

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

PREAMBLE

- 1. Sections Affected**
R7-2-613
- Rulemaking Action**
Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 15-203(A)
Implementing statutes: A.R.S. §§ 15-203(A)(14) and 15-756(A)(5)
- 3. Effective Date of the Rule:**
December 18, 2004
- 4. Register citation and date for the original Notice of Proposed Rulemaking:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 4564, October 24, 2003
Notice of Proposed Rulemaking: 10 A.A.R. 1019, March 19, 2004
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Christy Farley, Executive Director, Arizona State Board of Education
Address: 1535 W. Jefferson
Phoenix, AZ 85007
Telephone: (602) 542-5057
Fax: (602) 542-3046
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
The State Board of Education ("Board") adopted these rules to implement standards for qualifications for teachers of English Language Learner students ("ELLs") and to comply with federal and state law. Pursuant to A.R.S. § 15-203(A)(14), the State Board supervises and controls the certification of teachers and administrators. In the federal court case of *Flores v. State of Arizona* (CIV 92-596 TUC-ACM), the State entered into a Stipulation stating that the Board would adopt rules addressing the training, background, and qualifications for teachers of ELLs under Proposition 203 (codified at A.R.S. §§ 15-571 through 15-755). In December, 2001, the Arizona Legislature passed House Bill 2010 which required the Board to adopt a Structured English Immersion endorsement. *See* A.R.S. § 15-756(A)(5). House Bill 2010 also enacted A.R.S. § 15-1626(A)(15), which provides that universities overseen by the Board of Regents which provide a degree in education must require courses that are necessary to obtain a provisional structured English immersion endorsement as prescribed by the Board.
- 7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
The rule will not diminish a previous grant of authority of a political subdivision of this state.
- 9. The summary of the economic, small business, and consumer impact:**
The rule may result in increased costs for either individuals holding State Board of Education certificates (teachers and administrators) and/or schools in order for current certificate holders to receive the required training to complete an SEI endorsement. This effect will be reduced by the allocation of funds, appropriated by the Legislature in House

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Bill 2010, to pay for training required for the SEI endorsement. The appropriation has consisted of \$4.5 million in each of fiscal years 2003 through 2005 with a current fund total of \$13.5 million available to allocate.

Requirements for additional education coursework or training may be absorbed in the current 180-hours required for all teachers during recertification.

Due to requirements in statute, the rule may have an economic impact on universities overseen by the Board of Regents that provide a degree in education. These universities must include the courses necessary to obtain a provisional SEI endorsement as set forth in this rule in their teacher preparation programs in order to comply with A.R.S. §15-1626(A)(15).

The rule is not expected to have an economic impact on small businesses.

10. A description of the changes between the proposed rules, including any supplemental notices, and final rules:

The changes made between the proposed rule and the Notice of Final Rulemaking are technical and conforming. Specific changes are as follows:

1. A definition for “supervisor”, “principal” and “superintendent” is added in the final rules.
2. Reference to “supervisors, principals and superintendents” is added throughout the final rules consistent with the intent of the proposed rules in order to clarify that supervisors, principals, and superintendents certified before or after August 31, 2006 would be subject to the same requirements as teachers certified before or after that date.
3. Reference to completion of an SEI program at an institution of higher education is removed from the proposed rules as such a program does not currently exist.
4. The final rules include the statutory reference to the criteria that a training program must meet in order to be eligible for providing the training to obtain an SEI Endorsement (A.R.S. §15-756(A)(5)).
5. In order to be clear that local school districts retain their authority to place additional requirements on individuals they employ, the final rules include the following statement: “nothing in this rule prevents school districts from requiring certified staff to obtain an ESL or bilingual endorsement as a condition of employment”.
6. “English Language Proficiency Standards” was changed in parts of the rule to English Language *Learner* Proficiency Standards” to maintain consistency.
7. To provide further direction to educators, the description of the training requirement was clarified to state that the training could include, but was not limited to “instruction in SEI strategies, teaching with the ELL Proficiency standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools.”
8. The reference to a “standard” endorsement was eliminated in order to avoid potential confusion regarding that term.
9. The terms “SEI specialists” and “SEI resource teachers” were eliminated as unnecessary.
10. The term “vocational” certificate was changed to “career and technical education” certificate to conform to current terminology.
11. The proposed rules provided that a teacher or administrator must have a valid provisional SEI endorsement as a requirement for obtaining the SEI endorsement. To provide more flexibility for teachers and administrators, that language was changed to state that *qualification* for a provisional SEI endorsement was sufficient to meet that requirement.

