

HOUSE No. 479**The Commonwealth of Massachusetts**

PRESENTED BY:

Jeffrey Sánchez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to enhancing English opportunities for all students in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Jeffrey Sánchez</i>	<i>15th Suffolk</i>	<i>1/18/2013</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>	<i>1/31/2013</i>
<i>Carlo Basile</i>	<i>1st Suffolk</i>	<i>2/1/2013</i>
<i>John J. Binienda</i>	<i>17th Worcester</i>	<i>2/1/2013</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/28/2013</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>1/31/2013</i>
<i>Cheryl A. Coakley-Rivera</i>	<i>10th Hampden</i>	<i>2/1/2013</i>
<i>Thomas P. Conroy</i>	<i>13th Middlesex</i>	<i>1/31/2013</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/31/2013</i>
<i>Gloria L. Fox</i>	<i>7th Suffolk</i>	<i>2/1/2013</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/30/2013</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/1/2013</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/1/2013</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/29/2013</i>
<i>Peter V. Kocot</i>	<i>1st Hampshire</i>	<i>1/31/2013</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>1/31/2013</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>2/1/2013</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>2/1/2013</i>

<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/30/2013</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>	<i>2/1/2013</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	<i>1/31/2013</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	<i>2/1/2013</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>	

HOUSE No. 479

By Mr. Sánchez of Boston, a petition (accompanied by bill, House, No. 479) of Jeffrey Sánchez and others relative to an English language learner's program in the public schools. Education.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1065 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to enhancing English opportunities for all students in the Commonwealth.

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. The fifth paragraph of section 59C of chapter 71 of the General Laws as
2 appearing in the 2010 official edition, is hereby amended by inserting after the fourth sentence:-

3 In school districts with English Language Learners students, the plan to improve student
4 performance shall include a description of the educational program models and approaches to be
5 provided by the school to ensure the progress of English Language Learner students in
6 developing oral comprehension, speaking, reading and writing of English, and in meeting the
7 academic standards and curriculum frameworks established under sections 1D and 1E of chapter
8 69.

9 SECTION 2. Chapter 71A, as so appearing, is hereby amended by striking out section 1,
10 and inserting in place thereof the following section:

11 Section 1. As used in this chapter, the following words shall, unless the context requires
12 otherwise, have the following meanings:

13 "Academic standards", academic standards established under section 1D of chapter 69 of
14 the General Laws, and Common Core Standards.

15 "Commissioner", the commissioner of education.

"Curriculum frameworks", curriculum frameworks established under section 1E of chapter 69 of the General Laws.

"Department", the department of education.

"Research based, scientifically based, or evidence based instructional program": Any instructional program or approach that is based on generally accepted research that employs systematic, empirical methods that draw on observations or experimentation, involves rigorous data analyses that are adequate to test the stated hypotheses and justify the conclusions drawn, relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators, is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the conditions of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls, ensures experimental studies are presented in sufficient detail and with clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings, has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective scientific review.

"English as a Second Language", English as a Second Language is an instructional discipline, such as reading, math, or other foreign language. ESL is an academic subject for students learning English as another language.

"English language learners program", any of the following, or any combination hereof: two-way or dual-language bilingual education, transitional bilingual education (TBE), English as a Second Language (ESL), Programs for English Language Learner students with interrupted formal education (SIFE) or other full time innovative program that is research-based and designed to develop and accelerate

English language proficiency and academic achievement as outlined in the Massachusetts academic standards and frameworks, and approved by the department under section 2A.

"English Language Learner ", (1) a student who was not born in the United States whose native language is other than English and who is not able to perform ordinary class work in English; or (2) a student who was born in the United States of non-English speaking parents and who is not able to perform ordinary class work in English.

"Office of language acquisition", the office of language acquisition established in section 1A of chapter 69.

"Two-Way or Dual-Language Program", a fulltime program of whole school instruction for English Language Learner students and fully English proficient students that incorporates both the language and the culture of the language minority group to include it in all aspects of the school curricula in an English speaking classroom where teachers are licensed in ESL, TBE, and/or Foreign/Dual Language.

"ESL", a fulltime program of academic instruction and/or English language learning for English Language Learner students in which primarily English is the medium of classroom instruction and the native language of such student is used for support and clarification. General education, vocational and content teachers who have English Language Learners students assigned to their classroom will be trained in ESL sheltering principles and shall earn a Sheltered English Immersion (SEI) endorsement under the regulations adopted by the Department for that purpose, to better support the academic achievement of English language learner students in English language learning environments. The assignment of any English Language Learner student to any teacher who does not hold an SEI endorsement, or is not in the process of obtaining such endorsement within one year from such assignment, is further prohibited.

