

Consent Decree (2012) of the U.S. District Court

DENVER PUBLIC SCHOOLS

**ENGLISH LANGUAGE
ACQUISITION PROGRAM**



ENGLISH LANGUAGE ACQUISITION PROGRAM

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Definitions

Core subject areas are language arts, social studies, mathematics, and science.

Designated describes a teacher eligible to teach *English Language Learners* (in the case of *ELA-E* and *ELA-S* designation, *ELLs* in the *Program*; and in the case of *ELA-T* designation, *ELLs* who opt out of the *Program* or are *redesignated* or *exited FEP*), who is either *fully qualified* or is working toward becoming a *fully qualified ELA* teacher.

The **District-wide Advisory Committee** is a District-level committee of parents¹ with children in the *ELA Program*. It may operate as a standing subcommittee of another parent committee.

ELA-T teachers are *core subject area Mainstream English language classroom* teachers who have successfully completed the District’s Teacher Training Program for *ELA-T* teachers outlined in Chapter 5 and address the academic needs of *English Language Learners* who are transitioning to, or otherwise participating in, the *Mainstream English Language Instructional Program*.

English as a Second Language (ESL/ELA-E) is the *English Language Acquisition Program* for providing services to *English Language Learners* that includes *Supported English Content Instruction* and *English Language Development*.

The **English Language Acquisition (ELA) Program (Program)** provides services to *English Language Learners*, including *Transitional Native Language Instruction (TNLI)* services and *English as a Second Language (ESL/ELA-E)* services. The goal of the *Program* is for students to transition to the *Mainstream English Language Instructional Program*.

English Language Development (ELD) is the provision of direct instruction in English language usage including: content vocabulary development, survival vocabulary development, oral language development, listening comprehension, and the development of reading and writing skills in English.

An **English Language Proficiency (ELP)** test is a valid and reliable test of *English Language Proficiency* to determine *ELL* students’ proficiency in all four language domains of listening, speaking, reading, and writing.

An **English Language Learner (ELL)** is a student who does not demonstrate proficiency in English on a valid and reliable *ELP* assessment of all four language domains (*i.e.*, listening, speaking, reading, and writing). *ELL* students (or *ELLs*) are eligible for *Program* services and include students who are *Limited English Proficient (LEP)*, those who are *LEP* but opt out of services (*i.e.*, *PPF3*), and *redesignated* but not *exited FEPs*.

¹ Throughout this document, the definition of “parent” and “parents” includes legal guardians.

The ***Executive Leadership Team*** refers to the District’s Superintendent, Chief Academic Officer, and those Cabinet-level administrators designated by the Superintendent.

An ***exited FEP*** is a student who, following two years of monitoring as a *redesignated FEP*, and absent a determination that the student should be reentered into *Program* services, is *exited* from the *Program* and enrolled in the *Mainstream English Language Instructional Program*.

A ***Fluent English Proficient (FEP)*** student is a *redesignated ELL* or *exited FEP* student who has sufficient English language skills to *meaningfully and equally participate* in the *Mainstream English Language Instructional Program*.

Fully qualified refers to a teacher who is State-endorsed in teaching the linguistically and culturally diverse,² has earned a Masters or doctorate degree in teaching the linguistically diverse, or has completed the appropriate training requirements described in Chapter 5 to serve *ELLs*.

- A ***fully qualified ELA-E*** teacher is one who is State-endorsed in teaching the culturally and linguistically diverse, has earned a Masters or doctorate degree in teaching the linguistically diverse, or has completed the approved District *ELA-E* training described in Chapter 5.
- A ***fully qualified ELA-S*** teacher is (1) one who is State-endorsed in teaching the culturally and linguistically diverse, has earned a Masters or doctorate degree in teaching the linguistically diverse, or has completed the approved District *ELA-S* training described in Chapter 5; and (2) demonstrates proficiency in speaking, reading, writing, and listening Spanish on a valid and reliable assessment of Spanish Language Proficiency.
- A ***fully qualified Secondary ELA-S Resource Teacher*** is one who meets the requirements of a *Fully Qualified ELA-S teacher* and provides the services referenced in Section II.D of Chapter 1.
- A ***fully qualified ELA-T*** teacher is one who is State-endorsed in teaching the culturally and linguistically diverse, has earned a Masters or doctorate degree in teaching the linguistically diverse, or has completed the approved District *ELA-T* training described in Chapter 5.

² The State offers an endorsement in Linguistically Diverse Education (LDE) that will be replaced as of January 1, 2013, by a Culturally and Linguistically Diverse Endorsement (CLDE). If the State changes the requirements for the CLDE endorsement during the term of the CD such that it would significantly lessen training as compared to what is required for the District’s *ELA-E* or *ELA-S* training described in Chapter 5, the State endorsement would no longer provide an independent basis for recognizing a teacher as *fully qualified*.

The ***Home Language Questionnaire/Screening Questionnaire (HLQ)*** is a questionnaire used by trained staff at registration with parents and students new to the District to determine whether the student's primary or home language is a language other than English (*PHLOTE*) and to preliminarily assess the students' potential status as an *ELL*.

Initial Fluent English Proficient (IFEP) students are those students identified by the *Home Language Questionnaire* as having a primary or home language other than English who test proficient on their initial *ELP assessment* and therefore are never identified as *ELLS*.

The ***Instructional Services Advisory (ISA) Team*** is a team that makes recommendations to the Department of English Language Acquisition regarding *Program* entry, *redesignation/exit*, and services for *ELLS*.

A ***Limited English Proficient (LEP)*** student is one who does not demonstrate proficiency in English in all four language domains (*i.e.*, listening, speaking, reading, and writing) based on a valid and reliable *ELP* assessment. *LEP* students are eligible for *Program* services.

A ***Limited English Proficient Parent (LEP parent)*** refers to a parent of a District student who has limited or no ability to read, speak, write, or understand communications in English. A parent may be a *LEP parent* even if his or her child is not an *ELL*.

Mainstream English language classrooms are those designed to serve native English-speaking students and otherwise English-proficient students, including those identified as *IFEP* on a valid and reliable *ELP* test and those who have been *redesignated* as *FEP* or *exited* from the *Program*.

The ***Mainstream English Language Instructional Program*** is the instructional program designed for native English-speaking, and otherwise English-proficient, students, including *IFEPs* and those who have been *redesignated FEP* or *exited* from the *Program*.

Meaningful and equal participation refers to the ability of *redesignated FEPs* and *exited FEPs* to participate in and benefit from the *Mainstream English Language Instructional Program* without *ELA* supports in a manner comparable to their *never-ELL* District, and State peers.

Native language instruction includes the provision of instruction in one or more *core subject areas* in a student's native language. The development of native language arts includes oral language development, reading, and writing. The purpose of *native language instruction* is to provide a foundation for literacy in English and/or opportunities for learning in *core subject areas* until instruction in English is appropriate. *Native language instruction* will follow the District's research-based language allocation guidelines. At the Elementary level, the *native language instruction* portion of the day includes activities that promote literacy and cognitive development in a student's first language in a manner comparable to their *never-ELL* District peers. At the Secondary level, the *native language instruction* portion of the day includes activities that promote content acquisition in science, social studies, and/or math.

Native language support includes curricular resources in the native language, *paraprofessional* support in the native language, preview/review in the native language, and appropriate strategies

to support the transition to English for *ELLs*. *Native language support* is not a substitute for *native language instruction*, where such instruction is required by the *Program* or this Consent Decree (CD).

Never-ELLs are *IFEP* students and native English-speaking students who have no *ELP* scores. *Never-ELLs* do not include *ELL*, *LEP*, *redesignated FEP*, or *exited FEP* students.

The *Newcomer and SIFE (Students with Interrupted Formal Education) Center (Newcomer Center)* serves *ELLs* who are new to the District and/or whose formal education has been interrupted, and who have been identified as very limited in literacy in their native language and English. The *Newcomer Center* provides intensive instruction in reading, writing, speaking, and understanding English for such students. Identified students generally are served for one to two semesters in the *Newcomer Center* to prepare them for participation in an *ESL/ELA-E* or a *Transitional Native Language Instruction (TNLI)* program.

Non-Program schools are schools with fewer than 15 *ELLs* that do not provide *Program* services in the form of *ESL/ELA-E* or *Transitional Native Language Instruction (TNLI)* programs but that must nonetheless take appropriate action to overcome the *ELLs'* language barriers, as required by the EEOA, Title VI, and this CD. The District makes available transportation for *ELLs*, in accordance with District transportation guidelines, to *Zone schools* offering *Program* services.

On track refers to *designated* teachers who are not *fully qualified* but are working toward achieving *full qualification* and have met the requirements such that they will achieve *full qualification* within the applicable timeline referenced in Section I of Chapter 5, including any extensions granted pursuant to Section III.F of Chapter 5.

Paraprofessionals are teacher support staff who assist students in the classroom. *Paraprofessionals* must meet qualification standards as set forth in State and federal guidelines.

A *Parent Advisory Committee (PAC)* is a school-based committee chosen by parents with children in the *ELA Program* at the school. The *PAC* may operate as a standing subcommittee of another parent committee.

The *Parent Permission Form (PPF)* is the form used by parents of *ELLs* to indicate a preference regarding *ELA Program* services. *PPF1* indicates a preference for *Transitional Native Language Instruction*. *PPF2* indicates a preference for *ESL/ELA-E* instruction. *PPF3* indicates a waiver of *ELA Program* services. A parent may indicate a preference for particular services but choose to enroll their student in a *non-Program school* or a school that offers services other than those indicated by the choice reflected on the *PPF*.

A *PHLOTE (Primary or Home Language Other Than English)* student is one whose native language, or for whom the primary language used in the home, is a language other than English.

A *professional judgment* is made by a professionally-trained educator and is based on factual information, objective assessment, and a sound model of English language acquisition.

A **qualified interpreter or translator** is one who is fluent in the language in which he or she is communicating (in addition to English), has a demonstrated ability to employ the mode of interpretation appropriate to the given situation (*e.g.*, simultaneous interpretation for hearings or large-group parent meetings), and has received training in specialized issues such as confidentiality and any applicable technical vocabulary.

A **redesignated FEP** is a student who meets valid, reliable, and objective criteria for *FEP*, including demonstrating English proficiency on a valid and reliable *ELP* assessment as prescribed by this CD, and moves from the designation of *LEP* to *FEP*. *Redesignated* students are monitored for two years prior to *exit* from the *ELA Program*. Following two years of monitoring, absent a determination that the student should be reentered into *Program* services, the *redesignated FEP* student is *exited* from the *Program*.

A **regular classroom** is the classroom in which a student's *core subject area* instruction is provided primarily.

A **resource classroom** is a classroom where instruction to supplement *regular classroom* instruction is provided.

Supported English Content Instruction is instruction in *core subject areas* in sheltered English, which is the use of specialized strategies to make the content accessible to, and increase the likelihood that content in English will be comprehended by, *ELLs*. When content cannot be adequately explained in English, an explanation or feedback in the student's native language may be given.

Transitional Native Language Instruction (TNLI) is the program in which services, including *native language instruction* in Spanish, *supported English Content Instruction*, and *ELD*, are provided to *ELLs*. For purposes of this CD, dual language programs qualify as part of the *TNLI* program.

A **Zone school** is a school that provides services for *ELLs* and to which *ELLs* from other attendance areas who seek *Program* services may be assigned.

Introduction

The *English Language Acquisition (ELA) Program (Program)*³ serves students who are *English Language Learners (ELLs)*. The *Program* is transitional in that its goal is to use efficient and effective techniques to provide students with the English language skills they need to *meaningfully and equally participate* in the District's *Mainstream English Language Instructional Program*. The District shall ensure that all *ELLs* in the *Program*, like all District students, at each school, in each educational program, and at each grade-level and *ELP* level, receive grade-appropriate content instruction that is designed to enable them to perform at grade level, reach their full potential, and be on track to graduate from high school prepared for success in life, work, civic responsibility, and higher education.

The District shall offer *Transitional Native Language Instruction (TNLI)* services and *English as a Second Language (ESL/ELA-E)* services. The designation for program services is determined by the number of *ELLs* at each school, as described herein. Components of the program services shall include *native language instruction* in Spanish (*TNLI* only), *Supported English Content Instruction*, and *English Language Development (ELD)*.

