

**124D.59 DEFINITIONS.**

Subdivision 1. **Generally.** For purposes of sections 124D.58 to 124D.65, the terms defined in this section shall have the meanings given them.

Subd. 2. **English learner.** (a) "English learner" means a pupil in kindergarten through grade 12 who meets the requirements under subdivision 2a or the following requirements:

(1) the pupil, as declared by a parent or guardian first learned a language other than English, comes from a home where the language usually spoken is other than English, or usually speaks a language other than English; and

(2) the pupil is determined by a valid assessment measuring the pupil's English language proficiency and by developmentally appropriate measures, which might include observations, teacher judgment, parent recommendations, or developmentally appropriate assessment instruments, to lack the necessary English skills to participate fully in academic classes taught in English.

(b) A pupil enrolled in a Minnesota public school in any grade 4 through 12 who in the previous school year took a commissioner-provided assessment measuring the pupil's emerging academic English, shall be counted as an English learner in calculating English learner pupil units under section 126C.05, subdivision 17, and shall generate state English learner aid under section 124D.65, subdivision 5, if the pupil scored below the state cutoff score or is otherwise counted as a nonproficient participant on the assessment measuring the pupil's emerging academic English, or, in the judgment of the pupil's classroom teachers, consistent with section 124D.61, clause (1), the pupil is unable to demonstrate academic language proficiency in English, including oral academic language, sufficient to successfully and fully participate in the general core curriculum in the regular classroom.

(c) Notwithstanding paragraphs (a) and (b), a pupil in kindergarten through grade 12 shall not be counted as an English learner in calculating English learner pupil units under section 126C.05, subdivision 17, and shall not generate state English learner aid under section 124D.65, subdivision 5, if:

(1) the pupil is not enrolled during the current fiscal year in an educational program for English learners under sections 124D.58 to 124D.64; or

(2) the pupil has generated seven or more years of average daily membership in Minnesota public schools since July 1, 1996.

***[See Note.]***

Subd. 2a. **English learner; interrupted formal education.** Consistent with subdivision 2, an English learner includes an English learner with an interrupted formal education who:

(1) comes from a home where the language usually spoken is other than English, or usually speaks a language other than English;

(2) enters school in the United States after grade 6;

(3) has at least two years less schooling than the English learner's peers;

(4) functions at least two years below expected grade level in reading and mathematics; and

(5) may be preliterate in the English learner's native language.

Subd. 3. **Essential instructional personnel.** "Essential instructional personnel" means the following:

(1) a teacher licensed by the state Board of Teaching to teach bilingual education or English as a second language;

(2) any teacher as defined in section 122A.15 who holds a valid license from the state Board of Teaching, if the district assures the department that the teacher will obtain the preservice and in-service training the department considers necessary to enable the teacher to provide appropriate service to English learners.

Subd. 4. **English as a second language program.** "English as a second language program" means a program for the instruction of English learners in the following English language skills: reading, writing, listening and speaking.

Subd. 5. **Bilingual education program.** "Bilingual education program" means an educational program in which instruction is given in both English and the primary language of the English learner to the extent necessary to allow the pupil to progress effectively through the educational system and to attain the basic skills of reading, writing, listening, and speaking in the English language so that the pupil will be able to perform ordinary classwork successfully in English.

Subd. 6. **Primary language.** "Primary language" means a language other than English which is the language normally used by the child or the language which is spoken in the child's home environment.

Subd. 7. **Parent.** "Parent" includes a child's legal guardian.

Subd. 8. **Educational program for English learners.** "Educational program for English learners" means an English as a second language program, bilingual education program, or both an English as a second language and a bilingual education program.

**History:** 1980 c 609 art 3 s 15; 1981 c 358 art 3 s 18; 1982 c 548 art 3 s 22; 1986 c 444; 1Sp1995 c 3 art 16 s 13; 1998 c 397 art 2 s 130,131,164; art 11 s 3; 1Sp2001 c 6 art 2 s 48; 1Sp2003 c 9 art 1 s 13; 2008 c 277 art 1 s 10; 1Sp2011 c 11 art 1 s 13; 2012 c 239 art 1 s 33; 2014 c 272 art 1 s 36,37; 2014 c 312 art 15 s 6; 1Sp2015 c 3 art 1 s 4

**NOTE:** The amendment to subdivision 2 by Laws 2015, First Special Session chapter 3, article 1, section 4, is effective for revenue for fiscal year 2017 and later. Laws 2015, First Special Session chapter 3, article 1, section 4, the effective date.