

PROCEDURAL HANDBOOK

SECTION

5

English Learners with Disabilities

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SBCSELPA

Meeting the Needs of English Learners with Disabilities

Procedures and Guidelines

I. Review of Laws & Regulations Governing Instruction for English Learners

The previous federal statute under Title III of the No Child Left Behind (NCLB) Act provided funding to help English learners (ELs) and immigrant students. NCLB required yearly improvements in academic achievement for English learner (EL) students. Measurement of EL achievement was tracked through “Annual Measurable Achievement Objectives” (AMAOs) each year. The performance targets for ELs are equal to those set for all students. AMAO 1 required EL students to show progress in attaining English proficiency, as measured by the California English Language Development Test (CELDT). AMAO 2 requires EL students to demonstrate Proficiency on the CELDT. AMAO 3 requires the EL subgroup to meet Adequate Yearly Progress (AYP) objectives at the local education agency (LEA) level. EL students demonstrate annual growth on the CELDT in one of three ways, depending on their CELDT performance the previous tested year:

If an EL earned an Overall level of Beginning (1), Early Intermediate (2), or Intermediate (3) on the CELDT the previous year, he or she must gain a minimum of one performance level Overall for the current year. For example, if an EL student scored Early Intermediate (2) on the CELDT Overall in 2009, he or she must score at least Intermediate (3) on the CELDT Overall in 2010.

If an EL earned an Overall level of Early Advanced (4) or Advanced (5) on the CELDT the previous year but was not yet classified as Proficient on the CELDT, he or she must achieve proficiency on the CELDT for the current year. A student in grades 2-12 is considered Proficient on the CELDT only when he or she earns a performance level of three (Intermediate) or above in every domain and a 4 (Early Advanced) or above Overall. K-1 students, however, only have to meet this criterion for Listening, Speaking, and Overall in order to score Proficient. Only when an EL student scores Proficient on the CELDT should he or she be considered for reclassification.

If an EL earned the Proficient status on the CELDT the previous year, it is recommended that he or she maintains that level for the current year. ELs with disabilities frequently do not show the required growth to meet the Title III accountability measures, and many times this due to their disabilities versus inadequacy in their English development instruction.

ELs with disabilities are expected to meet both the targets set for students in special education and ELs. Therefore, LEAs need to ensure that ELs in special education have access to and are provided English language development services with fidelity that are closely monitored.

II. Assessment, Identification, and Programs for English Learners

California’s Statewide Assessment System

The English Language Proficiency Assessments for California (ELPAC) is the required state test for English language proficiency (ELP) that must be given to students whose primary language is a language other than English. State and federal law require that local educational agencies administer a state test of ELP to eligible students in kindergarten through grade twelve. The California Department of Education (CDE) transitioned from the California English Language Development Test (CELDT) to the ELPAC as the state ELP assessment in 2018. The ELPAC is aligned with the 2012 California English Language Development Standards. It consists of two separate ELP assessments: one for the initial identification of students as English learners (ELs),

and a second for the annual summative assessment to measure a student's progress in learning English and to identify the student's level of ELP.

Assessment of English Learners in California

Upon enrollment, every family completes a home language survey.

In the transitional kindergarten (TK)/K–12 school context, current law and regulations require state and local educational agencies (LEAs) to identify students whose current language use or home environment includes a language other than English. The basic trajectory of how a student enters, moves through, and exits English learner status includes four phases:

1. identifying a student as a potential English learner through the Home Language Survey (HLS);
2. classifying a student as English learner or initial fluent English proficient (IFEP) based on results on the Initial English Language Proficiency Assessments for California (Initial ELPAC);
3. annually assessing an English learner's progress toward English proficiency using the Summative ELPAC; and
4. reclassifying a student to fluent English proficient (RFEP) through the use of the State Board of Education Adopted four reclassification criteria.

A Home Language Survey (HLS)

When parents or guardians first register their child for school, they complete a HLS that indicates what language(s) is spoken in the home. The survey is a form administered by the school district to be completed by the pupil's parent or guardian at the time of first enrollment in a California public school indicating language use in the home, which, if completed, fulfills the school district's obligation (Education Code (EC) 60810). A sample home language survey is available on the California Department of Education (CDE) English Learner Forms web page at <http://www.cde.ca.gov/ta/cr/el/forms.asp>. The California State Board of Education approved the following guidelines for interpreting the sample survey:

If a language other than English is indicated on:

- any of the first three questions, student should be tested with the ELPAC;
- the fourth question, student may be tested at the LEA's discretion (2019-2020 English Language Proficiency Assessment for California Information Guide).

English Language Proficiency Assessment for California (ELPAC)

The ELPAC is the state's newly designated test of ELP. It is administered (1) as an initial assessment to newly enrolled students whose primary language is not English, as indicated on a home language survey (HLS); and (2) annually as a summative assessment to students who have been previously identified as ELs.

In November 2012, the State Board of Education adopted the English Language Development Standards (2012 ELD Standards). The 2012 ELD Standards are aligned with key knowledge, skills, and abilities described in the California Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects. The ELPAC is aligned with the 2012 ELD Standards, which can be found on the California

Department of Education (CDE) website at <https://www.cde.ca.gov/sp/el/er/documents/eldstndpublication14.pdf>. Additional ELPAC resources, along with contact information, are available through links provided on the CDE ELPAC web page at <https://www.cde.ca.gov/ta/tg/ep/>.

When a student is identified as a potential English learner based on HLS results, it triggers the requirement to administer the Initial ELPAC. This initial assessment of the student's English proficiency confirms whether the student is an English learner or is English proficient. The student who scores below the English proficient performance standard established on the Initial ELPAC (that is, at the Novice English Learner or Intermediate English Learner level) is classified as English learner. Following classification, an English learner can be placed into an appropriate language acquisition program, initially selected by the family when enrolling the child in school. A student who meets or exceeds that Initial ELPAC performance standard is classified as initial fluent English proficient (IFEP) and is not classified as an English learner. That is, an IFEP student is considered to have sufficient initial English proficiency not to require specialized language instruction support services.

Assessing a student's academic and linguistic proficiency in their primary language and using informal/dynamic assessments are also extremely useful steps in this process to yield a more comprehensive picture of the student. It also ensures that the student is placed appropriately into academic coursework and that teachers can support the transfer of academic and linguistic skills from the primary language to English in a culturally competent way

Alternative Assessment to CELDT

Most students with disabilities will be able to participate in the ELPAC. For those students whose disabilities make it impossible for them to participate in one or more domains of the ELPAC, their IEP teams may recommend accommodations, modifications, or an alternate assessment (See EC 56345).

The California Department of Education and Educational Testing Service are in the early stages of development for the Alternate English Language Proficiency Assessments for California (Alternate ELPAC) for students with the most significant cognitive disabilities.

The Alternate ELPAC will be aligned to the English language development connectors and are linked to the 2012 California English Language Development Standards. The Alternate ELPAC will balance maximum accessibility while maintaining the intended construct(s) to be assessed as defined by the 2012 ELD Standards though reduced in depth and complexity.

The Alternate ELPAC will replace all locally determined alternate assessments and, for the first time, provide a consistent, standardized measurement of ELP across the state for students with the most significant cognitive disabilities.

The purpose of the Alternate ELPAC is twofold:

1. The Initial Alternate ELPAC will provide information to determine a student's initial classification as an English learner (EL) or as initial fluent English proficient (IFEP).
2. The Summative Alternate ELPAC will provide information on annual student progress toward ELP and support decisions on student reclassification as fluent English proficient (RFEP).

In May 2019, the California State Board of Education (SBE) approved the Alternate ELPAC high-level test design. The Initial Alternate ELPAC will be operational July 1, 2021, and the Summative Alternate ELPAC will be operational February 1, 2022.

