

## IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS

### 3.1 PURPOSE AND SCOPE

This chapter was developed to provide SELPA and LEA staff members with a concise, practical, and sequential approach to the identification, assessment, and programs for students with disabilities, who are English learners (EL). When considering possible special education and related services, extreme care must be taken to avoid the over-identification of students as having a disability, as well as the exclusion of English learners who may have a disability. With this in mind, two specific challenges are presented to educators:

1. To utilize appropriate assessment tools and procedures, and to provide services in the least restrictive environment (LRE).
2. To incorporate language and culture into the special education curriculum.

Identifying, assessing, and differentiating instruction for English learners with disabilities require educators first to understand the complex interrelationships of language, culture, home, and school factors that affect learning and behavior and then to consider these factors when making decisions about students' unique characteristics and needs so that they may thrive at school.

All English learners must be properly identified. Identification begins with the completion of the state-mandated Home Language Survey (HLS) by families. Students who are identified as potential English learners on the HLS are administered the English Language Proficiency Assessments for California (ELPAC) or Alternate ELPAC. (The Alternate ELPAC is in development as of 2021 and will be used as soon as available. Until such time as the Alternate ELPAC is available, the Alternative Proficiency Instrument (ALPI) will be used for identification as appropriate, based on the student's disability.) The ELPAC or Alternate ELPAC is administered to determine English proficiency. These assessments are to be done within 30 calendar days after the date of first enrollment in a California public school, or within 60 calendar days before the date of first enrollment, but not before July 1 of that school year" (EC 60810).

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 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.

The ALPI is used for students with severe disabilities to establish levels in both the primary language as well as English in receptive and expressive language. Deaf and hard of hearing students may be informally assessed in American Sign Language (ASL). The student's IEP includes scores or levels in each of the assessments. As soon as the Alternate ELPAC is available, it will be used in place of the ALPI for students for whom it is appropriate.

Additional information can also be found in the [CA Practitioners' Guide for Educating English Learners with Disabilities, Chapter 1](#).

### **3.2 IDENTIFICATION AND REFERRAL OF ENGLISH LEARNERS SUSPECTED OF HAVING A DISABILITY**

Procedures for identification and referral for special education and related services for all students are described in Chapter 1 of this Handbook. Additional information can also be found in the [CA Practitioners' Guide for Educating English Learners with Disabilities, Chapters 1 and 2](#).

### **3.3 SPECIAL CONSIDERATIONS FOR EL STUDENTS PRIOR TO REFERRAL**

Unless the student has a severe disability, including but not limited to severe vision and hearing impairments, severe physical impairment, severe intellectual disability, autism, or severe health impairment, the student should be allowed sufficient time to acquire English proficiency and receive appropriate academic instruction in English Language Arts and Math. However, assessing an English learner for a disability does not require a waiting period for English language skills to develop. It is critical to differentiate between a student who is not achieving in the classroom because English is not his/her primary language, and a student who is not achieving due to a disability. Appropriate academic instruction must include the provision of Integrated and Designated ELD.

Following are some relevant sections of state and federal law that are particularly important in determining eligibility for special education instruction and services:

*Education Code (EC) 56303: "A pupil shall be referred for special education instruction and services only after the resources of the regular education program have been considered, and when appropriate, utilized"*

*California Code of Regulations (CCR), Title 5 3023 (b) "The normal process of second language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition"*

*Federal Code of Regulations (CFR) a 300.534: "A child may not be determined to be eligible....if (i) the determinant factor for that eligible determination is ...1) lack of instruction in reading or*

*math, or (2) limited English proficiency ... and (ii) the child does not otherwise meet the eligibility criteria under 300.7"*

### **3.4 STUDENT STUDY TEAM (SST)**

When English learners are not making progress in academic achievement, teams of educators must ask whether the students' instruction, which includes comprehensive ELD (Integrated and Designated ELD), has been evidence-based, standards-aligned, and culturally and linguistically appropriate and whether it has been of sufficient quality. It is important to avoid assigning Tier II and Tier III interventions or referral to special education services when what is happening is a lack of appropriate instruction for English learners. Some English learners will be identified through a systematic process, as having a disability or multiple disabilities and will need special education services. It is through a clear system of tiered supports and pre-referral processes that it can be ascertained if they will need these services.

The Student Study Team (SST) is designed to offer immediate assistance and suggestions for teachers, parents and support staff for an individual student who is not making progress or who is exhibiting various types of problems in the classroom and/or school. Through effective utilization of this team, many identification errors can be avoided. The Student Study Team serves as a group of professionals and parents, who will discuss pupil strengths and concerns, as well as possible interventions.

#### **3.4. A. SST Team Members**

Members of the team may include the following:

- At least one regular education teacher
- Bilingual personnel /English Learner specialist
- Principal or administrator
- Parent
- Special education specialist
- School psychologist
- School nurse
- Counselor or specialist
- Speech/language pathologist
- Interpreters (as needed)
- Student (as appropriate)
- Others

#### **3.4. B. Student Study Team (SST) Responsibilities**

Referrals for special education assessment may be processed through the Student Study Team. The SST will review the student's strengths, concerns, prior interventions and modifications that have been considered, and/or utilized. The results of the interventions will be documented. A plan will be developed, listing additional interventions, and the

individuals responsible for implementing them with a follow-up date to review the pupil's progress.

Assessing an English learner for a disability does not require a waiting period for English language skills to develop. Instead, districts should analyze data from a thorough review of all factors providing a clear picture to the SST as to whether a referral to special education is appropriate. Possible appropriate reasons for referral of an English learner for special education assessment include the following:

- The English learner student is exhibiting academic or behavioral difficulties in both the primary and English language.
- Both the general education teacher and the English learner specialist indicate the English learner student is performing differently from his "like peers."
- The English learner student displays very little or no academic progress resulting from appropriate differentiated instructional strategies and intensive interventions.
- Parents confirm that academic or behavioral difficulties seen in the school setting occur at home.
- School personnel such as tutors, English learner specialists, and interventionists confirm the academic or behavioral difficulties seen in the classroom setting.

The SST then engages in a thorough analysis of the data and seeks input from various team members including the student (if age appropriate), parents, teachers, English learner support staff, intervention staff, and administrators to make appropriate next-step recommendations. To make appropriate recommendations, it is important for the SST to be aware of the three categories of English learners who may experience academic difficulties:

1. Those who receive inadequate instruction or learning in their teaching or learning environment and/or lack effective ELD instruction and support
2. Those experiencing academic difficulties not related to a learning disability: interrupted schooling, limited formal education, medical problems, low attendance, high mobility, or other factors
3. English learners who truly have a disability and need special education services

It is strongly recommended that SST members have an extensive depth and breadth of knowledge about English language development and also understand the characteristics of disabilities. It is also a recommended best practice that all educators be knowledgeable in primary and English language development principles and culturally responsive methodology and consult with specialists who are trained in discerning

cultural and linguistic differences from disabilities to ensure appropriate instruction and support for English learner students.

