

# Serving English Learners (ELs) with Disabilities

## VDOE Brief for Special Education Coordinators and Instructional Staff (IEP)

### Dual Services Requirement

Under federal civil rights law, special related services and Language Instructional Program (LIEP) services are separate support for ELs with disabilities. **Special related services cannot substitute for**

### Required Timeline

ELs who may have a disability and need special education services must be located, identified, and evaluated for special education and disability-related services in a timely manner. The required timeline (65 business days) applies to all students including ELs.

### Under federal civil rights law, divisions are prohibited from:

- Delaying or denying disability evaluation or special education and disability-related services based on EL status or English proficiency level; and
- Requiring ELs to be in the U.S. for a specified length of time or to receive LIEP services for a specified length of time before conducting special education evaluation or providing special education services if the EL qualifies for special education.

### Serving ELs with Disabilities

- For ELs with disabilities, the Individualized Education Plan (IEP) team must include a staff member with expertise in second language acquisition.
- LIEP services must be provided to all ELs at proficiency levels 1.0-4.3 including ELs with disabilities (except "opt out" ELs).
- School divisions must provide a qualified interpreter, if needed, to the parents of ELs with disabilities for IEP and other special education-related meetings. Students, siblings, family members, and untrained school staff are not considered qualified interpreters.



### EL Tool Kit Chapter 6:

Tools and  
Resources for  
Addressing  
English Learners  
with Disabilities

### **Determining Eligibility for Special Education and Related Services for English Learners**

- English proficiency or EL status is the basis for determining special education eligibility.
- The IDEA mandates that ELs must be assessed in the student's native language or in a language likely to yield accurate academic and functional information on what the student knows and can do, unless it is determined that to provide or administer the assessment is not feasible. [34 CFR § 300.304(c)(1)(ii)]
- The eligibility team must include a representative of students with second language acquisition needs.

### **English Learner Tool Kit**

The English Learner Tool Kit supports the 2015 Dear Colleague Letter jointly released by the U.S. Department of Education and the U.S. Department of Justice outlining the civil rights obligations of states and school divisions to identify and educate ELs. The English Learner Tool Kit is intended to help states and school divisions understand the requirements in fulfilling these civil rights obligations and contains guidance, sample tools, and resources.

December 2019

## **Serving English Learners (ELs) with Disabilities VDOE Brief for Special Education Coordinators and Instructional Staff (IEP)**

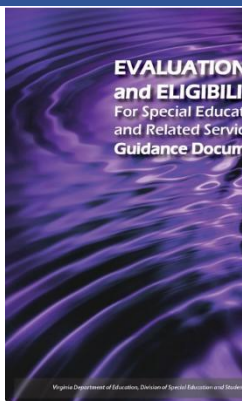
### **Determining EL Status**

In Virginia, the EL status is based on the administration of a WIDA screening instrument to determine an English proficiency level for incoming students who may be ELs. All ELs exit the EL status solely by achieving a 4.4+ on the ACCESS for ELLs assessment.

### **Federally Required English Language Proficiency (ELP) Assessment**

The English proficiency of ELs in Virginia, including ELs with disabilities, is annually assessed by the ACCESS for ELLs assessment or the Alternate ACCESS. An IEP plan shall not exempt an EL with disabilities from this assessment (ESSA Sec. 1111(b)(2)(G)(i)).

## **VDOE Technical Assistance Documents**



### **Evaluation and Eligibility for Special Education and Related Services Guidance Document**

- Assists school based teams and parents in navigating the referral, evaluation, and identification of students with disabilities.
- Assists IEP teams and related service providers in addressing the student needs related to referral, evaluation, and provision of related services.
- Provides information on regulatory requirements and provision of related services under IDEA of 2004.

## **Handbook for Educators of ELs with Disabilities**

- Provides school divisions with guidance on process to appropriately identify and evaluate be suspected of having a disability for possible special education and related services.
- Assists divisions with ensuring compliance federal regulations in serving ELs with disabilities

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## **Handbook for Educators of English Learners with Suspected Disabilities**



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