annual review. Consider current practices or teams that overlap or complement the requirements of this review. The NDE Continuous Improvement Process Model serves as a good example of an annual review process.
2. Maintain accurate data on current LEP-eligible and former LEP students (known as re-designated English fluent in NSSRS), which could include:
 - Date of entrance to and exit from the language instruction educational program
 - Performance on the annual English-language proficiency assessment, state content assessments, district assessments
 - Screening assessments, benchmark assessments, formative and classroom-based assessments, teacher observation measures and checklists, portfolios
 - Participation in extra-curricular activities for secondary students
 - Awards and honors for secondary students

- Graduation and promotion rates, college attendance rates, drop-out rates, grade-level retention rates
 - Inclusion in gifted and talented and other special programs
 - Inclusion in special education
 - Participation in summer school, Saturday school, or extended-day programs
 - Attendance, disciplinary actions, and suspension rates
3. Analyze student performance on state content and English language proficiency assessments. Other district assessment results and other relevant data may be included.
 4. Monitor the academic performance of former LEP students for two years in order to compare their academic performance to non-LEP students.
 5. Include other relevant data such as
 - School climate survey results
 - Parent attendance and involvement in school functions and activities
 6. Based on analysis of data, determine if the program goals have been met
 7. Modify the language instruction educational program based on the results of data analysis and review of the program implementation practices.
 8. Determine a format for the annual report that includes all required elements of the review. In low-incidence schools, the team might examine individual student data but the results should be excluded in any reports to prevent identifiable student information being made public. Additionally, a sample template that may be customized is included in the Tools and Templates (See Appendix B.).

Checklist

	Indicator of Section 008 Implementation	Process in Place	Notes
1.	Establish a process, time line, and team with an appointed leader to conduct the annual review. Consider current practices or teams that overlap or complement the requirements of this review.		
2.	Maintain accurate data on current LEP-eligible and former LEP students (known as re-designated English fluent in NSSRS).		
3.	Analyze student performance on state content and English language proficiency assessments. Other district assessment results and other relevant data may be included.		
4.	Monitor the academic performance of former LEP students for two years in order to compare their academic performance to non-LEP students.		
5.	Include other relevant student and program data.		
6.	Based on analysis of data, determine if the program goals have been met.		
7.	Modify the language instruction educational program based on the results of data analysis and review of the program implementation practices.		
8.	Determine a format for the annual report that includes all required elements of the review.		

Frequently Asked Questions

1. Does my LEP Plan (as part of the State Aid calculation) automatically meet the requirements of Rule 15?

No. Some components of the LEP Plan address the requirements in Rule 15, but it is not all inclusive.

2. Who should be included on the review team?

Every effort should be made to include staff knowledgeable in the area of second-language acquisition. Although this is not a requirement of Rule 15, it would be helpful to include such a person. For ease of implementation, consider existing teams that complement the

requirements of this review. For example, this may be a school improvement team or a subcommittee of this team.

3. Why is it important to do this review?

The LEP program review focuses on improving student learning. The school district must make modifications to the language instruction educational program based on the results of the data analysis and review of the program implementation practices in order to assist students in overcoming any language barriers which may prevent them from participating meaningfully in the core curriculum program. Additionally, this report will provide valuable information to share with stakeholders.

4. Is there a required format for the program review?

No, but there is a sample template included in the Tools and Templates (See Appendix B.)

5. Are we required to publicly share the program review?

The program review must be made available to the public and the Nebraska Department of Education, upon request. Data that might identify individual students is not allowed to be made public.

Tools and Templates

- Process for Monitoring former ELL Students
- Sample Template – Limited English Proficiency (LEP) Program Review

Appendices

Appendix A – Common Terms and Acronyms

Appendix B –Tools and Templates

Appendix C – Nebraska Department of Education Resources

Appendix D – Implementation Checklists

Appendix E – Rule 15

Appendix A – Common Terms and Acronyms

Common Terms

Age of majority

- A person 19 years of age or older

Emancipated student

- A person under 19 years of age who is married or in the military, and it shall also mean a person under 19 years of age who resides apart from his or her parents; is not under the care, custody, control, or supervision of his or her parents; and who receives no financial support or services from his or her parents and is responsible for securing his or her own support. The emancipation of a child is a question of fact, to be determined by the peculiar facts and circumstances of each case, and may be proved by circumstantial evidence, by an express agreement, or implied from the conduct of the parties.

Language instruction educational program (LIEP)

- An instructional program designed to assist a limited-English-proficient student in developing and attaining English proficiency while meeting state academic standards. It may make use of both English and a student's native language to enable the student to develop and attain English proficiency, and may include but is not limited to the participation of English proficient students if the course is designed to enable all participating students to become proficient in English and a second language.

Limited English proficient

- A student who is enrolled or preparing to enroll in an elementary school or secondary school;
- Who is a Native American or Alaska Native, or a native resident of the outlying areas and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
- Who is migratory, whose native language is a language other than English, and
- Who comes from an environment where a language other than English is dominant; and

- Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual at least one of the following:
 - The ability to meet the State’s proficient level of achievement on State assessments;
 - The ability to successfully achieve in classrooms where the language of instruction is English; or
 - The opportunity to participate fully in society.

Monitor

- A student is no longer considered limited English proficient upon meeting the state’s exit criteria. The student is no longer classified as LEP eligible on the Nebraska Student and Staff Record System and does not participate in the annual English-language proficiency assessment. The district must monitor the academic progress of former LEP students for at least two years.

