

ATTACHMENT A

POLICY TITLE: English Learner Monitoring Policy (replaces the English Language Learners Policy)	
ADOPTION/EFFECTIVE DATE: October 26, 2015	MOST RECENTLY UPDATED: June 19, 2017

PURPOSE

This policy identifies practices that may be preventing English learners' (EL students') success and provides guidance on how the DC Public Charter School Board (DC PCSB) will monitor schools' compliance with local and federal laws related to EL students. This document also identifies flags that may trigger additional monitoring to ensure that schools are complying with all applicable laws.

The School Reform Act (SRA), D.C. Code §§ 38-1802 *et seq.*, requires public charter schools to comply with all applicable laws and tasks DC PCSB with ensuring this compliance.¹ The SRA explicitly states that public charter schools must comply with Title VI of the Civil Rights Act of 1964 (Title VI).² In addition, DC PCSB has determined that other laws related to the education of students who are Limited English Proficient, Non-English Proficient, or EL students as defined in federal law³ or the laws of the District of Columbia,⁴ are applicable law, including but not limited to the Equal Educational Opportunities Act of 1974 (EEOA). As such, DC public charter schools must comply with these laws and their interpretations as provided by relevant agencies, including guidance or regulations issued by the U.S. Department of Education, the Department's Office for Civil Rights (OCR), and the District of Columbia Office of the State Superintendent of Education (OSSE).⁵ Generally, public charter schools have a duty to take appropriate action to overcome language barriers that impede equal participation by students in their instructional programs.⁶

¹ See D.C. Code §§ 38-1802.12(c)(1), 38-1802.13(a)(1), 38-1802.11(a)(1)(B).

² D.C. Code § 38-1802.04(c)(5).

³ See 20 U.S.C. § 7801(25).

⁴ See D.C. Code § 38-2901(7).

⁵ Certain laws and regulations may be applicable only to schools that receive particular grants or federal funding.

⁶ See *Lau v. Nichols*, 414 U.S. 563, 566-67 (1974) (stating that where inability to speak and understand English excludes national origin-minority group children from effective participation in the educational program offered by a school district, Title VI requires that the school district take affirmative steps to rectify the language deficiency); see also 20 U.S.C. §1703(f) ("No State shall deny any equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by . . . the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by students in its instructional programs.")

POLICY

The table below outlines base requirements for meeting the needs of ELs and corresponding flags that may indicate a school is not meeting these requirements. All requirements are aligned to guidance issued by OCR, which can be found [here](#).

Requirements	Potential Flags
A school must provide meaningful access to all curricular and extracurricular programs.	<ul style="list-style-type: none"> • A school receives poor feedback on a Qualitative Site Review (QSR) Report regarding EL instruction (<i>i.e.</i>, receives scores of nearly all ones and twos per the Danielson Framework for Teaching). • EL students' growing English language proficiency levels are not leading to academic progress (<i>i.e.</i>, EL students reaching WIDA levels 3.0 or 4.0 continue to score at the lowest PARCC levels).
A school shall not unnecessarily segregate EL students. ⁷	<ul style="list-style-type: none"> • Classroom observations, transcript audits, and/or school schedule suggest that a school's language acquisition program routinely segregates EL students from mainstream, rigorous academic instruction and/or non-academic subjects such as recess, physical education, art, and music. • Rates of exclusionary discipline for EL students, including out-of-school suspension and expulsion, are double the rates of exclusionary discipline for non-EL students.
A school must provide language assistance to EL students, monitor the effectiveness of its language assistance program, and ensure that the program is properly staffed and supported.	<ul style="list-style-type: none"> • The school is not able to provide responses to DC PCSB's EL Questionnaire prior to a QSR. • Half of a school's EL students have either not progressed or regressed on the WIDA assessment.

⁷ Where there are legitimate program-related justifications, school districts may require or allow EL students to receive separate instruction for a limited period of time (*e.g.*, in a short-term newcomer program). However, districts must implement their chosen EL program in the least segregative manner consistent with achieving the program's stated educational goals. *Dear Colleague Letter* at 22-23.

