

## Red Tape Review Rule Report (Due: September 1, 2023)

<b>Department Name:</b>	Education	<b>Date:</b>	July 17, 2023	<b>Total Rule Count:</b>	6
<b>IAC #:</b>	281	<b>Chapter/ SubChapter/ Rule(s):</b>	60	<b>Iowa Code Section Authorizing Rule:</b>	256.7(31)“c” 257.31(5)“j” 280.4
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**PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE**

**What is the intended benefit of the rule?**

The intended beneficiaries of this law are Iowa’s English learners and their families. The percent of K-12 English learner students was 6.6 for public schools and 4.2 for nonpublic schools in 2021-2022.

**Is the benefit being achieved? Please provide evidence.**

English learners are receiving supports from Iowa schools, as reflected by the most recent Condition of Education report.

**What are the costs incurred by the public to comply with the rule?**

There is a cost to provide assessment and instruction to English learners. This is partially defrayed by state categorical funding, modified allowable growth available from the SBRC, and Title III funds.

**What are the costs to the agency or any other agency to implement/enforce the rule?**

The Department of Education is required to monitor and enforce this chapter. It dedicates one FTE to supporting Iowa’s English learners.

**Do the costs justify the benefits achieved? Please explain.**

Yes. According to the Condition of Education report, Iowa’s English learners appear to be recovering from losses associated with the COVID-19 pandemic, especially in the early elementary grades.

**Are there less restrictive alternatives to accomplish the benefit?  YES  NO**

**If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.**

The rule is required by Iowa Code section 280.4; however, the Department has considered a reduced regulatory footprint by eliminating obsolete language, updating other language, and providing clearer guidance for nonpublic schools that serve English learners.

Section 280.4 requires nonpublic schools to serve English learners; however, current chapter 60 purports to require nonpublic schools to serve English learners only if those services could be provided by public school districts. This proposed rule chapter would require nonpublic schools to serve all English learners; however, the standard would be “minor adjustments.” This is consistent with other laws where nonpublic schools are expected to provide services (e.g., Section 504).

**Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]**

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The Department proposes removing unnecessary restrictive terms and language that is duplicative of statutory language.

**RULES PROPOSED FOR REPEAL (list rule number[s]):**

Rule 60.1 (unnecessary)

**RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):**

Rules 60.2 through 60.6 (renumbered, and set out below)

**\*For rules being re-promulgated with changes, you may attach a document with suggested changes.**

**METRICS**

<b>Total number of rules repealed:</b>	<b>1</b>
<b>Proposed word count reduction after repeal and/or re-promulgation</b>	<b>607</b>
<b>Proposed number of restrictive terms eliminated after repeal and/or re-promulgation</b>	<b>31</b>

**ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?**

None noted

**Proposed New Chapter 60**

CHAPTER 60  
PROGRAMS FOR STUDENTS WHO ARE ENGLISH LEARNERS

**281—60.1(280) Definitions.** As used in these rules, the following definitions apply:

“*Educational and instructional model*” means an instructional model, strategy, method, or skill that provides a framework of instructional approaches to guide decision making about teaching and learning. Based on the needs of particular students, “educational and instructional model” may include a specific set of instructional services or a fully developed curriculum or other supplementary services.

“*English as a second language*” refers to a structured language acquisition program designed to teach English to students whose native language is other than English, until the student demonstrates a functional ability to speak, read, write, and listen to English language at the age- and grade-appropriate level.

“*English learner*” is defined in Iowa Code section 280.4(1)(b)(1).

“*Fully English proficient*” is defined in Iowa Code section 280.4(1)(b)(2).

“*Intensive student*” is defined in Iowa Code section 280.4(1)(b)(3).

“*Intermediate student*” is defined in Iowa Code section 280.4(1)(b)(4).

“*Research-based*” means based on a body of research showing that the educational and instructional model, or other educational practice, has a high likelihood of improving teaching and learning. To determine whether research meets this standard for purposes of this chapter, research reports are reviewed for the following:

1. The specific population studied;
2. Research that involves the application of rigorous, systematic, and objective procedures to obtain reliable results and provide a basis for valid inferences relevant to education activities and programs;
3. Whether the research employs systematic, empirical methods that draw on observation or experiment;
4. Reliance on measurement or observational methods that provide reliable and valid data;
5. Inclusion of rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions or inferences drawn;
6. Description of the magnitude of the impact on student learning results; and

7. Inclusion of the level of the review of the study.

“*Bilingual instruction*” refers to a program of instruction in English and the native language of the student designed to enable students to become proficient in English and in academic content areas at an age- and grade-appropriate level.

**281—60.2(280) School district responsibilities.**

**60.2(1) *Student identification and assessment.*** A school district shall use the following criteria in determining a student’s eligibility:

*a.* To determine the necessity of conducting an English language assessment, the district includes a Home Language Survey as part of the registration process. If the answers to the Home Language Survey indicate the prominent use of another language in the home, the student is assessed by the district using the state approved English language proficiency screener assessment to determine eligibility for language development services. A student scoring proficient is not eligible for services. If a student does not score proficient on the screener assessment, the student is determined to be an English learner.