Native language

- When used with reference to a student of limited English proficiency, means
 - The language normally used by such student; or
 - The language normally used by the parents of the student.

Teacher aide

- According to Section 79-802, public, private, denominational, or parochial schools in the state may employ persons who do not hold a valid Nebraska teaching certificate or permit issued by the Commissioner of Education to serve as aides to a teacher or teachers. Such teacher aides may not assume any teaching responsibilities. A teacher aide may be assigned duties which are nonteaching in nature if the employing school has assured itself that the aide has been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of his or her work.

Teaching

- According to Section 79-101 (12), “Teach” means and includes, but is not limited to, the following responsibilities: (a) The organization and management of the classroom or the physical area in which the learning experiences of pupils take place; (b) the assessment and diagnosis of the individual educational needs of the pupils; (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils; (d) the planning of teaching strategies and the selection of available materials and equipment to be used; and (e) the evaluation and reporting of student progress.

Acronym	Definition
ELDA	English Language Development Assessment
ELL	English Language Learner
ESL	English as a Second Language
ESU	Educational Service Unit
HLS	Home Language Survey
LEP	Limited English Proficient
LIEP	Language Instruction Educational Program
NDE	Nebraska Department of Education
NeSA	Nebraska State Accountability
NSSRS	Nebraska Student and Staff Record System
SIFE	Students with Interrupted Formal Education

Appendix B – Tools and Templates

Section 003 –

- Sample Home Language Survey
- Flow Chart for Identifying Students New to the District

Section 004 – Indicators of Quality Language Instruction Educational Programs

Section 005 –Professional Development Topics

Section 006 – None

Section 007 – Sample Process for Considering Exiting Students with Verified Disabilities from the Language Instruction Educational Program

Section 008 –

- Process for Monitoring Former ELL students
- Sample Limited English Proficiency (LEP) Program Review

Section 003 – Sample Home Language Survey

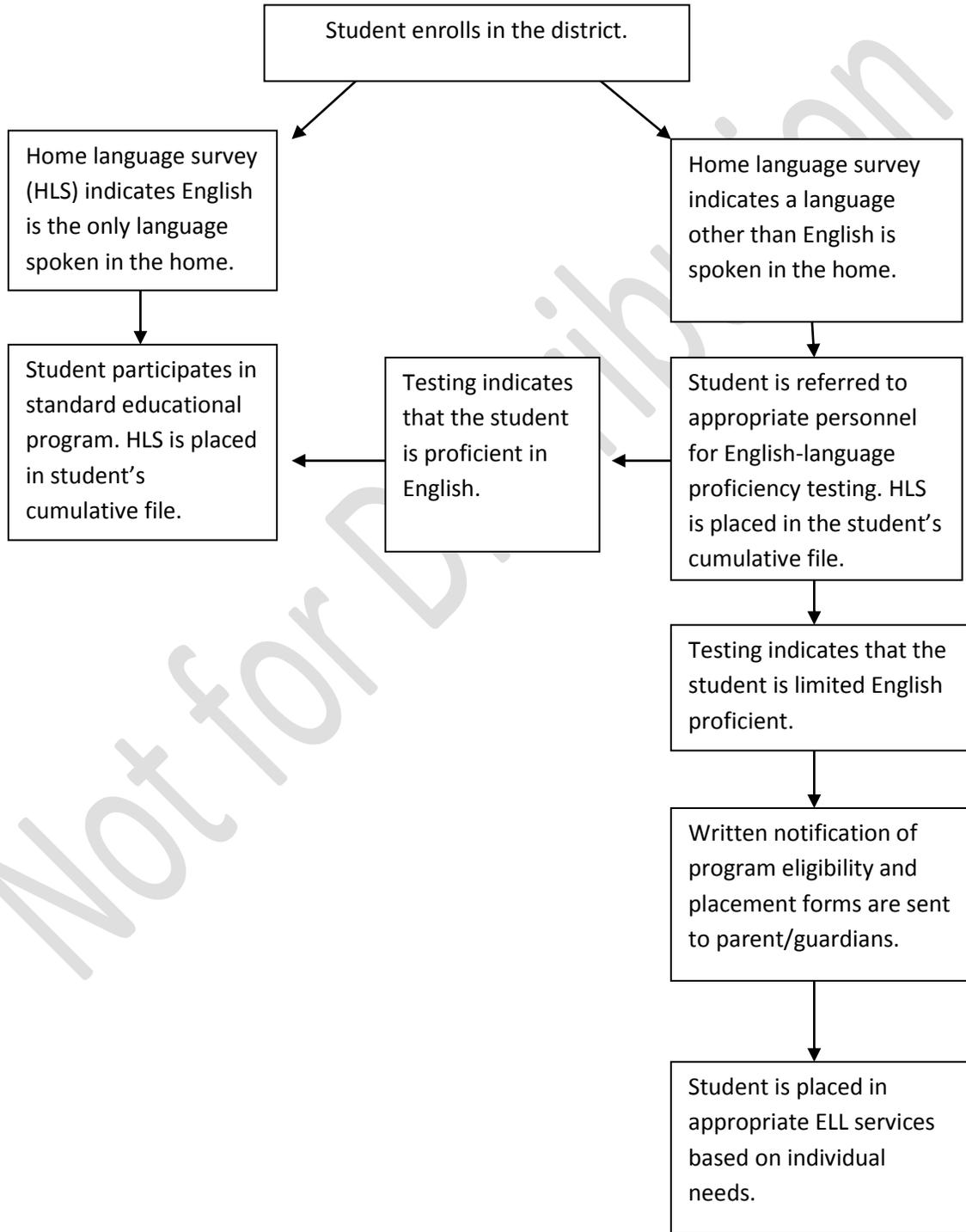
Student Name: _____ Birth Date: _____
Parent/Guardian Name: _____
School: _____ Grade: _____ Gender: __Male__ Female

1) What language did the student first learn to speak?
2) What language is spoken most often by the student?
3) What language does the student most frequently use at home?

