**ELE COMPLIANCE REVIEW IN COLLABORATIVES**

G.L. c. 71A is the state law applicable to the education of English learners in public schools in the Commonwealth. State law defines an English learner as “a child who does not speak English or whose native language is not English, and who is currently unable to perform ordinary work in English.” Federal law uses a similar definition for English learners. ESEA § 8101(20). This document refers to English learners as “ELs.”

After a student is identified as an EL, the school district must place the student in an English language program. State law requires that students classified as ELs be educated either in a Sheltered English Immersion (SEI) program, Two-Way Immersion program (TWI), or Transitional Bilingual Education (TBE). When students attend Collaborative instead of their home school district, they should be provided English Learner Education (ELE) Services with no interruption to meet the linguistic needs of these students and to give them access to the curricula taught in the Collaborative.

The Department uses the term ELD to describe all of the English language development that takes place throughout the day in content classes and also during the time of dedicated ESL instruction as described below:

* **ELD in content:** English language development happens in an integrated way in all content classrooms that have at least one EL as SEI-endorsed, content-licensed educators shelter academic instruction and help ELs develop discipline-specific academic language. ELD occurs in SEI classrooms as ELs learn grade-level content along with their proficient English-speaking peers.
* **ELD in ESL**: English language development also takes place in ESL classes, when ELs are grouped together and licensed ESL teachers guide students in a systematic, dedicated, and sustained study time to develop various aspects of the English language that proficient English-speakers already know.

ELE review in collaboratives will include a review of the criteria below:

* **ELE 5: ELE Programs and Services**
* **ELE 8: Declining Entry to a Program**
* **ELE 13: Follow-up Support**
* **ELE 14: Licensure Requirements**

| **ELE 5: ELE PROGRAMS AND SERVICES** |
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| **LEGAL REQUIREMENT** | 1. The Department shall conduct on-site visits to collaboratives at least once every six years for the purpose of evaluating the effectiveness of programs serving English learners and to validate evidence of educational outcomes.
2. The collaborative uses assessment data to plan and implement educational programs for students at different instructional levels.
3. Children who are English learners shall be educated through sheltered English immersion or an alternative instructional program that meets the requirements of federal and state law, during a temporary transition period not normally intended to exceed the timelines established by the Department in benchmarks established pursuant to G.L. c. 71A, § 11. Alternative instructional programs include, but are not limited to, transitional bilingual education and dual language education or two-way immersion programs.
4. ELE programs shall be research-based and include subject matter content and an English language acquisition component.
5. The collaborative generally only groups ELs of different ages together in instructional settings if their levels of English proficiency are similar, and all groupings must comply with applicable special education requirements.
6. The collaborative’s grouping of students ensures that ELs receive effective content instruction at appropriate academic levels and that ESL instruction is provided at the appropriate proficiency level. ESL instruction should be aligned to the Massachusetts Curriculum Frameworks and must integrate components of the WIDA English Language Development (ELD) Standards.
7. The evaluation of ELE programs (by the Department) shall include, but shall not be limited to: (i) a review of individual student records of English learners; (ii) a review of the programs and services provided to English learners; (iii) a review of the dropout, graduation, discipline and special education incidence rates of the English learner population in the district; (iv) using the best available data, a review of the dropout, graduation, discipline and special education rates of English learners who exited the English learner education program within the 3 school years preceding the on-site visit for that 3-year period; (v) a description of the processes by which school-based teams, consisting of educators, administrators and support staff, monitor the progress of English learners and former English learners; (vi) a review of the amount, frequency and effectiveness of English as a second language instruction; and (vii) a review of the administration and coordination of English learner education programs.

