



*English Learner Education  
Program Guidelines*

**IDENTIFICATION AND  
PROGRAM BASICS**

*August 2011*

# Identification and Program Basics

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## Frequently Asked Questions

### 1. **Must the district have a process for identifying English learners (ELs)?**

*YES.* If the district does not identify ELs in the district K-12 population, the district cannot provide appropriate service for ELs.

### 2. **Should we have a home language questionnaire for all students?**

*YES.* All students, regardless of perceived native language, are required to have a completed home language questionnaire upon initial registration in the district. In other words, a home language questionnaire should be in the cumulative file of each and every student in the district.

### 3. **Can the district ask for a student's immigration status?**

*NO.* In 1982, the U.S. Supreme Court ruled in *Plyer v. Doe* [457 U.S. 202 (1982)] that undocumented students have the same right to attend public school as do U.S. citizens and permanent residents. As a result, public schools may not engage in any practices that “chill” or hinder the right of access to school. This includes requiring students or parents to disclose or document their immigration status.

### 4. **For initial identification as an EL, should the district use just one test or one person's subjective opinion?**

*NO.* The decision to identify a student as an EL should be based on multiple measures, including an appropriate combination of teacher judgment, parental input, assessment of academic achievement and assessment of English proficiency skills in speaking, listening, reading and writing for students in grades K through 12.

### 5. **Does the identification of a student as an EL depend on whether or not that student generates state limited English proficient (LEP) funds?**

*NO.* Students are identified as ELs based solely on their proficiency in English using developmentally appropriate measures as determined by the district.

### 6. **If an EL does not generate state LEP funds, should the student be reclassified as non-LEP in MARSS?**

*NO.* Absolutely not. Students are identified as ELs based solely on their proficiency in English using developmentally appropriate measures as determined by the district.

**7. Must parents be notified when a child is placed in ESL or bilingual services?**

*YES.* The school district must notify parents, in a language they can understand, within ten school days.

**8. Can foreign exchange students take part in the ESL program?**

*YES.* If foreign exchange students meet the district criteria for EL, they should be considered eligible for ESL service. However, the district should carefully consider the ability level of foreign exchange students in content areas and the reasons why the students are attending school in the United States. Often their goals are different from ESL students and their needs won't necessarily be met in an ESL program.

**9. Can students who are age 21 to 23 receive ESL service?**

*YES.* Students who are age 20 when they enroll during a school year but who turn 21 during the school year are eligible to complete the year and generate general education revenue, including LEP funding. It is the district's decision whether or not to serve students 21 or over in K-12 setting programs.

**10. Can a district exit from direct service a student who has not scored in the proficient range on the TEAE?**

*YES.* A district determines whether or not a student requires ESL service based on a variety of measures. If the combined evidence suggests that an EL no longer needs direct service, even if that EL has not yet scored proficient on the TEAE, the student may be exited from direct ESL service. Additionally, districts determine LEP identification in MARSS based on developmentally appropriate measures.

## Overview of Chapter

The following chapter outlines the steps which districts should follow in order to effectively identify, place and serve English learners. The identification of ELs in a school district is an important part of meeting their needs. Districts must have consistent procedures in place in order to ensure that each and every non-native speaker of English is correctly screened for his or her potential status as an EL.