"Transitional bilingual education", a fulltime program of instruction (1) in all those courses or subjects which are required by the Department which shall be given in the native language of the English Language Learner students who are enrolled in the program and also in English, (2) in the reading and writing of the native language of the English Language Learner students who are enrolled in the program and in the oral comprehension, speaking, reading and

writing of English. Any school district that offers a transitional bilingual education program may include in its curriculum courses the history and culture of the country, territory or geographic area

which is the native land of the parents of the English Language Learner students who are enrolled.

"Two-way bilingual education", a fulltime program in which the curriculum is structured so

that English Language Learner students of the same language group and English proficient

students develop literacy and numeracy in 2 languages by being taught in the same classroom in which the

medium of instruction is both English and the language of the English Language Learner

students.

SECTION 3. Said chapter 71A, as so appearing, is hereby further amended by striking out

section 2 and inserting in place thereof the following section:

Section 2. Each school district shall determine annually, not later than the first day of March,

under regulations promulgated by the department, the number of English Language Learner

students within their school system in grades kindergarten through 12. At the beginning of any

school year, the school committee shall establish a policy requiring that the district offer

English language learners programs for all English Language Learner students, and that such programs be taught by teachers licensed in ESL and/or TBE/Dual Language. Districts must provide access to native language development for English Language Learner students who are not progressing in English-only programs, and further are encouraged to offer at least two English language learner program options, such as two-way/dual-language, heritage language and ESL. Programs for English Language Learner students with interrupted formal education (SIFE) must be offered to those English Language Learners who are recent immigrants

and who enter the school system at the secondary level with limited literacy in their native language and with interrupted formal education.

Districts shall assess, using uniform assessment instruments prescribed by the department, a

benchmark of English proficiency for newly-entering students; annual student progress and growth in English and core subject academic achievement on formative and summative assessments; evidence of the ability to perform regular education classroom work in English of identified English Language Learner students.

Every English Language Learner student enrolled in a public school system shall participate in an English language learners program established by the school

district in which the student resides, unless the parents or legal guardian of the student decide

otherwise in accordance with section 3. An English language learners program shall consist of

any of the following, or any combination thereof: two-way bilingual/dual language education, transitional bilingual education, English as a Second Language, Programs for English Language Learner students with interrupted formal education (SIFE) or other research-based

innovative program designed to develop and accelerate English language proficiency approved by the

department under section 2A. No school district

may offer only a general education program for a English Language Learner student.

The school committee shall establish a policy requiring that

the district offer full time English Language Learner programs for English Language Learner students.

The policy shall be consistent with the school district's course enrollment standards. In determining the types of English

language learners programs to be offered, the policy determination of the school committee shall reflect that strong consideration was given to the research- based programs offered and/or requested by the parents or legal

guardians of English Language Learner students.

SECTION 4. Said chapter 71A is hereby further amended by inserting after section 2 the following two sections:

Section 2A. At least once every 3 years, each school district with any limited English proficient students shall submit a district plan to the commissioner for approval in accordance

with regulations promulgated by the department . The office of language acquisition shall make

recommendations to the commissioner on whether any such plan shall be approved. The district

shall provide any English Language Learner student with an appropriate English language

learners program to assist such student in becoming proficient in using the English language and

to enable the student to participate effectively in the district's regular or advanced educational

programs and extracurricular activities. Districts shall make available equitable access to enrichment and extra-curricular opportunities for interested English Language Learner students, either during or outside the regular school day. The district plan shall define and address all elements and goals of the programs chosen by the district. Prior to developing a district plan, the district shall notify parents or legal guardians of English Language Learner students within the district that such a plan is being developed, and shall involve such parents or legal guardians in the development and review of such plan. In a school district with a English Language Learner student or students the district plan shall include, but not be limited to, the following:

(1) A description of programs and services currently being provided by the district to English Language Learner students.

(2) A description of research-based English language learner programs and services the district will make available to all English Language Learner students.

(3) A description of the opportunities the district will make available to limited English proficient students for instruction in maintaining or developing proficiency in their native language, including, but not limited to, as part of an English language learners programs and through foreign or heritage language classes.