Parent/Guardian Signature

Date

Section 003 - Flow Chart for Identifying Students New to the District



Section 004 - Indicators of Quality Language Instruction Educational Programs

Quality School

- Administration provides leadership and supports the program
- Clear goals are established
- School personnel work well with limited-English proficient students
- Staff set high expectations and support the academic and language needs of the students
- LEP students are well-known by the staff
- Staff understand the educational, linguistic, and cultural backgrounds of the students
- Parent and community involvement is promoted

Quality Curricula

- English is promoted and developed for social interaction and academic use
- Teachers implement both language and academic objectives into lessons
- Curriculum incorporates the teaching of American culture and provides the students with the needed background knowledge
- Curriculum makes use of students' cultures to promote learning
- LEP students participate in a comprehensive curriculum that benefits from current educational innovations
- Materials are of high quality
- Native languages are appreciated, accepted, and when possible, used to promote literacy and content-area learning
- Assessments have a purpose of improved teaching and learning

Quality Instruction

- Special strategies are used when teaching LEP students in the content classroom and when teaching students with interrupted formal education
- Lessons include language and content objectives
- Students play an active role in learning
- Optimal strategies are used for grouping students
- Instruction is engaging, challenging, and supportive
- Resources are varied

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Section 005 –Professional Development Topics

The following topics could be considered when planning professional development for staff that are responsible for the English-language instruction of LEP students:

- Selecting a model for the language instruction educational program
- Levels of language acquisition
- Strategies for language acquisition through content-area instruction
- Instructional strategies to support English-language learners (ELL)
 - *Classroom Instruction that Works with English Language Learners*
 - *Structured Instruction Observation Protocol (SIOP)*
 - Literacy development for ELL students
 - Vocabulary development
 - Strategies for developing speaking and listening skills
 - Increasing comprehensibility
- Integration of speaking, listening, reading, and writing in the content areas
- Testing accommodations
- Cross-cultural communication
- Use of native language in English-language acquisition
- Making connections with community and regional resources
- Communicating with parents of ELL students
- Effective use of interpreters and translators

Section 007 – Sample Process for Considering Exiting Students with Verified Disabilities from the Language Instruction Educational Program

Note: The exit criteria under Rule 15, (Sections 007.01A, 007.01B, 007.01C), apply to the vast majority of LEP students who receive special education services. In rare cases, LEP students with disabilities may be permitted to exit the language instructional educational program when the student’s educational needs are not affected by his or her degree of proficiency in English as permitted under Section 007.01D.

1. Schedule a meeting to discuss the student’s:

- language needs
- educational needs
- current program placement

Date of meeting _____

- Names of committee members/positions (include education and assessment personnel, one of which is an IEP team member)

2. Review Evidence

- Describe the student’s disability according to the student’s IEP and why it would be difficult for the student to exit the language instruction educational program under the Rule 15 criteria.
- What evidence is documented to indicate that the student no longer appears to benefit from second language acquisition support to address linguistic needs?

- Review historical formal and informal assessment data. Examples include:
 - ELDA test results for current and previous years
 - NeSA-Reading test results for current and previous years
 - Other formal/informal assessment data

- Discuss teacher input. Examples include:
 - Insight into student’s classroom performance and needs
 - Response to Intervention
 - Anecdotal notes or other evidence from classroom-based observations and activities

3. Prepare and Attach Documentation

- Ensure that all proper steps have taken place and attach documentation supporting the recommendation to exit the student from the language instruction educational program (LIEP)
- Documentation supports that the student’s educational needs are not affected by his or her degree of proficiency in the English language
- In keeping with best practice, notify parents or guardians of any changes in the services a the student receives

Section 008 –Process for Monitoring Former ELL Students

Students who have exited the ELL program will be monitored for a period of two years from the date of exit. The ELL coordinator will lead the process to monitor exited (redesignated) students.

To ensure the student has meaningful access to the district’s general education program and is being successful in that program, a formal review of the following indicators will be conducted at least once each semester:

- Courses in which the student is enrolled
- Current grades
- Performance on district assessments
- Participation in extra-curricular activities
- Awards and honors
- Attendance

If it is determined that the student is having difficulty based on the above indicators, the ELL coordinator, or designee, will request feedback from teachers, counselors and/or administrators. In addition, staff will:

- Contact parents/guardians and student to gather additional information.
- Work with school personnel to formulate a plan to address the lack of success.
- Inform parents by phone and/or letter in a language they understand, as practicable.

The plan to help the student succeed may:

- Provide academic support services (e.g., re-teaching, intervention, tutoring)
- Provide additional services to develop English-language skills (e.g., additional scaffolding and vocabulary development as part of the content area classroom)

SAMPLE TEMPLATE

Limited English Proficiency (LEP) Program Review

District _____

School Year _____

Review Team

The team may include teachers implementing the Language Instruction Educational Program, administrators, data analysts, professional developers, board members, school counselors, and others with expertise in the areas covered in the Review. The team members may decide to divide the tasks and report back to the main group during the review process.

