



Department of  
**Education**

# English as a Second Language Program Guide

Office of Consolidated Planning and Monitoring | August 2016



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# Introduction

This manual will be a dynamic document that can be changed, edited, and simplified over time so that it will become a useful resource for local educational agencies (LEAs) and individuals involved in Tennessee's education of English learners and immigrants. Your input will be greatly appreciated.

Although this manual is not exhaustive, it provides support for Title I and Title III directors as they manage English as a Second Language (ESL) programs and projects. It should also provide meaningful support for teachers and administrators who are working to improve outcomes for English learners (ELs).

We have created chapters that may be used independently to provide answers to specific questions. The table of contents reflects the topics that we feel are most requested by Tennessee educators.

The creation of this document began before the Every Student Succeeds Act (ESSA) was approved. Due to the changes between No Child Left Behind and the reauthorization of the Elementary and Secondary Education Act (ESEA)<sup>1</sup> with the Every Student Succeeds Act (ESSA), there are areas where the guidance is incomplete. Updates will be made as new guidance and interpretation of the law becomes available to the Tennessee Department of Education.

A special thank you is in order for Cheryl Smith, a talented Vanderbilt University intern who worked tirelessly with me to create and research the first draft in the summer of 2015. Thank you to the ESEA stakeholder's group for their input and questions.

Another special thank you goes to Janine Whited who verified the citations in this document and updated after the Every Student Succeeds Act was passed.

We encourage you to continue to send in questions and information in response to this manual. These may be sent to either [Jan.Lanier@tn.gov](mailto:Jan.Lanier@tn.gov) or [Joann.Lucero@tn.gov](mailto:Joann.Lucero@tn.gov). Assessment issues that relate to World-class Instructional Design and Assessment (WIDA) ACCESS, W-APT, MODEL, or any Tennessee Comprehensive Assessment Program (TCAP) assessments should be addressed to [Lori.Nixon@tn.gov](mailto:Lori.Nixon@tn.gov).

# Chapter 1: Legal Guidelines

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## Summary

This chapter highlights relevant laws and court rulings on the rights of English learner (EL) students and requirements for districts. Districts are federally-mandated to identify all EL students and determine their English proficiency level. Effective ESL programs must be provided to all students identified as ELs in order to increase their English language proficiency. Under ESSA, all EL students are expected to meet the same academic standards as their non-EL peers. Therefore, if a parent waives the EL child's right to ESL services, the district must provide such services in the general education classroom.

Funding for ESL programs and related services is provided through Tennessee's Basic Education Program (BEP) and Title III. This chapter explains information on both funding sources, with an emphasis on how Title III funds may and may not be used. Information specific to Title III funding for private schools can be found in *Chapter 9: Private Schools*.

Frequently asked questions specifically addressing compliance issues can be found at the end of this chapter in the *Compliance FAQs* section. Issues related to access, identification and assessment, providing a language program, and special opportunity programs and activities are explained. Remedies for non-compliance with Title VI of the Civil Rights Act are also provided.

Grievance procedures, including contact information for the federal and state level, are provided in the *State and Local Grievance Procedures* section. The Tennessee Department of Education (TDOE) encourages individuals with concerns about Title VI compliance in a district to first address those concerns with the district's Title VI coordinator before seeking remedy at the state or federal level. However, anyone may file a complaint at any level without first having filed at a local level.

## FAQs

### **1. Is the district required to identify language minority students? Is it required to provide ESL services to all of those students?**

Yes. The Office for Civil Rights (OCR) at the U.S. Department of Education (USED) and the Civil Rights Division at the U.S. Department of Justice (DOJ), reference "the civil rights laws"<sup>2</sup> as requiring the identification of language minority students by level of English language proficiency. ESL services must be provided to those students identified as English learners. All Tennessee districts must have a Title VI implementation plan in place.<sup>3</sup>

### **2. What is the correct terminology to identify language minority students?**

The language in the Every Student Succeeds Act (ESSA) identifies language minority students as English learners or ELs.

### **3. Must schools participate in the state-funded English as a Second Language (ESL) program?**

The civil rights laws require districts to provide ESL services to any student identified as an EL.<sup>4</sup> However, the district may provide these services with local funds if it so chooses.

### **4. How do districts receive state funding for ESL services?**



Districts must report ESL segments on their Full-Time Equivalent (FTE) counts. This determines the ESL allocation for the next academic year. Those students are funded as “at-risk” through the Basic Education Program (BEP).

## Federal Guidance

### Constitution of the United States, 14<sup>th</sup> Amendment (1868)

*“No State shall [...] deny to any person within its jurisdiction the equal protection of the laws.”<sup>5</sup>*

The equal protection provided under the Constitution provides for fair treatment and nondiscrimination through an equal application of the laws. This guarantees the right to a free public education for all young people in the United States, including those who are undocumented immigrants and those who do not speak English.

### Civil Rights Act, Title VI (1964)

*“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”<sup>6</sup>*

Title VI of the Civil Rights Act has been interpreted as prohibiting the denial of equal access to education because of a student’s limited proficiency in English.

#### FACTORS RELATED TO COMPLIANCE OF TITLE VI<sup>7</sup>

- Students are excluded from effective participation in school because of their inability to speak and understand the language of instruction.
- Students are misidentified for special education classes because of their lack of English skills.
- Programs for ELs are not designed to teach them English as fast as possible, or these programs act as a dead-end track.
- Parents whose English is limited do not receive school notices and other information in a language and form they can understand.

### May 25 Memorandum (1970)

*“Where the inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students.”<sup>8</sup>*

Shortly after the passage of the Civil Rights Act, the Office for Civil Rights (OCR) became aware that many districts were effectively discriminating against English learners (ELs) by providing little to no support to their education. A memorandum, commonly referred to as the “May 25 Memorandum,” was issued by the then-Department of Health, Education and Welfare, clarifying the Title VI responsibilities of districts to provide equal educational opportunities to their language minority students.

## January 7 Memorandum (2015)

*“... the Supreme Court of the United States determined that in order for public schools to comply with their legal obligations under Title VI of the Civil Rights Act of 1964 (Title VI), they must take affirmative steps to ensure that students with limited English proficiency (LEP) can meaningfully participate in their educational programs and services.”<sup>9</sup>*

The Office for Civil Rights (OCR) at the U.S. Department of Education (ED) and the Civil Rights Division at the U.S. Department of Justice (DOJ) share authority for enforcing Title VI in the education context. DOJ is also responsible for enforcing the Equal Educational Opportunities Act (EEOA). In the guidance provided with the January 7 memorandum, Title VI and the EEOA are referred to as “the civil rights laws.”<sup>10</sup>

## Equal Educational Opportunities Act (EEOA) (1974)

*“No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by [...] the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”<sup>11</sup>*

EL students, due to their low English proficiency, are unable to fully participate in or benefit from general education and/or special education instructional programs. Districts must provide ESL services to these students until they are sufficiently proficient in English to meaningfully participate in the general education or special education program.

**NOTE:** The EEOA does not mandate a particular type of ESL service.

DISTRICT/SCHOOL COMPLIANCE & CONDITION FACTORS TO PROGRAM ASSESS THAT MAY VIOLATE THE EEOA INCLUDE:

- failure to provide an ESL program or adequate ESL services to EL students;
- failure to provide resources to implement its ESL program effectively (e.g., the program lacks ESL teachers or ESL materials);
- failure to take steps to identify students who are not proficient in English;
- not exiting ELs from the ESL program when the student has acquired English proficiency, or exits ELs without written parental permission before the student has acquired English proficiency;
- failure to meaningfully communicate with parents of EL students, who themselves are non- or limited-English speakers, by not providing those parents with written translations or oral interpretations of important notices or documents;
- failure to provide ESL services to EL students because they receive special education services, or fails to provide special education services to EL student when they qualify for such services; and
- excluding EL students from gifted programs based on their limited English proficiency.

## Family Education Rights and Privacy Act (FERPA) (1974)

*“[A parent or student must provide written consent] before an educational agency or institution discloses personally identifiable information from the student's records.”<sup>12</sup>*

Schools are prohibited from providing any outside agency—including the Immigration and Naturalization Service—with any information from a student's school file that would expose their

undocumented status without first obtaining permission from the student’s parents. The only exception is if a court order (subpoena) is served; however, parents may challenge such an order.<sup>13</sup>

Districts may not delay enrollment, known as “chilling” enrollment and should work with the family to make certain that only necessary information is requested. Schools should note that requesting permission that may expose an undocumented status might “chill or discourage the participation, or lead to the exclusion, of students based on their or their parents’ or guardians’ actual or perceived citizenship or immigration status.”<sup>14</sup> These practices violate the student’s *Plyler* rights.<sup>15</sup>

**NOTE:** School personnel—especially building principals and those involved with student intake activities—should be aware that they have no legal obligation to enforce U.S. immigration laws.<sup>16</sup>

## Elementary and Secondary Education Act (ESEA) (1965)

*“The purpose [...] is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments.”<sup>17</sup>*

Originally signed into law in 1965, and amended as No Child Left Behind (NCLB) in 2002, the ESEA offered grants and support to improve the quality of elementary and secondary education. In December 2015, ESEA was reauthorized as the Every Student Succeeds Act (ESSA). The ESSA<sup>18</sup> has been credited with exposing achievement gaps disproportionately impacting traditionally underserved and vulnerable students. Title III,<sup>19</sup> also known as the “English Language Acquisition, Language Enhancement, and Academic Achievement Act,” sets the expectation that ELs are to meet the same challenging academic standards as their non-EL peers.

## Every Student Succeeds Act (ESSA) (2015)

*“The purpose [...] is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.”<sup>20</sup>*

ESSA maintained Title III, but removed accountability measures from Title III. All accountability resides in Title I. There is now a stronger focus on parental and community involvement.

## Title III

### PURPOSES OF TITLE III<sup>21</sup>

1. Ensure EL students develop high levels of academic attainment in English.
2. Assist EL students to achieve at high levels in the core academic subjects.
3. High-quality language instruction educational programs must be developed to assist State Educational Agencies (SEAs), districts, and schools in teaching ELs.
4. Assist SEAs and districts to develop and enhance their capacity to provide high-quality instructional programs designed to prepare ELs to enter general education classrooms.
5. Assist SEAs, districts, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development.
6. Promote parental and community participation in language instruction educational programs.

7. Streamline language instruction educational programs into a program carried out through formula grants to SEAs and districts to help ELs develop English proficiency and meet state academic content and standards.
8. Hold SEAs, districts, and schools accountable for increases in English proficiency and core academic content knowledge of ELs.
9. Provide SEAs and districts with the flexibility to implement language instruction educational programs, based on scientifically-based research on teaching ELs.

## Court Rulings

### U.S. Supreme Court

#### Lau v. Nichols (1974)

*"There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education."*<sup>22</sup>

In a unanimous decision, the Court ruled that failure to provide students who do not speak English with English language instruction, or other adequate instruction, is a violation of the civil rights laws.

#### Plyler v. Doe (1982)

*"No national policy is perceived that might justify the state in denying these children an elementary education."*<sup>23</sup>

The Court found that districts are not agents for enforcing immigration law and dismissed the claim that undocumented students place a "burden" on the educational system. The Court declared that the Equal Protection Clause of the 14<sup>th</sup> Amendment prohibits states from denying undocumented immigrant children their right to a free public education. Furthermore, districts and their personnel may not behave in a way that may "chill or discourage the participation, or lead to the exclusion, of students based on their or their parents' or guardians' actual or perceived citizenship or immigration status."<sup>24</sup>

#### Horne v. Flores (2008)

*"The EEOA's 'appropriate action' requirement does not necessarily require a particular level of funding and to the extent that funding is relevant, the EEOA does not require that the money come from a particular source."*<sup>25</sup>

The Court declared that federal equal-education laws are concerned with student outcomes, not financial inputs. Though the EEOA requires states to take "appropriate action"<sup>26</sup> to help ELs from falling behind their non-EL peers, the Court found that individual states must determine how that obligation will be met, both financially and programmatically.

## Federal Courts

### Castañeda v. Pickard (1981)

*"[The segregation of EL students to provide them with English instruction is permissible because] the benefits which would accrue to [non-English] speaking students by remedying the language barriers which impede their ability to realize their academic potential in an English language educational institution may outweigh the adverse effects of such segregation."<sup>27</sup>*

The Fifth Circuit Federal Court of Appeals found that it is permissible to segregate EL students in order to provide them with English instruction. Therefore, when the OCR examines a district's program for EL students, the concern is not whether the program is the least segregated for providing English language services.

Rather, it considers whether the degree of segregation is necessary to achieve the program's educational goals.<sup>28</sup> The Court's decision established a three-part test, commonly known as the Castañeda Standard, to evaluate the adequacy of a district's program for EL students.

#### CASTAÑEDA STANDARD

##### **1. Theory**

The program must be based on a sound educational theory or, at least, deemed a "legitimate experimental strategy."

##### **2. Practice**

The district must have the personnel and resources necessary to effectively implement their chosen ESL program.

##### **3. Results**

A program is considered a failure if, after a sufficient period of time, it has not proven successful in ensuring students' language barriers are being overcome.

### Y.S. v. School District of Philadelphia (1986)

*"Plaintiff students are without adequate services in such areas as school counseling, English language and/or bilingual instruction, and special education; and plaintiff parents are denied meaningful notice and an opportunity to be heard with respect to decisions about their children's education."<sup>29</sup>*

A civil rights class action suit claiming that Asian students are not being afforded equal opportunity to educational programs and support services was filed against the district on behalf of these students who are English learners. An interim remedial agreement was reached and the district accepted that it needed to provide students and parents increased language services. A long-term plan was approved that mandated numerous solutions including:

- a welcome center for testing and placement of new students;
- new classroom instructional models; and
- availability of interpreters for all parent communications, meetings, and other school activities.

## **Gomez v. Illinois State Board of Education (1987)**

*"As a direct result of the [district's] acts or omissions, the [EL students] have been deprived of an equal education and have suffered economic hardship, undue delays in their educational progress, and in many cases exclusion from any educational opportunities."<sup>30</sup>*

The U.S. Court of Appeals for the Seventh Circuit declared that both SEAs and districts have a responsibility to establish and enforce minimum requirements for the identification of EL students and the implementation of ESL programs. Both entities are required, under the EEOA, to meet the educational needs of their EL students.

## **Federal Enforcement Policy**

### **U.S. Department of Education, Office for Civil Rights**

The OCR has the authority to set regulations and monitor districts' compliance with the Civil Rights Act of 1964. This includes reviewing procedures for the identification of EL students and the ESL services that districts provide for them. The OCR also investigates complaints brought against districts and SEAs for alleged non-compliance. More information on the OCR can be found [here](#).

### **U.S. Department of Justice, Civil Rights Division**

The educational opportunities section of the civil rights division is charged with enforcing the EEOA. It investigates allegations that SEAs and/or districts are not providing adequate services to ELs. More information on the educational opportunities section can be found [here](#).

## **Tennessee ESEA Monitoring**

The Office of Consolidated Planning and Monitoring (CPM) for the TDOE offers support and guidance in meeting federal and state guidelines for educating ELs. More information and additional resources for parents and educators can be found [here](#).

## **State Board of Education ESL Program Policy (3.207)**

The ESL Program Policy<sup>31</sup> has two purposes. First, it establishes the minimum standards for Tennessee districts in providing ESL services to students identified as ELs. Second, it provides a framework for implementing effective educational programs for ELs.

The policy includes the following components for ESL programs in Tennessee:

- anti-discriminatory policies and practices,
- identification of ELs,
- exit of ELs from the ESL program,
- parental notification and rights,
- service delivery models, and

- staffing ratios.

Further elaboration of these components can be found throughout this manual.

## **Title VI Compliance and Grievance Procedures**

### **T.C.A. § 4-21-901**

In 1993, the Tennessee General Assembly enacted T.C.A. § 4-21-901. This legislation requires all state agencies, including their sub-recipients of federal funds, to be in compliance<sup>32</sup> with Title VI of the Civil Rights Act of 1964.

The TDOE has developed an implementation plan in response to its obligation under T.C.A. § 4-21-901. This plan includes:

- grievance procedures at the state and local levels,
- monitoring of school systems for Title VI compliance,
- training of both state and local educational personnel on Title VI, and
- collecting and analyzing state and local data for Title VI compliance.

### **Compliance Issues for Public Schools**

Title VI compliance issues include:

- an immigrant student's right to a free public school education, regardless of their immigration status;
- the identification of national origin minority students as non-English language background (NELB) and assessment of their English language proficiency to determine whether they are an EL;
- implementation of an effective ESL program as an alternative to English language arts, providing ELs with meaningful access to Tennessee's education standards;
- inappropriate placement or exclusion of ELs from special opportunity programs or any activities based on English language proficiency; and
- effective communication with the parents of non-English language background (NELB) students in a language and by a method they understand, to the extent practicable.

### **State and Local Grievance Procedures**

The TDOE encourages individuals with concerns about Title VI compliance issues in a district to first address those concerns at the local level with the district's Title VI coordinator. If the concerns are not adequately resolved, they should then proceed to seek remedy at the state and federal levels. However, anyone may file a complaint at any level without filing at a lower level first.

At the state level, individuals may file a complaint with the TDOE Office for Civil Rights attorney.

Tennessee Department of Education  
Attn: Director, Office for Civil Rights, Office of General Counsel  
710 James Robertson Parkway, 9<sup>th</sup> Floor  
Nashville, Tennessee 37243

At the federal level, individuals may file a complaint with the U.S. Department of Education, OCR, Atlanta Office.

U.S. Department of Education 61 Forsyth Street S.W., Suite 19T10 Atlanta, Georgia 30303	Telephone: (404) 974-9406 Fax: (404) 974-9471 <a href="mailto:OCR.Atlanta@ed.gov">OCR.Atlanta@ed.gov</a>
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**NOTE:** An educational agency must not prohibit any individual from reporting concerns about Title VI compliance issues or retaliate against that person.

## Requirements for State Funding

At the state level, there is Basic Education Program (BEP) funding designated for districts with EL students. The funds generated by the BEP are what Tennessee has defined as sufficient to provide a basic level of education for students. This basic level of funding includes both a state and a local share of the BEP.<sup>33</sup> For example:

TENNESSEE BEP FUNDING	
Component	State Funding Level (70%) <sup>34</sup>
EL Instructors	1 per 30 EL students
EL Translators	1 per 300 EL students

## Title III Funding<sup>35</sup>

### Supplement not Supplant

Title III of the ESEA requires that funds available under a subgrant be used to “supplement the level of federal, state, and local public funds that, in the absence of such availability, would have been expended for programs for [EL] students and immigrant students and youth and in no case to supplant such federal, state, and local public funds.”<sup>36</sup>

### Administrative Costs: Direct and Indirect

It is allowable to use Title III funds to pay for administrative costs to implement the Title III program. However, the amount of Title III funds which may be used to pay for administrative costs to implement the program must not exceed 2 percent of the program’s entitlement amount (carryover is not included when calculating the 2 percent maximum).<sup>37</sup>



In calculating total administrative costs subject to the 2 percent limit, all appropriate direct and indirect costs (e.g., administrative salaries) must be included. If the district contracts with an outside vendor to provide Title III services, the district must require that the contractor break out administrative costs, which are also included within the 2 percent limit.

## **Title III Funds for a Language Translator or Interpreter**

Whether this is allowable would depend on the exact responsibilities of the translator or interpreter because Title III funds must only be used to supplement<sup>38</sup> the level of federal, state, and local public funds that, in the absence of such availability, would have been expended for programs for EL children.

For example, translation of instructional materials or instruction in a language other than English would not be an allowable use of Title III funds. This would fall under the district's responsibility<sup>39</sup> to provide ESL services to EL students to help them overcome their language barriers and ensure that ELs have equal access to education and educational excellence.

Translation of general information for the district (e.g., information for the Spanish language version of the district's website, newsletter, or other communications; information related to the district data system; information related to the state's achievement assessments; etc.) would also not be an allowable expenditure of Title III funds.

If, however, the translation/interpretation is for a purpose above and beyond the level of other federal (including OCR and Title I, Part A), state, and local requirements, then this may be an allowable use of Title III funds. Possible examples would be providing interpretation during a Title III parent involvement meeting or providing translations of materials to be used for supplemental parent classes. Such examples may be allowable uses of Title III funds, provided that all supporting conditions are met.

## **Parental Rights**

Parents have the right<sup>40</sup> to be informed of:

- the reasons for the identification of their child as an EL and the need for placement in an ESL program;
- their child's level of English proficiency, how levels are assessed, and the status of their child's academic achievement;
- the method of instruction used in the ESL program in which their child is, or will be, participating;
  - If multiple ESL programs are available in the district, information must be provided on how the programs differ in content and instruction goals.
- how the ESL program in which their child is, or will be participating in, will meet the educational strengths and needs of the child;
- how the ESL program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;
- the specific exit requirements for the ESL program, the expected rate of transition of EL students from ESL programs into general education classrooms, and if funds under this Title are used for children in secondary schools, the expected rate of graduation from secondary school;

- in the case of a child with a disability, how the ESL program meets the objectives of the individualized education program (IEP) of the child; and
- the options that parents have to decline to enroll their child in the ESL program or to choose another program or service delivery model, if more than one program or model is offered by the district.

## Tennessee Title III AMAO State and District Reports

ESSA suspended AMAO calculations for federal reporting for the 2014-15 and 2015-16 school years. The TDOE will calculate and use those data to provide districts with a quantitative measure of success with ELs. ESSA moved the Title III AMAOs under Title I Accountability.<sup>41</sup> As accountability decisions are made, those updates will be posted in this section of the guide.

## Compliance FAQs

### Access

#### 1. ***How can a district show compliance with Plyler v. Doe?***

A district may show compliance in several ways:

- include the rights of all children to have access to a public school education in its policy manual;
- train all staff who are involved in registration or attendance procedures on the implications of *Plyler v. Doe*;
- implement the annual district Title III plan; and
- demonstrate that staff members are trained to respect the privacy of a student's immigration status.
  - A student's immigration status should not be indicated in any communication or document, and students without a social security number should be assigned a unique student identification number.

#### 2. ***If a district is aware that out-of-school immigrant children reside within its jurisdiction, what should the district do?***

The policies and procedures which govern school attendance are applicable to all children, including immigrant children. Tennessee law requires children and youth to attend school until the age of 18.<sup>42</sup> Many immigrant children moving into Tennessee come from countries where school attendance is not mandatory after grammar school. A translation of the district's attendance requirement and information on how to register children should be available in community postings.

#### 3. ***Can a district ask for social security cards, health forms, birth certificates, or other information?***

The district may request such information, but can only require health procedures such as immunizations.<sup>43</sup> A district should not send parents home to retrieve the other documents as a

prerequisite to enroll. Additionally, an immediate disclaimer must be offered, assuring parents/guardians that none of these documents will be used in relation to immigration status and that none, except the immunization records, are required to enroll their child in the district.<sup>44</sup>

**NOTE:** For students who have not received all required immunizations, a school must schedule an immediate appointment with the school nurse, a public health clinic, or appropriate healthcare provider.

## Identification and Assessment

### **1. Does a district need to have the Home Language Survey (HLS) completed for all of its students, including those it knows are native English speakers?**

The TDOE requires Tennessee districts to administer an HLS to all students one time upon their initial enrollment.<sup>45</sup> The three required questions are:<sup>46</sup>

1. What is the first language this child learned to speak?
2. What language does this child speak most often outside of school?
3. What language do people usually speak in this child's home?