Transition to English begins when a student enters the *Program*. Students traditionally progress from *native language instruction* (if provided), to *Supported English Content Instruction*, to *Mainstream English Language Instruction*, where there is the opportunity for additional support through *ELD*. Language development in the areas of speaking, understanding, reading, and writing English shall be measured through the District's progress reporting system, which shall include the Standards-Based Progress Reports. This shall provide a basis for monitoring both student progress and *Program* effectiveness at each school.

The District recognizes the value of teachers who speak the language of the students that they serve. The District shall intentionally recruit such teachers and refer them to school principals in need of ELA-qualified teachers.

The Department of English Language Acquisition (ELA Department) shall oversee and monitor *Program* implementation and *Program* effectiveness at each school. *ELA Program* services at schools are supported by additional District departments including, but not limited to: Instructional Supervision; Principal Supervision; Assessment, Research, and Evaluation (ARE); Teaching and Learning; Planning and Analysis; Choice and Enrollment; Office of School Reform and Innovation; Federal Programs; Human Resources; and Professional Development.

³ Phrases in italics are defined in the *Definitions* Section preceding the Introduction.

Chapter 1: Instructional Services

In an effort to target the instructional needs of all *ELLs* in each grade level at a school, the District shall provide a combination of *ELA Program* services within one school. The number of *ELLs* in a school defines the *Program* services for that particular school, through a *TNLI* program and/or an *ESL/ELA-E* program, as set forth herein. The District shall provide to all *ELLs* in the *TNLI* program (1) *ELD* and (2) *native language instruction* in Spanish and/or *Supported English Content Instruction*, consistent with *TNLI* program implementation and research-based language allocation guidelines. The District shall provide to all *ELLs* in the *ESL/ELA-E* program (1) *ELD* and (2) *Supported English Content Instruction*, with written *native language supports* through curricular resources, and, as needed and unless not feasible, oral *native language support*. The District shall ensure that that all *ELLs* at all schools are integrated with non-*ELLs* for recess, art, music, physical education, lunch, and library and that *ELLs* are integrated, to the extent practicable, with mainstream education students in school functions, co-curricular activities, and extracurricular activities.

I. *Elementary Services*

- A. The District shall provide *ESL/ELA-E* program services for *ELLs* in each elementary school where there are 15 or more *ELLs*. Schools with fewer than 15 *ELLs* are *non-Program schools*. For *ELLs* in *non-Program* schools, and for Spanish-speaking *ELLs* who desire *TNLI* services but are in schools where such services are not offered, the District shall make available transportation in accordance with District Transportation guidelines to *Zone schools* offering *Program* services.
- B. The *ESL/ELA-E* program components, teacher qualifications, staffing, and instructional program organization shall be as follows:
 - 1. *ELD*, in the areas of reading, writing, speaking, and understanding English, shall be provided by an *on track* or *fully qualified ESL/ELA-E* teacher. These components shall be provided for up to 30 percent of the school day, depending on the student's skills in English. Time requirements may be reduced proportionately for half-day programs. To the extent practicable, no more than 15 students shall be instructed at one time in a *resource classroom*.
 - 2. If 15 or more students at a school speak Spanish, the *resource classroom* teacher shall be an *on track* or *fully qualified ELA-S* teacher.
 - 3. Whenever possible, if more than 15 students at a school speak a language other than Spanish, the *resource classroom* teacher assigned to provide instruction shall be orally proficient in the language spoken by the students.
 - 4. *Supported English Content Instruction* shall be provided by an *on track* or *fully qualified ELA-E* teacher. At least one *ELA-E* classroom teacher position in the

Program shall be assigned for each grade level that serves *ELLs* in *ESL/ELA-E* classrooms in that grade.

5. *Paraprofessionals* shall be assigned as outlined in Sections IV.C-IV.E of this Chapter.
- C. In schools where 60 or more *ELLs* who speak Spanish are enrolled, the District shall provide *TNLI* program services. The program service components, teacher qualifications, staffing, and instructional program organization in such schools shall be as follows:
1. *Native language instruction, Supported English Content Instruction, and ELD* shall be available at each grade level in *regular classrooms* staffed by an *on track* or *fully qualified ELA-S* teacher. Teachers providing *Supported English Content Instruction* and *English Language Development* shall be *on track* or *fully qualified ESL/ELA-E*.
 2. When providing *TNLI* services, the District shall adhere to research-based language allocation guidelines.
 3. *Paraprofessionals* shall be assigned as outlined in Sections IV.C-IV.E of this Chapter.
- D. At each school where the District offers an Early Childhood Education (ECE) Program, *TNLI* schools shall provide *TNLI* Pre-K services and *ESL/ELA-E* schools shall provide *ESL/ELA-E* Pre-K services.

II. *Secondary Services*

- A. The District shall provide *ESL/ELA-E* program services for *ELLs* in each secondary school where there are 15 or more *ELLs* who elect or desire *Program* services (*i.e., PPF1* or *PPF2*). Secondary schools with fewer than 15 *ELLs* who elect *Program* services are *non-Program schools*. For *ELLs* in *non-Program schools*, and for Spanish-speaking *ELLs* who desire *TNLI* services but are in schools where such services are not offered, the District shall make available transportation in accordance with District Transportation guidelines to *Zone schools* offering *Program* services.
- B. The components, teacher qualifications, staffing, and instructional program organization of *ESL/ELA-E* programs in secondary schools shall be as follows:
1. *ELD*, primarily in the areas of reading, writing, speaking, and understanding English, shall be provided by an *on track* or *fully qualified ESL/ELA-E* teacher, for up to 90 minutes per school day.
 2. Whenever possible, if more than 15 students at a school speak a language other than Spanish, the classroom teacher assigned to provide instruction shall be orally proficient in the language spoken by the students.

3. *Supported English Content Instruction* shall be provided by an *on track* or *fully qualified ESL/ELA-E* teacher. At least one *ESL/ELA-E* classroom teacher position in the *Program* shall be assigned for each core content area at each grade level that serves *ELLs* in *ESL/ELA-E* classrooms in that grade.
 4. *Paraprofessionals* shall be assigned as outlined in Sections IV.C-IV.E of this Chapter.
- C. In schools where more than 15 but fewer than 100 Spanish-speaking *ELLs* are enrolled, as feasible, *ESL/ELA-E* teachers shall demonstrate Spanish Language Proficiency as determined by a valid and reliable assessment of Spanish Language Proficiency.
- D. In secondary schools where 50 to 99 Spanish-speaking *ELLs* are enrolled, a *fully qualified Secondary ELA-S Resource Teacher* shall provide additional support as practicable for all students at the beginning, early intermediate, and intermediate levels of *ELP* as determined by a valid and reliable *ELP* assessment.
- E. Beginning with the 2013-14 school year,⁴ the District shall provide *TNLI* program services in secondary schools with 100 or more Spanish-speaking enrolled *ELLs* whose *ELP* is at the intermediate level or below.⁵ The program components, teacher qualifications, staffing, and instructional program organization shall be as follows:
1. *Native language instruction, Supported English Content Instruction, and ELD* shall be available at each grade level in core content classrooms staffed by an *on track* or *fully qualified ELA-S* teacher. If only *Supported English Content Instruction* and *ELD* are provided in a classroom for students who are part of the *TNLI* program, a *fully qualified ELA-E* teacher shall be provided. *Native language support* services may be provided to *ELLs* at all levels, but should not be used as a substitute for *native language instruction* where such instruction is required by the relevant program services or this CD.
 2. *Paraprofessionals* shall be assigned as outlined in Sections IV.C-IV.E of this Chapter.
- F. Nothing in this CD shall be interpreted to prohibit the District from offering *TNLI* services, as described above, at schools with fewer than 100 Spanish-speaking *ELLs* whose *ELP* level is at the intermediate level or below.

⁴ The *TNLI*-designated secondary schools for the 2012-13 school year are: DCIS at Montbello MS, Kepner MS, Trevista at Horace Mann, West Generation Academy MS, West Leadership Academy MS, Abraham Lincoln HS, DCIS at Montbello HS, West Generation Academy HS, West Leadership Academy HS.

⁵ The District also shall undertake an annual strategic regional analysis of Spanish-speaking *ELLs*' geographic residency to identify Spanish-speaking *ELLs* whose *ELP* is at the intermediate level or below in particular geographic areas and use such analysis to plan for designation of *TNLI* schools.

III. Newcomer and SIFE Services

- A. *Newcomer and SIFE Centers (Newcomer Centers)* shall provide services to students new to the United States who have had limited or interrupted formal education, and have been identified as very limited in literacy in their native language and English. Generally, students assigned to the *Newcomer Centers* will transition to an *ESL/ELA-E* or *TNLI* model, as described in Sections I and II of this Chapter, within two semesters. Transportation shall be provided to *Newcomer Centers* in accordance with District Transportation guidelines.
- B. The program components, teacher qualifications, staffing, and instructional program organization in *Newcomer Centers* shall be as follows:
1. *Supported English Content Instruction* and *ELD* shall be provided.
 2. If 15 or more students at a *Newcomer Center* speak the same language, wherever practicable, at least one teacher proficient in the language shall be assigned.
 3. *Core subjects* and *ELD* shall be taught by *on track* or *fully qualified ESL/ELA-E* teachers.
 4. *Paraprofessionals* shall be assigned as outlined in Sections IV.C-IV.E of this Chapter.
- C. *Newcomer Centers* shall maintain a low student-teacher ratio. Computer-assisted instruction may be used in the instructional program but shall not be a substitute for instruction by teachers qualified to provide newcomer *Program* services. Additionally, the *Newcomer Centers* shall provide support for a student's socio-cultural transition to schools in the United States.

IV. Program Services Provided by Supplemental and Support Staff⁶

- A. Classroom support for *ELA Program* teachers shall be provided by staff development professionals or by administrators who have responsibility for oversight and coordination of *Program* implementation in elementary, middle, or high schools. Further supervision of *Program* implementation and support shall be provided by the District's *Executive Leadership Team* and the ELA Department. Classroom support staff shall provide services including the following:
1. Coaching and mentoring teachers working with *ELLs*, demonstrating appropriate lessons and strategies as needed;
 2. Reviewing *ELL* assessment data in each school;

⁶ Requirements for teachers of *Program* classrooms are addressed in Chapter 5.

3. Serving as resources for the *Instructional Services Advisory (ISA) Team*;
 4. Assisting schools in the selection and purchase of available quality curricular materials that support *meaningful and equal participation in Mainstream English Language Instruction* and, as available, are comparable to materials provided to *never-ELLs*; and
 5. Clarifying explanations of the *Program* and *Program* services provided to parents, and ensuring that such communications are in a language *LEP parents* can understand.
- B. In selecting supplemental staff (*e.g.*, librarian, physical education teacher, student counselor or advisor, music teacher), consideration shall be given to hiring qualified staff who are proficient in the native languages spoken by *ELLs* at the school.
- C. Using spring projections and fall adjustment data, for every 15 *ELLs* in a *Program* school who speak the same language, and the language is other than Spanish, *paraprofessionals* who speak that language shall provide six hours of tutoring and classroom assistance per day to *ELLs*. A maximum of 24 hours per day of such assistance shall be provided in each school for a given language group. Implementation of this provision is dependent on the availability of qualified *paraprofessional* applicants, if insufficient numbers of incumbent employees are available.
- D. Annual *paraprofessional* hours shall be allocated to individual schools with *ELA* programs based on the number of Spanish-speaking *ELLs* projected in the spring to be enrolled in the following school year. At a minimum, whenever there are 24 or more Spanish-speaking *ELLs* in a school and services are provided in that school for *ELLs*, three hours per day of assistance by Spanish-speaking *paraprofessionals* shall be provided to tutor students and help them in class. For each additional eight Spanish-speaking *ELLs* in a school, an additional hour of *paraprofessional* assistance shall be provided.
- E. *Paraprofessional* hours allocated pursuant to Section IV.D of this Chapter may be served by teachers, consistent with District guidelines, if the following conditions are met:
1. The teachers serve the *ELLs* for whom the *paraprofessional* hours were allocated;
 2. If appropriate, the *core subject area* teachers are proficient in the language spoken by the *ELLs* that they serve;
 3. The overall resources to serve *ELLs* are not otherwise diminished; and
 4. The planned use of the converted *paraprofessional* hours is approved by the *ELA* Department.