(4) A description of how English language learners programs or services will be provided to ensure that a student has the opportunity to: (a) become proficient in using the English language for oral communication, literacy, and numeracy in English; (b) master curriculum content according to the district's curriculum guidelines and state academic standards and curriculum frameworks; and (c) be able to participate in the district's regular or advanced educational programs and extracurricular activities.

(5) A description of the qualifications and licensure status of all staff who will provide English language learners programs and remedial services to English Language Learner students , including a description of qualifications and licensure status of the administrative staff responsible for oversight of the district's English Language Learners programs.

(6) A description of the uniform assessment instruments, prescribed by the department, to be utilized by the district to determine the level of English proficiency and ability to perform regular education classroom work in English of a newly enrolled student who is of limited English proficiency and the academic grade level of such student, for the purpose of

placing such student in a program established under this chapter. Such description shall include

the qualifications of staff administering such assessments.

(7) A description of how the student's oral comprehension, speaking, reading and writing of

English will be assessed annually by qualified personnel, using uniform assessment instruments

prescribed by the department, and how these assessments will be used in conjunction with other

evaluation information to determine when the student has achieved a level of English language

proficiency that will enable the student to perform regular education class work.

(8) A description of how the school district will evaluate the effectiveness of English

Language Learners programs and services provided to English Language Learner students in terms

of helping such students attain English language proficiency and master academic standards outlined in the Common Core Standards and curriculum frameworks and a description of all the steps that the school district will take to overcome any deficiency encountered.

(9) A description of the measures that will be used to ensure that former limited English proficient students in regular education classrooms continue to progress in all areas of the curriculum, including English, native language development, and compliance with the academic standards and curriculum frameworks.

(10) School districts will offer parents or legal guardians English Language Learner programs based on students' English language proficiency and academic progress, including enrichment, instructional, and remedial programs, which may be two-way, ESL, heritage language, and programs inclusive of native English speakers. All English Language Learner students enrolled fulltime in a general education setting shall have a licensed teacher with an ESL endorsement. In cases where parents or guardians have refused English language learner programming, the ESL endorsed general education teacher shall assume responsibility for providing access to the curriculum for English Language Learner students, and opportunities for said students to continue to progress in all areas of the curriculum, including compliance with the academic standards and curriculum frameworks. This student will continue to participate in annual English language proficiency assessments. The district shall communicate the student's

progress on district and state assessments in a language comprehensible to parents and legal guardians. In cases where the student is not making academic progress, district administrators or their delegates shall meet with the student's parent or legal guardian to make improved programming recommendations. The district will keep a record of parent meetings for this purpose .

(11) A description of the training to be provided for all staff in working with culturally and

linguistically diverse student populations. Such description shall also include a department approved staff development

plan that describes how the district will build capacity among all staff in the school district to

serve English Language Learner students.

(12) A description and documentation of how principals, teachers, parents or legal guardians of English Language Learner students, parent advisory councils and the general public were included in the development and review of the district plan.

(13) A description of how parents or legal guardians of English Language Learner students will be informed when it is determined through assessments prescribed by the department that their child can participate fully in the English language curriculum without native language or other language support services.

(14) A description of how parents or legal guardians of English Language Learner students will be provided the opportunity to continue to remain involved in English Language Learners programs.

Regardless of the number of English Language Learner students, districts will plan programming for English Language Learner students, including, but not limited to, the following:

(a) A description of how the district complies with English Language Learner identification and parent and legal guardian communication of program options, (b) A description of research-based instructional programs offered to enable a English Language Learner student achieve English language proficiency; (c) and master curriculum content

according to the district's curriculum guidelines and state academic standards and curriculum

frameworks; and (d) are able to participate in the district's regular or advanced educational

programs and extracurricular activities. (e) A description of ESL licensed and/or TBE/Dual language licensed staff; and

(f) ESL endorsed teachers and capacity-building professional development plan;

and (g) a description of the methods the district uses to communicate with the parent and legal guardians regarding critical elements of aforesaid plan, including student progress, on an annual or more frequent basis.

This plan shall be valid for 3 years. In the third year, a school district shall submit an updated district plan to the commissioner for approval in the manner provided herein for submission of a district plan. In addition to the requirements of this section for a district plan, the

updated district plan shall also include documentation evidencing the academic outcomes for

English Language Learner students served under the prior district plan.

If the commissioner determines that a district is not in compliance, or that a district plan cannot be approved as submitted, the office of language acquisition shall provide

advice and technical assistance to the district and shall set a date certain for the submission of a

revised district plan. Regulations promulgated by the department to implement this chapter shall

include, but not be limited to, measures to deal with districts that fail to submit district plans, or

that submit district plans that the commissioner does not approve.