Districts may ask for other information as needed. This is the appropriate time for the district to discuss education with parents (e.g., milestones in early childhood, former education, interruptions to education, learning difficulties, traumatic events, etc.).<sup>47</sup>

### **2. If a district suspects that the parents of a student cannot understand English, what should it do?**

The district needs to have the HLS translated or interpreted into languages which occur in significant numbers in the district. If a translated copy is not available or parents are illiterate in their home language, the district should interpret any significant information the parents might need to know.

### **3. What is the procedure for assessing a student's English language proficiency in Tennessee?**

Once a student is identified as non-English language background (NELB), the student's cumulative folder should be reviewed for any documentation on proficiency or previous ESL services received. If such documentation is not available, the W-APT should be administered by a trained ESL teacher.<sup>48</sup>

Beginning in October 2015, all ESL teachers administering the W-APT must be certified as competent by WIDA. More information can be found at [here](#).

## Providing a Language Program<sup>49</sup>

### **1. What if a student or their parents do not want to participate in the ESL program, even if the student is identified as an EL?**

A student cannot waive ESL services until the age of 18. A parent who decides to waive ESL services for their child must be informed of the implications in a language they can

understand.<sup>50</sup> The district should have written proof of the parent's waiving ESL participation on file.

**NOTE:** All EL students—including those whose parents have waived ESL services—must be assessed with the WIDA ACCESS 2.0 in Tennessee until they are deemed proficient in English. Districts must make all core subjects accessible to students whose parents have waived ESL services by providing ESL training from the general education teachers. General education teachers who have ELs in the general education classroom must understand how to serve this population of students.

**2. *What are some recommended procedures a district may implement to assess EL students who are at an advanced level for alternative support services or to assess EL students who are not progressing satisfactorily?***

Tennessee uses the Response to Instruction and Intervention Framework (RTI<sup>2</sup>).<sup>51</sup> This three-tiered system helps educators differentiate instruction as students need extra help.

The WIDA MODEL is also available for use with RTI<sup>2</sup> and WIDA ACCESS 2.0 scores.

**3. *What legal responsibilities do districts have to provide ESL to migrant EL students?***

Districts are required to provide ESL services to all students identified as ELs.<sup>52</sup> Districts with EL migrant student populations who arrive at predictable times of the school year should plan to have the necessary services available at those times.

Districts which qualify under the Migrant Education Program,<sup>53</sup> may receive federal funds to provide supplemental services to eligible migrant students. Caution must be taken to ensure that additional services are supplementing, not supplanting.<sup>54</sup> More information can be found at [here](#).

**NOTE:** Many migrant students are not ELs. The HLS should be administered upon the initial enrollment of students to determine their language background.

## Special Opportunity Programs and Activities

**1. *If a coach or the supervisor of a school-sponsored activity decides that EL students cannot participate because they cannot understand instructions, is this a violation of Title VI?***

Yes. Any time students are excluded from participation in a school activity on the basis of language, it would be considered a violation of Title VI.

**2. *Why is it necessary to keep data on the number and percentages of NELB and native English speakers in special education?***

The percentage of EL students identified for special education services should be comparable to the percentage of their non-EL peers in the district. Wide discrepancies between the two groups would indicate that the district needs to review its identification procedures for EL students to ensure that they are free of linguistic or cultural biases.

### **3. Why is it necessary to keep data on the number and percentages of NELB and native English speakers in gifted programs?**

The percentage of EL students identified for gifted programs should be comparable to the percentage of their non-EL peers in the district. Wide discrepancies between the two groups would indicate that the district needs to review its identification procedures for EL students.

**NOTE:** To base this criteria on English proficiency or excluding EL students from these programs based on their limited English proficiency is a violation of the EEOA.

## **Communication with Parents**

### **1. Does a district need to translate all information into every language represented in its schools?**

No. First, many of the parents of identified EL students may possess English reading skills, even if English is not the language spoken in the home. Second, a district is responsible for communicating with parents about important school information in a language they can understand. This does not include all of the information sent home, but only that which is deemed *important* (e.g., decisions about student placement, report card information, field trip notices, etc.).<sup>55</sup> This may be done by offering oral or written translations or providing a bilingual aide to help with parental communication.

**NOTE:** Faculty and staff members may be used as translators on a limited basis if they have good skills in both languages. Keep in mind caution for privacy concerns. The translator or interpreter needs to be employed by the school district. Students may not be used for translation or interpretation measures.<sup>56</sup>

## **Remedies for non-Compliance with Title VI**

### **1. What happens if a district is found to not be in compliance with Title VI?**

If the federal OCR were to find a district out of compliance with Title VI, it may restrict the district from receiving any federal funds until the compliance issue is resolved. Usually, the OCR and the district form a plan outlined in a compliance agreement detailing how the district will address the areas of noncompliance. The OCR will monitor the district's progress in implementing the agreement. The TDOE will also assist districts to meet compliance requirements under Title VI.

### **2. What if an individual or group is concerned that a district is not in compliance with Title VI?**

In response to T.C.A. § 4-21-901, as amended by Chapter 381 of the Public Acts of 1995, the TDOE has established an implementation plan to comply with Title VI. Under the TDOE's plan, each district will appoint a Title VI coordinator and establish a complaint procedure. Individuals concerned about compliance issues in a district should first contact the district's Title VI coordinator.

Persons "claiming to be aggrieved by a discriminatory practice" under Title VI are entitled to file a complaint with the TDOE or the human rights commission within 180 days of the occurrence.<sup>57</sup>

At the federal level, individuals may file a complaint with the U.S. Department of Education's OCR Atlanta Office. At the state level, individuals may file a complaint with the civil rights attorney at the TDOE. Contact information can be found in the *Title VI Compliance and Grievance Procedures* section of this chapter.

**3. *What can districts do to ensure that they are in compliance with Title VI of the Civil Rights Act?***

Districts seeking technical assistance in the area of compliance under national origin of Title VI may contact the state director of English learner or immigrant programs or the civil rights attorney at the TDOE.

# Chapter 2: Welcoming New Students

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## Summary

This chapter defines the English learner (EL) student population and outlines their needs and rights when enrolling in a district. As *Chapter 1: Legal Guidelines* covered, student privacy rights encompass many school procedures. Student enrollment procedures must reflect the legal protections afforded to students.

Districts must make clear that enrollment procedures are uniformly applied to all students. This includes accepting a variety of documents to establish a student's age and residency within a district. Districts are prohibited from mandating a student's social security number and/or immigration documents. An immediate disclaimer should be offered to parent that none of these documents will be used in relation to immigration status and that none, except immunization records, are required to enroll their child in the district.

Steps in the registration process, including information and suggestions for personnel communicating with non-native English speakers, can be found in this chapter. Information specific to parental notification rights can be found in **Chapter 1: Legal Guidelines**. Detailed information on the procedure for administering the Home Language Survey can be found in *Chapter 3: Identifying & Placing EL Students*. Registration and communication suggestions are also listed throughout the chapter.

## FAQs

### **1. What if a student doesn't have his/her school records?**

The school cannot turn a student away if the student doesn't have school records from their home country.<sup>58</sup> The student must be enrolled in the grade closest to his/her age, and the school can try to obtain the school records after the student is enrolled.

### **2. What should be done if a student's school records are from another country?**

If a student's records are from outside the U.S. and in a different language, they should be translated, if possible.

### **3. Are all students required to show current residency in a district in order to enroll?**

The school district is authorized and required to provide for the enrollment of students<sup>59</sup> and may establish bona fide residency requirements<sup>60</sup> and thus may require that all enrolling students furnish proof of residency within the district. Homeless students, as defined by the federal McKinney-Vento Homeless Assistance Act,<sup>61</sup> are exempt from these requirements.

### **4. In order to avoid discouraging enrollment, should a district enroll any child and ask for documentation later, after the child is enrolled?**

Districts may require students to furnish proof of age and/or residency within a district prior to enrollment. Any enrolling student considered homeless is exempt from the proof of residency requirement.

Districts may also choose to wait until students are already enrolled before asking for any additional documentation that may be required under state or federal law (i.e., demographic



data). By choosing to wait to collect additional information until after enrollment, districts may be able to create a more welcoming and inclusive atmosphere for all enrolling students. Districts may not delay enrollment, known as “chilling” enrollment, and should work with the family to make certain that only necessary information is requested.

**5. *What is the role of the TDOE in ensuring that students are not improperly excluded from school?***

The TDOE provides training, on request. It also has a monitoring process to ensure that students are not improperly excluded from school.

**6. *How should a district communicate the requirements for enrollment with parents with limited English proficiency?***

A district must meaningfully communicate “material information” to parents who have limited English proficiency. For example, when communicating with these parents about enrollment, the district should translate or interpret documents and have some method of responding to those parents’ questions.<sup>62</sup>

Material information could include any and all alternative means to establish proof of age and residency requirements. If a district requests a social security number, material information would also cover informing the parents that a district cannot deny enrollment to a student if he/she (or his/her parents) chooses not to provide a social security number.

**7. *Are emancipated minors/youth/children to be enrolled in local schools?***

An emancipated minor is allowed to make educational decisions for himself/herself without regard for his/her parents. As such, an emancipated minor should attend the school for which he/she is zoned, based on his/her address, not that of his/her parents.

A district should determine if a minor is emancipated by obtaining information (e.g., determine if the student still lives with their parents, whether the parents provide any support, etc.) from the student and the student’s parents. If a district is unable to collect the information it needs to determine if the student is emancipated, legal assistance may be required.

**8. *Are unaccompanied minors/youth/children<sup>63</sup> to be enrolled in local schools?***

Unaccompanied minors/youth/children in U.S. Department of Health and Human Services (HHS) shelters are provided a basic education by those entities and, therefore, are not enrolled in the local district.

Children who are released to live with a sponsor may be eligible for McKinney-Vento services, on a case-by-case basis, under the law’s broad definition, which includes youth who are living with family members in “doubled-up” housing (i.e., sharing the housing of other persons due to economic hardship or a similar reason). Districts should refer children they believe may qualify to the district’s local liaison for further consideration and a determination of McKinney-Vento eligibility.

A small number of unaccompanied minors are placed in long-term foster care instead of being released to a sponsor. These children are to be enrolled in the district where their foster care is located.<sup>64</sup>

**NOTE:** The actual or perceived immigration status of an unaccompanied minor and/or their sponsor does not negate their right or ability to enroll in public schools.<sup>65</sup>

**9. Is a student considered an unaccompanied youth if he/she is receiving financial support from his/her parents?**

Any student who is not living in the physical custody of his/her parents and is temporarily housed elsewhere should be considered an unaccompanied, homeless youth. Whether or not a student is receiving financial support from his/her parents has no bearing on a student's designation as such.

**10. Do districts have the ability to use federal education funds to address the needs of unaccompanied minors who enroll in the district?**

States and districts have the ability to use various federal education funds for this purpose. For example, to the extent that such children attend a Title I school, they may be eligible to receive Title I, Part A services.

**11. May a non-custodial parent/guardian make educational decisions on behalf of a minor child?**

When hardship prevents the parents from caring for a minor child, there are two options:

1. The parents may assign temporary care, giving authority to another Tennessee resident without court approval.<sup>66</sup>
2. The parents may assign another person power of attorney for care of the minor child.<sup>67</sup>

Through the power of attorney for care of a minor child, the parent may authorize the caregiver to enroll the child in school where the caregiver resides.<sup>68</sup> However, prior to enrollment, the district may request documentation of the child's residency with the caregiver or of the parent's hardship.

**NOTE:** Requests for documentation must not discriminate, or have the effect of discriminating, on the basis of race, color, national origin, citizenship, or immigration status.<sup>69</sup>

## English Learners

### Federal Definition of English Learners

*"[An individual] who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency [...and] whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual:*

- *the ability to meet the state's proficient level of achievement on state assessments;*
- *the ability to successfully achieve in classrooms where the language of instruction is English;*  
*or*
- *the opportunity to participate fully in society."*<sup>70</sup>

Students classified as English learners (ELs) are entitled to services specifically designed to improve their English proficiency.

## Additional Educational Concerns

The educational difficulties experienced by ELs are not always limited to their English proficiency level. Their language skills may be compounded by:

- difficulties in cultural adjustment;
- deficiencies in academic preparation; and/or
- physical, mental, or emotional problems that might qualify the student for other services.

Though it can be difficult to recognize these additional difficulties with which ELs may be struggling, each should be considered when evaluating an EL's academic performance.

**NOTE:** Failing to provide ESL services to ELs because they receive special education or failing to provide special education services to ELs when they qualify for such services are violations of the EEOA.<sup>71</sup>

## Protecting Student Privacy Rights

To comply with federal civil rights laws, as well as the mandates of the U.S. Supreme Court,<sup>72</sup> districts and their personnel may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin. Additionally, students must not be barred from enrolling in public schools at the elementary and secondary level based on the actual or perceived immigration or citizenship status of the student, or that of their parents/guardians.

A district must apply its rules and standards for requested documentation in the same way to everyone.<sup>73</sup>

Districts **CANNOT** require a student's:

- birth certificate,
- social security number (or other documents related to immigration status),
- full medical records, or
- proof of residency be established with their parent's state-issued documents.

Districts **CAN**:

- ask for a student's birth date,
- assign a unique student identification number to students who do not provide a social security number,
- require a student's immunization records for the state and district immunization requirements, and
- establish a student's residency within a district through multiple means.

## Establishing Student Age

Districts are encouraged to take proactive steps to educate parents about their children's rights and to reassure them that their children are welcome in district schools. A variety of documents are permitted to establish the age of an enrolling child. Districts should publicize that these options are acceptable for all children in the district and are solely used to establish the child's age.

Examples of accepted documentation of a student's age include, but are not limited to the following:

- Birth certificate
- Passport
- Other immigration document
- Notarized affidavit

**NOTE:** The district may have to accept a verbal report of the student's age from the parent of the student.

## Social Security Numbers

Districts may request, but cannot mandate, that enrolling students provide a social security number. In Tennessee, a district may assign a unique student identification number (USID) to students who do not provide a social security number.<sup>74</sup>

If a district chooses to request a student's social security number, it must be made clear in all enrollment and registration documents—including forms, websites, and communications with parents—that the provision of the student's social security number is voluntary and that choosing not to provide a social security number will not bar a child's enrollment.<sup>75</sup>

## Immunization Records

A district may only require a student's immunization records for the state and district immunization requirements.<sup>76</sup> A district should not send parents and children home to retrieve the documents as a prerequisite to register.

**NOTE:** For students who have not received all required immunizations, a school must schedule an immediate appointment with the school nurse, a public health clinic, or an appropriate healthcare provider.

## Proof of Residency

Districts should use a variety of documents to establish proof of residency within district limits to allow any resident to meet the stated requirements. As with establishing the age of a child, the district should publicize that these options are acceptable for all children in the district and used solely to establish proof of residency.

Examples of accepted documentation of a student's residency within a district include, but are not limited to the following:

- Rent receipt
- Lease for dwelling
- Utility bill
- Doctor's bill
- Notarized affidavit from a neighbor

**NOTE:** An emancipated minor is to be enrolled in the district for which he/she is zoned based on his/her own address, not that of his/her parents.

## Vulnerable Student Populations

### Homeless Students

The McKinney-Vento Act<sup>77</sup> defines homeless children and youth as including, in part, children who are:

- sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- living in emergency or transitional shelters;
- abandoned in hospitals;
- awaiting foster care placement; or
- children of migratory agricultural workers.

**NOTE:** A district may not deny a homeless child enrollment because he/she is unable to provide the required documents to establish residency.

### Unaccompanied Students

Unaccompanied children<sup>78</sup> in Department of Health and Human Services (HHS) shelters are provided a basic education by those entities and, therefore, are not enrolled in local schools. These children in the shelters are not eligible for McKinney-Vento services.

When these children are released from the shelters to live with a sponsor, they will enroll in the district where that sponsor resides. Children living with a sponsor may be eligible, on a case-by-case basis, for McKinney-Vento services under its broad definition, which includes youth who are living with family members in “doubled-up” housing (i.e., sharing the housing of other persons due to economic hardship or a similar reason). Districts should refer children they believe may qualify to the district’s local liaison for further consideration and a determination of McKinney-Vento eligibility.

A small number of unaccompanied children are placed in long-term foster care instead of being released to a sponsor. These children enroll in public school where the foster care is located.<sup>79</sup>

**NOTE:** The actual or perceived immigration or citizenship status of the unaccompanied minor and/or their sponsor does not negate their right or ability to enroll in local schools.<sup>80</sup>

## Steps in the Registration Process

A consistent registration process for ELs facilitates their entry and orientation into the new school environment. It is vital to this orientation process to have school personnel who are trained and dedicated to meeting the needs of students from different cultures with different levels of English proficiency. School personnel should take the following steps:

1. Greet the parents and student warmly.
2. Complete a student profile form with the student's personal data, language background, and educational history. This should include the Home Language Survey (HLS)<sup>81</sup> if one has not been previously completed for the student.
3. Make copies of student records (e.g., transcripts, birth certificate, legal documents, etc.).
4. Screen the student for ESL services if the HLS determines they are NELB and there is no indication in their records that they have been exited from such services.

**NOTE:** If Tennessee has documents from the referring state/school regarding the student's previous ESL status and/or proficiency level (e.g., W-APT, HLS, etc.), these may be used to expedite the enrollment process.

## Cumulative Folder Checklist

A student's cumulative folder<sup>82</sup> should include the following:

- HLS
- Intake data for ELs:
  - Country of birth
  - Date arriving in a U.S. school
  - First language
  - Any available documents (e.g., birth certificate, I-94, other immigration documents, etc.)
  - W-APT scores
- English Language Proficiency (ELP) assessment scores for all years served in ESL, if applicable
- Notes from IEP meetings, if applicable

## Communication with non-Native Speakers of English

For information on Parental Rights, see *Chapter 1: Legal Guidelines*.

Although it is common for the student, a parent, or someone they brought with them to assist in the registration process, to know some English and be able to understand conversations, it is the duty of the district to provide information in a language and way the parents can understand.

Suggestions for school personnel to aid in conversations include:

- Smile warmly.
- Speak slowly and clearly.
- Be careful about using idiomatic expressions, substituting words and phrases that can be interpreted literally (e.g., "sit down" instead of "have a seat").
- Use body language to supplement speech (e.g., gesturing toward the chairs where they should sit).
- Ask for questions to be rephrased, rather than repeated (e.g., "Can you ask that another way?" or "Can you give me an example?").

**NOTE:** Faculty and staff members may be used as translators on a limited basis if they have good skills in both languages. Caution for privacy concerns must be kept in mind. Students may not be used for translation or interpretation measures.<sup>83</sup> Translators and interpreters should be hired by the district.

## Registration Suggestions

The following suggestions are provided to support districts and schools in the registration process of ELs. These practices are neither exhaustive nor mandatory and, if used, should be adapted to the context of a school and/or student's specific needs.

## Welcoming New Students and Parents

A new student's first impressions of a school set the tone for the rest of that child's experience at the school and in the district. Many ELs who register will have just arrived in the country. They, and their parents, may be scared and uncertain of what lies ahead. During this time, many EL will be in the "silent" period of English language acquisition. All school staff and faculty who will be meeting new students and their families should be prepared to put them at ease with welcoming smiles and appropriate communication skills.

In addition to introducing the student and their family to school personnel, it may be helpful to provide them with the following information:

- pertinent bus/transportation information;
- meals available at the school, their cost, and how to register for free and reduced price lunch;
- school calendar and bell schedules, including daily start and end times; and
- school attendance policies, including tardiness.

## School Tour

Take the student and their family on a tour of the school and introduce them to the people who will be important in the student's academic journey. This should include their classroom teacher, ESL teacher, and guidance counselor.

## Peer Buddy

Assign a "peer buddy" to help the student adjust during their first few days at the new school. The buddy can come from the ESL program or student organizations and should be prepared to guide the newcomer to classrooms, the lunchroom, locker facilities, the restrooms, and other locations in the school. The buddy may also help make introductions to other students.

## Additional Suggestions for High School Students

In order to meet graduation requirements, additional steps should be considered when incoming high school ELs arrive to a school.

- Provide the student and his/her family with a chart explaining the requirements for graduation and the policies regarding required and elective subjects.
- Explain the schedule of standardized tests and how they impact the student's progress.
- Explain semester grading periods and progress reports.
- Explain how grades and course credits—including transfer credits—are awarded.<sup>84</sup>
- Review all foreign transcripts.



# Chapter 3: Identifying & Placing EL Students

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## Summary

This chapter outlines the steps to be taken once a student is identified as non-English language background (NELB). Information on identifying NELB students with the Home Language (HLS) is provided, as are subsequent steps to determine if the student is an English learner or fluent. Fluent NELB students do not receive ESL services. EL students are placed in ESL services based on their proficiency level. Information is also provided detailing a district's responsibilities if a student is identified as EL but their parents choose to waive ESL services.

The W-APT screening assessment is briefly described in this chapter. Specific information on its administration, as well as definitions of WIDA's proficiency levels and Performance Definitions can be found in *Chapter 8: WIDA*.

Information on identifying and placing EL students in special education and/or gifted programs, and providing RTI<sup>2</sup> services should be important considerations specific to language learners. It is crucial to ensure that difficulties with English, including pronunciation, are not mistaken for a speech or language disorder. Moreover, the identification process of gifted students must not discriminate against EL students by failing to recognize giftedness in ways that are not based on English proficiency. The identification process must use multiple criteria and consider all EL students for services.

The one definite rule for EL student placement is that they are in age-appropriate classes. Awarding transfer credits to students is a local decision and suggestions are provided for potential difficulties due to interpreting international transcripts and/or determining a student's content knowledge without a transcript. The chapter ends with a sample course progression plan for EL students.

## FAQs

### **1. Is parental permission required for language proficiency testing?**

No. Parental permission for language proficiency testing—both the W-APT and the ACCESS for ELs—is not required. Parental permission to provide ESL services, however, is required.<sup>85</sup>

### **2. Is any one person in the district responsible for keeping a current list of all NELB students?**

The district's Title III director or federal programs director maintains this list. The list must be current and indicate the names of all NELB students, their home languages, their schools and grade levels, and any other information the TDOE requires to be reported. This list may be in a computer file rather than a paper book.

### **3. Does a district need to have the Home Language Survey (HLS) completed for all of its students, including those it knows are native English speakers?**

The TDOE requires all students to be administered an HLS one time upon their initial enrollment.<sup>86</sup> The completed HLS is to be filed in the student's cumulative folder.

### **4. Should an HLS be administered to every new student enrolling in school?**

No. The HLS is a document that should only be administered one time in a student's educational career. If the student is enrolling in school for the first time, then an HLS should be

administered. If, however, the student is transferring from another school, then the original HLS must be obtained.

**5. *Our HLS is currently included in the registration packet. Should it be there?***

No. The Office of English Language Acquisition (OELA) and the Office of Migrant Education (OME) highly recommend that the HLS is not in a school's registration packet. The HLS should only be administered to a student one time in their educational career. Therefore, the HLS should not be available in the registration packet that a parent fills out when they enroll their child. When required, the HLS should be given to the parent as a separate document that is thoroughly explained to them so they understand its purpose.<sup>87</sup>

**6. *If a student is transferring from another school, should the receiving school issue a new HLS?***

When a student transfers to a school, that receiving school must look in the student's cumulative folder to find the original HLS, or a copy.

