



Chapter 11 - ELs with Disabilities

This is the 11th chapter of DPI's EL Policy Handbook, designed to provide statewide guidance on serving and supporting English Learners. The handbook as a whole can be found at <https://dpi.wi.gov/english-learners>.

Legal Requirements

English Learners have the same rights as all students to a free and equal education, including Special Education services when appropriate.¹ When an EL is determined to also be a student with a disability, as defined by the Individuals with Disabilities Education Act (IDEA), or Section 504 of the Rehabilitation Act of 1973, the student's EL and disability-related educational needs must both be met.

Districts are required to notify parents of these rights to Special Education services in a language that they can understand.

If a student who is an English Learner is suspected of having one or more disabilities, the district must evaluate the student to determine if the EL student has a disability or disabilities and whether the EL student needs disability-related services.

Disability evaluations may not be delayed because of a student's limited English language proficiency or the student's participation in a language instruction educational program. Any assessments involving a child or their family must be conducted in their native language, unless clearly not feasible to do so.² Furthermore, a student's English language proficiency or status as an EL cannot be the basis for determining that a student has a disability.

Students in Special Education may attend school until the end of the semester in which they turn twenty-two, if they have not matriculated from an accredited secondary institution.³ (See Chapter 13 for more information on enrollment beyond age eighteen.)

ELs with Potential Disabilities

English Learners with potential disabilities present a complex challenge in both the identification of potential disability and of the student's language skills in their home language and in English. It

¹ [20 U.S.C. § 1703 \(f\)](#)

² [34 CFR 303.321 \(5\), \(6\)](#)

³ [Every Child a Graduate - Improving High School Graduation FAQ](#)

is the responsibility of a district to correctly identify both an English Learner's disability and their language skills in both languages, and provide appropriate support in both areas. This requires clear communication and cooperation between staff on both the Special Education and ESL teams.

Research has shown that there is variation in identification of ELs as eligible for Special Education services; some school districts over-identify and others under-identify ELs as eligible for Special Education services when compared to non-ELs. The following factors have been cited in the misidentification of Special Education needs in students who are ELs:

- the evaluating professional's lack of knowledge of second language development and disabilities;
- poor instructional practices;
- weak intervention strategies; and
- inappropriate assessment tools.⁴

Creating accurate and appropriate disability identification processes that evaluate a student's disability-related educational needs in the context of their multilingual language development will assist school staff to correctly identify students in need of disability-related services.

Furthermore, culturally sensitive and appropriate assessment tools should be used to evaluate an EL suspected of having a disability. This is essential in capturing an accurate picture of what an EL can demonstrate, and is necessary so as not to be discriminatory on a racial or cultural basis.

To ensure a valid assessment, districts need to ensure that any standardized tests that are given to a child have been validated for the specific purpose for which they are used. They must also be administered by trained and knowledgeable personnel in accordance with the instructions provided by the producer of the test. Interpreters and translators used for a Special Education referral need to have specialized knowledge and training about the Special Education referral process, student testing, and relevant educational jargon.

ELs with Disabilities

When an EL has been determined to be a student with a disability, the student's EL and disability-related educational needs must both be met. It is essential that the IEP team include educators who have knowledge of the student's language needs and expertise in second language acquisition.

Within the IEP process, districts are required to take whatever action is necessary to ensure that parents understand the proceedings of the IEP Team meeting, which includes providing qualified interpreters and translators as appropriate.⁵ For ELs, it is appropriate for IEP teams to include a qualified language educator, such as an ESL teacher or speech and language pathologist, who has

⁴ [U.S. Department of Education. English Learner Toolkit. Chapter 6 Addressing English Learners with Disabilities](#)

⁵ [34 CFR 300.322 \(e\)](#)

foundational knowledge about language development and acquisition⁶. Interpreters serving on an IEP team as the language professional must meet both the requirements for interpreters and the language professional.⁷

A district must take whatever action is necessary to ensure that the student's parents understand the proceedings of the IEP team meeting. This includes arranging for an interpreter for parents with limited English proficiency or parents who are deaf.⁸ A parent with limited English proficiency is to have meaningful access to an IEP or Section 504 plan meeting, so it may also be necessary to have the IEPs, Section 504 plans, or related documents translated into the parent's primary language.⁹

Should parents decline disability-related services, districts are still required to provide appropriate language assistance services to ELs. If parents opt out of specific EL programs and services while accepting disability-related services for their child, districts are required to provide the services as listed in the student's IEP or Section 504 plan. The requirement to annually assess student ELP growth remains, as does the requirement to support student language growth outside of a formal EL program.

ELP Assessment Supports

Students who are identified as needing accommodations can receive accommodations per their IEP or 504 plan to complete the ACCESS for ELLs. Screeners can be administered with the same or similar accommodations as a student would use to complete an ACCESS test, provided that these accommodations will produce meaningful assessment results. No accommodation used should undermine the construct being tested. Please visit the WIDA website to see the appropriate [accommodations](#) for ELs with disabilities.

Multi-level Systems of Support

Districts in Wisconsin generally use a [multi-level system of support](#) (Response to Intervention framework) to provide equitable services, practices, and resources to every learner based upon responsiveness to effective instruction and intervention. Core instruction, or universal instruction, provides access to the curriculum through academic and behavioral supports that create quality instruction that is culturally responsive to the students in a particular school community.

