

SENATE No. 2421

Senate, July 7, 2016 -- Text of the Senate Bill for language opportunity for our kids (Senate, No. 2421) (being the text of Senate, No. 2395, printed as amended)

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act for language opportunity for our kids.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 69 of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by striking out, in lines 3 and 4, the words “a limited English
3 proficient student” and inserting in place thereof the following words:- an English learner.

4 SECTION 2. Section 1A of said chapter 69, as so appearing, is hereby amended by
5 striking out, in line 57, the figure “3” and inserting in place thereof the following figure:- 2.

6 SECTION 3. Section 1I of said chapter 69, as so appearing, is hereby amended by
7 striking out, in line 283, the word “and”.

8 SECTION 4. The nineteenth paragraph of said section 1I of said chapter 69, as so
9 appearing, is hereby amended by striking out clause (j) and inserting in place thereof the
10 following 6 clauses:-

11 (j) whether there were any complaints filed with a federal or state court or administrative
12 agency since the program's inception concerning compliance with federal or state minimum legal

13 requirements, the disposition of the complaint and the monitoring and evaluation of any
14 agreement or court order relative to the complaint;

15 (k) opportunities that the district makes available to English language learners for
16 instruction in maintaining or developing proficiency in a student's native language;

17 (l) a description of the school district's plan to evaluate the effectiveness of its English
18 language learner programs relative to: (i) helping students attain English language proficiency
19 and master academic standards; (ii) measuring student readiness to join mainstream classrooms;
20 (iii) evaluations and measures provided in addition to department requirements; and (iv) a
21 description of the steps that the school district plans to take to address an identified deficiency;

22 (m) a record of: (i) instances in which a parent or guardian requested to withdraw a
23 student from or refused a student's participation in an English learner program; and (ii) meetings
24 held with parents regarding a student who is not making satisfactory progress toward
25 participating and learning in an integrated classroom;

26 (n) a description of training provided by the district to staff who work with culturally and
27 linguistically diverse student populations; and

28 (o) documentation detailing the participation of English language learners in the district's
29 regular and advanced educational programs and extracurricular activities.

30 SECTION 5. Said chapter 69 is hereby amended by inserting after section 1P the
31 following section:-

32 Section 1Q. The commissioner shall develop criteria and guidelines for a state seal of
33 biliteracy to be awarded by school districts to recognize high school graduates who have met

34 academic benchmarks determined by the department in 1 or more languages in addition to
35 English.

36 The department shall develop an insignia to be affixed to the diploma or transcript of a
37 student who has been awarded a state seal of biliteracy and make the insignia available to school
38 districts in an electronic format for the preparation of diplomas. A school district that chooses to
39 award the state seal of biliteracy to qualifying students under this section shall maintain
40 appropriate records in order to identify students who have earned a state seal of biliteracy and
41 affix the appropriate insignia to the diploma or transcript of a student who earns a state seal of
42 biliteracy.

43 The commissioner shall annually issue a report to the chairs of the senate and house
44 committees on ways and means and the senate and house chairs of the joint committee on
45 education regarding use of the state seal of biliteracy not later than July 1. The report shall
46 include, but not be limited to: information on the school districts utilizing the state seal of
47 biliteracy; the number of students who have received the state seal of biliteracy from each school
48 district; and recommendations for expanding the use of the state seal of biliteracy to additional
49 school districts.

50 SECTION 6. Section 59C of chapter 71 of the General Laws, as appearing in the 2014
51 Official Edition, is hereby amended by striking out, in line 44, the figure “3” and inserting in
52 place thereof the following figure:- 4.

53 SECTION 7. The fifth paragraph of said section 59C of said chapter 71, as so appearing,
54 is hereby amended by inserting after the first sentence the following sentence:-

55 In school districts with English language learners, the plan to improve student
56 performance shall include a description of the educational program models and approaches
57 offered by the school district to ensure the progress of English language learners in attaining
58 English speaking, reading, writing and oral comprehension skills and in meeting academic
59 standards under section 1D of chapter 69 and curriculum frameworks under section 1E of said
60 chapter 69.

