



Program Statement

OPI: FPI
NUMBER: 5350.24
DATE: July 24, 1997
SUBJECT: English-as-a-Second Language
Program (ESL)

1. **[PURPOSE and SCOPE §544.40.** Pursuant to the Crime Control Act of 1990 (18 U.S.C. § 3624 (f)), limited English proficient inmates confined in Federal Bureau of Prisons institutions are required to attend an English-as-a-Second Language (ESL) program until they function at the equivalence of the eighth grade level in competency skills. Waivers to this requirement may be granted by the Warden in accordance with §544.41 and 544.42.]

This Program Statement applies to:

- inmates with limited English proficiency who entered Bureau institutions after March 29, 1994, regardless of their degree of literacy in their native or other language, and
- other inmates whose English proficiency is limited as defined in Section 7.

The Crime Control Act of 1990, codified in 18 U.S.C. § 3624 (f), requires that:

- non-English-speaking Federal prisoners participate in an ESL program until they function at the equivalent of the eighth-grade level on a nationally recognized education achievement test.

Except as provided in Section 5, each inmate who has limited English proficiency skills is required to complete one mandatory period of ESL program participation during his or her confinement. The mandatory period ends when the inmate has achieved the eighth-grade level as measured by a score of 225 on the ESL CASAS Level C Reading Certification test and a score of 215 on Level B or C of the Listening Comprehension test.

[Bracketed Bold - Rules]

Regular Type - Implementing Information

2. PROGRAM OBJECTIVES. The expected results of this program are:

a. Inmates with limited English proficiency skills will be afforded the opportunity to enhance their communication skills, and some of those inmates will be required to participate.

b. Participants in an English-as-a-Second-Language Program will be tested to determine their English proficiency level.

3. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 5350.21 English-as-a-Second-Language Program
(03/29/94)

b. Directives Referenced

PS 1505.02	Language Translation Used in Official Documentation (11/16/92)
PS 5100.06	Security Designation and Custody Classification Manual (06/07/96)
PS 5270.07	Inmate Discipline and Special Housing Units (12/29/87)
PS 5300.17	Education, Training, and Leisure-Time Program Standards (09/04/96)
PS 5310.15	Minimum Standards for Administration, Interpretation, and Use of Education Tests (09/04/96)
PS 5322.10	Classification and Program Review (09/04/96)
PS 5890.12	SENTRY - National On-Line Automated Information System (10/08/96)
PS 7331.03	Pretrial Inmates (11/22/94)
18 U.S.C. § 3624(f)	(Comprehensive Crime Control Act of 1990)

c. Rules cited in this Program Statement are contained in 28 CFR 544.40-44.

4. STANDARDS REFERENCED

a. American Correctional Association Foundation/Core Standards for Adult Correctional Institutions: FC2-5094, C2-4169, C2-4235, C2-4239.

b. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4395, 3-4410, 3-4418, 3-4419, 3-4420, 3-4422.

c. American Correctional Association Foundation/Core Standards for Adult Local Detention Facilities: C2-5256, C2-5262.

d. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-5A-02, 5B-01, 5B-03.

5. **[APPLICABILITY: WHO MUST ATTEND THE ESL PROGRAM §544.41.**

a. All Federal prisoners who have limited English proficiency skills shall attend an ESL program except:

(1) Pretrial inmates;

The term "pretrial inmates" is defined in the Program Statement on Pretrial Inmates.

A pretrial inmate may participate in correspondence and self study ESL courses. Institutional staff may also arrange for educational assistance to the pretrial inmate through the use of contract personnel or community volunteers.

When consistent with institution security and good order, pretrial inmates may have access to the institution's educational program.

(2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c) or, effective November 1, 1987, 18 U.S.C. 3552 (b);

(3) Sentenced aliens with a deportation detainer;

A deportable alien status shall be verified by using the Public Safety Factor scoring included in the Security Designations and Custody Classification Manual and shall be reviewed at each program review. Other indicators may include citizenship and the Case Management Activity (CMA) assignment.

(4) Other inmates whom, for documented good cause, the Warden may excuse from attending the ESL program.]

The Warden may excuse other inmates, for documented good cause. Inmates exempted from the mandatory ESL requirement may participate in the ESL program if they so desire and with staff approval. If classroom space and resources are limited, priority shall be given to mandatory students.

The Warden may establish an appropriate English language level requirement as qualification or prerequisite for selected inmate positions.

[b. Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in the ESL program.]

The Warden may not delegate ESL program exemption authority below the Associate Warden level. The Justification-of-Exemption Record in the SENTRY-based inmate education record system shall be used to document the exemption.

The Warden may encourage certain exempt inmates to achieve basic skills level scores for purposes of effective institution management.

6. COMPREHENSIVE ADULT STUDENT ASSESSMENT SYSTEM (CASAS) TESTS

Comprehensive Adult Student Assessment System (CASAS) tests shall be used to assess an inmate's English language proficiency level. CASAS tests measure two skill areas: reading and listening comprehension (understanding the spoken word).

