

English Language Development Staffing Requirements

Language instruction for English learners (EL) is a required core instructional requirement, as are mathematics, English language arts and science. District and charter school policies regarding scheduling and substitute teaching responsibility must ensure that students continue to receive all services for which they qualify, including EL services, even within in-person, hybrid and distance learning models. EL instruction is necessary and eliminating it or reducing English language development instruction may be considered a form of discrimination based on national origin (or language).

Legal considerations: Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act establish English learners as a protected group and obligate states and districts to act to overcome language barriers that impede equal participation in core instructional programs. The act prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. The Department of Justice and the Office for Civil Rights of the USDE investigate violations and ensure that states and districts uphold these obligations.

Scheduling: As districts design in-person, hybrid and distance learning plans, EL instruction continues to be required for all EL-identified students. Specific contact times and program models (push-in, co-taught, pull-out, etc.) should be identified in each student’s schedule and include contact with an EL-licensed teacher. This contact could be in-person (with appropriate health considerations), via distance learning or a combination of both.

Substitute Teaching: It is critical that EL identified students receive EL services. Districts and charter schools should consider EL student rights as they plan their policies for determining who will be responsible for substitute teaching. While EL teachers can be expected to help out in a substitute rotation including all teachers, EL instruction should not be interrupted. If the EL teacher is pulled from instructing English learners, there must be a plan to ensure language instruction is not interrupted.

Thus, the following activities may be considered a violation of the above requirements:

- 1) Removing EL teachers from their class schedule leaving English learners without instruction in English language development on a regular or ongoing basis.
- 2) Eliminating EL service and replacing it with a “consultation model” that only includes language support in the mainstream classroom and does not include any direct instruction of the required English language development standards.
- 3) Using licensed EL teachers to replace teachers on leave; not equitably spreading out the duty of substitute teaching across all appropriately-licensed staff.
- 4) Replacing a licensed teacher in the mainstream classroom with a teacher only licensed for English as a Second Language; not ensuring students receive content instruction from a qualified teacher.

If you have further questions regarding these requirements, please contact mde.el@state.mn.us.