11. A summary of the principal comments and the agency response to them:

The following comments were made to the proposed and supplemental rules:

Comment: The requirements for obtaining an Structured English Immersion (SEI) endorsement are not rigorous and do not denote specialization in this area.

Response: Existing endorsements in State Board of Education Rules have varying requirements and there is no standard amount of education or training required. In adopting the requirements for the new SEI endorsement the Board weighed the following factors: (1) information provided by the Arizona Department of Education and from educators that these requirements were sufficient to train teachers on how to effectively instruct ELL students and that the rules requirements were similar to those in effect in California; (2) comments from educators who had implemented or undergone training similar to what is required in the rules and found it effective, including a principal who attributed improved test scores among ELL students at her school to this type of training; (3) information from an individual recognized for providing professional development in the area of strategies for instruction of English Language Learners (ELLs) utilizing Sheltered English Immersion techniques, including results of her research; (4) under Proposition 203 English Language Learners are not segregated into separate classrooms thus most teachers in Arizona will have an ELL in their classroom at some point in their career and must be appropriately prepared with the necessary strategies specific to ELLs; (5) the Board did not want to adopt policies that could cause the segregation of ELLs through unnecessarily burdensome requirements for teachers of ELL students.

Comment: The SEI endorsement requirements should be equal to the requirements for obtaining an English as a Second Language (ESL) Endorsement or a Bilingual Endorsement.

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Response: See response above.

Comment: The proposed rules reference completion of an SEI program as one means of obtaining an endorsement. Such a program does not currently exist in our institutions providing teacher preparation.

Response: Reference to an SEI program was removed.

Comment: The proposed rules do not comply with the Equal Educational Opportunity Act (EEOA), which provides that “no state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by ... the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” 20 U.S.C. § 1703.

Response: The Board disagrees with this statement and believes that the proposed requirement that all teachers, supervisors, principals and superintendents obtain an SEI endorsement ensures equal participation in all instructional programs and does not limit the choices available to ELL students in their selection of teachers or courses.

Comment: The proposed requirements for an SEI endorsement are arbitrary and capricious and not reasonably calculated to effectively implement an SEI program.

Response: The Board believes that the proposed rules provide a significant first step in providing qualified teachers and administrators to meet the needs educational needs of ELL students. In addition, the Board recognized that there is minimal research available in the area of appropriate teacher qualifications necessary to ensure academic progress of ELL students and instructed the ADE to report on the implementation of these requirements and research in this area on at least an annual basis.

Comment: The proposed requirements should not be called an “endorsement”.

Response: Statutorily the Board is required to adopt an “SEI endorsement” and the requirements for a provisional SEI endorsement must be included in the teacher preparation programs under the purview of the Arizona Board of Regents. These two statutory requirements were heavily weighed in the adoption of these rules.

Comment: This undermines the requirements of the federal No Child Left Behind Act to have a “highly qualified teacher” in every classroom.

Response: The requirements included in the federal No Child Left Behind Act were reviewed in adopting these rules. According to this federal law, all teachers are already required to be “highly qualified” in the subject area they are teaching. The SEI endorsement should therefore focus on the additional strategies needed for meeting the needs of ELLs recognizing all other laws and regulations affecting teacher certification and knowledge requirements.

Comment: Some schools have a very small population of ELLs or no ELLs and it is unfair to require all teachers and administrators to obtain the SEI endorsement.

Response: Due to the migratory nature of the population in Arizona and the high number of ELL students, it is likely that most schools will have ELL students in their population at some time and all teachers should have the necessary strategies to provide ELL students with an equal educational opportunity.