When a student who is an English learner is referred to the school site's SST, the first step is to gather information regarding the specific difficulty the student is experiencing. The second step is to look at why the student is having this difficulty. When gathering information about the specific difficulty an English learner is experiencing, there may be a tendency to describe general performance behaviors, such as, "The student is not making progress," "The student is below grade level," "The student is having problems reading," etc. Statements such as these do not describe the specific difficulty that has been observed, which then makes it difficult to design appropriate interventions. In addition, not knowing the specific difficulty an English learner is experiencing makes it a challenge to determine if the perceived weakness is due to extrinsic factors (e.g. inappropriate instruction, normal process of second language acquisition, lack of formal education, etc.) or a possible intrinsic factor (such as a learning disability, language disorder, etc.)

When describing the specific difficulty the English learner is experiencing, the difficulty needs to be measurable and observable. In addition, data must be collected about the identified difficulty across different contexts (such as different subject areas), in different environments (such as home and school), and in both the primary language and English.

After identifying what specific difficulty the student is experiencing, the next step is to find out why the student is having this difficulty. If an English learner is experiencing difficulties only in English, but not in the primary language, then the problem may be due to English language acquisition rather than an intrinsic disability.

To make the most informed decision about when to refer an English learner for assessment to determine whether the student qualifies for special education or continuing current interventions, it is recommended that the SST consider multiple factors including:

- The school environment including classroom instruction in the core curriculum, designated and integrated ELD instruction, and the classroom interventions that have been provided (ELD instruction is not an intervention and is part of the required core curriculum);
- English language acquisition level including an investigation of the student's current English language capacity in the classroom;
- Identifying the differences between English language acquisition delays and delays related to a potential disability;
- Investigating the cumulative file to identify current language levels in English and the student's primary language, current and previous interventions, and other important factors such as attendance, grades, and other medical factors;

- Investigating extrinsic factors that may affect an English learner's academic progress, including interrupted schooling, limited education in the past, medical problems, homelessness, mobility, and other factors that might impact learning; and
- Reviewing previous interventions and intervention data, that informs how the student responded to the interventions, in order to determine if the student made enough progress to eventually close achievement gaps.

Additional information can be found in the [CA Practitioners' Guide for Educating English Learners with Disabilities](#), Section 2, Chapter 3.

For a specific comparison of Language Differences versus Disabilities, refer to figure 3.3 in the CA Practitioners' Guide for Educating English Learners with Disabilities, also located at the End of this Chapter in Appendices.

### 3.5 ASSESSMENT PROCEDURES FOR ENGLISH LEARNERS

In addition to the processes/procedures outlined in the chapters below, there are additional considerations for English Learners that we will address in this chapter.

SELPA Handbook:

- [Chapter 1, Identification, Referral and Assessment](#)
- [Chapter 6, Special Education Eligibility Criteria and IEP Planning Guidelines](#)
- [Chapter 7, Individualized Education Programs \(IEP\) and Special Education Programs and Related Services](#)

Although not required by IDEA, the Office of Special Education Programs (OSEP) gave guidance citing that it is important for IEP teams for English learners with disabilities to include persons with expertise in English language development and other professionals, such as speech-language pathologists, who understand how to differentiate between limited English proficiency and a disability. The participation of these individuals on the IEP team is highly recommended in order to develop appropriate academic and functional goals for the child and provide specially designed instruction and the necessary related services to meet these goals.

To ensure parent participation, the LEA must meet the requirement stated in EC 56341.5(i) (accessible at: <https://bit.ly/2GppTpv>) stating that the LEA shall take any action necessary to ensure that the parent understands the proceedings at the IEP team meeting including arranging for an interpreter for a parent whose native language is other than English.

Special assessment requirements for students whose primary language is other than English are included in this section.

#### 3.5. A. Components of the Evaluation Process

Assessment requirements important to English learners include the following:

- Informed consent from the child's parent or guardian must be secured by the LEA prior to conducting any assessment (refer to the following section on assessment plan for more information regarding the consent requirement as it relates to assessment)
- Testing and assessment materials and procedures used for the purposes of assessment and placement of an individual with exceptional needs are selected and administered so as to not be racially, culturally, or sexually discriminatory (EC 56320[a])
- Testing and assessment materials and procedures shall be provided in the student's primary language or mode of communication, unless it is clearly not feasible to do so (EC 56320[a])

Tests and other assessment materials for the special education evaluation must meet the following requirements:

- Are provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer (EC 56320[b][1])
- Are used for the purposes for which the assessments or measures are valid and reliable (EC 56320[b][2])
- Are administered by trained and knowledgeable personnel and are administered in accordance with any instructions provided by the producer of the assessments, except that the individually administered tests of intellectual or emotional functioning shall be administered by a credentialed school psychologist (EC 56320[b][3])
- Include those tailored to assess specific areas of educational need and not merely those that are designed to provide single general intelligence quotient (EC 56320[c])
- Are selected and administered to best ensure that when administered to a pupil with impaired sensory, manual, or speaking skills produce test results that accurately reflect the student's aptitude, achievement level, or any other factors the test purports to measure and not the student's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure (EC 56320[d])
- No single measure or assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate educational program for the pupil (EC 56320[e])
- The pupil is assessed in all areas related to the suspected disability including, if appropriate, health and development, vision, including low vision, hearing, motor abilities, language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. A developmental history shall be obtained, when appropriate (EC 56320[f]) California Code of Regulations has specific language and additional requirements for assessment plans for students who are English learners:
  - In addition to the assessment plan requirements (EC 56321) , the proposed written assessment plan shall include a description of any recent assessments conducted, including any available independent assessments and any assessment information the parent requests to be considered, and information indicating the pupil's primary

language and the pupil's language proficiency in the primary language as determined by EC 52164.1 (accessible at: <https://bit.ly/2UYLRHY>) and 5 CCR 3022 (accessible at: <https://bit.ly/2IBLMDm>).

The following requirements apply in conducting assessments for eligibility and for reassessments:

- In addition to the requirements in EC 56320 (accessible at: <https://bit.ly/2V1FROH>) and 56381 (accessible at: <https://bit.ly/2IpV9qy>), assessments and reassessments 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 is clearly not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity of the assessment may have been affected (5 CCR 3023[a]) (accessible at: <https://bit.ly/2ICd2BI>).
- The normal process of English language development, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a disabling condition (5 CCR 3023[b]) (accessible at: <https://bit.ly/2ICd2BI>).
- The Legislature's intent is for procedures and materials for assessment and placement of individuals with exceptional needs to be selected and administered so as to not be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining the placement of a pupil. The procedures and materials for use with English learners, as defined in subdivision (m) of EC 52163 (accessible at: <https://bit.ly/2MNwq2v>) and in paragraph (18) of 20 U.S.C. 1401 (accessible at: <https://bit.ly/2GIE910>), shall be in the individual's native language, as defined in paragraph (20) of 20 U.S.C. 1401 (accessible at: <https://bit.ly/2GIE910>).
- All assessment materials and procedures shall be selected and administered pursuant to EC 56320 (accessible at: <https://bit.ly/2V1FROH>).

### **3.5. B. Considerations regarding Language of Assessment**

Multidisciplinary team members assessing English learners determine, through multiple measures, which language used during assessment will produce the most reliable result. They review and evaluate the English interpersonal communication skills (or document the current results of the ELP statewide assessment such as ELPAC and include data from formal and informal assessments that measure the literacy-related aspects of language to determine the best language for assessment. For example, team members informally assess the language development of English learners by analyzing the student's ability to understand teacher-talk or reading comprehension through re-tell assessments. Unless these skills are analyzed and measured, teachers may attribute low achievement to learning disabilities when they may, in fact, be related to lack of academic language proficiency.