V. *Response to Instruction and Intervention*

- A. The District shall offer to students identified as needing intervention or remediation to achieve their full potential opportunities for extra assistance through a “Response to Instruction and Intervention” (RTI) system. RTI provides a continuum of evidence-based instruction and interventions, with increasing levels of intensity and duration, based on identified student need. RTI includes three levels of instruction and/or interventions which are designed to be fluid and accessible, based on current student needs:
- The **Universal Level** refers to differentiated core curricular instruction provided in the classroom for all students, incorporating ongoing universal screening, formative assessments to monitor student progress, and prescriptive assessments to design instruction strategies to support students identified as not meeting their full potential;
 - The **Targeted Level** refers to supplemental instruction provided to students who, because of academic and/or social challenges, are at risk of not making adequate progress at the Universal Level;
 - The **Intensive Level** refers to intensive instructional interventions and strategies to address strengths and needs identified through ongoing progress monitoring and/or diagnostic assessment data, which are provided to students with intensive and/or chronic academic and/or behavior needs in order to make sufficient progress in general education.
- B. RTI is intended to address students’ academic deficiencies. RTI is not a trajectory to special education services for *ELLs*. Before *ELLs* are recommended for Targeted Level or Intensive Level services, the District shall ensure that these students have had sufficient access to *ELD* and core content instruction by *on track* or *fully-qualified ELA* teachers in an environment that is supportive of their language development.
- C. Decisions to refer *ELLs* for RTI services are made by *on track* or *fully qualified ELA-designated* teachers and are reviewed by an intervention team that includes a *fully qualified ELA* teacher. In all cases, the unique linguistic needs of *ELLs* are considered in the provision of RTI services (including in the selection of assessment methods and the interpretation of results).
- D. The District may provide RTI services as a supplement to, not a replacement for, the *Program* services provided for in this CD and required by the EEOA and Title VI.

VI. *Curriculum and Materials*

- A. The curriculum for *ELLs* shall be the same as that used for the *Mainstream English Language Instructional Program*. Appropriate curriculum and instructional strategies shall be used to make the curriculum accessible to *ELLs*.

- B. The District shall provide a meaningful opportunity for *ELLs* to be considered for admission to Gifted and Talented programs and other advanced classes, using criteria that do not screen out *ELLs* because of their limited English language proficiency. In addition, a modified curriculum and instructional strategies (*e.g.*, “acceleration” or “expansion”) shall be used, where appropriate, with Gifted and Talented *ELLs*.
- C. The District shall provide, wherever available, grade- and subject-appropriate Spanish-language core content materials, comparable to the English-language content materials used in *Mainstream English language classrooms*, for *ELLs* who are taught in Spanish in *ELA-S* and dual language classes. To the extent practicable, the District also shall make such materials available as instructional supports for Spanish-speaking beginning and early intermediate *ELLs* in *ELA-E* content classes.
- D. “Comparability” shall be determined with reference to Common Core State Standards. “Availability” shall be determined with reference to commercial availability for purchase by the District. In the event the United States or private plaintiffs notify the District of its/their view that certain Spanish-language materials utilized by the District are not comparable to their English-language counterparts, the United States and/or private plaintiffs may identify and propose comparable materials that are available commercially. The District shall review the proposed available materials for comparability and availability and respond to the United States and/or private plaintiffs within a reasonable period of time.

VII. *Progress in Program Schools Offering a Transitional Native Language Instructional Model*

- A. Transition to English begins when students enter the *Program*. Students traditionally progress from *native language instruction* in schools where these services are offered to *Supported English Content Instruction*, to *Mainstream English language classrooms*.
- B. The *ELA-S* teacher shall use a variety of factors to determine when a student has the *ELP* skills to be moved from the *transitional native instruction* component to the *Supported English Content Instruction* component. The teacher shall consider the student’s abilities to: (1) understand academic English vocabulary; (2) engage in classroom conversation in English; and (3) understand classroom materials in English. Evidence regarding these factors may come from the following sources:
 - 1. *ELP*, as measured by a valid and reliable *ELP* assessment at the intermediate or equivalent level and higher;
 - 2. Classroom performance;
 - 3. Interim and State Assessments;
 - 4. Standards-Based Progress Report(s);
 - 5. Attendance; and

6. Classroom behavior.
- C. Nothing in this CD precludes a Spanish-speaking *ELL* with intermediate-level *ELP* from eligibility for *native language instruction* if the *professional judgment* of the *ELA-S* teacher is that such assignment is in the best interests of the student and is consistent with the provisions of this CD.
 - D. Ongoing communication between the *ELA-S* and *Supported English Content Instruction* teachers shall be maintained to determine whether the assignment is appropriate or should be reconsidered.
 - E. The District shall maintain a database accessible to each school reflecting the language skills of each *ELL* enrolled in the school.
 - F. Parents shall be informed of any changes in *Program* services provided to the student.

VIII. Progress Toward Instruction in English

- A. *ELLs* annually shall be assessed and monitored using a valid and reliable *ELP* assessment to determine their current proficiency levels in the language domains of listening, reading, writing, and speaking, and overall proficiency level.⁷
- B. The District shall monitor the *ELP* and academic progress of *ELLs* regularly and shall include this progress as a factor in the District's *ELA Program* school monitoring schedule adopted by the District's *Executive Leadership Team* each year.
- C. Students who cannot *meaningfully and equally participate* in a *Mainstream English language classroom*, or one where *Supported English Content Instruction* is provided, may continue to receive *native language instruction* consistent with research-based language allocation guidelines.
- D. Students who can *meaningfully and equally participate* in a *Mainstream English language classroom* are *redesignated*, monitored for two years, and *exited* under the procedures and standards set forth in Chapter 4.

IX. Spanish-Language Assessments

- A. The District shall utilize available grade- and subject-appropriate reading, writing, math, science, and social studies content assessments in Spanish, that are developed for and normed with a grade-appropriate student population, to assess the knowledge of *ELLs* in those subjects in which they have been instructed in Spanish.

⁷ The District uses State *ELP* assessments. If the District fails to comply with this provision because the State requires the District to use and score an assessment that does not measure *ELP* in this manner, the United States and private plaintiffs will attempt to resolve any inconsistencies with this provision with the State and the District.

- B. The District shall make good faith efforts to obtain, by 2013, available Spanish-language grade- and subject-appropriate writing, reading, mathematics, and science assessments for high school *ELLs* who receive instruction in Spanish for those subjects. For grades 1-8, when the District provides science assessments in English, the District also shall make good faith efforts to obtain available grade-appropriate science assessments in Spanish for those students in each grade who receive science instruction in Spanish (*e.g.*, assessing *ELLs* in an 8th-grade *ELA-S* science class in Spanish when science content is assessed for non-*ELL* 8th-graders in English).

Chapter 2: Instructional Services Advisory Team

- A. All District schools shall be assigned an *Instructional Services Advisory (ISA) Team*. The *ISA Team* shall make recommendations to the ELA Department consistent with this CD, supported by objective evidence, regarding *Program* entry, *redesignation*, *exit* or reentry, and change(s) in services. The *ISA Team* assigned to each school shall provide a foundation for that school's accountability for identifying and serving all *ELLs*.
- B. The *ISA Team's* responsibilities shall include:
1. Reviewing services provided to identified *ELLs*, for consistency with this CD;
 2. Monitoring identification of *ELLs* to address potential inappropriate identification and placement;
 3. Reviewing the *ELP* and academic progress of all *ELLs*, including those who have declined services (*i.e.*, *PPF3*) and making recommendations regarding changes in language acquisition service, supported by evidence, which may include formal and informal assessments, observations, and information provided by the classroom teacher or parent;
 4. Identifying all *ELLs* in need of intervention and collaborating with appropriate staff to address these students' instructional needs;
 5. Reviewing *ELL* student information and making recommendations to the ELA Department regarding the *redesignation* or *exit* of *ELLs* and reentry into the *Program* (*see* Chapter 4);
- C. The composition of the *ISA Team* shall include, at a minimum, the following staff:
1. *ELA Program School*:
 - a. The principal or an administrator designated by the principal; and
 - b. Two teachers, at least one of whom is *fully qualified* as *ELA-S* or *ELA-E*.
 2. *Non-Program School*:
 - a. The principal or an administrator designated by the principal; and
 - b. Two teachers, at least one of whom is *fully qualified* as *ELA-T*.
- D. Training of the *ISA Team* shall be provided by the ELA Department, as described in Section XI of Chapter 5.

**Chapter 3:
Parent Communication, Student Screening
and Provisional Placement, Assessments for Eligibility,
and Monitoring of Students who Decline Services**

I. Parent Communication

- A. The District shall provide *Limited English Proficient parents (LEP parents)* with meaningful access to information provided to non-*LEP parents*, as set forth below. To identify *LEP parents*, the District shall ask the parent registering a child in a District school, in a language that he/she understands, whether he/she needs oral and/or written communications in a language other than English. Once the District becomes aware of parents' communication needs, the District shall record such information in a student information database and communicate with such parents in a manner that provides them with meaningful access to information that is provided to other parents.
- B. The District shall use the information recorded pursuant to paragraph I.A above, to identify the language(s) for which it needs *qualified translators and interpreters*.
- C. As determined by students' *PHLOTE (Primary or Home Language Other Than English)* data generated by the *Home Language Questionnaire/ Screening Questionnaire (HLQ)*, the District shall provide translation and interpretation services to *LEP parents* as follows:
1. Starting in the 2012-13 school year:
 - a. For languages spoken by 100 or more District students, the District shall provide written translation and oral interpretation to *LEP parents* who request communications in those languages, or whose need for communications in such languages otherwise becomes apparent, of: (i) *ELA Program* materials; (ii) information about matters arising under the Individuals with Disabilities Education Act ("IDEA") and Section 504 of the Rehabilitation Act of 1973 ("Section 504" or "504") (except that translation of Individualized Education Plans (IEPs) and plans developed pursuant to Section 504 ("504 Plans") is governed by Chapter 7); and (iii) information about how to obtain translation and interpreter services from the District free of charge to the parent.
 - b. When documents containing other "District-level essential information"⁸ are distributed by the District or the school, the District shall ensure that such

⁸ Documents containing "District-level essential information" include, but are not limited to: (a) the Parent/Student Policy Handbook; (b) information about matters arising under the IDEA or Section 504 (e.g., IEP and 504 meetings) (except that translation of IEPs and 504 Plans is governed by Chapter 7); (c) announcements that contain information about District programs and activities for which notice is needed to participate or for which parent

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documents are translated into Spanish (effective immediately upon entry of this CD), followed by the next two most common non-English languages spoken by District students (before January 2013), and distributed to *LEP parents* who request communications in those languages or whose language needs otherwise become apparent.

- c. When documents containing “school-specific essential information”⁹ are distributed at the school, the District shall provide to each school templates for these documents in Spanish (effective immediately upon entry of this CD), followed by the next two most common non-English languages spoken by District students (before January 2013) for the school to complete and distribute, with translation support from the District as needed.
 - d. For languages other than the languages referenced above, the District shall provide a written translation or oral interpretation of documents containing District-level or school-specific essential information within a reasonable period of time after receiving a *LEP parent’s* request or the parent’s language need becoming apparent.
 - e. When a District employee(s) communicate(s) with *LEP parents* orally regarding essential information, the communication shall be by means of a *qualified interpreter* in a language the parent understands. With respect to non-essential information, the District shall provide written translation or oral interpretation upon receiving reasonable, specific parental requests. Translation of a document upon request shall not create a presumption that the document contains essential information.
2. In the 2013-14 and 2014-15 school years, in addition to the obligations outlined in Section I(C)(1) of this Chapter:
- a. When documents containing District-level essential information are distributed by the District or the school, such documents shall be translated

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permission is required (e.g., Gifted and Talented courses, advanced opportunities and prerequisites, charter or magnet schools); (d) documents related to the *ELA Program* (e.g., screening procedures, *HLQ*, and *Program* and opt-out options); (e) information related to public health and safety (e.g., vaccination requirements, emergency protocols); and (f) any other written information that would be provided to non-*LEP Parents* describing the rights and responsibilities of parents or students and the benefits and services available to parents and students (e.g., information about the disciplinary process, information regarding free- and reduced-price lunch, access to student records, graduation requirements, and post-secondary readiness and financial aid information).

⁹ Documents containing “school-specific essential information” include, but are not limited to: (a) Standards-Based Progress Reports and other academic progress reports; (b) announcements that contain information about school programs and activities for which notice is needed to participate or for which parent permission is required (e.g., advanced and Gifted and Talented opportunities and prerequisites, remedial or tutoring options, field trips, school performances); and (c) disciplinary notices.

into the next three (in 2013-14) followed by an additional two (in 2014-15) most common non-English languages¹⁰ spoken by District students in each school year, and shall be distributed to *LEP parents* who request communications in such languages or whose need for communications in those languages becomes apparent.

