

Maine School Administrative District No. 11

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MERLE E. PEACOCK, JR. BOARD ROOM POLICY COMMITTEE MEETING

March 2, 2023

5:30 pm

AGENDA

- I. Call to Order
- II. Discussion/Vote

Policy Review

EBCA	Comprehensive Health and Safety Emergency Plan
EFE	Competitive Food Sales-Sales of Food in Competition with the School Food Service Program
EFE-E	Chapter 51: Child Nutrition Programs in Public Schools – Rescind?
EGAD	Copyright Compliance
EGAD-R	Copyright Compliance Administrative Procedure
IHBAAA	LAU Plan
IHBAAI	Independent Evaluations
IHBAG	Programming In The Least Restrictive Environment
IHBAG-R	Programming In The Least Restrictive Environment – Administrative Procedure

Job Description Review

Literacy Specialist
Educational Technician III – Title I Math and Reading

- III. Adjourn

COMPREHENSIVE HEALTH AND SAFETY AND EMERGENCY MANAGEMENT PLAN

The ~~MSAD #11~~ Board hereby adopts the MSAD 11 Comprehensive Health and Safety and Emergency Management Plan.

The Superintendent and building administrators shall be responsible for developing, in consultation with staff and persons or agencies with expertise in planning for health, safety and emergency planning and response, and responding to emergencies, a comprehensive emergency management plan that identifies and addresses all hazards and potential hazards that could reasonably be expected to affect the school district and school facilities.

The Superintendent and building administrators shall be responsible for ensuring that the plan is implemented in each school and evaluated on an annual basis. It is understood that specific procedures may vary from school to school due to differences in school facilities and the ages of students.

As required by law, the Board will approve the plan annually. Any substantive changes in the plan shall be subject to the approval of the Board.

At the request of any Board member or full-time school employee, the Board shall form a steering committee composed of school employees, Board members, parents, and others. A majority of the school employees must be chosen by the local representatives of the applicable bargaining unit if the school employees are covered by a collective bargaining agreement. The steering committee shall regularly review and refine the comprehensive health and safety plan.

The following information pertaining to the MSAD 11 Comprehensive Health and Safety and Emergency Management Plan is considered public information:

- A. A description of the scope and purpose of the Plan and the process used for developing and updating it;
- B. General information on auditing for safety and preparedness;
- C. Roles and responsibilities of school administrators, teachers and staff and the designated chain of command during an emergency; and
- D. Strategies for conveying information to parents and the general public during an emergency.

Except as specified in paragraphs A through D above, those portions of the Comprehensive Health and Safety and Emergency Management Plan and any other records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism shall not be considered public information under the Freedom of Access Act but only to the extent that the release of such information could reasonably be expected to jeopardize the physical safety of school district personnel or the public.

For the purpose of this policy, “terrorism” is defined as in 1 MRSA § 402(3)(L) as “conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure.”

Legal Reference: 20-A MRSA § 1001(16)

Adopted: March 1999

Revised: December 7, 2006; April 3, 2008; June 3, 2010; August 3, 2017

COMPETITIVE FOOD SALES-SALES OF FOODS IN COMPETITION WITH THE SCHOOL FOOD SERVICE PROGRAM

MSAD #11 supports good nutrition as part of a school environment that contributes to student health and encourages positive food choices and eating habits. The Board believes that nutrition influences a student's ability to take full advantage of the school system's educational program and is, therefore, related to student achievement.

The Board also recognizes that proceeds from the sale of foods and beverages outside of the School Lunch Program ("competitive foods") are a significant source of funds for student activities that might not otherwise be able to provide.

The Board has adopted this policy to govern the sale of foods and beverages on school property.

RESTRICTION ON SALE OF COMPETITIVE FOODS

Maine Department of Education Rule Chapter 51 mandates that any food or beverage sold at any time on school property of a school participating in the National School Lunch or School Breakfast Programs shall be a planned part of the total food service program* of the school and shall include only those items which contribute both to the nutritional needs of children and the development of desirable food habits, and shall not include foods of minimal nutritional value as defined in applicable federal regulations**, except as provided for by school board policy in certain circumstances.

*According to DOE Rule Chapter 51 (1)(b), the "Total Food Service Program" includes the federal Milk Program as defined in 7 C.F.R. § 215; the federal Breakfast Program, which means the federal program under which a breakfast that meets the nutritional requirements set forth in 7 C.F.R. § 220 is offered; the National School Lunch Program (including the After School Snack), which means the federal program under which the school operates a nonprofit lunch program that meets the requirements of 7 C.F.C. §; or any combination of these programs.

**"Foods of minimal nutritional value" as defined in 7 C.F.R. § 210.11 means: (a) In the case of artificially sweetened foods, a food which provides less than 5 percent of the Reference Daily Intake (RDI) for each of the eight specified nutrients per serving; (b) in the case of all other foods, a food which provides less than 5 percent of the RDI for each of eight specified nutrients per 100 calories and less than 5 percent of the RDI for each of eight specified nutrients per serving. The eight nutrients to be assessed for this purpose are: protein, vitamin A, vitamin C, niacin, riboflavin, thiamin, calcium, and iron. This definition is applicable to foods that are part of the total food service program of the school, and foods and beverages sold at food sales, school stores, and in vending machines. A listing of "Categories of Foods of Minimal Nutritional Value" is in Appendix B to 7 C.F.R. Part 210 (National School Lunch Program).

As allowed by Rule Chapter 51, the ~~MSAD #11~~ Board permits the sale of food and beverages outside the total food program to:

1. To attendees at school-sponsored community events held on school property (i.e., school-sponsored events that are open to the public);
2. To the public at community events held on school property in accordance with the Board's facilities use policy;
3. In State-approved instructional Career and Technical Education (CTE) Programs; and/or
4. By a school approved student organization or program if consistent with the requirement that such sales not include foods of minimal nutritional value as defined in 7 C.F.C. § 210.11(a)(2).

This policy applies to sales of foods and beverages at any time on school property by any person, group or organization.

When foods and beverages are sold to raise funds for schools or student activities, students, staff, parents, or school-sponsored organizations involved in such sales are encouraged to include at least some healthy food choices.

FUNDS FROM SALES OF COMPETITIVE FOODS

Funds from all food and beverage sales made at any time on school property shall accrue to the benefit of the school's non-profit school food service program, except that funds raised through authorized sales outside the total food service program shall accrue to the sponsoring school or approved student organization in accordance with applicable policies, cash-management procedures and administrative directives or to the sponsor of a community event that is held on school property in accordance with the Board's facility use policy.

~~[NOTE: DOE staff confirmed that it is the Department's intent that Funds raised by approved student organizations and by school affiliated booster groups through the sales of foods and beverages at events open to the public will accrue to the sponsoring organization, not to the school's food service program. provided that the Board has adopted policy language that allows for this.~~

~~DOE staff also confirmed that Foods of minimal nutritional value may be sold by approved student organizations when an event held on school property is open to the public. However, students may not sell foods of minimal nutritional value if an event is not open to the public. Boosters may also sell foods of minimal nutritional value if the event is open to the public, e.g., basketball games.~~

Community events that are sponsored by non-school groups ("outside organizations" such as Kiwanis, Boy Scouts, Girl Scouts, Little League, other community organizations) are events over which the school district has no authority or responsibility other than through the Board's facilities use policy and procedures that implement the facilities use policy. Funds raised by these groups will accrue to the organization. ~~provided that the Board has adopted appropriate policy language.~~ This will also apply to certain booster groups and booster activities that do fundraising activities in accordance with the facilities use policy.

DELEGATION OF RESPONSIBILITY

The Superintendent/designee shall be responsible for enforcement of this policy. Permission for authorized food sales outside the total food service program shall be secured from the Building Principal and Superintendent as specified in Policies JJE/Student Fund Raising Activities, KF/Community Use of School Facilities, KF-R/Community Use of School Facilities Administrative Procedure, and EFE-E/Child Nutrition Programs in Public Schools and Institutions Frequently Asked Questions.

Legal Reference: Ch. 51 (Dept. of Educ. Rule) (Child Nutrition Programs in Public Schools and Institutions)

Cross Reference: DFD Student Activities Fund
 JJE Student Fundraising Activities
 KF Community Use of School Facilities
 KF-R Community Use of School Facilities Administrative Procedure
 EFE-E Child Nutrition Programs in Public Schools and Institutions
 Frequently Asked Question

Adopted: June 15, 2006

Reviewed: December 7, 2006; June 3, 2010; April 5, 2018

Chapter 51:**Child Nutrition Programs in Public Schools and Institutions**

Frequently Asked Questions and Answers

Introduction

This rule; Chapter 51 Child Nutrition Programs in Public Schools and Institutions balances two important policy objectives. The rule is crafted to pertain to the sale of any foods or beverages that would compete with the school's total food service program. This limitation is to ensure that the foods available to students are primarily those that meet the nutritional guidelines of the United States Department of Agriculture.

This objective is balanced with a second objective- namely the furthering of community involvement through the use of the school as a community facility. The rule serves this objective by creating exceptions to the limitation of the sale of food and beverages to only nutritious foods, but does so in a manner that is aimed primarily at the public, not students, thus avoiding competition with students and the total food service program. The further limitation is the rule on the accrual of funds from all foods and beverages to only the school or an approved student organization supports this policy objective and provides additional needed support to the school's non-profit school food service program.

The rule also serves to influence a change in the culture of schools whereby children are constantly faced with abundant foods that exceed recommended caloric allowances, etc. Listed below are questions frequently asked surrounding interpretations of this rule, and responses which clarify the requirements put forth in the rule.

- Q.** Are sales of foods after school hours, to the public, considered sales to the public, or sales at a community event?
- A.** After school hours represents a time of day. This is not an event. An event is an occurrence or some type of activity that takes place.
- Q.** What can be sold in vending machines, before and after school'?
- A.** Only foods that are not considered foods of minimal nutritional value.
- Q.** What is the federal listing of specific foods considered to be of minimal nutritional value?
- A.** These foods appear on line in Federal Regulation 7CFR210 Appendix B: *Soda Water, Water Ices, Chewing Gum, And Certain Candies Such As: Hard Candy, Jellies and Gums, Marshmallow Candies, Fondant, Licorice, Spun Candy, and Candy Coated Popcorn.* This regulation can be accessed at: www/fns.usda.gov
- Q.** Can a student sell popcorn or bake sale items to classmates?
- A.** If the products are not considered foods of minimal nutritional value and the sale is permitted by school board policy.
- Q.** Are foods and beverages sold in school stores restricted in any way?
- A.** Yes, all foods and beverages sold in school stores must not be considered foods of minimal nutritional value. Exceptions would apply only if the school store is available to the public during an event and school board policy allows school store

purchases by the public.

Q. Can the funds received from the sale of foods and beverages in a school store, vending machines, or from other food sales be retained by the sponsor of the sale?

A. Yes, if there is a policy established by the school board.

Q. Can Girl Scout cookies be sold at school?

A. Yes, but only if the sale is to the public and during an event. Girl Scout cookies may not be sold to students.

Q. Must funds from the sale of foods and beverages sold at any time on school property revert to the food Service Program?

A. Yes, unless there is a written policy that meets exceptions 1, 2, 3, 4, or 5 of the rule.

Q. Can a student organization sell foods of minimal nutritional value to the public at a community event?

A. Yes, exception 2 would apply.

Q. Can the school board by policy allow soda to be sold in vending machines?

A. No, the policy would violate Regulation, Chapter 51.

Q. Must a food product contain more than 5% of all eight specified nutrients as defined in federal regulation in order to be acceptable?

A. No, the definition for foods of minimal nutritional value means that if all of the nutrients that are contained in given food product fail to meet the 5% rule, the food is considered a food of minimal nutritional value. If, however, at least one of the nutrients of those contained in a food product meets or exceeds the 5% rule, the food is acceptable.

Q. What is the definition of “artificially sweetened foods”?

A. An artificially sweetened food is one that is sweetened with a non-nutritive sweetener such as saccharin, aspartame, acesulfame, potassium, and sucralose.