If a language other than English was indicated on the student's original HLS, there should be documentation of the student's prior English language proficiency assessment(s) in the cumulative folder. The student's instructional program should follow accordingly.

**7. *If a student is transferring from another school but they do not have an HLS in their cumulative folder, what should be done?***

Every effort should be made to obtain the HLS from the previous school. If multiple attempts to contact the student's previous school have been made but the HLS has not been provided, a new HLS may be administered as a last resort.

**8. *When filling out the HLS, a parent marked multiple languages (e.g., English/Spanish) for one or more of the responses. What should be done?***

If the parent marked multiple languages for one or more of the responses, it is important to first ensure that the HLS was explained properly to the parent. If the parent was aware of what the HLS was and marked multiple languages, the district may proceed with screening for ESL services.

If the HLS was not explained to the parent, it is important that the purpose is explained. This must be noted on the original HLS and initialed by the parent and district employee.

**NOTE:** The HLS should never be thrown out and/or re-done. In the case of a parent making a mistake or completing it without understanding its purpose, the HLS should be thoroughly explained to the parent and that same document should have responses changed accordingly. Those changes should be initialed by the parent and district employee.

**9. *The student has scored Fluent English Proficient (FEP) on the W-APT. Is there anything further that needs to be done?***

No. If a student's placement assessment indicates that they are FEP, the student does not require ESL services. The student is to be coded as "N" in EIS for English language background.

**10. If a student was in an ESL program in another school and exited last May, should he/she be rescreened with the W-APT? Should the student be classified as Transitional at the receiving school for two years?**

Do not rescreen the student. The student should be considered a Transitional EL for the federal requirement of four calendar years and monitored for academic success and accountability purposes. The federal government refers to these students as Monitored Former LEP (MFLEP). If the student is struggling during the monitoring period, appropriate instructional supports, including RTI<sup>2</sup>, should be implemented. For more information, see *Chapter 7: Exiting ESL Status*.

**11. If a student was in an ESL program in another school and exited more than four years ago, must this student be screened with the W-APT?**

No. The student should not be screened if there is documentation to support the fact that the student was previously served in ESL, exited, and the four-year monitoring period has ended. For more information, see *Chapter 7: Exiting ESL Status*.

**12. Are students with a hearing impairment who rely on American Sign Language (ASL) for communication considered to have limited English proficiency for the purposes of Title III?**

A native English-speaking student with a hearing impairment would not be considered to have limited English proficiency for Title III purposes. American Sign Language (ASL), under Title III, is not considered as a first language (i.e., a student who has only ASL is not eligible for ESL).

An NELB student with a hearing impairment, however, could be considered to have limited English proficiency if he/she meets the definition of limited English proficiency established by federal regulations.<sup>88</sup> This would include a language other than English listed on the student's HLS and demonstrated limited English proficiency via the W-APT. The portions of the W-APT that do not involve the student's disability must be used. More information is available [here](#).

**13. Are EL students eligible for special education services?**

Yes. ELs who have been identified as students with disabilities should be dually served by both programs.<sup>89</sup>

**14. Are EL students eligible for gifted programs?**

Yes. ELs who have been identified as intellectually gifted should be dually served by both programs.<sup>90</sup>

**NOTE:** Language cannot be the only criteria for giftedness.

**15. Must all EL students be included in state assessments?**

Yes. The testing of all students is required under ESSA. However, there may be certain situations where newly-arrived EL students may be eligible for deferrals from certain aspects of standardized testing. For more information, see *Chapter 5: Annual Assessments*.

**16. Do high school graduation requirements differ for EL students?**

The high school graduation requirements for ELs are the same as for the non-EL population.

**NOTE:** It is essential that any and all sections of test administrator manuals that make reference to EL students be read by the test administrators in order to ensure proper assessment practices are followed.

## Home Language Survey

The Home Language Survey (HLS) is the first step districts take to meet the federal requirement<sup>91</sup> to identify language minority students. The TDOE requires a student to be administered an HLS one time in their educational career upon their initial enrollment.<sup>92</sup>

If the student is enrolling from another school, the original HLS should be obtained. If a language other than English was indicated, there should be documentation of the student's prior English language proficiency assessment(s) in their cumulative folder. The student's instructional program should follow accordingly.

A Tennessee HLS must include the following three questions:

1. What is the first language this child learned to speak?
2. What language does this child speak most often outside of school?
3. What language do people usually speak in this child's home?

Districts may ask for additional information, as needed. This is the appropriate time for the district to discuss education with parents (e.g., milestones in early childhood, former education, interruptions to education, learning difficulties, traumatic events, etc.). The next section of this chapter provides examples of questions to determine a student's educational history and content knowledge.

The HLS should not be included in the district/school's registration packet that a parent fills out to enroll their child. The HLS should be given to the parent as a separate document, when necessary, that is thoroughly explained to them so they understand its purpose. All completed surveys must be filed in the student's cumulative folder and transferred with the folder if the student transfers.<sup>93</sup>

**NOTE:** In order to ensure that responses given on the HLS are accurate and legally binding, districts should make every attempt to administer this document in the home language of the parent.<sup>94</sup>

## Next Steps

If the HLS indicates a language other than English in the child's background, the student is a potential EL student. Potential EL students are to be screened with the W-APT to make a determination.

Should the student qualify for ESL services, he/she will be coded as "L" in EIS for English language background. If the student does not qualify, based on W-APT results, he/she will be coded as "N" in EIS for English language background.

## Transfer Students

If a student transfers from another district within the United States<sup>95</sup> or from a Department of Defense school<sup>96</sup> and there are official records (e.g., W-APT, HLS, etc.) indicating the student's pre-determined

eligibility and ESL services within the past year, the receiving school must accept the record and provide the student with ESL services accordingly.

If there is no record available, or records cannot be obtained in a timely manner, it will be necessary for the school to ensure that it meets the appropriate deadlines for identification and screening of transfer students.

**NOTE:** Every attempt should be made to obtain the original HLS, or a copy, from the student's previous school. A student should only be re-surveyed if the original HLS cannot be obtained.

## Foreign Exchange Students

If the HLS indicates a home language other than English for a foreign exchange student, that student should be classified as NELB and may be screened for ESL service eligibility, if the district so chooses.<sup>97</sup>

## Identification/Placement Screening Assessments

Once a student has been identified as NELB by the HLS, they are considered a potential EL.<sup>98</sup> These students should be screened with the W-APT to determine if the student is an EL and corresponding ESL services identified. It is the expectation of the TDOE and Title III that students will be assessed as soon as logistically possible within the appropriate time frames.

### SCREENING TIME FRAMES

- Student enrolled in the school/district prior to the beginning of the school year must be screened **within 30 days** after the beginning of the school year.
- Student enrolled in the school/district **during the school year** must be screened within 14 calendar days.

**NOTE:** Upon determining that a student is an EL, that student must be scheduled for appropriate ESL services and those services must begin immediately.<sup>99</sup>

## W-APT – Placement Test

Tennessee is a member of the World-class Instructional Design and Assessment (WIDA) working group. All members of WIDA, including Tennessee, utilize the WIDA-ACCESS Placement Test (W-APT) to assess eligibility for ESL services. The W-APT is used by educators to measure the English language proficiency of students who have recently arrived to the U.S. or to a particular district. This screening tool is used to determine whether or not a child is eligible for English language assistance services. The W-APT is not intended for multiple administrations to screen or assess status or progress of individual students.

Test administrators must complete training and pass the WIDA certification required to administer the W-APT. For more information, see *Chapter 8: WIDA* of this manual.

**NOTE:** The ESL director in each district has been assigned one user name and password for accessing and downloading the W-APT screening materials. Districts should note that the W-APT may be downloaded from the WIDA website and printed with no additional costs to the district.

## **Additional Areas of Assessment**

Assessing a student's literacy skills in both English and their home language, when possible, provides valuable insight into the student's language and literacy development. This knowledge can inform instructional and programming decisions.

The following questions are neither mandatory nor exhaustive. They are meant as a helpful guide to determine an EL's educational history and content knowledge.

### Educational History

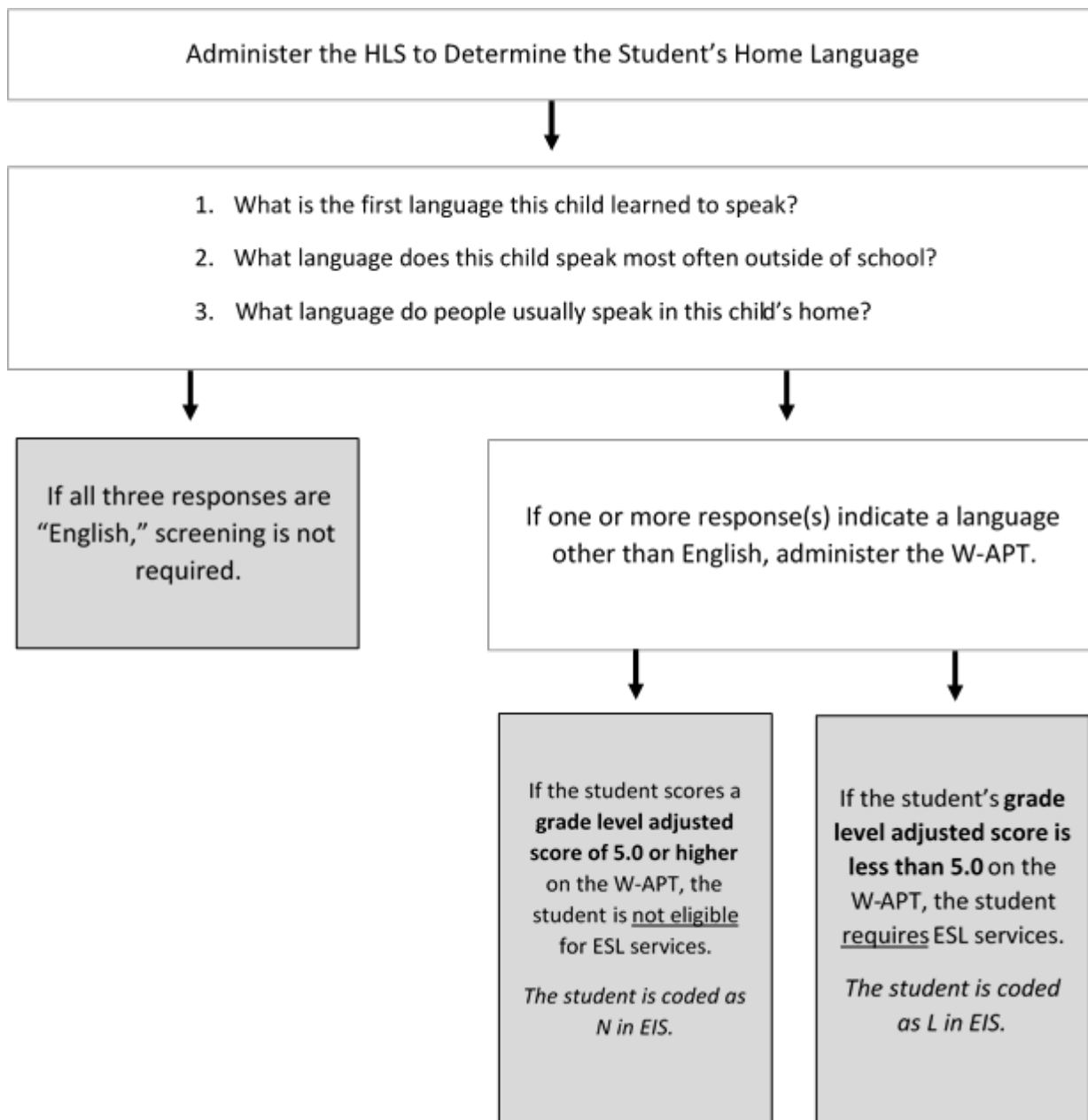
- How many years were you in school in your native country? In the United States?
- What is the name of the most recent school you attended?
- What grade were you in at the last school you attended?
- How well do you read in your first language?
- How well do you write in your first language?

### Content Knowledge

- What subjects did you study in your previous school? In what language did you study?
- Which books did you use in your previous schools? In what language were the books written?
- Did you study in a bilingual program?
  - If yes, which subjects did you study in English and which did you study in [the other language]?



## Steps for Assessing Eligibility for Language Services



## Student Data

Districts should maintain the following information for any student identified as an EL for their individual student profiles.

- Assessment information (e.g., standardized tests taken, scores, and dates)
- Academic information (e.g., courses taken, grades, attendance, and promotion/retention)
- Entry date into U.S. schools
- Entry date into the district
- Years of schooling in the student's home language
- Educational history
  - Interrupted education? – Yes/No
- Testing for vision and hearing
- Physical or psychological conditions that may affect learning
- Classroom observations by teachers
- Enrollment history and criteria used for placement in special services (e.g., ESL, speech therapy, special education, intellectual giftedness, etc.)

## Individual Learning Plan

The Individual Learning Plan (ILP) is an official document that provides educators with a plethora of information to aid in determining appropriate modifications and adaptations for an EL student in the classroom. The TDOE recommends using an ILP for EL students.

At the beginning of each school year, or when a new EL arrives, the ESL teacher should create an ILP in conjunction with the student's classroom teacher(s). Teachers and other staff members who work with the EL student should be given a copy of the ILP and should implement the ILP within their classroom on a daily basis.

## Utilizing the ILP

It is imperative to consider each domain (i.e., listening, speaking, reading, and writing) to determine a student's proficiency level in each of the specific domains. This information is essential in understanding and interpreting data to drive instruction. For example, a student may be an overall level 3 but a level 1 in reading.<sup>100</sup> This information will help when differentiating instruction and determining appropriate accommodations.

One of the most important pieces of information on the ILP is the section regarding modifications and adaptations that a student should receive while in general education classrooms. These modifications and adaptations should always be followed.

If a teacher has difficulty in ensuring that the ILP is followed, they should collaborate with the ESL teacher to ensure fidelity to the document.

## ILP Recommendations

The TDOE does not require a specific form to be used. Rather, districts retain the local responsibility to create an ILP based on their students' needs. The following are recommendations to include in an ILP. This list is neither mandatory nor exhaustive.

- General information about the student (e.g., name, age, grade, school year, etc.)
- English language proficiency placement test level
- Language profile for skills
- State and local assessment information
- Score report
- ESL services provided to support the student's English language proficiency attainment
- Strategies, accommodations, and modifications to be implemented in all the student's classes
- Strategies and accommodations for state assessments
- Goals for the student (i.e., quarterly, semester, annual)

**NOTE:** EL students are eligible to receive accommodations on state assessments.<sup>101</sup> To receive these accommodations, they should be marked on the student's ILP. Only TDOE-approved accommodations can be used with EL students on state assessments.

## Assessing EL Students for Special Needs

EL students may have special needs in addition to their low English proficiency. The civil rights laws prohibit students from being placed in special education if their difficulty in school is primarily the result of cultural linguistic differences. Therefore, when an EL student is referred for special needs assessment, care must be taken to ensure that:

- the student's difficulties are not caused by lack of English skills alone; and
- difficulties with English, including pronunciation, are not being mistaken for a speech or language disorder.<sup>102</sup>

Members of the IEP team must understand the process of second language acquisition. Only after documenting problematic behaviors and eliminating extrinsic variables as causes of these problems should the possibility of the presence of a disability be considered. For more information, see the TDOE's *Assessment Considerations for Culturally and Linguistically Diverse Students* [here](#).

## Points to Remember

- Interference from an EL's home language may cause him/her to be unable to discriminate or clearly produce English sounds. This is not a learning, speech, or hearing disorder.<sup>103</sup>
- It generally takes ELs 18 months to two years to develop conversational speech and five to seven years to develop proficiency in the academic language used in school.<sup>104</sup>
- Oral fluency in English may not be an indication that an EL student has the overall English language skills necessary for academic success.<sup>105</sup>
- There is no such thing as a culture-free test.<sup>106</sup>

- All tests given in English are tests of English language proficiency, regardless of the content of the test.
- Many learning styles are culturally determined.
- The culturally-based behavior of EL students must be distinguished from behavior indicative of special education needs.
- Parents and family members of an EL student who may be eligible for special education or disability services have valuable information that can help in developing an appropriate plan for that student.
- Processing or testing for special education services may not be delayed beyond the period of adjustment often referred to as the silent period.

Additional guidance can be found on the TDOE website under Special Education. The 2014 *Special Education Framework Manual* can be found [here](#).

## IEP

Special education ELs are served through an IEP. An ESL professional who understands the process of second language learning will serve on the IEP team<sup>107</sup> and IEP team members must understand the process of second language learning and the characteristics exhibited by EL students at each stage of language development in order to distinguish between language acquisition processes, interference, and other impairments.<sup>108</sup> Parents must be informed of how the ESL program will meet their EL child's IEP.<sup>109</sup>

## RTI<sup>2</sup>

RTI<sup>2</sup> is a process focused on prevention and early intervention. It is designed to ensure success for all students, including ELs. Thoughtful consideration should be made when determining how ELs will participate in tiered interventions. An ESL teacher must be part of the school-level RTI<sup>2</sup> team if an EL is being discussed.<sup>110</sup> Additionally, parents should be informed of how the ESL program RTI<sup>2</sup> plan will meet their child's needs.<sup>111</sup>

## Intellectually Gifted ELs

It is a violation of federal law<sup>112</sup> to exclude students from gifted programs based on their limited English proficiency. The TDOE charges districts to ensure that the abilities of students from traditionally underrepresented groups—including ELs—are accurately assessed. More information can be found in the *Tennessee State Plan for the Education of Intellectually Gifted Students* [here](#).

## Evaluating ELs for Gifted Programs

ELs can often be overlooked in the search for intellectually gifted students<sup>113</sup> simply because they are not thought of in the same context as their peers who are native English speakers. If a district uses academic assessments to screen all students for intellectual giftedness, the scores of EL students do not need to be compared to those of their native English-speaking peers.

Evaluating students for gifted programs should include the following:<sup>114</sup>

- Assessment through a multi-modal identification process, wherein no singular mechanism, criterion, or cut-off score is used for determination of eligibility
- Individual evaluation procedures that include appropriate use of instruments sensitive to cultural, linguistic, and environmental factors or sensory impairments
- Multiple criteria and multiple assessment measures in procedures followed for screening and comprehensive assessment

## Translation and Interpretation Considerations

Having someone who can communicate with the student's parents will increase the chances that the selection process is sensitive to the student's cultural and language learning context and allow parents to participate in the important discussion of their child's educational future. A process must be implemented for determining whether parents are limited English proficient and what their language needs are.<sup>115</sup>

## Administration Note

It is necessary for districts to keep data on the number and percentages of NELB and native English speakers in gifted programs. The percentage of ELs in a gifted programs should be comparable to that of their non-EL peers in a district. Wide discrepancies between the two groups would indicate that the district needs to review its identification procedures for EL students.

## Parental Notification and Approval

### Parental Notification

The district should provide parents with sufficient information about the program(s) of ESL services offered so that the parents' may make an informed decision. Specific procedures in a language the parents understand should be in place to notify parents of these services.<sup>116</sup> Additionally, procedures should be in place describing how parents, who may be limited English proficient themselves, will be notified of school activities that are called to the attention of other parents (e.g., student progress reports, school schedules, extracurricular activities, special meetings, ceremonies, events, etc.).<sup>117</sup>

Notification of ESL services must be sent to parents on an annual basis. All notifications sent to parents must be in an understandable and uniform format and, to the extent practicable, in a language that the parents can understand.<sup>118</sup>

This information includes:

- student's eligibility for ESL services;
- student's level of proficiency and how it was assessed;
- ESL service delivery model;
- how the service delivery model will help the child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation; and
- specific requirements for exiting the program.

Additionally, information pertaining to parental rights that includes written guidance should detail:

- the right of parents to immediately remove their child from ESL services upon their request;
- the options available to parents to decline to enroll their child in the ESL program or to choose another program or method of instruction, if available; and
- the differences between various service delivery models of instruction, if more than one program or model is offered, so parents may make an informed decision when selecting their child's program.

If an EL is removed from ESL services, he/she must continue to be assessed by the WIDA ACCESS for ELs until proficient. Services for English language acquisition will be provided by the general education classroom staff. EL students may not be denied ESL services that prohibit them from becoming proficient and accessing general education academic standards.

## Parental Notification Time Frames

The initial assessment of a student and the subsequent parental notification of the results must be completed according to the following time frames:

### PARENTAL NOTIFICATION TIME FRAMES<sup>119</sup>

- If the student was identified as eligible for ESL services **prior to the beginning of the school year**, parental notification of eligibility **within 30 days after the beginning of the school year** is required.
- If the student is identified as eligible for ESL services **during the school year**, identification, screening, and parental notification of eligibility are required **within two weeks of a child being placed in the ESL program**.

## District Responsibilities when Parents Waive ESL Services

Some parents of students identified as ELs may choose to waive ESL services for their child. Parents who waive services must do so in writing on an annual basis and the district must maintain evidence of the written documentation.<sup>120</sup>

OCR law holds districts responsible for providing all EL students—including those whose parents have waived ESL services—with English language support. The district must find alternative means of providing the student with support for language development and proficiency outside of structured ESL classes.

An EL student whose parents have chosen to waive ESL services are not exempt from the federally-mandated annual assessment of all EL students on their English language proficiency. These students have been identified and coded as an EL and will continue to be coded as such until the student reaches an English proficiency level that meets the state requirements to exit ESL services.<sup>121</sup> These students are also eligible for standardized test accommodations available for all ELs.

## EL Proficiency Levels

Tennessee began using the WIDA Standards in the 2014-15 academic year. The proficiency levels are based on a scale of 1-6. The TDOE has added a seventh level to recognize NELB students who were never classified as LEP. The proficiency levels are as follows:

**Level 7:** NELB/FEP/Never LEP

**Level 6:** Reaching

**Level 5:** Bridging

**Level 4:** Expanding

**Level 3:** Developing

**Level 2:** Emerging

**Level 1:** Entering

Districts use the data and information gathered from the W-APT, an assessment of academic skills, previous school records, and information from the parents and student to make an overall determination of eligibility for ESL services.

If it is determined that the student is sufficiently proficient in English so as not to limit access to the curriculum, the student is considered Fluent English Proficient (FEP) (level 7) and placed in the general education instructional program without additional language assistance services. However, when the data indicates that the student is not proficient in English and is in need of ESL services (levels 1-5), an initial placement is made in the ESL program. Level 6 students do not require ESL services.

More information on proficiency level definitions and their implications can be found in *Chapter 8: WIDA*.

## Transitional ELs

NELB students who were classified as EL and have scored fluent English proficient or above on the ACCESS for ELs are considered transitional. These students are exited from ESL services but continue to be monitored for the four-year period academically.

- Students are classified as Transitional 1 the first year after scoring proficient.
- Students are classified as Transitional 2 the second consecutive year after scoring proficient.
- Students are classified as Transitional 3 the third consecutive year after scoring proficient.
- Students are classified as Transitional 4 the fourth consecutive year after scoring proficient.

