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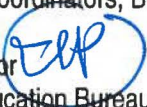
HANNA SKANDERA
SECRETARY OF EDUCATION

SUSANA MARTINEZ
GOVERNOR

October 31, 2016

MEMORANDUM

TO: Superintendents, Charter Administrators, Directors of EL, Title III and/or Bilingual Multicultural Education Programs, District Test Coordinators, BIE Leaders, and Tribal Education Leaders

FROM: Icela Pelayo, PhD, Director 
Bilingual Multicultural Education Bureau (BMEB)

RE: **Requirements and Guidance for Identification of English Learners (ELs) Using the New Mexico Language Usage Survey (LUS)**

The purpose of this memorandum is to inform you of the new state regulatory requirements and procedures for the timely identification of ELs and to clarify the state's exit criteria from EL status.

Under Title VI of the Civil Rights Act of 1964 and subsequent federal and state mandates, **all** districts and schools must identify, screen, and provide language support programs and/or services to ELs. Given federal and state legal obligations, districts are required to:

1. Ask parents and/or guardians for the information needed to identify potential ELs using the New Mexico Language Usage Survey (LUS); and
2. Screen *potential* ELs using the state's initial English language proficiency (ELP) screener, the WIDA™ W-APT to determine EL status. *Note: The results from the W-APT determine whether or not a student is classified as an EL, not the responses to the LUS.*¹

The Every Student Succeeds Act (ESSA) of 2015 requires all states to adopt standardized statewide procedures and criteria for entry into, and exit from, EL status that are consistent across districts within the state. To meet these requirements and in consultation with key stakeholders, the Public Education Department (PED) developed the department-approved New Mexico LUS and companion LUS Guidance Handbook. To ensure federal compliance, our regional Office for Civil Rights (OCR) has also reviewed and provided important feedback on the department-approved LUS forms and corresponding guidance handbook.

¹ To review the W-APT placement criteria for potential ELs, please see page 14 of the LUS Guidance Handbook available on the BMEB website, which can be accessed by clicking on *Serving English Learners (ELs)* tab: http://ped.state.nm.us/ped/Bilingual_ServingELs.html.

Further, to ensure a uniform process across New Mexico, the PED has amended the following sections of the New Mexico Administrative Code (NMAC), or rule, regarding ELs:

- 6.29.5.11, Identification of English Language Learners; and
- 6.29.5.12, Exit Criteria for English Language Learner Status.

The rule is effective today. I strongly encourage you to read through it carefully with your leadership team to ensure that your district is in compliance with both federal and state laws. Please ensure that your district and schools are compliant with new regulatory, statewide EL identification procedures for the 2017-2018 school year.

The department-approved LUS must be completed for all *new* students initially enrolling in a public school. The LUS replaces all locally-developed home language surveys that may have been previously used for soliciting information for the purpose of beginning the EL identification process. The LUS should only be completed *once* in a student's K-12 education career. For those districts that solicit this information electronically, please ensure that the LUS is part of your online registration process for *new* students enrolling for the first time in a public school in the 2017-2018 school year.

To assist with the transition to and full implementation of the new standardized statewide procedures and forms, the PED's BMEB has provided the following resources:

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| • NMLUS Guidance Handbook | • Frequently Asked Questions (FAQs) |
| • LUS Form | • Sample Parent Notification Letter |
| — <i>Spanish language version available</i> | — <i>Spanish language version available</i> |
| — <i>Navajo language version coming soon</i> | — <i>Navajo language version coming soon</i> |

The resources and tools mentioned above, as well as the amended rule, can be accessed on the PED's BMEB website at http://ped.state.nm.us/ped/Bilingual_ServingELs.html. For your convenience, the direct link to the rule is provided below.²

Additionally, the BMEB will provide LUS training sessions in the early spring of 2017 for appropriate district leadership. The purpose of these sessions is to train key district personnel responsible for the local training of school-level staff on the LUS form and the process for identifying potential ELs. Your district will receive notification of the trainings from the BMEB in the coming weeks, and the trainings will also be posted to the BMEB website.

If you have further questions, please contact Kirsi Laine, Bilingual Multicultural Education Specialist, at kirsi.laine@state.nm.us or (505) 827-6505.

We look forward to working with you and your team to properly identify and effectively serve our state's EL students.

Thank you.

cc: Hanna Skandera, Secretary of Education, PED
Christopher Ruszkowski, Deputy Secretary, Policy and Program, PED
Matt Pahl, Policy Director, PED
Matt Montaño, Director, Educator Quality Division, PED
Latifah Philips, Assistant Secretary of Indian Education, PED
Lisa Chandler, Director, Assessment, Accountability, and Evaluation Division, PED
Katie Poulos, Director, Options for Parents Division, PED
Aaron Romine, Director, Office for Civil Rights, Region VIII – Denver, U.S. Department of Education

² The amended rule can also be accessed by clicking on the following link: [6.29.5.11 NMAC](#).