Comment: Support the process undertaken to develop these rules, including a task force of individuals from K-12 schools throughout the state as well as representatives from higher education.

Response: Agree that broad stakeholder participation was part of this rulemaking process.

Comment: The current English as a Second Language (ESL) Endorsement will become obsolete as a result of these rules.

Response: The proposed rules leave the ESL and Bilingual Endorsements intact. The final rules further clarify that local school districts retain the authority to require these endorsements of any or all of their teachers in addition to the individuals required to obtain them by State Board rule.

Comment: Schools will no longer provide financial assistance to teachers to obtain ESL and/or Bilingual Endorsements once this SEI Endorsement is required of everyone.

Response: The proposed SEI Endorsement will provide all teachers with critical strategies to educate ELL students. The rules regarding obtaining an ESL and Bilingual Endorsement remain and are therefore required of certain teachers. Local school districts always retain the ability to allocate their resources as they desire, the adoption of these rules does not affect that ability.

Comment: It is important to recognize that any requirements adopted in these rules must be incorporated into teacher preparation programs and will therefore have the effect of removing other existing requirements in these preparation programs.

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Response: This factor was weighed by the Board and input was obtained from the institutions of higher education who will have to implement these requirements in their teacher preparation course of study.

Comment: The rules need to reference the statutory requirements that must be met for professional development/ teacher training to be substituted for college coursework in obtaining this endorsement.

Response: While statute always takes precedence over rules, the Board included this reference in the final rulemaking for clarity.

Comment: The rules do not comply with A.R.S. §15-756(A)(5) and A.R.S. §15-1626(A)(15), which suggest that multiple courses are necessary to obtain a SEI endorsement.

Response: The Board believes that these rules comply with applicable law. In order to obtain the SEI endorsement, teachers and administrators will be required to complete either four or six semester hours of courses, or their equivalent, depending on the individual's date of certification. The statutes authorize the Board to prescribe the requirements for the SEI endorsement, and these rules represent an appropriate exercise of the Board's discretion in this area.

Comment: The Board also received comment regarding technical aspects of the proposed rules.

Response: Many of these technical comments were considered and incorporated into the final rules adopted by the Board.

12. Any other matters prescribed by statutes that are applicable to the specific agency or to any specific rule or class of rules:

No

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 6. CERTIFICATION

R7-2-613. Endorsements

- A.** An endorsement shall be automatically renewed with the certificate on which it is posted.
- B.** Except as noted, all endorsements are subject to the general certification provisions in R7-2-607.
- C.** Endorsements which are optional as specified herein may be required by local governing boards.
- D.** Special subject endorsements -- grades K-12.
 - 1. Special subject endorsements shall be issued in the area of art, computer science, dance, dramatic arts, music, or physical education.
 - 2. Special subject endorsements are optional.
 - 3. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. One course in the methods of teaching the subject at the elementary level;
 - c. One course in the methods of teaching the subject at the secondary level; and
 - d. One of the following:
 - i. Thirty semester hours of courses in the subject area; or
 - ii. A passing score on the subject area portion of the Arizona Teacher Proficiency Assessment, if an assessment has been adopted by the Board.
- E.** Mathematics Specialist Endorsement -- grades K-8
 - 1. The mathematics specialist endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona elementary or special education certificate;
 - b. Three semester hours of courses in the methods of teaching elementary school mathematics; and
 - c. Fifteen semester hours of courses in mathematics education for teachers of elementary or middle school mathematics.

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F. Reading Specialist Endorsement -- grades K-12

1. The reading specialist endorsement shall be required of an individual in the position of reading specialist, reading consultant, remedial reading teacher, special reading teacher, or in a similar position.
2. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate; and
 - b. Fifteen semester hours of courses to include decoding, diagnosis and remediation of reading difficulties, and practicum in reading.

G. Elementary Foreign Language Endorsement -- grades K-8

1. The elementary foreign language endorsement is optional.
2. The requirements are:
 - a. An Arizona elementary, secondary or special education certificate.
 - b. Proficiency in speaking, reading, and writing a language other than English, verified by the appropriate language department of an accredited institution. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.
 - c. Three semester hours of courses in the methods of teaching a foreign language at the elementary level.