# Scheduling ELs

## Scheduling ELs at All Grade Levels

When making decisions regarding student placement, it is important to consider the services and support in place to ensure that ELs are developing both social and academic English language proficiency and are able to effectively participate in all academic and special programs within the district. As part of this process, it is imperative that district personnel familiarize themselves with the WIDA Performance Definitions which serve as the basis for the W-APT, ACCESS for ELs, and MODEL Composite Proficiency Levels.<sup>122</sup>

ELs are eligible for any program that will help them reach the same standards of performance asked of non-EL students. Once a child enters a general education classroom, he/she may need language development and other types of support that must be included in everyday classroom instruction.<sup>123</sup> These may include accommodations to the instructional activities, tasks, and/or assessments. As the EL attains proficiency in English, however, fewer accommodations will be necessary.

Students at lower levels of proficiency, and/or with an educational background of limited or interrupted instruction, may require additional support and/or multiple classes of support when first receiving ESL services. Students nearing proficiency may benefit from sheltered instruction content classes or with ESL courses targeted to those academic areas in which they are most likely to need additional support.

While the provision of services to ELs may have the effect of separating them from their English-proficient peers for at least part of the school day, the district's program should not unnecessarily separate ELs. EL students should be allowed to participate in all extracurricular and special programs.<sup>124</sup> Additionally, ELs must be provided services in comparable facilities to those in which non-ELs receive instruction.<sup>125</sup>

## Placement in Grades Kindergarten–Eighth

All teachers should understand cross-cultural difficulties and be trained in dealing with language and cultural challenges EL students may face in the general education classroom.

## Placement in Grades 9–12

At the high school level, differences in background knowledge may be as much of a hurdle for EL students as a lack of language skills. Topics students in the U.S. have heard about for years in school, at home, and on TV (e.g., Columbus, the Civil War, presidents, etc.) may be completely new to student from other countries and cultures. In addition, courses at this level can be very language-intensive, requiring advanced skills in reading and writing.

**NOTE:** ESL courses may be used to satisfy a student's English language graduation requirement, not to exceed two units.<sup>126</sup>

ELs older than grade-level peers may have a limited period of time to meet all graduation requirements. Therefore, appropriate placement in classes for these students requires careful attention to school



records from other countries. In addition to official records, it may be beneficial to use interviews and informal assessments to determine the student's previous level of schooling.

**NOTE:** Mathematical skills should be assessed with caution. Instructions written in English and international variations in mathematical symbols may interfere with assessment of actual math skills. Math teachers may be helpful in determining appropriate math placement.

## Placing EL Students in non-ESL Classes

Initial placement of EL students in appropriate classes may be crucial to their success in the educational program. Districts must ensure ELs are placed in age-appropriate classes, regardless of their language skills.<sup>127</sup>

## Awarding Transfer Credits

School counselors should be trained in assessing non-U.S. school transcripts to appropriately award transfer credits. Internationally, there is a wide variation in grading systems, course titles, and grade level at which certain courses are taught. Students should not be required to repeat content classes they had in their home language solely due to their lack of English skills.<sup>128</sup> If there are problems in evaluating the student's academic transcript, or if there is no transcript, the district may award credits based on competencies.<sup>129</sup>

## Foreign Language Credits

Districts may allow NELB students to complete the graduation requirements for the university preparation curriculum without taking foreign language courses, provided oral and written proficiency in the home language can be documented. Such documented home language proficiency will be noted on the Tennessee high school transcript.<sup>130</sup>

## Transfer Credit Guidance for International Students

Tennessee high schools should make every possible effort to transfer credits for students enrolling from other countries. The TDOE recommends that the school attempt to obtain a list of content area course descriptions from the native country (in English) to determine the content equivalence of courses.

Awarding credits based on transfer transcripts is a local decision. Services are available, for a fee, to professionally translate and evaluate transcripts. Contact local universities for information on these services. Additionally, if a transcript is not available for a student, then the school may choose other performance measures for a student to demonstrate content proficiency that meets the intent of the Tennessee academic standards. These other measures could include an End of Course assessment, an approved comprehensive written examination, or a recognized standardized test.<sup>131</sup>

**NOTE:** Language arts classes in the student's home language (i.e., literature, writing) may count for Tennessee world language credit.

# Sample Course Progression Plans for EL Students<sup>132</sup>

## Plan for EL Students with Interrupted Formal Education

ELs will receive two years of ESL service, including English Language Development (ELD) courses, before taking an English course.

ELs qualifying for this plan will meet the following criteria:

- **W-APT Entering** (0.0-1.0) on their EL Program Placement Card
- No ACCESS scores

Year Entering School	Course Placement	Credits Earned
Year 1	ELD 0 ELD Reading 0	1 English credit <i>and</i> 1 ELD elective credit
	Newcomer Math	1 elective credit
Year 2	*ELD 1a <i>or</i> 1b *ELD Reading 1a <i>or</i> 1b	1 English credit <i>and</i> 1 ELD elective credit
	Integrated Math 1	1 math credit
Year 3	English 1 ELD 2 ELD Reading 2	1 English credit <i>and</i> 2 ELD elective credits
	Integrated Math 2	1 math credit
Year 4	English 2 ELD 3 ELD Reading 3	1 English credit <i>and</i> 2 ELD elective credits
	Integrated Math 3 <i>and</i> Bridge Math/Higher Math	2 math credits

Notes:

1. \*Students may be in either ELD 1a *or* ELD 1b in their second year of classes. These students will need to take English I in their third year of high school to meet the English credits for graduation.
2. English courses should be paired with the **ELD reading course** mentioned in the above chart.
3. If an EL exits ESL services or qualifies for consultation, the EL will not be placed in any ELD courses.
4. Math courses are suggestions and do not take into consideration math credits earned at other schools.

## Plan for EL Students Identified as Entering and/or Emerging Proficiency

ELs will receive two years of ESL service, including ELD courses, before taking an English course.

ELs qualifying for this plan will meet the following criteria:

- **W-APT Entering** and **Emerging** (0.0-1.9) on their EL Program Placement Card
- ACCESS Entering (1.0-1.9)

Year Entering School	Course Placement	Credits Earned
Year 1	ELD 1a ELD Reading 1a	1 English credit <i>and</i> 1 ELD elective credit
	Integrated Math 1	1 math credit
Year 2	ELD 1b ELD Reading 1b	1 English credit <i>and</i> 1 ELD elective credit
	Integrated Math 2	1 math credit
Year 3	English 1 *ELD 2 ELD Reading 2	1 English credit <i>and</i> 1 or 2 ELD elective credits
	Integrated Math 3	1 math credit
Year 4	English 2 *ELD 3 ELD Reading 3	1 English credit <i>and</i> 1 or 2 ELD elective credits
	Bridge Math/Higher Math	1 math credit

Notes:

1. English courses should be paired with the **ELD reading course** mentioned in the above chart.
2. If an EL exits ESL services or qualifies for consultation, the EL will not be placed in any ELD courses.
3. Math courses are suggestions and do not take into consideration math credits earned at other schools.
4. \*The progress of each EL should be considered when deciding if he/she should take ELD 2 and ELD 3 classes. Depending on the EL's progress in all content classes, ELD 2 and ELD 3 may or may not be appropriate for the EL.

## Plan for EL Students Identified as Emerging, Developing, and/or Expanding Proficiency

ELs will receive one year of ESL service, including ELD courses, before taking an English course.

ELs qualifying for this plan will meet the following criteria:

- **W-APT Developing** and **Expanding** (2.0-3.5) on their EL Program Placement Card
- ACCESS Emerging and Developing (2.0-3.5)

Year Entering School	Course Placement	Credits Earned
Year 1	ELD 1b ELD Reading 1b	1 English credit <i>and</i> 1 ELD elective credit
	Integrated Math 1	1 math credit
Year 2	English 1 ELD 2 ELD Reading 2	1 English credit <i>and</i> 2 ELD elective credits
	Integrated Math 2	1 math credit
Year 3	English 2	1 English credit <i>and</i>

	*ELD 3 ELD Reading 3	1 or 2 ELD elective credits
	Integrated Math 3	1 math credit
Year 4	English 3 *ELD 4 ELD Reading 4	1 English credit <i>and</i> 1 or 2 ELD elective credits
	Bridge Math/Higher Math	1 math credit

Notes:

1. English courses should be paired with the **ELD reading course** mentioned in the above chart.
2. If an EL exits ESL services or qualifies for consultation, the EL will not be placed in any ELD courses.
3. Math courses are suggestions and do not take into consideration math credits earned at other schools.
4. \*The progress of each EL should be considered when deciding if he/she should take ELD 3 and ELD 4 classes. Depending on the EL's progress in all content classes, ELD 3 and ELD 4 may or may not be appropriate for the EL.

## Plan for EL Students Identified as Developing, Expanding, and/or Bridging Proficiency

ELs will begin English courses their first year in high school.

ELs qualifying for this plan will meet the following criteria:

- **W-APT Expanding** and **Bridging** (3.6-4.9) on their EL Program Placement Card
- ACCESS Developing and Expanding (3.6-4.9)

Year Entering School	Course Placement	Credits Earned
Year 1	English 1 *ELD 2 ELD Reading 2	1 English credit <i>and</i> 1 or 2 ELD elective credits
	Integrated Math 1	1 math credit
Year 2	English 2 *ELD 3 ELD Reading 3	1 English credit <i>and</i> 1 or 2 ELD elective credits
	Integrated Math 2	1 math credit
Year 3	English 3 ELD Reading 4	1 English credit <i>and</i> 1 ELD elective credit
	Integrated Math 3	1 math credit
Year 4	English 4 ELD 4	1 English credit <i>and</i> 1 ELD elective credit
	Bridge Math/Higher Math	1 math credit

Notes:

1. English courses should be paired with the **ELD reading course** mentioned in the above chart.
2. If an EL exits ESL services or qualifies for consultation, the EL will not be placed in any ELD courses.
3. Math courses are suggestions and do not take into consideration math credits earned at other schools.
4. \*The progress of each EL should be considered when deciding if he/she should take ELD 2 and ELD 3 classes. Depending on the EL's progress in all content classes, ELD 2 and ELD 3 may or may not be appropriate for the EL.

# Chapter 4: ESL Programs

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## Summary

This chapter provides information on the TDOE-approved ESL service delivery models from which districts may choose. Districts have the freedom to select the model most suited to the needs of its students, as there is no federally- or state-mandated ESL program model. Districts wishing to use any model not on the approved list must have approval from the TDOE.

Programming notes specific to elementary, middle, and high school student populations can be found in this chapter. Additionally, the responsibilities of district personnel—the ESL coordinator, school principal, ESL teachers, and general education teachers—are delineated. The vital communication between ESL coordinators, teachers, and general education teachers in order to monitor transitional EL students is also explained.

Tennessee’s current licensure standards for ESL teachers can be found at <http://www.tn.gov/education/section/licensing>. Additionally, the State Board of Education’s policy on ESL staffing ratios, including procedures for requesting an alternate staffing ratio, are enumerated. The TDOE recommends a ratio of 40 EL students per one full-time ESL endorsed teacher.

## FAQs

### **1. What ESL service delivery model does the TDOE recommend?**

There is no federally- or state-mandated service delivery model.<sup>133</sup> A district selects the service delivery model from the list of TDOE-approved models that is best suited to its needs. Any model not on the list must be approved on a case-by-case basis by the TDOE.

### **2. Who can teach ESL classes?**

In Tennessee, a teacher must have an ESL endorsement or certification to provide this instruction.

### **3. If a district employs an educational assistant to work with EL students, how should that person be utilized?**

An educational assistant must always be under the direct supervision of an endorsed ESL teacher.<sup>134</sup> Educational assistants are most beneficial in non-ESL classrooms.

### **4. Why can’t a district provide the same amount of ESL services to all EL students?**

Each student must be evaluated individually. The student’s grade level, English proficiency, educational background, and the academic demands of their general education classroom must be taken into consideration when determining the amount of ESL services to be provided. Students who come with little or no educational experience in their home countries may need additional or different services from those students who had more robust educational experiences in their home countries. An experienced, endorsed ESL teacher will consider all of the variables before determining the servicing needs of an EL.

When reviewing whether the amount of direct ESL servicing is adequate, the TDOE will consider whether the student is receiving the minimum amount of ESL services as comparable to the

amount of language arts instruction his/her English-speaking counterparts are receiving in the district. In general, services for beginning or intermediate ELs should be daily and based on the student's needs.

**NOTE:** The OCR states that "limited financial resources do not justify failure to remedy a Title VI violation."<sup>135</sup>

**5. *If a district has only a few identified EL students, is it still required to have an alternate language program?***

Yes. All "students whose first language is not English and who are identified as limited English proficient shall be provided with English instruction especially designed for speakers of other languages."<sup>136</sup> Districts that contract these services must do so with a TDOE-approved institution. If a district wants to implement a program for its students that is different from the state's delineated service delivery models, it must be approved by the TDOE.<sup>137</sup>

**6. *Is the district limited to only providing ESL classes to EL students?***

No. A district may provide additional support to EL students in a variety of ways. Content classes may be offered to ELs through a sheltered approach, where the teacher uses strategies which help the students acquire the specific language of the subject, as well as the concepts. The teacher should be certified in the content and ESL or use a team-teaching approach.

Classroom teachers who have ELs must have strategies in place to provide those ELs with meaningful educational opportunities within their classrooms. "Schools retain an obligation to provide assistance in order to remedy academic deficits that may have occurred in other subjects while the student was focusing on learning English."<sup>138</sup>

Furthermore, the district should consider tutoring services during, as well as outside of, the regular school day. The TDOE encourages schools to use additional strategies to help EL students rapidly and successfully transition into the general education curriculum. These services may be funded with Title III.<sup>139</sup>

**7. *Can a district set up a newcomer center or class where beginner-level students spend all of their school day until they develop a minimum of English language skills?***

Some schools in Tennessee have developed newcomer classes for students who arrive with very limited or no English ability and/or limited educational experiences. These classes, using only ESL support, are designed to rapidly transition students into the general education curriculum.

**NOTE:** A newcomer center may only be used for a short period of time, preferably no more than one academic year.

**8. *Do ESL services need to be provided during the school day?***

Yes. The regular ESL class must occur during the school day. This class is considered core language for ELs who cannot access full, grade-level English language arts.<sup>140</sup>

**NOTE:** The school may supplement this class with tutorials before or after school or with summer programs.<sup>141</sup>



## 9. Do districts need to provide ESL services on a daily basis?

Beginner and intermediate ELs are required to receive daily ESL service.<sup>142</sup> The amount and frequency of services provided to all students should be based on student need.

The adequacy of a district's ESL program is determined by four criteria:

1. the service delivery model is chosen from the TDOE-approved list;
2. the resources devoted to the program—including trained, endorsed personnel, materials, etc.—are adequate to effectively implement the goals of the district's programs;
3. the district can demonstrate the effectiveness of its program and modifies it when necessary, per *Castañeda v. Pickard*;<sup>143</sup> and
4. the district must be meeting all AMAOs.

## Service Delivery Models

In Tennessee, an alternative language program for ELs, known as English as a Second Language (ESL), is defined as, “English instruction especially designed for speakers of other languages.”<sup>144</sup>

### Approved Models<sup>145</sup>

An ESL program may be provided through various service-delivery models, including:

- ESL pull-out programs,
- push-in models,
- sheltered content classes,
- structured immersion grades or classes, or
- scheduled ESL class periods.

Instruction may be delivered in newcomer centers or classes, a traditional setting, or resource centers. ESL is ideally delivered through content-based materials. Sheltered classes in academic subjects are a modification that is supported by research.<sup>146</sup> These classes are most appropriate at the middle and high school levels. Structured immersion segregates students and is only appropriate for one year/two years in situations where students are illiterate in their first language.

### Other Models

The TDOE must approve other models based on evidence of their effectiveness. All models must address how academic deficits that are the result of a student's limited English proficiency will be remediated. Under ESSA,<sup>147</sup> all ESL services must be founded on research-based educational practices.

## Programming Notes

### Elementary and Middle School

At the elementary level, an effective, endorsed, highly-effective ESL teacher must provide direct services to ELs. Pre-functional, beginning, and intermediate ELs (WIDA levels 1-3) receive direct service for one to two hours per day.<sup>148</sup> Advanced EL students (WIDA levels 4-5) may have programs more tailored to their needs, including, but not limited to, push-in service in which the ESL teacher works inside the regular classroom with ELs for subjects for which they are most proficient. They should receive up to one hour of direct service each day until these transitions begin to take place.

### High School

At the high school level, districts shall use one course code for all ESL course work. Two ESL credits may be counted toward the four English credits required for graduation. Additional ESL courses are to be counted as elective credits.<sup>149</sup> It is recommended that ELs achieve the intermediate level (WIDA level 3) before taking a non-ESL English course.

Due to course requirements for graduation, there can be more flexibility related to classes. However, a pre-functional and beginning student should never have less than one hour of daily ESL service.

### Transitional EL Students

Transitional ELs are considered proficient and may be mainstreamed to the general education classroom with careful academic monitoring for two calendar years. Transitional students will continue to receive appropriate accommodations on state assessments for all four years of transition.<sup>150</sup> Should a transitional student begin to have difficulty in classes, he/she should receive intervention immediately. If this intervention is not successful, the student may be re-designated as an EL and begin receiving ESL courses again.<sup>151</sup> This should be a rare occurrence.

## Responsibilities of District Personnel

### Principal

The principal:

- ensures student enrollment forms—including the HLS—are completed for each student enrolling in the school and will be maintained in the student's cumulative folder;
- informs the ESL teacher(s) serving the school of new students;
- provides appropriate space, comparable to that provided for general education instruction, for ESL services; and
- ensures that ELs are provided appropriate ESL services.

## ESL Coordinator

The ESL coordinator:

- recommends, implements, and maintains program policies, procedures, schedules, and budgets;
- ascertains that the goals and requirements of the program are met;
- supervises annual system-wide HLS administration to initially-enrolling students;
- works with district testing coordinator to supervise annual English proficiency testing, including ordering of testing materials, dissemination, development, and maintenance of records;
- monitors the progress of transitional EL students;
- coordinates ESL services with all other departments of the school system;
- plans staff development activities; and
- oversees the preparation and dissemination of program communications (e.g., brochures, videotapes, newsletters, and website).

## ESL Teacher

The ESL teacher:

- creates and maintains an instructional climate that is conducive to learning;
- assists with the identification of EL students using the W-APT;
- plans and implements ESL instruction based on diagnosed needs of each individual student;
- evaluates student performance in the ESL class and provides classroom teachers with input regarding progress;
- maintains records on each student attending the ESL class;
- attends professional development to increase knowledge and understanding of ESL strategies and methodologies;
- assists ELs in understanding American culture and encourages all students to understand other cultures; and
- conducts in-service training for staff on ESL intervention and instructional strategies.

## General Education Teacher

The general education teacher:

- closely communicates with the ESL teacher regarding the EL student's progress and class assignments; and
- modifies and accommodates assignments and assessments, as needed.

## A Note on Transitional EL Students

Support services for transitional EL students can take many forms, depending on the individual needs of the student. The ESL program coordinator or the ESL teacher should monitor the student's performance

in the classroom by discussing each student's progress with the classroom teacher. Students are to be offered other services, as appropriate. For more information, see *Considerations when Mainstreaming Students* in Chapter 7: *Exiting ESL Status*.

## ESL Teacher Licensure Standards<sup>152</sup>

In Tennessee, an ESL teacher must be certified or have an endorsement. Additionally, he/she must be fluent in all four domains of English (i.e., reading, writing, speaking, and listening). Each district should have a plan in place for this recruitment requirement before hiring an ESL teacher.<sup>153</sup>

### Teacher Preparation

Prospective ESL teachers will complete their studies in teaching ESL. The educational and professional development of the teacher is initiated with coursework, refined in field experiences, and enhanced during professional practice. ESL preparation programs will provide the prospective candidate with the knowledge and skills to develop competencies in the following domains: language, culture, instruction, assessment, and professionalism.

### Candidate Content Standards<sup>154</sup>

#### Standard 1: Language

Candidates know, understand, and use the major theories and research related to the structure and acquisition of language to support EL students' language and literacy development and content area achievement. Issues of language structure and language acquisition development are interrelated.

#### Standard Elements

- 1.1 Knowledge of linguistics, enabling the teacher to apply understanding of the differences in the sound systems, forms, structures, and lexicon of English and other languages.
- 1.2 Knowledge of the cultural, psycholinguistic, and sociolinguistic variables that affect second language learning and the ability to apply that knowledge in the classroom.
- 1.3 Knowledge of the similarities and differences between first and second language acquisition and the ability to apply that knowledge in the classroom.

#### Standard 2: Culture

Candidates need knowledge of the cultural richness students bring to the ESL classroom. At the same time, students with limited formal schooling may not understand and assimilate easily into the American school culture. This needs to be shared with the content teachers for ELs. The candidate must also work with intra- and inter-group differences and aid the students in the cross-cultural conflicts. Classrooms should be designed to showcase diversity.

### *Standard Elements*

- 2.1 Knowledge of the impact of culture on non-English language background (NELB) students' perceptions, learning and communication styles, needs, expectations, and rate of second language acquisition.
- 2.2 Knowledge of the particular aspects of American culture and traditions that must be understood and used correctly by NELB students for successful acculturation.
- 2.3 Appreciation of cultural diversity and the ability to communicate in varied cultural situations to enable students to reach their educational objectives.

### **Standard 3: Instruction**

Candidates know, understand, and use evidence-based practices and strategies related to planning, implementing, and managing standards-based ESL and content instruction. Candidates are skilled in using a variety of classroom organization techniques, program models, and teaching strategies for developing and integrating language skills. They can integrate technology and choose and adapt classroom resources.

### *Standard Elements*

- 3.1 Knowledge of various ESL methods, approaches, strategies, and best practices to facilitate NELB students' learning of reading, writing, speaking, and listening in English and for accessing the core curriculum.
- 3.2 Ability to apply multiple approaches with learners of varied ages, stages of development, learning styles, and cultures.
- 3.3 Ability to analyze, select, and modify curriculum and materials to facilitate students' successful transition into the general education classroom.
- 3.4 Knowledge of a wide range of standards-based materials, resources, and technologies, and choose, adapt, and use them in effective ESL and content teaching.

### **Standard 4: Assessment**

Candidates understand issues and concepts of formative and summative assessment and use standards-based procedures with ESL students. Candidates are expected to understand accommodation and the resources available to determine accommodations that are best for the student.

### *Standard Elements*

- 4.1 Ability to assess, select, administer, interpret, and communicate the results of formal and informal language and academic assessments.
- 4.2 Awareness of the importance of using varied sources to distinguish developmental stages of language acquisition from other special needs.
- 4.3 Understand various issues of assessment (e.g., cultural and linguistic bias; political, social, and psychological factors; home language assessments; IQ and special education

testing); the importance of standards; and the difference between language proficiency and other types of assessment as they affect ELs.

- 4.4 Knowledge of the required methods of identifying, placing and monitoring, and exiting of NELB students.
- 4.5 Knowledge and application of a variety of performance-based assessment tools and techniques to inform instruction.

## **Standard 5: Professionalism**

Candidates keep current with new instructional techniques, research results, advances in the ESL field, and public policy issues. Candidates demonstrate knowledge of the history of ESL teaching. Candidates use such information to reflect upon and improve their instruction and assessment practices.