CRITERIA FOR DETERMINING ALTERNATIVES TO ELPAC

All English Learner (EL) students or potential EL students must be assessed on the English Language Proficiency Assessments for California (ELPAC). This checklist may be used to help teachers, Section 504 teams, and Individualized Education Program (IEP) teams determine which resources, testing conditions, or combination thereof will allow each student to take the test. A complete list of accessibility resources (universal tools, designated supports, and accommodations) can be found on Matrix 4 at <https://www.cde.ca.gov/ta/tg/ep/documents/elpacmatrix4.docx>

For more information, refer to ELPAC Administration Guidance and Governing Definitions for Student Accessibility Discussions at <https://www.cde.ca.gov/ta/tg/ep/documents/elpacadmininguide.pdf>

“The CDE does not make specific recommendations about which alternate assessment instruments to use. The appropriate alternate assessment must be identified annually in a student’s IEP, and the IEP team should include an “ELD specialist” or person with second language expertise whenever possible”

The Alternate ELPAC High-Level Test Design (PDF) was approved and adopted by the State Board of Education on May 8, 2019. The Alternate ELPAC is aligned with California English Language Development Connectors for the Alternate ELPAC (ELD Connectors) which is based on California’s 2012 English Language Development Standards.

Alternate ELPAC General Performance Level Descriptors

Performance Level	Descriptor
Fluent English Proficient	Students at this level have sufficient English language proficiency. They may need occasional linguistic support to enable them to access adapted grade-level content in English.
Intermediate English Learner	Students at this level have moderate English language proficiency. They may need frequent linguistic support to enable them to access adapted grade-level content in English.
Novice English Learner	Students at this level have minimal English language proficiency. They need substantial linguistic support to enable them to access adapted grade-level content in English.

Below is a list of potential assessment tools that LEAs around the State of California have used as alternatives to ELPAC for students that are precluded from taking one or more sections of ELPAC.

Potential Alternative Assessment Option to Statewide ELD Assessments for English Language with Moderate to Severe Disabilities In Interim of the CDE Alternate ELPAC Becoming Operational

Assessment Name	Skills Assessed	Publisher	Contact Information
Ventura County Comprehensive Alternate Language Proficiency Survey (VCCALPS)	Listening, Speaking, Reading, Writing literacy	Ventura County SELPA	www.venturacountyselpa.com

Identification of English Learners

“One of the purposes of the ELPAC is to identify students who are limited English proficient (LEP). EC Section 306(a) defines an LEP student as a student who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English. For all students in transitional kindergarten through grade twelve (TK–12), upon first enrollment in a California public school, the local education agency (LEA) uses a standardized procedure to determine a student’s primary language. This procedure usually begins with a home language survey (HLS), which is completed by the parents or guardians at the time the student is first enrolled”

If the HLS is completed in error, the parent or guardian may make a request to change it prior to the assessment. However, once a student is identified as an EL based on the results of the Initial ELPAC, and the student has been administered the Summative ELPAC, changing the HLS will not change the student’s identification.

If a language other than English is indicated on any of the first three questions of the HLS, the student should be tested with the Initial ELPAC. If a language other than English is indicated on the fourth question of the HLS, the student may be tested at the LEA’s discretion.

The following are the guidelines for meeting the ELPAC criteria for English fluency:

State law (California Education Code [EC] sections 313 and 60810) and federal law (Titles I and III of the Every Student Succeeds Act [ESSA], the reauthorization of the Elementary and Secondary Education Act [ESEA]) require that LEAs administer a state test of English language proficiency (ELP) and develop an English Learner Progress Indicator (ELPI) for (1) newly enrolled students whose primary language is not English, as an initial assessment; and (2) students who are English learners (ELs), as a summative assessment.

The Initial ELPAC has one purpose:

1. To identify students who are ELs or are initial fluent English proficient (IFEP) The Summative ELPAC has two purposes:
2. To determine the level of ELP of EL students
3. To assess the progress of EL students in acquiring the skills of listening, speaking, reading, and writing in English 1

All students in kindergarten through grade twelve (K–12), ages three through twenty-one, whose primary language is a language other than English must take the initial ELPAC to determine whether they are ELs. This must be done within 30 calendar days after they are

first enrolled in a California public school or 60 calendar days prior to instruction, but not before July 1, per ELPAC regulations.

Kindergarten through Grade 12

LEAs will use the LST, found in TOMS, to calculate the official Initial ELPAC score.

The Initial ELPAC has three performance level descriptors.

Performance Level Descriptors Initial ELPAC Performance Level Descriptors

Initial Fluent English Proficient (IFEP)

Students at this level have well developed oral (listening and speaking) and written (reading and writing) skills. They can use English to learn and communicate in meaningful ways that are appropriate to different tasks, purposes, and audiences in a variety of social and academic contexts. They may need occasional linguistic support to engage in familiar social and academic contexts; they may need light support to communicate on less familiar tasks and topics. This test performance level corresponds to the upper range of the “Bridging” proficiency level as described in the 2012 California English Language Development Standards, Kindergarten Through Grade 12 (2012 ELD Standards).

Intermediate English Learner

Students at this level have somewhat developed to moderately developed oral (listening and speaking) and written (reading and writing) skills. This level captures a broad range of English learners, from those who can use English only to meet immediate communication needs to those who can, at times, use English to learn and communicate in meaningful ways in a range of topics and content areas. They may need some degree of linguistic support to engage in familiar social and academic contexts (depending on the student, the level of support needed may be moderate, light, or minimal); they may need substantial to-moderate support to communicate on less familiar tasks and topics. This test performance level corresponds to the entire “Expanding” proficiency level and to the lower range of the “Bridging” proficiency level as described in the 2012 ELD Standards.

Novice English Learner

Students at this level have minimally developed oral (listening and speaking) and written (reading and writing) English skills. They tend to rely on learned words and phrases to communicate meaning at a basic level. They need substantial-to-moderate linguistic support to communicate in familiar social and academic contexts; they need substantial linguistic support to communicate on less familiar tasks and topics. This test performance level corresponds to the “Emerging” proficiency level as described in the 2012 ELD Standards.

IFEP, Intermediate EL, Novice EL Students in K–12 are considered to have met the ELPAC criterion for English proficiency when the Overall score is in the IFEP range.

The Summative ELPAC must be given annually to students identified as ELs until they are reclassified to fluent English proficient (RFEP).

Summative ELPAC Performance Level Descriptors

Level 4

English learners at this level have well developed oral (listening and speaking) and written (reading and writing) skills. They can use English to learn and communicate in meaningful ways that are appropriate to different tasks, purposes, and audiences in a variety of social and academic contexts. They may need occasional linguistic support to engage in familiar social and academic contexts; they may need light support to communicate on less familiar tasks and topics. This test performance level corresponds to the upper range of the “Bridging” proficiency level as described in the 2012 California English Language Development Standards, Kindergarten through Grade 12 (CA ELD Standards).

Level 3

English learners at this level have moderately developed oral (listening and speaking) and written (reading and writing) skills. They can sometimes use English to learn and communicate in meaningful ways in a range of topics and content areas. They need light-to-minimal linguistic support to engage in familiar social and academic contexts; they need moderate support to communicate on less familiar tasks and topics. This test performance level corresponds to the upper range of the “Expanding” proficiency level through the lower range of the “Bridging” proficiency level as described in the CA ELD Standards.

Level 2

English learners at this level have somewhat developed oral (listening and speaking) and written (reading and writing) skills. They can use English to meet immediate communication needs but often are not able to use English to learn and communicate on topics and content areas. They need moderate-to-light linguistic support to engage in familiar social and academic contexts; they need substantial-to-moderate support to communicate on less familiar tasks and topics. This test performance level corresponds to the low- to mid-range of the “Expanding” proficiency level as described in the CA ELD Standards.

Level 1

English learners at this level have minimally developed oral (listening and speaking) and written (reading and writing) English skills. They tend to rely on learned words and phrases to communicate meaning at a basic level. They need substantial-to-moderate linguistic support to communicate in familiar social and academic contexts; they need substantial linguistic support to communicate on less familiar tasks and topics. This test performance level corresponds to the “Emerging” proficiency level as described in the CA ELD Standards.

For further information on ELPAC administration, please consult:
<https://www.cde.ca.gov/ta/tg/ep/documents/elpacinfo19>

California English Language Development Standards Electronic Edition: Kindergarten through Grade 12

CDE Sacramento 2019: California Practitioners' Guide for Educating English Learners with Disabilities

LEAs may determine if a student with disabilities is not able to access the ELPAC in order to provide meaningful data about language proficiency upon entry. The LEA must then utilize other assessment alternatives to determine proficiency at entry.