### **3.5.C Determining a Student's Primary Language**



To determine a student's primary language, the following federal definition (34 CFR 300.29) (accessible at: <https://bit.ly/2KLEq2Q>) provides: "The language normally used by that individual, or in the case of a child, the language normally used by the parents of the child. In all direct contact with a child, the language normally used by the child in the home or learning environment. In accordance with the 5 CCR 3001(q) (accessible at: <https://bit.ly/2IBU8La>), 'primary language' means the language other than English, or other mode of communication, the person first learned, or the language that is used in the person's home."

Assessing in the student's primary language provides comparative data to the multidisciplinary team about how the student performs in the primary language versus English. Primary language assessment provides the assessor (psychologist, speech and language specialist, special educator, etc.) the opportunity to see if similar error patterns appear in both the primary 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. It is especially important that the school psychologist begin the assessment process of an English learner by assessing the student's cognition in both English and the primary language to determine if the student is cognitively higher in his primary language.

To determine the child's primary language, the following best practices can guide bilingual assessment decisions:

- An assessor fluent in both languages should determine the student's relevant strengths and weaknesses in their primary language and English to guide the assessment team regarding the types of assessment the team will perform by using like instruments in primary language and English when available. This helps to provide a more comprehensive view of what the student knows and can do.
- 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 English language development and assessment.
- The assessment reports should clearly document the decisions made regarding the language modality in which to assess.

### **3.5.D. Determining Language of Assessment**

Many English learners have been educated overwhelmingly in English since kindergarten or upon entry in school and have received little to no formal academic instruction in their primary language. Whether to assess English learners in their primary language if they have had no academic instruction in that language is a question brought up frequently by student study teams. Knowing that a student is processing cognitively at a higher level in his primary language is highly relevant information prior to engaging in academic assessment. If an English learner is processing higher in his primary language, some level of academic assessment should be

conducted to determine if the student has any academic skills in his primary language (this may be done informally). For instance, an English learner may have higher levels of verbal/oral language in his primary language than in English, and oral language is one area of academic consideration.

It is necessary to review existing procedures and their applicability for appropriate identification and instructional planning. Appropriate standardized tests are often not available in all languages. A broader variety of methods are necessary to obtain the information needed to determine if the referred student is, in fact, an individual with a disability.

Assessors should also address sociocultural factors as part of the preliminary assessment process. The following four sources of information may help address sociocultural factors related to English learners:

1. Norm-referenced assessments in English and the student's primary language (if primary language assessments are available) used to compare a student's progress to others in their peer group. This group may contain students in the same grade across the nation or other categories such as special education, disability status, English learners, gifted students, and more. Many assessments are not normed with a population of English learners and therefore may carry biases.
2. Criterion-referenced tests measuring a student's performance based on mastery of specific sets of skills. These tests measure what the student knows and does not know at the time of the assessment. The student's performance is not compared to other students' performances on the same assessment. The California Assessment of Student Performance and Progress (CAASPP) is a criterion-referenced measure as it determines mastery of the California Common Core State Standards.
3. Systematic observation in educational environments using observation tools that focus on the child's response to effective practices for English learners including explicit teaching, systematic ELD instruction that is both integrated and designated, explicit instruction of literacy components, and opportunities for developing English vocabulary and language skills.
4. Structured interviews (with student, parent, teachers, etc.) that include information from the student on the language that best helps her learn, from parent's information on language development in the home and in comparison to peers and, from teachers, information on language usage in the classroom.

### **3.5. E. Recommended Use of Interpreters for Bilingual Assessments**

Ideally, when choosing an interpreter for special education assessment, the interpreter is a professional who is trained in the role of interpreter and translator and is

knowledgeable of special education policy and processes. Even if the interpreter is a trained professional, the assessment for each English learner is different, so it is important to prepare the interpreter prior to the assessment.

To prepare the interpreter, best practice suggests that the assessor and interpreter:

- Know what tests are being administered;
- Are prepared for the assessment to take extra time;
- Ensure that the interpreter speaks the same dialect as the student; and
- Administer only the tests that the interpreter has been trained to assist in administering.

To prepare for the assessment, the team member and the interpreter together should meet to discuss the general purpose of the assessment session. The following steps will help the session provide valid and reliable test results:

- Describe to the interpreter the assessment instruments that will be administered.
- Provide the interpreter with information about the student.
- Review English test behavior with the interpreter, if applicable.
- Remind the interpreter to make a written note of all the behaviors she observes during the assessment.
- Allow time for the interpreter to organize materials, re-read the test procedures, and ask for clarification if needed.
- Remind the interpreter that she will need to follow the exact protocol of the test (e.g., whether she can repeat a question, cue, etc.).

The following suggestions for debriefing with the interpreter will provide invaluable information about the assessment:

- Ask the interpreter to review each test response without making clinical judgment.
- Review any difficulties relative to the testing process.
- Review any difficulties relative to the interpretation process.
- Review any other items relevant to the assessment process

Based on the requirements in the regulations to assess students in their primary language, the following hierarchy of best practices is recommended when conducting assessment of English learners to determine eligibility for special education.

**1. First Best Option—It is best practice to engage in the following steps if feasible:**

- First administer cross-cultural, non-discriminatory assessments that align to the referral concerns regardless of language difference in a standardized manner in English. If analysis of the data indicates the student is performing in the average or above-average range, there is likely no disability; however, assess the student in her primary language in relative or suspected areas of weakness to confirm scores using fully bilingual assessors. If the student does not perform in the average or above-average range in English, engage in primary language assessment in all areas of concern.

- Engage in structured interviews with parents and staff.
- Engage in observation of the student in varied environments.
- Collect data from curriculum-based and criterion-based assessment measures to validate potential areas of concern and strength as compared to like peers.

**2. Second Option—If it is not feasible to engage in the first best assessment option for English learners because no assessor is available in the primary language:**

- Engage in structured interviews with parents and staff using an interpreter if necessary.
- Engage in observation of the student in varied environments.
- Collect data from curriculum-based and criterion-based assessment measures to validate potential areas of concern and strength as compared to like peers.
- Using a trained interpreter, administer the primary language assessments under the supervision of a licensed assessor and document the limitations in the assessment report of the student.

**3. Third Option—If it is not feasible to engage in either the first or second option for assessing English learners for determining eligibility for special education because no bilingual assessor is available and no standardized assessment tools are available in the primary language:**

- Engage in structured interviews with parents and staff using an interpreter if necessary.
- Engage in observation of the student in varied environments.
- Collect data from curriculum-based and criterion-based assessment measures to validate potential areas of concern and strengths as compared to like peers.
- Use an interpreter who speaks the primary language to provide an oral translation of assessments normed and written in English. Be sure to document any limitations due to this condition in the assessment report and do not report the standardized test scores, but document the patterns of strengths and weaknesses.

**4. Fourth Option—If none of the previous three options is feasible:**

- Engage in structured interviews with parents and staff using an interpreter if necessary.
- Engage in observation of the student in varied environments.
- Collect data from curriculum-based and criterion-based assessment measures to validate potential areas of concern and strengths as compared to like peers.
- Assess in English, to include non-verbal areas of cognition. If the student shows low cognition or there are patterns of weakness, attempt to validate with non- standardized data collection.