### ***Standard Elements***

- 5.1 Knowledge of history, research, and current practice in the field of ESL teaching and apply this knowledge to improve teaching and learning.
- 5.2 Ability to communicate, collaborate, and consult with students, teachers, parents, staff, administrators, and other service providers regarding the social and academic integration of NELB students.
- 5.3 Knowledge of current state and federal requirements affecting the provision of services to NELB students.
- 5.4 Participate in professional growth opportunities and professional organizations and demonstrate the ability to serve as professional resources, advocate for EL students, and build partnerships with colleagues and students' families.

## **Program Implementation Standards**

1. Candidates for licensure with endorsement as a teacher of ESL will complete an approved program of studies in ESL roughly equivalent to a minor at either the undergraduate or graduate level.
2. Candidates for the ESL endorsement through an initial teacher preparation program will have had the experience of learning a world language equivalent to at least six semester hours of college-level study. This experience may include but is not limited to: completion of intensive language training by the Peace Corps, passing the Praxis II subject assessment in a second language, or a world language teaching credential from Tennessee or another state.

**NOTE:** Candidates for additional endorsement only, who have already achieved initial licensure in another teaching area(s), will not be required to meet this requirement.

3. A candidate may seek licensure as a teacher of ESL as an area of initial (first) endorsement or additional endorsement.
4. Candidates for initial endorsement will have acquired a baccalaureate degree and will acquire the knowledge and skills specified for the professional education core and ESL. They will

complete an enhanced student teaching semester or full-year internship, which will include experiences in ESL settings at both the pre-K–6 and 7–12 grade levels.

5. Field experiences and clinical practice (enhanced student teaching or internship) are integral components of the preparation program. They are designed and sequenced to provide opportunities for candidates to apply their knowledge, skills, and dispositions in a variety of settings appropriate to the content and level of the program. Field experiences are ongoing, school-based opportunities in which candidates may observe, assist, tutor, instruct, or conduct applied research. Candidates study and practice in a variety of settings that include students of diverse backgrounds and learning needs. Clinical practice provides candidates with experiences that allow for full immersion in the school-based community, allowing candidates to demonstrate competence in the professional role for which they are preparing.
6. Candidates for additional endorsement will acquire the knowledge and skills specified for ESL. They will complete a practicum—including both pre-K–6 and 7–12 experience—of at least 30 clock hours in ESL settings. Appropriately supervised teaching experience at the pre-K–12 level in ESL of at least one semester may be substituted for the practicum.
7. ESL teachers will be prepared to serve schools with grades pre-K–12. Preparation programs will have identifiable aspects at both the pre-K–6 and 7–12 grade levels.
8. Supervision of the practicum, student teaching, and internship may be addressed by collaborative arrangements among institutions with ESL programs, other institutions with teacher preparation programs, and school systems.
9. Because candidates in this field come from diverse educational and cultural backgrounds, institutions of higher education will use multiple methods of assessment in determining the candidate’s prior knowledge and needed coursework and/or field experience.
10. The new licensure standards became effective on September 1, 2014. [http://www.tn.gov/assets/entities/education/attachments/lic\\_educator\\_licensure\\_standards.pdf](http://www.tn.gov/assets/entities/education/attachments/lic_educator_licensure_standards.pdf)

**NOTE:** ESL teachers who were endorsed under prior licensure standards are considered appropriately endorsed, and may continue to serve as teachers of ESL.

## Staffing Ratios<sup>155</sup>

Appropriate staffing of ESL programs is based on two criteria:

1. Districts will provide adequate ESL faculty to implement the chosen service delivery model effectively, as documented by the progress in English language proficiency and academic content of their EL students.
2. Districts will adequately staff their ESL programs to meet federal compliance requirements, including but not limited to communication to parents, identification of ELs, and monitoring of transitional ELs.<sup>156</sup>

To meet these criteria of effective and compliant ESL programs, districts shall implement ESL programs based on the following staffing ratio standards:

- ESL class sizes shall not exceed state mandated grade-level class size requirements.
- The district-wide ESL program staffing ratio shall be based on an average of no more than 40 identified EL students per full-time ESL endorsed teacher, unless an alternate staffing ratio is approved by the TDOE.

## **Alternate Staffing Ratios**

Districts seeking approval for an alternate, district-wide staffing ratio shall provide the following information to the TDOE on an annual basis:

- Number of enrolled ELs
- Proficiency levels of ELs
- Most recent growth of the EL subgroup in reading/English language arts and mathematics
- Proposed staffing ratio to be used in place of the recommended 40 to 1 ratio
- Justification for the alternate staffing ratio

The alternate staffing ratio may be approved for one year.

**NOTE:** Districts should have met all three AMAOs in the previous year to be considered.



# Chapter 5: Annual Assessments

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## Summary

This chapter covers EL-related procedures and accommodations for Tennessee’s state assessments. EL students are eligible for some accommodations and/or exclusions; however, those determinations are to be made on a case-by-case basis. The specific conditions that provide for such accommodations are explained in this chapter.

Finally, there is a brief explanation of the monitoring requirement for transitional ELs. ELs in the transitional period remain eligible to receive testing accommodations.

## FAQs

### **1. *Is TNReady administered to EL students?***

During the 2015-16 school year, TNReady became the Tennessee assessment for English language arts and math in grades 3-11. It will be administered to all students in the state.

### **2. *Who administers the state assessments to EL students?***

All state assessments must be administered by trained test administrators who have test security training and meet the criteria as listed in the specific test administration manuals.

### **3. *Where are state assessments administered to EL students?***

State assessments are typically administered to students at the school. However, students placed on homebound or in a hospital may have their assessments administered in the alternate locations.

### **4. *When are state assessments administered to EL students?***

The state assessment are administered to EL students during the same testing window the district has selected for the general student population. Exceptions may be allowed due to accommodation needs for ELs with disabilities.

### **5. *Are EL students exempt from state assessments?***

No. However, in the first calendar year (fewer than 365 days) after an EL student is enrolled in a U.S. school, he/she may be exempted from participation in the ELA assessment. A recently-arrived EL student must participate in the mathematics, science, and social studies content areas of the assessments.

### **6. *What accommodations/modifications can EL students receive during testing?***

All students who are participating in ELA, math, science, and social studies are eligible for allowable test conditions, accessibility features, and accessibility features identified in advance.

Students are eligible for the following testing accommodations/modifications: extended time, word-to-word dictionary, and rest/breaks. EL students must be evaluated individually for appropriate testing accommodations/modifications and all decisions by the Accommodation

Decision Making Team must be appropriately documented. EL students with a disability may be eligible for additional accommodations per the IEP.

**NOTE:** Any accommodation offered must be consistent with current instructional and assessment accommodations made in the classroom.

## ESSA Requirements

Under ESSA, all students must participate in mandated testing. Including ELs in Tennessee’s assessment results ensures that children who are English learners, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging state academic content and student academic achievement standards as all children are expected to meet.

### ESSA State Plans for Assessment

ESSA<sup>157</sup> requires all state assessments to provide for the following:

- I. the participation in such assessments of all students;
- II. the reasonable adaptations and accommodations for students with disabilities<sup>158</sup> necessary to measure the academic achievement of such students relative to state academic content and state student academic achievement standards; and
- III. the **inclusion of English learner students**, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency.

### Testing in an EL’s Home Language<sup>159</sup>

All students who have attended school in the United States (not including Puerto Rico) for three or more consecutive years are to be annually assessed on reading and language arts with tests in English.

However, if the district determines—on a case-by-case basis—that academic assessments in another language or form would likely yield more accurate and reliable information on what such a student knows and can do, the district may make a determination to assess such a student in the appropriate language other than English for a period that does not exceed two consecutive years.

**NOTE:** This option is only available for students who have not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests—written in English—of reading or language arts.

## Academic Assessments of English Language Proficiency

Each state shall demonstrate that LEAs in the state will provide for an annual assessment of English proficiency (meaning students' oral language, reading, and writing skills in English) of all students with limited English proficiency in the public schools.<sup>160</sup>

In the 2014-15 school year, Tennessee began administering the ACCESS for ELs to measure English language proficiency. More information on ACCESS for ELs can be found in *Chapter 8: WIDA* or [here](#).

## State Assessments for ELs<sup>161</sup>

EL status must be determined by the English Language Proficiency Assessment, currently the WIDA ACCESS. A score of less than English proficient on any subtest qualifies a student as an EL.

## Tennessee English Learner Testing Policy

*"The purpose for including our student population of ELs in our Tennessee Comprehensive Assessment Program is to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging state academic content and student academic achievement standards as all children are expected to meet."*

Tennessee is an English-only state—all state assessments are provided in English only.

## EL First Year Excluded

In the first calendar year (fewer than 365 days) after an EL student is enrolled in a U.S. school, he/she may be exempted from participation in the state ELA assessment. A recently-arrived EL student must participate in the state mathematics, science, and social studies content areas of the assessments.

The "EL Excluded" field must be used to indicate the student is being exempted from the ELA assessment. There is no blanket exclusion of EL students. These exemptions are one time only, regardless of how many times the student leaves and re-enters the United States. Students may not be excluded for more than one year for calculations for accountability. At the end of the first year of enrollment in a U.S. school, all EL students are expected to take all state assessments and are included in accountability calculations.

## Transitional EL Students

Transitional EL students are non-English language background (NELB) students who were initially classified as ELs and have scored English proficient or above on all subtests on the ACCESS for ELs assessment.

Students are classified as Transitional 1 the first year after scoring proficient and as Transitional 2 the second year. These students are required to take all content areas of the state assessments.

**NOTE:** Transitional ELs remain eligible to receive EL testing accommodations.

## EL Students with Disabilities

The IEP or 504 Committee should collaborate with school ESL professionals to determine the English language development needs of an EL with an identified disability. For example, an EL with a disability that affects his/her language acquisition may need support from both EL and special education staff.

The ESL and the IEP or 504 Committee should meet to:

- determine the appropriate accommodations that address the student's linguistic needs and disability;
- discuss the effective implementation of the accommodations; and
- determine the effectiveness of such accommodations.

Making these decisions in isolation can result in an inappropriate accommodations plan and/or inconsistent use of accommodations for the student. An EL who has either an IEP or 504 Plan must also receive specific accommodations listed in the plan based on accommodations allowed on the state assessment.

## Testing Accommodations for ELs<sup>162</sup>

Accommodations are practices and procedures for ELs that provide equitable access during instruction and assessments. They provide a valid means for ELs to show what they know and can do. Accommodations are intended to provide support to students with developing English language proficiency in the classroom and on state assessments in terms of their access to instructional or test content, interactions with content, and response to content. Once an EL becomes English proficient, the accommodation may no longer be necessary.

**NOTE:** Any accommodation offered must be consistent with current instructional and assessment accommodations made in the classroom.

## Background Characteristics to Consider for Accommodations

Selecting the appropriate accommodation for an EL student requires the examination of several background characteristics, if available:

### Level of oral language proficiency in English and the home language

- Refer to the student's English proficiency level score in listening and speaking on the ACCESS for ELs.

### Literacy levels in English and the home language

- Consider the student's current academic achievement and test performance in the content areas.
  - Attaining academic English and content vocabulary is a major factor in the assessment of content knowledge.
- Determine the student's level of English literacy for listening, speaking, reading, and writing.

- Refer to the student’s English language proficiency score in reading and writing on the ACCESS for ELs.
- Determine the student’s level of literacy in their home language.
  - If possible, determine how well the student reads and writes in their home language.
- Consider whether the student’s oral proficiency in English or in the home language is stronger than the student’s written proficiency in either language.
  - This is an important consideration when selecting the accommodation that will yield the most accurate assessment of the student’s knowledge of content.

### Language of instruction in the student’s current/past schooling

- Determine the language(s) in which the student has received academic instruction—one language may be stronger than the other.
- Consider that a beginning student who is literate in a non-alphabetic script (e.g., Japanese) may benefit from oral response accommodations.

### Years of formal schooling

- Find out if the student’s schooling has been interrupted.
  - Highly mobile students may have gaps in their education.
  - A student with interrupted formal education may have low literacy skills in both their home language and in English—oral accommodations may be more useful than written.

### Age/grade level

- If the student is younger (early elementary), oral accommodations may be more appropriate. Students at this age are less likely to have developed strong literacy skills in either English or their home language.
- If the student is older and requires accommodations that would set him/her apart from peers, consider selecting an appropriate test administration practice (e.g., testing in a separate, supervised location).

## **Determining Appropriate Accommodations**

ELs may need accommodations during assessment administration. Additionally, ELs with disabilities are entitled to accommodations for students with disabilities. Accommodations should be considered for ELs by a group of educators familiar with the student. In cases of ELs with disabilities, at least one person familiar with the language needs of the student should be a participating member of the IEP or 504 team.

Decisions should be made by the school team responsible for planning the student’s academic program and should be shared with the student’s parents. Decisions about accommodations should not be made by an individual. The role of the team is to discuss the student’s needs and the accommodations that may help the student for state testing, and decide what accommodations will be used. It is good practice to document the accommodations used to aid in future decision-making.

## Potential members of the Accommodations Decision Making Team

- ESL teacher
- General education teacher(s)
- School administrators
- School/district test coordinators
- The student (as appropriate)

## EL-responsive criteria to use when matching accommodations to student needs

- Level of oral language proficiency in English and the home language
- Literacy levels in English and the home language
- Language of instruction of the student's current/past schooling
- Years of formal schooling and/or interruptions in schooling
- Age/grade level

## Guiding questions to consider when determining accommodations

- What support does this individual student need to be able to show what he/she really knows about the content?
- Will the testing accommodation be implemented appropriately so that the construct of the test is not compromised?
- Has the student had prior experience using this accommodation?

## **Approved EL Accommodations**

The following is a complete list of approved accommodations provided for ELs on state assessments:

### Extended Time

- Typically defined as time and half per subtest
- May be used for achievement and writing assessments
- Is not applicable to any EOC assessment (all EOC assessments are untimed)

For more information, see the test administration manual.

### Word-to-Word Dictionary

- Electronic dictionaries and/or translators are prohibited for all students.

### Rest/Breaks

- Allows assessment to be paused and resumed, as needed

## Administrative Notes

### Responsibilities

The ESL coordinator should provide a list of EL students and NELB students identified as FEP to the building testing coordinator and indicate which accommodations can be applied for each test.

The testing coordinator should make sure that each EL and NELB student is appropriately coded on the student's answer sheet.

### EL Students and Value-Added

Test scores from EL students cannot be excluded from the accountability formula or the calculation of value-added (TVAAS) scores. Research indicates that EL students, on average, tend to score below the national norm on standardized test.<sup>163</sup> However, they also often make stronger gains in achievement during their first years in an English-speaking school than their English-speaking peers.

Given an effective ESL program, EL students should, on average, make gains in achievement, as measured by state assessments and TVAAS scores.

## Data and Monitoring

### Monitoring the Academic Progress of ELs

Monitoring of classroom performance includes measures of English language proficiency and curricular achievement. Schools should compare an EL's achievement to that of academically successful English-speaking students and to that of mainstreamed NELB students. Educators should use classroom performance and/or available achievement test scores to revise a student's academic program or to change the types of ESL services he/she is receiving.

NELB students must be compared to native English-speaking peers in knowledge of subject matter. It is important to assess a student's foundation for the acquisition of new information, as well as the ability to effectively participate in general education classes.

### Collection of Data for Monitoring Student Success

Monitoring is necessary while students are in the ESL program and is required after they exit the program. Comprehensive and comparable data on all students are needed to evaluate the success of students in obtaining an effective and appropriate education. Ideally, maintaining the data electronically in a database will facilitate monitoring. Data on current and former ELs should be maintained as part of a system that includes all students. This allows comparisons to be made between EL, language minority, and native English speakers.



# Chapter 6: Grade Retention

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## Summary

This chapter provides legal guidelines on the issue of retaining EL students. There are very few cases when retaining an EL student is the correct course of action. It should only be considered for students who have exhibited extreme absenteeism or were placed too young in a grade level. Districts must take great care in ensuring that considerations for retaining an EL student are not based on consequences of the student's low English proficiency.

Research has shown that retaining an EL student to allow that student time to “catch up” is not empirically sound.<sup>164</sup> It is not supported by the *Lau v. Nichols* court decision either. Students are in the process of language acquisition in all grade levels. The negative consequences of grade retention and alternative measures a district should consider before retaining a student.

## FAQs

### **1. *Should EL students be retained so they have more time to develop their English skills?***

No. Retention of EL students will not facilitate English language acquisition. The process of language acquisition should occur at all grade levels.

### **2. *Under what circumstances is it legally permissible to retain an EL student?***

Retaining an EL may be considered for extreme absenteeism or having been enrolled too young in the grade.

### **3. *Who decides whether a student should be retained or promoted to the next grade?***

In many districts, principals and/or teachers make the final determination regarding whether a student should be retained or promoted to the next grade. For EL students, an ESL teacher should be involved in this decision to ensure that the student's low English proficiency is not the reason for their retention.

### **4. *What documentation is necessary if an EL student is to be retained?***

There must be documentation indicating that the EL has had meaningful accommodations and necessary modifications to have made accessing grade level standards possible. The district is responsible for seeing that this has taken place and been properly documented.

### **5. *Why is it necessary to maintain data—including retention rates—on NELB and EL students?***

For a district to adequately measure the effectiveness of its ESL program, it must have quantifiable data. By comparing standardized test scores, dropout rates, and retention rates of students who are non-English language background (NELB) to their native English-speaking peers, the district can draw generalizations about the educational progress these groups of students are making. This allows the district to modify its program, if necessary.

### **6. *When does the district's retention policy need to be communicated to parents?***

Districts shall develop, implement, and communicate retention policies annually to students and parents.<sup>165</sup>

# Special Considerations for EL Student Retention

## Legal Considerations

EL students must not be retained in grade level because of their language skills.<sup>166</sup> These students should be even more carefully evaluated than their non-EL peers before retention is recommended to ensure that low English proficiency skills are not being mistaken for poor achievement or behavior.

**NOTE:** The district must have a policy to ensure age-appropriate grade level placement<sup>167</sup> and prohibit grade retention based solely on low English proficiency.

## Evaluating Retention Eligibility

Retention of EL students will not facilitate English language acquisition. The process of language acquisition should occur at all grade levels.

Prior to considering retention of an EL, the following should be addressed in consultation with the student's ESL teacher:

1. Has the student been enrolled in the district for more than one full academic year?
  - If not, the child may have spent more than one-half of the year in a "silent period." Two to nine months may be inadequate for meeting educational goals.
2. Are classroom modifications being made in the following areas?
  - Classroom
  - Assignments
  - Homework
  - Assessments
3. Are all modifications documented? Has there been a discussion with the ESL /Title III coordinator?
4. Has the student been considered as an individual and received differentiated instruction? Have modifications and differentiation been documented?
5. Is a beginning to intermediate student receiving an hour of ESL daily? Is a more advanced student receiving enough ESL for instruction to be meaningful?
6. Do all teachers modify grading through a rubric or contract?

If the above points have not occurred in a sufficient manner, retention is not appropriate.

**NOTE:** Retention policies, especially for EL students, should not be based on one specific piece of data, or any sole criterion. In most cases, retention does not help the child with academic achievement. Every effort should be made to move the child to the next level of academic work and allow the child to continue in the grade that is age appropriate.

# Research on the Impacts of Grade Retention

## Research Findings<sup>168</sup>

Although grade retention is widely practiced, it does not help students to “catch up.” Retained students may appear to do better in the short term, but they are at a much greater risk for future failure than their equally-achieving, non-retained peers.

Some groups of students are more likely to be retained than others. Those at highest risk for retention are minority children, low-income children, highly-mobile children, children with attention problems, children with behavior problems, and/or children with reading problems—including EL students.

## Effects of Retention

### Temporary Gains

Initial academic improvements may occur during the year the student is retained. However, many studies show that achievement gains decline within two to three years of retention. Without targeted interventions, most retained students do not catch up.

### Negative Impact on Achievement and Adjustment

Grade retention is associated with negative outcomes in all areas of student achievement (e.g., reading, math, and oral and written language) and social and emotional adjustment (e.g., peer relationships, self-esteem, problem behaviors, and attendance).

### Negative Long-Term Effects

There is no evidence of a positive effect on either long-term school achievement or adjustment.

### Retention and Dropouts

Students who were retained are much more likely to drop out of school.

### Consequences in Adulthood

Retained students are less likely to receive a diploma by age 20.

## Alternatives to Retention

The following are alternative measures research has found to be effective. These measures are not exhaustive nor mandatory and, if used, should be adapted to the context of the specific needs of the school its students.<sup>169</sup>

- Parental involvement in their children’s school and education (e.g., frequent contact with teachers, supervision of homework, etc.)

- Age-appropriate and culturally sensitive instructional strategies to accelerate progress in the classroom
- Early developmental programs and preschool programs to enhance language and social skills
- Systematic assessment strategies (e.g., continuous progress monitoring, formative evaluation) to enable ongoing modification of instructional efforts
- Early reading programs
- School-based mental health programs to promote the social and emotional adjustment of children
- Behavior management and cognitive behavior modification strategies to reduce classroom behavior problems
- Student support teams with appropriate professionals to assess and identify specific learning or behavior problems, design interventions to address those problems, and evaluate the efficacy of those interventions
- Tutoring and mentoring programs focusing on promoting specific academic or social skills
- Comprehensive school-wide programs to promote the psychological and academic skills of all students

# Chapter 7: Exiting ESL Status

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## Summary

This chapter outlines a district's responsibilities to transitional ELs, exiting ESL services. ESSA mandates districts monitor the academic progress of students deemed sufficiently proficient in English to be reclassified from EL (L) to Transition from ESL services for four calendar years. During those four years, Transitional ELs may continue to receive accommodations on state assessments.

Communication between ESL professionals and the student's content class teachers is essential to determine if a student exited from ESL services is making adequate educational progress without that support. If an exited student struggles academically, the teachers and ESL professional should work with the RTI<sup>2</sup> team to provide the student with the necessary interventions. Information on when it is appropriate, and how, to reclassify an exited student can also be found in this chapter.

The chapter ends with guidelines for the data to be collected when monitoring these students and how to code transitional and former ELs.

## FAQs

### **1. *Must students who are exited from direct services always be brought back into the ESL program if they begin to experience difficulties?***

No. The academic difficulties the student experiences may be related to other factors outside the student's English language proficiency. However, it is the responsibility of the district to monitor all exited students<sup>170</sup> and reevaluate those students experiencing academic difficulties.<sup>171</sup>

If the student demonstrates an inability to access academic standards, a district may determine that the student needs additional ESL classes and must provide him/her with those services.

If it is determined that the student's academic difficulties may have occurred in other subjects while the student was focusing on developing English proficiency, the school has an obligation to provide the necessary assistance to remedy those academic deficits.<sup>172</sup> The student should not be reclassified as an EL.

A district must notify the TDOE of any decision to reclassify a student before such an action is taken. This may be done through overnight or regular mail. Student information should never be sent through email.

**NOTE:** If there is a concern that the student has special needs apart from his/her English proficiency, the student should be assessed for special education services.<sup>173</sup>

### **2. *A transferring student was in an ESL program in another district/state and exited last May. Should he/she be rescreened with the W-APT by the receiving district?***

No. Do not rescreen the student. The student is a transitional EL and should be considered a transitional former EL student for the federally-mandated, four-year academic monitoring requirement.<sup>174</sup> If the student is struggling during the monitoring period, appropriate instructional supports, including RTI<sup>2</sup>, should be implemented.