- b. When documents containing school-specific essential information are distributed at the school, the District shall provide to each school templates for such documents in the next three (in 2013-14) followed by an additional two (in 2014-15) most common non-English languages spoken by District students in each school year, for the school to complete as appropriate in the language of the document, with translation support from the District as needed.
 - c. The District's obligations to translate documents as referenced in the previous two paragraphs are effective at the beginning of the applicable school year.
 - d. For languages other than the most common languages referenced above, the District shall provide written translation or oral interpretation of essential District-level and school-specific information within a reasonable period of time after receiving a parent's request or the parent's language need becoming apparent.
3. Once the District has translated a document or created a template, if changes are made to the English version of the document, the District shall update the translated document within a reasonable period of time to ensure consistency with the English version. Beginning in the 2012-13 school year, the District will provide central office and school-based staff with electronic access to an inventory of translated District-level and school-specific documents.

II. *Student Screening and Provisional Placement*

Beginning in August 2013¹¹:

- A. The District shall ask the parents of each student the following screening questions on a *HLQ* at the time the student registers to enroll in a Denver Public School:
 1. What is the primary language used in the home, regardless of the language spoken by the student?

¹⁰ Because the ranking of the languages most commonly spoken by District students may change from year to year (*e.g.*, Arabic may be ranked the third most common in year one of the CD and the fourth most common in year two), the District shall apply this provision to cover three additional languages in the 2013-14 school year and two additional languages in the 2014-15 school year, in order of commonality.

¹¹ For the 2012-13 school year, the District will continue to use the screening questions agreed upon by the parties in April 2007.

2. What is the language most often spoken by the student?
 3. What is the language that the student first acquired?
- B. The District shall make this *HLQ* available in written form in each language spoken by 100 or more District students, and in other languages to the extent practicable. The District shall provide parents who are registering new students with assistance in their native language, as needed, to complete the *HLQ*.
 - C. The District shall track parent responses to the *HLQ* in the student information database where the answers indicate a language other than English in response to one or more of the *HLQ* questions.
 - D. The District shall identify as *PHLOTE*, provisionally identify as *ELL*, and timely assess the *ELP* of those students for whom the answers indicate a language other than English in response to one or more of the *HLQ* questions. Notwithstanding the timeline referenced in Section IV of this Chapter, the District recognizes the importance of assessing a student's *ELP* at the earliest possible opportunity and shall make a good faith effort to assess it as soon as practicable following registration.
 - E. In a *TNLI* school, when a parent's response to the *HLQ* indicates Spanish to one or more of the questions, the District shall offer the parent a provisional placement of their child in an *ELA-S* classroom, unless one is not desired, in which case the District shall offer a placement in an *ELA-E* classroom.
 - F. In an *ESL/ELA-E* school, when a parent's response to the *HLQ* indicates a language other than English to one or more of the questions, the District shall offer the parent a provisional placement of their child either in an *ESL/ELA-E* classroom, or in a *TNLI* program in another school if the other language spoken is Spanish.
 - G. In a *non-Program* school, when a parent's response to the *HLQ* indicates a language other than English to one or more of the questions, the District shall offer the parent the option to have their child receive *Program* services at the designated *Zone school*. The parent may instead select a different school with *Program* services or receive a provisional Mainstream placement in the neighborhood school.
 - H. The District shall designate at least one school administrator or administrator-designee at each school to oversee registration of *ELLs*. The designated administrator or designee shall meet with all parents who have questions about, are considering, or have elected to place their child in an *ELA* program not offered at the site, to discuss *Program* options.
 - I. At *non-Program schools*, a school administrator or administrator-designee familiar with all available District *Program* options shall provide information regarding *Program* options at the identified *Zone school* closest to the home school, or at other schools, as warranted, and shall communicate to the parent that the District will provide transportation to such schools consistent with District Transportation guidelines.

- J. The District shall provide information about the *Program* to parents of students for whom the *HLQ* indicates a language other than English in response to one or more of the questions through the procedures described in Section III.B of this Chapter.

III. *Parent Permission for Initial Placement*

- A. Parents of Spanish-speaking students provisionally identified as *ELLs* complete a *Parent Permission Form (PPF)* indicating their desire for their child to receive *TNLI* services (*PPF1*) or *ESL/ELA-E* services (*PPF2*). Parents of students provisionally identified as *ELLs* of languages other than Spanish complete a *PPF* indicating their desire for their child to receive *ESL/ELA-E* services (*PPF2*). The District shall ensure that the designated administrator or designee at the school registration site has been trained to explain *ELA Program* services accurately to parents.
- B. The District shall use the following procedures to inform parents about the *Program* so that they can make informed decisions on the *PPF* regarding appropriate *ELA Program* services:
1. At registration, the District shall give parents the parent brochure that corresponds with the *ELA* program at the school registration site, translated into languages spoken by 100 or more District students, which describes available *Program* services. The parent brochure shall explain the program at that school, and provide guidance on the availability of alternative programming at other schools. For parents who need a communication in a language that fewer than 100 District students speak, the District shall ensure that written translation or oral interpretation of the information in the brochure is provided to *LEP parents* prior to their completion of the *PPF*.
 2. Schools shall play a video that reviews the various *ELA Program* services in English and Spanish.
 3. A school administrator or designee shall be available at registration to further clarify the *ELA Program* options available and to answer questions from parents. For *LEP parents*, the District shall answer the questions through an interpreter prior to the parents' completion of the *PPF*.
 4. All students provisionally identified as *ELLs*, based on the *HLQ*, shall be provisionally placed in the *Program*, unless the parent registered his/her child at a *non-Program* school and elects provisional placement at that school.
 5. All parents shall be notified of a student's placement in the *Program*.
 6. In addition to the written description of the *Program* services referenced above, the District shall provide the following information to parents:
 - a. Parents may choose whether to have their child participate in the *Program*. Parents may withdraw permission to participate (or maintain placement in the

neighborhood *non-Program* school) after *ELP* assessments have been conducted, provided this withdrawal is recorded as a *PPF3* (or, in the case of a student remaining in the neighborhood *non-Program* school, changed to *PPF3*) after the parent has had a consultation with a District employee trained to explain, in a language the parent understands, the benefits of the *Program*.

- b. To the extent that more than one *Program* component is available in a school, including *native language instruction* in Spanish, parents of *ELLs* may choose from among them (*see* Sections I and II of Chapter 1).
- c. To the extent that different *Program* components are available at schools other than an *ELL's* neighborhood school, parents of *ELLs* may choose to enroll the *ELL* in such a school, subject to the Choice policies of the District and District Transportation guidelines.
- d. The factors determinative of whether a school offers *TNLI* program services (*e.g.*, at the secondary level, 100 or more Spanish-speaking *ELLs* whose *ELP* is at the intermediate level or below).
- e. Further concerns or questions about parent permission for initial placement shall be answered by the ELA Department.

IV. Assessments for Students Provisionally Identified as English Language Learners

- A. For each student for whom an answer to the *HLQ* indicates a language other than English, following provisional placement as outlined in Section II of this Chapter, the District shall:
 1. Conduct an *ELP* assessment using a valid and reliable *ELP* assessment tool,¹² as soon as practicable, but no later than twenty-five (25) calendar days after registration; and
 2. Notify parents of the results of that assessment no later than thirty (30) calendar days after registration at the beginning of the school year, or fifteen (15) calendar days following enrollment if after the beginning of the school year.

¹² If the District seeks to change its current *ELP* test for identifying and classifying *ELL* students (*i.e.*, CELA Placement), the District shall notify in writing the United States and private plaintiffs of any such new test. If the United States and/or private plaintiffs object to the proposed test on the grounds that it does not meet the terms of this CD, the EEOA, or Title VI, they shall notify the District in writing, and the parties shall endeavor to resolve the objections within sixty (60) calendar days of the written notice. If they fail to do so, the parties may seek judicial intervention pursuant to Section B of Chapter 10.

- B. Students for whom the provisional placement, based on the classroom teacher's *professional judgment*, appears inappropriate because of the student's English language proficiency shall be assessed within fifteen (15) calendar days of enrollment.
- C. If the student's provisional placement at a *Program* or *non-Program school* appears inappropriate, a school administrator shall contact the student's parents no more than fifteen (15) calendar days following the student's enrollment, to discuss the reasons that the provisional placement appears inappropriate. As soon as practicable following receipt of the student's initial *ELP* assessment results, the school administrator shall make a good faith effort to meet with the parents.
 - 1. If the student's *ELP* assessment reveals that the student is *IFEP*, the student may be assigned to a *Mainstream English language classroom*.
 - 2. If the student's *ELP* initial assessment reveals that the student is *LEP*, the student's program assignment will remain the same unless the parents opt to change programs by selecting a different option than initially elected on the *PPF*. In *non-Program schools*, the designated administrator shall explain to parents the benefits of the *ELA Program* and recommend to parents of an *ELL* that the student be enrolled in a *Program* school.
- D. The District shall offer parents the opportunity to opt their *ELL* child out of the *ELA Program* by selecting Option 3 on the *PPF (PPF3)*, but only after the student has taken the initial *ELP* assessment. Parents may not waive *ELA Program* services at registration if their response to the *HLQ* indicates a language other than English for one or more of the questions, unless they registered the student at a *non-Program* school and elect provisional placement at that school.
- E. To the extent practicable, the District shall place *PPF3* students with *on track* or *fully qualified ELA-T* teachers for all content area classes.
- F. At *Program* schools, if requested at any time during the school year, a school administrator familiar with the District's *ELA Program* and/or a *fully qualified ELA-S* or *ELA-E* teacher shall meet with the parents of each assessed student to explain the results of the initial *ELP* assessment and discuss placement options.
- G. At *non-Program schools*, if requested at any time during the school year, administrators familiar with *ELA Program* options shall meet with parents of each assessed student to explain the results of the initial *ELP* assessment and discuss placement options. The District shall make a reasonable effort to identify a bilingual or *fully qualified ELA* teacher to accompany the administrator in parent meetings whenever practicable.

V. Monitoring the Progress of Students Who Decline Services

- A. District schools shall monitor, at least twice annually, the *ELP* and academic progress of *ELLs* who have declined services (*PPF3s*) to assess (i) their ability to *meaningfully and equally participate* in the *Mainstream English Language Instructional Program* and,

(ii) when necessary, their need to enter into the *Program* to enable them to *meaningfully and equally participate* in the *Mainstream English Language Instructional Program*. Whenever appropriate, including whenever such monitoring reveals that a *PPF3* is struggling academically or not making *ELP* progress, the District shall inform parents of *PPF3s* of the opportunity to have their child placed in the *Program*. The District shall require *ISA Teams* to use a standard form for monitoring *PPF3s*, and generate and provide the *ISA Teams* with a list of *PPF3s* along with *ELP* and content assessment data for each student.

- B. The *ISA Team* shall periodically contact the teachers of *PPF3s* regarding the students' *ELP* and academic performance to assess whether one or more teachers recommend(s) enrollment of the student in the *Program*. If the *ISA Team* concurs in the teacher's recommendation, the *ISA Team* and the classroom teacher shall communicate, in person whenever practicable, that recommendation to the *PPF3's* parents and offer them the opportunity to change the placement of the student. The *ISA Team* shall keep a record of the recommendation, the contact with the parent, and the parent's placement decision. A school administrator or teacher may refer a *PPF3* to the *ISA Team* at any time to determine whether a recommendation to enter the student in the *Program* should be made to the parent(s).