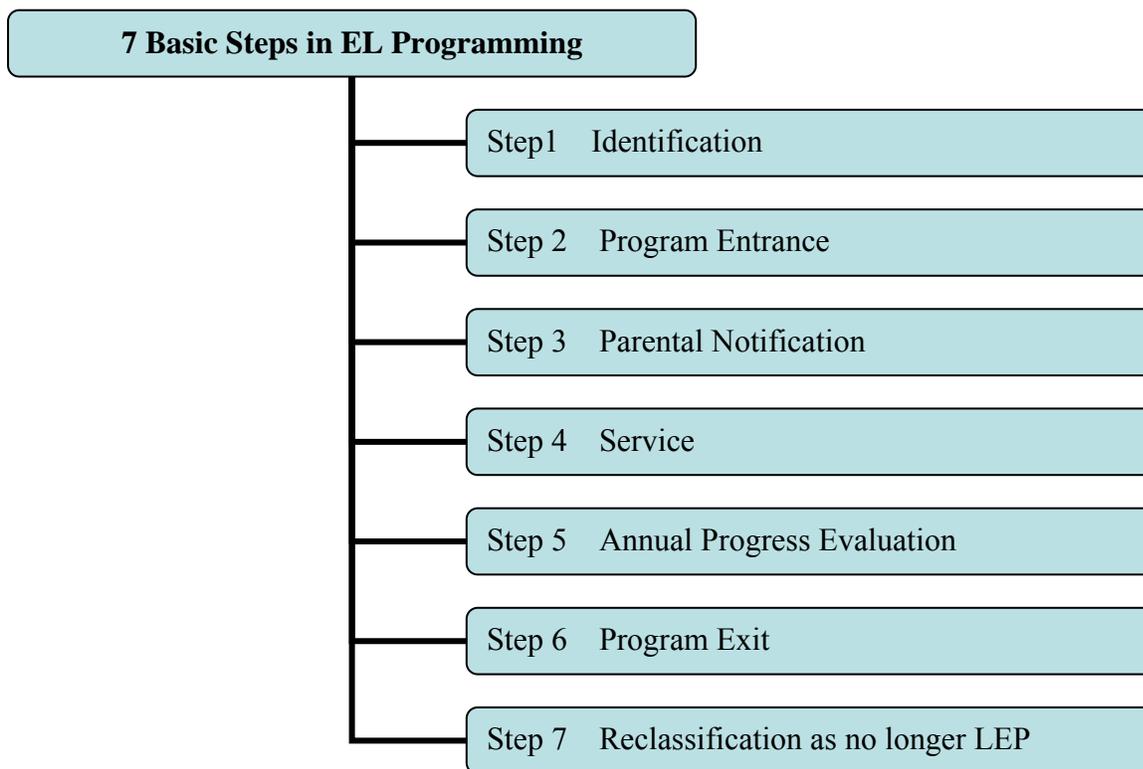
The identification process includes the use of a form to document that the primary home language of the student is not English (the home language questionnaire) and the use of multiple assessments to determine whether or not English language ability prevents the student from fully accessing the curriculum of the school.

Once an EL is identified and placed in an ESL or bilingual program, state law requires that the parents are notified of the student's entry into the program. Parents have the right to refuse ESL or bilingual service for their student. If the service is refused – and any misunderstanding regarding what the service might entail is resolved – a district must remove the EL from ESL or bilingual service.

All students identified as EL must be recorded as such in the Minnesota Automated Reporting Student System (MARSS). In addition to a student's status as an EL, data regarding the start date of ESL or bilingual services and the student's home primary language are required.

ELs who attain a level of English proficiency that no longer prevents them from fully accessing the curriculum of the school may be exited from the ESL or bilingual program. The decision to exit a student, like the decision to place a student in ESL or bilingual programming, should be based on multiple measures, including teacher recommendation, parental input, and assessments of speaking, listening, reading and writing.

## Seven Basic Steps



### Step 1 – Identification

Identify student as LEP using district-established criteria based on developmentally appropriate measures.

### Step 2 – Program Entrance

Determine the English language proficiency level of the student and place student in district instructional program designed to meet the needs of ELs at all proficiency levels.

### Step 3 – Parental Notification

Notify parents within 10 days of enrolling a student in an instructional program for ELs. Title III of NCLB requires informing parents about the reasons for identification, the level of English proficiency, how the program will help their child learn English, exit requirements, and graduation rate of ELs in the district.

### Step 4 – Service

Students are served in an instructional program for ELs. School districts have discretion in selecting appropriate language programs but the program chosen should be considered sound by experts in the field.

### Step 5 – Annual Progress Evaluations

Ongoing assessment will determine continued LEP identification and movement from level to level within the ESL or bilingual education program. ELs participate in statewide English

language proficiency assessments, MCA II assessments, and district achievement assessments as well as classroom assessments in English language development/ESL, reading, math, science, and social studies.

**Step 6 – Program Exit**

Students exited from the direct service language instruction program should be able to perform in the general education program without significant barriers primarily caused by limited English proficiency.

**Step 7 – Reclassification as no longer LEP**

A student is reclassified as no longer LEP using district-established criteria based on developmentally appropriate measures.