The RTI<sup>2</sup> committee and an ESL professional should discuss and decide together on the appropriate Tier 2 and Tier 3 interventions the student should receive. If, after a documented period of Tier 3 RTI<sup>2</sup> support, the student continues to struggle academically and it is determined that language proficiency is the reason, the student should re-enter the ESL program. No rescreening is necessary to reclassify a student as an EL during the first two years of the monitoring period. However, interventions that support the student needs without reclassification should be used before reclassification is considered.

**3. A transferring student was in an ESL program in another district/state and exited previously. Must this student be screened with the W-APT upon enrollment at the receiving school?**

No. The student should not be screened if there is documentation to support the fact that the student was previously served in ESL, exited, and has completed the first two years of the monitoring period.

## Exit Criteria

As an EL reaches high levels of English proficiency, determining when they are ready to exit from ESL services becomes an important discussion and decision to be made. It is imperative to ensure that these students have attained a degree of English proficiency that will allow them to achieve academic success—without direct ESL support—at levels comparable to their native English-speaking peers. Classroom accommodations and modifications may still be needed during the monitoring period.

Exiting from ESL service is based on a student’s proficiency in all areas of language—listening, speaking, reading, and writing. This proficiency should be measured using a variety of criteria and documented to support the decision to exit the student from ESL services. WIDA scores must also support the decision to exit a student. English proficiency is based on attaining fluent English proficient on the summative, spring WIDA ACCESS for ELs assessment. ELs must obtain both a composite and a literacy score of 5.0 on the ACCESS for ELs to exit ESL services.

## Kindergarten Students

The kindergarten ACCESS for ELs teacher report provides two sets of scores: instructional and accountability. In Tennessee, the accountability score is utilized to determine if a kindergarten student has met the requirements to exit ESL services.

Kindergarten students who do not score an accountability composite proficiency level of 5.0 or higher and who have any individual language domain scores less than 5.0 are not eligible to exit ESL services.

## Transitional Years

ESSA requires districts to monitor the progress of EL students for four calendar years after meeting exit criteria.<sup>175</sup> The first two years are considered academic transitional years for the EL; during years three and four the students may be included in ESL accountability. As with any student, all ELs and former ELs should receive services to be successful in academic classes.



Federally, these students are considered to be Monitored Former LEP (MFLEP). In Tennessee, the EL is classified in EIS as:

- **Transitional 1** during their first monitoring year; and
- **Transitional 2** during their second monitoring year.

## Exited in a Different State

If the records of a newly enrolled student indicate that he/she previously received ESL services in another state or in a private school and was formally exited, the TDOE also considers that student as exited. The exit criteria of the other state or the private school does not have to match that of Tennessee's; the exited decision stands.

If an exited student transfers from another state or a private school and has not completed the first two years of the monitoring period prior to enrollment, the district is required to monitor the student for the remainder of the monitoring period. The district must maintain documented evidence that the student was monitored throughout the four-year monitoring period.

**NOTE:** If the exit criteria from the other entity are lower than exit criteria from Tennessee, diligent monitoring of the student's progress is recommended.

## Considerations when Mainstreaming Students

It is important for general education teachers to understand that exited ELs will need ongoing support. Making connections between new information and their background knowledge, guiding the organization of information, and assessing their own learning may continue to be a struggle for an EL even after attaining English proficiency.

ELs strive to function as proficient learners in the classroom. However, if they are given tasks beyond their current functional level of language proficiency, they may not be able to complete them successfully. Recognizing the ability level of an EL and appropriately challenging and supporting them is integral to ensure that they do not lose their academic motivation.

Teachers may need to make adaptations to content material and present it to all ELs in a less demanding language format. It is also important for a teacher to note the progression of an exited student's academic skills in order to increase the complexity with which information is provided as the student becomes more cognitively proficient. Teachers should provide students with increasing opportunities to demonstrate what they know by using a variety of formative and summative assessments.

## Students Struggling during the Monitoring Period

Some ELs may struggle in their content classes even though they have been deemed proficient in English and met the criteria to be exited from ESL services. The monitoring period<sup>176</sup> under Title III is in place for this very reason, to determine if transitional ELs require instructional accommodations in some of their content classes. If—during the monitoring period, there is evidence that a student is struggling in one or more content areas, the first step is to ensure that the student is provided with any instructional

supports available in the school and to notify the RTI<sup>2</sup> team of the student's lack of academic progress and success.

The RTI<sup>2</sup> team should review the student's data and determine next steps, appropriate interventions, and any potential increased tier monitoring for RTI<sup>2</sup> purposes. After these interventions have been put in place and progress has been measured over time, the RTI<sup>2</sup> team, working with an ESL professional, should determine whether the student is struggling due to a lack of content knowledge or a lack of English proficiency.

When considering a student's second language acquisition time frame, the following may be useful:

- Was the student formally educated in their home country? Did he/she have consistent schooling or were there prolonged periods of interrupted or no schooling?
- What were the student's ACCESS scores and sub scores in each domain?
- Were the student's achievement scores borderline for meeting standards or were they significantly above the minimum requirement?
- What are the student's areas of difficulty in the content courses they are struggling with? Is the teacher using modifications and accommodations in the classroom?
- Is the student having difficulty specifically in the domain of writing or reading, or are there factors outside of language involved?
- If the student is struggling in a particular course, is it a course in which he/she has always had difficulty?
- Are teachers differentiating instruction specifically to reach and support ELs?
- Is the student receiving academic support to compensate for any lack of background information?

Those reviewing the data must determine if a student's academic difficulties are due to a lack of English proficiency, rather than a lack of content knowledge, cognitive issues, or a disability.

## Reclassifying a Transitional EL

A transitional EL experiencing academic difficulties should not be immediately reclassified as an EL. As noted above, appropriate instructional supports, including RTI<sup>2</sup>, should be implemented. If those additional instructional supports do not resolve the issue, the RTI<sup>2</sup> committee should review the documentation and, if appropriate, implement more intensive Tier 2 and 3 interventions. An ESL professional should be included in these discussions and decisions. All Tier 2 and 3 interventions must be linguistically accessible to the student.

Following a documented period of Tier 3 RTI<sup>2</sup> support, if academic difficulties persist and data support the belief that language proficiency is the root of the problem, the RTI<sup>2</sup> committee may determine that the student should re-enter the ESL program. No rescreening is necessary to reclassify a student as an EL during the monitoring period.

STEPS TO DETERMINE IF A STUDENT SHOULD BE RECLASSIFIED

A monitored student should only be reclassified if it is determined that they are struggling academically due to a lack of English proficiency and that accommodations and modifications are not adequate for the student to experience academic success.

1. Provide the student with any instructional support available at the school
2. Increase Tier interventions, as appropriate
3. Determine if the student's difficulties are due to their English proficiency level or a lack of content knowledge

**NOTE:** A district must notify the TDOE of any decision to reclassify a student before such an action is taken. This may be done through overnight or regular mail. Student information should never be sent through email.

## Post-Exit Recommended Procedures

The following suggestions are provided to support districts and schools in exiting EL students from ESL services. These practices are neither exhaustive nor mandatory and, if used, should be adapted to the context of the specific needs of the school and its student's.

### Initial Follow-Up

An initial follow-up should be made within two weeks of exiting ESL services:

- to verify that the student can achieve academically, and
- to check on the student's social and psychological adjustment.

### Monitoring Activities

Post-exit monitoring activities include:

- a periodic review of grades;
- a periodic review of standardized test scores;
- a periodic review of portfolio assessments;
- periodic student and/or parental interviews; and
- discussions between an ESL professional and the student's general education teachers held at the end of each progress reporting period to determine if the exited student is adjusting and succeeding academically and to identify any academic or adjustment needs.

## Post-Exit Monitoring Data

Comprehensive and comparable data on all students are needed to evaluate the success of students in obtaining an effective and appropriate education. Ideally, maintaining the data electronically in a database will facilitate monitoring. Data on current and former EL students should be maintained as part of a system that includes all students. This allows comparisons to be made between EL, fluent non-English language background (NELB), and native-English speaking students.

Districts should maintain the following information on all students identified as EL for their individual student profiles to the extent practicable.

- Assessment information (e.g., standardized tests taken, scores, and dates)
- Academic information (e.g., courses taken, grades, attendance, promotion/retention)
- Entry date into U.S. schools
- Entry date into the local district
- Years of schooling in the student’s home language
- Interrupted education?
  - Yes/No
  - Educational history
- Testing for vision and hearing
- Physical conditions that may affect learning
- Classroom observations by teachers
- Enrollment history and criteria used for placement in special services (e.g., ESL, IEP, speech therapy, special education, gifted programs, etc.)

## Coding

As ACCESS for ELs scores are generally received and evaluated before the end of the school year, districts may determine that an EL has successfully met criteria to exit an ESL program. However, coding in the district’s SIS must not be changed for students before July 1 in order to ensure that district data is recorded correctly for accountability and funding purposes.

### Transitional ELs

ELs who are in the four-year monitoring period following their exit from ESL services continue to be eligible for appropriate standard accommodations as outlined in their EL/TPC forms. These students should be coded as follows on state assessments:

- ELs in their first transition year are coded as 1.
- ELs in their second transition year are coded as 2.
- ELs in their third transition year are coded as 3.
- ELs in their fourth transition year are coded as 4.

### Former ELs

Once the four-year monitoring period has ended, the student’s coding in the state’s Education Information System (EIS) for English language background will change to “F” (former English learner) and remain as such for the remainder of the student’s enrollment.

# Chapter 8: WIDA

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## Summary

This chapter provides an overview of the World-class Instructional Design and Assessment (WIDA) working group. Beginning in the 2014-15 school year, the TDOE transitioned from the ELDA assessment for EL students to the WIDA ACCESS for ELs assessment in order to determine English language proficiency levels. WIDA results help guide decisions regarding student participation in content area classrooms and in determining appropriate accommodations for state academic content assessments. The information also aids districts in evaluating the effectiveness of the ESL program.

WIDA's proficiency levels are described at length in this chapter. Tables provide the following information for each WIDA level: a brief summary, typical student behavior, appropriate instruction and instructional supports for students, and a breakdown of proficiency level abilities. WIDA emphasizes the need to develop a student's vocabulary, sentence-level communication, and discourse concurrently, not in isolation. Therefore, a table is provided indicating abilities each EL should demonstrate for those three categories at each proficiency level.

The WIDA-ACCESS Placement Test (W-APT) is WIDA's screener assessment. All students identified as NELB on their Home Language Survey (HLS) are to be administered the W-APT to determine if they are English learners and require ESL services. Information on grade level clusters, preparation, administration, and interpreting the scores can be found in this chapter.

WIDA's Measure of Developing English Language (MODEL) assessment is a flexible tool that may be used by educators as an interim progress monitoring assessment, based on the needs of the district, school, teacher, or student. It may be used at any time of the school year.

WIDA's ACCESS for ELs assessment is the tool that meets the federal requirement to assess an EL student's growth. This assessment is administered to all EL students—including those whose parents have waived ESL services—on an annual basis. Information on the assessment, including the new ACCESS for ELs 2.0 electronic format can be found in this chapter. The Alternate ACCESS for ELs, an assessment for those EL students who have severe cognitive disabilities that prevent their meaningful participation in the ACCESS for ELs, is also described in this chapter.

## FAQs

### **1. What is WIDA?**

WIDA is a non-profit cooperative group whose purpose is to develop standards and assessments that meet and exceed the goals of ESSA and promote educational equity for ELs.

### **2. Can districts/schools/teachers post WIDA publications on their website for distribution?**

No. Teachers, schools, and districts should not re-post WIDA publications or documents unless it is specifically permitted in the publication copyright notice. However, links to the WIDA website and content may be posted.

### **3. Can WIDA materials be adapted for classroom or district use?**

Yes. WIDA encourages teachers and districts to adapt WIDA materials to meet specific classroom and district needs.

**4. *Can teacher/district adaptations of WIDA materials be shared on the internet for anyone to download/use?***

Yes. It is ok to store and publicly display adaptations on open internet sites. However, a commercial license must be obtained if a fee is to be charged to see the material. More information can be found [here](#) and [here](#).

## **W-APT**

**5. *What is the W-APT?***

The W-APT is an English language proficiency test that is given to incoming students who may be candidates for ESL services if they have selected a language other than English on the Home language survey (HLS). The W-APT can be used to identify and make placement decisions for EL students. It is often referred to as the screener for ESL services.

**6. *How can one obtain a log-in to access the W-APT materials?***

To access the W-APT materials, please contact the district testing coordinator or Title III director. District testing coordinators or Title III directors should contact the WIDA client services center staff at [help@wida.us](mailto:help@wida.us) or (866) 276-7735.

**7. *How are the kindergarten W-APT scores interpreted?***

Kindergarten W-APT scores do not directly convert to a proficiency level (1-6). The assessment is diagnostic, and the scores inform teachers of what skills the students have in English. Districts may decide how to best use this information for students who qualify for ESL services.

**8. *What should be done to prepare for administering the W-APT?***

W-APT administrators should review the test administration manual, scored student writing samples, and the applicable W-APT webinars. Test administrators should complete the ACCESS for ELs training course prior to administering the W-APT. The new W-APT will be available in the fall of 2016 and training will be announced when that assessment is available.

**9. *Does WIDA have an alternate W-APT screener test for students with significant cognitive disabilities?***

No. There is not an alternate screener at this time. If a student is identified as an EL using the HLS, the student's IEP team should determine if the student is able to take the W-APT with accommodations. If the student is unable to take the W-APT with accommodations, the IEP team should determine if limited English proficiency is an issue.

## **ACCESS for ELs**

**10. *What is ACCESS for ELs?***

ACCESS for ELs is a standards-based, criterion-referenced English language proficiency test designed to measure an EL's social and academic English proficiency. It assesses social and instructional English used within the school context as well as the language associated with



language arts, mathematics, science, and social studies, across the four language domains—listening, speaking, reading, and writing.

**11. Is ACCESS for ELs available for use in private schools?**

No. ACCESS for ELs is not allowed for private schools in Tennessee. Private schools may use the MODEL assessment.

## Alternate ACCESS for ELs

**12. What is Alternate ACCESS for ELs?**

Alternate ACCESS for ELs is an English language proficiency assessment designed for ELs who have significant cognitive disabilities. The assessment measures English language proficiency in all four language domains—listening, speaking, reading, and writing. Only students who take an alternative state assessment may take the Alternate ACCESS for ELs.

**NOTE:** Alternate ACCESS for ELs is intended for those ELs whose cognitive disabilities prevent their meaningful participation in ACCESS for ELs. It is not for students who can participate in ACCESS for ELs with accommodations.

**13. Is Alternate ACCESS for ELs available for kindergarten students?**

No. The Alternate ACCESS for ELs is currently only available for grades 1-12.

## MODEL

**14. What should be done to prepare for administering the WIDA MODEL?**

Test administrators should review the test administration manual and training materials. There is not an online training course for the WIDA MODEL. Formal training opportunities are available through WIDA's professional development workshops.

**15. When should the WIDA MODEL be administered?**

The WIDA MODEL can be administered at any time during the school year—a maximum of two times per year—depending on the needs of the district, school, teacher, or student. Not all domains must be administered each time it is used.

**16. What grade-level form of MODEL should be used?**

For students in the first semester of the school year in a grade-level cluster, WIDA recommends administering the lower MODEL form. For example, students in the first semester of sixth grade should take the grades 3–5 form. This recommendation is based on the fact that students just entering a new grade level have not been exposed to the language proficiency standards and content topics at the beginning of the school year.

For students in the second semester of the school year in a grade-level cluster, the MODEL form corresponding to that grade level cluster should be used.

## Overview

The World-class Instructional Design and Assessment (WIDA) working group is comprised of states dedicated to the design and implementation of high standards and equitable educational opportunities for English learners. WIDA developed English language development standards and an English language proficiency test aligned with those standards.

Beginning in the 2014-15 school year, the TDOE transitioned from the ELDA assessment for EL students to the WIDA ACCESS for ELs assessment in order to determine English language proficiency levels. WIDA results help guide decisions regarding student participation in content area classrooms and in determining appropriate accommodations for state academic content assessments. The information also aids districts in evaluating the effectiveness of their ESL program.

## ESSA Standards

Under ESSA, states are required to assess the proficiency of all EL students. Title I mandates states measure the annual progress of an EL's in achieving English language proficiency<sup>177</sup> in reading, writing, listening, and speaking. Furthermore, all states are required to adopt college- and career-ready English language development standards and assessments. These will allow the EL student population to attain English proficiency—developing high levels of academic attainment in English—and meet the same challenging Tennessee academic content and achievement standards as all children are expected to meet. WIDA assessments are designed to meet and exceed these goals of ESSA.

## College and Career Readiness for EL Students

The college and career readiness standards that guide the TDOE in setting curricular goals exemplify many of the language features of WIDA's standards framework, specifically:

- a focus on oral language development;
- literacy across the content areas;
- use of instructional supports; and
- attention to genre, text type, register, and language forms and conventions.

WIDA is designed to represent and enhance Tennessee's college and career readiness standards within its current framework. The language demands of these content standards have been addressed in numerous ways to ensure that ELs at all levels of English proficiency have the opportunity to engage in the cognitive challenges represented in those content standards. In addition to the core knowledge and skills represented in content standards, students need to develop social, language, and cross-cultural competencies to be successful in school and beyond.

## WIDA Standards

WIDA draws on multiple theories and approaches to describe language use in academic contexts (i.e., the academic language ELs must acquire to negotiate and successfully participate in school). These

multiple theories and approaches form a theoretical foundation that supports the WIDA standards framework.

## English Language Development (ELD) Standards

The WIDA ELD standards are designed as a curriculum and instruction planning tool. They help educators determine children's ELD levels and how to appropriately challenge them to reach higher levels.

Following are the WIDA ELD standards:

1. English learners **communicate** for **social and instructional** purposes within the school setting.
2. English learners **communicate** information, ideas, and concepts necessary for academic success in the content area of **language arts**.
3. English learners **communicate** information, ideas, and concepts necessary for academic success in the content area of **mathematics**.
4. English learners **communicate** information, ideas, and concepts necessary for academic success in the content area of **science**.
5. English learners **communicate** information, ideas, and concepts necessary for academic success in the content area of **social studies**.

## Theoretical Foundations of the Standards Framework

WIDA's interest is in understanding language use in school and the expansion of an EL's skills in making meaning from that language. WIDA's guiding principles can be summarized as follows:

- language is organized around its communicative purpose;
- language is used within a communicative context; and
- language development occurs over time and depends on many factors.

## Can Do Philosophy

WIDA's *Can Do Philosophy* is based on the belief that all students bring to their learning, cultural and linguistic practices, skills, and ways of knowing from their homes and communities. The resulting *Can Do Descriptors* provide teachers with examples of what a student at each proficiency level can be expected to be able to do and allow teachers to differentiate instructional tasks to fit the needs of individual students. More information can be found [here](#).

These *Can Do Descriptors* are a useful tool for both ESL and content teachers to use as lessons are designed. The descriptors focus on the positive aspect of each EL's language ability.

## Proficiency Levels

All WIDA assessments provide an English language proficiency performance level score based on a scale of 1.0 to 6.0. The expectations for students at each performance level are as follows:<sup>178</sup>

	LEVEL	DESCRIPTION
Full English Proficiency	<b>NELB</b>	<ul style="list-style-type: none"> <li>The student was never classified as an English learner and does not fit the definition of a limited English proficient student outlined in either state or federal law.</li> </ul>
	<b>6 Reaching</b> (Former EL/Moving into the transition phase)	<ul style="list-style-type: none"> <li>The student was formerly limited English proficient and is now English proficient.</li> <li>The student reads, writes, speaks, and comprehends English within academic classroom settings.</li> </ul>
English learner	<b>5 Bridging</b> (Advanced)	<ul style="list-style-type: none"> <li>The student understands and speaks conversational and academic English well.</li> <li>The student is near proficient in reading, writing, and content area skills needed to meet grade level expectations.</li> <li>The student requires occasional support.</li> </ul>
	<b>4 Expanding</b> (Advanced Intermediate/ Early Advanced)	<ul style="list-style-type: none"> <li>The student understands and speaks conversational English without apparent difficulty but understands and speaks academic English with some hesitancy.</li> <li>The student continues to acquire reading and writing skills in content areas needed to achieve grade level expectations with assistance.</li> </ul>
	<b>3 Developing</b> (Intermediate)	<ul style="list-style-type: none"> <li>The student understands and speaks conversational and academic English with decreasing hesitancy and difficulty.</li> <li>The student is post-emergent, developing reading comprehension and writing skills in English.</li> <li>The student's English literacy skills allow the student to demonstrate academic knowledge in content areas with assistance.</li> </ul>
	<b>2 Emerging</b> (Beginning/Production/ Early Intermediate)	<ul style="list-style-type: none"> <li>The student understands and speaks conversational and academic English with hesitancy and difficulty.</li> <li>The student understands parts of lessons and simple directions.</li> <li>The student is at a pre-emergent or emergent level of reading and writing in English, significantly below grade level.</li> </ul>
	<b>1 Entering</b> (Beginner/Preproduction)	<ul style="list-style-type: none"> <li>The student does not understand or speak English with the exception of a few isolated words or expressions.</li> </ul>

## Proficiency Levels and Instructional Supports

In an effort to explain this, the department worked to further define the student behaviors and the type of instruction and instructional support in the following table. This list is not exhaustive, but it includes information that should help both ESL and general education teachers plan for this subgroup of students.

