



Identifying and Evaluating English  
Learners Who Also May Be  
Students With Disabilities

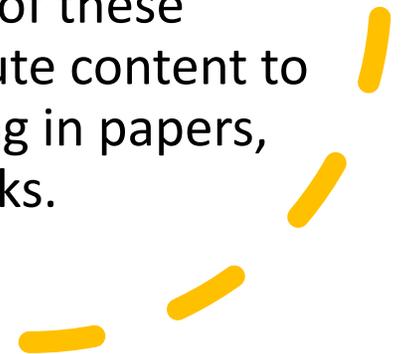
# Legal Disclaimer

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## To Begin ...

- When you think about problem-solving around serving EL's who may have special needs in your school(s), what comes up for you?
  - Please jot down 2-3 issues/scenarios.
  - Be as specific as possible.
  - Shorthand is fine – these examples are for you. Hopefully, they will help you think about what you would like to most get out of this session.

# Emerging Issue Around The Country

- The adequacy of educational services provided to limited English proficient students, and, in particular, the over-identification of limited English proficient students as children with disabilities is an issue of critical national concern.
- All LEA's must implement policies and procedures to prevent the inappropriate over-identification or disproportionate representation by race, ethnicity or particular impairment.

# Cutting To The Chase: Key Requirements

LEAs must not identify or determine that EL students are students with disabilities because of their limited English language proficiency.

LEAs must identify, locate, and evaluate ELs with disabilities in a timely manner.

LEAs must consider the English language proficiency of ELs with disabilities in determining appropriate assessments and other evaluation materials.

LEAs must provide and administer special education evaluations in the child's native language, unless it is clearly not feasible to do so, to ensure that a student's language needs can be distinguished from a student's disability-related needs.

LEAs must provide EL students with disabilities with both the language assistance and disability-related services they are entitled to under federal law.

LEP parents must be able to participate in meetings and have access to all documents – translators and interpreters are essential.



# Legal Backdrop

- ***IDEA and Section 504*** have specific provisions governing the evaluation of and services for students with limited English proficiency.
- ***Title VI*** requires schools to take affirmative steps to rectify a language deficiency in order to open their instructional programs to students whose limited English proficiency relates to their national origin.
- ***ESSA*** provides additional protection for EL's, including requiring states to provide EL's accommodations on assessments and notify parents of children who are identified for participation in language instruction programs.

# Identification

- An LEA may not find a student eligible for special education if the determinant factor is the student's limited English proficiency.
- Must document how the determination is made.
- In practice, this means:
  - First, LEA's must assess the student's proficiency in both English and the native language to determine in which language the eligibility evaluation should be conducted.
  - If it is determined the student is limited English proficient, all special education evaluations and assessments must be conducted in the native language of the student, unless clearly not feasible.
  - The IDEA eligibility evaluation must measure the student's disability-related deficits and needs, not the student's English-speaking ability.

# Identification – Three Complexities

## Determining the appropriate accommodations

- To ensure the language proficiency of an EL is validly and reliably assessed, the IEP (or 504) Team must determine whether an EL with a disability needs to receive appropriate accommodations on the regular annual ELP assessment or, for an EL with a more significant cognitive disability, whether the EL student needs to take an alternate assessment to the regular ELP assessment.

## When evaluation in student's native language is not feasible

- If it is determined (on an individualized basis) that an EL has a disability that precludes assessment in one or more domains of the ELP assessment (speaking, reading, writing, listening), such that there are no appropriate accommodations for the affected domain(s), the student's English language proficiency must be assessed based on the remaining domains.

## RTI

- Use of RTI that results in a delay of evaluating an EL with suspected disabilities may give rise to allegations of discrimination and may result in OCR investigation.

# Considering the Influence of Language Differences and Disability on Learning Behaviors – Examples Taken from “Toolkit #2” (See Handout)

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

## Oral Comprehension/Listening

Learning Behavior Manifested	Indicators of a Language Difference due to 2nd Language Acquisition	Indicators of a Possible Learning Disability
Student does not respond to verbal directions	Student lacks understanding of vocabulary in English but demonstrates understanding in L1	Student consistently demonstrates confusion when given verbal directions in L1 and L2; may be due to processing deficit or low cognition
Student needs frequent repetition of oral directions and input	Student is able to understand verbal directions in L1 but not L2	Student often forgets directions or needs further explanation in L1 and L2 (home & school); may be due to an auditory memory difficulty or low cognition
Student delays responses to questions	Student may be translating question in mind before responding in L2; gradual improvement seen over time	Student consistently takes a longer time period to respond in L1 & L2 and it does not change over time; may be due to a processing speed deficit

## Speaking/Oral Fluency

Learning Behavior Manifested	Indicators of a Language Difference due to 2nd Language Acquisition	Indicators of a Possible Learning Disability
Student lacks verbal fluency (pauses, hesitates, omits words)	Student lacks vocabulary, sentence structure, and/or self-confidence	Speech is incomprehensible in L1 and L2; may be due to hearing or speech impairment
Student is unable to orally retell a story	Student does not comprehend story due to a lack of understanding and background knowledge in English	Student has difficulty retelling a story or event in L1 and L2; may have memory or sequencing deficits
Student does not orally respond to questions, or does not speak much	Lacks expressive language skills in English; it may be the silent period in 2nd language acquisition	Student speaks little in L1 or L2; student may have a hearing impairment or processing deficit

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## Mathematics

Learning Behavior Manifested	Indicators of a Language Difference due to 2nd Language Acquisition	Indicators of a Possible Learning Disability
Student manifests difficulty learning math facts and/or math operations	Student lacks comprehension of oral instruction in English; student shows marked improvement with visual input or instructions in L1	Student has difficulty memorizing math facts from one day to the next and requires manipulatives or devices to complete math problems; may have visual memory or processing deficits
Student has difficulty completing multiple-step math computations	Student lacks comprehension of oral instruction in English; student shows marked improvement with visual input or instructions in L1	Student forgets the steps required to complete problems from one day to the next, even with visual input; student reverses or forgets steps; may be due to a processing or memory deficit
Student is unable to complete word problems	Student does not understand mathematical terms in L2 due to English reading proficiency; student shows marked improvement in L1 or with visuals	Student does not understand how to process the problem or identify key terms in L1 or L2; may be a processing deficit/reading disability

## Behavior

Learning Behavior Manifested	Indicators of a Language Difference due to 2nd Language Acquisition	Indicators of a Possible Learning Disability
Student appears inattentive and/or easily distracted	Student does not understand instructions in English due to level of proficiency	Student is inattentive across environments even when language is comprehensible; may have attention deficits
Student appears unmotivated and/or angry; may manifest internalizing or externalizing behavior	Student does not understand instruction due to limited English and does not feel successful; student has anger or low self-esteem related to 2nd language acquisition	Student does not understand instruction in L1 or L2 and across contexts; may be frustrated due to a possible learning disability
Student does not turn in homework	Student may not understand directions or how to complete the homework due to lack of English proficiency; student may not have access to homework support at home	Student seems unable to complete homework consistently even when offered time and assistance with homework during school; this may be due to a memory or processing deficit

# Providing Services



Make sure EL team and SPED team are working together



Too often the EL program side is not represented at IEP meetings and vice versa



Ensure meaningful collaboration and continuity in providing services because services are likely going to overlap and impact each other

## To Close ...



**Going back to the 2-3 issues/scenarios you jotted down at the beginning of the session, did we address them?**

If not, please keep them close at hand. At the end of the day, we would like to hear what issues we have not addressed and what concerns remain for you.



**As you reflect on this session, what 2 follow-up actions will you take back to your schools?**