	<ul style="list-style-type: none"> • Only 25% of a school’s EL students met growth targets on the WIDA assessment. • Data from literacy and language screeners on EL students in early grades (Pre-kindergarten–3rd grade) reveal consistent pattern of weak oral language development for EL students. • A community complaint alleges that students are not offered appropriate academic support. • EL students are re-enrolling at the school at half the rate of non-EL students. • The rate of midyear withdrawals for EL students is double the rate of midyear withdrawals for non-EL students.
<p>A school is required to meet the needs of students who opt out of EL programs or particular services⁸</p>	<ul style="list-style-type: none"> • A family/community complaint about opt out process or student progress.
<p>A school is required to identify and assess all potential EL students, monitor and exit EL students from EL programs and services and ensure meaningful communication with limited English proficient parents.</p>	<ul style="list-style-type: none"> • The school did not include a Home Language Survey in its enrollment packet. • The school continues to administer the WIDA exam to students who have met the state’s exit criteria. • The school did not sufficiently complete the DC PCSB English Language Learners Services Assurance Letter during the compliance review process. • A family/community complaint regarding rights of EL students.
<p>A school is required to evaluate EL students for special education and</p>	<ul style="list-style-type: none"> • Disproportionate number¹⁰ of students are dual identified as

⁸ If parents opt their children out of an EL program or specific EL services, the children retain their status as EL students, and the school district remains obligated to take the “affirmative steps” required by Title VI and the “appropriate action” required by the EEOA to provide these EL students access to its educational programs. *Dear Colleague Letter* at 30-31.

¹⁰ In determining disproportionality for this or any other trigger in this policy, DC PCSB will look to relevant case resolutions issued by OCR. For the purposes of this policy, DC PCSB staff will reach out to the school when EL students are identified at either double or half the rate of non-EL students at the school.

provide dual services. ⁹	<p>Special Education students and EL students.¹¹</p> <ul style="list-style-type: none"> • Community complaint that students are not being provided with appropriate services. • Special Education Audit indicates that school is not properly evaluating or serving EL students with disabilities.
A school must accept and enroll all students regardless of national origin or language spoken. ¹²	<ul style="list-style-type: none"> • Lottery procedures indicate that a mandatory in person meeting in English is required to enroll. • Enrollment packet requires documentation that may discourage a student from enrolling.

In the event that DC PCSB staff identifies one or more of the flags listed above, they may initiate the following process:

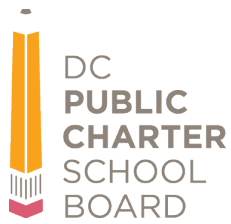
- DC PCSB staff will notify the school’s staff of its concerns. DC PCSB may ask the school respond to DC PCSB’s notice by offering an acknowledgement and plan to remedy, by providing a programmatic justification, or by providing evidence to contest DC PCSB’s conclusions. DC PCSB staff will consider the school’s response before taking any further action.
- DC PCSB may request that the school provide additional information about its current language acquisition program as well as written evidence that the program is properly staffed and has been evaluated and deemed effective in meeting the needs of EL students.¹³

⁹ School districts must provide students concurrently with both the language assistance and disability-related services to which they are entitled. Districts may not delay disability evaluation of EL students based on their EL status. *Dear Colleague Letter* at 24-25.

¹¹ See *Dear Colleague Letter* at 24 (“School districts must not identify or determine that EL students are students with disabilities because of their limited English language proficiency.”); see also Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973.

¹² See, generally, U.S. Dep’t of Justice & U.S. Dep’t of Education, *Dear Colleague Letter: School Enrollment Procedures* (2014), available at <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/08/plylerletter.pdf>.

¹³ *Castañeda v. Pickard*, 648 F.2d 989 (5th Cir. 1981), established a three-part test, adopted by OCR, to evaluate the adequacy of a program for EL students. Specifically, OCR considers whether: (1) The educational theory underlying the language assistance program is recognized as sound by some experts in the field or is considered a legitimate experimental strategy; (2) the program and practices used by the school system are reasonably calculated to implement effectively the educational theory adopted by the school; and (3) the program succeeds, after a legitimate trial, in producing results indicating that students’ language barriers are actually being overcome within a reasonable period of time. *Dear Colleague Letter* at 6. In evaluating a school’s EL program, DC PCSB considers these same factors.



- DC PCSB may ask school leaders to adjust internal procedures to ensure full compliance with the requirements included in the English Language Learners Services Assurance Letter.
- DC PCSB staff may meet with the school to review data and discuss progress serving EL students or conduct site visits and classroom observations to observe EL instruction.
- Should concerns persist, DC PCSB Board Members may inquire with the school's board about ongoing concerns. Persistent academic and legal concerns will be considered during reviews and renewals, and if a school's actions are deemed systemic, the school may be issued a Notice of Concern.

Board Approval Acknowledged By:

Darren Woodruff
DC PCSB Board Chair

Disclaimer: This publication is designed to provide information on the subject matter covered. It is distributed with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. Readers will be responsible for obtaining independent advice before acting on any information contained in or in connection with this policy.