Name	Title	Role/Responsibility on the Team

Before you begin:

Rule 15 Quality Indicator states that, “The LEP program review process focuses on improving student learning.” Consider the goals of your program, and list them here:

Process and Time Line:

While some data may not be available until the end of the school year, some data and evidence may be more easily collected in an ongoing process throughout the year. Establish a time line and process for team meetings and data collection.

Meeting Dates	Discussion Topics/Agenda	Team Member Responsible for Data Collection

Not for Distribution

Examination of LEP Program Implementation Practices			
Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Identification of LEP Students	Home Language Survey <ul style="list-style-type: none"> Part of admissions process for all Kindergarten and all new students Contains the 3 required questions 		
	Reliable English Language Proficiency Assessment <ul style="list-style-type: none"> Valid and reliable Assesses reading, writing, speaking and listening Yields composite scores which indicate proficiency OR Identified as LEP in another Nebraska district 		
	Notification of Parents/Guardians if Students Qualify for Services <ul style="list-style-type: none"> Must be timely and may be subject to other Federal requirements 		

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process/Program in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Language Instruction Educational Program (LIEP)	District has Implemented Language Instruction Educational Program(s) (LIEP)		
	LIEP is systematic approach to teaching the English language		
	LIEP is a research-based approach recognized by experts in the field of language acquisition		
	LIEP is designed to develop English proficiency so that students may meet academic standards using the English language		
	District provides adequate resources to effectively implement the LIEP		
	LIEP curriculum is aligned to the Nebraska K–12 Guidelines for English Language Proficiency		
	District provides professional development to teachers implementing the LIEP		

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Staffing	Teachers of the LIEP (typically ESL teachers) must hold a valid Nebraska teaching certificate AND one of the following: <ul style="list-style-type: none"> • Hold English as a Second Language (ESL) endorsement • Participate in annual professional development in the LIEP model 		
	Core curriculum teachers (typically in districts with no ESL teacher) who have the responsibility for the English-language instruction of LEP students must: <ul style="list-style-type: none"> • Hold a valid Nebraska teaching certificate • Participate annually in professional development to meet language and academic needs of LEP students 		
	Teacher aides are assigned duties in connection with LEP students that are non-teaching in nature; a teacher aide shall not teach		
	District has defined the roles of teachers and aides as it applies to implementing the LIEP and has provided necessary training		

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Assessments and Accommodations	District ensures all LEP students participate in state content assessments		
	Districts ensure LEP students are provided with approved accommodations on state content assessments		
	Districts ensure accommodations on content tests are assigned and implemented appropriately based on state guidance		
	Districts ensure all LEP students participate in the annual state English-language proficiency assessment		
Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the Review.)
Exit Criteria	<p>Students are exited from LIEP program based on the following criteria:</p> <ul style="list-style-type: none"> • Students in grades K–2 score proficient (composite) on the annual state English-language proficiency assessment AND have a teacher recommendation • Students in grades 3–12 score proficient (composite) on the annual state English-language proficiency assessment OR scores meets or exceeds the standard on the annual state reading content test 		

	<p>Students with verified disabilities may be exited from the LIEP if a committee of assessment and educational personnel determine that the educational needs of a student are not affected by his/her degree of proficiency in the English language</p> <ul style="list-style-type: none"> • Committee members must be knowledgeable about the language and educational needs of the student and include at least one member of the IEP team • Documentation must be maintained that the student’s educational needs are not affected by his/her degree of proficiency in the English language 		
	<p>Districts should identify a procedure and timeline for reviewing results of state assessments for determining exit status, including identifying key personnel who will be involved in determining an appropriate exit recommendation</p>		

Not for Distribution

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Data Analysis (cont. on next page)	Districts ensure that LEP students are correctly identified as LEP Eligible on NSSRS		
	Districts ensure that former LEP students (students meeting the state’s exit criteria) are correctly identified as Redesignated English Fluent on NSSRS		
	District analyzes LEP data including performance on: <ul style="list-style-type: none"> • State annual English-language proficiency test • State content assessments 		
	District monitors the academic progress of former LEP students for at least 2 years to compare their academic performance to non-LEP students		

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Process in Place and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Data Analysis (continued)	<p>Possible areas to consider when reviewing LEP student and former LEP student data:</p> <ul style="list-style-type: none"> • Dates of entrance/exit to the LIEP • Performance on assessments—state, district, college entrance • Classroom performance—assessments, grades • Graduation, drop out, promotion, retention, college attendance rates at the same rates as non-LEP students • Inclusion in gifted and talented programs at the same rate as non-LEP students • Inclusion in special education at the same rate as non-LEP students • Participation in extra-curricular activities and other programs at the same rate as non-LEP students • Attendance, disciplinary actions, and suspensions at the same rate as non-LEP students • School climate survey results • Parent attendance and involvement in school functions and activities 		

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe the Successful Practices and Any Necessary Modifications	Evidence/Notes (Refer to charts or documents to be attached to the Review.)
Modifications of LIEP	Based on the program review, indicate practices in place that have been successful in assisting LEP students in overcoming the language barrier and should be continued by the district		
	Based on the review of program implementation practices and data, indicate if modifications are necessary to the LIEP to order to assist students in overcoming language barriers in order to participate meaningfully in the core curriculum		