LEVEL	DEFINITION/STUDENT BEHAVIOR	INSTRUCTION/ INSTRUCTIONAL SUPPORT
<p><b>6</b> <b>Reaching</b></p> <p>Former EL Moving into the transition phase</p>	<ul style="list-style-type: none"> <li>Formerly limited English proficient and is now fully English proficient, moving toward fluency</li> <li>Reads, writes, speaks, and comprehends English within academic classroom settings</li> </ul>	<ul style="list-style-type: none"> <li>Explicit core instruction</li> <li>Support for language and academics, when needed</li> <li>Continue best teaching practices</li> </ul>
<p><b>5</b> <b>Bridging</b></p> <p>Advanced</p> <p><i>5 to 7 years in the K-12 school system</i></p>	<ul style="list-style-type: none"> <li>Understands and speaks conversational and academic English comfortably</li> <li>Near proficient in reading, writing, and content area skills needed to meet grade level expectations</li> <li>Requires occasional support</li> <li>Advanced skills in cognitive/academic language</li> <li>Academic level with age/grade peers</li> <li>Maintains advanced conversations around academic content</li> </ul>	<ul style="list-style-type: none"> <li>Explicit core instruction</li> <li>May need remediation</li> <li>60 minute ELD block can be structured for content enrichment with EL peers</li> <li>Incorporate note-taking skills</li> <li>Teach study skills</li> <li>Teach test-taking skills</li> <li>Demonstrate how to verify answers—both oral and written</li> <li>Expand figurative language (idioms)</li> <li>Continue on-going language development through integrated language arts and content area activities</li> </ul>
<p><b>4</b> <b>Expanding</b></p> <p>Advanced Intermediate Early Advanced</p> <p><i>3 to 5 years in the K-12 school system</i></p>	<ul style="list-style-type: none"> <li>Understands and speaks conversational English without difficulty</li> <li>Understands and speaks academic English with some hesitancy</li> <li>Continues to acquire reading and writing skills in content areas needed to achieve grade level expectations, with assistance</li> <li>Can communicate thoughts more completely</li> <li>Participates in everyday dialogue without heavy support</li> <li>May demonstrate acceptable comprehension (e.g., higher order language, persuades, evaluates, etc.)</li> <li>Conducts research</li> </ul>	<ul style="list-style-type: none"> <li>Explicit core instruction</li> <li>May need remediation and/or intervention</li> <li>Tiered instruction</li> <li>Expose student to more academic language/vocabulary—both oral and written</li> <li>Ask questions soliciting opinions, judgements, explanations</li> <li>Use thinking maps for brainstorming, listing, production of writing, etc.</li> <li>Structure group discussions with discussion starter frames, if needed</li> <li>Guide use of reference materials</li> <li>Expose student to advanced literature studies</li> <li>Encourage/model realistic writing experiences</li> <li>Publish student work (e.g., writing wall, student success wall)to</li> <li>Teach organizational skills</li> <li>Teach study skills</li> </ul>

LEVEL	DEFINITION/STUDENT BEHAVIOR	INSTRUCTION/ INSTRUCTIONAL SUPPORT
<p style="text-align: center;"><b>3</b> <b>Developing</b></p> <p>Intermediate</p> <p><i>1 to 3 years in the K-12 school system</i></p>	<ul style="list-style-type: none"> <li>• Understands and speaks conventional and academic English with less hesitancy and difficulty</li> <li>• Possesses some English literacy skills that demonstrate academic knowledge in content areas, with assistance</li> <li>• Still makes grammatical, word order, and usage errors</li> <li>• Limited vocabulary development, comprehension of texts and spoken English</li> <li>• Uses newly acquired receptive vocabulary to experiment with English</li> </ul>	<ul style="list-style-type: none"> <li>• Explicit core instruction with appropriate supports (e.g., sentence frames, sentence starters, etc.)</li> <li>• 60 minute ELD block outside of core</li> <li>• Tiered instruction</li> <li>• List instructions to procedures</li> <li>• Build on student’s prior knowledge</li> <li>• Incorporate more reading and writing</li> <li>• Explicitly teach writing skills</li> <li>• Ask students to describe personal experiences, being mindful that refugees and some immigrants may have had emotional experiences</li> <li>• Use meaningful context where students can express ideas in speech and print</li> <li>• Use thinking maps to develop vocabulary and ideas</li> <li>• Provide content-area texts rich with visuals</li> <li>• Encourage creative expression to represent meaning (e.g., illustrations, songs, etc.)</li> <li>• Provide optimal opportunity for language production</li> <li>• Cooperative learning groups</li> </ul>
<p style="text-align: center;"><b>2</b> <b>Emerging</b></p> <p>Beginning Production Early Intermediate</p> <p><i>6 months to 2 years in K-12 school system</i></p>	<ul style="list-style-type: none"> <li>• Understands and speaks conversational and some academic English with hesitancy and difficulty</li> <li>• Understands parts of lessons and directions</li> <li>• At a pre-emergent or emergent level of reading and writing in English</li> <li>• Significantly below grade level</li> <li>• Communicates with one- or two-word utterances</li> <li>• Very limited comprehension and vocabulary</li> <li>• Responds with one- or two-word answers or short phrases</li> </ul>	<ul style="list-style-type: none"> <li>• ESL is core of English language arts instruction. Explicit core instruction with appropriate supports from the most highly qualified general education teacher</li> <li>• Access to Tier instruction</li> <li>• Simplify language, not content</li> <li>• Design lessons to motivate discussion</li> <li>• Ask questions requiring simple responses (e.g., yes/no, “Wh” questions, how many, etc.)</li> <li>• Expose students to experiences with understandable texts (e.g., patterned/predictable books)</li> <li>• Introduce a dictionary</li> <li>• Use of word/learning walls</li> <li>• Expand student simple responses by encouraging responses in complete sentences (model for student)</li> <li>• Do not overly correct grammatical errors</li> <li>• Model appropriate language</li> <li>• Use shared and paired reading</li> <li>• Collaborative learning groups</li> </ul>

LEVEL	DEFINITION/STUDENT BEHAVIOR	INSTRUCTION/ INSTRUCTIONAL SUPPORT
<p><b>1</b> <b>Entering</b></p> <p>Beginner Preproduction</p> <p><i>0-6 months in K-12 school system, sometimes a whole academic year</i></p>	<ul style="list-style-type: none"> <li>• Student does not understand or speak English</li> <li>• Grade level understanding cannot be assessed due to English ability</li> <li>• Listens and absorbs language</li> <li>• Adjusting to U.S. culture</li> <li>• Indicates comprehension non-verbally (e.g., pointing, nodding, etc.)</li> <li>• May not produce speech for several months</li> <li>• Will try to make sense out of messages</li> <li>• Working to gain familiarity with the sounds, rhythms, and patterns of English</li> <li>• Responds to commands</li> <li>• Able to locate, observe, label, match, classify, and categorize</li> </ul>	<ul style="list-style-type: none"> <li>• ESL is core of English language arts instruction. Explicit core instruction in other academic areas with scaffolds and differentiation to make material accessible to the student from the most highly qualified general education teacher</li> <li>• Uses gestures, manipulative, visuals, props</li> <li>• Create climate of acceptance/respect that supports acculturation</li> <li>• Give one- and two-step directions in English, supported by modeling, visuals, demonstrations, etc.</li> <li>• Provide materials or support staff in student's first language</li> <li>• Use buddies and cooperative grouping</li> <li>• Repeat after me, choral reading</li> <li>• Chants, songs, poems, learning walls</li> <li>• Use of cognates, if available, with the student's home language</li> </ul>

## Proficiency Level Abilities

Exemplary ESL instruction should focus on communication. Areas of vocabulary development, sentence level communication, and discourse should be taught concurrently, not in isolation. WIDA suggests that at the end of each level, the EL student should be able to accomplish the following:<sup>179</sup>

LEVEL	DISCOURSE LEVEL	SENTENCE LEVEL	WORD/PHRASE LEVEL
<p><b>5</b> <b>Bridging</b></p>	<ul style="list-style-type: none"> <li>• Multiple complex sentences</li> <li>• Cohesiveness and coherency</li> </ul>	<ul style="list-style-type: none"> <li>• Grammatical structures matched to purpose</li> <li>• Broad range of sentence patterns characteristic of particular content areas</li> </ul>	<ul style="list-style-type: none"> <li>• Technical and abstract content area language, including content-specific collocations</li> <li>• Connotations of meaning across content areas</li> </ul>
<p><b>4</b> <b>Expanding</b></p>	<ul style="list-style-type: none"> <li>• Some complex sentences</li> <li>• Organized expression of ideas with emerging cohesion</li> </ul>	<ul style="list-style-type: none"> <li>• A variety of grammatical structures</li> <li>• Sentence patterns characteristic of content areas</li> </ul>	<ul style="list-style-type: none"> <li>• Specific content area languages</li> <li>• Words and expressions with expressive meaning through the use of idioms and collocations</li> </ul>
<p><b>3</b> <b>Developing</b></p>	<ul style="list-style-type: none"> <li>• Some expanded sentences with emerging complexity</li> <li>• Expanded expression of one idea or multiple, related ideas</li> </ul>	<ul style="list-style-type: none"> <li>• Sentence patterns across content areas</li> <li>• Repetitive grammatical structures</li> </ul>	<ul style="list-style-type: none"> <li>• Specific content language</li> <li>• Words or expressions with multiple meanings</li> </ul>

LEVEL	DISCOURSE LEVEL	SENTENCE LEVEL	WORD/PHRASE LEVEL
<b>2 Emerging</b>	<ul style="list-style-type: none"> <li>Phrases or short sentences</li> <li>Expression of ideas</li> </ul>	<ul style="list-style-type: none"> <li>Formulaic grammatical structures</li> <li>Repetitive phrasal and sentence patterns across content areas</li> </ul>	<ul style="list-style-type: none"> <li>General content words and expressions</li> <li>Social and instructional words and expressions across content areas</li> </ul>
<b>1 Entering</b>	<ul style="list-style-type: none"> <li>Single words</li> <li>Phrases/chunks of language</li> </ul>	<ul style="list-style-type: none"> <li>Phrase-level grammatical structures</li> <li>Phrasal patterns associated with common social and instructional situations</li> </ul>	<ul style="list-style-type: none"> <li>Content-related words</li> <li>Social and instructional words and expressions</li> </ul>

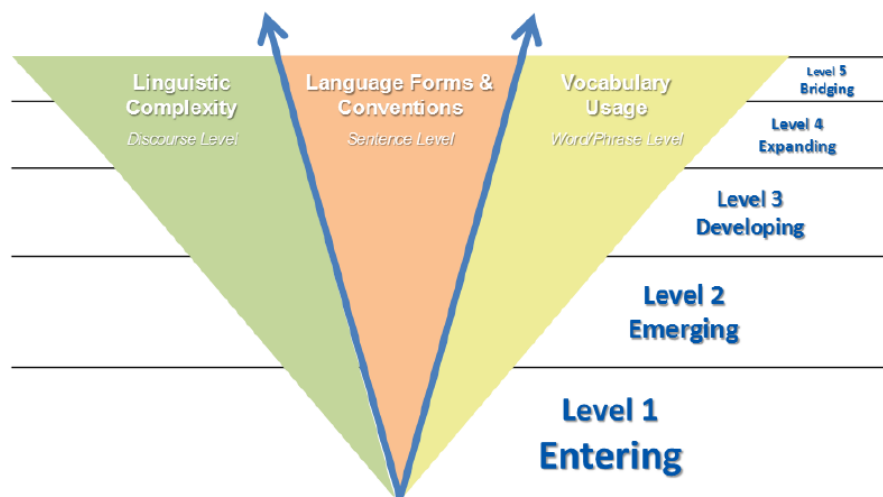
## Student Growth Principle

An EL student's growth varies, dependent upon their proficiency and/or grade level. Many researchers, including those at WIDA, have stated the following principle for student growth:

*"Lower is faster, higher is slower."*

This simply means that EL students at lower grade and/or proficiency levels will show faster rates of growth than ELs at higher grade and/or proficiency levels. For example, the amount of content and language an EL must learn to move from proficiency level 1 to level 2 is much smaller and simpler than the breadth of content and language skills they must master to move from a proficiency level 4 to a level 5. Care must be taken to avoid mistaking a slowing growth rate as an EL rises in proficiency level for a lack of language learning. These students are simply required to learn more complex skills and standards as they rise in proficiency.

The following is WIDA's graphical representation of this principle.





## W-APT Assessment to Identify ELs

Federal and state policies require all K-12 students identified as NELB through the HLS process to be assessed for limited English language proficiency. This assessment determines whether an NELB student requires ESL services.<sup>180</sup> The TDOE's instrument for identification of EL students is the WIDA-ACCESS Placement Test (W-APT).

The W-APT serves as an indicator of a student's language proficiency level (1-6) on the WIDA continuum, which aids in determining the appropriate level and amount of ESL services they require. It may also serve as a guide for tier placement on the ACCESS for ELs annual assessment. More information can be found [here](#).

**NOTE:** Beginning in 2016, the W-APT will be available in an online format for grades 1-12.

### Eligible Students

Beginning with the 2014-15 school year in Tennessee, an initially enrolled student identified as NELB on their HLS will be assessed with the W-APT to determine if he/she is an EL.

### Language Domains and Grade Clusters

The W-APT assesses the four language domains—listening, speaking, reading, and writing. The grade clusters for the test are:

- Kindergarten
- Grades 1-2
- Grades 3-5
- Grades 6-8
- Grades 9-12

### Contact Information

For specific W-APT questions:

**WIDA Help Desk** – (866) 276-7735 – [help@wida.us](mailto:help@wida.us)

For Tennessee-specific assessment questions related to ESL:

**Lori Nixon** – (615) 741-5113 – [Lori.Nixon@tn.gov](mailto:Lori.Nixon@tn.gov)

For Tennessee-specific ESL program questions:

**Jan Lanier** – (615) 532-6314 – [Jan.Lanier@tn.gov](mailto:Jan.Lanier@tn.gov)

## W-APT Preparation

The W-APT should be administered to students individually and score reports should be filed in the student's cumulative folder.

The W-APT administrator must be:

- ESL certified, or
- an endorsed teacher with ESL experience.

**NOTE:** Teaching assistants, educational assistants, and translators may not administer the W-APT.

## Training for the W-APT

Training for the W-APT occurs in two phases. Both phases should include procedures for the Kindergarten test and for grades 1-12.

1. Read and study the materials—including the Test Administration Manual—for the W-APT, available [here](#).
2. Complete the speaking portion of the ACCESS training to correctly score that portion of the test.

## W-APT Test Forms

To use the W-APT, the administrator must find the correct semester from the charts below and then look at the grade level. For example, a third grader in the first semester would take the grade level cluster test form that assesses first and second grade ELs. However, during the second semester, that same third grader would take the grade level cluster test form that assesses third through fifth grades.

FIRST SEMESTER													
Grade Level	K	1	2	3	4	5	6	7	8	9	10	11	12
Grade Level Cluster Test	K	K	1-2	1-2	3-5	3-5	3-5	6-8	6-8	6-8	9-12	9-12	9-12

SECOND SEMESTER													
Grade Level	K	1	2	3	4	5	6	7	8	9	10	11	12
Grade Level Cluster Test	K	1-2	1-2	3-5	3-5	3-5	6-8	6-8	6-8	9-12	9-12	9-12	9-12

## Kindergarten Students

- In the first semester, only administer two domains: listening and speaking.
- In the second semester, administer all four domains: listening, speaking, reading, and writing.

## Accessing W-APT Materials

Each district Title III director is assigned a secure user name and password for accessing W-APT forms and training materials. Access is free and materials are downloadable. A master copy may be ordered

from Data Recognition Corporation (DRC) by the district Title III director/ESL coordinator. Beginning in January of 2017 only the on-line screener will be provided with no fee.

## **W-APT Administration**

### **Kindergarten W-APT**

The kindergarten W-APT is administered to students entering kindergarten. It is also administered to students entering grade 1 during the first semester.

The kindergarten W-APT consists of five parts, each containing three tasks. Testing time may vary significantly. Depending on the student's age, schooling, and proficiency level, the test may take anywhere from five minutes (for students at a lower proficiency level) to 30 minutes (for students at a higher proficiency level).

Scoring guidelines are outlined in the kindergarten *W-APT Test Administrator's Manual*. Test administrators should follow the directions that are provided in the manual to record student score information.

#### First Semester Kindergarteners

First semester kindergarten students complete only the listening and speaking tests. These two components are combined in one test that uses pictures to alternate between speaking and listening tasks.

#### Second Semester Kindergarteners & First Semester First Graders

A student entering in the second semester of the kindergarten year completes all four components: listening, speaking, reading, and writing. Additionally, a student entering first grade during the first semester or repeating kindergarten completes all four components of the kindergarten W-APT.

### **Grades 1-12 W-APT**

The Grades 1-12 W-APT is individually administered at all grade levels and is fully adaptive (i.e., answers provided by students early on in the test will determine how many and which tasks are administered later in the test). Consequently, the administration time varies, increasing as the student's English proficiency increases. Students performing at a lower proficiency level will complete the test in as little as 20 minutes, while students performing at a higher proficiency level may take up to 90 minutes.

As an adaptive test, the student is presented only with questions the test administrator has a reasonable expectation that the student will be able to understand and respond to based on the student's responses to the items in the previous part of that test section. Therefore, scoring occurs as the test is being administered.

#### Administrative Notes

The speaking test is administered first for all grade clusters.

For all grade clusters, the listening test consists of five theme folders (parts), or collections of related items, that focus on the language of an academic topic related to the WIDA ELD standard being assessed. The five theme folders increase in difficulty from part A to part E. A student will have the opportunity to answer every task in a given folder before the test administrator makes a determination of whether or not to advance to the next folder.

If the student answers the majority of items within a theme folder correctly, he/she will advance to the next listening theme folder. If the student does not answer the majority of the items within a folder correctly, the test administrator will skip to part A of the reading test. The scoring sheets provide specific rules for this advancement.

The administration of the reading test follows the same rules as the listening test. If in the reading test a student cannot answer the majority of the items in any theme folder correctly, the reading test will be brought to a close and the writing test will begin.

## Estimated Administration Times and General Scoring Procedures

The following charts indicate estimated administration times for each W-APT subtest. Each is hand-scored locally using the following scoring procedures. Beginning in 2016, assessments for grades 1-12 will be scored online.

KINDERGARTEN W-APT		
Language Domain	Estimated Administration Time	Scoring Reference
Speaking & Listening	15 minutes or less	Answer Key
Reading & Writing	15 minutes or less	Rubric

GRADES 1-12 W-APT		
Language Domain	Estimated Administration Time	Scoring Reference
Speaking	10 minutes or less	Rubric
Listening	20 minutes or less	Answer Key
Reading	20 minutes or less	Answer Key
Writing	30 minutes or less	Rubric

## Test Security

The security of W-APT test materials and confidentiality of student scores must be maintained at all times. Test materials must be kept in a secure, locked storage area. Materials must not be left unattended at any time, including immediately prior to or after testing. ESL directors and the test coordinators are responsible for maintaining security of all W-APT materials.

## Testing Environment

Test administrations typically occur individually, in a private room or space. The test administrator must:

- sit at a right angle to the student, rather than across from or beside the student;
- make sure that the student can see the test materials that lie flat on the table;
- administer and score speaking tests simultaneously; and
- adhere to the adaptive guidelines of the scripts.

## Test Administrator’s Responsibilities

Only endorsed or certified ESL teachers in Tennessee are permitted to administer secure ESL state assessments. Test administrators shall be school personnel who have professional training in education and the state testing program. Retired teachers, if working for the district in an ESL capacity, may administer Tennessee ESL tests.

Test administrators shall not, at any time, modify, change, alter, or tamper with student responses on the answer sheets. Nor may any questions be altered or changed.

**NOTE:** Title III funds must not be used for training or administering English language proficiency tests.

## Testing Accommodations for Students with Disabilities

Only TDOE-approved testing accommodations may be provided for students with disabilities. For more information, contact:

**Lori Nixon** – (615) 741-5113 – [Lori.Nixon@tn.gov](mailto:Lori.Nixon@tn.gov)

## W-APT Scores and Next Steps

The following information serves as a guide to determine whether or not the student will receive Title III ESL services.

GRADE	W-APT SCORE	ESL SERVICE DETERMINATION
Kindergarten, first semester	Listening & Speaking: Less than 27	<b>NEEDS SERVICE</b>
	Listening & Speaking: 27 or above	Does not qualify for service
Kindergarten, second semester  <i>OR</i> First grade, first semester	Any of the following: <ul style="list-style-type: none"> <li>• Listening &amp; Speaking: Less than 27</li> <li>• Reading: Less than 14</li> <li>• Writing: Less than 17</li> </ul>	<b>NEEDS SERVICE</b>
	ALL of the following: <ul style="list-style-type: none"> <li>• Listening &amp; Speaking: 27 or above</li> <li>• Reading: 14 or above</li> <li>• Writing: 17 or above</li> </ul>	Does not qualify for service
First grade, second semester  <i>through</i> 12 <sup>th</sup> grade	Composite score: Less than 5.0 <i>OR</i> Any domain score (Speaking, Listening, Reading, and/or Writing): Less than 5.0	<b>NEEDS SERVICE</b>
	Composite score: 5.0 or above <i>AND</i> ALL domain scores: 5.0 or above	Does not qualify for service

## Appropriate Amount of ESL Services to Receive

If a student's W-APT scores indicate they need ESL service, the next step is to determine how much service they are entitled to receive. Tennessee State Board of Education policy<sup>181</sup> requires that beginner and low intermediate ELs are to receive a minimum of one hour per day of direct ESL service.

KINDERGARTEN – FIRST GRADE, FIRST SEMESTER	FIRST GRADE, SECOND SEMESTER – 12 <sup>TH</sup> GRADE
<b>If the student has a score less than 21 in listening and speaking,</b> the EL receives an hour of ESL service per day.	<b>If the student has a score less than 3.6 on composite or in any domain,</b> the EL receives an hour <u>minimum</u> of ESL service per day.

## ACCESS for ELs

ACCESS for ELs exceeds the requirements of the ESEA and is used to measure and report an EL student's growth. It is a standards-based, curriculum referenced English language proficiency test designed to measure an EL's social and academic English proficiency and progress. It assesses the social and academic language across the four language domains of speaking, listening, reading, and writing. More information on ACCESS for ELs can be found [here](#) and [here](#).

The results of an ACCESS for ELs assessment:

- serve as one criterion to aid in determining when ELs have attained the language proficiency needed to meaningfully participate in content area classrooms without ESL program support and state assessments without accommodations;
- provide districts with information that will aid in evaluating the effectiveness of ESL programs; and
- identify English language proficiency.

All students identified as limited English proficient—including those whose parents have waived ESL services—must be administered the ACCESS for ELs during the annual English language proficiency testing window.

**NOTE:** Students who have formally exited ESL services and are transitional are not administered the ACCESS for ELs.

## Electronic Format

Beginning in the 2015-16 academic year, Tennessee schools will begin administering the new, annual summative assessment, ACCESS for ELs 2.0. This online assessment will replace the previous paper-based version of the ACCESS for ELs for grades 1-12.

The electronic format of ACCESS for ELs 2.0:

- increases student engagement through a more dynamic testing experience;
- builds in accommodations and accessibility features appropriate for a range of student needs;
- allows for simultaneous administration of multiple grades; and

- increases ease for test administrators by eliminating their need to administer and score the speaking test one-on-one.

More information on ACCESS for ELs 2.0 can be found [here](#).

**NOTE:** ACCESS for ELs 2.0 is only available for grades 1-12. Kindergarten EL students will continue to be assessed with the paper-based ACCESS for ELs.

## Grade Level Clusters

Language and cognition develop quickly in younger children—broadening in depth and breadth as they mature. In order to better measure younger students’ language development, ACCESS for ELs 2.0 will include a separate test form for first grade.

<b>ACCESS for ELs</b>	K	1-2	3-5	6-8	9-12	
<b>ACCESS for ELs 2.0</b>	K	1	2-3	4-5	6-8	9-12

## Alternate ACCESS for ELs

WIDA created the Alternate ACCESS for ELs to meet federal accountability requirements and provide educators with a measure that is sensitive to the English language proficiency growth of ELs with significant cognitive disabilities. The assessment is for grades 1-12 and is for students whose disabilities prevent their meaningful participation in the ACCESS for ELs assessment. More information can be found [here](#).

Alternate ACCESS for ELs aligns with the WIDA alternate English language proficiency levels. These levels were designed to expand upon level P1—Entering, by increasing the sensitivity of the measure. These alternate levels give students a chance to demonstrate progress within level P1. Currently, there are no exit criteria.

**NOTE:** Only students taking an alternative state assessments are eligible to take the Alternate ACCESS for ELs.

## MODEL

The Measure of Developing English Language (MODEL) is a series of English language proficiency assessments for kindergarten through grade 12. MODEL can be used by educators as an identification/placement assessment for newly enrolled ELs or as an interim progress monitoring assessment. Not all domains must be administered each time the assessment is used. More information can be found [here](#).