Assembly Bill 2193, signed in September 2012, added new Education Codes to definitions and reporting requirements. A “long-term English learner meets the following criteria: is enrolled in any of grades 6-12, inclusive; has been enrolled in schools in the United States for more than six years; has remained at the same English language proficiency (ELP) level for two or more consecutive years as determined by the CELDT or any successor test (i.e., the ELPAC); and scores far below basic or below basic on the English-language arts standards-based achievement test or any successor test”. An “English learner at risk of becoming a long-term English learner” means an English learner who fits the following description: is enrolled in any of grades 5-11, inclusive; is in schools in the United States for four years; scores in levels 3 or 4 on the ELPAC or any successor test and scores in the fourth year at the below basic or far below basic level on the English-language arts standards-based achievement test or any successor test. If funding is provided, the CDE will have to report these EL numbers on its Website.

California English Language Development Standards

As of November 2012 there are now revised English Language Development (ELD) Standards. The 2012 ELD standards are designed to:

1. be used in tandem with Common Core State Standards (CCSS) for English Language Arts (ELA) & Literature;
2. highlight and amplify the critical language uses, knowledge about language, and skills using language in the CCSS necessary for English learners to be successful in school; and
3. provide fewer, clearer, higher standards so teachers can focus on what is most important.

Instructional Programs & Methodology for English Learners in California

An English language classroom is the placement for all English learners (ELs) in California, unless a parental exception waiver is granted for an alternate program. In addition, it is required that all ELs, regardless of the program they are being served in, be provided with English Language Development (ELD) and Specially Designed Academic Instruction in English (SDAIE). A description of each is provided below:

English Language Development (ELD)

ELD consists of instruction of English designed to promote the effective and efficient acquisition of listening, speaking, reading, and writing skills of the English learner (EL) student. All ELs, regardless of placement, must receive ELD appropriate to their proficiency level. During the regular day, differentiated ELD instruction appropriate to the English proficiency level of each EL must be provided by an authorized teacher until the student is reclassified. Districts are to provide ELs with instruction using whatever materials are deemed appropriate that are specifically designed to enable students to acquire academic English rapidly, efficiently, and effectively. Local education agencies (LEAs) must provide EL students at the secondary level a *prescriptive English language program* for not less than one full period a day or its equivalent (see E.C. 52163). This holds true for all students that are ELs and have an IEP too.

Specially Designed Academic Instruction in English (SDAIE)

SDAIE is an instructional approach designed to increase the level of comprehensibility of the English language in the content area of the class. Prior to 1994, the term *sheltered English instruction strategies* was used to describe this type of instruction (CTC, 2007). All EL students should receive SDAIE, and, if necessary and reasonably possible, primary language support. School districts are required to continue to provide additional and appropriate educational services to ELs until they have met reclassification criteria. This means that ELs must be provided with ELD and SDAIE as needed, until they are reclassified as fluent English proficient (RFEP).

Once classified as an English learner, a student should be placed in a language acquisition program with ELD instruction based on her level of English language proficiency (i.e., Emerging, Expanding, Bridging) and the preferences of her parents or guardians regarding particular program model goals (e.g., biliteracy and academic achievement in two languages; English proficiency and academic achievement in English only).

At a minimum, an LEA is required to provide a program of Structured English Immersion (SEI) for English learners, which includes both integrated ELD⁸ and designated ELD.⁹

Depending on the program model, students can be homogeneously grouped for “designated ELD” and heterogeneously group for “integrated ELD”. Regardless of language acquisition program model, the current evidence based on best and promising practices indicates schools and districts should integrate English learners with students who are proficient in English (i.e., not segregate or isolate English learners) to promote inclusivity and provide standard English language models. Following the 2016 passage of Proposition 58, California Education for a Global Economy (Ed.G.E.) Initiative (accessible at: <https://bit.ly/2MIZIGm>), California public schools have greater discretion over language acquisition programs, and students can learn English through multiple programs beyond the SEI model—for example, dual-language immersion (DLI) and transitional or developmental bilingual instructional program models (EC 306[c][10],[2],[3]) (<https://bit.ly/2PbN8WJ>).

Staff Certification Requirements for Teaching English Learners

The California Commission on Teacher Credentialing (CTC) requires that teachers of English learners (ELs), to include special education teachers, attain English learner authorization. The type of certificate, permit, or credential required depends on the type of service and/or instruction being provided to ELs. As of the 2011-2012 school year the appropriate certificates, credentials, and permits required, according to the type of English learner (EL) service provided per EC 44258.9, are listed in the chart from the CTC *Administrator’s Assignment Manual* (2007).

California Commission on Teacher Credentialing (CCTC) Requirements

	English Language Development (ELD) 1	Specially Designed Academic Instruction in English (SDAIE) 1	Instruction in Primary Language (Bilingual) 1
1	Bilingual Specialist Credential	Bilingual Specialist Credential	Bilingual Specialist Credential
2	Bilingual Certificate of Competence (BCC) 2	Bilingual Certificate of Competence (BCC) 2	Bilingual Certificate of Competence (BCC) 2
3	BCLAD Certificate or BCLAD Emphasis	BCLAD Certificate or BCLAD Emphasis	BCLAD Certificate or BCLAD Emphasis
4			Sojourn Tchg. Cred.

5	Language Development Specialist (LDS) Certificate 2	Language Development Specialist (LDS) Certificate 2	
6	CLAD Certificate or CLAD Emphasis	CLAD Certificate or CLAD Emphasis	
7	Multiple or Single Subject Credential with AB 1059 English Learner Content	Multiple or Single Subject Credential with AB 1059 English Learner Content	
8	Multiple or Single Subject SB 2042 Credential	Multiple or Single Subject SB 2042 Credential	
9	Education Specialist Credential 3	Education Specialist Credential 3	
10	General Teaching Credential 4		
11	Supplementary Authorization in English as a Second Language 2		
12	Certificate of Completion of Staff Development 5	Certificate of Completion of Staff Development 5	
13	SB 1969 Certificate of Completion 6	SB 1969 Certificate of Completion 6	
14	In training for Certificate of Completion of Staff Development 5	In training for Certificate of Completion of Staff Development 5	

III. Interventions for English Learners Prior to Referrals to Special Education

Pre-Referral Interventions for English Learners

The provision of research-based, early intervention services that are intensive in nature provided to English learners (ELs) with disabilities can minimize their being at risk for later school failure. Early intervention means that “supplementary instructional services are provided early in students' schooling, and that they are intense enough to bring at-risk students quickly to a level at which they can profit from high-quality classroom instruction” (Madden, Slavin, Karweit, Dolan, & Wasik, 1991). These services are above and beyond the “core” ELD services an English learner (EL) receives. It is recommended that the following steps be taken when it is a determined that an EL student is struggling academically:

Step 1: Analyze the School Environment: Determine if there is appropriate curriculum and instruction for ELs being implemented.

Step 2: Provide Pre referral Intervention, Multi-Tiered Systems of Support (MTSS) or Response to Intervention (RtI): Determine if pre referral interventions in areas of weakness have been implemented and documented over time, to include progress-monitoring outcomes.

Step 3: Referral to Special Education: Assess in native language & English and other best practices for bilingual assessment to rule out language difference versus disability.

IV: Assessment and Identification of English Learners for Special Education

Learning Disability versus Language Difference (or Lack of Language Fluency)

Some students who are English learners (ELs) are misidentified as having learning disabilities because of inadequate assessment tools and practices (Klingner & Artiles, 2003; Garcia & Ortiz, 2004; Klingner, Almanza, deOnic, & Barletta, 2008; Rueda & Windmueller, 2006). Assessment tools for evaluating learning disabilities among students who are ELs are still in development (Baca, Fletcher, & Hoover, 2008; Skiba, Knesting, & Bush, 2002). One of the challenges is capturing the broad spectrum of bilingualism in assessment, which is difficult to capture with a set of assessment tools (Olvera, 2010).