H. Bilingual Endorsements -- grades K-12

1. A provisional bilingual endorsement or a bilingual endorsement is required of an individual who is a bilingual classroom teacher, bilingual resource teacher, bilingual specialist, or otherwise responsible for providing bilingual instruction.
2. The provisional bilingual endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, or special education, or vocational certificate; and
 - b. Proficiency in a language other than English or sign language.
3. The holder of the bilingual endorsement is also authorized to teach English as a Second Language.
4. The requirements are:
 - a. An Arizona elementary, secondary, special education, or vocational certificate;
 - b. Completion of a bilingual education program from an accredited institution or the following courses:
 - i. Three semester hours of foundations of instruction for non-English-language-background students;
 - ii. Three semester hours of bilingual methods;
 - iii. Three semester hours of English as a Second Language for bilingual settings;
 - iv. Three semester hours of courses in bilingual materials and curriculum; assessment of limited-English-proficient students; teaching reading and writing in the native language; or English as a Second Language for bilingual settings;
 - v. Three semester hours of linguistics to include psycholinguistics, sociolinguistics, first language acquisition, and second language acquisition for language minority students; or American Indian language linguistics;
 - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students; and
 - vii. Three semester hours of courses in methods of teaching and evaluating handicapped children from non-English-language backgrounds. These hours are only required for bilingual endorsements on special education certificates.
 - c. A valid bilingual certificate or endorsement from another state may be substituted for the courses described in subsection (H)(4)(b);
 - d. Practicum in a bilingual program or two years of verified bilingual teaching experience; and
 - e. Proficiency in a spoken language other than English, verified by the language department of an accredited institution except in the case of Spanish and American Indian languages. Spanish language proficiency shall be demonstrated by passing the Arizona Classroom Spanish Proficiency Examination approved by the Board. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.

I. English as a Second Language (ESL) Endorsements -- grades K-12

1. An ESL or bilingual endorsement is required of an individual who is an ESL classroom teacher, ESL specialist, ESL resource teacher, or otherwise responsible for providing ESL instruction.
2. The provisional ESL endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, or special education, or vocational certificate; and
 - b. Six semester hours of courses specified in subsection (I)(3)(b), including at least one course in methods of teaching ESL students.
3. The requirements for the ESL endorsement are:
 - a. An Arizona elementary, secondary, special education, or vocational certificate;
 - b. Completion of an ESL education program from an accredited institution or the following courses:
 - i. Three semester hours of courses in foundations of instruction for non-English-language-background students. Three semester hours of courses in the nature and grammar of the English language, taken before January 1, 1999, may be substituted for this requirement;

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- ii. Three semester hours of ESL methods;
- iii. Three semester hours of teaching of reading and writing to limited-English-proficient students;
- iv. Three semester hours of assessment of limited-English-proficient students;
- v. Three semester hours of linguistics; and
- vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students.
- c. Three semester hours of a practicum or two years of verified ESL or bilingual teaching experience, verified by the district superintendent;
- d. Second language learning experience, which may include sign language. Second language learning experience may be documented by any of the following:
 - i. Six semester hours of courses in a single second language, or the equivalent, verified by the department of language, education, or English at an accredited institution;
 - ii. Completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
 - iii. Placement by the language department of an accredited institution in a third-semester level;
 - iv. Placement at level 1-intermediate/low or more advanced score on the Oral Proficiency Interview, verified by the American Council for the Teaching of Foreign Languages;
 - v. Passing score on the Arizona Classroom Spanish Proficiency Examination approved by the Board; or
 - vi. Proficiency in an American Indian language, verified by an official designated by the appropriate tribe.
- e. A valid ESL certificate or endorsement from another state may be substituted for the requirements described in subsection (I)(3)(b), (c), and (d).