61 SECTION 8. Chapter 71A of the General Laws is hereby amended by striking out
62 sections 1 to 8, inclusive, as so appearing, and inserting in place thereof the following 8
63 sections:-

64 Section 1. For the purposes of this section, the following words shall have the following
65 meanings unless the context clearly indicates otherwise:

66 “Commissioner”, the commissioner of elementary and secondary education.

67 “Department”, the department of elementary and secondary education.

68 "Dual language education" or “2-way bilingual”, a program that integrates language
69 learning and academic instruction for native speakers of English and native speakers of another
70 language with the goals of high academic achievement, first and second academic language
71 proficiency and cross-cultural understanding.

72 “English language development” or “English as a second language”, a specially designed
73 course of study that focuses on the acquisition of the English language consistent with a student's
74 English proficiency, performance and developmental level.

75 “English learner”, a student who does not speak English or whose native language is not
76 English and who is not currently able to perform ordinary classroom work in English.

77 “Foreign language”, a language other than English, which shall include American sign
78 language.

79 “Language acquisition program”, an instructional program that includes English language
80 acquisition for English learners as a component, but shall not be limited to a single program
81 design or pedagogical style.

82 “Sheltered English immersion”, a program composed of the following 2 instructional
83 components: (i) sheltered content instruction that focuses on teaching academic content with
84 language support, using English as the primary language of instruction; and (ii) English language
85 development instruction.

86 “Transitional bilingual education”, an English learner program that follows a bilingual
87 approach to learning in which the native language of the English learner is used to support a
88 student’s development of English and content learning and then is gradually phased out of
89 instruction as a student’s English proficiency increases to assist a student in attaining oral
90 comprehension, speaking, reading and writing skills in English and in meeting academic
91 standards of curriculum frameworks established under sections 1D and 1E of chapter 69.

92 Section 2. A school district shall annually identify the number of English learners within
93 the school district in grades pre-kindergarten to grade 12, inclusive, for districts that have a pre-
94 kindergarten program and in grades kindergarten to grade 12, inclusive, for districts that do not
95 have a pre-kindergarten program, and shall classify an English learner according to: (i) grade
96 level; (ii) the language in which English learner possesses a primary speaking ability; and (iii)

97 the type of English learner program in which the English learner is enrolled. The information
98 shall be made publicly available for each school and the school district on the district's website.
99 A school district shall also track the academic performance of the students who have exited an
100 English learner program to assess the academic achievement of English learners and the
101 effectiveness of language acquisition programs.

102 Section 3. An English learner enrolled in a public school, including a charter school, shall
103 be educated through a comprehensive, research-based instructional program that includes subject
104 matter content and an English language acquisition component. Programs for English learners
105 may include sheltered English immersion, dual language education or transitional bilingual
106 education but shall not be limited to a specific program or instructional design. A school district
107 may choose 1 or more programs that meet the requirements of this section based on best
108 practices in the field, linguistic and educational needs and the demographic characteristics of
109 English learners in the school district. A school district may incorporate opportunities for
110 students to develop and maintain native language proficiency as part of a formal or
111 extracurricular academic program.

112 An English learner shall receive English language development instruction at a level and
113 frequency that is appropriate for the English learner's level of English language proficiency and
114 educational need and shall be instructed by teachers qualified under state law. Each school
115 district shall employ a sufficient amount of teachers of English as a second language for
116 identified English learners; provided, however, that a school district shall employ at least 1
117 teacher licensed in English as a second language.

118 A student who has exited an English learner program and attained English proficiency
119 shall have access to English language support or development instruction, as needed, in order to
120 perform grade level classwork.

121 Schools may place English learners of different ages in the same classroom if the level of
122 English proficiency for those English learners is similar. Schools shall be encouraged to integrate
123 English learners from different native-language groups who have the same level of English
124 proficiency in the same classroom. If an English learner reaches proficiency in English, is able to
125 do grade level classwork in English and achieves a score of proficient or higher on the statewide
126 evaluation of English language proficiency under section 7, the student shall no longer be
127 classified as an English learner.

128 Section 4. The parent or legal guardian of a student eligible to enroll in an English learner
129 program may select any available English language learner program offered by the school
130 district.