⁶ [See 34 CFR 300.321 \(a\) \(6\)](#)

⁷ [Serving English Learners with Disabilities: How ESL/Bilingual Specialists Can Collaborate for Student Success](#)

⁸ [DPI's Guide to Providing Language Assistance to Parents](#)

⁹ [Tools and Resources for Ensuring Meaningful Communication with Limited English Proficient Parents](#)

For English Learners, English language development instruction is defined as part of core instruction within an MLSS framework (e.g., bilingual, ESL, sheltered, or dual language instruction).

¹⁰ A culturally and linguistically appropriate Tier 1 EL-appropriate core instruction must make the content they are teaching comprehensible to the students as well as differentiate instruction according to their language proficiency levels.

Students Unable to Access One or More Domains

In rare cases, a student with a disability may not be able to access one or more domains on an ELP assessment. Such students may be eligible for an Alternate Overall Composite calculation. (Please see Chapter 13 - Unique Circumstances for more information on serving students with such a need.)

Students who are Deaf or Hard of Hearing

For the purposes of Title III and EL identification, American Sign Language (ASL) is not considered *a language other than English*. If a parent/guardian completes the HLS and notes that the student is deaf or the family uses English or English plus ASL as the only languages used by the student, the student should not be screened for English language support services. When using a MIP or other observational tool, use of ASL should be considered equivalent to using English.

Students who reside in a household where another language besides ASL and English is used should be screened in the domains that are accessible to the student.

Students with Visual Impairments

For the purposes of Title III and EL identification, braille is a form of English writing and can be used as an accommodated form for an ELP proficiency exam. Students who use a language other than English and braille in the home may be assessed for English language services. The student may be administered the assessment in accessible domains.

Alternate ACCESS for ELLs

[Alternate ACCESS for ELLs](#) is designed for students with the most significant cognitive disabilities. These are students who are instructed to the alternate state standards, the [Essential Elements](#), and who are or will be expected to take the alternate assessment, [Dynamic Learning Maps](#).

¹⁰ [National Center on Response to Intervention, 2011](#)

Differences from ACCESS for ELLs

Alternate ACCESS for ELLs Scoring

The Alternate ACCESS for ELLs® test expands upon ELP levels 1 and 2 by increasing the sensitivity of the measure by further dividing these levels into six Alternate-ELP scores. This assessment is available to students in grades 1-12 with or without accommodations. These scores on the Alternate ACCESS For ELLs map to the regular ACCESS For ELLs ELP scores as follows:

Alternate ACCESS for ELLs® Score	English Language Proficiency Level ¹¹
A1, A2, A3 and P1	Pre-1
P2	1
P2/P3	2

When a student reaches P2/P3 on the Alternate ACCESS for ELLs, the student should move to the regular ACCESS for ELLs, with appropriate accommodations.

¹¹ Enter ELP 1 in the district SIS for students achieving A1-P1/P2, and ELP 2 for students achieving P2/P3. Use district discretion when choosing an ELP level for P2.

A CHECKLIST FOR IEP TEAMS: DEVELOPING THE IEP

In developing an IEP for a student with limited English proficiency, the IEP Team must consider the student's level of ELP, including both first and second language conversational skills as well as academic language proficiency. The IEP Team may find it helpful to ask the following framing questions:

Framing Questions	Yes	No
1. Has the dominant language in the home been considered?		
2. Has the child's primary language of communication been considered?		
3. Have the cultural values and beliefs of the parents been considered in planning for the child's education?		
4. Does the instructional plan incorporate a variety of instructional strategies?		
5. Is there a member of the IEP Team who has expertise regarding the student and understands how language develops as well as strategies that can be used when educating a student with English as a Second Language?		
6. Does the IEP Team have access to assessment data that are accurate and unbiased?		
7. Does the assessment information use a variety of methods and environments?		
8. Does the "present levels" statement in the IEP address both how the student uses his or her native language and how the student uses English?		
9. Do progress monitoring activities measure progress toward the mastery of English?		
10. Do the goals delineate in which language they will be addressed and who will be responsible for measuring the outcomes?		
11. Is there collaboration between general and Special Education as well as English as a Second Language and bilingual education if appropriate?		
12. Is an interpreter for the parents and the student present at the IEP meeting?		
13. Are the IEP Team members trained in how to use an interpreter?		
14. Is the evaluation process that will be used carefully defined in the native language and in English during the reviews and reevaluations?		

Framing Questions	Yes	No
15. Are the behaviors that are being measured carefully defined in the native language and in English during the reviews and reevaluations?		
16. Is the setting that the language is being measured in defined?		
17. Is the type of language that is being measured defined?		

Source: Center for Parent Information and Resources. (n.d.). Considering limited English proficiency: Developing the IEP. Retrieved from <http://www.parentcenterhub.org/repository/considering-lep/>

The above list of questions is included as part of a National Dissemination Center for Children with Disabilities training tool on IDEA. It is a tool to assist educators in developing IEPs for an EL student with a disability.

From: U.S. Department of Education EL Toolkit Tool #3

<https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap6.pdf>

(DPI recommends checking for updates to these policies at least annually. See <http://dpi.wi.gov/english-learners> for the most recent version of this document.)

Version	Modifications/Notes	Date
0.9	Initial release pending final edits	4/25/2018
1.0	No changes	8/15/2018
1.1	Copyedits	7/1/2019
1.2	Updated citations, copyedits	1/31/2020