Not for Distribution

Required Element	Indicators (Stated in Rule 15 or Best Practices)	Describe Review Process and Determine Format of the Report	Evidence/Notes (Refer to charts or documents to be attached to the review.)
Written Report	Submit annual written report to district's superintendent		
	The report may include: <ul style="list-style-type: none"> • District goals for LEP program • Summary of review process • How the district implemented the required elements of Rule 15 • Evidence to support required elements have been implemented • Strengths of the LIEP • Suggested modifications to the LIEP to ensure LEP student success • How successful district has been in meeting LEP program goals 		
	Report is to be kept on file and available to the public upon request, with personally identifiable student information redacted, and retained pursuant to the district's records and retention schedule		

Appendix C – Nebraska Department of Education Resources

The Nebraska Title III (ELL/Bilingual Education) Office website is located at <http://www.education.ne.gov/Natlorigin>. Within this site are numerous links, including:

- Nebraska K–12 Guidelines for English Language Proficiency
 - The guidelines were developed as a supplement to the Nebraska State Standards. It is a working document that bridges the gap between state standards and second language acquisition.
 - http://www.education.ne.gov/natlorigin/Limited_English_Guidelines.html
- ELL Program Guide for Administrators
 - The guide is intended to assist administrators in developing programs for English Language Learners.
 - http://www.education.ne.gov/natlorigin/Classroom_Instructions.html
- ELL Program Guide for Teachers
 - The guide is intended to assist teachers in understanding the language and academic needs of limited English proficient students.
 - http://www.education.ne.gov/natlorigin/Classroom_Instructions.html
- Classroom Instruction that Works with English Language Learners
 - Nebraska has a team of certified professional developers that are available to provide training on the Marzano strategies and how they can be utilized specifically for ELL students. The site contains the list of professional developers and a study guide that can be used with *Classroom Instruction that Works with English Language Learners* by Hill and Flynn.
 - http://www.education.ne.gov/natlorigin/Classroom_Instructions.html

Other NDE websites that may be useful in implementing Rule 15 include:

- Migrant Education Program
 - The Migrant Education Program provides funding and assistance to districts with students who qualify as migrant.
 - <http://www.education.ne.gov/Migrant>

- Rule 24 – Regulations for Certificate Endorsements
 - This rule contains the requirements that teachers must meet in order to obtain endorsements in English as a Second Language and Bilingual Education.
 - http://www.education.ne.gov/LEGAL/webrulespdf/CLEANRule24_2010.pdf
- ELL Testing Accommodations
 - The following documents on ELL testing accommodations are located on this site:
 - NeSA Approved Accommodations
 - Guide for Including and Accommodating English language Learners in the NeSA Tests
 - http://www.education.ne.gov/Assessment/NeSA_Accommodations.htm
- NDE Continuous Improvement Model
 - The Continuous Improvement Toolkit has information and tools on addressing the continuous improvement process.
 - <http://www.education.ne.gov/CIPToolkit/>

Other Resources

- Center on Instruction – The Center on Instruction supports the work of the regional Comprehensive Centers. It offers information on best practices in reading, mathematics, science, Special Education, and the instruction of English-language learners.
 - <http://www.centeroninstruction.org>
- Colorin Colorado – This is a free Web-based service providing information, activities and advice for educators and Spanish-speaking families. Their mission is to find research-based and best practice information about teaching English Language Learners.
 - <http://www.colorincolorado.org>
- National Clearinghouse for English Language Acquisition – The National Clearinghouse for English Language Acquisition (NCELA) collects, coordinates, and conveys a broad range of research and resources in support of an inclusive approach to high-quality education for ELLs and is funded by the U.S. Department of Education
 - <http://www.ncela.gwu.edu>

- Office for Civil Rights (OCR) – OCR has legal information and resource materials to assist districts in developing comprehensive programs for English-language learners.
 - <http://www2.ed.gov/about/offices/list/ocr/index.html>
- TransACT - TransACT provides a comprehensive set of legally reviewed forms and notices in a wide range of languages for both native English and limited-English speaking parents.
 - <http://www.transact.com>
- U.S. Department of Education, Office of English Language Acquisition – Provides national leadership to help ensure English-language learners and immigrant students attain English proficiency and achieve academically. It identifies issues affecting the education of ELL students and supports state and local systemic reform efforts.
 - <http://www2.ed.gov/about/offices/list/oela/index.html>
- What Works Clearinghouse – A central source of research-based programs for what works in education
 - <http://ies.ed.gov/ncee/wwc>

Appendix D – Implementation Checklists

Section 003 – Identification of Students with Limited English Proficiency

	Indicator of Section 003 Implementation	Process in Place	Notes
1.	Design an HLS that includes the three questions required in Rule 15.		
2.	Include the Home Language Survey in the district's registration materials.		
3.	Train designated personnel (at the building level or district office registrar) in the process of survey administration.		
4.	Explore options for interpreting and translating enrollment forms including the HLS.		
5.	Administer the English-language proficiency assessment if any of the three questions indicate a language other than English.		
6.	File the original HLS in the cumulative folder.		
7.	Request technical assistance from the ESU, NDE, or other school districts if the district does not yet have an English-language proficiency assessment.		
8.	Check the validity and reliability of the language proficiency assessment.		
9.	Follow the testing protocol as outlined in the testing administration manual of the chosen assessment.		
10.	Provide professional development for school district personnel in administering the identified English-language proficiency assessment.		
11.	Train the assessment personnel to interpret the results of the English-language proficiency assessment.		
12.	Communicate the results of the assessment to teachers and others who are implementing the language instruction educational program.		
13.	Designate the student as LEP eligible in the school district database (e.g., Infinite Campus, PowerSchool) if the assessment results indicate that the student is LEP.		
14.	Maintain documentation that can be made available to other districts when a student transfers within Nebraska.		