**Authority: Title VI; EEOA; G.L. c. 71A, §§ 4, 7A; 603 CMR 14.04.** |
| **IMPLEMENTATION GUIDANCE** | * Any general education classroom with ELs must conform with standards under G.L. c. 71A and 603 CMR 14.00.
* Compliance with SEI Endorsement requirements is monitored under ELE 14.
* In designing, resourcing, and evaluating their ELE program(s), collaboratives should be aware that the Department will use the three-prong test set out in the case of *Castañeda v. Pickard* to determine whether the ELE program(s) meets the applicable requirements. The three prongs include:

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 district are reasonably calculated to implement effectively the educational theory adopted by the collaborative. 3. The program is effective when producing results indicating that students’ language barriers are actually being overcome within a reasonable period of time.For more information about ELE program implementation, please see *[Guidance on Identification, Assessment, Placement, and Reclassification of English Language Learners.](http://www.doe.mass.edu/ele/guidance/?section=guidance)* * Federal law requires that any language support program offered by a district/collaborative be designed and implemented to assure that ELs receive effective English language and content instruction at appropriate academic levels. ESL instruction should be appropriate to the student’s level of English proficiency. Content and curriculum of sheltered content classrooms should also be appropriate to the age(s), and grade(s) of the students in the class.
* Collaboratives have the flexibility to choose the appropriate setting (push-in, pull-out, self-contained, or hybrid) and most effective combination of methods of ESL instruction (Total Physical Response, Communicative, Functional, etc.). Whatever the chosen vision, setting, and methods for the program, the documentation for the ESL instructional focus must include at a minimum unit plans or ESL curriculum, and lesson plans that integrate the WIDA standards. Academic tutoring of content subjects or sheltering the content for ELs in a regular education classroom as a part of a push-in model is not a substitute for the ESL component of SEI programs. For more information about ESL instruction, please see Next Generation ESL Curriculum Project[: ESL Curriculum Resource Guide.](http://www.doe.mass.edu/ele/guidance/?section=resource-guide)
* It is a requirement to include ESL instruction in the implementation of the collaborative’s ELE program(s) to advance English language development and promote academic achievement of ELs.
* It is a requirement for the collaborative to integrate the WIDA standards into all curricula, including ESL, for classes in which ELs participate.
* The collaborative will consider developmental differences before they cluster students from different grade levels.
* Children at the preschool and Kindergarten age are developing language in general, and the level of acquisition will vary from child to child as with any developmental milestone. The collaborative should reflect on how children at this early age learn language and to what extent existing classroom practices are responsive to young children’s developmental needs. The collaborative should plan and provide English language development services for preschool children in the context of an inclusive, language-rich classroom environment where both social and academic language is actively supported in consultancy with the ESL teacher, who will also monitor the progress of these students.
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| **DOCUMENTATION REQUIREMENTS** | 1. EL Student Roster
2. Names and licensure information of the teachers and/or administrators responsible of the program placement
3. ELE Program Service Data Sheet
4. ESL curriculum, curricular materials and/or curriculum development plan
5. Integration of Castañeda’s Three-Pronged Test
6. ESL teacher schedules
7. Schedules for students whose records will be reviewed by the Department
8. Documentation (e.g., lesson plans, ESL curriculum) showing explicit, direct ESL instruction
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| **RECORD REVIEW REQUIREMENTS** | 1. Student schedules
2. Report cards, progress reports
3. Information about students’ previous school experiences, if available
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| **OTHER EVIDENCE** | 1. Data showing that the collaborative’s ELE program(s) is/are effective when producing results indicating that students’ language barriers are being overcome. A review of the amount, frequency and effectiveness of ESL instruction
2. A review of the administration and coordination of ELE programs
3. Parent surveys
4. Staff interviews
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| **ELE 8: DECLINING ENTRY TO A PROGRAM** |
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| **LEGAL REQUIREMENT** | 1. A parent or guardian of an English learner may withdraw the student from an English learner education program in accordance with state and federal law.
2. The collaborative provides English language support to students whose parents have declined entry or withdrawn from a sheltered English immersion, dual language education or two-way immersion program, or other ELE program.
3. The written confirmation of the withdrawal shall be provided annually to the school by the parent or legal guardian and such confirmation shall be retained in the student’s cumulative folder; and provided further, that the student shall retain the right to enter an ELE program at any time.

