

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

<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Tom Sannicandro</i>	<i>7th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>
<i>Martha M. Walz</i>	<i>8th Suffolk</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.

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

18 "Department", the department of education.

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

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

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

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

45 "English Language Learner ", (1) a student who was not born in the United States

46 whose native language is other than English and who is not able to perform ordinary
47 class work

48 in English; or (2) a student who was born in the United States of non-English speaking
49 parents

50 and who is not able to perform ordinary class work in English.

51 "Office of language acquisition", the office of language acquisition established in
52 section 1A
53 of chapter 69.
54 "Two-Way or Dual-Language Program", a fulltime program of whole school
55 instruction for English Language Learner students and fully English proficient students
56 that
57 incorporates both the language and the culture of the language minority group to include
58 it in all
59 aspects of the school curricula in an English speaking classroom where teachers are
60 licensed in ESL, TBE, and/or Foreign/Dual Language.
61 "ESL", a fulltime program of academic instruction and/or English
62 language learning for English Language Learner students in which primarily English is
63 the
64 medium of classroom instruction and the native language of such student is used for
65 support and
66 clarification. General education, vocational and content teachers who have English
67 Language Learners students assigned to their classroom will be trained in ESL sheltering
68 principles and shall earn a Sheltered English Immersion (SEI) endorsement under the
69 regulations adopted by the Department for that purpose, to better support the academic
70 achievement of English language learner students in English language learning environments.
71 The assignment of any English Language Learner student to any teacher who does not hold an
72 SEI endorsement, or is not in the process of obtaining such endorsement within one year from
73 such assignment, is further prohibited.
74 "Transitional bilingual education", a fulltime program of instruction (1) in all those
75 courses
76 or subjects which are required by the Department which shall be given in the native
77 language of the English Language Learner students who are enrolled in the program and
78 also in
79 English, (2) in the reading and writing of the native language of the English Language
80 Learner
81 students who are enrolled in the program and in the oral comprehension, speaking,
82 reading and

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

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

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

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

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

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

96 students.

97

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

100 section 2 and inserting in place thereof the following section:

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

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

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

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

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

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

117

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

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

124 Every English Language Learner student enrolled in a public

125 school system shall participate in an English language learners program established by
126 the school

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

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

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

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

137 department under section 2A. No school district

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

139 The school committee shall establish a policy requiring that

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

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

144 language learners programs to be offered, the policy determination of the school
145 committee shall reflect that strong consideration was given to the research- based programs
146 offered and/or requested by the parents or legal
147 guardians of English Language Learner students.

148
149 SECTION 4. Said chapter 71A is hereby further amended by inserting after section 2 the
150 following two sections:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

207 the qualifications of staff administering such assessments.

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

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

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

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

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

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

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

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

223 (9) A description of the measures that will be used to ensure that former limited English

224 proficient students in regular education classrooms continue to progress in all areas of
225 the curriculum, including English, native language development, and compliance with the
226 academic standards and curriculum frameworks.

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

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

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

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

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

249 serve English Language Learner students.

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

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

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

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

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

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

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

271 programs and extracurricular activities. (e) A description of ESL licensed and/or
272 TBE/Dual language licensed staff; and
273 (f) ESL endorsed teachers and capacity-building professional development plan;
274 and (g) a description of the methods the district uses to communicate with the parent
275 and legal guardians regarding critical elements of aforesaid plan, including student progress, on
276 an annual or more frequent basis.

277 This plan shall be valid for 3 years. In the third year, a school district shall submit an
278 updated district plan to the commissioner for approval in the manner provided herein for
279 submission of a district plan. In addition to the requirements of this section for a district
280 plan, the
281 updated district plan shall also include documentation evidencing the academic
282 outcomes for
283 English Language Learner students served under the prior district plan.

284 If the commissioner determines that a district is not in compliance, or that a
285 district plan cannot be approved as submitted, the office of language acquisition shall
286 provide
287 advice and technical assistance to the district and shall set a date certain for the
288 submission of a
289 revised district plan. Regulations promulgated by the department to implement this
290 chapter shall

291 include, but not be limited to, measures to deal with districts that fail to submit district
292 plans, or
293 that submit district plans that the commissioner does not approve.

294 The district shall send report cards and progress reports, including, but not limited to,
295 progress in becoming proficient in using the English language, and other school
296 communications
297 to the parents or legal guardians of students enrolled in English language learners
298 programs in

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

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

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

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

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

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

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

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

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

319 frameworks.

320 Such programs may include, but not be limited to, two-way or dual language

321 education programs. All such programs shall be submitted to the department for review
322 and approval. The

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

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

328 for the purpose of evaluating the effectiveness of such plan and to validate evidence of
329 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

361 occurs first. School districts shall develop an intensive English learning success plan for
362 any
363 English Language Learner student whom the district determines fails to achieve scores
364 on English learner
365 proficiency assessments that, in the determination of the department, reflect sufficient
366 progress
367 toward achieving English language proficiency.
368 Any such plan shall be developed with the participation and approval
369 of the student's parents or legal guardian. The plan shall concentrate on the needs of the
370 student
371 to master English language literacy skills and shall specify such instruction or services
372 as
373 intensive English or other language development classes, intensive tutoring, after or
374 before school programs, summer programs, literacy mentoring, and other academic supports that
375 will assist the student in the
376 acquisition of English necessary to access academic standards and curriculum
377 frameworks at
378 grade level. Any student who fails to achieve growth scores on English proficiency and
379 academic content assessments that, in the determination of the department, reflect sufficient
380 progress, or that will enable the student to
381 perform successfully in classes in which instruction is given in English,
382 may remain in such an intensive program until adequate progress is made such that
383 students may fully participate and academically succeed in the standard program without
384 additional support ;
385 (b) student progress with intensive instruction and/or remediation is reported annually, or
386 more frequently, in language comprehensible to parents and legal guardians
387 Any English Language Learner student enrolled in a two-way or dual-language
388 education program
389 who has achieved sufficient growth scores on English proficiency assessments that, in
390 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.

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

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

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

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

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

525 section 6 and inserting in place thereof the following section:

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

529 under section 38G of chapter 71; teachers of

530 English language learner programs approved by the department under section

531 2A shall be licensed in bilingual education/dual language education, or English as a
532 second language. No person shall be eligible for employment by a school district as a teacher of
533 bilingual education/dual language education, or English as a second language, except as provided
534 in this section, unless he has been granted a license by

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

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

539 prescribing additional qualifications.

540 In cases of shortages of licensed teachers of bilingual education or English as a second

541 language, as determined by the commissioner, the commissioner may grant a waiver to
542 a teacher

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

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

567
568 SECTION 9. Said chapter 71A, as so appearing, is hereby further amended by striking
569 out

570 section 7 and inserting in place thereof the following section:

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

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

575 the other school districts in establishing such preschool or summer programs. Preschool
576 or
577 summer programs shall not substitute for English language learners programs required
578 to be
579 provided during the regular school year. A school district may establish after school
580 programs to
581 assist English Language Learner student s in developing and maintaining native
582 language
583 proficiency.

584
585 SECTION10. Notwithstanding any general or special law to the contrary, each school
586 district
587 shall, within 5 years of the effective date of this act, have teachers who are certified in
588 English as a Second Language, TBE, and/or other English language learners program,
589 such as two-way/dual-language required to meet the needs of English Language Learner students
590 in district and department endorsed general education teachers under section 38G of chapter 71
591 or regulations promulgated thereto.

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

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

605 SECTION 13. Notwithstanding any general or special law to the contrary, within 5 years
606 of the effective date of this act, if the department of education implements any foreign language
607 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.