Section 004 – Language Instruction Educational programs

	Indicator of Section 004 Implementation	Process In Place	Notes
1.	Determine the language and academic needs of your LEP students using language and content assessments, as well as other available data.		
2.	Analyze available resources (i.e., staffing, training, community resources).		
3.	Research, plan, and implement the language instruction educational program to meet the language and academic needs of the students identified.		
4.	Plan for professional development on the selected LIEP once the program model is selected.		
5.	Align the LIEP curriculum with the Nebraska K–12 Guidelines for English Language Proficiency, which addresses the four domains of listening, speaking, reading, and writing.		
6.	Choose and implement a program model which is systematic, a research- based approach, and enables students to meet academic standards using the English language.		

Section 005 – Staffing

	Indicator of Section 005 Implementation	Process In Place	Notes
1.	Identify the teacher(s) responsible for implementing the language instruction educational program.		
2.	Review the qualifications for teacher(s) responsible for implementing the LIEP.		
3.	Verify teacher certification.		
4.	For ESL teachers without endorsements, provide and document professional development on the defined program model.		
5.	For teachers in the core curriculum classroom who are providing the English-language instruction, plan and provide professional development for language and academic needs. Document professional development.		
6.	Identify the certified teacher who supervises the teacher aide. Define the teacher aide role, identify teacher aide assignments, and provide training.		

Section 006 – Assessment and Accommodations for LEP Students

	Indicator of Section 006 Implementation	Process in Place	Notes
1.	Assure that LEP-eligible students are accurately identified in NSSRS.		
2.	Coordinate the assessment schedule and accommodations with the classroom teacher and other relevant staff.		
3.	Identify certified staff to coordinate LEP participation in required state content assessments.		
4.	Determine the appropriate accommodations based on individual student needs for each LEP student on the state content assessments.		
5.	Identify certified staff to coordinate and administer the state required annual English proficiency assessment.		
6.	Confirm completion of assessments to verify all LEP-eligible students have participated as required by Rule 15.		

Section 007 – Exit Requirements

	Indicator of Section 007 Implementation	Process in Place	Notes
1.	Make <i>Rule 15: A Guide for Implementation</i> available to and train all key personnel, including those responsible for reviewing the assessment data and exiting students from the LIEP.		
2.	Establish a procedure and timeline for reviewing results of state assessments for determining exit status.		
3.	For students in K–2, develop a systematic approach to document the data used to support the recommendation for exiting the language instruction educational program.		
4.	Identify the key personnel who will be involved in determining an appropriate exit recommendation for an LEP student who also has a verified disability. The committee must include assessment and educational personnel who are knowledgeable about the language and educational needs of the student and must include one member of the student’s IEP team.		
5.	Develop a process for documenting the data that supports exiting an LEP student with a verified disability whose educational needs are being met through special education. Designate a consistent location for maintaining the documentation.		

Section 008 – LEP Program Review

	Indicator of Section 008 Implementation	Process in Place	Notes
1.	Establish a process, time line, and team with an appointed leader to conduct the annual review. Consider current practices or teams that overlap or complement the requirements of this review		
2.	Maintain accurate data on current LEP-eligible and former LEP students (known as re-designated English fluent in NSSRS).		
3.	Analyze individual student data, (cohort data and non-cohort data), and data on current and former LEP students.		
4.	Implement a process for evaluating academic progress of former LEP students.		
5.	Include other relevant student and program data.		
6.	Based on analysis of data, determine if the program goals have been met.		
7.	Modify the language instruction educational program based on the results of data analysis and review of the program implementation practices.		
8.	Determine a format for the annual report that includes all required elements of the review.		

Appendix E – Rule 15

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 15 - REGULATIONS AND PROCEDURES FOR THE EDUCATION OF STUDENTS WITH LIMITED ENGLISH PROFICIENCY IN PUBLIC SCHOOLS

ALPHABETICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
Assessment and Accommodations for LEP Students	79-305, 79-318, 79-703	006
Compliance as a Condition for School Accreditation	79-305, 79-318, 79-703	009
Definitions	79-305, 79-318, 79-703	002
Exit Requirements	79-305, 79-318, 79-703	007
General Provisions	79-305, 79-318, 79-703	001
Identification of Students with Limited English Proficiency (LEP)	79-305, 79-318, 79-703	003
LEP Program Review	79-305, 79-318, 79-703	008
Language Instruction Educational Programs	79-305, 79-318, 79-703	004
Staffing	79-305, 79-318, 79-703	005

Appendix A
Sample Home Language Survey

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
 CHAPTER 15 - REGULATIONS AND PROCEDURES FOR THE EDUCATION OF STUDENTS WITH
 LIMITED ENGLISH PROFICIENCY PROGRAMS FOR NEBRASKA SCHOOLS