Chapter 4: ***Redesignation and Exiting the Program***

- A. *The ISA Team shall make recommendations as to whether ELLs should be redesignated from LEP to FEP. Redesignated FEP students shall be monitored for two years from redesignation to ascertain their meaningful and equal participation in the Mainstream English Language Instructional Program and possible recommended re-entry into the Program. The ISA Team shall review a student's speaking, listening, reading, and writing skills in English, and performance in grade-level content instruction and on assessments in English, to evaluate the student's ability to meaningfully and equally participate in the Mainstream English Language Instructional Program.*
- B. *The District shall use valid, reliable, and objective criteria that meaningfully measure ELP in each of the four language domains of listening, speaking, reading, and writing, and ensure that each ELL has attained proficiency in English before being redesignated and exited from Program services.*
- C. *The District shall administer a valid and reliable ELP assessment as a required criterion for identifying ELLs, determining their level of English language proficiency, and redesignating or exiting them from Program services. The District may use a conjunctive or composite score to measure when a student has achieved proficiency in English on a valid and reliable ELP test, as long as the District can demonstrate that any such composite score (i) requires sufficient grade-level proficiency in each of the four language domains to permit students to participate effectively in grade-level academic content instruction and assessments in English, and (ii) overall is a valid and reliable measure of the student's proficiency in English that enables students' meaningful and equal participation in the educational program without Program services.*
- D. *For students who achieve proficiency on a valid and reliable ELP assessment, the District may consider additional factors, such as standardized test information, grades, and teacher recommendations, to determine whether to continue or discontinue providing Program services to these students.*

Chapter 5: Personnel and Training

I. General Policy

- A. To fully implement its *Program*, the District shall make a good faith effort to hire, train, and retain a sufficient number of *fully qualified* teachers to serve all *ELLs* in the *Program*. To that end, the District shall take the actions outlined in this Chapter.
- B. Subject to the provisions in Section IV of this Chapter, the District shall staff *ESL/ELA-E* and *TNLI/ELA-S* classrooms with teachers who are *on track* or *fully qualified* to address the specific needs of *ELLs*, in alignment with *Program* services offered in that classroom.
- C. All teaching positions in the *Program* shall be identified as such (*i.e.*, *ELA-E* and *ELA-S*). Teaching positions shall be further identified according to whether Spanish Language Proficiency is necessary. In assigning teachers to the *Program*, the District recognizes the value of teachers who speak a language also spoken by a significant number of the students they serve.
- D. Except as otherwise provided in Section III.F of this Chapter, all *ELA-E* and *ELA-S* teachers must complete the training required to become *fully qualified* within two years of their initial *designation* date. Pre-kindergarten *Program* teachers in schools with ECE programs shall be *on track* or *fully qualified*.
- E. Except as otherwise provided in Section III.F of this Chapter, all newly-hired teachers are *designated ELA-T* and must complete *ELA-T* qualifications within one year of hire.
- F. Except as otherwise provided in Section III.F of this Chapter, Mainstream teachers who are not newly-hired must complete *ELA-T* qualifications within one year of *designation* as an *ELA-T* teacher.

II. Teacher Qualifications

- A. Teachers in the *Program* and *designated ELA-T* teachers must meet all requirements of this CD, including those related to: (1) the *ELA* Training Program and/or State endorsement/advanced degree program; and (2) State certification and/or licensure, or enrollment in a State-approved alternative program.
 - 1. A *fully qualified ELA-T* teacher is one who is State-endorsed in teaching the culturally and linguistically diverse, has earned a Masters or doctorate degree in teaching the linguistically diverse, or has successfully completed the District's prescribed *ELA* Training Program for *ELA-T* qualification as described in this Chapter.
 - 2. A *fully qualified ELA-E* teacher is one who is State-endorsed in teaching the culturally and linguistically diverse, has earned a Masters or doctorate degree in

teaching the linguistically diverse, or has successfully completed the District's *ELA* Training Program for *ELA-E* qualification as described Section III of this Chapter.

3. A *fully qualified ELA-S* teacher is one who is: (1) State-endorsed in teaching the culturally and linguistically diverse, has earned a Masters or doctorate degree in teaching the linguistically diverse, or has successfully completed the District's prescribed *ELA* Training Program for *ELA-S* qualification; and (2) demonstrates proficiency in speaking, understanding, reading, and writing Spanish on a valid and reliable assessment of Spanish Language Proficiency.
- B. No sooner than one full school year following the entry of this CD, the District may develop and utilize alternative criteria by which experienced teachers may be deemed *fully qualified ELA-T* teachers, upon demonstration that such criteria adequately measure the teacher's effectiveness in teaching the culturally and linguistically diverse. The District shall notify in writing the United States and private plaintiffs of any such alternative criteria, and the bases for the adequacy of such criteria, at least sixty (60) calendar days before they are instituted. If the United States and/or private plaintiffs object to the alternative criteria on the grounds that they do not meet the terms of this CD, the EEOA, or Title VI, they shall notify the District in writing, and the parties shall endeavor to resolve the objections within sixty (60) calendar days of the written notice. If they are unable to do so, the parties may seek judicial intervention pursuant to Section B of Chapter 10.

III. *Teacher Training Program*

- A. To support teacher qualification and meet the staffing needs of the *Program*, the District shall provide an *ELA* Training Program for teachers who: (1) are not State-endorsed in teaching the linguistically different; (2) have not earned a Masters or doctorate degree in teaching the linguistically different; or (3) have not completed the requirements to become *fully qualified ELA* teachers as outlined by this CD. Unless they have received an extension pursuant to Section III.F of this Chapter, these teachers shall commence participation in this *ELA* Training Program within one semester of hire or *designation* and complete training consistent within the timelines provided for in Sections I.D-I.F of this Chapter.
- B. Subject to Section III.G of this Chapter, the District's *ELA* Training Program shall be structured as follows:
1. Training for *ELA-T* qualification for newly-hired *ELA-designated* teachers consists of: (i) either the District's *ELA* Summer Academy (which includes a practicum component), or, for new teachers for whom participation in the Summer Academy is not possible, *ELA* coursework and practicums, plus the "ELA Foundations" online course; (ii) the New Educator Institute; and (iii) the District's "ELA 101" online course.

2. Training for *ELA-T* qualification for Mainstream teachers redesignated as *ELA-T* consists of (i) *ELA* coursework and practicums, plus the “*ELA Foundations*” online course; and (ii) the District’s “*ELA 101*” online course.
 3. Training for *ELA-E* and *ELA-S designated* teachers shall consist of: (1) the courses required for *ELA-T* qualification, as defined by Sections III.B.1 and II.B.2 of this Chapter;¹³ and (2) the training described in Sections III.C of this Chapter. Training for *ELA-S designated* teachers also shall include training in the use of the District’s research-based language allocation guidelines.
 4. Early Childhood Education teachers shall be subject to the same *ELA Program* training requirements as other *Program* teachers in the District, as required by this CD, and the District shall tailor such training to the nature of the program implemented in the teacher’s classroom (*e.g.*, Early Childhood *TNLI* services, Early Childhood *ESL/ELA-E* services).
- C. The District’s *ELA Training Program* shall be designed to provide teachers with the following knowledge and skills:
1. Foundations of Bilingual and ESL education at the federal, State, and District levels;
 2. Theoretical framework of core instructional components for addressing the needs of *ELLs*;
 3. Methods for organizing instruction to meet the needs of *ELLs*;
 4. Teaching *ELLs* at different proficiency and grade levels how to write in each core content area;
 5. Differentiation and sheltering strategies for providing *Supported English Content Instruction*, including:
 - a. grouping *ELLs* by *ELP* level and using adapted materials and texts, visual displays, cooperative learning and group work, primary language support, and clarification to make content lessons understandable to *ELLs*;
 - b. using speech that is appropriate for the *ELLs*’ *ELP* level(s) and clearly explaining academic tasks to *ELLs*;
 - c. using supplementary materials to support content objectives and contextualize learning;

¹³ If an alternative qualification system for *ELA-T* teachers is adopted under Section II.B of this Chapter, it shall not alter the requirements in Section III of this Chapter for *ELA-E* and *ELA-S* teachers.

- d. explicitly teaching academic vocabulary that is relevant to the content and appropriate to the *ELLs'* *ELP* level(s);
 - e. adapting content, including texts, assignments, assessments, and presentation of content in all modalities, within the *ELLs'* *ELP* level(s);
 - f. affording *ELLs* regular opportunities to practice and apply new language and content knowledge in English;
 - g. teaching reading comprehension skills (*e.g.*, prediction, summarizing, making inferences, and identifying important information); and
 - h. using reading strategies that are effective with *ELLs* (*e.g.*, partner reading, reading aloud, and teacher think-alouds) and that include phonemic awareness, phonological awareness, decoding, word knowledge, and fluency, while taking into account the *ELLs'* ages and *ELP* level(s);
- 6. Methods for teaching *ELD* in all four language domains;
 - 7. Use of appropriate tools to identify *ELLs*;
 - 8. Assessment skills to identify and diagnose the educational needs of *ELLs*;
 - 9. First- and Second-language acquisition theories;
 - 10. Culturally responsive teaching as a facilitator of language acquisition for *ELLs*;
 - 11. Information about how to challenge and motivate at-risk *ELLs*;
 - 12. Methods of working with the parents of *ELLs* and methods of improving school-community relations; and
 - 13. Use of technology to instruct *ELLs*.
- D. Satisfactory completion of the District's *ELA* Training Program requires that the participant successfully demonstrate knowledge of the material covered during the training. The District shall assess the knowledge of each training participant within twenty-one (21) calendar days of the completion of each training. The District shall require additional training for any participant who fails to demonstrate sufficient knowledge of the material covered in the training and shall retest the participant following such supplemental training. Additional training and support services shall be provided until the participant demonstrates proficiency in the required *ELA* competencies or the District takes action as set forth below in Section III.F of this Chapter.
- E. The District's *ELA* Training Program shall be taught by instructors who are either (1) State-endorsed in teaching the culturally and linguistically diverse or (2) have successfully completed the approved District *ELA-E* or *ELA-S* Training Program and are eligible for Adjunct Designation by an accredited institution of higher education.

- F. The District shall track the progress of its *designated* teachers toward *fully qualified* status. Those teachers not *on track* to become *fully qualified* within the required time period shall be subject to corrective action, up to and including termination of employment. As set forth below, *designated* teachers who receive approved extensions of the applicable timelines shall be considered *on track*.
1. Extensions for teachers *designated ELA-E* and *ELA-S* shall be granted only where the teacher has conflicting training, educational, or certification obligations in connection with *ELA*-specific licensure/degreed programs (*e.g.*, Masters degree in Teaching the Linguistically diverse);
 2. Extensions for *ELA-T* teachers shall be granted only where the teacher has conflicting training, educational, or certification obligations in connection with licensure/degreed programs that are identified to the United States and private plaintiffs by July 15 of each year for the duration of this CD;
 3. The District shall grant only those extensions permitted by Sections III.F.1 and III.F.2 of this Chapter except that a teacher, on an individual basis, may be granted an extension for good cause, consistent with the District's obligations in Sections I.A and I.B of this Chapter; and
 4. The District shall not grant extensions that exceed one year in total for any individual teacher.
- G. Material changes to the *ELA* Training Program must be supported by evidence-based findings accepted within the field. The District shall notify in writing the United States and private plaintiffs of any such material changes to the *ELA* Training Program and the purpose of such changes at least sixty (60) calendar days before they take effect. If the United States and/or private plaintiffs object to the proposed changes on the grounds that they do not meet the terms of this CD, the EEOA, or Title VI, they shall notify the District in writing, and the parties shall endeavor to resolve the objections within sixty (60) calendar days of the written notice. If they are unable to do so, the parties may seek judicial intervention pursuant to Section B of Chapter 10.

IV. Program Teacher Assignments

- A. An *on track* or *fully qualified ELA-E* teacher shall be assigned to all teacher positions in the *Program* unless Spanish language skills are necessary.
- B. The District shall use best efforts to staff classrooms where instruction is provided in Spanish with *on track* or *fully qualified ELA-S* teachers.
- C. Where there are not a sufficient number of *on track* or *fully qualified ELA-S* teachers for identified *Program* classrooms requiring such qualifications, *on track* or *fully qualified ESL/ELA-E* teachers shall be assigned. The District also shall do one or both of the following, to the extent administratively feasible, if the assigned teacher is not proficient in Spanish:

1. Assign a Spanish-speaking *paraprofessional* to the classroom during *core subject area* instruction; and/or
 2. Regroup students for instruction, through use of such strategies as resource teachers and pairing of classrooms, so that *core subject area* instruction is provided in Spanish, if appropriate, by a teacher qualified in Spanish on a valid and reliable Spanish Language Proficiency test.
- D. To increase the number of *fully qualified Program* teachers, the District shall use the measures outlined in Attachment 1, “Interim Measures to Increase the Number of Fully Qualified ELA Teachers at Underserved Schools” (“Interim Measures”) for the 2011-12, 2012-13, and 2013-14 school years. Starting in the 2014-15 school year, where there are not *fully-qualified ELA-designated* teachers for all *ELA-E* and *ELA-S* classrooms requiring such qualification, the District shall propose a plan for addressing those insufficiencies consistent with paragraph H of the Interim Measures.
- E. *ELA-T* teachers are *core subject area, Mainstream English language classroom* teachers who have successfully completed the DPS *ELA Training Program* for *ELA-T* teachers outlined in this Chapter and address the academic needs of *ELLs* who have opted out of *Program* services or are *redesignated FEPs*. The District shall make a good faith effort to assign *ELLs* who decline *Program* services (*i.e., PPF3s*) and *redesignated FEPs* to classrooms with teachers who have been designated *ELA-T*. *ELA-T teachers* are not a substitute for *ELA-E* or *ELA-S* teachers.