In addition to these minimum requirements, it is best practice for assessment reports for English learner students to include the following documentation:

- Impact of language, cultural, environmental, and economic factors in learning

- How standardized tests and techniques were altered
- Use of interpreters, translations for tests; include a statement of validity and reliability related to their use: and
- Examiner’s level of language proficiency in the language of the student and the effect on test results and overall assessment.

More information and forms can be found in [Section 2, Chapter 4 of the CA Guide for Educating EL with Disabilities](#)

### 3.6 DETERMINING INSTRUCTIONAL PROGRAMMING IN THE LEAST RESTRICTIVE ENVIRONMENT

All students in need of special education and related services, including students identified as English learners, are to be served under the requirements of current state and federal law.

Districts need to offer appropriate resources to ensure that each English learner with a disability receives appropriate *educational and linguistic opportunities in the least restrictive environment*. A full continuum of program options will be available to each student with a disability. To the maximum extent appropriate, children with disabilities are educated with their typically developing peers.

It is up to the IEP team to determine if the student can be provided instruction, including ELD, in a general education classroom employing supports, accommodations, modifications, and related services. The IEP must include “an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and [extracurricular and other nonacademic activities]” (34 CFR 300.320[a][5]) (accessible at: <https://bit.ly/2UmfOgz>).

This continuum may look different from school to school based on the needs of students in that school, or the programming in the district.

Some options could include:

- *Regular Classroom (may also be a multilingual setting)*: This is a general education classroom with minimal IEP supports. This may include grade checks or progress checks from the general education teacher. Instruction with minimal support and accommodations are provided by the general education teacher with some face to face contact between the student and special education teacher. Integrated ELD is provided during content instruction, and an English learner authorized teacher or English learner specialist (or both) provide designated ELD instruction.
- *Regular Classroom with Consultation*: This is a general education classroom with support from the special education teacher. This level of special education entails the

special education teacher providing instructional materials and planning support to the general education teacher—for accommodations and adaptations of materials to support the students. Designated and integrated ELD is provided by the general education teacher and/ or the English learner specialist.

- *Regular Education Classroom with In-Class Special Education Supports:* This level involves methods such as co-teaching or paraprofessional support in a general education class, often referred to as push-in supports. Integrated ELD can be provided by both the general education and the special education teachers collaboratively in the general education classroom, and the student will receive designated ELD from an English learner specialist or classroom teacher.
- *Special Education Resource Room:* This level involves pull-out for special education instruction in addition to the grade-level instruction and ELD instruction. ELD is integrated into the specially designed content instruction. Students may also receive designated ELD from the ELD specialist. Resource pull-out or an additional resource supplemental special education class is a direct instruction class designed to support the student in meeting her IEP goals.
- *Special Day Class:* In this case, a student spends the majority of his day receiving special education instruction in the core content areas from a special education teacher (including designated and integrated ELD). The student is integrated with his peers in the general education classroom whenever appropriate while receiving integrated ELD for the time he is instructed in a content area.
- *Residential School:* A student who attends a residential school receives special education services in a therapeutic manner in a full-time setting. An English learner with a disability in this setting must also have access to integrated and designated ELD in the manner that best meets her learning strengths and needs.
- *Home or Hospital Instruction:* A student who is too ill or has disabilities that keep them from attending school for long periods of time, receives special education supports and related services, including related services in the home or hospital. The student must also receive integrated ELD and designated ELD as prescribed by the IEP based on his proficiency level, needs, and goals.

### **3.6. A. Specific Program Options for English Learners**

There are three different types of programs for English learners. All programs include daily Designated English Language Development (D-ELD) and Integrated ELD instruction along with self-image and cross-cultural instruction that is integrated throughout the subject area. Each program focuses on the development of speaking, listening, reading, and writing skills to develop second language literacy in English.

*Integrated ELD:* “Integrated English Language Development” means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English (5 CCR 11300[c]).

*Designated ELD:* “Designated English Language Development” means instruction provided during a time set aside in the regular school day for focused instruction on the state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English (5 CCR 11300[a]).

It is critical that California’s English learners experience well-planned, rigorous instruction that integrates English language development and content learning on a daily basis in all content areas. Access to a broad content curriculum with a strong focus on accelerating their academic English language development will afford English learners maximum opportunity to be successful in school.

All educators share the responsibility of monitoring the ELD progress of English learners with disabilities. Effective and accurate monitoring of ELD progress depends on a well-designed assessment system that includes the use of CA ELD Standards-aligned formative assessment processes, periodic assessments, and an annual summative assessment. Each ELD standard provides outcome expectations with observable behaviors at three different English language proficiency levels (Emerging, Expanding, Bridging). Because the CA ELD Standards delineate proficiency levels that English learner students are expected to progress through during the year (and in fact, they may progress through more than one level in a single school year), teachers must know the CA ELD Standards well and carefully attend to the ELD progress of their English learner students on a frequent and ongoing basis.

California Practitioners’ Guide for Educating English Learners with Disabilities section 1 Chapter 2: Supports for English Learners within the Multi-Tiered System of Supports Framework Figure 2.7 outlines the critical principles of the CA ELD Standards, which help teachers to focus their attention on supporting English learners in three areas of ELD: interacting in meaningful ways, learning about how English works, and using foundational literacy skills. Below is a list of programs offered along with a brief summary of possible components for each program.

### **Structured English Immersion**

- a. Reading taught in English
- b. Core curriculum taught in English
- c. Some Specially Designed Academic Instruction in English (SDAIE) may be used to help with understanding

- d. Daily Designated English Language Development (ELD) instruction and Integrated English Language Development for all content areas.
- e. Self-image and cross-cultural instruction is integrated throughout subject areas
- f. May include some primary language support to help with understanding

### **English Mainstream**

- a. Reading taught in English
- b. Core curriculum taught in English
- c. Some Specially Designed Academic Instruction in English (SDAIE) may be used to help understanding
- d. Daily Designated English Language Development (ELD) instruction and Integrated English Language Development for all content areas
- e. Self-image and cross-cultural instruction is integrated throughout subject areas

### **Multilingual Programs**

Parents of English learners with disabilities have the right to request that their child be enrolled in a multilingual program. The following descriptions of multilingual programs are provided to parents. All multilingual programs include Daily Designated English Language Development (ELD) instruction and Integrated English Language Development, as well as primary language instruction in reading and other core subjects.

- **Dual-Language Immersion (DLI) Program** (also referred to as Two-Way Immersion): A language acquisition program that provides language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, primary and English language proficiency, and cross-cultural understanding. This program begins in transitional kindergarten or kindergarten (TK/K) and continues to fifth grade and beyond

- **Transitional Bilingual Program:** A language acquisition program for English learners that provides instruction using English and a pupil's native language for literacy and academic instruction, enabling an English learner to achieve English proficiency and meet state adopted academic achievement goals. This program begins in TK/K and continues to third grade where students transition to instruction all in English.

- **Developmental Bilingual Program:** Language acquisition program for English learners that provides instruction using English and a pupil's native language for literacy and academic instruction, enabling an English learner to achieve language proficiency and meet state academic achievement goals. This program begins in TK/K and continues to sixth grade or beyond with the goal of biliteracy.