The district shall send report cards and progress reports, including, but not limited to, progress in becoming proficient in using the English language, and other school communications

to the parents or legal guardians of students enrolled in English language learners programs in

the same manner and frequency as report cards and progress reports of other students enrolled in

the district. The reports shall, to the maximum extent possible, be written in a language understandable to the parents and legal guardians of such students.

English Language Learner students in any English language learners program shall be taught

to the same academic standards and curriculum frameworks as all students, and shall be provided

the same opportunities to master such standards and frameworks as other students. Districts shall

regularly assess mastery of academic standards and curriculum frameworks in English and in the target language where applicable to designated language development programs, such as in two-way or dual language programs, TBE, heritage language, Students with Interrupted

Formal Education (SIFE), or other research-based English language learners program.

In order to encourage innovation and best practices, school districts may develop or utilize innovative research-based programs designed to accelerate English and/or target language development. Any such program shall provide English Language Learner students with the opportunity to develop oral comprehension,

speaking, reading, and writing of English and to meet the academic standards and curriculum

frameworks.

Such programs may include, but not be limited to, two-way or dual language education programs. All such programs shall be submitted to the department for review and approval. The

office of language acquisition shall review and make recommendations on all such programs.

The office of educational quality and accountability shall conduct onsite visits to school districts with approved district plans, established under this section, at least once every 5 years

for the purpose of evaluating the effectiveness of such plan and to validate evidence of educational outcomes.

330 The evaluation shall include, but not be limited to, a review of individual student records
331 of
332 all English Language Learner students, a review of the programs and services provided
333 to English Language Learner students to determine if they are in accordance with the district
334 plan, and a review of the drop out rate of English Language Learner students formerly enrolled
335 in the district's English
336 language learners program or programs within the prior 3 years.
337 In the event a review and evaluation undertaken under this section demonstrates that a
338 district
339 is substantially out of compliance with the district plan, or is failing to adequately
340 improve
341 educational outcomes for English Language Learner students enrolled in English
342 language
343 learners programs, the commissioner may recommend to the board of education that any
344 school
345 within the district be declared underperforming under sections 1J and 1K of chapter 69.
346 Section 2B. School districts shall assess annually all English Language Learner students
347 in the
348 oral comprehension, speaking, reading, and writing of English by means of English
349 proficiency
350 uniform assessment instruments intended for English Language Learner students, which
351 have
352 been prescribed by the department. Except as provided in this section, any English
353 Language Learner
354 student may remain in an English language learners program
355 until such time as the student achieves a level of English language proficiency that will
356 enable
357 the student to perform successfully in classes in which instruction is given only in
358 English as
359 determined by scores on English proficiency assessments as set forth in this section,
360 whichever

occurs first. School districts shall develop an intensive English learning success plan for any English Language Learner student whom the district determines fails to achieve scores on English learner proficiency assessments that, in the determination of the department, reflect sufficient progress toward achieving English language proficiency.

Any such plan shall be developed with the participation and approval of the student's parents or legal guardian. The plan shall concentrate on the needs of the student to master English language literacy skills and shall specify such instruction or services as intensive English or other language development classes, intensive tutoring, after or before school programs, summer programs, literacy mentoring, and other academic supports that will assist the student in the acquisition of English necessary to access academic standards and curriculum frameworks at grade level. Any student who fails to achieve growth scores on English proficiency and academic content assessments that, in the determination of the department, reflect sufficient progress, or that will enable the student to perform successfully in classes in which instruction is given in English, may remain in such an intensive program until adequate progress is made such that students may fully participate and academically succeed in the standard program without additional support ;

(b) student progress with intensive instruction and/or remediation is reported annually, or more frequently, in language comprehensible to parents and legal guardians

Any English Language Learner student enrolled in a two-way or dual-language education program who has achieved sufficient growth scores on English proficiency assessments that, in the determination

391 of the department, reflect a level of English progress appropriate to the student's grade
392 level,
393 may remain enrolled in such programs.

394 If later evidence suggests, as determined by the school district, that a English Language
395 Learner
396 student transferred from an English language learner program to a regular education
397 program, or never previously enrolled in an English language learner program, is still
398 disadvantaged
399 by a lack of English proficiency or academic progress and may benefit from being
400 reenrolled
401 in an English language learners program offered by the district,
402 such student, with the approval of the student's parents or legal guardian, may be so
403 reenrolled.