V. Training and Designation of ELA-T Teachers

- A. All newly-hired District teachers who are not designated *ELA-E* or *ELA-S* shall automatically be *designated ELA-T* teachers and shall be required to successfully complete District *ELA Training* requirements for *ELA-T* qualification within one year of hire date, unless they receive an extension pursuant to Section III.F of this Chapter.
- B. Other *Mainstream English language classroom* teachers within the District, on a rolling basis, shall be *designated ELA-T* teachers and shall be required to successfully complete District requirements for *ELA-T* teachers within one year of *designation*, unless they receive an extension pursuant to Section III.F of this Chapter. The District shall designate as *ELA-T* at least 100 such Mainstream teachers each year. Where feasible, the District shall prioritize such designations first by the schools with the highest percentage of not *fully qualified* teachers, and then by the number of *PPF3s* enrolled in the school.

VI. Teacher Recruitment

- A. The District shall annually assess the need for *fully qualified ELA-S* teachers, *fully qualified ELA-E* teachers, and *paraprofessionals* at each school to meet the needs of the *Program* and the requirements of this CD.

- B. Based on this assessment, the District shall annually develop a plan to obtain additional staff, including those who are proficient in languages other than English spoken by *ELLs*. The plan shall include out-of-state recruitment and advertisements, if sufficient numbers of qualified teachers are not available in Colorado.
- C. To the extent that the District has the need for additional *fully qualified ELA-S* teachers and reasonable means to obtain more, the District shall make a good faith effort to maintain a collaborative arrangement with one or more institutions of higher education for Spanish-speaking *paraprofessionals* to complete the requirements for teacher certification and become teachers in the District.
- D. The District shall maintain records of its annual assessment and activities related to its recruitment of teachers and other staff.

VII. *Teacher and Staff Appraisal*

- A. The District shall use multiple measures to evaluate teachers' progress and effectiveness, including their effectiveness in providing *ELA Program* services consistent with this CD, and, where appropriate, research-based language allocation guidelines. The District shall appraise each teacher assigned to the *Program* on the teacher's effectiveness in providing instructional services to students in accordance with this CD, as measured by the expectations listed in Section VII.B below.¹⁴
- B. The District shall include in the teacher appraisal the following expectations:
 - 1. Differentiation of instruction according to students' levels of language proficiency;
 - 2. Development of *ELP* through instruction focused on language functions and forms;
 - 3. For lessons taught in Spanish, use of *native language instruction* to develop strong content knowledge in Spanish;
 - 4. Use of classroom resources and space to reflect students' cultures and backgrounds and promote their learning; and

¹⁴ If the District seeks to make material modifications to its appraisal expectations that impact the evaluation of *ELA-E* and *ELA-S* teachers, the District shall notify in writing the United States and private plaintiffs of such modification at least sixty (60) calendar days before they take effect. To the extent the modifications are necessary to comply with State law, the District shall so indicate. If the United States and/or private plaintiffs object to the proposed modifications on the grounds that they do not meet the terms of this CD, the EEOA, or Title VI, the party shall notify the District in writing, and the parties shall endeavor to resolve the objections within sixty (60) days of the written notices. If they are unable to do so, the parties may seek judicial intervention pursuant to Section B of Chapter 10.

5. Accessibility of content for *ELLs*, including:
 - a. grouping *ELLs* by *ELP* level and using adapted materials and texts, visual displays, cooperative learning and group work, primary language support, and clarification to make content lessons understandable to *ELLs*;
 - b. using speech that is appropriate for the *ELLs*' *ELP* level(s) and clearly explaining academic tasks to *ELLs*;
 - c. using supplementary materials to support content objectives and contextualize learning;
 - d. explicitly teaching academic vocabulary that is relevant to the content and appropriate to the *ELLs*' *ELP* level(s);
 - e. adapting content, including texts, assignments, assessments, and presentation of content in all modalities, within the *ELLs*' *ELP* level(s);
 - f. affording *ELLs* regular opportunities to practice and apply new language and content knowledge in English;
 - g. teaching reading comprehension skills (*e.g.*, prediction, summarizing, making inferences, and identifying important information); and
 - h. using reading strategies that are effective with *ELLs* (*e.g.*, partner reading, reading aloud, and teacher think-alouds) and that include phonemic awareness, phonological awareness, decoding, word knowledge, and fluency while taking into account the *ELLs*' ages and *ELP* levels.
- C. Teachers who do not show acceptable progress may be subject to contract nonrenewal or corrective action up to and including termination of employment.
- D. The appraisal of each *paraprofessional* and tutor who assists in the instruction of *ELLs* shall include an evaluation of the *paraprofessional's* or tutor's effectiveness in assisting in the instruction of *ELLs*, consistent with the *ELA Program*, this CD, and research-based language allocation guidelines where appropriate.

VIII. Training of Teacher Evaluators

- A. The District shall provide administrators, and others who evaluate *ELA-E* and *ELA-S* teachers, appropriate training in *ESL/ELA-E* and/or *TNLI* programming, which is tailored to the skills necessary to conduct effective evaluations of *Program* services. Each observation of an *ELA-S* instructor's instruction in Spanish shall be conducted by an evaluator who is fluent in Spanish.

- B. To ensure that instructional techniques appropriate to the *Program* are implemented in the teacher’s classroom, administrators and others who evaluate *ELA-E* and *ELA-S* teachers (including principals and assistant principals) shall receive:
1. District-approved *ELA Program* training, modified for evaluators and corresponding to the *Program* classrooms to be evaluated;
 2. Training on how to accurately observe and document teacher implementation of the *Program* prescribed by this CD, including the expectations listed above in Section VII.B of this Chapter; and
 3. Training on communicating effective feedback to teachers and providing them with additional support where needed.
- C. The District shall provide administrators and others who evaluate teacher implementation of the *Program* a minimum of 20 hours of training on the topics identified above during the 2012-13 school year or the first school year after hire. The District also shall provide refresher trainings each year for such individuals.

IX. *Principal Appraisal*

- A. Principals shall be responsible for oversight of effective implementation of the *ELA Program* at their schools and receive regular professional development regarding appropriate assessment and implementation of *ELA* programming. Principals’ supervisors shall review and evaluate principals in part based on their implementation of the *ELA* program at their school.
- B. The appraisal of each principal whose school provides services to *ELLs* shall include information about the effectiveness of the school in providing services consistent with the terms of the *Program* and this CD. The District shall evaluate principals at all District schools based in part on whether they effectively implement the requirements of the *ELA Program* offered at their school, as well as other District policies regarding the instruction of *ELLs*. The District’s evaluation of principals shall consider expressly whether the principal:
- leads for the linguistic and academic success of culturally and linguistically diverse students;
 - provides school leadership on evidence-based “best practices” for culturally and linguistically diverse students, including practices for supervision of teachers and staff to ensure they meet the requirements of the District’s *ELA Training Program*; implementation of research-based language allocation guidelines where appropriate; supervision and implementation of District policies and the CD’s requirements governing the registration, identification, placement, instruction, and monitoring of *ELLs*; and the provision of appropriate curricular materials for *ELLs*; and

- ensures the timely completion of all training and evaluation of *Program* teachers as required by the CD.
- C. The District shall require the signature of the principal’s supervisor on each principal performance evaluation. The ELA Director shall provide input on elements of principal evaluation related to the implementation of the *Program*.
- D. Principals who do not receive a satisfactory rating regarding the implementation of the *ELA Program* during a rating period are required to take appropriate action as outlined by their immediate supervisor. The District shall continue to evaluate the principal’s progress in monitoring the academic success of *ELLs* in the school. In addition, the ELA Department shall provide supervisors of principals with assessments of the quality of the *ELA Program* at each District school. Supervisors shall take the ELA Department’s assessments into account in identifying areas of remediation for the principal. Principals who do not show acceptable progress may be subject to contract nonrenewal or corrective action up to and including termination of employment.

X. *Training for Supervisors of Principals*

The District shall provide evaluators and supervisors of principals training in those aspects of the *ELA Program* that are part of the evaluation of principals including, but not limited to, implementation of the *ELA Program*.

XI. *Instructional Services Advisory Team Training*

The ELA Department shall provide members of each school’s *ISA Team* the following training during their first year on the *ISA Team*, and once every two years thereafter:

- A. Comprehensive review of the *ELA Program*;
- B. Description of *ISA Team* duties and responsibilities, including those under this CD;
- C. Description of the types of *Program* data that shall be provided to and considered by the *ISA Team*; and
- D. How to use these data to drive recommendations regarding *ELLs*.

XII. *Paraprofessionals*

- A. Individuals employed as *paraprofessionals* in the *Program* must meet federal qualification requirements, and, if the assignment is an *ELA-S* classroom, demonstrate proficiency on a valid and reliable test of Spanish Language Proficiency.
- B. Though important, *paraprofessionals* shall not be a substitute for *fully qualified ELA* teachers in the *Program*.

XIII. Counselors

- A. At least one counselor who has demonstrated proficiency on a valid and reliable test of Spanish Language Proficiency shall be assigned to each high school that offers a *TNLI* program.
- B. The District shall provide annual training to counselors to support the needs of *ELLs*, including training on how to communicate appropriately with *ELLs* about applicable District policies and requirements (*e.g.*, graduation requirements).
- C. At the beginning of each school year, the District shall provide written notification to parents of *ELLs* enrolled in *TNLI* schools of the names of Spanish-speaking counselors at their child's school or of Spanish-speaking teachers or administrators who are fulfilling the counselor role at their child's school.

Chapter 6: Parental Oversight

I. *Parent Advisory Committees (PACs)*

- A. Each *Program* school has a *Parent Advisory Committee (PAC)*, chosen by the parents of students receiving *Program* services at the school. The purpose of the *PAC* is to provide information regarding the *Program*, increase communication between *ELL* parents and the District, review implementation of the *Program*, and listen to concerns of parents. The *PAC* may be a subcommittee of a larger committee.
- B. It is expressly understood that the District discharges its obligation under this provision if it makes a good faith effort to organize a *PAC* at each applicable school. The District shall maintain records of its efforts to organize *PACs*, and shall maintain documentation of *PAC* meetings that occur at each school, including the date and number of parents in attendance at each meeting.

II. *District-wide Advisory Committee*

- A. The District shall establish a *District-wide Advisory Committee* that shall be reconstituted each year. The District shall provide the opportunity for a parent representative from each *Program* school to participate in the *District-wide Advisory Committee*. The parent representative must have a child in the *Program*. The representatives, chosen by the parents, choose a chairperson.
- B. The *District-wide Advisory Committee* meets at least monthly during the school year. Translators shall be made available to facilitate *Committee* meetings and to assist with the development of required reports.
- C. The *District-wide Advisory Committee*:
 - 1. Reviews and comments on annual reports provided by the ELA Department to the Board of Education;
 - 2. Reviews and comments on student assessment results made available for each school;
 - 3. Provides input regarding the District's efforts to increase parental involvement in activities sponsored by the *Program*;
 - 4. Discusses the structure and operation of the school-based *PACs*; and
 - 5. Helps parents understand *ELA Program* services and the benefits of such services, and provides the opportunity for parents to discuss concerns about the *Program*.

- D. The *District-wide Advisory Committee* reports at least once annually on its activities, including the activities enumerated above, to the Board of Education.

III. *Parent Training*

- A. The *District-wide Advisory Committee* provides an annual training program for parents regarding their rights and responsibilities in connection with the *Program*.