*b.* The student is assessed annually on the state’s approved summative English language proficiency assessment aligned to the state’s English language proficiency standards in order to determine progress and attainment of English. A consistent plan of evaluation which includes ongoing evaluation of student progress is developed and implemented by the district for each student so identified.

**60.2(2) *Staffing.*** Teachers in an English as a second language (ESL) program are to possess a valid Iowa teaching license and an ESL endorsement.

**60.2(3) *English learner placement.*** Placement of students identified as English learners are to be in accordance with the following:

*a.* Content classes. Students will be placed in classes with age-appropriate peers. Students will be provided instructional strategies to support content learning at all levels of language proficiency.

*b.* English learner program placement.

(1) Students enrolled in a program for English learners receive systematic English language instruction designed to allow meaningful access to the district’s educational programs.

(2) When students of different age groups or educational levels are combined in the same class, the school ensures that the instruction given is appropriate to each student’s level of educational attainment. Programs are to be research-based and grounded in sound language acquisition theory.

(3) A program of bilingual instruction may include the participation of students whose native language is English.

(4) A student exits the English language development program upon scoring proficient on the state-approved annual summative English language proficiency assessment.

(5) All district instructional staff and area education agency staff responsible for implementing the educational and instructional models defined in rule 281—60.1(280) receive such professional development as may be necessary to implement those educational and instructional models. Such professional development is delivered in accordance with chapter 281—83(284), including qualification of providers. In determining whether providers meet the standards in chapter 281—83(284), the following nonexhaustive factors may be considered, as they are relevant to the particular professional development to be provided:

1. English as a second language endorsement or equivalent;

2. Five years of English as a second language teaching experience; or

3. A graduate degree in teaching English to speakers of other languages or in a related field.

**60.2(4) *Research-based educational and instructional models.*** Districts are to utilize research-based educational and instructional models as defined in rule 281—60.1(280) with English learners so that such students may acquire English proficiency and meet high academic standards.

**281—60.3(280) Department responsibility.** The department of education will provide technical assistance to school districts, including advising and assisting schools in planning, implementation, and evaluation of programs for English learners.

**281—60.4(280) Nonpublic school participation.**

**60.4(1) *General.*** A nonpublic school provides services under by this chapter; however, the standard for services, if the nonpublic school does not receive services funded by subrule 60.4(2), the standard for such services is “minor adjustments” to curriculum and instruction.

**60.4(2) *Public school services.*** English as a second language and transitional bilingual programs offered by a public school district are available to students attending an accredited nonpublic school located within the district. The district obtains funding for such students in accordance with rule 60.5(280).

**281—60.5(280) Funding.**

**60.5(1) Weighting.** Weighting for English learners is set forth in Iowa Code section 280.4(3). A student’s eligibility for additional weighting is transferable to another district of residence.

**60.5(2) Supplemental aid or modified supplemental amount.** In addition to weighting, the school budget review committee (SBRC) may grant supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting or for costs in excess of the weighting to provide instruction to English learners above the costs of regular instruction.

*a.* A school district of residence may apply to the SBRC by the date specified in rule 289—6.3(257) for supplemental aid or a modified supplemental amount for an unusual need for funding beyond the amount generated from weighting for students identified as English learners who are provided instruction beyond the regular instruction. The eligible supplemental aid or modified supplemental amount will be calculated as the total actual English learner program expenditures for the previous year, reduced by the English learner funding generated in the previous budget year based on the English learner count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

*b.* A district of residence may apply to the SBRC for supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting no later than December 1 following the date specified in Iowa Code section 257.6(1) for the certified enrollment. The supplemental aid or modified supplemental amount will be calculated by multiplying the number of resident students identified as English learners who are provided instruction beyond the regular instruction, and who are being served beyond the five years of weighting on the certified enrollment, by the weighting provided under subrule 60.5(1), multiplied by the district cost per pupil in the current year.

*c.* The SBRC will act on the requests described in paragraphs 60.5(2) “*a*” and “*b*” no later than its March regular meeting. If the SBRC grants the district’s request for supplemental aid or a modified supplemental amount, the department of management will increase the district’s budget authority by that amount.

The SBRC may require the district to appear at a hearing to discuss its request for supplemental aid or a modified supplemental amount.

**60.5(3) Use of funds.** English learner funding is categorical funding and follows the general provisions in 281—Chapter 98. Appropriate expenditures for the English learner program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. Appropriate and inappropriate expenditures are set forth in 281—Chapter 98.

**60.5(4) Annual reporting.** Districts are to include and identify the detail of financial transactions related to English learner resources, expenditures, and carryforward balances on their certified annual report, using the account coding appropriate to the English learner program as defined by Uniform Financing Accounting for Iowa School Districts and AEAs. Each district submits its certified annual report following the close of the fiscal year, but no later than September 15.

These rules are intended to implement Iowa Code sections 256.7(31) “*c*,” 257.31(5) “*j*” and 280.4.