**Authority: Title VI; EEOA; G.L. c. 71A §12; 603 CMR 14.04.** |
| **IMPLEMENTATION GUIDANCE**  | * Parents of ELs may notify the collaborative of their wish to have their child withdraw or opt out of an ELE program. The collaborative must then stop providing ESL instruction and document the parent’s notice in the student’s file. The collaborative should encourage parents to allow their children to participate in ELE programs for at least a limited period of time before they make a final determination to opt out of the program.
* The collaborative should also continue to keep parents of ELs, who have opted out, apprised of their child’s progress.
* The U.S. Department of Justice and the Office of Civil Rights have interpreted the EEOA and Title VI, respectively, to require districts to take steps to provide the student meaningful access to the educational program, even if a parent has declined an ELE program. To do so, the collaborative, at a minimum should assign the student to core academic teachers who hold the SEI Endorsement and actively monitor the student’s progress.
* Where a collaborative determines through monitoring that a student who has opted out is not progressing, without delay, they must ensure that the student’s academic and language needs are addressed.
* The collaborative must communicate with sending districts to ensure that they are aware of ELs whose parents have opted them out of ELE services, and the collaborative must annually assess these students using ACCESS for ELLs 2.0 test. Parents or legal guardians should provide the collaborative with a written confirmation of the withdrawal annually. The collaborative will keep annual written confirmation documents in the student’s cumulative folder.
* Parents and legal guardians have the right to change their decision to opt out of ELE services and request their EL enter into an ELE program at any time.
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| **DOCUMENTATION REQUIREMENTS** | 1. A list of students designated as ELs whose parents have chosen to opt out of ELE programs.
2. Sample written notifications by the parents or legal guardians withdrawing an EL from an ELE program, if any.
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| **RECORD REVIEW REQUIREMENTS** | 1. The original and the most recent opt-out requests by the parent or legal guardian, if any.
2. Evidence of support provided to the student as needed.
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| **OTHER EVIDENCE** | 1. Parent surveys
2. Staff interviews
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| **ELE 13: FOLLOW-UP SUPPORT** |
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| **LEGAL REQUIREMENT** | 1. The collaborative actively monitors students who have exited an ELE education program for four years and provides language support to those students, if needed.
2. The collaborative provides support, if needed, to remedy any academic deficits the student incurred as a result of participation in the ELE program.

**Authority: Title VI; EEOA; ESEA.** |
| **IMPLEMENTATION GUIDANCE** | * The collaborative can design a monitoring process based on their specific language program and other local characteristics. Such monitoring processes may include:
	+ - Regular, structured meetings between an ESL teacher and the student’s sheltered content instruction teachers and/or the school-based language assessment team to discuss the student’s academic progress and progress in developing English language proficiency;
		- Regular observations of student participation and performance; and
		- Conversations with parents about students’ academic performance and English language development.
* If a former EL fails to make academic progress after his or her EL classification has been removed, as measured by his or her grades and content area assessments, and if a school-based team familiar with the student determines that this failure is due to lack of English proficiency, the collaborative must reclassify the student as an EL and provide ELE services.
* The collaborative must be responsive to former ELs who struggle academically not due to language, but for reasons related to time spent in the ELE program and missed academic content.
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| **DOCUMENTATION REQUIREMENTS** | 1. A list of students reclassified as former ELs and are currently being monitored
2. A description of the collaborative’s monitoring process and any monitoring forms developed to implement this process
3. Evidence of monitoring and support offered to former ELs who have exited ELE programs
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| **RECORD REVIEW REQUIREMENTS** | 1. Completed monitoring forms for reclassified students
2. Support provided to reclassified students as needed
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| **OTHER EVIDENCE** | 1. Staff interviews
2. Parent surveys
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| **ELE 14: LICENSURE REQUIREMENTS** |
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| **LEGAL REQUIREMENT** | Licensure requirements for collaboratives where ELs are enrolled:1. Except at Commonwealth charter schools, *every* teacher or other educational staff member who teaches ELs holds an appropriate license or current waiver issued by the Massachusetts Department of Elementary and Secondary Education.
2. Core academic teachers[[1]](#footnote-1) who provide sheltered English instruction to English learners in school districts, including charter schools and education collaboratives, must earn an SEI Teacher Endorsement as set forth in 603 CMR 7.00 and 603 CMR 14.00. Principals, assistant principals, and supervisors/directors who supervise or evaluate such teachers, must earn an SEI Teacher Endorsement or SEI Administrator Endorsement as set forth in 603 CMR 7.00 and 603 CMR 14.00.
3. Any core academic teacher who is assigned to provide sheltered English instruction to an EL shall either hold an SEI Teacher Endorsement, or is required to earn such endorsement within one year from the date of the assignment. Any school district that assigns an EL to a core academic teacher who has a year to obtain an SEI endorsement, shall take all reasonable steps to ensure that such EL is assigned to core academic teachers with an SEI endorsement in subsequent school years.
4. No principal, assistant principal, or supervisor/director shall supervise or evaluate a core academic teacher who provides sheltered English instruction to an EL unless such principal, assistant principal, or supervisor/director holds an SEI Teacher Endorsement or SEI Administrator Endorsement, or will earn either endorsement within one year of the commencement of such supervision or evaluation.
5. A core academic teacher assigned to provide instruction to an English learner in a bilingual education setting, such as dual language education or two-way immersion program, or transitional bilingual education program, must be properly qualified in the field and grade level of the assignment, and hold the appropriate endorsement, as follows:
	1. A core academic teacher responsible for the instructional component provided in a language other than English must hold the Bilingual Education Endorsement or a valid waiver issued by the Commissioner.
	2. A core academic teacher responsible for the instructional component provided in English must hold the Bilingual Education Endorsement or the SEI Endorsement.
6. A principal, assistant principal, or supervisor/director who supervises or evaluates a core academic teacher assigned to provide instruction to an English learner in a bilingual education setting, such as dual language education or two-way immersion program, or transitional bilingual education program, must hold the Bilingual Education Endorsement or the SEI Endorsement.
7. A valid Transitional Bilingual Education license or Transitional Bilingual Learning endorsement issued by the Department shall be deemed the equivalent of the Bilingual Education Endorsement.
8. Prior to the beginning of each school year, the collaborative shall verify that each of the educators in an English learner program is properly endorsed for that program.