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## Step 1 – Identification

Districts must establish identification criteria and procedures as the first step in serving ELs. Identification consists of two parts. The first part is determining the home language of the student. The second part is determining students proficiency in English based on developmentally appropriate measures.

Keep in mind that identification procedures developed by the district must include students who are new to the system as well as ongoing identification of students who continue in the school system from year to year. Procedures and criteria developed by the district for identification of ELs may be different at the various grade levels or ages of students. For example, identification criteria for ELs in kindergarten may look very different than identification criteria for ELs in grade 12.

### *Part 1: Home Language Questionnaire*

When a student enrolls initially in the school district, it is important to identify the primary language of the student. This is true for each and every student. It goes without saying that the appearance of the student should not determine whether or not he or she is screened for primary language. Likewise, how the student sounds in English should not determine whether or not he or she is screened for primary language. In order to ensure that each and every non-native speaker of English is correctly identified, the district must ascertain the primary language of every student.

The primary language of a student is routinely documented by districts through the use of a home language questionnaire. [State exemplars](#) are available in multiple languages on the MDE website; districts may choose to create their own form as well. The questionnaire determines if a student:

- (1) First learned a language other than English.
- (2) Comes from a home where the language usually spoken is other than English.
- (3) Usually speaks a language other than English.

A student who can answer yes to one or more of the questions above is considered to have a primary language other than English. The home language questionnaire should be placed in the cumulative folder of each student. In general, the home language does not change. However, if an error occurred upon initial enrollment, every effort should be made to ascertain the correct home language background of the student.

### *Part 2: Developmentally Appropriate Measures*

Students who are determined to have a primary language other than English are *not automatically* ELs. They are, however, the group of students that should be screened to determine which are ELs and which are not ELs.

To properly screen students with a primary home language other than English in order to determine whether or not they are an EL, a district should use multiple developmentally appropriate methods. These methods may differ according to the age and grade of the students. For example, the criteria to identify ELs in kindergarten will differ from the procedure to identify ELs in high school, since the expectations of English proficiency and the demand of the school curriculum vary tremendously between kindergarten and high school.

According to state law, developmentally appropriate measures might include observations, teacher judgment, parent recommendations or developmentally appropriate assessment instruments. Whichever the combination of measures a district ultimately chooses to use to identify ELs, the identification process should be clearly articulated, consistently applied and available to all stakeholders, including parents and teachers.

In terms of best practice, it is advisable to include results of English language proficiency assessments in reading, writing, listening and speaking when constructing the district’s EL identification criteria. Some academic achievement tests may not be considered as developmentally appropriate for ELs at beginning levels of English proficiency. Possible appropriate developmental measures are described in Table 1. This list is not exhaustive, but should provide plenty of resources to get started.

**Table 1: Developmentally Appropriate Measures for EL Identification**

<b>Developmentally Appropriate Measures</b>	
<b>Measure</b>	<b>Specific examples</b>
English proficiency tests	<ul style="list-style-type: none"> <li>• IDEA-Oral Language Proficiency Test (IPT English) - grades K-12; Reading &amp; Writing (IPT R/W) - grades 2-12</li> <li>• Language Assessment Scales - Oral (Pre-LAS-O English) - grades PreK-1; Oral (LAS-O English) - grades 1-12; Reading and Writing (LAS-R/W English) - grades 2-12</li> <li>• Minnesota Test of Emerging Academic English (TEAE) - grades 3-12; Reading and Writing Observation Matrix - grades K-2</li> <li>• MN Student Oral Language Observation Matrix (MN SOLOM) - grades K-12</li> <li>• WIDA- ACCESS Placement Test (W-APT), grades K and 1-12</li> <li>• WIDA Measure of Developing English Language (MODEL)</li> <li>• Woodcock Muñoz Language Survey</li> </ul>
Academic achievement tests	<ul style="list-style-type: none"> <li>• Minnesota Comprehensive Assessments (MCA III)</li> <li>• Minnesota Basic Standards Tests (BST)</li> <li>• Minnesota GRAD Assessment</li> <li>• Iowa Test of Basic Skills</li> <li>• Stanford Achievement Test</li> <li>• NWEA MAP tests</li> </ul>
Classroom based /informal assessment	<ul style="list-style-type: none"> <li style="width: 50%;">• Work Sampling</li> <li style="width: 50%;">• Interviews</li> <li style="width: 50%;">• Grades</li> <li style="width: 50%;">• Parent judgment</li> <li style="width: 50%;">• Homework</li> </ul>

## Step 2 – Program Entrance

Data collected in Step 1 will determine whether or not a student will enter an ESL or bilingual education program. Well-constructed identification criteria will provide information about placement in a program as well.