Q. Can the PTA sell apples to students after school and who benefits from the sale?

A. Yes. The funds received would revert to the Food Service Program, unless school board policy allows for the sponsor of the sale to benefit from the sale.

Q. If a school dance that is open to students only and food is sold at the dance, who would benefit from the sales and what foods can be sold.

A. If the dance is not a public event, the school approved student organization or program sponsoring the dance could benefit from the funds by an approved policy of the school board. Food items sold must be acceptable in accordance with exception 5 of this rule.

Q. Does the rule prevent me from continuing to sell cookies, brownies, or cakes as part of the a la carte offerings?

A. No. However, the cookies, brownies, and cakes that are sold must be acceptable as defined in this rule.

Q. How does Chapter 51 affect current contracts with beverage companies that specify that soda (only their beverages) can be sold in vending machines?

A. Such contracts should be renegotiated to specify that only acceptable products will be supplied by the beverage company.

- Q. Are carbonated waters acceptable beverage products?
A. Yes.
- Q. Can a student organization sell candy as a fund raiser?
A. Yes. However, students may only sell candy off the school property or in accordance with exceptions 2 and 3 of the rule.
- Q. Can students sell non-food items for fundraising purposes?
A. The rule only applies to the sale of foods and/or beverages.
- Q. Can foods of minimal nutritional value such as cupcakes or cookies be provided to students for celebrations/parties?
A. The rule only applies to the sale of foods and/or beverages. If foods are provided not sold, the rule does not apply.
- Q. If an after-school Teen Center, sponsored by a community program, which is open to students only, and held in a facility on school property sells food to the students, must the foods that are sold meet the nutritional standards of this rule? Who benefits from the sale of foods in this situation?
A. The foods and beverages that are sold to students at this Teen Center must meet the nutritional standards of this rule. The sponsor of the Teen Center can benefit from these sales, only in accordance with school board policy.
- Q. Are cough drops and chewing gum defined as foods?
A. Yes. Federal Regulations consider cough drops and chewing gum foods of Minimal Nutritional Value. This regulation can be accessed at www.fns.usda.gov
- Q. Can soda, chips, and candy be sold to the school staff?
A. Yes. Exception 1 of the rule applies to such sales.
- Q. Can school staff collect money from students to support a classroom pizza party?
A. No. The collection of money to pay for students' participation in a classroom pizza party represents a food sale.
- Q. My High School does not participate in the National School Lunch Program; does this rule apply to my school?
A. No. The rule only applies to schools participating in the National School Lunch Program.
- Q. Can a student bring foods of Minimal Nutritional Value from home?
A. Chapter 51 does not apply to foods and beverages brought to school by students.
- Q. If a School Food Service Department is contracted to provide banquet catering for a community or public event, must the food service program benefit from the funds received?
A. Yes. However, exception 2 or 3 of the rule could apply to such situations.
- Q. Can the Career and Technical Education Programs (CTE) sell lollipops to students during school hours?
A. No. Lollipops are considered foods of Minimal Nutritional Value.
- Q. Can nutritious foods and beverages be sold to students during the school day through vending machines and school stores? If so, can the Board by policy allow profits to accrue to approved student organizations, or must these funds to

to the Food Service Program?

- A. Yes, with a policy in place the profits are allowed to go to the student organization as long as you are not selling foods of minimal nutritional value.
- Q. Can student groups sponsor sales of nutritious foods and beverages to students as well as staff? If so, can the Board by policy allows the profits to accrue to approved student organizations?
- A. Yes.
- Q. If vending machines with nutritious foods and beverages are available to students after the school day; can the Board by policy allow funds from these vending machines to accrue to approved student organizations?
- A. Yes.
- Q. We believe that it is the DOE's intent that outside groups (Lions Club) that sell foods and beverages (nutritious or not) in accordance with the Boards facilities use policy are allowed to keep their profits for their own use. Can you confirm that this is correct?
- A. Yes, if this is a public event with a policy in place.

The complete rule can be viewed on the secretary of state page or by using this link [Chapter 051](#).

Adopted: June 15, 2006

Reviewed: December 7, 2006; June 3, 2010; April 5, 2018

COPYRIGHT COMPLIANCE

The Board expects all employees and students in MSAD #11 to comply with the federal copyright law. Employees and students who willfully disregard the law and the Board's copyright policy and procedure do so at their own risk. MSAD #11 will not extend legal and/or insurance protection to employees or students for willful violations of this policy. Such violations may also result in disciplinary action.

The Superintendent is responsible for implementing this policy and the accompanying administrative procedure. The Superintendent may develop additional administrative procedures and/or delegate specific responsibilities to building principals and others as ~~he/she~~ they deems appropriate.

MSAD 11 will take the following steps to discourage violations of the copyright law in the school system:

- A. All instructional staff and school administrators shall receive a copy of this policy and the accompanying administrative procedure.
- B. Copyright notices shall be posted within view of copying equipment.
- C. Teachers and library media specialists shall be responsible for informing students about the legal and ethical issues raised by copyright infringement and illegal use of materials.

Legal Reference: 17 U.S.C. § 101 et seq. (The Copyright Act of 1976)
P.L. 107-273 (The TEACH Act of 2002)

Cross Reference: EGAD-R – Copyright Compliance Administrative Procedure
GCSA – Employee Computer and Internet Use
IJNDB – Student Computer and Internet Use
IJNDC – School System Website and Web Pages

Adopted: August 6, 1992

Revised: June 3, 2004; December 7, 2006; June 3, 2010; January 11, 2018

COPYRIGHT COMPLIANCE ADMINISTRATIVE PROCEDURE

This administrative procedure summarizes the major provisions found in the federal copyright law and guidelines concerning reproduction of copyrighted works by educators. This summary is not intended to replace the law/guidelines, which should be referred to when questions regarding implementation arise.

Instructional staff teaching distance learning or online courses must comply with Section III in addition to all other parts of this procedure.

I. GENERAL RULE AND COPYRIGHT OWNERSHIP

- A. **Presumption of copyright.** Works, in any medium (written, recorded, digitally-stored, etc.) should generally be presumed to be protected by copyright law, regardless of whether the work displays a copyright notice, the symbol, “©,” or other express reservation of rights.
- B. **Rule against copyright violations.** Except as otherwise permitted by this policy and applicable law, school employees shall not reproduce, perform, or display copyrighted works without permission of the owner.
- C. **U.S. Government works.** United States government works are not subject to copyright protection and may freely be copied.
- D. **Public domain.** Works that are in the public domain due to expiration of copyrights, as provided by law, may be freely reproduced, performed, or displayed.
- E. **Student works.** Students are the owners of exclusive rights in works that they create.
- F. **Works made for hire.** Works created by school employees in the course and scope of their employment are “works made for hire,” and the school unit retains exclusive rights in such works, unless otherwise agreed in writing by the School Board.
- G. **Distance learning.** All rights in works created by school employees in the course of teaching distance learning courses are owned by the school unit that employs the individual(s) who created the work, unless otherwise agreed in writing by the employing school unit.

II. DEFINITIONS

A. “FAIR USE”

A copyright provides the owner with the exclusive rights of reproduction, adaptation, publication, performance, and display of the covered work. The copyright law contains certain “fair use” provisions that permit *limited* reproduction of materials based on four criteria:

1. The purpose and character of the use, including whether such is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

B. “FACE-TO-FACE INSTRUCTION”

Performance or display of any copyrighted work by teachers or students without permission from the copyright holder is permissible under the following circumstances:

1. The work must be performed or displayed in a face-to-face setting by a teacher or by students; and
2. The performance or display must be in the course of teaching activities, in a classroom or a similar educational setting.

Examples of performances or displays falling under this exception include reading a play in the classroom, singing a song in a classroom, or showing a filmstrip or video (provided that it has been purchased or lawfully copied).

The following sections summarize the permissible or “fair use” of different types of copyrighted works. Because the law and technological applications continue to evolve, school unit employees are responsible for ensuring that the intended use of materials does not conflict with copyright law/ guidelines and for informing students of such issues as appropriate.

III. DISTANCE EDUCATION: TRANSMISSION OF PERFORMANCES AND DISPLAYS TO REMOTE SITES

The following may be transmitted by any device or process, including the DOE Distance Learning Network, interactive television, or Internet courses:

- Performance of nondramatic literary works (e.g., novels, short stories, poems); or
- Reasonable and limited portions of any other work; or
- Display of a work in an amount comparable to that which is typically displayed in the course of a live classroom only if:
 - A. The performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of instructional activities;

- B. The performance or display is directly related and of material assistance to the teaching content of the transmission;
- C. The transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to students officially enrolled in the particular course and employees of the school unit as part of their duties;
- D. Technological measures are implemented that reasonably prevent retention of the work in accessible form by recipients of the transmission for longer than the class session and prevent unauthorized further dissemination of the work in accessible form by such recipients to others;
- E. There is no interference with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination of materials; and
- F. Students in such courses must be given notice that materials used in connection with the course may be subject to copyright protection.

IV. PRINT MATERIALS

A. Permissible Uses

- 1. A single copy of the following made for use in teaching or in preparation to teach a class:
 - a. A chapter from a book;
 - b. An article from a periodical or newspaper;
 - c. A short story, short essay or short poem, whether or not from a collective work; and
 - d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.
- 2. Multiple copies made for classroom use (not to exceed one copy per student in a course) from the following:
 - a. A complete poem, if it has fewer than 250 words and does not exceed two printed pages in length, or an excerpt of not more than 250 words from a longer poem;
 - b. A complete article, story or essay of less than 2,500 words;
 - c. Prose excerpts not exceeding 10 percent of the whole or 1,000 words, whichever is less;
 - d. One chart, graph, diagram, cartoon, or picture per book or per issue of a periodical; and

- e. An excerpt from a children's book containing up to 10 percent of the words found in the text and not more than two printed pages of the published work.
3. One transparency for classroom instruction may be made from consumable materials such as workbooks, exercises, activity sheets, etc.
4. All permitted copying must include appropriate credits, including the author, title, date, copyright notice and any other pertinent information.

B. Prohibited Uses

1. More than one word or two excerpts from a single author copied during one class term;
2. More than three works from a collective work or periodical volume copied during one class term;
3. More than nine sets of multiple copies made for distribution to students in one class term;
4. Copies made to create, replace or substitute for purchasing anthologies or collective works;
5. Copies made of "consumable" works, such as workbooks, exercises, standardized tests and answer sheets (except as noted in A.3 above);
6. The same work copied from term to term;
7. The same material copied for more than one particular course, or copied every time a particular course is offered, unless permission is obtained from the copyright owner;
8. Copies made when there is sufficient time prior to the intended use to obtain permission from the copyright owner; and
9. No charges may be made to students beyond the actual cost of photocopying.

V. COMPUTER SOFTWARE

All software purchased for use in the school unit must be approved collaboratively by Director of Curriculum and Instruction and the Director of Technology. Only the Superintendent, Director of Curriculum and Instruction and/or the Director of Technology may obtain and sign software licensing agreements and duplication rights agreements. All terms of such licensing/duplication agreements must be observed by all school unit employees and students.

Software purchased by the school unit for classroom, lab, media center, and office use remain the property of the school unit and may be used only in school-sponsored programs and activities.

A. Permissible Uses

1. One archival (back-up) copy of copyrighted software may be made by authorized employees (unless a licensing agreement prohibits copying for any purpose);
2. Software may be used on a networked computer system if written permission is obtained or a version intended for network is used;
3. Software may be loaded on multiple equipment if it is specifically advertised as multi-load or written permission has been obtained; and
4. Preview software may be evaluated for a reasonable evaluation period before being purchased or returned.