Teachers observing language acquisition in a student who is an English learner (EL) can confuse the symptoms of learning disabilities with the patterns of pronunciation development (Piper, 2003), development of syntax (Gopaul-McNicol & Thomas- Presswood, 1998; Kuder, 2003), or semantic development (Mercel, 1987) for second language learner. Because of the longer time required to acquire cognitive academic language proficiency, educators may incorrectly identify delays as a learning disability rather than a language development/difference issue (Cummins, 1984; Ortiz, 1997; Ruiz, 1995). Questions for the student study team and assessors to consider prior to making a referral for an EL student to special education might be:

- Has the student received intensive interventions using appropriate materials and strategies designed for ELs, and have they been implemented with fidelity over time and demonstrated little or no progress?
- Does the team have data regarding the rate of learning over time to support that the difficulties (academic, social-emotional, or in speech & language) are most likely due to a disability versus a language difference? If answers to the questions above are “YES,” a referral to special education maybe appropriate.
- Has the team consulted with the parent regarding learning patterns and language use in the home?
- Are the error patterns seen in L1 similar to the patterns seen in L2 (if student has sufficient primary language skills)?
- Are the learning difficulties and/or language acquisition patterns manifested over time similar in different settings and in different contexts?

(See SELPA79: English Learner (EL) Pre Referral Checklist)

Legal Requirements for Assessment of English Learners

Pursuant to The Code of Federal Regulations (34 CFR 300.304 (1) (i) (ii)), assessments and other evaluation materials used to assess a child under this regulation are selected and administered so as not to be discriminatory on a racial or cultural basis; and are provided and administered in the child’s native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer. California Education Code further stipulates that testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory.

For assessment to determine eligibility for infants and toddlers, the assessment shall “be conducted in the language of the family’s choice or other mode of communication unless it is not feasible to do so” (EC 56320, 56001(j), 56127; 17 CCR 52082(b) & 52084(d)).

Following are legal citations related to the requirements for teams to consider prior to referring English learner students for special education:

1. “A pupil shall be referred for special education services only after the resources of the regular education program have been considered, and when appropriate, utilized” (EC 56303).
2. The normal process of second language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition (CCR) Title 5 3023(b)).
3. A child may not be determined to be eligible...if the determinant factor for that eligible determination is... lack of instruction in reading or math, or limited English proficiency (CFR 300.534 (b)).

Assessment of English Learner Students for Special Education

Professionals assessing English learners (ELs) should not only evaluate English interpersonal communication skills, but should also utilize formal or informal assessments that measure the literacy-related aspects of language.

It is also legally required to assess **in the student’s native language when feasible**. It provides comparative data to the IEP team about how the student performs in the native language versus English. In addition, the assessor (psychologist, speech & language specialist, special educator, etc.) can determine if similar error patterns are seen in both the native language and English (listening, speaking, reading, or writing) in order to discern if the student is having academic difficulty due to a language difference or a disability.

Note that there is no legal requirement to formally identify preschool students as ELs, as there is no assessment process designated for this purpose in the State of California; however, the IEP team must follow bilingual assessment protocol to determine the language of preference of the student if the parent indicates that a language other than English is spoken at home and assess according to second language learner requirements (EC 56440 and 56441.11).

Based on the requirements in the regulations to assess students in their “native language” the follow hierarchy of best practices is recommended when conducting assessment of ELs to determine eligibility for special education:

First Option - It is best practice to engage in the follow steps “if feasible”:

1. Administer cross cultural, non-discriminatory full or partial bilingual assessment in native language and English using bilingual assessors using evidence-based practices – begin the process by administering English psycho-educational assessment and then administer assessment in the native language
2. Use of structured interviews with parents and staff
3. Engage in observation of student in varied environments
4. Collect data from curriculum based and criterion-based assessment measures

Second Option - If it is “not feasible” to engage in the above best practice assessment options for ELs above since there is no assessor available in the native language, engage in the following:

1. Use of structured interviews with parents and staff
2. Engage in observation of student in varied environments
3. Collect data from curriculum based and criterion-based assessment measures
4. Using an interpreter, administer the assessment in the native language under the supervision of school licensed assessors – document limitations in assessment report

Third Option - If it is “not feasible” to engage in either of the two above options for assessing ELs for determining eligibility for special education since there is no assessor available and there are no standardized psycho-educational assessment instruments available in the native language, engage in the following:

1. Use of structured interviews with parents and staff
2. Engage in observation of student in varied environments
3. Collect data from curriculum based and criterion-based assessment measures
4. Use an interpreter who speaks the native language to provide an oral translation of assessments normed and written in English – document limitations in assessment report

Research also suggests best practices to guide bilingual assessment decisions are:

- An assessor fluent in both languages should assess to determine the student’s relevant strengths and weaknesses in their native language and English to guide the assessment team regarding types of assessment to be performed by using like instruments in native language and English when available. This helps to provide a more comprehensive view of what the student knows and can do (Artiles & Ortiz, 2002).
- All assessors should assess in the language of preference when possible.
- If primary language assessments are not available, use non-verbal measures with other information gathering to inform decisions.
- Assessors should be trained in second language acquisition and assessment.
- The decisions made regarding language modality to assess in should be clearly documented in the assessment reports.

Some possible examples of when it may not “be feasible” to assess in the student’s primary language are:

- The student is severely handicapped and lacks communication skills.
- Primary language assessments are unavailable. It is best practice to interview parent/guardian about the student’s patterns of use in their primary language patterns through use of an interpreter.

IEP teams also must decide on the form of the assessment most likely to yield accurate information on what the child knows and can do academically when making determinations about how and when to assess in the primary language.

It may be best practice for a psychologist or speech pathologist to conduct preliminary language proficiency assessment of an English learner (EL) student first in English and then in his or her native language to one, validate the scores in English are correct, or two, determine if the student may be functioning at a higher cognitive level in his or her primary language. The results of this preliminary assessment may help to guide future assessment decisions such as which language to conduct the academic, speech and language assessment in, etc. If the preliminary bilingual assessment data indicates the student has little or no skills in the primary language (in cognition, academics, or speech & language), the team may opt to continue the remainder of the assessment in part, or in whole, in English.

Assessors should also address socio-cultural factors as part of the assessment process. The following four sources of information may be used to help address socio-cultural factors related to ELs:

1. Norm-referenced assessments in English and the student's primary language (if primary language assessments are available)
2. Criterion-referenced tests
3. Systematic observation in educational environments
4. Structured interviews (with student, parent, teachers, etc.)

Following is a list of the different areas of assessment and specific tools that may be utilized by professionals for use with students who are ELs to determine if they are eligible for special education:

Cognitive Assessments Appropriate for an English Learner

The following bilingual test instruments are frequently used by psychologists to evaluate English learner/bilingual students:

- The Bilingual Verbal Ability Test (BVAT)
- WISC IV Spanish
- KABC (English & Spanish Response Scoring)
- Bateria III Woodcock-Munoz
- Spanish WISC
- Southern California Ordinal Scales of Development:
- Development Scale of Cognition
- Cognitive Assessment System (CAS)
- Use of an Authentic Language Sample from home and school (collaborate with speech & language specialist)

Following is a list of possible non-verbal assessment tools frequently used by school psychologists to help inform cognition:

- The Universal Nonverbal Intelligence Test (UNIT)
- Bender Visual Motor Gestalt Test (visual-motor test)
- Naglieri Nonverbal Abilities Test (NNAT)

- Test of Non-verbal Intelligence (CTONI)
- Leiter
- Test of Visual Perceptual Skills (TPVS) (visual-perceptual test)

It is recommended that as standard procedure assessors investigate the student's use of their primary language by engaging in conversation with interpreters who speak the student's primary language and same dialect. Some bilingual assessment experts recommend that psychologists use cognitive assessment measures of evaluation that include many developmental and experiential activities.

