



Quick Tips

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Essential information and/or interesting facts from Special Education Services, Alabama State Department of Education.

for English Learners



Alabama State Department of Education (ALSDE)
Special Education Services (SES) Section
P.O. Box 302101 Montgomery, AL 36130-2101



334.694.4782



speced@alsde.edu

ENGLISH LEARNERS and the SPECIAL EDUCATION ELIGIBILITY PROCESS

*There is **NO minimum age, English proficiency level, OR time in school** requirement to meet before a child can be referred for evaluation. Delaying a special education evaluation of an English Learner (EL) suspected of having a disability based on his EL status is **NOT** permissible under the IDEA.*

General Considerations

- All communication and documentation, including notices of meetings, permissions, consents, parent rights, surveys, Individualized Education Programs (IEPs), etc., **MUST** be provided in the parent's native language.
- All meetings regarding an EL suspected of having a disability **MUST** include personnel with qualifications and/or expertise in second language acquisition.
- If an EL is referred, **all** rules and regulations of the Individuals with Disabilities Education Act (IDEA) and the policies, procedures, and timelines in the *Alabama Administrative Code* (AAC) must be followed.

Interpreters

- The LEAs are responsible for providing interpreters and should ensure that interpreters are competent and proficient in both English and the EL's dominant language.
- The LEAs should train interpreters in test administration, expectations for correct responses, Family Educational Rights and Privacy Act (FERPA), and confidentiality considerations prior to the evaluation.
- An LEA evaluator should be present during all testing to observe and record responses and test behaviors and should meet with the interpreter after the evaluation to discuss the evaluation.

Language of Assessment

- Home language survey and parent/family interviews are vital to gain developmental information, current level of functioning, and functioning compared to culturally/linguistically similar peers.
- The WIDA ACCESS test or comparable measure should be administered to determine English proficiency. If the student does **NOT** score in the proficient range, testing **MUST** be completed in the dominant language. For preschool ELs, a home language survey and parent/family interviews will guide the IEP Team's decision regarding the language in which the assessment should be conducted.
- Assessments should always be "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**" (34 C.F.R. §300.304(c)(1)(ii)).

*If you talk to a man in a language he understands, that goes to his head.
If you talk to him in his own language, that goes to his heart. ~Nelson Mandela*

The Evaluation

- The LEAs **MUST** adhere to all special education timelines, policies, and procedures in the AAC when an EL is referred. The LEAs should expect that additional time may be required when evaluating ELs and should begin the process early enough to meet timelines. No extensions of the timeline requirements are allowed.
- **ALL** correct responses in one or both languages should be accepted during the evaluation (other than English proficiency assessment).
- Any deviation from standard assessment responses and/or conditions should be fully documented on the evaluation report.
- Exercise caution in relying upon standard scores and/or grade level equivalencies as the sole basis for determining eligibility. Consider test and/or cultural bias inherent in all instruments.
- Nonverbal assessments may reduce language demands, but still may contain culturally loaded tasks, and should not be used in isolation to determine eligibility.
- For emotional/behavioral concerns, the IEP Team should consider level of acculturation.
- In determining level of adaptive functioning, the IEP Team should consider cultural differences and expectations.

Determining Eligibility

- All meetings regarding an EL **MUST** include personnel with qualifications and/or expertise in second language acquisition to rule out limited English proficiency as **the** determining factor in eligibility decisions.
- If the student is assessed in English, then the disability should manifest in English.
- If the student is assessed in the native language, then the disability must be present in the native language.
- A student **cannot** have a disability in one language but not in another.

Special Education vs. EL Services

- The IEP Team must consider the language needs of the student as those needs relate to the child's IEP when developing, reviewing, and/or revising IEPs (34 C.F.R. §300.346 (a)(2)(ii)).
- The IEP Team should consider a continuum of placement/service options. If the Team determines that both services are appropriate and necessary for the student to access the curriculum, then ELs may receive **both** special education and English language services concurrently.
- **ALL** ELs with IEPs must have an EL plan documented on the profile page of the IEP. On the IEP, the Student Profile page should include a statement regarding the EL plan and the question "Does the student have limited English proficiency?" should be checked YES under Special Instructional Factors.

The full guidance document, *English Learners (ELs) and the Special Education Eligibility Process*, may be accessed at <https://www.alabamaachieves.org/wp-content/uploads/2021/04/ELs-and-SpEd-Process.pdf>.