B. Prohibited Uses

1. Illegal copies of copyrighted software programs made or used on school equipment;
2. Copies made of preview software;
3. Use of software on a networked computer system not intended for network use without written permission;
4. Multiple loading of software not specifically licensed for multi-loading without written permission;
5. Multiple copies made of copyrighted software (beyond an authorized archival copy);
6. Multiple copies made of printed documentation accompanying copyrighted software;
7. Copies made of software for sale, loan, transmission, or gift to other users; and
8. Copies made of locally produced adaptations or modifications of copyrighted software for any purpose.

VI. INTERNET

The rights of the owner of copyrighted material on the Internet are the same as the rights of the owner of traditional materials. Unless there is a clear statement that art, photos, text, and sounds are “public domain” and available for free use, it should be assumed that the material is copyrighted. All the criteria for “fair use” apply to works on the Internet just as they apply to other materials. The ease of copying materials from the Internet should not be used as an excuse for violating copyrights.

VII. OFF-AIR TELEVISION RECORDING

A. Permissible Uses

1. Off-air recordings may be made only at the request of and used by individual teachers;
2. Off-air recording of broadcast programs available to the general public without charge may be made and retained for a period not to exceed 45 calendar days after the date of recording. The following additional requirements must also be met:
 - a. The recording may be used *once* by individual teachers in the course of relevant teaching activities and repeated *once* during the first 10 consecutive school days in the 45-day retention period.
 - b. Following the first 10 consecutive school days, the recording may only be used for teacher evaluation purposes (i.e., to determine whether the broadcast program should be included in the curriculum).
 - c. Following the 45-day retention period, the recording must be erased or destroyed immediately unless written permission is obtained from the copyright owner to keep and use the program in teaching/learning activities.
3. A limited number of copies may be produced from each off-air recording to meet the legitimate educational needs of teachers. Such copies are subject to the same guidelines as the original copy.
4. An off-air recording need not be used in its entirety, but the recording may not be altered, edited, combined, or merged. All copies must include the copyright notice of the broadcast program.

B. Prohibited Uses

1. Recording broadcast programs in anticipation of requests;
2. Recording broadcast programs when there is sufficient time prior to the scheduled program to obtain permission from the copyright owner;
3. Recording programs from pay/satellite/streaming television channels (HBO, Cinemax, Disney, Netflix, Hulu, etc.);
4. Using or retaining recordings beyond the 45-day retention period without written permission;
5. Recording the same program more than once for the same teacher (regardless of how many times the program may be broadcast); and
6. Altering the program from the original content in any way (although the entire program need not be viewed).

VIII. USE OF PRE-RECORDED VIDEOS

Pre-recorded videos include commercially available videos marked “For Home Use Only” (such as feature films), including VHS tapes, DVD disks, filmstrips, etc.

A. Permissible Uses

Pre-recorded videos may be used in “face-to-face instruction” provided that the viewing utilizes a lawfully-made copy rented or purchased by the school unit.

B. Prohibited Uses

1. Videos may not be used for entertainment, filler, assemblies, fundraising, public viewing, or any other purpose without written permission of the copyright owner and permission of the building principal.
2. Videos may not be used when a written contract specifically prohibits use in classroom or direct instruction situations.
3. Videos may not be borrowed from individuals or other schools.
4. Videos may not be copied.

IX. MUSIC AND THEATER PERFORMANCES

Prior written permission must be obtained whenever copyrighted plays and musical numbers are to be performed or whenever copyrighted music is used as part of a performance.

X. EDUCATIONAL USES OF MUSIC

A. Permissible Uses

1. Emergency copies to replace purchased copies that for any reason are not available for an imminent performance provided that purchased replacement copies shall be substituted in due course.
2. For academic purposes other than performance, multiple copies of excerpts of works may be made provided that:
 - a. The excerpts do not constitute a performable unit (section, movement, or aria) or more than 10 percent of the entire work;
 - b. No more than one copy per student in the class is made; and
 - c. The copyright notice appears on the copies.

3. For academic purposes other than performance, a single copy of an entire performable unit (section, movement, or aria) may be made by the teacher for scholarly research or in preparation to teach a class provided that:
 - a. The work is confirmed by the copyright owner to be out of print;
 - b. The work is unavailable except in a larger work; and
 - c. The copyright notice appears on the copy.
4. Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted. Lyrics may not be altered or added if none exist.
5. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the school unit or an individual teacher.
6. A single copy of a sound recording (album, tape, cassette, or CD) or copyrighted music may be made from sound recordings owned by the school unit or an individual teacher for the purpose of constructing aural exercises or examinations. The copy may be retained by the school unit or an individual teacher.
 - a. This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.

B. Prohibited Uses

1. Copy to create, replace, or substitute for purchasing anthologies, collective works, and compilations;
2. Copy “consumable” works, such as workbooks, exercises, standardized tests, and answer sheets;
3. Copy for the purpose of performance (except as noted in A.(1)); and
4. Copy to substitute for the purchase of music (except as noted in A. (1-2)).

Legal Reference: 17 U.S.C. § 101 et seq.
P.L. 107-273 (The TEACH Act of 2002)

Cross Reference: EGAD - Copyright Compliance

Approved: January 11, 2018

MSAD 11 LAU PLAN

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A. INTRODUCTION

Multilingual Learners (MLs) are richly heterogeneous group of students who bring a wide variety of life situations and a wide range of educational experiences to MSAD 11. The paths they take to acquire a new language and to adjust to their new cultural environment are varied and in keeping with their unique needs and experiences. Within the safe and welcoming school environment, administrators and teachers are given rare opportunities to tap the rich resource of knowledge and perspectives that MLs bring to school, and which, in turn, enrich the learning of all students in the classroom. The role of the school and teachers is critical in supporting students' identity development as learners and in helping students shape a vision of the future in which they will take their place in a global economy, MSAD 11 is committed to providing appropriate placement, along with curricular, instructional, and other related services to ensure that MLs are able to participate effectively in the schools' educational program.

To accomplish this, the MSAD 11 Lau Plan, details the procedural requirements and services provided to MLs, including identification, assessment, placement, and exit from English for Speakers of Other Languages (ESOL) programming, and pre-referral procedures to ensure appropriate identification of MLs requiring special education and gifted and talented services.

1. Responsibility for Lau Plan Implementation

The Superintendent has designated the Director of Special Services as having overall responsibility for the district's compliance with federal and state laws, regarding the education of MLs by:

- Overseeing the implementation of the district's Lau Plan
- Developing appropriate programming to assist MLs in acquiring English language skills and meeting the Guiding Principles of Maine's system of Learning Results
- Overseeing initial school registration, health screening, language assessment, and placement for all students with limited English language proficiency
- Providing professional development programs focused on educating linguistically and culturally diverse students
- Coordinating the delivery of federal and state assessments to determine MLs' progress
- Monitoring program effectiveness with the Lau Advisory Committee
- Overseeing compliance with recordkeeping requirements
- Providing translation and interpretation services for school related activities

B. IDENTIFICATION AND INITIAL PLACEMENT OF MULTILINGUAL LEARNERS (MLs)

1. General Procedures for Registration and Screening

A Multilingual Learner (ML) is a student whose primary or home language is other than English and who lacks the necessary academic English language skills to perform at grade level in one or more of the skill areas of listening, speaking, reading, or writing. Schools are required to identify students who have limited English proficiency and develop appropriate programming for them.

- Parents registering their children at neighborhood schools are also asked to complete a ***Language Use Survey*** (See Appendix A). This survey identifies students whose first language is not English. If the answer to any of the questions on the survey indicates a language other than English, the school contacts the ML Teacher.
- Trained personnel use multi-criteria assessments to identify a student's eligibility for English for Speakers of Other Languages (ESOL) programming. Objective, standardized measures of English proficiency and achievement testing are used as well as information from less formal assessments, as follows:
 1. WIDA Screener
 2. Language Assessment Scales (LAS)
 3. Language Use Survey
 4. Parent and/or student interviews
 5. Review of academic performance, student education record
- Following registration and assessment, parents are notified of ESOL programming eligibility within 30 days as required by the Every Student Succeeds Act using the ***ESOL Program for ML Initial Eligibility Parental Notification Form*** (See Appendix B). Decisions regarding ESOL programming implementation are made by the school.
- If at any point the parents decline program recommendations, the parent must sign a ***Decline ESOL Program Form*** (See appendix C). Notifications are translated into major languages.
- A language minority student who has not been previously identified as eligible for ESOL programming but who is experiencing difficulties in a classroom in any MSAD 11 school, may be tested at any time to determine eligibility. Requests may be made by parents or school staff using the ***Language Assessment Team (LAT) Referral Form*** (See Appendix D).

2. Grade Placement Guidelines

The student ages listed below guide placement of all students in MSAD 11 in conjunction with other relevant factors including English proficiency level and prior education.

Kindergarten	5 years old by October 15 of that year (This is the minimum age requirement established by Maine law.)
Grade 1	6 or 7 years old (Developmental readiness and prior schooling Experiences are considered in the placement decision.)
Grade 6, Middle School	11 or 12 years old
Grade 9, High School	14 or 15 years old A student who has reached the age of 20 before July 1 may not enroll in high school in accordance with Maine law. Any request for an exception to the age limit must be made to the Superintendent on a case-by-case basis to the Commissioner of Education.

C. DEFINING AND MEASURING ENGLISH LANGUAGE PROFICIENCY

The English language proficiency and academic achievement of MLs are monitored using multi-criteria assessments. One of these assessments is the ACCESS for ELLS®, and English language proficiency test administered annually in Maine to all MLs from kindergarten through grade 12. ACCESS for ELLS®, meets the federal requirements of assessing MLs' proficiency levels and provides reliable, valid, and useful information on the proficiency levels and progress of MLs in acquiring academic English. ACCESS for ELLS® English language proficiency standards are aligned with Maine Common Core Standards and are a requirement in Maine Comprehensive Assessment System (MeCAS).

- State law requires that ACCESS for ELLS® only be administered by an individual trained in administration.
- This test was developed based on the English Language Proficiency Standards as developed by WIDA (World-Class Instructional Design and Assessment) within five grade clusters. They are:

Kindergarten	
Grades	1
Grades	2-3
Grades	4-5
Grades	6-8
Grades	9-12

- ACCESS for ELLS assesses the domains of Speaking, Listening, Reading, Writing, and Comprehension skills of English language learners in Math, Language Arts, Social Studies, Science, and Social and Instructional language. It identifies five levels of English language proficiency (See Appendix G):

Level 1	Entering
Level 2	Beginning
Level 3	Developing
Level 4	Expanding
Level 5	Bridging
Level 6	Reaching

- In the State of Maine, a student whose composite score (35% reading, 35% writing, 15% speaking, 15% listening) is below Level 4.5 is classified as a Multilingual Learner (LEP is the federal term) and is eligible for ESOL programming.
- A student receiving a composite Level of 4.5 will be exited from ESOL Programming, be classified as FLEP (Former Limited English Proficient), and will no longer take ACCESS *for ELLS*®. The Language Assessment Team will monitor a student's academic progress for two years to ensure that they are continuing to be successful with ELD Programming.
- Under Title III the district is responsible for meeting three **Annual Measurable Achievement Objectives** (AMAOs) based on a student's composite score (35% reading, 35% writing, 15% speaking, and 15% listening). (See Appendix H)
 - AMAO I: Making progress in proficiency
 - AMAO II: Attaining proficiency
 - AMAO III: Adequate Yearly Progress (AYP) for MLs

D. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL) PROGRAMMING K-12

1. Monitoring student progress and responding to student needs

Learning a new language for school (academic language proficiency) involves taking many steps along the language acquisition continuum. The length of time to develop the level of proficiency in English that supports academic success will vary from student to student. Because the district is held accountable for how long a student requires ESOL programming, all teachers share the responsibility for supporting the English language proficiency of MLs and for communicating with parents about academic achievement. The overall focus of ESOL programming is for MLs to reach equivalency with native English-speaking peers. Because students spend a portion or all of their day in general education classrooms, ML teachers work together with general education teachers to develop and implement Structured English Immersion (SEI) instructional strategies that facilitate the development of English language proficiency.