131 A parent or legal guardian may refuse to enroll a student or may remove a student from
132 an English learner program. The parent or legal guardian shall provide written confirmation of
133 the decision, which shall be retained in the student's cumulative folder. The student shall
134 continue to be designated as an English learner, receive the support necessary to overcome
135 language barriers within the general academic program setting and retain the right to enter into
136 an English learner program at any time.

137 A school district may join with other school districts to provide an English learner
138 program under this chapter.

139 If a school district or charter school receives a request from the parents or legal guardians
140 of not less than 20 students to implement a specific program to provide language instruction in
141 that school district or charter school, the school district or charter school shall, within 90 days of
142 receiving the request, respond and provide: (i) a plan for implementation of the requested
143 program; or (ii) a denial of the request, in writing, that includes an explanation of the denial.

144 A school district operating a language acquisition program for English learners serving
145 more than 100 English learners or in which English learners are more than 5 per cent of the
146 district's student population, whichever is less, shall establish an English learner parent advisory
147 council. The parent advisory council shall be composed of parents or legal guardians of students
148 who are or have been identified as an English learners. The duties of the parent advisory council
149 shall include, but not be limited to: advising the school district, school committee or board of
150 trustees on matters that pertain to English learners; meeting regularly with school officials to
151 participate in the planning and development of programs designed to improve educational
152 opportunities for English learners; and participating in the review of school or district
153 improvement plans established under section 59C of chapter 71 as they relate to English learners.
154 A parent advisory council may meet at least once annually with each school council within the
155 school district or the board of trustees of the charter school. The parent advisory council shall
156 establish by-laws regarding officers and operational procedures. In the course of its duties under
157 this section, the parent advisory council shall receive assistance from the director of language
158 acquisition programs for the school district or other appropriate school personnel as designated
159 by the superintendent.

160 Section 5. Communication to the parents and legal guardians of English learners by the
161 school district shall, at least annually, inform the parents or legal guardians of their rights to

162 choose a language acquisition program among those offered by the school district including, but
163 not limited to, sheltered English immersion, transitional bilingual education and 2-way bilingual
164 or dual language education, to request a new language acquisition program under section 4 or to
165 withdraw a student from a language acquisition program. Notice shall be sent by mail not later
166 than 10 days after the enrollment of the student in the school district. The notice shall, to the
167 extent possible: (i) be in a language that is understandable to the parents or legal guardians; (ii)
168 contain a simple, easy to understand description of the purpose, method and content of the
169 available programs; (iii) inform the parent or legal guardian of the right to visit an English
170 learner program in the school district; and (iv) inform the parent or legal guardian of available
171 conferences or meetings to learn about the English learner programs.

172 If the school district recommends placing an English learner in an English learner
173 program, the parent or legal guardian of the student shall have the right, at the time of the
174 original notification under this section or at the close of any marking period, to withdraw the
175 student from a program by sending written notice of the decision by mail or electronic
176 communication to the school authority designated by the school district in which the student is
177 enrolled.

178 Section 6. Each English learner shall participate in the statewide assessment system
179 adopted pursuant to section 1I of chapter 69.

180 A statewide standardized criterion-referenced test of English language proficiency that
181 assesses the achievement of English language oral and literacy skills shall be administered
182 annually to students who are English learners in kindergarten to grade 12, inclusive, and enrolled
183 in a public school, including a charter school.

184 Assessment scores of individual students shall be confidentially provided to a parent or
185 legal guardian of the student. Aggregated assessment data for schools and school districts shall
186 be made publicly available online in machine readable format. Scores of students classified as
187 English learners shall be separately sub-aggregated and made publicly available, with the scores
188 further sub-aggregated based on the English learner program in which the student is enrolled.

189 Results of assessments shall be used as evidence of the efficacy of an English learner
190 program offered by a school district. The results of an annual assessment of English proficiency
191 under this section shall not be the sole basis for evaluation of a district, school, English learner
192 program or individual educator.

193 The district shall send report cards and progress reports including, but not limited to,
194 progress in becoming proficient in using the English language and other school communications,
195 to the parents or legal guardians of students in the English learners programs. Such report cards
196 and progress reports shall be completed in the same manner and with the same frequency as
197 report cards and progress reports to other students enrolled in the district. The report cards and
198 progress reports shall, to the maximum extent possible, be written in a language understandable
199 to the parent or legal guardian of a student.