Chapter 7:
Considerations Related to Special Education and
Section 504 Services for *English Language Learners*

- A. School-based IEP and 504 teams shall determine appropriate *Program* and Special Education (“SPED”) services, services under Section 504, and/or accommodations, as appropriate, for students with disabilities (“SWDs”) who are identified as *ELLs*. IEP and 504 teams for *ELLs* shall include a *fully qualified ELA-E or ELA-S* teacher and a fully qualified special education teacher. The IEP and 504 teams shall make their determinations based on information from a wide variety of sources, including results of assessments conducted in the language(s) of the student, record review, classroom and social observation, work samples, data collection, formal and informal evaluations, and family and student interviews, as appropriate. The process for identifying *ELLs* eligible for SPED services and services under Section 504 shall be consistent with federal guidelines.
- B. The District shall provide SPED services and/or services under Section 504, and *ELA Program* services, to all *ELL* SWDs. Similarly, all students who qualify for a 504 Plan and *ELA Program* services shall receive both sets of services. The District shall provide such services using the classroom structures and strategies designed to provide the student a free appropriate public education in the least restrictive environment by appropriately qualified personnel in a manner that adequately and appropriately addresses both the identified language and the identified disability needs of the student. The District shall not deny *Program* services due to the nature or severity of the student’s disability, and shall not deny any *ELL* SPED or 504 services due to his or her *ELL* status.
- C. The District shall conduct SPED and 504 assessments in the student’s native language or other mode of communication and in the form most likely to yield accurate information, as to what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. SPED and 504 *ELL* assessments shall be conducted by a qualified evaluator who is proficient in the student’s native language, or, where not practicable, assisted by a *qualified interpreter*. The SPED-related qualifications of those individuals shall be made available to the United States and to private plaintiffs upon request, consistent with applicable laws and regulations concerning those individuals’ privacy.
- D. Consistent with applicable federal law and regulations, all IEPs and 504 Plans shall consider the language needs of the *ELL* as such needs relate to the student’s IEP or 504 Plan.
- E. Consistent with the Colorado Accommodations Manual and the Colorado Accommodations Guide, the District shall provide the appropriate accommodation(s) for all *ELL* SWDs who so require.
- F. *ELLs*’ IEPs and 504 Plans shall document that the student is an *ELL*, the student’s language proficiency level, the *Program* services the student is currently receiving (*i.e.*,

ESL/ELA-E, TNLI), and all accommodations needed for testing and assessments, including accommodations needed for standardized assessment instruments.

- G. The District shall maintain in an *ELL*'s IEP or 504 Plan: (a) written records of its SPED/504 evaluations of the student; (b) an analysis of the effect of proficiency in English and other languages on the student's learning, including an analysis of the student's assessment results in relation to the student's language proficiency; (c) modifications, if any, of standard test and assessment procedures, including the use of translators or interpreters, and their possible impact on the validity of the assessment results obtained; (d) the student's most recent *ELP* assessment results; (e) the languages in which SPED/504 assessments were conducted; and (f) a statement by the IEP or 504 team that the *ELL*'s level of English proficiency is not determinative of the decision to administer SPED/504 services.
- H. The District shall translate documents about matters arising under the IDEA or Section 504 (*e.g.*, information regarding IEP or 504 meetings) as set forth in Section I of Chapter 3. In addition, the District shall translate all IEP and 504 Plan forms (*i.e.*, the blank templates into which student information is filled) into the four most common languages spoken by *ELL* SWDs in the District, as determined by the *PHLOTE* data generated by the *HLQ*.
- I. Prior to conducting an IEP or 504 meeting, the District shall review parental responses reflecting parents' communication needs. The District shall contact *LEP parents* who indicated a need for a translator or interpreter or whose need otherwise becomes apparent to the District to notify them of the availability of interpreters for IEP and 504 meetings and the availability of a translated IEP and 504 Plan, and shall provide *qualified interpreter* and *translator* services upon request and free of charge to the parent.
- J. Upon request by a *LEP Parent*, the District shall translate requested portions of an *ELL* SWD's IEP or 504 Plan (including the entire IEP or 504 Plan, if requested) into the parent's native language.¹⁵ The request for translation may be made before, at, or after an IEP or 504 meeting, and the District shall provide the requested translation within a reasonable period of time, but no later than twenty (20) school days following the IEP or 504 meeting. When the District translates an entire IEP or 504 Plan into a language other than the four most common languages, the District, wherever practicable, shall maintain the translated portions of the template to use in response to requests for translation in that language from other *LEP parents* of SWDs.
- K. In exceptional circumstances where the District is unable to provide a translation of an IEP or 504 Plan for a low-incidence language, the District shall provide an interpreter and maintain documentation of the District's efforts to secure a written translation of the IEP or 504 Plan.

¹⁵ The IEP and 504 Plans originally drafted in English are the official legal documents.

- L. At IEP and 504 meetings, the District shall remind *LEP parents* that they may, but are not required to, sign IEP or 504 Plan documentation if they have requested translated documentation.
- M. For all SPED- and 504-related translation and interpretation, the District shall provide a *qualified translator* or *interpreter* who is trained in the specialized vocabulary needed to provide SPED- or 504-related translating and interpreting.
- N. SPED teachers must complete *ELA* training requirements as outlined in Chapter 5. Where applicable and to the extent practicable, SPED staff shall be assigned according to their ability to speak the language of the students they serve.

Chapter 8: Charter Schools

- A. The District shall ensure that all District schools, including charter schools, take appropriate action to overcome language barriers that impede *meaningful and equal participation* by all students enrolled in the District's instructional programs. To that end, the ELA Department shall work collaboratively with the District's Office of School Reform and Innovation to monitor the identification of, services for, and assessment of *ELLs* enrolled at District charter schools. The offices also shall work collaboratively to ensure that the District makes educational alternatives available to all *ELLs*, without regard to language proficiency level, by, among other things, providing notice of such alternatives to *LEP parents* in their native language. To the extent a charter school fails to meet its legal obligation to provide meaningful and appropriate language acquisition services, the District shall take steps to remedy the charter school's *ELA* program deficiencies within a reasonable period of time.

- B. The District shall require all charter schools offering *ELA* services to identify a school administrator, or an administrator-designee, with *ELA* expertise to provide oversight and evaluate the effectiveness of *ELA* services provided by the school.

- C. The District shall not approve an application for a new or renewed charter that fails to propose an *ELA* Program reasonably designed to enable the District's *ELLs* to overcome their language barriers in a reasonable period of time so that they can *meaningfully and equally participate* in the educational programs offered by the school.

Chapter 9: Accountability

I. *Effective Program Implementation*

To support the effective implementation of the *Program*, the District shall:

- A. Develop an inventory of available subject-, grade-level-, and language proficiency-appropriate instructional materials, including supplementary materials, for *ELA-E* and *ELA-S* classrooms and *non-Program* schools enrolling *ELLs*. For any school that does not have appropriate materials in sufficient quantities to serve its *ELLs*, the District shall ensure that the school has the requisite materials (when available) as soon as practicable. If the materials are commercially available but must be ordered, the District shall make a good faith effort to obtain the materials no later than six (6) months from the date the issue regarding the materials is identified;
- B. Evaluate annually the effectiveness of all training programs utilized, basing the evaluations, in part, on objective evidence provided by participants and trainers;
- C. Monitor staffing assignments to ensure that they are consistent with this CD;
- D. Monitor each school's compliance with this CD and take action to remedy any noncompliance as soon as practicable and within a reasonable period of time; and
- E. Identify staff members who are responsible for each of the following:
 - 1. Recruiting teachers;
 - 2. Developing and implementing the training requirements of this CD;
 - 3. Monitoring the availability of appropriate and adequate materials in *Program* classrooms;
 - 4. Implementing the *Program* entry, *redesignation*, and *exit* procedures in accordance with this CD;
 - 5. Implementing the instructional *Program* in accordance with this CD;
 - 6. Overseeing and implementing parent communication requirements;
 - 7. Implementing SPED and Section 504 requirements as they relate to *ELLs*;
 - 8. Monitoring the curricula taught in *Program* classrooms; and
 - 9. Preparing reports to the United States and private plaintiffs pursuant to Section V of this Chapter.

II. *Student Progress*

- A. *ELLs*' progress toward achieving the District's curricular goals shall be measured in a variety of ways including, but not limited to, the following:
 - 1. Ongoing classroom assessments, *i.e.*, individual reading assessments, writing assessments, and benchmark assessments;
 - 2. Teacher observation of student performance; and
 - 3. Student performance on interim and State assessments.
- B. Parents of *ELLs* shall receive information in a language they understand about student performance on a regular basis through Standards-Based Progress Reports, conferences with teachers, and the results of District assessments.
- C. The District shall monitor the progress of *ELLs* in schools and classrooms, and recommend changes to their services as appropriate to support high student achievement.

III. *Procedures for Parental Request for Review of Services*

- A. Whenever parents believe that their child or children are not being served in accordance with the terms of this CD, the following procedures shall be used:
 - 1. The parents discuss the concerns with the principal of the school and attempt to reach satisfactory resolution; and
 - 2. If a satisfactory resolution is not reached with the principal, the parents may ask the ELA Department to investigate *Program* implementation as it relates to services for their child. The ELA Department collaborates with both the school and the family to reach a satisfactory resolution and keeps a record of the concern and the resolution.
- B. If parents desire further review, they may request that the matter be referred to the principal's supervisor.

IV. *Evaluating Program Effectiveness*

- A. The District shall evaluate *Program* effectiveness to determine whether the District's language services are overcoming language barriers within a reasonable period of time and enabling students to *participate meaningfully and equally* in educational programs.
- B. To measure *Program* effectiveness, the District shall (1) evaluate the progress of District *ELLs* overall, and by program services (*e.g.*, *TNLI*, *ESL/ELA-E*), as they progress from *LEP* to *redesignated FEP* to *exited FEP*; and (2) monitor the academic performance and participation of the District's *redesignated* and *exited FEP* students in the District's

educational programs in relation to their District and State (where information is available at the State level) *never-ELL* peers. The District's self-evaluation shall include, at a minimum, a review of the following data:

1. *ELP* assessment results, standardized test scores (including COACT scores), retention-in-grade rates, dropout rates, graduation rates, eligibility for and enrollment in enrichment programs (*e.g.*, advanced courses¹⁶ and Gifted and Talented classes), and referrals to and services received through RTI, disaggregated by school, program services (*e.g.*, *ESL/ELA-E*; *TNLI*), and status as *ELL*, *FEP*, and *never-ELL*;
 2. information related to special education services, disaggregated as set forth in Paragraphs 6 and 7 of Section V.C of this Chapter; and
 3. the total number of, and the number and percentage of, *ELL*, *FEP*, and *never-ELL*, students who (i) passed the 8th grade Accelerated Opportunities exam; (ii) enrolled in 9th grade Geometry; and (iii) enrolled in 9th grade Algebra.
- C. The District shall consider in its self-evaluation of *Program* effectiveness the total number of *ELLs* for whom there is no *ELP* assessment score, and the number of *ELLs* to whom each "no score" explanation provided by the State applies (*e.g.*, 50 *ELLs* did not complete the test due to absence).
- D. The District shall analyze longitudinally a cohort of students by school level and program to assess whether *ELLs* enrolled in each program are overcoming language barriers within a reasonable period of time and *participating meaningfully and equally* in educational programs when *exited* from *Program* services. The District shall complete its current longitudinal study by the end of the 2011-12 school year and provide the results of that study to the United States and private plaintiffs by July 16, 2012. The District shall complete an additional longitudinal study following the end of the 2014-15 school year. This longitudinal study shall include data from the 2012-13, 2013-14, and 2014-15 school years. The District shall provide the results of this longitudinal study to the United States and private plaintiffs no later than sixty (60) calendar days prior to the filing of the motion referenced in Section C of Chapter 10.
- E. The District shall use the results of current and future longitudinal studies to inform *Program* decisions and improve *Program* effectiveness. The District shall notify the United States and private plaintiffs in writing of all proposed material changes to the *Program*, including those based on the results of the 2011-12 longitudinal study, at least sixty (60) calendar days before they take effect. If the United States and/or private plaintiffs object to the proposed changes on the grounds that they do not meet the terms of this CD, the EEOA, or Title VI, they shall notify the District in writing. The parties

¹⁶ "Advanced courses" include Advanced Placement, honors, dual/concurrent enrollment, and International Baccalaureate courses.

shall endeavor to resolve the objections within sixty (60) calendar days of the written notice. If they are unable to do so, the parties may seek judicial intervention pursuant to Section B of Chapter 10.