EL identified students are eligible for service. Sometimes, however, not all ELs in a district receive service. This is because parents have the right to refuse ESL service even if their child has been identified as an EL. A parent’s decision to refuse ESL or bilingual education service does not change the status of the student.

When a student begins service, a start date for ESL and/or bilingual service should be entered on the student’s individual record in MARSS. If the student begins receiving service, but after parent notification (see below) is withdrawn from services, the start date in MARSS should be removed. A start date for ELs receiving ESL and/or bilingual services must be entered in MARSS annually.

## Step 3 – Parental Notification

Once students with a primary language other than English are identified as ELs – and subsequently placed in an ESL or bilingual program – state law requires that the parents of ELs be notified of the student’s entry into the program. Parent Notification of ESL and/or Bilingual Education Service are available on the [MDE website](#) in 13 languages; Districts may choose to create their own form as well.

Parents have the right to refuse ESL or bilingual service for their student. If the service is refused, it is advisable for the district to work directly with the parents to make sure that they understand the purpose of service and the risk to the student who refuses service. If the parent understands the service and chooses to refuse service, a district must remove the EL from ESL or bilingual service.

To satisfy state law, districts must notify parents within 10 days of a student’s initial placement in ESL or bilingual education program. The state law does not require annual notification.

Additionally, if a district receives Title III dollars, the federal program requires that parents be notified annually of the child’s participation in ESL or bilingual education programming within 30 days of the beginning of the school year, or within two weeks if the child enters the district during the course of the year. Information required with this notification includes the most recent available assessments of the child’s English language proficiency. Click here for more information regarding [Title III parent notification](#).

### *Minnesota Automated Reporting Student System (MARSS) Data Entry*

There are three fields in MARSS specifically pertaining to EL status: Home Language, LEP Identified, and LEP Start Date.

First, primary home language data for all students, whether EL or not, is required. No student with a primary language of English (MARSS language code 11) or Sign Language (MARSS language code 42) will be considered an EL.

Parents who report their children's primary language as English but who may actually be referring to a variety of English that is significantly different from American English, should be encouraged to specify the type of English. For example, Liberian English or Nigerian English may well be different enough from Midwestern US English to warrant ESL services. These languages may be coded as English Creolized (MARSS language code 057). Access List of Home Primary Language Codes -

<http://education.state.mn.us>

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Second, districts must indicate with a YES or NO if a student is EL identified. All students identified as EL must be recorded as such in MARSS. Once a student is identified as EL, the individual record for that student in MARSS should be updated to reflect the student's status as EL. The MARSS record for each student asks whether or not the student is "LEP" (limited English proficient). An EL is LEP and the MARSS record should reflect the student's status with a "Y" for Yes.

Please note that for reporting of LEP identification in MARSS, it does not matter if the EL is receiving ESL services. It does not matter if the parents of an EL refused services. It does not matter if the student has or has not taken any particular state test. If a student has been determined by the district to be an EL the student is just that – EL. The student's record on MARSS should then show that status.

Third, a start date is entered indicating when the student began to receive ESL or bilingual services. The start date should be the first day upon which the student received instruction in an ESL or bilingual program. It is not permissible to simply enter the first day of school if the student did not receive ESL or bilingual services the first day of school.

**Table 2: MARSS Data Elements for EL Programs**

<b>DATA ELEMENT</b>	<b>INPUT TYPE</b>
Home Language Code	Enter a numerical code indicating Home Primary Language
LEP Identified	Enter a Y for YES or an N for NO indicating identification based on developmentally appropriate measures.
LEP Start Date	Enter the date that the student begins EL service each school year. If the parent refuses service, do not enter a start date.

#### **Step 4 – Service**

Students who are identified as EL should be served in an instructional program for ELs. School districts have discretion in selecting appropriate language programs but the program chosen should be considered sound by experts in the field. The program should be designed to meet varying student needs across English proficiency levels. In other words, students at the beginning levels of English proficiency need more intensive service than students at the transitional levels.