Speech and Language Assessment for English Learners

The following speech and language test instruments are frequently used to evaluate English learner/bilingual students:

- PPVT: 3/TVIP
- EOWPVT: Bilingual
- CELF:IV English / Spanish versions
- TAPS:3 English / Spanish versions
- Goldman-Fristoe/La Meda (articulation)
- BVAT-The *Bilingual Verbal Ability Tests*
- Language Sample- in English and native language
- ROWPVT (Spanish Bilingual Version)
- Woodcock-Munoz Language Survey (WMLS-R)
- Idea Proficiency Test (IPT – II)
- Contextual Probes of Articulation Competence - Spanish (CPAC-S)

Academic Assessment Options for English Learners

When assessing the academic skills of an English learner (EL) to determine eligibility for special education, it is required to assess in both the primary language and English skills (unless it has been determined that the student has little or no academic skills in the primary language). When assessing academic skills in the primary language one needs to consider the amount and quality of primary language academic instruction an EL has received. Some of the factors that need to be considered are:

1. last grade completed if the EL attended school in the native country;
2. amount of time passed since the EL has received native language instruction;
3. amount of native language instruction the EL has received since leaving the native country (e.g. dual immersion program vs. transitional bilingual program);
4. subjects taught in the native language; and
5. levels of academic achievement in the native language when first entering the United States.

Many times a student from a second language background is born in the United States and has received most of their academic instruction in school in English; however, one cannot assume that this student is unable to think, read, or write their primary language.

If the EL's primary language is other than Spanish or other language where bilingual assessment materials are available, then informal assessment of the primary language skills for reading, writing, and math must be conducted to the extent possible. If an interpreter is used for assessing academic skills using English instruments that haven't been normed on the translation, then numerical scores should not be used and this test variation must be noted in the assessment report. The information obtained using an interpreter must be noted in assessment reports and shared at the IEP meeting for decision-making purposes. For example, after giving the "Applied Problems" subtest from the Woodcock Johnson III (W-J III) in English to an EL, an interpreter is then used to check if the student would perform better after hearing the problem read in their primary language. A new score could not be obtained, but if the EL was more successful after hearing the problem in their primary language, then the "difficulty" could be due to second language acquisition rather than a learning disability affecting math skills. The effect of "test/retest validity" does need to be considered in these cases and included in the assessment report.

To date, there are a limited number of standardized academic assessments available in languages other than English. Some possible academic/other assessment instruments that may be used to assess students whose primary language is Spanish are:

- Bateria III Woodcock-Munoz
- Language Assessment Scales (LAS)
- Spanish Brigance (criterion-referenced)
- Use of Dibels and Curriculum based measures if available (not standardized)
- Boehm Test of Basic Concepts - Revised (BTBC-R)(1986) (K-2 Spanish)
- Aprenda: La prueba de logros en español, Segunda edicion (1997)
- Bracken Basic Concept Scale - Revised (1998) (Spanish Edition) (ages 2.8 to 8 years)

Social-Emotional / Cultural Assessment for English Learners

To date, there are a limited number of social-emotional assessments available in languages other than English:

- BASC – Pearson Assessments
- Acculturation Rating Scale for Mexican Americans (ARSMA)
- Spanish Version of the Social Skills Rating System
- Vineland Adaptive Behavior Scales
- Connors Spanish

Use of Interpreters for Assessment

It is recommended that the following steps be taken in preparation for use of an interpreter in assessment:

1. Know what tests are being administered.
2. Be prepared for the session to account for extra time needed with an interpreter.

3. Know the skill level of the interpreter.
4. Ensure the interpreter speaks the same dialect of the student.
5. Administer only the tests, which the interpreter has been trained to assist in administering.

The following briefing procedures are recommended prior to administering assessments with use of an interpreter (assessor and interpreter review together):

1. Go over the general purpose of the assessment session with interpreter.
2. Describe to the interpreter the assessment instruments that will be administered.
3. Provide the interpreter information about the student.
4. Review English test behavior with the interpreter, if applicable.
5. Remind the interpreter they he or she should make a written note of all behaviors observed during the assessment.
6. Allow time for the interpreter to organize materials, re-read the test procedures, and ask for clarification, if needed.
7. Remind interpreter that he or she will need to follow the exact protocol of the test (ex: can they repeat question, cue, etc.).

The following debriefing procedures are recommended after the interpreter has assisted with an assessment:

1. Ask interpreter to go over each of the test responses without making clinical judgment.
2. Go over any difficulties relative to the testing process.
3. Go over any difficulties relative to the interpretation process.
4. Go over any other items relevant to assessment process.

The following best practices are recommended when conferencing with parents with the use of an interpreter:

1. Observe body language when meeting with an interpreter and parent. Rely on interpreter to assist you in understanding culturally appropriate behavior.
2. If the interpreter is used with the parent, avoid portraying the interpreter as the parent's representative or advocate – stay professional.
3. Seating arrangements are critical. Give the name and position of each person present. The interpreter should not in any way block the parent from the school person. Parents must be able to see both interpreter and assessor.
4. The interpreter should only translate not editorialize or give opinion.
5. The educator needs to speak to the parent, not to the interpreter.

Components of the Assessment Report for an English Learner

In addition to the basic requirements of a report, assessment reports for English learner (EL) students are required to have the following documentation included in the report:

1. Impact of language, cultural, environmental and economic factors in learning;
2. How standardized tests and techniques were altered;

3. Use of the interpreters, translations for tests; include a statement of validity and reliability related to the use of such; and
4. Examiner's level of language proficiency in language of student and the effect on test results and overall assessment (5 CCR 3023; EC 56341 & 56327)

It is best practice to include cross-validation of information between norm-referenced, criterion, and interview/observation based measures, to include information from home setting. In addition, it is best practice to include the following in an assessment report for a student who is EL/bilingual:

- Consideration of the second language acquisition process and its relationship to the possible handicapping conditions
- Results of current language proficiency testing
- If and how standardized tests and techniques were altered
- A statement of student limitations if non-verbal measures were used
- Recommendations for linguistically appropriate goals
- Test scores and interpretation of the scores - what do they mean and how do the test scores/results relate to the student's performance in school and in life.

Lastly, remember that reports should be translated into the primary language if requested by the parent/guardian. Often parents will indicate that verbal translation is sufficient.

Use of Interpreters in Assessment in Special Education

The California Code of Regulations states:

Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected. CCR Title 5: 3023

Determining Eligibility for Special Education

When looking at an English learner's performance on an English academic test, such as the WJ III, one needs to view this assessment as a possible level of second language acquisition and not necessarily a true measurement of the English learner's academic skills. When interpreting the levels of achievement on the English tests, one must factor in such things as the grade/age the English learner (EL) was first exposed to English, the amount, consistency and type of schooling, and EL services the student has received, etc. This needs to be documented in the assessment report and taken into consideration when eligibility decisions are being made.

Remember, if an EL has been assessed in similar tests in the native language and English, and if a discrepancy model is being used to qualify a student as learning disabled, the highest cluster scores need to be used for purposes of qualifying the student for special education. For example, if an EL whose native language is Spanish receives a standard score (SS) of 95 on the Spanish test for "Basic Reading Skills" and a SS of 80 on the English test for "Basic Reading Skills," then the 95 would be used to calculate the discrepancy between ability and achievement;

however, both scores should be reported in the assessment report. If an EL receives a SS score of 95 in English “Basic Math Skills” and an 80 SS in Spanish on “Basic Math Skills,” then the 95 would be used to calculate the discrepancy; however, it is best practice to report both scores in the assessment report.

V. Development of Linguistically Appropriate IEPs

When appropriate the IEP shall also include, but not be limited to, all of the following: “for individuals whose native language is other than English, linguistically appropriate goals, objectives, programs and services” (EC 56345(b)). The IEP is a written document that is developed for each public school child who is eligible for special education services. The IEP is created through a team effort and reviewed at least once a year. The required “IEP Team” members are:

1. The parents of a child with a disability;
2. Not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment);
3. Not less than one special education teacher, or where appropriate, not less than one special education provider of such child;
4. A representative of the local education agency (LEA) who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; knowledgeable about the general education curriculum; and, knowledgeable about the availability of resources of the LEA;
5. An individual who can interpret the instructional implications of evaluation results, and who may be a member of the team described above;
6. At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
7. Whenever appropriate, the child with a disability.

A person specialized in ELs should be one of the IEP team members with special expertise under number 6 above (34 CFR 300.321(a) (6)-(7); EC 56341(b) (6)-(7)).

For EL students it is best practice to invite staff members to the IEP who have expertise in English language development and can also interpret the results of ELPAC testing and primary language testing, when applicable.