NUMERICAL TABLE OF CONTENTS

<u>SUBJECT</u>	<u>STATUTORY AUTHORITY</u>	<u>CODE SECTION</u>
General Provisions	79-305, 79-318, 79-703	001
Definitions	79-305, 79-318, 79-703	002
Identification of Students with Limited English Proficiency (LEP)	79-305, 79-318, 79-703	003
Language Instruction Educational Programs	79-305, 79-318, 79-703	004
Staffing	79-305, 79-318, 79-703	005
Assessment and Accommodations for LEP Students	79-305, 79-318, 79-703	006
Exit Requirements	79-305, 79-318, 79-703	007
LEP Program Review	79-305, 79-318, 79-703	008
Compliance as a Condition for School Accreditation	79-305, 79-318, 79-703	009

Appendix A
 Sample Home Language Survey

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION
CHAPTER 15 - REGULATIONS AND PROCEDURES FOR THE EDUCATION OF STUDENTS WITH
LIMITED ENGLISH PROFICIENCY IN PUBLIC SCHOOLS

001 General Provisions.

001.01 Statutory Authority. This Chapter is adopted pursuant to Sections 79-305, 79-318 and 79-703 of the Revised Statutes of Nebraska (R.R.S.).

001.02 Scope and Application of this Chapter. This Chapter contains provisions related to the education of students with limited English proficiency in public schools in grades kindergarten through twelve. This Chapter applies to all accredited public school districts in Nebraska. All of the statements herein, with the exception of the Quality Indicators, are requirements of school districts. Quality Indicators may be used by school districts to help in designing local programs for students who are limited English proficient.

001.03 Purpose. The goal of this Chapter is to enable each limited English proficient student to become English proficient in listening, speaking, reading, and writing.

001.04 Implementation of this Chapter. This Chapter will be used initially during the 2012-2013 school year in conjunction with 92 NAC 10 (NDE Rule 10) to determine future accreditation status for school districts.

001.05 Related Regulations. The requirements for the accreditation of public school districts are contained in 92 NAC 10. The requirements for teacher certification are contained in 92 NAC 21. The requirements for endorsements on teaching certificates are contained in 92 NAC 24.

002 Definitions as Used in this Chapter.

002.01 Language instruction educational program means an instructional program designed to assist a limited English proficient student in developing and attaining English proficiency while meeting state academic standards. It may make use of both English and a student's native language to enable the student to develop and attain English proficiency, and may include but is not limited to the participation of English proficient students if the course is designed to enable all participating students to become proficient in English and a second language.

002.02 Limited English proficient (LEP): The term 'limited English proficient', when used in this Chapter with respect to a student, means a student:

002.02A Who is enrolled or preparing to enroll in an elementary school or secondary school;

002.02B Who falls into at least one of the following categories:

002.02B1 Who was not born in the United States or whose native language is a language other than English;

002.02B2 Who is a Native American or Alaska Native, or a native resident of the outlying areas and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

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002.02B3 Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

002.02C Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual at least one of the following:

002.02C1 The ability to meet the State's proficient level of achievement on State assessments;

002.02C2 The ability to successfully achieve in classrooms where the language of instruction is English; or

002.02C3 The opportunity to participate fully in society.

002.03 Native language when used with reference to a student of limited English proficiency, means

002.03A the language normally used by such student; or

002.03B the language normally used by the parents of the student.

003 Identification of Students with limited English proficiency (LEP).

Quality Indicator: A home language survey and a valid and reliable English language proficiency assessment are administered by school district personnel. As a result, districts can appropriately identify and place students in a language instruction educational program so that all students have an equal opportunity to achieve academically, regardless of the student's native language. Timely parental notification allows parents to make informed decision regarding student program placement.

003.01 Each school district shall administer a home language survey to be completed by the student's parent, guardian, or other person enrolling the student as part of the admission process for all kindergarten students and for all other students new to the district. A student who is emancipated or who has reached the age of majority and who is enrolling himself or herself may complete the survey instead. A sample survey is contained in Appendix A of this Chapter. The survey shall ask the following questions:

003.01A What language did the student first learn to speak?

003.01B What language is spoken most often by the student?

003.01C What language does the student most frequently use at home?

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003.02 If an answer to any one of the home language survey questions in Subsections 003.01A to 003.01C indicates that a student speaks a language other than English, the school district shall administer an English language proficiency assessment to the student in order to determine if the student may be limited English proficient (LEP). The assessment shall assess listening, speaking, reading, and writing. The district shall determine the assessment to be valid and reliable in measuring English language acquisition. The English language proficiency assessment shall yield composite scores or levels that indicate whether the student is proficient or not proficient in English, as defined by the assessment instrument.

003.03 If the home language survey indicates that the student has a home language other than English and the student has a composite score or level on the English language proficiency assessment indicating that the student is not proficient in English, the student shall be determined by the school district to have met the definition of limited English proficient in Subsection 002.02 of this Chapter.

003.04 The school district shall notify the parent, or guardian, or other person enrolling the student that the student qualifies for services as a student with limited English proficiency.

003.05 If a student has been identified as LEP in his or her previous Nebraska school district and has not met the exit requirements in Section 007 of this Chapter, the enrolling school district shall continue to identify the student as LEP. The school district shall not be required to administer a home language survey or an English language proficiency assessment upon enrollment. The school district shall obtain documentation of the previous LEP determination within thirty (30) school days of the student's enrollment.

004 Language Instruction Educational Programs.

Quality Indicator: Language instruction educational programs assist all LEP students in acquiring the English language to successfully participate in classrooms where the language of instruction is English. The language instruction educational program is research-informed and values the cultural and linguistic diversity of the student.

004.01 For each student who is determined to be limited English proficient pursuant to Subsection 003.03 of this Chapter or who is otherwise determined by the school district to meet the definition of LEP in Subsection 002.02 of this Chapter, the district shall implement a language instruction educational program that meets the following requirements:

004.01A Is designed to provide a systematic approach to teaching the English language to LEP students;

004.01B Is a research-based approach the effectiveness of which has been demonstrated and which is based on educational theories that are recognized as sound by experts in the field; and

004.01C Is designed for the purpose, and has the effect, of developing the English proficiency of LEP students so that students can meet academic standards using the English language.

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005 Staffing.

Quality Indicator: A comprehensive language instruction educational program assists students in developing literacy and proficiency in the English language. Such programs are directed and taught by professional staff with an appropriate endorsement in English as a Second Language. Ongoing professional development is designed to assist teachers in learning strategies to meet the language and content needs of LEP students.

005.01 Each school district shall ensure that all teachers of language instruction educational programs possess valid Nebraska teaching certificates. In addition, the school district shall ensure that each teacher:

005.01A Shall hold an endorsement or a provisional endorsement in English as a Second Language; or

005.01B Shall participate annually in professional development in the language instruction educational program model implemented by the school district for the students he or she teaches.

005.02 Each school district shall ensure that teachers in the core curriculum classrooms who have responsibilities for the English language instruction of LEP students:

005.02A Hold a valid Nebraska teaching certificate; and

005.02B Participate annually in professional development to learn skills for meeting the language and academic needs of the LEP students they teach.

005.03 Pursuant to Neb. Rev. Stat. §79-802(3), teacher aides may be assigned duties in connection with LEP students that are nonteaching in nature if the employing school district has assured itself that the aides have been specifically prepared for such duties, including the handling of emergency situations which might arise in the course of their work. A teacher aide shall not teach, as defined in Neb. Rev. Stat. §79-101(12).

006 Assessments and Accommodations for LEP Students.

Quality Indicator: All LEP students participate in the state language proficiency and content assessments so that each student has the opportunity to demonstrate mastery of learning. As a result, parents and school staff address the academic and language needs of the student. The district provides appropriate accommodations to ensure meaningful participation in the assessments.

006.01 Each school district shall ensure that all LEP students participate in the assessments required by Section 005 of 92 NAC 10. Each school district shall provide accommodations for LEP students participating in the assessments.

006.02 Each school district shall ensure that all LEP students participate in the annual state English language proficiency assessment.

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007 Exit Requirements.

Quality Indicator: District exit criteria are established to determine that the LEP student has attained English language proficiency in speaking, reading, writing, and understanding at a level sufficient to participate successfully in the classroom.

007.01 Each school district shall require the following in order for a student to exit the language instruction educational program:

007.01A The student in grades K-2 receives a composite score of proficient on the annual state English language proficiency assessment and his or her teacher(s) recommend that the student exit the language instruction educational program; or

007.01B The student in grades 3-12 receives a composite score of proficient on the annual state English language proficiency assessment; or

007.01C The student achieves a proficiency level of “meets the standards” or “exceeds the standards” on the Nebraska State Accountability Reading test; or

007.01D For LEP students with verified disabilities, if a school district committee of assessment and educational personnel determine that the educational needs of a student with verified disabilities are not affected by his or her degree of proficiency in the English language; the committee may recommend that the student exit the language instruction educational program. The committee shall be knowledgeable about the language and educational needs of the student, shall include at least one member of the student’s IEP team, and must maintain documentation that the student’s educational needs are not affected by his or her degree of proficiency in the English language.

008 LEP Program Review.

Quality Indicator: The LEP program review process focuses on improving student learning. The process includes an annual review by a designated school district team who provides input to the district superintendent in order to guide the planning, implementation, evaluation and modifications of the district’s language instruction educational program.

008.01 The school district shall conduct an annual review of the school district’s program(s) for LEP students and issue an annual report. This review shall be conducted by a designated team of staff. The review and report shall include the following:

008.01A An examination of the program implementation practices, including the process for identifying LEP students, the implementation of the language instruction educational programs, staffing, assessment and accommodations and the exit requirements.

008.01B An analysis of LEP student data including performance on the annual English language proficiency assessment and performance on state content assessments. Other assessments and relevant data may be included.

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008.02 The school district shall monitor the academic progress of former LEP students for at least two (2) years to compare their academic performance to non-LEP students.

008.03 The school district shall make modifications to its language instruction educational program based on the review of the program implementation practices and data analysis when necessary in the judgment of the district to assist students in overcoming any language barriers in order to participate meaningfully in the core curriculum.

008.04 The school district shall ensure that the review team submits the written report of its annual review to the district's Superintendent. The report shall be kept on file and available to the public, with personally identifiable student information redacted, upon request for so long as the report is retained pursuant to the district's records retention schedule.

009 Compliance as a Condition for School Accreditation.

009.01 Starting with the 2012-2013 school year, each school district shall comply with the provisions of this Chapter as a condition for accreditation under 92 NAC 10. Failure of a school district to comply with this Chapter shall be treated as if it were a violation of a provision of 92 NAC 10, and may subject the district to loss of accreditation as provided in that Chapter.

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Appendix A: Sample Home Language Survey

Student Name: _____ Birth Date: _____ Gender: Male Female

Parent/Guardian Name: _____

Address: _____

Home Telephone: _____ Work Telephone: _____

School: _____ Grade: _____ Date: _____

What language did your child first learn to speak? _____

What language is spoken most often by your child? _____

What language does your child most frequently use at home? _____