ELs are considered to be receiving service when they are placed in a program specifically designed for ELs. Minnesota statute defines a program for ELs as either an ESL program or a bilingual education program. A start date for ELs receiving service should be entered in MARSS.

There are many program models to choose from when designing appropriate service for ELs. Whichever model is implemented by the district should be clearly articulated and available to parents, staff and students.

#### *Monitoring*

Many districts use the term “monitoring” or “monitored student”. Each district must determine whether or not monitoring consists of direct service in the context of the district’s program. Please note that federally the term “monitoring” currently refers to the two-year period after the student has been reclassified as non-LEP. This is tracked through the MDE Accountability Gateway as LEP+2. For AYP accountability purposes this group of students is included in the LEP subgroup. The LEP+2 students are not currently LEP identified in MARSS and are not served in a program for ELLs.

#### *Direct Service*

ELs are considered to be receiving direct service when they benefit from programming specifically designed to meet their language, academic and social needs. Minnesota statute

defines a program for ELs as either an ESL program or a bilingual education program. A start date for ELs receiving direct service **must be** entered in MARSS.

### *Indirect Service*

ELs are considered to be receiving indirect service when they are not enrolled in programs specifically designed for ELs but rather are receiving instruction in the mainstream and are perhaps checking in with ESL staff from time to time. A start date for ELs receiving indirect service **should not be** entered in MARSS.

### *General Requirements for Programs*

Legislation enacted in 2006 sets forth minimum program requirements for a district that enrolls one or more children of limited English proficiency. Following is an outline of these requirements:

- Identification, reclassification, and exit criteria must be documented, applied uniformly, and made available to parents and other stakeholders upon request.
- A written plan of services that describes programming by English proficiency level made available to parents upon request (components of the plan are specified).
- Professional development opportunities for ESL, bilingual education, mainstream, and all staff working with children of limited English proficiency.

### **Step 5 – Annual Progress Evaluation**

Ongoing assessment will determine continued EL identification and movement from level to level within the EL program. ELs participate in statewide English language proficiency assessments, MCA III assessments, and district achievement assessments as well as classroom assessments in English language development/ESL, reading, math, science and social studies.

### **Step 6 – Exiting ESL or Bilingual Service**

ELs who reach a level of English proficiency that no longer prevents them from fully accessing the curriculum of the school may be exited from the ESL and/or bilingual program. The decision to exit a student from ESL and/or bilingual service should be based on multiple measures.

Students exited from ESL and/or bilingual programs at the end of a school year will not be assigned a start date for services in MARSS at the beginning of the following year.

### **Step 7 – Reclassification**

A student is reclassified in MARSS using district-established criteria based on developmentally appropriate measures including teacher recommendation, parental input, and assessments of English language proficiency in speaking, listening, reading and writing. A district might include state assessments such as the TEAE, MCA IIIs, and BST among its multiple measures.

**Table 3: Summary**

<b>Identifying English Learners (ELs)</b>		
<b>Who?</b>	<b>Identified by ...</b>	<b>In order to ...</b>
Language minority student	Home language questionnaire*	<p>... determine which students have a primary language other than English.</p> <p><i>A determination of primary language should be done for each and every student in the district and kept in each student's cumulative file.</i></p>
EL	District documentation of developmentally appropriate assessments	<p>... determine proficiency level in English.</p> <p><i>Students with a primary language other than English, who <b>cannot</b> fully access the district curriculum due to their level of English language proficiency, are identified as EL.</i></p>
EL served	Parent notification of ESL and/or Bilingual Education Services*	<p>... determine if parents wish to have their child, who has been identified as an ELL, in ESL and/or bilingual education programming.</p> <p><i>A district can only serve those ELs whose parents do not object to ESL and/or bilingual education service.</i></p>
EL not served	District documentation of developmentally appropriate assessments or refusal of services	<p>... determine proficiency level in English.</p> <p><i>Students with a primary language other than English who are <b>EL identified</b> but are not served in the ESL and/or bilingual education program due to parent refusal. Districts may choose to exit an EL from ESL and/or bilingual education services based on multiple measures of the student's English language proficiency.</i></p>
no longer EL identified	District criteria	<p>... determine if an EL is reclassified as no longer EL.</p> <p><i>District reclassifies student based on pre-determined criteria based on developmentally appropriate measures.</i></p>