- Each school has a LAT process. Membership on the team is fluid and its composition depends on the activities that must be accomplished by the team. The LAT will include an ML endorsed teacher and may include a representation of the following: classroom/content-area teacher, literacy specialist, parent, school counselor, and administrator or designee. As school-based Multi-Tiered System of Supports (MTSS) Team may share some of the responsibility of the LAT as long as a **certified teacher/administrator/specialist with ML endorsement** is a member of that team. A designated person should have the overall responsibility for the LAT. The LAT responsibilities include:
 1. Making ESOL programming decisions for newly registered ML students
 2. Monitoring individual student academic language acquisition and academic achievement, and recommending interventions and ESOL programming
 3. Discussing student achievement patterns and the overall effectiveness of ESOL programming
 4. Tracking progress of students whose parents have declined ESOL programming
 5. Discussing transition of students from grade 5 to 6 and grade 8 to 9
- Once a student is identified as eligible for ESOL programming the LAT makes ESOL programming recommendations within 30 days in compliance with parent notification and involvement requirements using the *English for Speakers of Other Languages (ESOL) Program for Multilingual Learners (ML) Initial Eligibility Parental Notification Form* (See Appendix B).

- For students currently enrolled in school, parents shall be notified of their child’s ESOL programming annually using the *Continued ESOL Program Eligibility Form* (See Appendix E) as required by the Every Student Succeeds Act. School LAT teams are responsible for notifying parents of continued ESOL program eligibility.
- Parents shall be invited to attend and participate in all LAT meetings pertaining to their child. Parents have the right to decline any program changes. If a parent declines ESOL programming, the school still must provide meaningful education (See appendices I & J: *Administrative Letters 27 & 11*). Parent notices and information will be provided in the major languages. In addition, an interpreter will be provided to assist parents in communicating with school staff and at LAT meetings to discuss the student's programming and progress in attaining English proficiency. Any staff member who works with a ML, a parent, or the student may request a LAT meeting **at any time** to assess student progress by completing a *LAT Referral Form* (See Appendix D).
- Individual student instruction is modified or accommodated as necessary, and the supports to be provided change as language proficiency increases. The kinds of support required for one subject may be different from the kinds of support required for other subjects. Additionally, students may not require support in all subject areas at any given time. When making program decisions the LAT uses current and historical qualitative data including:
 1. ACCESS for ELLS®
 2. District-approved curriculum-based measurements
 3. Assessments of general and emotional readiness, as measured by daily classroom performance, attendance, behavior, and mastery of basic learning strategies
 4. Standardized district writing prompts
 5. Common Performance Indicators (WIDA English Language Proficiency Standards)
 6. Educational background
 7. Classroom grades and academic performance
 8. Assessments in Maine’s Comprehensive Assessment System (MeCAS)
- All LAT meetings about individual student programming **must** be documented using appropriate forms and documentation placed in the student’s cumulative file.
- A language minority student who is experiencing classroom difficulties may be tested for English language proficiency at any time during the

school year. Test results will be reviewed by the LAT and recommendations will be made.

E. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL) PROGRAM

ESOL programming provides MLs with access to the general education curriculum through a continuum of instructional options. Information gathered from parents, academic records, and assessments informs programming placement in age-appropriate classrooms and determines the amount and type of language instruction and/or programming. Program oversight is provided by a certified teacher with ML endorsement as required by state and federal laws. A specialist or an administrator with teacher certification and ML endorsement can provide program oversight. Program delivery is provided by a team of educators which include an ML teacher, a general education teacher, a native language facilitator, and educational technician, or a volunteer, depending on individual student needs as determined by a Language Assessment Team (See Appendix H: *WIDA Performance Definitions* and Appendix G: *Annual Measurable Achievement Objectives (AMAOs) Summary*).

Level 1 – Entering

Recommended ESOL Placement K-12

- 2 periods per day
- Language programming may include:
 - Intensive English for Speakers of Other Languages
 - In class academic language support

Level 2 – Emerging

Recommended ESOL Placement K-12

- 2 periods per day
- Language programming may include:
 - Intensive English Language Development
 - In class academic language support

Level 3 – Developing

Recommended ESOL Placement K-12

- 1 period per day
- Language programming may be a combination of Level 2 - 4 services based on student need

Level 4 – Expanding

Recommended ESOL Placement K-12

- 1 period per week
- Language programming may include:

- Specialized Cognitive Academic Language Support for areas of need (reading, writing, vocabulary development, etc.)
- In class academic language support
- Academic tutoring as needed

F. ACCOMODATIONS FOR ASSESSMENT IN MeCAS

The district adheres to the ESSA requirement that all student with limited English language proficiency participate in Maine Comprehensive Assessment System (MeCAS); however, test scores of MLs who have lived in the United States for less than one year prior to taking these assessments are not counted for performance on Annual Yearly Progress (AYP). The district also observes the use of Maine Department of Education – approved accommodations for MLs taking these statewide mandated assessments and national assessments.

G. RECORD-KEEPING AND PARENT NOTIFICATION

- The following documents will be placed in a student’s cumulative file:
 - *Home Language Survey* (See Appendix A)
 - Parental notification of *English for Speakers of Other Languages (ESOL) Program for Multilingual Learners (ML) Initial Eligibility Parental Notification Form* (See Appendix B) completed and sent to parents by the school
 - Annual ACCESS testing results
 - Annual letter of *Continued ESOL Program Eligibility* (See Appendix E)
 - *Decline ESOL Program Form* (See Appendix C)
 - *LAT Referral Form* (See Appendix D)
 - *LAT Minutes Form* (See Appendix F)
- In accordance with federal guidelines, parents are notified of ACCESS test results and eligibility for ML programming on an annual basis. Notifications are translated into major languages and sent to parents. Parents also receive translated notification in major languages of educational programs and activities provided to other parents. The district, in agreement with the Office of Civil Rights, translates important documents such as report cards and student handbooks, in a language other than English spoken by at least 50 students.

H. PERIODIC PROGRAM EVALUATION

Using the Multilingual Learners (ML) *District Self-Study Guide* (See Appendix K), a review of district ML programming and services is completed every three years in context of current law (See Appendix L). Results are used to improve programming so that the needs of MLs are met. The Director of Special Services will oversee the district’s ML Program Evaluation with input and guidance from the district’s Lau Advisory Committee. The Lau Advisory Committee includes a representative from each school

with ML programs. Membership on the committee will represent school staff in various roles such as ML teachers, content-area teachers, general education teachers, special education teachers, and administrators.

I. SPECIAL NEEDS PLACEMENT

MLs may be intellectually gifted, have a learning disability or a behavioral disorder, or multiple exceptionalities like any other student. Determining special needs programming is a complex process. The screening and diagnosing of at-risk ML students is part of the MSAD 11 MTSS Process. The ML Program includes a number of pre-referral steps to determine whether there exist temporary learning and behavior characteristics shared by students with disabilities and ML students, or whether referral to special education is warranted.

Limited English proficiency is not a disability and is not covered by IDEA or Maine special education regulations. MLs should not be placed in any special education program unless exceptionality is well documents (including assessment of a student's native language skills). To assist in determining the appropriateness of a referral to special education or gifted and talented programs, the district's established pre-referral process and interventions will be followed, independent of the ML identification. The Process documents approaches utilized to provide positive supports for a student's learning.

APPENDIX A

<https://www.maine.gov/doe/learning/multilinguallerner/policy/survey>

Dear Parent/Guardian:

Maine welcomes families of all cultural and linguistic backgrounds. Speaking more than one language is a valuable asset, and we encourage families to maintain their languages while learning English. Students who speak or understand another language may be entitled to support to improve their English in order to meet Maine's challenging academic standards. The following questions, required for all students from pre-kindergarten through grade 12, will help your school determine whether your child may benefit from English language support services.

- If a language other than English is indicated, your child will be administered an English language screener.*
- Depending on your child's score, your child may be classified as an English Learner and eligible for English language support.*
- If you would like this letter and the survey below to be provided in another language, or if you would like an interpreter, your school will fulfill those requests.*
- If you have questions about this survey, please contact your school principal. Be assured that your answers will be used only for educational purposes. The completed survey will be kept in your child's permanent file, and only school staff will have access to it. No school employee may inquire about the immigration status of any member of your family.*

Thank you for providing this information, and I wish your student great academic success.

Sincerely,

April Perkins

Director of ESOL and Bilingual Programs, Maine Department of Education

LANGUAGE USE SURVEY

Student's Name: _____ Date of Birth: _____

School: _____ Anticipated Grade: _____

Please do not leave any question unanswered.

1. What language(s) did your child **first** speak or understand?
2. What language(s) does your child **most easily** speak or understand?
3. What language(s) do people use with your child daily?

Parent/Guardian Signature: _____ Date: _____

School Use Only

Post-enrollment Identification: If no language other than English is indicated by a parent/guardian on this survey, an English language screener may be administered only if this section is completed by a teacher.

Describe evidence that the student's English language development has been affected by a primary or home language other than English:

Teacher Signature: _____

Date: _____

*PLACE THE ORIGINAL OF THIS COMPLETED DOCUMENT IN THE STUDENT'S
PERMANENT RECORD FOLDER*

APPENDIX B

**English for Speakers of Other Languages (ESOL) Program for Multilingual Learners
(ML) Initial Eligibility Parental Notification**

To the parents of _____ Date: _____

School _____ Grade _____ Date of Birth _____

MSAD 11 provides English for Speakers of Other Languages (ESOL) programming for Multilingual Learners to support their access to the general education curriculum. The curriculum is designed to meet age-appropriate state and local academic standards for grade promotion and graduation.

Based on English language fluency test scores and a review of school records, we have determined your child’s eligibility.

_____ Your child is eligible for participation in ESOL programming.

_____ ESOL programming is not recommended for your child at this time.

This recommendation is based on the following criteria, as marked below:

- 1. _____ WIDA Screener Score _____
- 2. _____ Prior education and social experience
- 3. _____ Other tests
 - a. Test: _____ Score: _____

Overall English Proficiency Level

- Low Beginner (Entering) 1
- High Beginner (Emerging) 2
- Low Intermediate (Developing) 3
- High Intermediate (Expanding) 4

Date and time of meeting: _____ Location: _____

The method of instruction used in your child’s ML program will be as indicated below:

_____ Pullout program: Student will receive specialized English instruction several times a week.

_____ In-class support: Student will receive specialized English language support within the grade- level classroom.

_____ Sheltered English: Student will receive content-based English language instruction in the following checked areas: Social Studies _____ English _____ Mathematics _____

Science _____ Other (Specify): _____

You have the right to request that your child be placed in a different method of instruction if available.

cc: Parent, Student Cumulative File

If you have any questions please contact:

Elisha Morris, ESOL Coordinator for Multilingual Learners, MSAD 11 at 582-7366 or **emorris@msad11.org**

Heather Gilbert, ESOL Teacher for Multilingual Learners, MSAD 11 at **hgilbert@msad11.org**

cc: Student Cumulative Folder

APPENDIX C

DECLINE ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL) PROGRAM FORM

I, _____, decline English for Speakers of Other Languages

(Parent/Guardian)

programming for my son/daughter _____.

(Student)

Although I understand that his/her English language proficiency test scores indicate that he/she would benefit from this program. I understand that I can, at any time, request a review of this decision.

Parent Signature _____ Date _____

COMMENTS:

cc: Students Cumulative File

APPENDIX D

LANGUAGE ASSESSMENT TEAM (LAT) REFERRAL FORM

STUDENT: _____ **GRADE:** _____

SCHOOL: _____ **DATE:** _____

Team Members Present (Names & Titles):

_____	_____
_____	_____
_____	_____

REASON FOR REFERRAL:

SUMMARY OF DISCUSSION:

DECISION AND FOLLOW-UP:

Parent participation and notification of referral:

In Person _____ Phone Call _____ Written Summary _____

cc: Student Cumulative File

APPENDIX E

ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL) FOR MULTILINGUAL LEARNERS (MLS) CONTINUED ELIGIBILITY PARENTAL NOTIFICATION

To the parents of _____

Date: _____

School: _____

Grade: _____

MSAD 11 provides English for Speakers of Other Languages (ESOL) programming for Multilingual Learners (MLs) to support their access to the general education curriculum. The curriculum is designed to meet age-appropriate state and local academic standards for grade promotion and graduation.

