

18A:35-15

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

NJSA: 18A:35-15

(Bilingual
education--revise
English
proficiency
requirements)

LAWS OF: 1991

CHAPTER: 12

Bill No: A1371

Sponsor(s): Bryant

Date Introduced: Pre-filed

Committee: Assembly: Education

Senate: Education

Amended during passage: Yes Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: May 21, 1990

Senate: December 13, 1990

Date of Approval: January 24, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

P.L.1991, CHAPTER 12, *approved January 24, 1991*
1990 Assembly No. 1371 (*First Reprint*)

1 AN ACT concerning bilingual education and ¹amending and¹
2 supplementing P.L.1974, c.197 ¹[(C.18A:35-15 et seq.)]¹.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. (New section) A pupil enrolled in a bilingual education
7 program pursuant to P.L.1974, c.197 (C.18A:35-15 et seq.) shall
8 be placed in the ¹[regular school] English-only¹ program when the
9 pupil demonstrates readiness to function successfully in the
10 ¹[regular] English-only¹ program. The ¹process to determine
11 the¹ readiness ¹or inability¹ of the individual pupil ¹to function
12 successfully in the English-only program shall be initiated by the
13 pupil's level of English proficiency as measured by a State
14 established cut-off score on an English language proficiency test
15 and the readiness of the pupil¹ shall be ¹further¹ assessed on the
16 basis of multiple indicators which shall, at a minimum, include
17 classroom performance, the pupil's reading level in English, the
18 judgment of the teaching staff member or members responsible
19 for the educational program of the pupil, and performance on
20 achievement tests in English.

21 ¹2. (New section) If any parent or teaching staff member
22 disagrees with the decision either that a pupil exit from or
23 remain in the district's bilingual education program, the parent
24 or teaching staff member may appeal this decision. After
25 exhausting a local appeal process, any parent or guardian who is
26 not satisfied with the district's explanation for its decision shall
27 have the right to a hearing as a contested case before the
28 Commissioner of Education or his designee. The final decision on
29 a child's placement shall be based on the best interests of the
30 child in accordance with the assessment criteria set forth in
31 section 1 of this amendatory and supplementary act. An appeal
32 under this provision shall be heard and decided by the
33 commissioner or his designee on an expedited basis.¹

34 ¹3. Section 8 of P.L.1974, c.197 (C.18A:35-22) is amended to
35 read as follows:

36 8. Each school district shall notify by mail the parents of the
37 pupils of limited English-speaking ability of the fact that their
38 child has been enrolled in a program of bilingual education. In
39 addition, whenever a school district determines, on the basis of a

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AED committee amendments adopted May 14, 1990.

1 pupil's level of English proficiency, that a pupil should exit from
2 a program of bilingual education the district shall notify the
3 parents of the pupil by mail. Such notice shall be in writing and
4 in the language of which the child of the parents so notified
5 possesses a primary speaking ability, and in English.

6 The board shall provide for the maximum practicable
7 involvement of parents of children of limited English-speaking
8 ability in the development and review of program objectives and
9 dissemination of information to and from the local school
10 districts and communities served by the bilingual education
11 program within existing State law.¹

12 (cf: P.L.1974, c.197, s.8)

13 ¹4. (New section) The State Board of Education shall
14 promulgate regulations pursuant to the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary
16 to effectuate the provisions of this act. The Commissioner of
17 Education shall issue guidelines to serve as temporary procedures
18 for effectuating the provisions of this act until such time as the
19 State board promulgates regulations.¹

20 ¹[2] 5¹. This act shall take effect immediately ¹[and be
21 retroactive to November 23, 1987]¹.

22

23

24

EDUCATION

25

26 Requires an assessment based upon multiple indicators of English
27 proficiency for a child to exit from a bilingual education program.

ASSEMBLY, No. 1371

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1990 SESSION

By Assemblymen BRYANT and MENENDEZ

1 AN ACT concerning bilingual education and supplementing P.L.
2 1974, c. 197 (C. 18A:35-15 et seq.).

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. A pupil enrolled in a bilingual education program pursuant
7 to P.L. 1974, c. 197 (C. 18A:35-15 et seq.) shall be placed in the
8 regular school program when the pupil demonstrates readiness to
9 function successfully in the regular program. The readiness of
10 the individual pupil shall be assessed on the basis of multiple
11 indicators which shall, at a minimum, include classroom
12 performance, the pupil's reading level in English, the judgment of
13 the teaching staff member or members responsible for the
14 educational program of the pupil, and performance on
15 achievement tests in English.

16 2. This act shall take effect immediately and be retroactive to
17 November 23, 1987.

18

19

20

STATEMENT

21

22 This bill requires that the readiness of a pupil in a bilingual
23 education program to exit from that program must be assessed on
24 the basis of multiple indicators, including classroom performance,
25 reading level in English, the judgment of the child's teachers and
26 the results of achievement tests in English.

