

**PARENTAL WAIVERS RE: STRUCTURED ENGLISH IMMERSION
AND ENGLISH LANGUAGE CLASSROOMS**

ADMINISTRATIVE REGULATION

6113

Waiver forms: Pursuant to Policy 6113, the Superintendent shall develop waiver forms and shall make these forms available at each school within the District. In addition to information sufficiently identifying the student for whom the waiver is sought, including the student's date of birth, such forms shall include:

1. A statement that the parents or guardians applying for the waiver have personally visited the school to apply for the waiver and that they there have been provided a full description of the educational materials to be used in the different educational choices and all the educational opportunities available to the student for whom the waiver is sought.
2. A statement that the parents or guardians applying for the waiver believe that it is in the best interest of their child to be educated and/or taught English through bilingual education techniques or other generally recognized educational methodologies other than Structured English Immersion and that such an alternate course of educational study would be better suited to the student's overall educational progress and rapid acquisition of basic English language skills.
3. With respect to Type Three Waivers as discussed below, an affirmative indication from the parent that the student has such special and individual physical or psychological needs, above and beyond the student's lack of English proficiency, that an alternate course of educational study would be better suited to the student's overall educational development and rapid acquisition of English.

Duties of School Principals: School Principals shall ensure that waiver forms are immediately available to any parent or legal guardian requesting one. Principals at each school shall make available with each application for waiver a full description of the educational materials to be used in any bilingual education or native language instruction class, as well as a full description of all educational opportunities available to the child at the school. Nothing in this Regulation prevents Principals and teachers from providing applications for waivers and descriptions of educational materials to be used in different educational choices and all educational opportunities available to the student at school functions at which parents are present, including, but not limited to, open houses or meetings with groups of parents conducted for the purpose of discussing educational options available to parents of English learning students. Principals shall also be responsible for determining whether a particular student meets the initial qualification for a waiver.

Rules Respecting Qualification for Waiver: Pursuant to A.R.S. § 15-753(B), and Policy 6113, a waiver may be granted in any one of three circumstances: 1) for students who already know English (“Type One Waiver”), 2) for students age ten (10) years or older (“Type Two Waiver”), and 3) for children with special needs (“Type Three Waiver”). This Regulation sets forth the conditions under which waivers may be granted for each of the three waivers available.

Type One Waiver: A Type One Waiver shall be granted if a student already possesses good English language skills as measured by oral evaluation or standardized tests of English vocabulary comprehension, reading and writing, in which the student scores approximately at or above the state average for the student’s grade level or at or above the fifth (5th) grade level, whichever is lower. For the purposes of this Regulation and Policy 6113, a student possesses good English language skills as measured by oral evaluation if the student achieves a raw score of 65 or better under the LAS (Language Assessment Skills) test. District personnel may rely on the results of oral examinations regardless of whether results of standardized tests of English with respect to a particular student are available, if, in the informed belief of said District personnel, the results of the oral examination properly measure whether a student has achieved good English language skills.

Any student possessing good English language skills as defined in this Regulation shall be granted a waiver by the Principal of the school or the Superintendent (or the Superintendent’s designee).

Type Two Waiver: A Type Two Waiver shall be granted if the student is age ten (10) or older and it is the informed belief of the Principal and educational staff that an alternate course of educational study would be better suited to the student’s overall educational progress and rapid acquisition of basic English language skills. For the purposes of this Regulation, “educational staff” shall mean any of the following: 1) the student’s classroom teacher, if one has been assigned; 2) a curriculum specialist designated by the Superintendent to assess the language acquisition needs of District students defined as English learners, 3) any certified teacher in the District with a bilingual or English as a Second Language teaching endorsement or who has demonstrated knowledge of the needs of students defined as English learners, 4) a school counselor or psychologist, or 5) a school social worker. The Principal of each school shall seek the concurrence of one or more educational staff in determining whether to grant a parental waiver.

A Principal and educational staff member are entitled to presume that a valid application for a Type Two Waiver is *prima facie* evidence that such an alternate course of educational study would be better suited to the student’s overall educational progress and rapid acquisition of basic English language skills, and the Principal and educational staff shall not deny a Type Two Waiver unless they believe, by a preponderance of the evidence, that an alternate course of educational study would deter a student’s rapid acquisition of English language skills compared to participation in a Structured English Immersion program.

Type Three Waiver: A Type Three Waiver shall be granted if a student has been placed for a period of not fewer than thirty (30) calendar days during a school year in an English language classroom and it is subsequently the informed belief of the school Principal and educational staff that the student has such special and individual physical or psychological needs, above and beyond the student's lack of English proficiency, that an alternative course of educational study would be better suited to the student's overall educational development and rapid acquisition of English. For the purposes of this provision, the term "educational staff" is as defined in the discussion of a Type Two Waiver, above. Nothing in this Regulation shall require that a student granted a Type Three Waiver be also qualified to receive special education services. For purposes of this Regulation, a Principal and educational staff are entitled to take into account the cultural and sociological factors in considering whether a student has special and individual physical or psychological needs, above and beyond lack of English proficiency, such that an alternate course of study would be better suited to the student's overall educational development and rapid acquisition of English. The Principal of each school shall seek the concurrence of one or more educational staff in determining whether to grant a parental waiver.

A Principal and educational staff member are entitled to presume that a valid application for a Type Three Waiver is *prima facie* evidence that such an alternate course of educational study would be better suited to the student's overall educational progress and rapid acquisition of basic English language skills, provided that the parent or guardian affirmatively states on the application for waiver that the student has special and individual physical or psychological needs, above and beyond lack of English proficiency, such that an alternate course of study would be better suited to the student's overall educational development and rapid acquisition of English, and the Principal and educational staff shall not deny a Type Three Waiver unless they believe, by a preponderance of the evidence, that an alternate course of educational study would deter a student's rapid acquisition of English language skills compared to participation in a Structured English Immersion program.

The grant of a Type Three Waiver must be accompanied by the signature of the Superintendent and the school Principal, and must be accompanied by a written description, prepared by the parent, the school Principal, a member of the educational staff, a child advocate or advocates, and/or other persons designated by the Superintendent, of no fewer than 250 words documenting a student's special needs. This statement shall be permanently added to the student's official school records.

Annual Renewal of Waiver: Any waiver granted under Policy 6113 and this Regulation shall be effective for no more than one (1) year. Parents or legal guardians may renew a request for a waiver at any time, provided that such application for a waiver meets the requirements of Policy 6113 and this Regulation.

Legal Reference: Arizona Revised Statutes 15-752. Conducting of schools in English language; bilingual or English as a second language programs; voluntary participation; parental notification.

Arizona Revised Statutes 15-733. Census procedures; diagnostic assessment and reassessment.

Cross Reference: Governing Board Policy 6110, Language Education.

TUCSON UNIFIED SCHOOL DISTRICT
Tucson, Arizona

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