Your child’s English academic language proficiency is assessed annually on the ACCESS for ELLS® to determine his/her continued eligibility for the school department’s ESOL program. Parents have the right to decline ESOL programming at any time during the school year by signing a “Decline ESOL Program Form” available at the student’s school.

The following decision was made based on your child’s ACCESS for ELLS® score. Please refer to the attached parent report for test score details. (A student is exited from the program when he/she attains a composite score of 4.5).

- _____ Continued participation in English for Speakers of other Languages (ESOL) programming
- _____ Exit from English for Speakers of other Languages (ESOL) programming
- _____ Monitoring of your child’s progress for two years after exit from the program

If you have any questions, please contact:

Elisha Morris, ESOL Coordinator for Multilingual Learners, MSAD 11, 582-7366 or [**emorris@msad11.org**](mailto:emorris@msad11.org)

Heather Gilbert, ESOL Teacher for Multilingual Learners, MSAD 11, [**hgilbert@msad11.org**](mailto:hgilbert@msad11.org)

cc: Student Cumulative File

APPENDIX F

LANGUAGE ASSESSMENT TEAM (LAT) MINUTES FORM

Student: _____

Date: _____

School: _____

Grade: _____

Team Members Present (Name & Title):

Reason for Meeting:

Summary of Discussion:

Recommendations/Accommodations:

Parental participation and notification of meeting:

In Person____ Phone Call____ Written Summary____

cc: Student Cumulative File

APPENDIX G

WIDA Performance Definitions

At the given level of English language proficiency, English language learners will process, understand, produce, or use:

6-Reaching	<ul style="list-style-type: none"> • specialized or technical language reflective of the content areas at grade level • a variety of sentence lengths of varying linguistic complexity in extended oral or written discourse as required by the specific grade level • oral or written communication in English comparable to English-proficient peers
5-Bridging	<ul style="list-style-type: none"> • specialized or technical language of the content areas • a variety of sentence lengths of varying linguistic complexity in extended oral or written discourse, including stories, essays or reports • oral or written language approaching comparability to that of English-proficient peers when presented with grade level material
4-Expanding	<ul style="list-style-type: none"> • specific and some technical language of the content areas • a variety of sentence lengths of varying linguistic complexity in oral discourse or multiple, related sentences or paragraphs • oral or written language with minimal phonological, syntactic or semantic errors that do not impede the overall meaning of the communication when presented with oral or written connected discourse with sensory, graphic or interactive support
3-Developing	<ul style="list-style-type: none"> • general and some specific language of the content areas • expanded sentences in oral interaction or written paragraphs • oral or written language with phonological, syntactic or semantic errors that may impede the communication, but retain much of its meaning when presented with oral or written, narrative or expository descriptions with sensory graphic or interactive support
2-Beginning	<ul style="list-style-type: none"> • general language related to the content areas • phrases or short sentences • oral or written language with phonological, syntactic, or semantic errors that often impede the meaning of the communication when presented with one-to-multiple-step commands, directions, questions, or a series of statements with sensory, graphic or interactive support
1-Entering	<ul style="list-style-type: none"> • pictorial or graphic representation of the language of the content areas • words, phrases, or chunks of language when presented with one-step commands directions, WH-, choice or yes/no questions, or statements with sensory, graphic or interactive support • oral language with phonological, syntactic, or semantic errors that often impede meaning when presented with basic oral commands, direct questions, or simple statements with sensory, graphic or interactive support

APPENDIX H**Annual Measurable Achievement Objectives (AMAO's) Summary**

AMAO I: Making progress in proficiency – AMAO that evaluates annual increase in the number of percentage of children making progress learning English (P.L. 107-110, Title III, Part A, Subpart 2)

- Are MLs progressing toward proficiency?
- Targets set by the state to determine whether students make adequate progress
- Weighted system that accounts for progress an ML makes over time
- Missing or invalid data has negative impact

Code Used for AMAO I Calculation	Length of Time as ML (years administered ACCESS)	Category
0	0-2 years	Short-term
1	3-4 years	Typical
2	5 or more years	Long-term
3	Data missing or invalid	Unknown

AMAO II: Attaining proficiency – AMAO that evaluates annual increase in the number or percentage of children attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency consistent with Section 1111(b)(7) of NCLB (P.L. 107-110, Title III, Part A, Subpart 2)

- Are MLs attaining proficiency?
- Number of MLs with composite score level (5-6)
- Threshold targets established for baseline year, which is the percentage of students attaining a composite score of 4.5, and each subsequent year.

AMAO III: Adequate Yearly Progress (AYP) for MLs – AMAO that measures adequate yearly progress for limited English proficient children (LEP/ML) as described in the Section 1111 (b)(2)(B) of NCLB (P.L. 107-110, Title III, Part A, subpart 2)

- Are MLs making AYP?
- AYP data for reading and mathematics used to determine if district made AYP in ML subgroup (participation and proficiency)
- AMAO III is not met if the ML subgroup does not make AYP

APPENDIX I

Legal Requirements to Provide English Language Acquisition Services to Students Who are English Learners

Posted on August 22, 2019 by Maine Department of Education

ADMINISTRATIVE LETTER: 27

POLICY CODE: IHBEA

TO: Public School Administrators

FROM: Pender Makin, Commissioner

The purpose of this letter is to clarify the legal requirements for providing English for Speakers of Other Languages (ESOL) services to students who are English learners.

Identification of Students who are English Learners (EL)

It is a federal requirement that all students who are English learners be identified within 30 days of enrollment from the beginning of the school year, or within two weeks of enrollment during the school year.

Each School Administrative Unit (SAU) must administer the Maine Department of Education's Language Use Survey to the parent/guardian of every student, pre-kindergarten through 12th grade, enrolling in the SAU for the first time. The Language Use Survey must be included in the SAU's enrollment packet or online enrollment system. If a student changes schools within a SAU, a new Language Use Survey is not required.

The Language Use Survey is available for download on the Maine Department of Education website in English and 25 of Maine's most commonly spoken languages. Parents/guardians are entitled to complete the Language Use Survey in their preferred language. SAUs must provide translation/interpretation services upon request.

The purpose of the Language Use Survey is to identify potential students who are English learners. The Language Use Survey decision tree provides guidance on its use. If any question is answered with a language other than English, the student should be administered an English language proficiency screener. (Note that Sign Language is not a qualifying language for English learner status. However, if a student uses Sign Language and an additional language other than English, the student may be eligible for English learner status.) See the resource and policy guide, *Serving Maine's Students who are English Learners*, for information about the required screeners and identification thresholds, by grade level.

Students who were screened for EL status but did not initially qualify may be rescreened at any time if a potential need for ESOL support becomes apparent.

<https://www.maine.gov/doe/learning/multilinguallerner/policy/survey>

Exit Criteria from ESOL Services

In order to exit from ESOL services, a student must demonstrate English language proficiency. The Maine Department of Education defines English language proficiency as an overall composite proficiency level of 4.5 on ACCESS for ELLs®. No other measure qualifies a student who is an English learner for exit. While a district may choose to continue to provide language support services to students who have demonstrated English language proficiency, such students are no longer classified as English learners and are no longer administered ACCESS for ELLs® (or Alternate ACCESS, if applicable).

Students who are English learners with an IEP exemption from a domain or domains on ACCESS for ELLs/Alternate ACCESS are eligible to exit based on their performance on the non-exempt domains. The Maine Department of Education calculates an overall composite proficiency level for such students, utilizing a score of 4.5 on the exempt domain(s) and weighting domains according to WIDA's overall composite score weighted formula.

Monitoring and Reentry into EL Status

Per federal guidance, SAUs are to monitor the performance of former students who are English learners for at least two years after exiting. If, during the two years of monitoring, or at any time thereafter, a former student who is an English learner shows a potential need for continued ESOL support, the student must be rescreened with the WIDA Screener Online to determine English learner status. If a student scores below the state-defined identification threshold, he/she must be reentered into English learner status, must receive ESOL services, and must take ACCESS for ELLs (or Alternate ACCESS, if applicable) until exiting.

Delivery of ESOL Services

An SAU is required to determine the components of an effective English language acquisition program tailored to the needs of each student, which may include, but is not limited to, tutoring, additional classroom support, materials, sheltered instruction, professional development for content area teachers, or other strategies (Office for Civil Rights December 1985 Title VI policy memorandum, Title VI Language Minority Compliance Procedures).

The Maine Department of Education requires the English language support program for a student who is an English learner to be provided or overseen by a 660 ESOL-endorsed teacher. (See 34 Code of Federal Regulations C.F.R. Section 100.3 (b)(ii)). All students who are English learners must be provided with English language support services that enable them to meaningfully access the curriculum in order to meet grade-level standards. English language development and content area knowledge are to be acquired simultaneously, rather than consecutively. In other words, English language proficiency is not a prerequisite to participate in mainstream classes. If students who are English learners receive services that remove them from content area classes

(such as a newcomer program or pull-out services), any academic deficits that result must be remedied so the student remains on track with his/her non-EL peers academically.

English language support services are to be provided in a way that minimizes the isolation of students who are English learners from the general student population and encourages students who are English learners to participate in all aspects of the school program, including advanced coursework, career and technical education, gifted and talented programs, and extracurricular activities. Students who are English learners are entitled to ESOL services until exiting by demonstrating English language proficiency on ACCESS for ELLs® (or Alternate ACCESS, if applicable).

Administration of ACCESS for ELLs® or Alternate ACCESS

Federal and State laws require that the English language proficiency of all students who are English learners be measured annually as a component of accountability under the Elementary and Secondary Education Act (ESEA). If a student is identified as an English learner, that student must be administered ACCESS for ELLs (or Alternate ACCESS, if applicable) annually until the student demonstrates English language proficiency. The Maine Department of Education defines English language proficiency as a composite proficiency level of 4.5 on ACCESS for ELLs or level P2 on Alternate ACCESS. Failure of all students who are English learners to participate in the annual administration of ACCESS for ELLs/Alternate ACCESS may affect ESEA Title IA funding.

State law requires that ACCESS for ELLs/Alternate ACCESS be administered only by an individual trained in its administration. It is not required that this individual be an ESOL-endorsed teacher. However, only an ESOL-endorsed teacher is qualified to design, oversee, and implement an English language support program, which includes the interpretation of ACCESS for ELLs/Alternate ACCESS results.

If parents/guardians have questions about the purpose of ACCESS for ELLs/Alternate ACCESS, direct them to ACCESS for ELLs: FAQs for Parents/Guardians.

Enrollment of Immigrants and International Students

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin, among other factors, by public schools. SAUs are required under federal law to enroll children regardless of citizenship or immigration status (*Plyler vs. Doe*). This applies equally to students who are immigrants and international students attending a Maine public school as an exchange student or tuition-paying student. All students, including those who are immigrants and international students, must be screened for English learner status. Any student who is identified

as an English learner, regardless of citizenship or immigration status, is entitled to ESOL services and must be administered ACCESS for ELLs (or Alternate ACCESS, if applicable) annually. International/exchange students are not exempt from Title I required state academic assessments. In Maine, recently arrived English learners who have been enrolled in a U.S. school for less than 12 months are exempt from one administration of the state's English language arts assessment only. See the

SAUs are not permitted to discourage the enrollment of children who are undocumented immigrants by asking about their immigration status, denying enrollment to those with international birth certificates, or denying enrollment to children whose parents decline to provide their social security numbers or race and ethnicity information. Federal regulations allow schools to ask for children's social security numbers to be used as student identifiers. However, they should inform parents of the purpose and that disclosure of such numbers is voluntary. Schools may not deny enrollment if parents refuse to provide a child's social security number. SAUs may require proof that a child lives within SAU boundaries, which may include lease agreements, utility bills, or other documents. However, schools may not ask parents about a child's immigration status to establish residency. SAUs may require proof of a child's age, but they may not bar enrollment because a child has an international birth certificate or no birth certificate. See this fact sheet from the Departments of Justice and Education for more details about acceptable documentation requests.

