

Elementary and Secondary Education Act Programs

The Elementary and Secondary Education Act was first passed by Congress in 1965 as part of President Lyndon B. Johnson's War on Poverty. The most recent reauthorization of this legislation is the No Child Left Behind Act of 2001 (NCLB). The primary function of NCLB is to close the achievement gap between groups of students by requiring greater accountability and offering increased flexibility and choice. NCLB affects almost every charter school in the state.

20 USC 6301 *et seq.*

Early Intervening Service

The education of students with disabilities can be made more effective by providing incentives for whole-school approaches, scientifically-based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label students as disabled in order to address the learning and behavioral needs of such students.

(20 USC 1400(c)(5)(F))

In implementing coordinated, early intervening services, the local educational agency (LEA) may carry out activities that include:

1. professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

2. providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

(20 USC 1413(f)(2); 34 CFR 300.226(b))

An early intervening service (including a response-to-intervention or (RTI)) process cannot delay the initial evaluation for special education services of a child suspected of having a disability. A parent may request an evaluation at any time to determine whether her child is a child with a disability. If a parent requests an evaluation and the school agrees that the child may be eligible for special education, the school must evaluate the child or provide notice to the parent explaining the basis for the refusal. The parent may challenge the refusal to evaluate through the impartial hearing process.

(20 USC 1413(f)(3); 34 CFR 300.226(c))

Bilingual Education Program

Under Texas Education Code (TEC) Chapter 29, Subchapter B and 19 TAC §§89.1201-1265, schools and charter schools must identify Limited English Proficient (LEP) students based on state criteria. Schools and charter schools must provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses. Schools and charter schools receive a bilingual allocation for providing such instruction to be used for program and student evaluation, materials, salary supplements, etc. See TEC §42.153. Up to 15 percent of the allotment may be used for indirect costs (transportation, administration, etc.). See *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011), available at: <http://www.tea.state.tx.us/charter/>.

Student with Disabilities and Limited English Proficiency:

It is the policy of Universal Academy Open Enrollment Charter School to ensure that a student with limited English proficiency who also qualifies for special education services as a student with a disability under the Individuals with Disabilities Education Act (IDEA) is not refused services in a bilingual education or English as a second language program solely because the student has a disability. (19 TAC §89.1230)

Applicability of Title Relating to Bilingual Education:

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to bilingual education under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code. (TEC §12.104(b)(2)(G))

The Universal Academy Open-Enrollment Charter School adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code pursuant to TEC §12.104(b)(2)(G). Where "school" is used in Subchapter B (Bilingual Education and Special Language Programs), the Universal Academy Open-Enrollment Charter School hereby substitutes "open-enrollment charter school" to conform to these requirements.

Establishment of Bilingual Education and Special Language Program:

The open-enrollment charter school shall establish a Bilingual Education (BE) or English as a Second Language (ESL) program as required by TEC §29.053 (Establishment of Bilingual Education and Special Language Programs) and in accordance with the procedures established by the Texas Education Agency, unless otherwise excepted under TEC §29.054 (Exception). (TEC §29.053)

Language Proficiency Assessment Committees:

The open-enrollment charter school shall further establish a Language Proficiency Assessment Committee (LPAC) that complies with TEC §29.063 (Language Proficiency Assessment Committees). (TEC §29.063)

Program Content; Method of Instruction:

The open-enrollment charter school's program content and method of instruction shall comply with TEC §29.055 (Program Content; Method of Instruction). (TEC §29.055)

Enrollment of Students in Program:

The open-enrollment charter school shall comply with the Texas Education Agency criteria for identification, assessment, and classification of students of limited English proficiency eligible for entry into the program or exit from the program. (TEC §29.056(a))

The student's parent must approve a student's entry into the program, exit from the program, or placement in the program. The open-enrollment charter school or parent may appeal the decision under TEC §29.064 (Appeals). (TEC §29.056(a))

The open-enrollment charter school through its language proficiency assessment committee (LPAC) shall evaluate and consider reenrollment of students who have transferred out of a bilingual education or special language program under TEC §29.056(g) as required by TEC §29.0561 (Evaluation of Transferred Students; Reenrollment). (TEC §29.056(b))

Facilities; Classes:

The Universal Academy open enrollment charter school ensures that bilingual education and special language programs are located in the regular public charter school rather than in separate facilities.). (TEC §29.057)

Enrollment of Students Who Do Not Have Limited English Proficiency:

The open-enrollment charter school ensures that enrollment of students who do not have limited English proficiency may occur only if the requirements of TEC §29.058 (Enrollment of Students Who Do Not Have Limited English Proficiency) are met. (TEC §29.058)

Cooperation among Schools:

The open-enrollment charter school may cooperate with other schools or charter schools to provide a bilingual education or special language program. (TEC §29.059)

Preschool, Summer School, and Extended Time Programs:

Each open-enrollment charter school that is required to offer a bilingual education or special language program shall offer a voluntary program for children of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the school year. A school that operates on a system permitted by the Texas Education Code other than a semester system shall offer 120 hours of instruction on a schedule the governing board establishes. The program shall meet the requirements of TEC §29.060. (TEC §29.060(a))

Enrollment of a child in the program is optional with the parent of the child. (TEC §29.060(b))

The program must be an intensive bilingual education or special language program that meets standards established by the Texas Education Agency. The student/teacher ratio for the program may not exceed 18/1. (TEC §29.060(c))

An open-enrollment charter school may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual education or special language programs for students of limited English

proficiency and may join with other schools or schools in establishing the programs. (TEC §29.060(d))

The programs required or authorized by TEC §29.060 may not be a substitute for programs required to be provided during the regular school year. (TEC §29.060(e))

The legislature may appropriate money from the foundation school fund for support of a program under TEC §29.060(a). (TEC §29.060(f))

Bilingual Education and Special Language Program Teachers:

The open-enrollment charter school shall ensure that bilingual education and special language program teachers are properly certified. (TEC §29.061)

Appeals:

A parent of a student enrolled in a bilingual education or special language program may appeal to the Commissioner if the open-enrollment charter school fails to comply with the requirements established by law or by the Texas Education Agency. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the open-enrollment charter school governing body. Appeals shall be conducted in accordance with procedures adopted by the Commissioner. (TEC §29.064)

PEIMS Reporting Requirements:

The open-enrollment charter school shall meet Public Education Information Management System (PEIMS) Reporting Requirements with respect to its bilingual education or special language programs. (TEC §29.066)