27 Until November 1987, this was the assessment method utilized
28 to determine whether a child was ready to function successfully
29 in the regular school program. However, on November 24, 1987,
30 the State Board of Education adopted regulations which limit the
31 exit criteria to the test score on the English language proficiency
32 test which is to be administered annually until the child achieves
33 the passing level of fluency or passes the High School Proficiency
34 Test. (N.J.A.C. 6:31-1.1; 19 N.J.R. 2398).

35 A score on a single standardized test cannot accurately predict
36 a child's ability to function in a regular classroom environment.
37 The result of this new regulation will be to prematurely force
38 children out of an appropriate educational program and thus
39 violate the intention of the State's bilingual education act and
40 deprive the children of their constitutional right to a thorough
41 and efficient free public education.

1 The Public Advocate has brought suit against the new
2 regulations, and the court has enjoined their implementation
3 pending adjudication.

4

5

6 EDUCATION

7

8 Requires an assessment based upon multiple indicators of English
9 proficiency for a child to exit from a bilingual education program.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1371

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1990

The Assembly Education Committee favorably reports Assembly Bill No. 1371 as amended.

As amended by committee, this bill provides that the process to determine the readiness or inability of a pupil in a bilingual education program to function successfully in an English-only program shall be initiated by the pupil's level of English proficiency as measured by a State established cut-off score on an English language proficiency test and shall be further assessed on the basis of multiple indicators which shall, at a minimum, include classroom performance, the pupil's reading level in English, the judgment of the teaching staff member or members responsible for the educational program of the pupil, and the pupil's performance on achievement tests in English. The bill further provides that if any parent or teaching staff member disagrees with the decision either that a pupil exit from or remain in the district's bilingual education program, the parent or teaching staff member may appeal the decision first at the local level and then as a contested case before the Commissioner of Education or his designee. The final decision on the child's placement is to based on the best interests of the child in accordance with the assessment criteria set forth within section 1 of the bill.

The bill also provides that whenever a school district determines, on the basis of a pupil's level of English proficiency, that a pupil should exit from a program of bilingual education the district shall notify the parents of the pupil by mail. The bill also authorizes the Commissioner of Education to issue guidelines to serve as temporary procedures for effectuating the bill's provisions until such time as the State board promulgates regulations.

The committee amended the bill to provide that the process to determine the readiness or inability of an individual pupil to function successfully in the English-only program shall be initiated by the pupil's level of English proficiency as measured by a State established cut-off score on an English language proficiency test and shall be further assessed on the basis of multiple indicators. The bill in its original form provided that the readiness of a pupil would be assessed only on the basis of multiple indicators. The committee amendments also establish the right of a parent or teaching staff member who disagrees with the decision that a pupil exit from or remain in the district's bilingual education program to appeal that

decision. The committee also added language to the bill to provide for the promulgation of regulations by the State Board of Education and to authorize the Commissioner of Education to issue guidelines to serve as temporary procedures for effectuating the bill's provisions until such time as the board promulgated regulations.

It is the intention of the Assembly Education Committee that school districts be given latitude to meet the particular needs of their student populations consistent with the requirements of law. Accordingly, it is the understanding of the committee that the bill's language in section 1, concerning multiple indicators, allows the State Board of Education to promulgate rules and regulations for every indicator, and that those rules and regulations will take into account the special circumstances of individual school districts.

It is also the intention of the Assembly Education Committee that the appeal to the Department of Education shall be handled as a contested case with the final decision to be made by the commissioner or a designated assistant commisioner. The commissioner, or his designee, can retain the matter to hear and decide or refer the matter to the Office of Administrative Law for a hearing and a recommended initial decision by an administrative law judge.

Representatives of the Department of Education, the Department of the Public Advocate, the New Jersey Teachers of English as a Second Language/Bilingual Educators Association, the New Jersey Education Association, the American Federation of Teachers, and the New Jersey School Boards Association testified in support of the bill.

This bill was pre-filed for introduction in the 1990 session pending technical review. As amended the bill includes changes required by technical review which has been performed.

SENATE EDUCATION COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1371

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1990

The Senate Education Committee favorably reports Senate Bill No. 1371 without committee amendments.

This bill provides that the process to determine the readiness or inability of a pupil in a bilingual education program to function successfully in an English-only program shall be initiated by the pupil's level of English proficiency as measured by a State established cut-off score on an English language proficiency test and shall be further assessed on the basis of multiple indicators which shall, at a minimum, include classroom performance, the pupil's reading level in English, the judgment of the teaching staff member or members responsible for the educational program of the pupil, and the pupil's performance on achievement tests in English. The bill further provides that if any parent or teaching staff member disagrees with the decision either that a pupil exit from or remain in the district's bilingual education program, the parent or teaching staff member may appeal the decision first at the local level and then as a contested case before the Commissioner of Education or his designee. The final decision on the child's placement is to be based on the best interests of the child in accordance with the assessment criteria set forth within section 1 of the bill.

The bill also provides that whenever a school district determines, on the basis of a pupil's level of English proficiency, that a pupil should exit from a program of bilingual education the district shall notify the parents of the pupil by mail. The bill also authorizes the Commissioner of Education to issue guidelines to serve as temporary procedures for effectuating the bill's provisions until such time as the State board promulgates regulations.