Rights of Students who are English Learners to Education

The Civil Rights Act of 1964 remains the foundation of the legal rights of a student who is an English learner. *Lau v. Nichols* confirms that all students who are English learners are entitled to meaningful access to the curriculum. If a parent refuses ESOL services this must be documented, but parental refusal does not release the school or SAU from its responsibility to provide meaningful education to students who are English learners. If a student who is an English learner cannot make academic progress without ESOL services, the student has a right to ESOL services, even if a parent refuses. Parental consent is not required to administer an English language proficiency screener or ACCESS for ELLs/Alternate ACCESS. Under State law SAUs are responsible for administering ACCESS for ELLs® to all students who are English learners, regardless of parental consent (20-A M.R.S. §6209(1-A)).

Students who are English Learners and Special Education

Students may qualify for, and have legal entitlement to, both ESOL and special education services. Appropriate screening is required to determine students' eligibility for each type of service. Depending on a student's learning disability and Individual Education Plan (IEP), universal testing tools or accommodations may be needed in order to measure English language

proficiency. When evaluating a student who is an English learner for learning disabilities, screening must be linguistically and culturally appropriate. It is advisable to measure a student's skills in the student's primary language in order to clarify whether challenges are due to a learning disability or English language development.

Students who are English learners should not be placed in a special education program unless their exceptionality is well-documented, and appropriate procedures for special education services have been followed. English learner status is not a disability and is not covered by the Individuals with Disabilities Education Act (IDEA) or Maine Unified Special Education Regulations (MUSER).

For students who are English learners with IEP teams, the United States Department of Education has provided the following guidance:

“It is important that IEP Teams for ELs with disabilities include persons with expertise in second language acquisition and other professionals, such as speech-language pathologists, who understand how to differentiate between limited English proficiency and a disability. The participation of these individuals on the IEP Team is essential in order to develop appropriate academic and functional goals for the child and provide specially designed instruction and the necessary related services to meet these goals.”

Students who are English learners with learning disabilities are eligible for exit from ESOL services when they demonstrate English language proficiency by achieving an overall composite proficiency level of 4.5 on ACCESS for ELLs (or level P2 on Alternate ACCESS, if applicable).

If you have questions, or would like further information regarding serving students who are English learners, please contact April Perkins, ESOL/Bilingual Programs, at april.perkins@maine.gov or (207)624-6627.

APPENDIX J

Clarification: When Parents Decline English as a Second Language (ESL) Services for English Learners

Posted on September 13, 2010 by Jennifer Pooler

ADMINISTRATIVE LETTER: 11

POLICY CODE: IHBE

TO: Superintendents of Schools

FROM: Angela Faherty, Ph.D., Commissioner of Education

DATE: September 13, 2010

RE: Clarification: When Parents Decline English as a Second Language (ESL) Services for English Learners

The purpose of this letter is to clarify the requirements for serving an English Learner, even if parents decline ESL services.

Federal law requires that an English Learner receive ESL services.

Federal law requires that states define English language proficiency and provide ESL services to all who do not meet that definition. Maine defines English language proficiency as attaining a Level 6 Composite score on the State's English language proficiency assessment ACCESS for ELLS®. If a parent refuses ESL services, meaningful education must still be provided. When a parent refuses ESL services, the parent's refusal of ESL services must be documented, but it does not release the school or School Administrative Unit (SAU) from its responsibility for providing meaningful education to the English Learner. If parental refusal of ESL services denies an English Learner access to a meaningful education, this violates the English Learner's rights. A parent cannot refuse "education" and if an English Learner cannot access education without ESL services, then the school/SAU must support the academic learning of the English Learner. If an ESL program is necessary in order to ensure academic progress for the English Learner, then ESL services must be provided.

The Civil Rights Act of 1964 remains the foundation of the legal rights of an English Learner.

"No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 U.S.C. 2000d)

Rights of English Learners

This has been interpreted by courts as requiring a qualified ESL teacher to be provided to English Learners to ensure that they are not excluded from participation in meaningful education.

In addition, an Office for Civil Rights Memorandum of 1991 requires a qualified ESL endorsed teacher for English Learners, in order that they are not relegated to second-class status by

allowing a teacher without formal qualifications to teach them while requiring teachers of non-English Learners to meet formal qualifications (See 34 Code of Federal Regulations C.F.R. Section 100.3 (b)(ii)).

Schools/SAUs do not need parental permission to test a student.

If a parent refuses to allow a student to participate in a State assessment, refer to the superintendent's/SAU's/school's policy on procedures to follow when a parent refuses to allow a child to participate in a State assessment. The ACCESS for ELLS® is a federally and state-required annual assessment and participation is a component of No Child Left Behind (NCLB) accountability. Failure of English Learners to participate in the annual administration of the ACCESS for ELLS® may affect NCLB Title IA funding. Even if a parent has refused ML services, if that student has been identified as an English Learner, then that student must be administered the ACCESS for ELLS® annually until that student attains the State's definition of English language proficient, which is defined as a Level 6 Composite score on the ACCESS for ELLS®.

If you have any questions or would like further information, please contact April Perkins, Director of ESOL/Bilingual Programs, at 207-624-6788 or april.perkins@maine.gov

APPENDIX K**MULTILINGUAL (ML) DISTRICT SELF-STUDY GUIDE**

This Guide is designed to provide the district/building with a comprehensive overview of its practices and procedures. Please mark the answer by each statement that best describes your school district. In this district self-study guide, the term Multilingual Learners (MLs) will be used instead of Limited English Proficiency (LEP). For definitions of terms please see attachments.

IDENTIFICATION

1. The district has a procedure to identify all students who have a primary or home language other than English. Please attach a copy of the procedures.	Yes	No
2. District staff is knowledgeable of the procedures for identifying students who have a primary language other than English.	Yes	No
3. School/district staff that works directly with parents and students in the identification of students, who have a primary of home language other than English, speak and understand the appropriate language(s).	Yes	No
4. Documentation regarding each student's primary or home language is maintained in student's file.	Yes	No

ASSESSMENT AND EVALUATION

5. The district assesses on a yearly basis the English language proficiency of all students identified as having a primary or home language other than English in the four language areas (oral/speaking, reading, writing, and listening).	Yes	No
6. The district conducts language proficiency assessments for students who have a primary or home language other than English, using: 6a. Formal assessments (e.g., tests). Name of test(s) used:	Yes	No
6b. Informal assessments (e.g., teacher interviews, observations)	Yes	No
7. Students who have a primary or home language other than English are assessed for language proficiency in their primary or home language.	Yes	No
8. The district has developed procedures to determine the effectiveness of its informal assessment procedures. Please attach a copy of it.	Yes	No

9. The district has determined the level of English-language proficiency at which students are considered English proficient. Please attach a copy of description.	Yes	No
10. The district assesses MLs academic skills in relation to their grade or age level. Name(s) of instrument(s) used to assess MLs academic skills.	Yes	No
11. MLs who have been in the U.S. for 2 consecutive years are tested in English in reading/language arts.	Yes	No
12. The district assesses MLs in the language and form most likely to yield accurate and reliable results. Language(s) used: _____ _____	Yes	No
13. The district uses the “Guidelines for the Inclusion of English Language learners in Your District-wide Assessment Program” or similar documents to guide decision-making.	Yes	No
13a. Total number of MLs included in your district wide assessment		
13b. Number of MLs included in the district wide assessment with <ul style="list-style-type: none"> • No accommodations • With accommodations Please attach documentation of accommodations used.		
13c. Number of MLs NOT included in your district-wide assessment.		
14. The district has established qualifications for individuals who administer language or academic assessments to MLs.	Yes	No

PROGRAM (e.g., ESL, Bilingual, etc.)

15. Programs are available for MLs at each grade level.	Yes	No
16. There are no substantial delays (e.g., more than 30 days) in placing ML into an appropriate educational program.		
17. There is coordination of curriculum between teachers for MLs and teachers in the regular program.		

18. MLs in the high school program earn credits toward graduation.					
19. Instructional materials are adequate to meet the English language and academic needs of MLs.					
20. Parents are involved in the process of placing MLs in appropriate educational program.					
21. The district has a system to evaluate the success of their ML program. Please attach a copy of the description of the evaluation plan.					
22. Label the program(s) at each level or attach a copy of description.					
Level	Program (see definitions)	Teachers with ML endorsement	Ed. Techs		
Elementary					
Middle					
High					

STAFF

23. The district has established qualifications for teachers who teach MLs.	Yes	No
24. The district has established qualifications that the teachers and Ed. Techs must meet.	Yes	No
25. The district has teachers with ESL endorsement to teach MLs.	Yes	No
25a. Number of MLs		
25b. Number of teachers with ESL endorsement		
26. The district provides high-quality professional development to classroom teachers and other district personnel.	Yes	No
26a. Number of mainstream teachers that participated		

26b. Number of ESL teachers that participated		
26c. Number of Ed. Techs that participated		
27. The district provides training for interpreters and translators.	Yes	No
28. Professional development activities are designed to improve instruction and assessment of MLs; enhance teachers' ability to understand and use curricula, assessment measures, and instructional strategies for MLs; are based on scientifically based research; and are of sufficient intensity and duration to have a lasting impact on teachers' performance.	Yes	No
29. Teachers of MLs are fluent in English and, when appropriate, in any other language(s) used for instruction, including having written and oral communication skills.	Yes	No
30. The district has provided training to staff who administer, interpret the results of the assessment methods used.	Yes	No

EXIT CRITERIA

31. The district has established an exit criterion. Please attach a description of it.	Yes	No
How many MLs exit the program after:		
31a. Less than 1 year		
31b. 1 to 3 years		
31c. 3 to 5 years		
31d. 5 years or more		
32. The exit criteria ensure that MLs can:	Yes	No
32a. Speak English sufficiently well to participate in the district's general educational program.		
32b. Read English sufficiently well to participate in the district's general educational program.	Yes	No
32c. Write English sufficiently well to participate in the district's general educational program.	Yes	No
32d. Comprehend English sufficiently well to participate in the district's general educational program.	Yes	No

33. The district monitors the academic progress of MLs who have exited the program.	Yes	No
33a. Average years of monitoring		
34. The school district determines whether MLs are performing at a level comparable to their English-speaking peers. Please attach documentation	Yes	No
35. The district has established procedures for responding to deficient academic performance of MLs. Please attach a copy of procedures	Yes	No
36. MLs re-enter the alternative language program if they experience academic difficulties in the regular program.	Yes	No
Please describe under what conditions.		
37. Honor, award, or other special recognition rates of MLs are similar to those of their peers.	Yes	No
37a. Percent of English-monolingual students in Gifted and Talented programs.		
37b. Percent of MLs in Gifted and Talented programs.		
37c. Percent of MLs in district.		