- **Heritage Language Program:** Language acquisition program for English learners that provides instruction using English and a pupil's native language for literacy and academic instruction, enabling non-English speakers or students who have weak literacy skills in their native language to achieve language proficiency and meet academic achievement goals. This program is designed for grade spans six through eight and nine through twelve.



Students may receive primary language support and/or language development services in any of the above program options, when determined appropriate by the IEP team.

### **3.7 IEP DEVELOPMENT FOR ENGLISH LEARNERS WITH DISABILITIES**

As with the identification of English learners with disabilities, the development of IEPs should be a collaborative effort between educators who have expertise in providing special education and related services and English language acquisition. The IEP must determine and develop “for individuals whose native language is other than English, linguistically appropriate goals, objectives, programs, and services” (EC 56345[A][2]) (accessible at: <https://bit.ly/2UEfW0f>). Researchers also point out that the IEP team must develop IEP goals that are linguistically appropriate to ensure that English learners’ language proficiency needs are integrated in their special education services. It is also recommended that all members of the IEP team thoroughly understand the needs of English learners and English language development (ELD) to facilitate more meaningful collaboration in developing a linguistically appropriate IEP. It may be beneficial for all members of the IEP team to be trained on culturally and linguistically responsive interventions and services. To be culturally and linguistically responsive to families and to encourage family engagement, the Council of Chief State School Officers (CCSSO) has identified helpful approaches for local educational agencies (LEAs) to use to ensure that parents are informed about the IEP process and fully participate as members of the IEP team. Strategies to Support Active Parent Engagement (accessible at: <https://bit.ly/2IqnPzO>) identifies recommended strategies to support parents’ active engagement as IEP team members.

#### **3.7.A Parent Participation**

To ensure that parents are able to participate meaningfully in the IEP meeting, California Education Code requires that “parents or guardians shall be notified of the individualized education program meeting early enough to ensure an opportunity to attend” (EC 56341.5[b]) (accessible at: <https://bit.ly/2GppTpv>) and that the “meeting shall be scheduled at a mutually agreed-upon time and place.” In addition, the notice of the IEP meeting “shall indicate the purpose, time, and location of the meeting and who shall be in attendance. Parents or guardians also shall be informed in the notice of the right to bring other people to the meeting who have knowledge or special expertise regarding the individual with exceptional needs” (EC 56341.5[c]) (accessible at: <https://bit.ly/2GppTpv>).

At the IEP meeting, the “local educational agency shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English” (EC 56341.5[i]) (accessible at: <https://bit.ly/2GppTpv>). In addition, it is a suggested practice that LEAs ensure that

parents understand the proceedings of the IEP meeting by providing reports ahead of time, providing an agenda for the meeting, and providing a copy of parent's due process rights in their primary language when possible. The LEA shall give the parent a copy of the IEP in his or her primary language at his or her request (5 CCR 3040[a]) (accessible at: <https://bit.ly/2UohkyO>).

The parent may also record or request a recording of the meeting: "The parent or guardian or local educational agency shall notify the members of the individualized education program team of his, her, or its intent to audio record a meeting at least 24 hours prior to the meeting" (EC 56341.1[g][1]) (accessible at: <https://bit.ly/2UirlxH>). Meetings must be scheduled at a time that is convenient for families, and other methods to ensure parent participation (if the parent cannot attend the IEP team meeting) must be provided if needed (EC 56341.5) (accessible at: <https://bit.ly/2GppTpv>). Families can find information on the IEP process at the Center for Parent and Information Resources which is accessible at: <https://bit.ly/2QIHORh>.

IEP Teams should ensure that:

- IEPs include linguistically appropriate goals and objectives, including when necessary, use of the student's primary language;
- Necessary documentation and translation services are provided to parents as needed; and
- Teachers providing the students the district's core curriculum are appropriately certified, including CLAD/BCLAD
- ELP Assessment: Make decisions about whether the student takes the English language proficiency (ELP) assessment (ELPAC) with or without appropriate accommodations, or a locally provided alternate assessment in lieu of the ELPAC (only for students with severe cognitive disabilities). When the Alternate ELPAC is operational, LEAs will no longer locally determine an alternate assessment as all students identified as eligible for an alternate assessment, per their IEP, will take the Alternate ELPAC.
- IEP Contents: Ensure the content of the IEP for an English learner addresses the student's language acquisition needs.
- It is an obligation of the IEP team to determine what the language of instruction is in the student's core curriculum. The IEP team determines if instruction will be in English or the student's primary language. This should be based on the student's needs relative to her language acquisition as well as parental preference. It is recommended that IEP teams also indicate who (by title, such as general education or special education teacher) will provide the

student's English language development instruction. Integrated ELD could be provided by special education teachers through a collaboration model in general education as all instruction is aligned to the California Common Core State Standards (CCSS) and the CA ELD Standards.

- Determine appropriate services, supports, accommodation, and modifications for classroom instruction, classroom tests, and other assessments, such as: Using the CDE's matrices for CAASPP and ELPAC accessibility resources.
- The IEP should document the type of language acquisition program the student will be provided to ensure she continues to receive appropriate English learner services after she becomes eligible and starts receiving special education services.

Other requirements include:

- Qualified teachers, including CLAD/BCLAD
- Sufficient and appropriate basic and supplemental resources to ensure access to the district's core curriculum.
- When possible, translation of required parent notifications/documents, including IEP parent rights to inform and involve parents of EL students, and translation services as required by state and federal laws.
- Opportunities for parents to become members of the district and/or school advisory committees.

### 3.8 LINGUISTICALLY APPROPRIATE GOALS, OBJECTIVES, AND PROGRAMS

CCR, Title 5, Section 3001 (s): "Linguistically appropriate goals, objectives, and programs means those activities which lead to the development of English language proficiency; and those instructional systems either at the elementary or secondary level which meet the language development needs of the limited English language learner. For individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under Education Code section 311(c), including a program provided in the individual's primary language, provided that the IEP team periodically, but not less than annually, reconsiders the individual's ability to receive instruction in the English language.

In the development of IEP goals, 5 CCR 3001(m) (accessible at: <https://bit.ly/2IBU8La>) identifies "linguistically appropriate goals, objectives, and programs" to mean:

- Activities which lead to the development of English language proficiency;
- Instructional systems either at the elementary or secondary level which meet the language development needs of the English learner; and
- For individuals whose primary language is other than English, and whose 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 a language acquisition 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.

IEP teams might find the following resources helpful in writing linguistically appropriate goals:

- The main CDE web page for standards-aligned IEPs which is accessible at: <https://bit.ly/2XjIs3R>
- A seven-step process for creating standards-based IEPs from the National Associate of State Directors of Special Education (NASDSE) is accessible at: <http://bit.ly/2Ls4bpo> (While not specific to English learners, the process described can be modified to meet the needs of English learners.)

In California, it is recommended that linguistically appropriate goals be aligned to the California English Language Development Standards. The California English Language Development Standards are available for downloading at <https://www.cde.ca.gov/sp/el/er/eldstandards.asp>.

The CDE EL Standards Book further clarifies that “students who enter California schools in those grade levels not literate in their primary language need to be taught the ELD literacy standards for earlier grade levels, including those standards related to phonemic awareness, concepts of print and decoding skills.” Guidance on providing appropriate instruction can be found in the California ELD Standards, Part III for each grade and in Chapter 6, with consideration of the following categories of students:

- Kindergarten – Grade 2
- Grades 3 – 12, literate in their primary language
- Grades 3 – 12, not literate in their primary language

For more information related to Developing an IEP for English Learners and developing linguistically appropriate goals, please see [Chapter 5 of the CA Practitioners Guide for Educating EL with Disabilities](#).

### 3.9 IEP CONSIDERATIONS FOR ENGLISH LEARNERS

Linguistically appropriate goals and objectives have the following characteristics:

- They are appropriate for the cognitive level of the student.
- They are appropriate for the linguistic level of the student.

- They match the developmental level of the student’s primary (L1) or secondary (L2) language.
- They match the student’s general education transition criteria and re-designation policy.

### **3.9.A. Linguistic and Cultural Considerations**

Culturally appropriate goals and objectives have the following characteristics:

- They access the student’s prior knowledge and experiences.
- They incorporate culturally relevant materials and experiences.
- They affirm the student’s cultural heritage.

### **3.9.B 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. Determine appropriate services, supports, accommodation, and modifications for classroom instruction, classroom tests, and other assessments, using the CDE’s matrices for CAASPP and ELPAC accessibility resources.

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 aid 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
- Alternative testing formats such as use of visuals, drawings, etc.

### **3.9.C. IEP Checklists for English Learners**

- ☐ The IEP indicates if the student is classified as an English learner
- ☐ 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 alternative assessment scores/levels)
- ☐ The IEP indicates if the student is going to take ELPAC or requires an alternate assessment to ELPAC and, if so, what will be the alternate assessment utilized

- ☐ The IEP indicates which testing accommodations or modifications the student may utilize for ELPAC
- ☐ The IEP indicates how English language development (ELD) 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

Note: Linguistically appropriate goals should align to the student's assessed level on the ELPAC (or designated alternate assessment) and the CDE English Language Development (ELD) Standards. IEP Team Reminders and Checklist for English Learners

In preparing for the IEP [meeting] it is suggested that local educational agencies and districts:

- Include an IEP team member with English language development expertise who is knowledgeable about cultural competence and is able to interpret ELPAC results;
- Ensure that the parent or guardian understands and participates in the IEP team meeting, including arranging for an interpreter; and
- Ask the parent or guardian if they would like a written translation of the IEP document in their primary language (if feasible).

### **3.9.D IEP Content Reminders for English Learners**

It is recommended that the IEP team include the following content in the IEP:

- The present levels of performance (PLOP) - Identify the student as an English learner - Identify the language proficiency assessment used (ELPAC) and interpret results - Document the student's levels of performance in their primary language when feasible and in English
- The special factors considerations - Indicate if the student requires primary language support - Indicate the student's type of instructional program and language of instruction - Identify how English language development (ELD) instruction will be provided;
- The linguistically appropriate IEP goals (and objectives if the student's IEP goals are at the functional skills level)

[Appendix 5.1E of the California Practitioner's Guide for Educating English Learners with Disabilities \(p.461\) has an IEP Team Checklist For English Learners \(ELs\)](#)

### **3.9.E. Linguistically Appropriate Goals and Objectives (LAGOS)**

It is required that the IEP for an English Learner include linguistically appropriate goals (and objectives for students receiving a functional skills level curriculum) which lead to

the development of English language proficiency. 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 English language learners. For individuals whose primary language is other than English, and whose 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 English Learner in California, federal regulations require the IEP team to determine if the student is an English learner for purposes of the IEP and include linguistically appropriate goals and services.*

Linguistically appropriate IEP goals for ELs should:

- Be appropriate for the cognitive level of the student;
- Be appropriate for the linguistic level of the student;
- 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.

It may be beneficial for the IEP team to align a student's LAGOS to the California English Language Development Standards as appropriate based on assessed areas of language proficiency need and academic deficits related to the disability (Personal communication with staff at the CDE Special Education Division 12/2011).

The *California English Language Development Standards* are available for download at [www.cde.ca.gov/be/st/ss/index.asp](http://www.cde.ca.gov/be/st/ss/index.asp))

### **3.9.F. IEP Team Decisions Regarding English Language Proficiency Assessment**

To access a domain(s) of the ELPAC, the student may need to use approved universal tools, designated supports, and accommodations as identified in her IEP. The approved universal tools, designated supports, and accommodations may be found in CDE's accessibility resource matrix.

For a small number of English learners with an IEP, their disability may preclude them from being able to take one or more of the ELPAC domains. In such cases, an IEP team could consider that a disability exemption for an ELPAC domain may be most appropriate. Please refer to the CDE's ELPAC Portal (accessible at: <https://bit.ly/2Tw9I0J>) as a resource in making decisions regarding exempting students from taking an ELPAC domain.

The IEP team can also decide to assess the student using an alternate assessment (locally decided) for a given ELPAC domain. The use of an alternate assessment is reserved for English learners with the most significant cognitive disabilities.

- The IEP team makes decisions about how the student will access the ELPAC using universal supports, designated supports and accommodations (summarized in the following text) and identifies these in the IEP.
  - Universal tools are available to all students on the basis of student preference and selection. - Designated supports are available to all students when determined for use by an educator or team of educators with parent or guardian and student input as appropriate or as specified in the IEP or Section 504 plan.
  - Accommodations are provided to eligible students as specified in an IEP or Section 504 plan.
- The IEP team determines if a student's disability would preclude them from taking any or all domains of the ELPAC (with or without accommodations).
  - Refer to the CDE's ELPAC web page for administration guidance as a resource in making decisions regarding exempting students from taking an ELPAC domain.
- The IEP team will discuss the impact when a locally determined alternate assessment(s), for students with significant cognitive disability(s), is administered to the ELPAC.
- Students that take locally determined alternate assessments receive the Lowest Obtainable Scale Score (LOSS) on each domain affected. A LOSS can affect the overall score. The LOSS will be used for Title I accountability purposes.
  - Results from the ELPAC LOSS should not be used for instructional, initial designation, and reclassification decisions since the LOSS does not reflect the student's English proficiency level.



- When the statewide Alternate ELPAC is operational, students will receive overall scale scores based on alternate English language development standards.
- Complete CDE's California Alternate Assessment Participation Decision Worksheet, which can be found in SEIS.

#### **4.0 STATE ASSESSMENTS**

When making decisions regarding accommodations for students with disabilities on the statewide assessments such as the Smarter Balanced Summative Assessments, the California Science Test, the California Alternate Assessments (CAAs), and the California Spanish Assessment, the IEP team can refer to CDE's variety of accessibility resources. The CAASPP Student Accessibility Resources web page (accessible at: <https://bit.ly/2VLZkjs>) will help the IEP team identify the correct assessments for the student.

When making decisions regarding accommodation and accessibility for students with IEPs, levels of support are identified with universal tools, designated supports, and accommodations. Like the ELPAC, many embedded resources are available for the CAASPP as some of these assessments are administered digitally. These embedded resources that provide universal tools, designated supports, or accommodations include audio transcripts, braille, ASL, calculators, closed captioning, color contrast, digital notepads, English glossaries, expandable items and passages, global notes, and a wide variety of other options available through a digital format can be found on CDE's Matrix One: CAASPP System Accessibility Resources which is accessible at: <https://bit.ly/2GkUJhP>.

#### **4.1 EXITING FROM SPECIAL EDUCATION: ADDITIONAL ITEMS TO CONSIDER FOR EL STUDENTS**

Multiple data points must be considered when determining if exit from special education is appropriate for an English learner. English language proficiency is not a determining factor for the IEP team to withhold a special education exit decision. Not having attained English proficiency is not considered a disabling condition.

If a student who has a disability is an English learner, it does not mean that he needs to continue to receive special education services unless a disability continues to affect access to his education. Language proficiency data may be beneficial for the IEP team to review when making the decision regarding whether to exit a student from special education if the student's disability affects language development (i.e., the student manifests a disability in reading, writing, or oral language).

It is recommended that the IEP team review the student's English language proficiency data over the last two to three years, including:

- Data from the assessment of ELP using the English Language Proficiency Assessments for California (ELPAC);

- Teacher evaluation including curriculum-based measures and observation;
- Parental opinion and consultation;
- Student input;
- Comparison of performance of the student in basic skills based on the performance of English-proficient students of the same age (for students with intellectual disabilities it is most appropriate for the IEP team to compare the student to students at the same level of cognition); and
- Comparison of the student's progress in English language development to other English learners with similar disabilities or peers who have similar disabilities but are English speakers only.

It is best practice to evaluate the student, using both formal and informal assessment measures as well as curriculum-based data to determine if any skill deficits are due to the disability versus being related to the student's ongoing English language acquisition progress.

For the IEP team to make appropriate decisions regarding whether or not to exit a student (including a student who is an English learner) from special education, it is recommended to carefully review the following data sources:

- Progress monitoring data from interventions provided.
- Classroom formative assessments in academic areas affected by the disability.
- Schoolwide or districtwide benchmark assessment data over time.
- California Assessment of Student Performance and Progress (CAASPP) data over time.
- Teacher anecdotal classroom data, including data and input from the special education case manager.

Remember, it is not required that a student demonstrate proficiency in all areas on Smarter Balanced Assessment Consortium (SBAC) or ELPAC assessments, receive specific grades, and meet or exceed all standards in all areas; however, there should be sufficient evidence the student is making adequate progress toward achieving the grade-level standards and is making progress to pass to the next grade. Additionally, other key information for the IEP to review and consider prior to exiting a student from special education is to determine if the student has met her academic and functional IEP goals and objectives. To reiterate, the decision to exit a student from special education is a very individualized decision. Teams will consider varied sources of data, extrinsic factors, and parent and student input when making the decision.

## **4.2 RECLASSIFYING STUDENTS WITH DISABILITIES FROM EL STATUS**

Reclassification (or redesignation) is the process LEAs use to determine whether or not an English Learner has acquired sufficient English skills to successfully engage in classroom learning of the core academic curriculum taught in English, and to be accurately assessed in academic subject matter using English, without specialized

English learner services and supports. When English learner students demonstrate that they have acquired the necessary English skills to be academically successful without this specialized support, they are reclassified as fluent English proficient (RFEP). An English learner with a disability may be unable to meet a particular reclassification criterion due to the specific nature of his disability. For example, an English learner with dyslexia may continue to be classified as an English learner due to less than proficient ELPAC scores in reading. Additionally, under Title III of the ESSA, states must implement standardized, statewide English learner entrance and exit procedures and criteria. Proficiency level 4 on the Summative ELPAC will be used to consider reclassification. The remaining three criteria continue to be locally determined.

#### **4.2.A. Reclassification Criteria**

LEAs continue to use the following four criteria to establish local reclassification policies and procedures:

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.

The ELPAC Information Guide states that students with disabilities, including severe cognitive disabilities, are to be provided the same opportunities to be reclassified as students without disabilities. Local IEP teams, therefore, may determine appropriate measures of ELP and performance in basic skills and minimum levels of proficiency on these measures that would be equivalent to an English proficient peer with similar disabilities, in accordance with local reclassification policies based on the state definition of ELP (EC 313[f]) (accessible at: [https:// bit.ly/2VNknSS](https://bit.ly/2VNknSS)).

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.

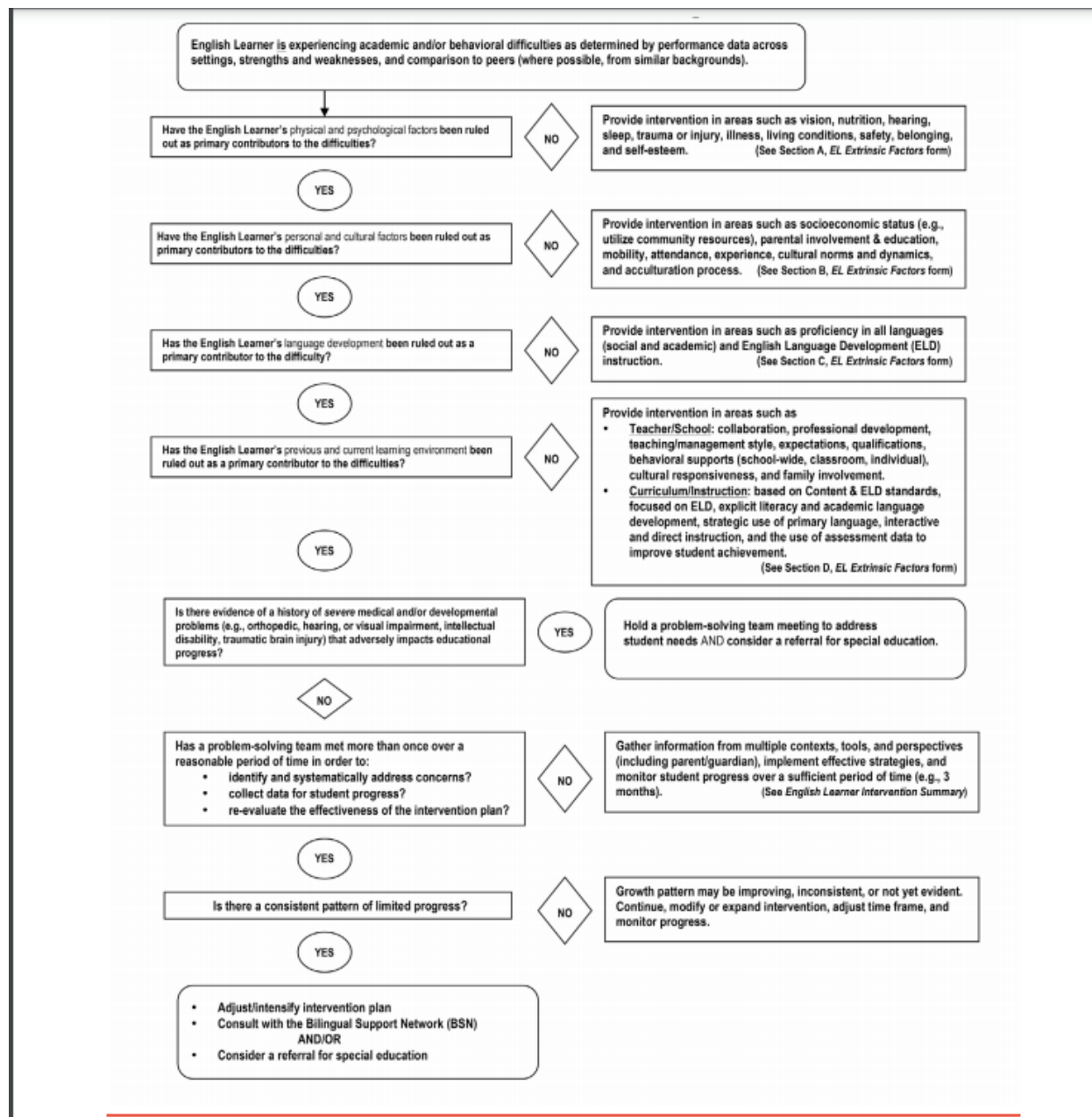
**4.2.B. Approaches/Processes for Reclassifying English Learners with Disabilities**

School-site and district educators determine the process for making reclassification decisions for all students, including English learners with disabilities. The IEP team may be designated, in accordance with local policy, to make reclassification decisions as long as team members utilize state reclassification criteria and apply those criteria to students with disabilities using state guidelines. An English learner specialist with specialized knowledge on second language acquisition is an important member of this team. While it is not required that the IEP team make reclassification decisions, best practice suggests the following collaborative and integrative approaches.

The IEP case manager reviews the student's performance data (i.e., progress made on linguistically appropriate IEP goals, current ELP levels, comparisons of student performance over time in areas of ELA compared to non-English learner peers with like disabilities, etc.) and brings that data to the IEP meeting. The IEP team then uses a "reclassification worksheet," or other methods for documenting information to assist the team in walking through the four reclassification criteria using the ELPAC Information Guide. The IEP team, including the parent(s)/guardian and the English learner specialist, then discuss whether or not to reclassify the student to RFEP status.

For information see [Chapter 9 of the CA Guide for Educating EL with Disabilities](#)

## APPENDIX A: INITIAL REFERRAL AND DECISION MAKING PROCESS



An accessible long description is available at <https://www.cde.ca.gov/sp/se/ac/ch3longdescriptions.asp#figure6>. Source: A. Gaviria, and T. Tipton, CEP-EL: A Comprehensive Evaluation Process for English Learners: A Process Manual (Accessed at: <https://bit.ly/2J3DOE8>) (San Diego: San Diego Unified School District, 2012, updated 2016).

**APPENDIX B: COMPARISON OF LANGUAGE DIFFERENCES VERSUS DISABILITIES****Oral Comprehension/Listening**

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

**Speaking/Oral Fluency**

<b>Learning Behaviors Manifested</b>	<b>Indicators of a Language Difference Due to Second-Language Acquisition</b>	<b>Indicator of Possible Learning Disability</b>
Student lacks verbal fluency (pauses, hesitates, omits words)	Student lacks vocabulary, sentence structure, and/or self-confidence	Speech is incomprehensible in L1 and L2; may be due to hearing or speech impairment
Student is unable to orally retell a story	Student does not comprehend story due to a limited understanding and background knowledge in English	Student has difficulty retelling a story or event in L1 and L2; may have memory or sequencing deficits

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Student does not orally respond to questions or does not speak much	Is still developing expressive language skills in English to effectively communicate ideas; may be comprehending more than can communicate	Student speaks little in L1 or L2; student may have a hearing impairment or processing deficit

### Phonemic Awareness/Reading

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Student does not remember letter sounds from one day to the next	Student will initially demonstrate difficulty remembering letter sounds in L2 since they differ from the letter sounds in L1, but with repeated practice over time will make progress	Student does not remember letter sounds after initial and follow-up instruction (even if they are common between L1 and L2); may be due to a visual or auditory memory or low cognition
Student is unable to blend letter sounds in order to decode words while reading connected text when appropriate instruction is provided, including ample practice	The letter sound errors may be related to L1 (for example, L1 may not have long and short vowel sounds); with explicit instruction, student will make progress over time	Student makes letter substitutions when decoding not related to L1; student cannot remember vowel sounds; student may be able to decode sounds in isolation, but is unable to blend the sounds to decode whole word; may be due to a processing or memory deficit
Student is unable to decode words correctly	Sound not in L1, so unable to pronounce word once decoded	Student consistently confuses letters and words that look alike; makes letter reversals, substitutions, and so on that are not related to L1; may be processing or memory deficit



**Reading Comprehension and Vocabulary**

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Student does not understand passage read, although may be able to read with fluency and accuracy	Lacks understanding and background knowledge of topic in L2; is unable to use contextual clues to assist with meaning; improvement seen over time as L2 proficiency increases	Student does not remember or comprehend what was read in L1 or L2 (only applicable if student has received instruction in L1); this does not improve over time; this may be due to a memory or processing deficit
Does not understand key words or phrases; poor comprehension	Is still developing vocabulary knowledge in English; improves over time	The student's difficulty with comprehension and vocabulary is seen in L1 and L2

**Writing**

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Errors made with punctuation and capitalization	The error patterns seen are consistent with the punctuation, capitalization, and print concept rules for L1; student's work tends to improve with appropriate instruction in English	Student consistently makes capitalization, punctuation, and print concept errors even after instruction or is inconsistent; this may be due to deficits in organization, memory or processing
Student has difficulty writing grammatically correct sentences	Student is still developing grammatical knowledge in English; student's syntax is reflective of writing patterns in L1; typical error patterns seen in second-language learners (verb tense, use of adverbs or adjectives); improves over time	The student makes more random errors such as word omissions, missing punctuation; grammar errors are not correct in L1 or L2; this may be due to a processing or memory deficit

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Student has difficulty generating a paragraph or writing essays but is able to express his ideas orally	Student is still developing writing skills in English even though he may have well-developed verbal skills; student makes progress over time and error patterns are similar to other English learners	The student seems to have difficulty paying attention or remembering previously learned information; the student may seem to have motor difficulties and avoids writing; student may have attention or memory deficits

### Spelling

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Student misspells words	Student will “borrow” sound from L1; progress seen over time as L2 proficiency increases	Student makes letter sequencing errors such as letter reversals that are not consistent with L1 spelling patterns; may be due to a processing deficit
Student spells words with letters that are sequenced incorrectly	Writing of words is reflective of English fluency level or cultural thought patterns; words may align to letter sounds or patterns of L1 (sight words may be spelled phonetically based on L1)	The student makes letter sequencing errors such as letter reversals that are not consistent with L1 spelling patterns; may be due to a processing deficit

**Mathematics**

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

**Handwriting**

Learning Behaviors Manifested	Indicators of a Language Difference Due to Second-Language Acquisition	Indicator of Possible Learning Disability
Student is unable to copy letters or words correctly	Lack of experience with writing the English alphabet	Student demonstrates difficulty copying visual material to include shapes, letters, and so on. This may be due to a visual or motor or visual memory deficit

**Behavior**

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

Source: Adapted from: J. Butterfield, G. Lopez, and L. Gonzalez, Meeting the Needs of English Learners with Disabilities Resource Book (Sacramento, CA: SELPA Administrators of California Association, 2017).