200 Section 7. The department shall conduct an on-site visit in every school district at least
201 once every 6 years to evaluate the effectiveness of programs serving English learners. The
202 evaluation shall include, but not be limited to, a review of the individual student records of
203 English learners, a review of the programs and services provided to English learners and a
204 review of the dropout, graduation, discipline and special education incidence rates of the English
205 learner population in the district. Using the best available data, the department shall provide a

206 monitoring report the dropout, graduation, discipline and special education rates of English
207 learners who exited the English learner education program within the 3 school years preceding
208 the on-site visit for that 3-year period. The report shall also include a description of the processes
209 by which school-based teams, consisting of educators, administrators and support staff, monitor
210 the progress of English learners and former English learners, a review of the amount, frequency
211 and effectiveness of English as a second language instruction and a review of the administration
212 and coordination of English learner education programs. The advisory council for bilingual
213 education established under section 1G of chapter 15 shall annually review the results of the
214 department's monitoring of English learner programs in school districts.

215 If, based on factors including, but not limited to, the assessment scores of English
216 learners under section 6, a significant number of students in a school district fail to demonstrate
217 progress in English language proficiency, as determined by the department, the department shall
218 recommend ways to improve instructional programs for the school district's English learner
219 population. Nothing in this section shall prevent the department from conducting an evaluation
220 of a language acquisition program at any time.

221 Section 8. Teachers and administrators assigned to a language acquisition program shall
222 be properly qualified under state law for the program type. A core academic teacher of English
223 learners, including a core academic teacher in a vocational-technical education program under
224 chapter 74, shall meet the requirements under section 38G of chapter 71 and relevant regulations
225 for certification in the teacher's subject area and endorsement or certification in content
226 instruction of English learners.

227 The department shall create an endorsement for educators who have completed
228 coursework and field-based experience to provide instruction within dual-language programs.

229 SECTION 9. The department of elementary and secondary education may issue
230 regulations as necessary to implement this act.

231 SECTION 10. The department shall consider the recommendations of the language
232 opportunity coalition in developing the guidelines for the state seal of biliteracy under section 1Q
233 of chapter 69 of the General Laws.

234 SECTION 10A. Notwithstanding any general or special law to the contrary, the
235 department of elementary and secondary education shall report on the teaching of civics in
236 secondary or intermediate public school districts. The report shall include, but not be limited to,
237 the number of school districts requiring the completion of a civics section before graduation.

238 The report shall be submitted to the clerks of the house and senate and the senate and
239 house chairs of the joint committee on education by December 31, 2016.

240 SECTION 10B. Notwithstanding any general or special law to the contrary, the
241 department of elementary and secondary education shall report on the teaching of United States
242 history in secondary or intermediate public school districts. The report shall include, but not be
243 limited to, the number of school districts requiring the completion of a United States history
244 section before graduation.

245 The report shall be submitted to the clerks of the house and senate and the senate and
246 house chairs of the joint committee on education not later than December 31, 2016.

247 SECTION 10C. Not later than July 1, 2017, the department of elementary and secondary
248 education shall establish guidelines for school districts to assist in supporting English learners
249 who do not meet anticipated benchmarks in attaining English proficiency. The guidelines shall
250 include: (i) ways for school districts to provide individualized goals and plans for English
251 learners who are not meeting anticipated benchmarks in attaining English proficiency; (ii) best
252 practices for ensuring that English learners meet individualized goals and plans to meet
253 benchmarks in attaining English proficiency; and (iii) ways for school districts to share best
254 practices among each other in assisting English learners in gaining English proficiency.

255 School districts shall provide a copy of the guidelines to the parent or guardian of each
256 English learner, in the parent's or guardian's primary language, at the beginning of each school
257 year or upon enrollment of the student in an English learner program if the enrollment is not
258 concurrent with the beginning of the school year.

259 SECTION 11. Notwithstanding any general or special law to the contrary, a school
260 district with an on-site visit scheduled for the 2016-2017 school year shall not have the on-site
261 visit rescheduled due to this act.