V. Reports to the United States and to Private Plaintiffs

- A. Beginning in 2013 and for the duration of the CD, each January 15 and July 15 the District shall provide reports to the United States and to private plaintiffs¹⁷ pertaining to the previous one-semester period of time, with the following information:
1. By school and school level (*i.e.*, elementary, K-8, middle school, or high school) and level of English proficiency, the number of *ELLs* who speak (a) Spanish, or (b) a language other than English (to be characterized as “other”); and each school’s total student enrollment;
 2. By school, *PPF* selection results (*i.e.*, numbers of *PPF1*, *PPF2*, and *PPF3* selections) by language (*i.e.*, Spanish or “other”) and level of English proficiency, and for each selection, the program or classroom to which the students are assigned, and the number and percentage of *ELL* *SWDs*;
 3. For each *ELA-E* and *ELA-S* elementary teacher who is not *on track* to be fully qualified, the total number of *ELLs* enrolled in classes with that teacher; and
 4. For those *ELA-E* and *ELA-S* secondary teachers who are not *on track* to be fully qualified, the number of *ELLs* in each *ESL*, *Supported English Content Instruction*, and *TNLI/ELA-S* classroom (including core content areas), including *ELP* proficiency level;
- B. For the duration of the CD, each January 15, the District shall provide reports to the United States and to private plaintiffs with the following current information:
1. By school and language background (as indicated by Spanish or “other”), the number of students enrolled in (a) *Newcomer and SIFE Centers* and their *ELP* levels or, where *ELP* levels are not available, their language placement scores; (b) *ECE ELA-S* or *ELA-E*; and (c) dual language program services;
 2. A list of languages spoken by ninety (90) or more students in the District and the number of students who speak each language; and

¹⁷ The parties acknowledge that any data or information that includes personally identifiable student or personnel data will be provided by the District in accordance with applicable federal and state law, including the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

3. By school, the number of *ELLs* for whom there is no score on State assessments, and the number of *ELLs* to whom each justification for the “no score,” as provided by the State, applies.
- C. In January 2013, and thereafter for the duration of the CD each July 15, beginning in July 2013, the District shall provide reports to the United States and to private plaintiffs with the following information pertaining to the previous one-year period of time:¹⁸
1. By school, the number of students for whom there is no *ELP* test score, and the numbers of those students who selected *PPF1*, *PPF2*, and *PPF3*;
 2. A list of designated *Zone schools*;
 3. A list of non-traditional public schools (*e.g.*, charter schools) that were approved or renewed, the number of applicants that were not approved or renewed based (in whole or in part) on issues related to the applicant’s *ELA* services; the school administrator or administrator-designee at the non-traditional school designated to oversee the school’s *ELA* services; and the *ELL* enrollment by language proficiency level at each school;
 4. For the first report following entry of the CD, the District’s entry, *redesignation*, and *exit* criteria and procedures used for the *ELA Program*; for each subsequent report, any material changes to entry, *redesignation*, and *exit* criteria and procedures;
 5. By language background (as indicated by “Spanish” or “other”) and school, numbers of *ELLs* who were *redesignated* and *exited*; and the number of *redesignated* students who were reentered into the *Program*;
 6. By school level (*i.e.*, elementary, K-8, middle school, or high school), the number and percentage of (a) *ELLs* and (b) non-*ELLs* (i) referred for, (ii) evaluated for, and (iii), by disability category, identified as eligible for SPED services;
 7. By disability category and school level (*i.e.*, elementary, K-8, middle school, or high school), the number and percentage of (a) *ELLs*, (b) *FEPs*, and (c) *never-ELLs* provided SPED services;
 8. *ELA Program* personnel information, including (a) a copy of the District’s annual assessment of *Program* personnel needs, pursuant to Section VI.A of Chapter 5, (b) a copy of the teacher recruiting plan, (c) the number of *ELA-S* and *ELA-E*

¹⁸ In July 2012, the District shall provide the reports provided each July prior to the entry of this CD. The reports required by Section V.C of this Chapter provided to the United States and private plaintiffs by January 15, 2013 shall pertain to the previous one-semester period of time, except that the information in Paragraph 8 shall pertain to the 2011-12 school year, and the information in Paragraph 12 shall pertain to both the 2011-12 school year and the fall 2012 semester.

designated teachers hired (by endorsement/content area), and (d) the number of *ELA-S* and *ELA-E* teachers hired during that school year in the Alternative Licensure Program, Teach for America, Denver Teacher Residency, Denver Teacher Fellows, and J-1 Exchange Program;

9. A narrative update on the *ELA* Training Program; the number of teachers (identifying separately SPED teachers and Gifted/Talented teachers of record) who participated in each course or component, including, where applicable and available, their *ELA designation*; and, for new training opportunities provided by the District pursuant to Section III.G of Chapter 5 during the school year preceding the report, course descriptions and outlines;
10. Documentation of the following training opportunities, including copies of the training agenda reflecting the date and duration of the training, number of attendees, and the format of the training (*e.g.*, live, web-based, etc.):
 - a. Training for interpreters that is provided by the District's SPED or Multicultural Office;
 - b. *ISA Team* training;
 - c. Training for evaluators of *ELA* teachers (including principals and assistant principals); and
 - d. Training for supervisors of principals;
11. By school, the total number of teachers at each school, the number of *fully qualified ELA-T*, *ELA-E*, and *ELA-S* teachers, the number of *designated* teachers who are *on track* to become *fully qualified*, and the number of teachers who are *designated* but not *on track* to become *fully qualified*. For each category of teachers, the report will indicate those teachers who teach SPED, early childhood, and *Secondary ELA-S Qualified Resource Teachers*, and Gifted/Talented teachers of record;
12. By school, the number of teachers by designation who have been granted an extension of the period for completing *ELA* training, the period of the extension, and the reasons for such extensions;
13. For each *TNLI* middle and high school, a list of Spanish-speaking counselors, and for those middle schools lacking a Spanish-speaking counselor, the name and position of the Spanish-speaking teacher serving in the role of counselor;
14. By school, the number of *paraprofessionals* assigned to the *ELA Program*, the allocation of funding of *paraprofessional* hours in the *ELA Program*, and whether those hours were fully compensated during the reporting period;
15. Updates on the implementation of the District's Interim Measures, including: by school, the number of teachers participating in the Plan, the number of those

teachers who are *on track* to become *fully qualified* pursuant to the Interim Plan's expedited training program, and the number of teachers who are *designated* but not *on track*; upon request by the United States or private plaintiffs, the District shall provide additional information regarding teachers who are not *on track*, consistent with applicable federal and state laws and regulations concerning those teachers' privacy;

16. For the first report following the entry of the CD, a copy of the teacher and principal appraisal instruments that comply with the requirements of Sections VII and IX of Chapter 5; for each subsequent report, documentation of any material changes to the appraisal instruments related to *ELA Program* implementation;
 17. The results of teacher appraisals, by the number of teachers falling within each range of rating, by school level and *ELA designation*;
 18. The total number of principals appraised, by school level and school *ELA* program designation; for each principal who received a less than satisfactory rating regarding *ELA Program* implementation, the school name, *ELA* program designation, the specific corrective action required, and what action, if any to date, has been taken;
 19. A narrative discussion of issues identified during the preceding school year regarding comparability (as compared to the materials provided to District students who are not *ELLs*) of: (a) curriculum and materials provided to *ELLs*; and (b) commercially available Spanish Language books and materials provided to *ELLs*, and steps taken by the District to address such issues;
 20. Summary of *District-Wide Advisory Committee* work, including a copy of the annual report to the Board of Education (*see* Section II.D of Chapter 6);
 21. A list of documents containing District-level essential information translated by the District and the languages into which each document is translated; and by language, the total number of requests to the District's Multicultural Outreach Office and Department of Special Education for translation and interpreter services, the number of such requests that were denied, and the basis for the denial (*e.g.*, unable to identify a qualified interpreter for a low incidence language);
 22. A list of schools monitored onsite by the ELA Department by date(s) of monitoring, and the results of that monitoring, including corrective action required by the District to address any concerns regarding compliance with this CD; and
 23. An evaluation of *Program* effectiveness conducted pursuant to Section IV of this Chapter, with supporting data attached.
- D. Within sixty (60) calendar days of the United States and private plaintiffs receiving the District's January 15 and July 15 reports, the District (including ELA Department staff),

the United States, and private plaintiffs shall meet telephonically or in person to address questions or concerns regarding the District's compliance report. The United States and private plaintiffs shall make a good faith effort to provide the District with notice of topics for discussion in advance of such meetings and to obtain clarifying information regarding the compliance reports during these meetings. The United States and private plaintiffs retain their right to call to the attention of the District additional concerns related to compliance with the CD as they arise, and the parties will endeavor to meet and confer in good faith to resolve material concerns.

- E. The District also shall meet in person at least once annually with the United States and the private plaintiffs, at a time convenient to all parties, to discuss the status of the District's implementation of the *Program*.

Chapter 10:
Duration of Consent Decree,
Enforcement, and Remedies for Noncompliance

- A. This CD is effective immediately upon its entry by the Court in this matter, *Congress of Hispanic Educators v. School District No. 1, Denver, Colo.*, Civ. A. No. C-1499 (69-M-1499) (D. Colo.), and shall replace and nullify the 1999 Consent Decree in this matter.
- B. For the duration of this CD, the United States and/or private plaintiffs shall provide the District with reasonable notice of any alleged material noncompliance with this CD, and with a reasonable opportunity for the District to cure such noncompliance. The parties thereafter shall attempt to resolve the allegation(s) of material noncompliance in good faith without the need for judicial intervention. If the parties are unable to resolve any allegation(s) of material non-compliance within sixty (60) calendar days of the United States or private plaintiffs providing such notice, any party may file a motion seeking relief from the Court (*e.g.*, motion to enforce, motion to extend, motion for discovery).
- C. No sooner than ninety (90) calendar days following the submission of the District's July 2015 report or sixty (60) calendar days following the submission of the District's 2015 longitudinal study, whichever is later, the District shall have the right to move this Court to dismiss all or any part of this CD. The standard for dismissal requires the District to show that the District has complied substantially and in good faith for a reasonable period of time with its obligations under the CD and that this record of compliance demonstrates that the remedy implemented is durable. The District may rely on the reports submitted pursuant to Section V of Chapter 9 and other data provided to the United States and private plaintiffs to support this showing. The parties have not agreed on any additional procedures governing the dismissal of this case and each reserves the right to exercise any and all rights at that time (*e.g.*, the right to seek discovery or request a hearing).
- D. The District shall make reasonable efforts to preserve electronic and hard copy records of information and data related to its compliance with this CD and understands that during the monitoring of this CD, the United States and/or private plaintiffs may request information or data related to determining whether the District has complied and is in compliance with this CD. The United States and private plaintiffs shall make a good faith effort to raise any such requests for information and/or data at the meetings referenced in Sections V.D and V.E of Chapter 9. The District shall provide such information or data, if reasonably available, to the United States and/or private plaintiffs within thirty (30) calendar days. The United States shall make reasonable efforts to preserve relevant electronic and hard copy records of information received from external correspondents.
- E. The District acknowledges that the United States, through its representatives and any consultant or expert it may retain, has the right to evaluate the District's compliance with the terms of this CD. This right includes the right to conduct on-site visits upon reasonable notice and consultation with the District, to minimize any disruption to the education process in District schools. The District further acknowledges that the United

States, consistent with its responsibility to enforce Title VI and the EEOA, retains the right to investigate, including requesting information and conducting site visits and may, where appropriate, initiate judicial proceedings concerning any existing or future violations of Title VI or the EEOA by the District, except that matters covered by this CD are governed by the provisions of this CD. *See* 34 C.F.R. § 100.6(c); 20 U.S.C. §§ 1706, 1710.

- F. Upon request by the United States and private plaintiffs, the District shall coordinate annual site visits by the United States and private plaintiffs (accompanied by any consultants/experts) of up to six (6) school days per school year; the United States may conduct additional days of site visits to ensure compliance with this CD. The United States and private plaintiffs shall make a good faith effort to identify for the District, reasonably in advance of such visits, areas of inquiry, including schools, individuals to interview, and documents to review, to the extent practicable. All site visits will be conducted in a manner that ensures that the integrity of the school day is maintained.
- G. Notwithstanding the provisions in Section C of this Chapter, if at any time the parties agree that the District has complied substantially and in good faith with one or more provisions of the CD for a reasonable period of time, and the parties agree that the remedy provided by those provisions is durable, the parties may jointly move to lift any provision of this CD.
- H. The Court shall retain jurisdiction over this matter until such time as the CD is dismissed, at which time the Court's jurisdiction shall end and this matter shall be dismissed with prejudice, unless this CD is modified pursuant to Court order.

ATTACHMENTS

- 1. Interim Measures to Increase the Number of Fully Qualified ELA Teachers at Underserved Schools

SO ORDERED:

Honorable Richard P. Matsch
United States District Judge

DATED: _____