404 Nothing in this chapter shall be construed to prohibit, limit, restrict or prevent, an
405 educational
406 agency, as defined in 20 U.S.C. 1720 from complying with the provisions of 20 U.S.C.
407 1703 (f).

408 In the event of any conflict between this chapter and an individual educational plan
409 developed for a school age child with a disability under chapter 71B, the provisions of
410 such plan
411 shall prevail. A English Language Learner student requiring both special education
412 services and English and/or native language development in order to meet academic
413 expectations shall receive all necessary services regardless of and including native and target
414 language of delivery of said services .

415 SECTION 5. Said chapter 71A, as so appearing, is hereby further amended by striking
416 out
417 section 3, and inserting in place thereof the following section: -
418 Section 3. School districts shall notify, in writing, the parents or legal guardian of a
419 limited
420 English proficient student of the English language learners programs that are available
421 within the

422 district, and shall recommend specific programs for the student. Such notice shall be
423 sent by

424 mail not later than 10 days after the enrollment of the student in the school district. The
425 notice

426 shall contain a simple, non technical description of the purposes, method and content of
427 the

428 various programs, reasons for the school district's recommendation of a specific
429 program, and

430 shall inform the parents or legal guardian that they have the right to visit English
431 language

432 learners program classes in the school district, and to come to the school for a
433 conference to

434 explain the nature of the various English language learners programs. The notice shall
435 further

436 inform such parents or legal guardian that they have the absolute right, if they so desire,
437 to

438 choose any English language learners program for the student from among those
439 provided by the

440 school district,

441 or to withdraw the student from a program, in the manner as hereinafter provided in this
442 section.

443 The notice shall also inform such parents or legal guardian of the existence of any
444 parent

445 advisory council established within the district under this section. Any such notice shall
446 be

447 written in English and in the language of which the parents or legal guardians so
448 notified

449 possesses a primary speaking ability, or request communication.

450 In any case where a district recommends that a student be placed in an English language

451 learners program, the parents or legal guardian of such student shall have the right,
452 either at the
453 time of the original notification under this section, or at the close of any marking period
454 thereafter, to choose an English language learners program for the student from among
455 those
456 provided by the school district,
457 or to withdraw the student from such program by sending written notice of
458 such decision by mail to the school authorities of the school district in which the student
459 is
460 enrolled. Such written notice shall be sent not later than 10 school days after receipt of
461 the
462 notice sent by the school district, under this section. In the case of a student who is to be
463 withdrawn from an English language learners program, the written notice shall be sent
464 not later
465 than 10 school days after the close of any marking period.

466 Each school district operating English language learners programs shall establish a parent
467 advisory council. The parent advisory council shall be comprised of parents or legal guardians
468 of students who are enrolled in English language learners programs within the district.

469 Each
470 parent advisory council shall have at least 1 representative from every language group in
471 which a two-way/dual language, TBE, heritage language, SIFE, or ESL
472 program is conducted in a given district. Membership shall be restricted to parents or
473 legal
474 guardians of students enrolled in English language learners programs within the district.

475 In cases where there are multilingual language groups within a program, efforts to recruit
476 among all parents and legal guardian will be made, with at least 1 representative among language
477 groups serving.

478 The duties of the parent advisory council shall include, but not be limited to, advising the
479 school
480 district on matters that pertain to the education of students in English language learners

481 programs, meeting regularly with school officials to participate in the planning,
482 development,
483 implementation, and evaluation of the district plan required by this chapter, and to
484 participate in
485 the review of school improvement plans established under section 59C of chapter 71 as
486 they
487 pertain to English Language Learner students. Any parent advisory council may, at its
488 request,
489 meet at least once annually with the school council. The parent advisory council shall
490 establish
491 by-laws regarding officers and operational procedures. In the course of its duties under
492 this
493 section, the parent advisory council shall receive assistance from the director of English
494 language
495 learners programs for the district or other appropriate school personnel as designated by
496 the
497 superintendent.

498 SECTION 6. Said chapter 71A, as so appearing, is hereby further amended by striking
499 out section 4, and inserting in place thereof the following section: -

500 Section 4. A school district may allow a nonresident English Language Learner student to
501 enroll in or attend its English language learners programs, and the tuition for such student shall
502 be paid by the school district in which the student resides. Any school district may join with any
503 other school district or districts to provide English language learners programs required or
504 permitted by this chapter.