J. Structured English Immersion (SEI) Endorsements -- grades K-12

- 1. From and after August 31, 2006, an SEI, ESL or bilingual endorsement is required of all classroom teachers, supervisors, principals and superintendents. For purposes of this rule, "supervisor," "principal" and "superintendent" means an individual who holds a supervisor, principal or superintendent certificate.
- 2. The provisional SEI endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, special education, career and technical education, supervisor, principal or superintendent certificate; and
 - b. For teachers, supervisors, principals and superintendents certified on or after August 31, 2006, three semester hours of courses in Structured English Immersion methods of teaching English Language Learner (ELL) students, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools; or
 - c. For teachers, supervisors, principals and superintendents certified before August 31, 2006, one semester hour or fifteen clock hours of professional development in Structured English Immersion methods of teaching ELL students, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. §15-756(A)(5).
- 3. The requirements for the SEI endorsement are:
 - a. An Arizona elementary, secondary, special education, career and technical education, supervisor, principal, or superintendent certificate, and;
 - b. Qualification for the provisional SEI endorsement, and either:
 - i. Three semester hours of courses related to the teaching of the English Language Learner Proficiency Standards adopted by the State Board of Education, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools; or
 - ii. Completion of forty-five clock hours of professional development in the teaching of the English Language Learner Proficiency Standards adopted by the State Board of Education, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. §15-756(A)(5).
- 4. Nothing in this rule prevents school districts from requiring certified staff to obtain an ESL or bilingual endorsement as a condition of employment.

J.K. Gifted Endorsements -- grades K-12

- 1. A gifted endorsement is required of individuals whose primary responsibility is teaching gifted students.
- 2. The provisional gifted endorsement is valid for three years and is not renewable. The requirements are an Arizona elementary, secondary, or special education certificate and one of the following:
 - a. Two years of verified teaching experience in which most students were gifted;
 - b. Ninety clock hours of verified in-service training in gifted education; or
 - c. Six semester hours of courses in gifted education.

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3. Requirements for the gifted endorsement are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. Completion of 9 semester hours of upper division or graduate level courses in an academic discipline such as science, mathematics, language arts, foreign language, social studies, psychology, fine arts, or computer science; and
 - c. Two of the following:
 - i. Three years of verified teaching experience in gifted education as a teacher, resource teacher, specialist, or similar position, verified by the district; or
 - ii. A minimum of 135-clock hours of verified in-service training in gifted education; or
 - iii. Completion of 12 semester hours of courses in gifted education. District in-service programs in gifted education may be substituted for up to six semester hours of gifted education courses. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director. Practicum courses shall not be accepted toward this requirement; or
 - iv. Completion of six semester hours of practicum or two years of verified teaching experience in which most students were gifted.

K-L Library-Media Specialist Endorsement -- grades K-12

1. The library-media specialist endorsement is optional.
2. Requirements are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. A passing score on the Library Media Specialist portion of the Arizona Teacher Proficiency Assessment. A Master's degree in Library Science may be substituted for a passing score on the assessment; and
 - c. One year of teaching experience.

L-M Middle Grade Endorsement -- grades 5 - 9

1. The middle grade endorsement is optional. The middle grade endorsement may expand the grades a teacher is authorized to teach on an elementary or secondary certificate.
2. The requirements are:
 - a. An Arizona elementary or secondary certificate; and
 - b. Six semester hours of courses in middle grade education to include:
 - i. One course in early adolescent psychology;
 - ii. One course in middle grade curriculum; and
 - iii. A practicum or one year of verified teaching experience, in grades 5-9.

M-N Drivers Education Endorsement

1. The drivers education endorsement is optional.
2. The requirements are:
 - a. An Arizona teaching certificate;
 - b. A valid Arizona driver's license;
 - c. One course in each of the following: safety education, driver and highway safety education, and driver education laboratory experience; and
 - d. A driving record with less than 7 violation points and no revocation or suspension of driver's license within the two years preceding application.

N-O Cooperative Education Endorsement -- grades K - 12

1. The cooperative education endorsement is required for individuals who coordinate or teach vocational cooperative education.
2. The requirements are:
 - a. A provisional or standard vocational certificate in the areas of agriculture, business, family and consumer sciences, health occupations, marketing, or industrial technology; and
 - b. One course in vocational cooperative education.