- The reading portion assesses the student's ability to apply basic reading skills in a functional context and measures specific life skills competencies.
- The listening comprehension portion assesses the student's ability to understand spoken words and to apply basic listening skills in real life situations. The listening test also measures specific life skills competencies and complements the reading survey achievement tests described below.

CASAS tests shall consist of:

- listening and reading placement tests,
- listening and reading achievement tests, and
- listening and reading certification tests.

The placement test provides guidelines for inmate placement into appropriate instructional levels and guides the instructor toward the classroom use of the appropriate survey achievement test.

Survey achievement tests help teachers develop curricula, measure student progress over a 90-day period, and identify student weaknesses. The ESL teacher or coordinator may administer placement and survey achievement tests.

The Level C Reading Certification test is the only test that certifies performance at 225 (or eighth-grade level) and allows exit from the mandatory program when the listening comprehension test requirement is satisfied.

7. [PROCEDURES §544.42

a. The Warden at each federal institution shall ensure that inmates who at their initial classification are found to be limited English proficient are enrolled in the ESL program. Determination of limited English proficiency is made by staff on the basis of personal interviews and placement testing.]

Limited-English-proficient inmates (LEP) shall be referred to the ESL Coordinator for CASAS placement testing based on their inability to:

- Complete the education interview form in English
- Comprehend A&O lectures in English
- Read and understand information at initial classification.

The English proficiency of an inmate who has already been classified shall be evaluated at his or her next scheduled program review.

Based on each inmate's ability to understand and read English during the initial education interview or the initial unit team classification, the education representative, in conjunction with the unit team, shall determine whether to recommend that the inmate be tested with CASAS assessment instruments.

Bilingual inmates who speak the English language, but who are illiterate in his/her native and in the English language shall be placed in the mandatory literacy program.

(1) The ESL coordinator shall use listening comprehension and reading ESL CASAS Placement test scores to assess and place limited-English-proficient inmates in the ESL program.

- ESL teachers shall use CASAS Survey Achievement test scores (levels A, B, or C) to monitor student reading and listening progress.
- The ESL CASAS Level C Reading Certification test shall be used for program completion and shall be administered only when inmates have achieved a score of 215 or above in the Listening Comprehension Survey Achievement tests, forms B or C, and have attained a reading score of at least 225 on the C level Survey Achievement test.

(2) A 225 on the CASAS Level C Reading Certification test is the equivalent of an eighth-grade ESL level.

- Inmates who achieve this score and a score of 215 in form B or C of the Listening Comprehension Survey Achievement test meet the mandatory ESL requirement.

[b. An inmate who returns to the Federal Bureau of Prisons on a new sentence or as a parole violator, and who has not achieved or is unable to demonstrate verified achievement of the eighth grade level, must provide verification or enroll in the ESL program until that inmate achieves such a grade or is granted a waiver for cause.]

Achievement of the eighth-grade level is measured by a score of 225 on the CASAS Level C Reading Certification test and a score of 215 on forms B or C of the CASAS Listening Comprehension Survey Achievement test.

[c. The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's ESL program. The ESL coordinator or designee shall meet with the inmate for the purpose of enrolling the inmate in the ESL program. The ESL coordinator shall be responsible for the completion of the official ESL Program Record, and shall place it in the inmate's education file.]

The Supervisor of Education is ordinarily delegated authority to designate the ESL coordinator. When feasible, a second staff member shall be designated the institution's alternate ESL coordinator and shall assist, as necessary.

The ESL coordinator or designee shall record the initial assessment and the classroom teacher shall record subsequent test scores, as well as the dates of participation in the ESL program, on the SENTRY-based inmate education system for all LEP inmates in the institution, using the SENTRY-based education transcript system (Attachment A).

The ESL coordinator shall monitor the inmate's progress in the ESL program.

- Except as provided in Section 5 of this Program Statement, inmates who score below 225 in the CASAS Placement test in reading shall be regarded as not functioning at the eighth-grade level and shall be required to attend an ESL program until they achieve a score of 225 on the CASAS Level C Reading Certification test.
- Inmates who score below 215 in listening on the CASAS ESL Placement test are also required to attend ESL classes until they achieve a score of 215 in listening on forms B or C of the Survey Achievement Listening tests.

Inmates may be referred for retesting after 30 hours of instruction.

[d. Ordinarily, there will be no time limit for completion of the ESL mandatory program. However, after 240 instructional hours of continuous enrollment in an ESL program, excluding sick time, furloughs, and other excused absences from scheduled classes, the Warden shall have the authority to grant a waiver from further program participation. This waiver may be granted when it is determined that the inmate will not benefit from further instruction. Each exemption determination shall be made on an individual basis and shall be supported by documentation.]

Documentation shall consist of attendance records, classroom observation notes and individual progress tracking folders, as well as test scores or a documented disability which prevents the inmate from achieving a score of 225 on the CASAS Certification test. A waiver shall be granted only after all efforts have been made to achieve program completion.