505 SECTION 7. Said chapter 71A, as so appearing, is hereby further amended by striking
506 out section 5, and inserting in place thereof the following section:-

507 Section 5. In order to ensure daily opportunities for speaking English and for contact with
508 English speaking peers, English Language Learner students shall participate fully with their
509 English-speaking peers in those regular education classrooms, subjects or activities in which
510 verbalization in English is not essential to understanding, including, but not necessarily limited
511 to, homeroom, art, music, physical education, recess and lunch. Each school district shall ensure
512 that English Language Learner students have practical and meaningful opportunity to participate
513 fully in the extra-curricular activities of the regular education programs in the district.

English language learners programs shall be located in the regular public schools of the district.

Students enrolled in an English language learners program shall be placed in classes with students of approximately the same age and level of English language proficiency and educational attainment.

In cases where the district is unable to comply due to low numbers of English Language Learner students ,

students of no more than a grade span of two years may be grouped for English language development instruction as part of the daily instructional program.

SECTION 8. Said chapter 71A, as so appearing, is hereby further amended by striking out

section 6 and inserting in place thereof the following section:

Section 6. The commissioner shall grant English language learner endorsements to general education teachers who have undergone department approved training or professional development programs

under section 38G of chapter 71; teachers of

English language learner programs approved by the department under section

2A shall be licensed in bilingual education/dual language education, or English as a second language. No person shall be eligible for employment by a school district as a teacher of bilingual education/dual language education, or English as a second language, except as provided in this section, unless he has been granted a license by

the commissioner under said section 38G with respect to the type of position for which he seeks

employment. Nothing in this section shall be construed to prevent a school committee from

prescribing additional qualifications.

In cases of shortages of licensed teachers of bilingual education or English as a second language, as determined by the commissioner, the commissioner may grant a waiver to a teacher

of bilingual education or English as a second language who is not certified with respect to the

type of position for which he seeks employment, if he presents the commissioner with satisfactory evidence indicating he: (1) possesses a speaking and reading ability in a language, other than English, in which English language learners programs are offered and is proficient in written and oral English; (2) is of sound moral character; (3) possesses a bachelor's degree or earned a higher academic degree; (4) meets such requirements as to courses of study, semester hours therein, experience and training as may be required by the board of education that will enable him to become a certified teacher of bilingual education, or English as a second language in the state; and (5) is legally present in the United States and possess legal authorization for employment. Any waiver shall be subject to annual renewal by the commissioner; provided, that the waiver may be renewed not more than 4 times. In granting a waiver under this section, the commissioner shall give preference to persons who have been certified as teachers in their country or place of national origin.

SECTION 9. Said chapter 71A, as so appearing, is hereby further amended by striking out

section 7 and inserting in place thereof the following section:

Section 7. A school district may establish, on a full or part-time basis, preschool or summer

school English language learners programs for English Language Learner students or join with

the other school districts in establishing such preschool or summer programs. Preschool or summer programs shall not substitute for English language learners programs required to be provided during the regular school year. A school district may establish after school programs to assist English Language Learner students in developing and maintaining native language proficiency.

SECTION 10. Notwithstanding any general or special law to the contrary, each school district

shall, within 5 years of the effective date of this act, have teachers who are certified in English as a Second Language, TBE, and/or other English language learners program, such as two-way/dual-language required to meet the needs of English Language Learner students in district and department endorsed general education teachers under section 38G of chapter 71 or regulations promulgated thereto.

SECTION 11. Notwithstanding any general or special law to the contrary, any school district with 200 or more English Language Learner students enrolled in the school system that appoints a person to be its director of English language learners programs shall appoint a person who is certified in English as a second language, bilingual education or other English language learners program under section 38G of chapter 71 or regulations promulgated thereto.

SECTION 12. Notwithstanding any general or special law to the contrary, any English Language Learner student, as defined in section 1 of chapter 71A of the General Laws, who was enrolled in a public secondary school in the commonwealth directly from a country other than the United States of America, and who was unable to achieve proficiency in the English language, as determined by English proficiency assessments established under section 2B of said chapter 71A, prior to leaving such public secondary school, to the extent possible shall be given access to English language and literacy skill instruction courses offered through the adult basic education program established under section 1H of chapter 69 of the General Laws.

SECTION 13. Notwithstanding any general or special law to the contrary, within 5 years of the effective date of this act, if the department of education implements any foreign language requirement on school districts, such requirement shall be mandatory for elementary schools.

608 SECTION 14. Sections 1 and 11 shall take effect on January 1, 2014.

609 SECTION 15. Sections 2 through 10, inclusive, and 18 through 27, inclusive, shall take
610 effect on July 1, 2014.