PROGRAM EVALUATION

38. The district conducts a formal evaluation of its program for MLs to determine its effectiveness. Please attach a copy of the report	Yes	No
39. The district disaggregates data of MLs.	Yes	No
39a. Grade level	Yes	No
39b. Graduation	Yes	No
39c. Dropout rates	Yes	No
39d. Gender	Yes	No
39e. English proficiency	Yes	No
39f. Economically disadvantaged	Yes	No
39g. Multiple measures of academic achievement	Yes	No

Please attach copies of disaggregated data

EQUITABLE ACCESS

40. The quality of facilities and services available to MLs are comparable to those available to all other students.	Yes	No
41. The quality and quantity of instructional materials in the program are comparable to the instructional materials provided to all other students.	Yes	No
42. MLs participate in classes, activities, and assemblies with all the other students.	Yes	No
43. MLs have access to the full school curriculum (both required and elective courses, including vocational education) while they are participating in the language program.	Yes	No
44. Counseling services provided to MLs are comparable to those available to all other students.	Yes	No
45. MLs have opportunities for full participation in special opportunity programs, (e.g., Gifted & Talented, Advanced Classes, Title I, Special Ed., etc.)	Yes	No
46. MLs are not segregated while taking their classes.	Yes	No
47. In general, MLs are integrated in classes such as P.E., music, art, etc.	Yes	No

SPECIAL EDUCATION

48. The district utilizes procedures for identifying MLs who may be in need of special education services. Please attach a copy	Yes	No
49. The district's procedures for identifying and assessing MLs for special education takes into account language and cultural differences. Please attach a copy	Yes	No
50. Testing instruments used to assess MLs for special education placement are valid and reliable for these specific students.	Yes	No
51. Persons who administer special education assessment to MLs are specifically trained in administering the tests.	Yes	No
52. Staff who conduct special education assessments to MLs are fluent in the student's primary language.	Yes	No
53. The instructional program for MLs in special education takes into account the student's language needs.	Yes	No
54. The district ensures coordination between the regular and the special	Yes	No

education programs in meeting the particular needs of ML who are in special education.		
55. The district identifies and places all MLs who need special education services in a timely manner.	Yes	No
56. The parents or guardians of special education MLs are notified of their rights and responsibilities in a language they can best understand.	Yes	No

NOTICES TO PARENTS

57. The district communicates with parents/guardians of students with a primary home language other than English in a meaningful way (a form that parents can understand). For example, school forms are translated. Please attach copies of translated forms.	Yes	No
58. Parents of MLs are notified no later than 30 days after the beginning of the school year of their child’s identification, and participation of ESOL programming as well as both student and parental rights.	Yes	No
59. The district uses interpreters or translators to assist in communicating with parents/guardians who do not speak English.	Yes	No
60. Parents/guardians of MLs are well informed of the district’s special educational programs.	Yes	No

This self-study is based on data from _____ academic year.

District or Building: _____

Address: _____

Administrator: _____

Completed by: _____ **Date:** _____

Title: _____

Phone: _____

E-mail: _____

Please add comments as needed.

APPENDIX L

IMMIGRANTS and FOREIGN STUDENTS

Posted on May 26, 2011 by Maine Department of Education

ADMINISTRATIVE LETTER: 39

POLICY CODE: IH

Topics included in this letter:

- Enrollment of immigrants and foreign students
- Determination of English proficiency required
- Program of services to immigrants and foreign students
- State assessments required for immigrants and foreign students

School administrative units (SAUs) are required under federal law to enroll children regardless of citizenship or immigration status. While the federal guidance offered here relates to immigrant students, the Department has confirmed that it applies equally to foreign students attending a Maine public school as either an exchange student or a tuitioned student.

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin, among other factors, by public schools. In addition, *Plyler v. Doe*, the 1982 decision by the U.S. Supreme Court, held that a state may not deny access to a basic public education to any child, whether that child is present in the country legally or not.

School administrative units are not to discourage the enrollment of undocumented immigrant children by asking about their immigration status, denying enrollment to those with foreign birth certificates, or denying enrollment to children whose parents decline to provide their Social Security numbers or race and ethnicity information. Federal regulations allow schools to ask for children's Social Security numbers to be used as student identifiers. However, they should inform parents of the purpose and that disclosure of such numbers is voluntary. Schools may not deny enrollment if parents refuse to provide a child's Social Security number.

The federal Education and Justice Departments stress in a fact sheet and a question-and-answer document that schools may require proof that a child lives within SAU boundaries. This may include lease agreements, utility bills, or other documents, but schools may not ask parents about a child's immigration status to establish residency.

Schools may also ask for birth certificates to establish that a child falls within minimum and maximum age requirements, but they may not bar enrollment because a child has a foreign birth certificate or no birth certificate. (To determine age of the child, in lieu of birth certificate for proof of age go to: Resource Guide: Serving Maine's English Learners)

Moreover, SAUs are responsible for identifying which of its students have limited English proficiency and providing them with an effective program that affords meaningful access to the SAU's educational program (Office for Civil Rights December 1985 Title VI policy)

memorandum, Title VI Language Minority Compliance Procedures). This means that the SAU is responsible for administering the home language survey to all students, assessing them on the English language proficiency assessment screener test (W-APT), and, if identified as an English learner, providing them with an effective English language acquisition program. The SAU is required to determine the components of this program, i.e., whether it includes tutoring, additional classroom support, materials, teacher sheltering of instruction, or other strategies.

Under the Elementary and Secondary Education Act (ESEA), as amended, a foreign student would not be exempt from any Title 1 required assessment. Additionally, if the student is identified as an English learner, she/he must also participate in the annual State English language proficiency (ELP) assessment the ACCESS for ELLS®.

If you have questions regarding foreign students, please contact April Perkins at 624-6788 or via email at: april.perkins@maine.gov

SPECIAL EDUCATION INDEPENDENT EVALUATION POLICY

MSAD #11 has adopted this policy regarding special education independent educational evaluations, consistent with state and federal special education regulations.

An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by ~~MSAD #11~~ the school district. An independent educational evaluation at public expense means that the school either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent. Qualified examiners in private practice under contract with the school unit who have not previously evaluated, instructed or provided consultation regarding a particular student are eligible to provide an independent educational evaluation of the student.

A parent has a right to obtain an independent evaluation at public expense when they disagree with the evaluation done by the school, as set forth below.

If a parent requests an independent educational evaluation at public expense, the school unit may ask for the parent's reason why they object to the public school's evaluation. However, the school unit may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or denying the request and filing for a due process hearing to defend the public school's evaluation.

A parent is entitled to only one independent educational evaluation at public expense each time the school conducts an evaluation with which the parent disagrees, but only if other conditions in this policy are also met.

If ~~MSAD #11~~ the school district refuses to provide an independent evaluation at public expense, then the school unit must initiate a due process hearing within 30 days of receiving the request. If the hearing officer upholds the appropriateness of the school unit's evaluation, then the parents shall be fully responsible for the cost of the independent evaluation. If the hearing officer concludes that the school unit's evaluation was not appropriate, then the school district must pay for the cost of the independent educational evaluation.

The following criteria must be met if the school unit is going to approve an independent evaluation at public expense. Unique circumstances may justify deviation from these criteria. If a parent or school staff member is aware of such unique circumstances, they should inform the student's case manager or the school unit's special education director immediately.

1. ~~MSAD #11~~ The school district will provide to parents, upon request for an independent educational evaluation, information about where an independent evaluation may be

obtained, and the criteria set forth in this policy for obtaining an independent evaluation at public expense.

2. For an independent educational evaluation to be funded at public expense, it must meet the following conditions:
 - A. The parents must be in disagreement with a school-ordered evaluation;
 - B. The contested school evaluation is inappropriate in the opinion of the Director of Special Services;
 - C. The proposed independent evaluator is appropriately qualified professional to conduct the type of evaluation being considered;
 - D. The person or agency completing the independent evaluation submits a written report that conforms to all the requirements for written evaluations set forth in Maine special education regulations, currently found at MUSER V;
 - E. The cost of the evaluation shall not be higher than the Medicaid rate ceiling for comparable evaluation services, unless the family establishes that an independent evaluation is not available at or below the Medicaid rate ceiling for that evaluation, and in that event, the cost of the evaluation shall not exceed the usual and customary rate for such evaluations in Kennebec County;
 - F. A complete copy of the independent evaluation has been provided to ~~MSAD #11~~ the school district before payment;
 - G. The evaluator has reviewed relevant educational records as part of the evaluation;
 - H. Unless otherwise determined by the members of the child's IEP Team, the evaluator has either: a) observed the child in one or more educational settings; or b) made at least one contact with the child's general education teacher for the purpose of determining how the student is progressing in the general curriculum. Evaluators are encouraged to make additional contacts with other involved general and special education teachers and related service providers;
 - I. The evaluator is permitted to directly communicate and share information with members of the IEP Team, the Special Education Director, and the Director's designees. The evaluator must also release the assessments and results, including any parent and teacher questionnaires, to members of the IEP Team, the Director of Special Services, and the Director's designees; and

- J. ~~MSAD #11~~ The school district shall be entitled to inspect and obtain copies of the evaluator's records, including any records created by third parties. However, those records will not be deemed accessible to any school personnel other than the evaluator, unless and until the School Department exercises its right to inspect or obtain copies of those records from the evaluator.
3. The Director of Special Services will respond within 30 days of receipt of a request for an independent evaluation at public expense. In the event that the Director is denying the request, the Director must also file for a due process hearing prior to the conclusion of that same 30-day time period.
 4. A parent cannot request an independent evaluation at public expense in response to a school evaluation that is more than two years old. When the parent requests an independent evaluation at public expense in an assessment area that has not been evaluated by the school, ~~MSAD #11~~ the school district shall notify the parent that it cannot approve or deny such a request until after the school has had the opportunity to complete a school-ordered evaluation in the area requested. The Director of Special Services should refer the question of additional school-ordered evaluations in the areas of concern to the IEP Team.
 5. A qualified examiner is permitted to observe a child at school or at a potential educational placement when the qualified examiner is not employed by the school and is conducting an independent educational evaluation at the request of the parent, at times and durations as the school would permit a qualified examiner that is employed by the school.
 6. If a parent provides ~~MSAD #11~~ the school district with a copy of an independent educational evaluation, the IEP team will consider the evaluation whether or not that evaluation is provided at public expense. ~~MSAD #11~~ The school district will not accept or rely on any independent educational evaluation that does not meet state regulatory criteria for evaluations.

Legal Reference: Maine Unified Special Education Regulations, Maine Unified Special Education Regulations ("MUSER") ch. 101, § V (2015); 34 C.F.R. § 300.502 (2006)

Adopted: April 5, 2018

Revised:

PROGRAMMING IN THE LEAST RESTRICTIVE ENVIRONMENT

The school district shall provide program for students with disabilities in the least restrictive educational environment that can appropriately address the student's needs. Toward that end, the school district shall ensure that, to the maximum extent appropriate, students with disabilities are educated with students who are not disabled, and that special education, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Determinations regarding programming in the least restrictive environment shall be made by the student's Individualized Education Program (IEP) and shall draw upon a multidisciplinary assessment of the student's needs. The school district shall make available, as appropriate, the full continuum of educational placements when making placement determinations.

The Superintendent, in consultation with the Director of Special Education, may develop and promulgate procedures for implementing this policy and may, from time to time, amend those procedures as necessary.

Legal Reference: 20 USC § 1412(a)(5)
 34 CFR §§ 300.550-.552
 Ch. 101 §§ 10.2 (August 2017) (Me. Dept. of Ed. Rules)

Adopted: May 3, 2007

Revised: August 4, 2011; April 5, 2018

PROGRAMMING IN THE LEAST RESTRICTIVE ENVIRONMENT ADMINISTRATIVE PROCEDURE

Determinations regarding least restrictive programming may be made by the student's Individualized Education Program (IEP) in the following manner:

- A. The IEP should first assess whether education in the regular classroom, with the use of supplementary aids and services, can be achieved satisfactorily. In making that determination, the IEP should assess each of the following factors:
1. What supplementary aids and services may assist the student in obtaining a satisfactory education in the regular classroom.

Supplementary aids and services may include, but are not limited to, resource room services, itinerant services, assistive technology services, modifications of curriculum, use of teacher aides, and consultation services from special educators.

When assessing supplementary aids and services, the IEP need not order placement in the regular classroom if it would require modification of the regular curriculum beyond recognition or would result in the student not having to learn any of the skills normally taught in that regular education curriculum.

2. A comparison of the benefits the student would receive in the regular education classroom with those that the student would receive in a more restrictive setting, such as a self-contained program.

The assessment of benefits should consider both academic and social benefits of participation in the placement at issue. The IEP should also assess academic and social detriments for the student that may arise from the placement at issue.

In some circumstances, large social benefits of regular education may outweigh small academic benefits, just as large academic benefits of a more restrictive setting may outweigh small social benefits of a regular education placement.