**Table 4: Summary**

<b>Seven Basic Steps in EL Identification and Placement and MARSS</b>		
<b>STEP</b>	<b>PROCESS</b>	<b>MARSS DATA ENTRY</b>
<b>Step 1 – Identification</b>	Identify student as LEP using the home language questionnaire and district-established criteria based on developmentally appropriate measures.	<p><b>Home Language Code</b> Enter a numerical code indicating Home Primary Language. This code does not change even when the student is no longer LEP identified.</p> <p><b>LEP Identified</b> Enter a Y for YES indicating identification based on developmentally appropriate measures.</p>
<b>Step 2 – Program Entrance</b>	Determine the English language proficiency level of the student and place student in district instructional program designed to meet the needs of ELs at all proficiency levels.	<p><b>LEP Start Date</b> Enter the date that the student begins EL service each school year.</p> <p>If the parent refuses service or if the student is not served in an EL program, do not enter a start date.</p>
<b>Step 3 – Parental Notification</b>	Notify parents within 10 days of enrolling a student in an instructional EL program. Title III of NCLB requires informing parents about the reasons for identification, the level of English proficiency, how the program will help their child learn English, and exit requirements.	
<b>Step 4 – Service</b>	Students are served in an instructional program for ELs. School districts have discretion in selecting appropriate language programs but the program chosen should be considered sound by experts in the field.	<p><b>LEP Start Date</b> Enter the date that the student begins EL service each school year.</p>
<b>Step 5 – Annual Progress Evaluations</b>	Ongoing assessment will determine continued LEP identification and movement from level to level within the EL program. ELs participate in	

	statewide English language proficiency assessment, MCA III assessments, and district achievement assessment as well as classroom assessments in English language development/ESL, reading, math, science, and social studies.	
<b>Step 6 – Program Exit</b>	Students exited from the direct service language instruction program should be able to perform in the general education program without significant barriers primarily caused by limited English proficiency.	<b>LEP Start Date</b> The LEP Start Date remains in place during the school year in which the student exited the ESL program. However, do not enter an LEP Start Date for a student for the following school year when the student is no longer served in an EL program.
<b>Step 7 – Re-classification as no longer LEP</b>	A student is reclassified as no longer LEP using district-established criteria based on developmentally appropriate measures.	<b>LEP Identified</b> The LEP Identifier remains Y for YES during the school year in which the student is reclassified. However, enter an N for NO indicating reclassification based on developmentally appropriate measures for the student for the following school year when the student is no longer classified as LEP.

## Minnesota Department of Education English Learner Education Contacts

Questions may be directed to:

	MARSS Reporting	<a href="mailto:MARSS@state.mn.us">MARSS@state.mn.us</a>
Leigh Schleicher	English Learner Education Supervisor	651-582-8326 <a href="mailto:leigh.schleicher@state.mn.us">leigh.schleicher@state.mn.us</a>
Anh Tran	English Learner Education Specialist	651-582-8508 <a href="mailto:anh.tran@state.mn.us">anh.tran@state.mn.us</a>
Ruslana Westerlund	English Learner Education Specialist	651-582-8574 <a href="mailto:ruslana.westerlund@state.mn.us">ruslana.westerlund@state.mn.us</a>

## Related State Law

### **124D.59 Definitions** - <https://www.revisor.leg.state.mn.us/statutes/?id=124D.59>

The following terms are defined: Pupil of limited English proficiency, Essential instructional personnel, English as a second language program, Bilingual education program, Primary language, Parent, and Educational program for pupils of limited English proficiency.

### **124D.61 General Requirements for Programs** - <https://www.revisor.leg.state.mn.us/statutes/?id=124D.61>

Minimum program requirements for a district that enrolls one or more children of limited English proficiency.

### **123B.30 Improper Classification of Pupils** - <https://www.revisor.leg.state.mn.us/statutes/?id=123B.30>

No district shall classify its pupils with reference to race, color, social position, or nationality, nor separate its pupils into different schools or departments upon any of such grounds. Any district so classifying or separating any of its pupils, or denying school privileges to any of its pupils upon any such ground shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation, or exclusion shall occur or continue.