The IEP team must ensure that parents are provided copies of the IEP notice in their primary language. In addition, districts must ensure that parents understand the proceedings of the IEP meeting. This may require the district to provide an interpreter if necessary. Parents also have the right to request that a copy of the IEP be provided to them in their primary language. It is also best practice to provide a copy of the assessment reports in the parents’ primary language if requested; however, this requirement is not clear in the regulations (Reid, 2010).

Required IEP Components for English Learner Students

The IEP team must consider the language needs of the student as those needs relate to the student’s IEP. Specifically, the IEP must include “linguistically appropriate goals, objectives, programs and services”. There are also specific IEP team requirements relative to making decisions about whether or not the student will take ELPAC or an alternate assessment to measure English proficiency progress, as well as whether or not accommodations or

modifications will be needed for the student to take ELPAC (20 USC 1414(d) (3) (b) (ii); 34 CFR 300.324 (a) (2) (ii); 30 EC 56345 (b) (2); 30 EC 56341.1 (b) (2)).

Below is a checklist for staff members to use when drafting IEP for an English learner (EL) student with a known or suspected disability:

- ✓ The IEP indicates if the student is classified as an EL
- ✓ The IEP includes information about the student's current level of English language proficiency in listening, speaking, reading, and writing (based on current ELPAC or alternate assessment scores/levels)
- ✓ The IEP indicates if testing accommodations or modifications are needed for the student to take ELPAC or if the student requires an alternate assessment to ELPAC and, if so, what the alternate assessment(s) utilized will be
- ✓ The IEP addresses programs and services for the EL, to include how English language development needs will be met and who will provide those services *Note: Indicate the setting, duration and frequency*
- ✓ The IEP indicates if primary language support is needed
- ✓ The IEP indicates what language will be the language of instruction
- ✓ The IEP includes goals and objectives that are linguistically appropriate (LAGOS)

Note: Linguistically appropriate goals should align to the student's current linguistic level in English or assessed level on the ELPAC (or designated alternate assessment).

(See-SUPP37: IEP team Checklist for English Learners (ELs))

Decisions Regarding ELPAC and the IEP

Most students with disabilities take the ELPAC along with all other students under standard conditions. Some students with disabilities may require test variations, accommodations, and/or modifications, or may take alternate assessments. Test variations are allowed for any student who regularly uses them in the classroom. Accommodations, modifications, and/or alternate assessments must be specified in each student's IEP or Section 504 Plan. Before any test variation is used, the following activities must be considered when preparing or updating the IEP:

1. The IEP team determines if the student's disability would preclude him or her from taking any or all domains of the ELPAC (with or without variations, accommodations, and/or modifications).
2. IEP teams review Matrix 1 in the Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments (see Appendix B1 or go to <http://www.cde.ca.gov/ta/tg/el/resources.asp>).
3. IEP teams discuss the impact of modifications or alternate assessments on the ELPAC resulting in scores that are not valid.

Linguistically Appropriate Goals and Objectives

It is required that the IEP for an English learner (EL) include linguistically appropriate goals and objectives (*objectives are only required for students receiving a functional skills level curriculum*) which lead to the development of English language proficiency. IEPs for ELs should not include EL Goals. Legally, linguistically appropriate goals, objectives, and programs means:

1. Those activities which lead to the development of English language proficiency;

2. Those instructional systems which lead to the language development of English language proficiency; and
3. Those instructional systems, which lead to the language development needs of ELs. For individuals whose primary language is other than English, and who’s potential for learning a second language, as determined by the IEP team, is severely limited, the IEP team may determine that instruction may be provided through an alternate program, including a program provided in the individual’s primary language. The IEP team must periodically, but not less than annually, reconsider the individual’s ability to receive instruction in the English language (EC Section 311(c); CR, Title 5, Section 3001 (s)).

Note: Even though it is not a legal requirement to formally identify a preschool age student as an EL in California, federal regulations require the IEP team to determine if the student is an EL for purposes of the IEP and include linguistically appropriate goals and services.

The IEP team must ensure that IEP goals that involve language are linguistically appropriate. This means the goals must reflect the student’s current linguistic level in order to ensure the student can access the goal. When drafting goals, IEP teams should consider the following:

- Take into consideration the cognitive level of the student;
- Be appropriate for the linguistic level of the student (applicable to goals that involve language);
- Match the developmental level of the student’s primary (L1) or secondary (L2) language;
- Access the student’s prior knowledge and experiences;
- Incorporate culturally relevant materials and experiences; and
- Affirm the student’s cultural heritage.

In developing linguistically appropriate goals and objectives (LAGOS), IEP teams must first determine the linguistic levels of the student. Once the team has determined the linguistic needs of the student (by analyzing progress towards attaining the ELD Standards and reviewing ELPAC or other language assessment results), the next step is to draft goals based on assessed areas of need related to the disability that align to the student’s linguistic needs.

Reminder: a minimum of two (2) benchmark objectives must be developed for each goal if the curriculum the student uses is considered an alternate-curriculum that focuses on “life-skills”.

The following are samples of linguistically appropriate goals (LAGOS) that are aligned to ELPAC data and aligned to student levels on the 2012 ELD Standards.

Sample Goal (Based on 2012 ELD Standards)

Current ELD Levels

<i>Age/Grade</i>	<i>Level of Student</i>	<i>Mode of Communication</i>	<i>Proficiency Level</i>
<i>1st Grade</i>	<i>CAPA Level</i>	<i>Collaborative</i>	<i>Exit Emerging</i>
			participates in simple, face-to-face conversations with peers and others

Appropriate ELD and IEP Target Level

<i>Age/Grade</i>	<i>Level of Student</i>	<i>Mode of Communication</i>	<i>Proficiency Level</i>
<i>1st Grade</i>	<i>CAPA Level</i>	<i>Collaborative</i>	<i>Early Stage Expanding</i>
			initiate simple conversations on social and academic topics

Baseline: The student manifests a disability separate from language differences or being English language in the area of verbal expression. The student currently is able to initiate non-verbal gestures of simple one-word nouns to communicate wants and needs or engage in simple conversations in English and one or two word utterances in his or her native language.

By (date), (student) will records initiate simple conversations (3 to 5 word utterances) on social and academic topics to peers or adults; on two consecutive trials as demonstrated by classroom observation and data tracking records.

IEP Accommodations and Modifications

The IEP should stipulate appropriate accommodations and/or modifications that may be needed to assist the student who is an English learner be successful in an educational setting.

Examples of accommodations that may be appropriate to consider for students learning English may be but are not limited to the following:

- Primary language support to assist with academics
- Translation devices
- Extra time on tests and assignments
- Use of reference materials with visuals to aide comprehension
- Bilingual dictionary if applicable to second language

Examples of modifications that may be appropriate to consider for students learning English may be but are not limited to the following:

- Tests provided or adapted to be more “comprehensible”
- Tests and assignments modified in length and content
- Alternate testing formats such as use of visuals, drawings, etc.

Other Legal Requirements Related to IEPs of English Learners

Section 3302 of Title III of NCLB that requires school districts receiving Title III funds states: “no later than 30 days after the beginning of the school year or within two weeks of a student’s placement in a language instruction program after the beginning of the school year, to inform parents or guardians of (1) the reasons for their student’s identification as an English learner and (2) the need for placement in the specified program.” “Parents or guardians of English learners with an IEP must be notified how the recommended placement will help their child to meet the objectives of the IEP.” This requirement is typically met through a letter that is sent out through the English Learner Department (see sample letter in Appendix B2).

Frequently Asked Questions

1. **Question:** Is it required that the IEP team classify preschool students as EL?

Response: There is no formal process in place in the State of California to identify/classify students in preschool as English Learners. IEP teams still need to take into consideration the language needs of the student in order to develop linguistically appropriate IEPs for students who, through the assessment process, are determined to be more proficient in a language other than English (CDE Special Education Division, 2010).

2. **Question:** Is it required for an EL student who is identified as having a learning disability to receive only instruction in English so as not to confuse the student?

Response: There is research that indicates that the student may acquire L2 easier if they are proficient in L1 (Fortune & Menke, 2010). The IEP team needs to carefully consider the individual needs of the student before making this decision.

VI: Programs and Services for English Learners with Disabilities

Appropriate instructional strategies that focus on language acquisition, scaffolding techniques and proven methodology effective with English learners (ELs) and collaboration between the English Learner programs and Special Education programs promotes academic success for all. Potential ways that ELs with an IEP may receive the EL services are:

- Regular education program with specially designed accommodations and modifications
- Regular education classroom with pull-out or collaborative in-class specialized academic instruction (SAI) with or without related services support
- Regular education classroom combined with SAI in a special education classroom with or without related services support
- SAI in learning centers
- Special education classes
- Home or hospital settings
- Nonpublic, nonsectarian school (NPS)
- State special schools

Students may receive their English language development (ELD) in any of the above program options as is determined most appropriate by the IEP team. It should be clear in the IEP where and when the student will receive ELD services, the duration of the services, and who is responsible for providing the services. The IEP should also indicate which staff member(s) will be specifically working towards the “linguistically appropriate” IEP goals as well as who will be responsible for monitoring English language development/annual measurable achievement objectives (AMAOs).

Some recommended best practices for meeting the education needs of EL students with disabilities are:

1. Provide professional development in evidence-based best practices for working with ELs to special educators;
2. Collaboration between the EL and Special Education staff; and

3. Native language core instruction be provided (bilingual special education programs) and taught by dually certificated teachers if the IEP team determines it is a Free Appropriate Public Education (FAPE) for a student.

Below are the recommended ELD service delivery options for ELs in special education based on their ELPAC scores/levels. Note this is a local LEA decision.

OVERALL ELPAC SCORE/LEVEL of PROFICIENCY	CLASSROOM SETTING	ELD SERVICES	SERVICE PROVIDER
“Beginning” (level 1 or 2) overall or in one of the two areas).	Structured English Immersion (SEI) with SDAIE the full day	Daily, intensive, targeted ELD services (provided small group within general education or special education per the IEP) along with integrated classroom ELD daily	SEI classroom setting with general education teacher (in gen ed classroom or sometimes pull out) or could be provided in special education classroom setting or through collaborative model
“Somewhat Moderately” level 3	Structured English Immersion (SEI) or an alternate program such as a “dual immersion” bilingual program; with SDAIE the full day	Daily” integrated” ELD services provided aligned to the ELD standards and ELPAC levels and individual student needs	Regular classroom setting with ELD services to be provided
Well developed” level 4 in one or both areas.	Student is referred for consideration to be reclassified RFEP. Structured English Immersion (SEI) or an alternate program such as a “dual immersion” bilingual program; with SDAIE the full day until student is reclassified as RFEP	Daily” integrated” ELD services provided aligned to the ELD standards and ELPAC levels and individual student needs until student is RFEP’d.	Regular classroom setting with ELD services to be provided daily until the student is RFEP.

Sample Elementary School ELD/SPED Service Delivery Models

One district (Pomona Unified School District) implements the use of an ELD rotation system that groups students (including English learner students with disabilities) for instruction by ELPAC levels. The ELD instruction is provided to all English learners during a specified time of the school day by various staff members, including special educators.

The initiative for establishing this type of an ELD rotation system was implemented through collaboration of district office level administrators from both the Instructional Services Division and the Special Education Department. Included in the discussion were principals, teachers, and the employee association. Key stakeholder groups reviewed the guidelines. The guidelines for this instructional delivery model were based on the following program principles:

1. Dedicated daily time for delivery of standards-based ELD instruction that addresses specific needs of English learner students at each fluency level supported by use of quality, research-based materials that target all four domains of language with a major emphasis on building a strong oral language foundation;
2. Curriculum, instruction, and strategies that promote transfer between English and the native or home language; and,
3. Emphasis throughout the curriculum is placed on research-based practices that focus on enriched oral language development.

A second model for providing ELD services at the elementary level is where the ELD services are provided in a pullout special education setting by the speech and language specialist (if the student is identified for speech & language) or in a resource room setting by special education staff members. In this model, the special education case managers/teachers engage in ongoing consultation with the general education teacher and EL department.

A third model for providing ELD services to students with disabilities at the elementary level is through collaboration between the special and general education teacher into the general classroom setting. The special education teacher typically goes in to the general education classroom and works with a group or groups of student(s) that function at similar levels of language acquisition. It is important that not only special education students are included in the groups lead by either the general or special education teacher. As stated earlier, it is important that teachers have training and background in successful collaboration techniques.

Sample Secondary School ELD/SPED Service Delivery Models

At the secondary level, some districts have implemented model programs to serve English learner (EL) students with disabilities (in the mild to moderate range) by offering a *sheltered English* class as the students' core English class. During this class, the students receive ELD services as appropriate based on their levels of language acquisition. This class may be taught by a special or general education teacher who has appropriate ELD instruction certification. The class may also be taught collaboratively between special education and general education staff members.

A second model often utilized at the secondary level to provide ELD services to EL students with disabilities is for the students to receive their ELD services during their general education or special education English class as appropriate for their levels of language acquisition. When implementing this type of service delivery model, staff members need to ensure that EL students have adequate access to the core English curriculum with English speaking peers.

A third model sometimes utilized by districts to provide ELD services to students with disabilities at the secondary level is to have those services provided by special education staff members during a special education support class period.

Note: Regardless of the ELD service delivery model implemented, this should be discussed at the IEP team meeting and included in the content of the IEP. In addition, it is important to note that paraprofessionals may assist with the provision of ELD services as long as these services

are designed and supervised by the credentialed teacher who has appropriate certification to provide such services.

Instructional Strategies/ELD for English Learners with Disabilities

According to Saunders, Goldenberg, and Marcelletti (2013), ELD instruction should include the following elements:

1. Explicitly teach linguistic elements of English (vocabulary, syntax, grammar, functions, and conventions).
2. ELD should integrate meaning and communication via explicit, direct teaching of language (academic & conversational).
3. ELD instruction should include interactive activities among students that are carefully planned and carried out.
4. Provide students corrective feedback on form.
5. Use of English during ELD instruction should be maximized with native language strategically incorporated.
6. ELD instruction should include communication and language-learning strategies.
7. ELD instruction should be planned and delivered with specific language objectives in mind.

Core instructional strategies such as “Systemic ELD” as put forth by Dutro (2013) have been found effective for teaching English learners with disabilities. Some of the elements of Systemic ELD are:

- Systemic ELD provides a time for English learners to learn and practice language they need in order to navigate rigorous content instruction and a myriad of adult and peer interactions, such as discussions and collaborative work.
- Systemic ELD challenges students to explore language in compelling and playful ways, continually growing their ability to use English flexibly, fluently, and accurately – to have agency over their own language use. Ultimately, the goal of Systemic ELD is for English to be a bridge to academic success rather than a barrier.
- Systemic ELD puts language learning and exploration in the foreground.
- Systemic ELD groups students by assessed proficiency level as determined by multiple sources.
- Systemic ELD uses a functional language approach organized around essential purposes for communication. Language tasks are highly applicable to real world and academic interactions.
- Systemic ELD provides an organized method of language instruction to help prevent gaps and fill existing gaps in language knowledge that can hinder students’ achievement.
- Systemic ELD explicitly emphasizes oral language development through structured, purposeful interaction.

VII: Reclassification of English Learners with Disabilities

Under current state law (EC Section 313), identified students who are English learners must participate in the annual administration of the ELPAC until they are reclassified as RFEP (California Practitioners' Guide for Educating English Learners with Disabilities, 2019). It is important that school personnel understand reclassification of English learners as Fluent English Proficient (RFEP), the California Education Code reclassification criteria guidelines, the issues related to reclassification of English learners, and how the reclassification criteria apply to students with disabilities

Understanding Reclassification of English Learners

Reclassification is the process used by districts/local education agencies (LEAs) to make a determination if an English learner (EL) student has acquired sufficient English skills to successfully access curriculum being delivered without English development support. When EL students demonstrate that they are able to compete effectively or are commensurate with English-speaking peers, they are then reclassified as fluent English speakers (RFEP). The reclassification process in public schools in California is based on guidelines approved by the State Board of Education (SBE) and is based on California EC Section 313(d). The reclassification guidelines utilize multiple criteria in determining whether to reclassify a student as being proficient in English.

The California Department of Education Reclassification Guidelines

It is important to remember that reclassification of ELs is a local decision. The ELPAC California Practitioner's' Guide for Educating English Learners with Disabilities, 2019 states: "Reclassification is a local decision to be established by the local school board in accordance with state law (EC Section 313). School districts must use individual ELPAC results as one of four criteria when considering reclassifying English learners.

1. assessment of English language proficiency, using an objective assessment instrument, including, but not limited to, the state test of English language development;
2. teacher evaluation, including, but not limited to, a review of the student's curriculum mastery;
3. parent opinion and consultation; and
4. comparison of student performance in basic skills against an empirically established range of performance in basic skills based on the performance of English proficient students of the same age.

Additional measures that must be considered are the comparison of the student's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient students of the same age, teacher evaluation, and parent or guardian opinion and consultation."

Further, the California Practitioners' Guide for Educating English Learners with Disabilities, 2019 states students with disabilities, including severe cognitive disabilities, are to be provided the same opportunities to be reclassified as students without disabilities. Therefore, local IEP teams may determine appropriate measures of English language proficiency and performance in basic skills, in accordance with local and ELP approved reclassification guidelines.

In accordance with federal and state laws, the IEP team may address the individual needs of each English learner with a disability, using multiple criteria in concert with the four reclassification criteria in EC 313(f). These four criteria are the minimum required components that LEAs must include in their local reclassification policy. Other criteria may be used to supplement the four required criteria to ensure that the most appropriate decision is made for each student.

The following are recommendations for applying the four criteria in EC 313(f) (accessible at: <https://bit.ly/2VNknSS>) to local reclassification policies regarding English learners with disabilities from the annual ELPAC Information Guide:

Criterion 1: Assessment of ELP Using an Objective Assessment Instrument Assessment of ELP using an objective assessment, including but not limited to the ELPAC, is one of four criteria, in state law per EC 313(f), to be used by LEAs in determining whether an English learner should be reclassified as RFEP. The IEP team can use the scores from an alternate assessment aligned with the state 2012 CA ELD Standards for reclassification purposes. An alternate assessment may be used to measure the student's ELP on any or all four domains in which the student cannot be assessed using the ELPAC.

For purposes of Title I accountability requirements, a student assessed with a locally determined alternate assessment, will receive the lowest obtainable scale score (LOSS) on the ELPAC for each domain tested with an alternate assessment. The IEP team, however, may use results from the alternate assessment in conjunction with the other required criteria (i.e., teacher evaluation, parental opinion and consultation, and the student's scores on an assessment of basic skills) to determine a student's eligibility for reclassification. Once the Alternate ELPAC is operational, there will be criteria established for reclassification based on a student's performance.

Criterion 2: Teacher Evaluation The student's academic performance information, that is based on the student's IEP goals for academic performance and ELD, should be used for reclassification consideration.

Criterion 3: Parent Opinion and Consultation The parent or guardian should be encouraged to be a participant on the IEP team and in understanding and making a decision on reclassification.

Criterion 4: Comparison of Performance in Basic Skills the IEP team should specify in the student's IEP an assessment of basic skills to meet the guidelines for reclassification (e.g., the California Alternate Assessment for English language arts). The IEP team may consider using other assessments that are valid and reliable and designed to compare the basic skills of English learners with disabilities to primary speakers of English with similar disabilities to determine whether the English learner with disabilities has sufficiently mastered the basic skills for reclassification consideration.

The CDE cannot make specific recommendations of alternate assessment instruments because it is the responsibility of the IEP team to gather pertinent information regarding the student and assessment needs specific to that student. The IEP team may use this comprehensive approach to make decisions regarding program supports and reclassification that will allow the student to make maximum progress, given the student's capacities.

Basic skills criteria:

1. A student's score on the test of basic skills (e.g., the CAASPP for ELA or the CAA for ELA) in the range from the beginning of the Basic level up to the midpoint of the Basic level suggests that the student may be sufficiently prepared to participate effectively in the curriculum and should be considered for reclassification. The LEAs may select a cut point in this range.
2. Students with scores above the cut point selected by the LEA should be considered for reclassification.
3. For students scoring below the cut point, LEAs should attempt to determine whether factors other than ELP are responsible for low performance on the test of basic skills (e.g., the CAASPP for ELA or the CAA for ELA) and whether it is reasonable to reclassify the student.
4. For students in grade twelve, the grade eleven CAASPP for ELA results may be used, if available.
5. For students in grade one, LEAs should base a decision to reclassify on ELPAC results, teacher evaluation, parent consultation, and other locally available assessment results (California Practitioners' Guide for Educating English Learners with Disabilities, 2019).

Application of the Four Criteria to Students with Disabilities

The California Practitioners' Guide for Educating English Learners with Disabilities, 2019 provides guidance to professionals regarding decisions about whether or not to reclassify a student with disabilities as follows:

Promoting Collaboration between Special Education Experts and English Learner

Specialists LEA leaders can offer school discussion guides and professional learning community discussions that facilitate conversations between special education and English learner staff on developing and implementing integrated special education and English learner services, including collaboration around reclassification decisions. It is important to note that IEP services must be delivered according to the IEP; however, special education staff members should provide linguistically appropriate services when accommodating the disability. LEA teams could come together with school-based teams to review individual student cases and offer support for making reclassification decisions for English learner students with IEPs.

Pathways to Reclassification for Students with Disabilities

The Council of Chief State School Officers (CCSSO) recently published a Framework for Exiting English Learners with Disabilities from English Learner Status. In this national-level resource, the authors describe three broad pathways for English learner students with disabilities to exit English learner status:

- Pathway 1: English learners with disabilities who are able to demonstrate English language proficiency in all four domains (listening, speaking, reading, writing) with or without accommodations.
- Pathway 2: English learners with significant cognitive impairments who are assessed using an alternate ELP assessment process.

- Pathway 3: English learners with disabilities whose disabilities preclude assessment in one or more domains on the English language proficiency assessment and there are no appropriate accommodations for the affected domain(s).

For each pathway, the authors provide guidance on the composition of the IEP team and the body of evidence (including specific, high-priority evidence and evidence to include if possible) for educators to consider when making reclassification decisions for English learners with disabilities who may not be able to demonstrate their proficiency due to factors not related to a language difference.

It may be best practice for reclassification teams to consider whether or not the impact of a student's disability, "other than English language proficiency", is a contributing factor to the student's low achievement on standardized tests of basic skills or CAASPP/CAA. If the team determines that low performance (lower than the beginning point of "basic") is due to a disability rather than English language proficiency and the student has acquired language proficiency, they must document this when making the decision of whether or not the student has met the fourth criteria.

In addition, some students with disabilities, as designated in their IEP, take the alternate statewide tests such as the California Alternate Performance Assessment (CAPA). Reclassification/IEP teams may use results from other alternate test measures such as CAPA results to inform whether or not a student has acquired the basic skills in English at their functional level.

It is important for reclassification teams (be it the IEP team or other multi-disciplinary reclassification team) to remember the purpose for identifying students as English learners when making a determination if an English learner has acquired sufficient English skills or fluency to perform successfully in academic subjects without ELD support. It is not advisable for educators to make hasty decisions when deciding whether or not to reclassify a student based solely on the student having a disability. English language development is a valuable service that specifically targets the skills required to be fluent in English. If the reclassification team feels a student would still benefit from an ELD program because he or she has not fully developed English language proficiency, reclassification may not be appropriate. Districts/LEAs are advised to seek further guidance from the CDE if they have questions about reclassification of students with disabilities.

(See SELPA78: English Learner with Special Needs Reclassification Worksheet)

See the *Meeting the Needs of English Learners with Disabilities* guidebook for sample reclassification scenarios and frequently asked questions.

WHAT FORMS SHOULD BE USED

The following forms should be used during the assessment phase, as appropriate:

SELPA78: EL/SPED Reclassification Checklist (E)

SELPA79: English Language Learner Pre-referral Checklist (E)

SUPP37: IEP Team Checklist for English Learners

NOTE

E = ENGLISH and **S = SPANISH**

Appendix A references the forms highlighted throughout this handbook. SELPA and Supplemental IEP forms can be found on our county's on-line *SIRAS Systems*, www.sirassystems.org.