3. What effect would placement of the student in the regular classroom have on other students in the classroom?

The IEP need not place a student in the regular classroom when the student's behavior, even with supplementary aids and services, would be so disruptive that the education of other students is significantly impaired. Nor would the IEP need to place the student in the regular classroom when the student would require so much of the teacher or the aide's time that the rest of the class suffers.

4. What the financial cost would be of the supplementary aides and services accompanying an appropriate placement in the regular classroom.

Placement in the regular classroom may not be rejected under this factor simply because it would be incrementally more expensive than placement in a more restrictive setting. Yet the school district need not educate a student in the regular classroom if the cost of such a placement would significantly impact upon the education of other students. In most circumstances, the school district need not place a student in the regular classroom if such placement requires that the student have his/her own full-time teacher.

- B. If the IEP determines after assessing the above factors that the student is unable to be educated satisfactorily in the regular classroom with supplementary aids and services, the IEP shall then determine the maximum extent of mainstreaming that the student may appropriately receive.

In making this determination, the IEP shall consider the full continuum of alternative placements—such as placing the student in regular education for some academic classes and in special education for others, mainstreaming the student for nonacademic classes only, or providing interaction with non-disabled students during lunch and recess.

In making placement determinations, the IEP shall attempt to give preference to placements in the student's neighborhood school district. When the special services needed by the student are sufficiently specialized or expensive that they are provided by the school district only in a school building other than the student's neighborhood school, the IEP may place that student in the school where the specialized services exist, rather than

replicate those services in the neighborhood school. This determination should not impact, in most circumstances, on the IEP's determination regarding the extent to which the student is able to participate in regular education.

Placements in residential programs shall be made only when the IEP determines that the student is not otherwise able to receive some educational benefit from a day program.

Legal Reference: 20 USC § 1412(a)(5)
34 CFR §§ 300.550-.552
Ch. 101 §§ 10.2 (August 2017) (Me. Dept. of Ed. Rules)

Adopted: May 3, 2007

Revised: August 4, 2011; April 5, 2018

**MAINE SCHOOL ADMINISTRATIVE DISTRICT NO. 11
JOB DESCRIPTION**

TITLE: LITERACY SPECIALIST

QUALIFICATIONS:

Required:

1. Minimum of 5 years as a K-5 teacher with evidence of skillful instruction and assessment practices;
2. Minimum of a Masters in Literacy, Education, or Special Education;
3. Maine Department of Education authorization as a Literacy Specialist; and,
4. Belief that all students can learn and achieve success in school.

Additional Skills Preferred:

1. Understanding of the needs of students who struggle academically;
2. In-depth knowledge of current trends, research and best practices related to reading instruction;
3. Experience with collaborating with teachers to improve interventions;
4. Possession of strong oral and written communication skills;
5. Skillful in the use of technology, especially spreadsheets;
6. Willingness and ability to work positively and collaboratively with administration, staff, students, and parents;

REPORTS TO: Building Principal and Director of Curriculum and Instruction

JOB GOAL: Supervising the daily operations of and supporting instructional services for the Title I Program; Provide reading intervention services to K-5 students

TITLE 1 DUTIES AND RESPONSIBILITIES:

Planning and Preparation

1. Assess levels of student achievement effectively, analyze data, and prescribe actions for improvement at the program level;
2. Actively implement strategies and action steps within the Title I program (inclusive of literacy and math) defined to support the school and district in achieving annual goals and long-term objectives.
3. Create or select short- and/or long-range student goals based upon grade level expectations, student data, and instructional priorities.
4. Develop instructional routines and plans that positively impact student growth and enable achievement of the students' learning goals.
5. Identify, select, and modify instructional materials to meet the needs of students with varying backgrounds, special needs, and learning goals.

Administrative/Management

1. Maintain a positive, organized, and safe learning environment;
2. Use time effectively to meet the expectations of the position;
3. Assist the school in the compilation of data to evaluate progress toward school goals;
4. Establish and maintain effective and efficient record keeping procedures. Oversee the Title I program records (math and literacy) to ensure that all files are complete and up-to-date, inclusive of assessment records, individual student plans, reports, and family communication;
5. Ensure that each Title I reading student has a complete and accurate MTSS tier 3 record and end-of-trimester progress reports; and,
6. Ensure that all end-of-year reporting requests by the Director of Curriculum for the Title I program in your school have been completed.

Assessment/Evaluation

1. Develop and use assessment strategies to assist students in reaching grade level expectations;
2. Interpret data, including but not limited to standardized and diagnostic measures, and engage in instructional planning and program evaluation;
3. Assist teachers in selecting, administering, and evaluating results of screening, diagnostic, and progress assessments;
4. Communicate, in understandable terms, individual student progress to the student, parents, and professional colleagues who need access to the information.
5. Consult and communicate with the Title I team and leadership on program planning, student progress, and Title I issues.

Intervention/Intervention Support

1. Consult with teachers regularly to provide feedback on student progress and offer suggestions for improvement;
2. Observe students in classrooms to identify areas where they may need extra help with reading or writing skills;
3. Teach students individually or in small groups, depending upon the learning goals established for each student.

Family Engagement

1. Design and conduct workshops and events for families about ways to help their children with literacy and numeracy learning at home. Engage support staff in the conceptual development of the event and in the event itself. Manage the logistics, administrative tasks, and schoolwide and home-school communication.
2. Be present for all parent-teacher conferences.
 - a. Fall conferences: Engage families who have had established Title I program relationships and who have concerns. Be available to staff who need additional Title I program expertise or literacy expertise in any of their parent-teacher conferences.

- b. Spring conferences: Actively engage all Title I families in conferences for math and literacy.

Professional Responsibilities:

1. Attend staff development workshops/conference as requested by the Building Principal or Director of Curriculum and Instruction;
2. Perform other duties/reports as assigned by the Director of Curriculum and Instruction or Building Principal.

BUILDING DUTIES AND RESPONSIBILITIES:

1. Perform routinely assigned duties. Duties will be assigned in an equitable fashion ensuring Title I staff have equal responsibilities to others in similar positions.
2. Serve on appropriate building or district-level committees, as requested or when possible.
3. Provide professional development in literacy as it aligns with district goals and objectives, when requested.

PHYSICAL REQUIREMENTS/ENVIRONMENTAL CONDITIONS:

1. Requires stooping, bending, sitting, walking, reaching, squatting, carrying, pushing, climbing, and kneeling;
2. Must be able to work with students;
3. Must have the ability to handle emotional/physical stress;
4. Must work in a noisy and crowded environments; and
5. Ability to lift 25-50 lbs.

LEGAL AND ETHICAL DUTIES:

1. Maintains confidentiality about all aspects of student performance and staff information;
2. Demonstrates a respect for the legal and human rights of students;
3. Meets and follows all laws and regulations at both the State and Federal levels;
4. Follows health and safety procedures established by the district;
5. Arrives and departs punctually, notifying appropriate personnel about absences and coverage;
6. Demonstrates loyalty, dependability, integrity, and other ethical standards;
7. Follows the chain of command for various administrative procedures for student or program concerns; and
8. Observes all School Board Policies and Procedures.

TERMS OF EMPLOYMENT: In accordance with the contract as negotiated by the School Board.

EVALUATION: Performance shall be evaluated in accordance with the provisions of the Board's policy on evaluation of teachers to be completed annually.

The above job description reflects the general requirements necessary to describe the primary functions or responsibilities of the job identified and shall not be interpreted as a detailed description of all work requirements that may be inherent in the job, either at present or in the future.

To perform this job successfully, an individual must be able to perform each duty and responsibility satisfactorily. The requirements are representative of the knowledge, skill, and ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Approved by the MSAD 11 School Board:

AH - DRAFT:

October 19, 2022

November 4, 2022

February 7, 2023

MAINE SCHOOL ADMINISTRATIVE DISTRICT NO. 11

JOB DESCRIPTION
DRAFT Proposed Version

TITLE: EDUCATIONAL TECHNICIAN III – TITLE I MATH AND READING

QUALIFICATIONS:

Required:

1. High school Diploma or equivalent;
2. Documentation of at least three years of post-secondary education preferably in educationally related work and/or combination equivalent to 90 hours of approved study; and
3. Maine Department of Education authorization as an Educational Technician III Certificate 023.

Additional Skills Preferred:

1. Understanding of the needs of students who struggle academically;
2. Demonstrates appropriate aptitude for the work to be performed;
3. Possession of strong oral and written communications skills;
4. Strong organizational and interpersonal skills;
5. Strong technology skills;
6. Willingness and ability to work collaboratively with others; and
7. Ability to work positively and collaboratively with administration, staff, students, and parents.

REPORTS TO: Building Principals/Director of Curriculum and Instruction

JOB GOAL: Providing instructional services for the Title 1 Program to implement targeted math or reading interventions to K – 5 students.

TITLE I DUTIES AND RESPONSIBILITIES:

1. Work under the directions of and in cooperation with the content area coach, building administrator, or Director of Curriculum and Instruction to provide-short-term supplemental instruction of individual and/or small groups of students to build basic skills as outlined in tier three plans.
2. Meet with an instructional coach and Title I staff on a regular basis to review the progress of students with whom they are working and to assist in planning for targeted instruction. Carry out instructional plans that have been co-created with the instructional coach to support strategic skill building with small groups of students.
3. Consult and communicate with the Title I team and leadership on program planning, student progress, and Title I issues.
4. Consult with classroom teachers or the MTSS team in planning tier 3 plans for students identified through the MTSS process.
5. Identify and maintain current roster of eligible Title 1 students;
6. Communicate regularly with classroom teachers and parents;
7. Attend parent conferences and/or IEP meetings, if requested;
8. Undertake diagnostic assessments/evaluations to support the development of a focused instructional plan;
9. Participate in annual parent meetings to communicate Parent Compact information and enhance parental involvement;

10. Attend staff development workshops/conference as requested by the Building Principal or Director of Curriculum and Instruction;
11. Monitor and document student progress in MTSS plans and complete progress reports; and,
12. Perform other duties/reports as assigned by the Director of Curriculum and Instruction or Building Principal.

BUILDING DUTIES AND RESPONSIBILITIES:

1. Perform routinely assigned duties. Duties will be assigned in an equitable fashion ensuring Title I staff have equal responsibilities to others in the same position.
2. Serves on appropriate building-level committees, as requested by the Building Principal, during school hours (e.g. school safety team).

PHYSICAL REQUIREMENTS/ENVIRONMENTAL CONDITIONS:

1. Requires stooping, bending, sitting, walking, reaching, squatting, carrying, pushing, climbing, and kneeling;
2. Must be able to work with students;
3. Must have the ability to handle emotional/physical stress;
4. Must work in a noisy and crowded environments; and
5. Ability to lift 25-50 lbs.

LEGAL AND ETHICAL DUTIES:

1. Maintains confidentiality about all aspects of student performance and staff information;
2. Demonstrates a respect for the legal and human rights of students;
3. Meets and follows all laws and regulations at both the State and Federal levels;
4. Follows health and safety procedures established by the district;
5. Arrives and departs punctually, notifying appropriate personnel about absences and coverage;
6. Demonstrates loyalty, dependability, integrity, and other ethical standards;
7. Follows the chain of command for various administrative procedures for student or program concerns; and
8. Observes all School Board Policies and Procedures.

TERMS OF EMPLOYMENT: In accordance with the contract as negotiated by the School Board.

EVALUATION: Performance shall be evaluated in accordance with the provisions of the Board's policy on evaluation of Educational Technicians to be completed annually.

The above job description reflects the general requirements necessary to describe the principle functions or responsibilities of the job identified and shall not be interpreted as a detailed description of all work requirements that may be inherent in the job, either at present or in the future.

To perform this job successfully, an individual must be able to perform each duty and responsibility satisfactorily. The requirements are representative of the knowledge, skill, and ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Approved by the MSAD 11 School Board: January 8, 2015

Revised: