

Questions and Answers Regarding English Language Learners (ELLs) with Disabilities

Volume 10

1) What factors should be considered prior to referral for evaluation?

A: Local Education Agencies (LEAs) must ensure that the English as a Second Language (ESL) program is appropriate in terms of planned instruction for ESL and content per the *Basic Education Circular (BEC) 22 PA Code 4.26 Educating Students with Limited English Proficiency (LEP) Students and English Language Learners, Date of Issue July 1, 2001, Date of Review April 14, 2009*. As used here, the term program refers to:

- (1) Planned instruction by a qualified ESL/Bilingual teacher.
- (2) Adaptations/modifications in the delivery of content instruction by all teachers based on the student's language proficiency level and the Pennsylvania Language Proficiency Standards (PA ELPS) for ELLs as well as the Pennsylvania academic standards.

LEAs must ensure that their program is effective before referring the child for evaluation. Is there evidence that:

- ESL instruction is sufficient in quantity and quality?
- The core ESL instructional program is effective and aligned to the proficiency level of the student, and the English Language Proficiency Standards?
- Planned instruction in the content areas is delivered according to the English language proficiency level of the student and the English Language Proficiency Standards, and appropriate ESL-related adaptations/modifications are provided by content teachers?
- Collaboration exists between the ESL and content teachers?
- Instruction and home-school communication is culturally responsive?

2) Should an ESL teacher be a member of the IEP team for an ELL?

A: Yes. According to the Individualized Education Program (IEP) Team requirements, "At least one member should be an individual who can interpret the instructional implications of evaluation results...". ELLs receiving ESL instruction are administered the *ACCESS for ELLs* language proficiency assessment annually. Data from that assessment can inform instruction, support the development of IEP goals and inform the process of English Language acquisition as developmentally appropriate. ESL teacher input provides essential

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guidance to the IEP team related to the process of second language acquisition, parent communication, cultural responsiveness and reduction of a language barrier. The ESL teacher knows the student's strengths, needs and learning style, as well as the interpretations of the assessment results and present levels of performance. In addition, the ESL teacher may fulfill the IEP team member requirement of having a person: (1) with knowledge about general education curriculum (ESL programs and ESL instruction), (2) to interpret the instructional implications of evaluation results and (3) with knowledge or special expertise regarding the child.

- 3) **When an IEP team is developing the IEP for an ELL, can the team deviate from the “guidelines to consider when planning direct instruction” which are listed in BEC 22 PA Code 4.26?**

Entering (level 1)\Beginning (level 2): 2 hours

Developing (level 3): 1-2 hours

Expanding (level 4): 1 hour

Bridging (level 5): up to 1 hour of support dictated by student need

A: The times indicated on the BEC referenced above are guidelines for all ELLs. The determination of direct instruction time for a student with a disability is based on the student's English language proficiency level, the nature of the student's disability and the IEP team's decision based on those factors.

- 4) **Should an ESL student with a disability receive both ESL instruction and special education services? Who makes the decision regarding the instructional plan?**

A: Generally, yes. All ELLs who are eligible for special education may continue to receive ESL instruction at their appropriate English language proficiency and developmental levels. An English Language Proficiency assessment tool, *ACCESS for ELLs*, is administered to ELLs annually, and provides information regarding the progress of language acquisition in the domains of listening, speaking, reading and writing. Based on this data, the IEP team determines how ESL instruction and Special Education services, can be coordinated and delivered to meet the students' individual needs. Based on these individual needs, ESL instruction could range from full inclusion to consultative support. Programs must collaborate to ensure that both the language needs and special education requirements are met. Intermediate Units (IU) and school districts must address how ESL instruction will be provided for Limited English Proficient (LEP) students with IEPs in IU special programs.

- 5) **When evaluating (or reevaluating) ELL students with disabilities, should the ESL teacher be a member of the evaluation team? Should assessment data related to second language acquisition be part of the evaluation report?**

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A: Yes. The ESL teacher should be a member of the evaluation (reevaluation) team for an ELL. The assessment data, such as the data from classroom observations, progress monitoring and the results of formative and summative assessments, including data from the annual English language proficiency assessment *ACCESS for ELLs* should be discussed and be part of the evaluation. Reliance on IQ test data will rarely, if ever, be appropriate or lawful in determining special education eligibility for ELLs. In the absence of standardized assessments that are culturally and linguistically appropriate for and normed on ELLs, the evaluation team must consider multiple data sources (e.g., years in the United States, years of instruction in English, same level in the *W-APT*, etc.) Data related to second language acquisition process should be part of the present levels indicating how the student is performing in listening, speaking, reading and writing skills, and how they compare to other ELLs with similar profiles, as well as how they progress in relation to what is developmentally appropriate for their English language proficiency level, per the WIDA Can-do descriptors and the WIDA Summative Assessment Framework. Realizing that no single test will accurately represent the abilities of the student, given the language and cultural barriers, the expertise of an ESL teacher will be necessary to determine valid recommendations regarding evaluation/placement and on-going ESL instruction for ELLs.

6) Who decides the need for and amount of ESL services an ELL student with a disability receives?

A: All ELLs who are eligible for special education have the right to receive ESL instruction at their appropriate proficiency and developmental levels. The *ACCESS for ELLs* is administered to ELLs annually. Criteria from the assessment can be used to exit students from the ESL program. In terms of students with significant disabilities, the IEP team with the ESL teacher should make the decision whether the student is receiving a free appropriate public education (FAPE) in the ESL program, keeping in mind the student's needs and the appropriate placement to meet those needs. Data from multiple assessments, e.g., *ACCESS for ELLs*, *W-APT*, etc., will assist the IEP team in determining the level of intervention, from a few hours a day to consultative services.

7) What criteria are used when determining specific assessments for an ELL?

A: The student's English language proficiency level and years of instruction in English and other languages should be considered in determining the language of assessment. When selecting specific assessments for the evaluation of an ELL, the evaluation team must use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. In addition, each team must ensure that –

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- (1) Assessments and other evaluation materials used to assess a child
 - Are selected and administered so as not to be discriminatory on a racial or cultural basis;
 - Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;
 - Are used for the purposes for which the assessments or measures are valid and reliable;
 - Are administered by trained and knowledgeable personnel and
 - Are administered in accordance with any instructions provided by the producer of the assessments.
- (2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.
- (3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual or speaking skills (unless those skills are the factors that the test purports to measure).
- (4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status and motor abilities.

8) What criteria are used for exiting students from the ESL programs? How does the criteria relate to severely disabled students who have not acquired any language skills?

A: The Department of Education developed specific exit criteria for all ELLs based on multiple measures. ELLs are required to meet the PA exit criteria in order to exit an ESL program. For some students with disabilities, e.g., students with significant cognitive disabilities that have not acquired any language skills, the IEP team may determine that "participation" in the ESL program is not appropriate for the student. Such a decision would be made after considering the ESL exit criteria, ESL data, specific academic and individual needs related to the student's exceptionalities, with the determination that the language needs of the student cannot be appropriately addresses in the ESL program. The student, however, does not "exit" the ESL program.

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9) **Should LEAs contract bilingual psychologists to do IQ testing for ELLs?**

A: Yes and No.

Yes: A bilingual psychologist will help the evaluation team determine if the problems are related to second language acquisition or a possible disability. The psychologist must be a trained psychologist in the assessment of ELLs at all levels of English language proficiency versus a psychologist who happens to be bilingual.

No: A current practice is to hire a bilingual psychologist to implement an IQ test of a student. The problem arises when the results are used as the only criteria to make identification and placement decisions without having a complete profile of the child, e.g.:

- Has the student received any instruction in the native language?
- What is the student's dominant language?
- How many years of instruction has the student had in English?
- How is the student progressing in ESL instruction? How is the student progressing in comparison to other ELLs (like peers)...not compared to native speakers of English.
- Was a translator/interpreter used during assessment? If yes, was the test developed for the use of a translator/interpreter?
- Was the student born in the US?
- Was the student transient? What amount of time were they in school (in and outside the US)?
- What is the level of acculturation?
- Has the assessor acknowledged the impact of cultural and linguistic diversity on assessment performance? e.g., increased processing time, cultural bias, gaps in vocabulary and prior knowledge, false cognates, etc.

Additionally, many factors impact the performance of ELLs, including the effectiveness of both planned instruction in ESL and in the content areas. Can the school ensure that:

- ESL instruction is sufficient in quantity and quality?
- The Core ESL instructional program is effective and aligned to the English language proficiency level of the student and the English language proficiency standards?
- Planned instruction in the content areas is delivered according to the English language proficiency level of the student, the English language proficiency standards and the PA Academic Standards?
- Collaboration exists between the content teachers and ESL teachers?
- Instruction and home/school communication is culturally responsive?

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10) Is there training and technical assistance available to districts?

A: Yes. ESL Technical Assistance Facilitators are available to provide assistance to intermediate units, school districts, charter schools and parent/guardians. Additionally, resources, webinars and training materials can be found on the following websites: www.pattan.net and www.education.state.pa.us, www.eslportalpa.info, and www.pdesas.org.

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