**Authority: Title VI; EEOA; G.L. c. 71, § 38G, §89(ii); G.L. c. 71A, § 10; St. 2002, c. 218, §§ 24, 25; 603 CMR 7.04(3), 7.09(3); 603 CMR 7.14(1)-(3); 603 CMR 7.15(9)(b)-(c); 603 CMR 7.15(13)(d); 603 CMR 14.07.** |
| **IMPLEMENTATION GUIDANCE** | * Sheltered English Immersion Programs: The collaborative has a basic responsibility to assign English learners only to those core academic teachers with the SEI Endorsement. If circumstances arise that make it necessary for a collaborative to assign an English learner to an unendorsed core academic teacher, that teacher must earn the SEI Endorsement “within one year from the date of the assignment.” 603 CMR 14.07(3). In those cases, the collaborative also needs to take all reasonable steps so that:
* The English learner assigned to an unendorsed core academic teacher on one occasion is thereafter assigned only to core academic teachers with the SEI Endorsement.
* The unendorsed core academic teacher who is assigned an English learner is informed that, upon assignment, he or she must obtain the SEI Endorsement within one year from the date of the assignment.
* Bilingual Education Programs: A core academic teacher assigned to provide instruction to an English learner in a bilingual education setting, such as dual language education or two-way immersion program, or transitional bilingual education program, must be properly qualified in the field and grade level of the assignment. Furthermore, a core academic teacher responsible for the instructional component provided in a language other than English should hold the Bilingual Education Endorsement or a valid waiver issued by the Commissioner. Core academic teachers responsible for the instructional component provided in English must either have the Bilingual Education Endorsement or the SEI Endorsement.
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| **DOCUMENTATION REQUIREMENTS** | 1. ELE Personnel Data Sheet (District Form 2)
2. ELE Program Director Qualifications Form (OLA Form 7)
3. SEI Endorsement (OLA Form 8)
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| **RECORD REVIEW REQUIREMENTS** | N/A |
| **OTHER EVIDENCE** | 1. EDWIN SEI reports
2. Staff interviews
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1. For purposes of Sheltered English Immersion (SEI) and Bilingual Education Endorsements, “core academic teachers” include early childhood and elementary teachers, teachers of students with moderate disabilities, teachers of students with severe disabilities, and teachers of the following academic subjects: English, reading or language arts, mathematics, science, civics and government, economics, history, and geography. [↑](#footnote-ref-1)