- The authority to waive inmates for specific and good cause may not be delegated below the Associate Warden level. Requests for exemptions shall be directed to the Warden or designee after the ESL coordinator and the Supervisor of Education have approved them.
- The ESL coordinator shall document in the SENTRY-based electronic education system the specific reasons for not requiring the inmate to enroll or continue in the ESL program.
- Participation in the mandatory ESL program may be postponed while the inmate is enrolled in the mandatory literacy program at the Supervisor of Education's discretion.
- Ordinarily, a "day" in a mandatory program such as ESL is a minimum of two instructional hours. Daily program hours may be longer, contingent upon local institution resources and needs.

e. The ESL coordinator or designee is required to maintain a SENTRY-based waiting list, when necessary.

8. ESL ACHIEVEMENT LEVEL. The term "equivalence of the eighth grade" refers to the achievement of an 8.0 grade level in reading competencies as measured by a score of 225 on the CASAS Level C Reading Certification test.

Inmates may be enrolled in ESL classes, depending on their ESL placement scores. Only one mandatory or non-mandatory program completion per inmate may be reported on SENTRY.

Inmates whose scores are equal to or above 225 on the CASAS Certification test and who wish to improve their English skills may be referred to the literacy program or the non-mandatory ESL.

9. **[INCENTIVES §544.43. The Warden or designee shall establish a system of incentives to encourage an inmate to meet the mandatory ESL program requirements.]**

Each institution shall establish a system of appropriate awards (e.g., cash awards, certificates, dictionaries) for mandatory and non-mandatory inmates in recognition of satisfactory progress and completion of the ESL program. The ESL program incentives system shall be described in writing and presented to inmates during the Admission and Orientation process.

10. **[DISCIPLINARY ACTION §544.44. As with other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate when that inmate refuses to enroll and participate in, or to meet the minimum requirements of the mandatory ESL program.]**

The inmate may be charged with prohibited act 306, Refusing to Accept a Program Assignment, or any other appropriate prohibited act (see the Program Statement on Inmate Discipline and Special Housing Units).

11. ESL CLASS SCHEDULE. ESL classes shall be scheduled Monday through Friday. When possible, the ESL program should operate during daytime hours; however, if the Warden determines that a daytime literacy program would unduly affect other institution programs (e.g., work assignments) it can be offered in the evening.

12. TEST ADMINISTRATOR. The staff person who normally administers other education tests shall administer the ESL CASAS Certification test and Survey Achievement Listening tests B Form L54 and C Form L56. Under no circumstances shall the ESL teacher or coordinator administer the CASAS Certification tests.

Suspicion or occurrence of CASAS Certification test compromise shall be reported immediately to the Regional Education Administrator and the Central Office Education Administrator.

13. TRANSFERS. An inmate, who transfers to another institution prior to completing the mandatory ESL program, is expected to complete the program at the new institution. The sending institution shall record test scores, current diagnostic test information, class attendance time, and related data in the SENTRY-based electronic education file and complete the appropriate SENTRY transactions.

14. PROGRAM COMPLETION. A program completion is the achievement of an eighth-grade equivalent in reading skills as measured by a score of 225 in the CASAS Certification test and a 215 in the Listening Comprehension test.

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Kathleen M. Hawk
Director

BOPUU * INMATE EDUCATION UPDATE *
PAGE 001 OF 001 * SINGLE TEST/SUBTEST *

REGISTER NUMBER...: *** NAME...: ***
FUNCTION.....: *** RSP OF: ***

TEST.....: CASAS
SUBTEST.....: ***
SUBTEST DATE.....: MM-DD-YYYY

SCORE.....:
STATE REPORTED TO:
FORM.....:
TESTING FACILITY..:

BOPUU * INMATE EDUCATION UPDATE *
PAGE 001 OF 01 * PERIODIC REVIEW / WITHDRAWAL INTERVIEW *

REGISTER NUMBER.....: *** NAME...: ***
FUNCTION.....: *** RSP OF: ***

PROGRAM.....: *** ()
DATE OF INTERVIEW.....: MM-DD-YYYY
REVIEW/WITHDRAWAL (R/W): *

INTERVIEW COMPLETED BY.:

IF PERIODIC REVIEW: ()
TYPE OF REVIEW.....: ()

IF VOLUNTARY WITHDRAWAL: ()
WITHDRAWAL REASON.: ()
PROGRESS MADE.....: ()
RE-ENROLLMENT.....: ()

BOPUU * INMATE EDUCATION DATA *
PAGE 001 OF 01 * JUSTIFICATION OF EXEMPTION *

REGISTER NUMBER.....: *** NAME...: ***
FUNCTION.....: *** RSP OF: ***

PROGRAM.....: ***
DATE OF REQUEST.....: MM-DD-YYYY
EXEMPTED FROM.....: ***

REASON FOR EXEMPTION...:
RECOMMENDED BY.....:
CONDITIONS.....: ()
REMARKS.....: ()
()

APPROVED/DISAPPROVED:

DATE:

SOE: _____ WARDEN: _____