**NOTE:** MODEL may not be used as a screener in Tennessee public schools.

## Purpose & Use

As a flexible, on-demand language proficiency assessment, this test can be administered at any time during the school year. MODEL can be used for the following purposes:

- to serve as an interim assessment during the school year, providing information that informs instructional planning and other decisions related to the student's education; and
- to guide instructional and curricular decisions while waiting for ACCESS for ELs score reports.

**NOTE:** MODEL is not designed to meet the federal requirements for annual assessment and accountability and should not be used to exit students from ESL services.



# Chapter 9: Private Schools

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## Summary

This chapter looks at the relationship between public and private schools who serve EL students. Those EL students are entitled to ESL services provided through Title III funds. However, contracts determining services must be crafted between the private school serving EL students and the public school district.

Rules regarding the Title III funds private schools are entitled to receive are explained and statutory and regulatory requirements can also be found outlined in this chapter. An overview of Title III funds and their uses, not just those related to private schools, can be found in *Chapter 1: Legal Guidelines*.

## FAQs

### **1. What is meant by “equitable” participation by public and private school students and educational personnel in a Title III program?**

Participation is considered to be equitable if the public school district:

1. assesses, addresses, and evaluates the needs and progress of public and private school students and educational personnel on a comparable basis;
2. provides, in the aggregate, approximately the same amount of services to students and educational personnel with similar needs;
3. spends an equal amount of funds to serve similar public and private school students and educational personnel; and
4. provides both groups of students and educational personnel equal opportunities to participate in program activities.

### **2. Must a public school district’s Title III program design be the same for both public and private school students and educational personnel?**

No. Consultation and coordination between the public school district and private school officials are essential to ensure a high quality program that assists those students in attaining English proficiency and meet the same challenging state academic content and student academic achievement standards. The public school district must assess the needs of private school students and educational personnel in designing a program that meets their needs. If their needs are different from those of public school students and educational personnel, private school officials, in consultation with the public school district, must develop a separate program that is appropriate for their needs.

### **3. What recourse is available if a public school district will not use its Title III funds to provide equitable services to private school children and educational personnel?**

Complaints about a public school district’s failure to provide equitable services to private school children and educational personnel must first be submitted to the TDOE. The TDOE’s resolution, or failure to make a resolution, may then be appealed to the U.S. Department of Education.

**4. Does the Title III requirement on language qualifications for teachers providing Title III services to public school students apply to teachers providing these services to private school students?**

Yes. Teachers providing Title III services to private school students, whether public school district employees or third-party contract employees, are subject to the requirement that teachers in a Title III program must be fluent in English and any other language used for instruction.

## **Title III Funds<sup>182</sup>**

### **Supplement, Not Supplant**

Educational services provided under Title III for both public and private schools must be supplementary<sup>183</sup> to the services provided by other federal, state, and local funds, which includes the *Lau* requirements.<sup>184</sup>

### **Special Rule**

*“Educational services and other benefits provided under this section for private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.”<sup>185</sup>*

### **Title III Eligibility of EL Private School Students**

EL students in private schools may participate in programs and receive services and products funded by Title III, up to the per capita allocation. This requires that the EL students are identified in an appropriate manner and the private school has developed an agreement with the public school district of geographical jurisdiction. (Written documentation and the format of agreements should follow the local policy standard.)

Private schools may not receive funds directly, but they must make arrangements through the agreement to receive programs, services, and products from the public school district. All decisions are made during the consultation process. It is important to note that most services provided to ELs within a district are not funded with federal money but with general purpose funds.

### **Control of Title III Materials & Equipment Provided to Non-Profit Providers**

The public school district, consortium, independent charter school, or entity maintains control of the federal funds used to provide services to private schools. It also maintains title to materials, equipment, and property purchased with those funds.<sup>186</sup> Public school districts, consortiums, independent charter schools, and entities may allow the private school to keep the items from year to year, in accordance with approved activities specified in the agreement, so long as appropriate records are maintained.

## Title III Program Design for Public & Private Schools

If the needs of the private school are different from those of the public school, the public school district, in consultation with private school officials, must develop a separate program design that is appropriate for their needs. Consultation and coordination between the public school district and private school officials are essential to ensure a high-quality program that meets the needs of the students served and assists them in attaining English proficiency.

### Statutory & Regulatory Requirements

After timely and meaningful consultation with appropriate private school officials, public school districts receiving Title III funds must provide educational services to EL students who are located in the attendance area served by the public school district.

To ensure timely and meaningful consultation, the public school district must consult with appropriate private school officials during the design and development of the Title III program on issues, such as:

- how the EL students' needs will be identified;
- what services will be offered;
- how, where, and by whom the services will be provided;
- how the services will be assessed and how the results of the assessment will be used to improve those services;
- the size and scope of the services to be provided to the private school children and educational personnel;
- the amount of funds available for those services; and
- how and when the public school district will make decisions about the delivery of services, including a thorough consideration of the views of the private school officials on the provision of contract services through potential third-party providers.

Title III services provided to children and educational personnel in private schools must:

- be equitable and timely and address their educational needs;
- be equal, taking into account the number and educational needs of those children, to the funds provided for participating public school children;
- be secular, neutral, and non-ideological;
- be provided by employees of the public school district or through a contract made by the district with a third party; and
- not be commingled with nonfederal funds.

Public school districts may serve private school EL students either directly or through contracts with public and private agencies, organizations, and institutions. The control of funds used to provide services and the title to materials and equipment purchased with those funds must be retained by the public school district.

Providers of services to private school children and educational personnel must be independent of the private school and of any religious organization, and the providers' employment or contract must be under the control and supervision of the public school district.

# Appendix A: Resources

## Federal

Federal Interagency Limited English Proficiency Website

<http://www.lep.gov/>

Home Room: The Official Blog of the U.S. Department of Education

<https://www.ed.gov/blog/tag/english-learners/>

National Center for Education Statistics – English Language Learners

[http://nces.ed.gov/programs/coe/indicator\\_cgf.asp](http://nces.ed.gov/programs/coe/indicator_cgf.asp)

National Clearinghouse for English Language Acquisition – Title III State Formula Grant

<http://www.ncela.us/titleIII>

U.S. Department of Education – English Language Acquisition State Grants

<http://www2.ed.gov/programs/sfgp/index.html>

Office for Civil Rights – Programs for English Language Learners

<http://www.ed.gov/news/press-releases/us-departments-education-and-justice-release-joint-guidance-ensure-english-learn>

Office of English Language Acquisition – English Learner Tool Kit

<http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html>

U.S. Department of Education – Recursos en español

<http://www2.ed.gov/espanol/bienvenidos/es/index.html>

U.S. Department of Justice – Educational Opportunities Section

<http://www.justice.gov/crt/about/edu/>

What Works Clearinghouse – English Language Learners

<http://ies.ed.gov/ncee/wwc/Topic.aspx?sid=6>

## WIDA

Educator Resources

<https://www.wida.us/professionaldev/educatorresources/>

Research Agenda

<https://www.wida.us/Research/Agenda/>

Tennessee Member Page  
<https://www.wida.us/membership/states/Tennessee.aspx>

## **Tennessee**

ESEA Title III  
<http://tn.gov/education/article/esea-title-iii>

TDOE – English learners  
<http://tn.gov/education/topic/english-learners>

TDOE – English Language Arts Standards  
<http://tn.gov/education/article/english-language-arts-standards>

Read Tennessee  
<http://www.readtennessee.org/>

TNTESOL  
<http://www.tntesol.org/>

## **For Educators**

Bridging Refugee Youth & Children's Services  
<http://brycs.org/WhatsNew/index.cfm#RESOURCES>

Center for Applied Linguistics  
<http://www.cal.org/>

Choices Program  
<http://www.choices.edu/>

Elementary & Middle Schools Technical Assistance Center  
<http://www.emstac.org/resources/index.htm>

Global Dimension  
<http://globaldimension.org.uk/>

iEarn International  
<http://www.us.iearn.org/>

Modern Language Association – Language Map  
[https://apps.mla.org/map\\_main](https://apps.mla.org/map_main)

National Association for Multicultural Education  
<http://www.nameorg.org/>

National Center for Culturally Responsive Educational Systems

<http://www.nccrest.org/>

National League of Cities: Institute for Youth, Education, and Families – Preventing Gang Violence and Building Communities where Young People Thrive

<http://www.nlc.org/Documents/Find%20City%20Solutions/IYEF/Violence%20Prevention/preventing-gang-violence-kit-jan10.pdf>

One World Education

<http://www.oneworldeducation.org/>

Teach UNICEF

<http://teachunicef.org/>

U.S. Department of Education – Federal Resources for Educational Excellence (FREE)

<http://www2.ed.gov/free/index.html>



## Appendix B: Glossary

**ACCESS:** The required English language proficiency used in Tennessee currently, *see WIDA for more detail*

**AMAO:** Annual Measurable Achievement Objective

**ASL:** American Sign Language

**BEP:** Basic Education Program

**CPL:** Composite Proficiency Levels

**EEOA:** Equal Educational Opportunities Act (1974); 20 U.S.C. Ch. 39

**EIS:** Education Information System

**EL:** English learner

**ELs:** English learners

**ELD:** English Language Development

**ELP:** English language proficiency

**ESEA:** Elementary and Secondary Education Act (reauthorized in December 2016 as the Every Student Succeeds Act (ESSA))

**ESL:** English as a Second Language

*NOTE:* ESL refers to the language acquisition program provided to English learners. It does NOT refer to the student receiving the services.

**ESSA:** Every Student Succeeds Act (ESSA)

**FEP:** Fluent English proficient

**FERPA:** Family Education Rights and Privacy Act (1974); 20 U.S.C. § 1232(g)

**F/SD:** Faculty/Student Data Form

**FTE:** Full-time equivalent

**HHS:** U.S. Department of Health and Human Services

**HLS:** Home Language Survey

**IEP:** Individualized Education Program

**ILP:** Individual Learning Plan

**LEP:** Before ESSA, ELs were often referred to as limited English proficient; *see EL for more detail*

**MFLEP:** Monitored former limited English proficient. TN uses transition to describe MFLEPs.

**MODEL:** a formative assessment that relates to the WIDA ACCESS *see WIDA*

**MPI:** Model Performance Indicator

**NCLB:** No Child Left Behind Act (2001); Pub. L. 107-110; *see ESEA*

**NELB:** non-English Language Background

**NOM:** National Origin Language Minority

**OCR:** U.S. Office for Civil Rights

**OELA:** U.S. Office of English Language Acquisition

**OME:** U.S. Office of Migrant Education

**RTI<sup>2</sup>:** Response to Instruction and Intervention

**SEA:** State Educational Agency

**SIS:** Student Information System (at the district level)

**SSN:** Social Security number

**TCAP:** Tennessee Comprehensive Assessment Program

**TDOE:** Tennessee Department of Education

**TRANSITIONAL (T1/T2/T3/T4):** This refers to EL students who are no longer receiving ESL services but are being monitored per the four-year federal mandate (1 refers to students in their first year of this monitoring period; 2 refers to students in their second year of monitoring; etc.).

*NOTE:* The federal government refers to these students (both T1 and T2) as Monitored Former Limited English Proficient (MFLEP).

**USEd:** U.S. Department of Education

**USID:** Unique Student Identification number

**W-APT:** *see WIDA*

**WIDA:** World-Class Instructional Design Assessment Consortium. The WIDA assessments are as follows:

**W-APT:** WIDA-ACCESS Placement Test

**MODEL:** Measure of Developing English Language

**ACCESS:** Assessing Comprehension and Communication in English State-to-State for English Language Learners

## Appendix C: EIS Coding

CLASSIFICATION IN EIS	CODE
National Origin Minority	NOM
Non-English Language Background	N
English learner	L
Transitional 1	1
Transitional 2	2
Transitional 3	3
Transitional 4	4
Former EL	F
Waived Service English learner	W

# Citations

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- <sup>1</sup> Every Student Succeeds Act (ESSA). [Web](#).
- <sup>2</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>3</sup> T.C.A. § 4-21-901.
- <sup>4</sup> *Lau v. Nichols*, 414 U.S. 563 (1974). [Web](#).
- <sup>5</sup> U.S. Constitution, Amendment XIV.
- <sup>6</sup> Pub. L. 88-352, Civil Rights Act, Title VI (1964) § 601.
- <sup>7</sup> Adapted from The former U.S. Department of Health, Education, and Welfare (25 May 1970). *Identification of Discrimination and Denial of Services on the Basis of National Origin* [Memorandum]. [Web](#).
- <sup>8</sup> The former U.S. Department of Health, Education, and Welfare (25 May 1970). *Identification of Discrimination and Denial of Services on the Basis of National Origin* [Memorandum]. [Web](#).
- <sup>9</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>10</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>11</sup> 20 U.S.C. § 1703(f). [Web](#).
- <sup>12</sup> 20 U.S.C. § 1232(g); 34 CFR § 99. [Web](#).
- <sup>13</sup> 34 CFR § 99.31(a)(9)(i). [Web](#).
- <sup>14</sup> U.S. Department of Justice, Civil Rights Division, & Department of Education, Office for Civil Rights (6 May 2011). Joint “Dear Colleague” Letter. [Web](#).
- <sup>15</sup> *Plyler v. Doe*, 457 U.S. 202 (1982). [Web](#).
- <sup>16</sup> Intercultural Development Research Association (2011). *Immigrant Students’ Rights to Attend Public Schools: School Opening Alert*. [Web](#).
- <sup>17</sup> 20 U.S.C. § 6301. [Web](#).
- <sup>18</sup> ESSA. [Web](#).
- <sup>19</sup> ESEA. Title III § 3102; Reauthorized under ESSA, Title III § 3102.
- <sup>20</sup> ESSA, Title I § 1001.
- <sup>21</sup> ESEA. Title III § 3102; Reauthorized under ESSA, Title III § 3102.
- <sup>22</sup> *Lau v. Nichols*, 414 U.S. 563 (1974). [Web](#).
- <sup>23</sup> *Plyler v. Doe*, 457 U.S. 202 (1982). [Web](#).
- <sup>24</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (6 May 2011). Joint “Dear Colleague” Letter. [Web](#).
- <sup>25</sup> *Horne v. Flores*, 557 U.S. 433 (2009). [Web](#).
- <sup>26</sup> *Horne v. Flores*, 20 U.S.C. § 1703(f). [Web](#).
- <sup>27</sup> *Castañeda v. Pickard*, 648 F.2d 989 (1981). [Web](#).
- <sup>28</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>29</sup> *Y.S. v. School District of Philadelphia*, C.A. 85-6924 (E.D.P.A. 1986). [Web](#).
- <sup>30</sup> *Gomez v. Illinois State Board of Education*, 811 F.2d 1030 (1987). [Web](#).
- <sup>31</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>32</sup> Tennessee Department of Economic and Community Development, Title VI Compliance. [Web](#).
- <sup>33</sup> Tennessee State Board of Education. *Tennessee Basic Education Program BEP 2.0 Blue Book*. [Web](#).
- <sup>34</sup> Tennessee State Board of Education. *Tennessee Basic Education Program BEP 2.0 Blue Book*. [Web](#).

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- <sup>35</sup> Adapted from Texas Education Agency (2015). Frequently Asked Questions: Allowable Use of Title III, Part A Funds. [Web](#).
- <sup>36</sup> ESEA, Title III § 3115(g); Reauthorized under ESSA, Title III § 3115(g).
- <sup>37</sup> ESEA, Title III § 3115(b); Reauthorized under ESSA, Title III § 3115(b).
- <sup>38</sup> ESEA, Title III § 3115(g); Reauthorized under ESSA, Title III § 3115(g).
- <sup>39</sup> *Lau v. Nichols*, 414 U.S. 563 (1974). [Web](#).
- <sup>40</sup> ESEA, Title III § 3302(a); Reauthorized under ESSA, Title I § 1112(e)(3)(A).
- <sup>41</sup> ESSA, Title I § 1111(c)(4)(A)(ii).
- <sup>42</sup> T.C.A. § 49-6-3001.
- <sup>43</sup> T.C.A. § 49-6-5001.
- <sup>44</sup> *Plyler v. Doe*, 457 U.S. 202 (1982). [Web](#).
- <sup>45</sup> For more information, see Chapter 3: Identifying & Placing EL Students.
- <sup>46</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>47</sup> For more information, see *Chapter 2: Welcoming New Students*.
- <sup>48</sup> For more information, see *Chapter 3: Identifying & Placing EL Students*.
- <sup>49</sup> For more information, see *Chapter 4: ESL Programs*.
- <sup>50</sup> ESEA, Title I § 1112(g); Reauthorized under ESSA, Title I § 1112(e)(3) and (4).
- <sup>51</sup> Tennessee Department of Education (2015). *Response to Instruction and Intervention Framework*. [Web](#).
- <sup>52</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>53</sup> ESSA, Title I, Part C.
- <sup>54</sup> ESEA, Title III § 3115(g); Reauthorized under ESSA, Title III § 3115(g).
- <sup>55</sup> Equal Educational Opportunities Act (EEOA) (1974). [Web](#).
- <sup>56</sup> U.S. Department of Justice Civil Rights Division and U.S. Department of Education Office of Civil Rights (2015). *Information for Limited English Proficient (LEP) Parents and Guardians and for Schools and School Districts that Communicate with Them*. [Web](#).
- <sup>57</sup> T.C.A. § 4-21-302. [Web](#).
- <sup>58</sup> For more information, see *Plyler v. Doe* (1982) in *Chapter 1: Legal Guidelines*.
- <sup>59</sup> T.C.A. § 49-6-3102(b).
- <sup>60</sup> *Martinez v. Bynum*, 461 U.S. 321 (1983). [Web](#).
- <sup>61</sup> The McKinney-Vento Act (42 U.S.C. §§ *et seq.*) defines the term “homeless children and youth” as including, in part, “children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement,” as well as children of migratory agricultural workers.
- <sup>62</sup> Department of Education (2015). *English Learner Toolkit*. Chapter 10. [Web](#).
- <sup>63</sup> The federal government [6 U.S.C. § 279(g)(2)] defines an unaccompanied minor as “a child [...] who has not attained 18 years of age, and who has no parent or legal guardian in the United States available to provide care and physical custody.”
- <sup>64</sup> For more information, see Education FAQ for Parents and Foster Parents. [Web](#).
- <sup>65</sup> For more information, see *Plyler v. Doe* (1982), *Chapter 1: Legal Guidelines*.
- <sup>66</sup> T.C.A. § 24-3-302(a)(1).
- <sup>67</sup> T.C.A. § 34-6-302(a)(1) and (b); T.C.A. § 34-6-303.
- <sup>68</sup> T.C.A. § 34-6-304 (a) and (b).

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- <sup>69</sup> For more information, see *Chapter 1: Legal Guidelines*.
- <sup>70</sup> Title IX (20 U.S.C. 7801).
- <sup>71</sup> For more information, see *Chapter 1: Legal Guidelines*.
- <sup>72</sup> For more information, see *Chapter 1: Legal Guidelines*.
- <sup>73</sup> For more information, see *Plyler v. Doe* (1982), *Chapter 1: Legal Guidelines*.
- <sup>74</sup> T.C.A. § 49-6-5101.
- <sup>75</sup> For more information, see *Plyler v. Doe* (1982), *Chapter 1: Legal Guidelines*.
- <sup>76</sup> T.C.A. § 49-6-5001.
- <sup>77</sup> McKinney-Vento Act, Education for Homeless Children and Youths. [Web](#).
- <sup>78</sup> The federal government [6 U.S.C. § 279(g)(2)] defines an unaccompanied minor as “a child [...] who has not attained 18 years of age, and who has no parent or legal guardian in the United States available to provide care and physical custody.” [Web](#).
- <sup>79</sup> For more information, see Tennessee Department of Children’s Services, Education FAQ for Parents and Foster Parents. [Web](#).
- <sup>80</sup> For more information, see *Plyler v. Doe* (1982) in *Chapter 1: Legal Guidelines*.
- <sup>81</sup> For more information, see *Chapter 3: Identifying & Placing EL Students*.
- <sup>82</sup> For more information on data to be collected, see Student Data in *Chapter 3: Identifying & Placing EL Students*.
- <sup>83</sup> U.S. Department of Justice Civil Rights Division and U.S. Department of Education Office of Civil Rights (2015). *Information for Limited English Proficient (LEP) Parents and Guardians and for Schools and School Districts that Communicate with Them*. [Web](#).
- <sup>84</sup> For more information, see *Chapter 3: Identifying & Placing EL Students*.
- <sup>85</sup> ESEA, Title III § 3302(a); Reauthorized under ESSA, Title I § 1112(e)(3)(A).
- <sup>86</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>87</sup> ESEA, Title III § 3302(a); Reauthorized under ESSA, Title I § 1112(e)(3)(A).
- <sup>88</sup> For more information, see *Chapter 2: Welcoming New Students*.
- <sup>89</sup> For more information, see Equal Educational Opportunities Act (EEOA) (1974) in *Chapter 1: Legal Guidelines*.
- <sup>90</sup> For more information, see Equal Educational Opportunities Act (EEOA) (1974) in *Chapter 1: Legal Guidelines*.
- <sup>91</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 1. [Web](#).
- <sup>92</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>93</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>94</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 1. [Web](#).
- <sup>95</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>96</sup> T.C.A. § 49-12-301.
- <sup>97</sup> The *Lau v. Nichols* (1974) decision applies to foreign exchange students. For more information, see *Chapter 1: Legal Guidelines*.
- <sup>98</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 1. [Web](#).
- <sup>99</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 2. [Web](#).
- <sup>100</sup> For more information and definitions of proficiency levels, see *Chapter 8: WIDA*.
- <sup>101</sup> For more information, see *Chapter 5: Annual Assessments*.
- <sup>102</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 6. [Web](#).
- <sup>103</sup> Schiff-Myers, N.B. (1992). Considering Arrested Language Development and Language Loss in the Assessment of Second Language Learners. *Language, Speech, and Hearing Services in Schools*. 23(1), 28-33.

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- <sup>104</sup> Collier, V.P. & Thomas, W.P. (1997). Two Languages are Better than One. *Educational Leadership*. 55(4), 23-26.
- <sup>105</sup> Also known as the BICS-CALP gap. The incorrect assumption that a student who is conversationally fluent is also academically fluent can lead to misclassifications. [Web](#).
- <sup>106</sup> Harris, J.L. (2003). Prologue: Toward an Understanding of Literacy Issues in Multicultural School-Age Populations. *Language, Speech, and Hearing Services in Schools*. 34(1), 17-19.
- <sup>107</sup> Tennessee Department of Education (2008). Assessment Considerations for Culturally and Linguistically Diverse Students. [Web](#).
- <sup>108</sup> Tennessee Department of Education (2008). Assessment Considerations for Culturally and Linguistically Diverse Students. [Web](#).
- <sup>109</sup> For more information, see Parental Rights in *Chapter 1: Legal Guidelines*.
- <sup>110</sup> Adapted from Tennessee Department of Education (2015). *Response to Instruction and Intervention Framework*. [Web](#).
- <sup>111</sup> For more information, see Parental Rights in *Chapter 1: Legal Guidelines*.
- <sup>112</sup> Equal Educational Opportunities Act (EEOA) (1974); ESSA, Titles I and III. For information, see *Chapter 1: Legal Guidelines*.
- <sup>113</sup> Tennessee State Board of Education Rules. Chapter 0520-01-09-.02 § (11), defines intellectually gifted as a child whose intellectual abilities and potential for achievement are so outstanding that the child's educational performance is adversely affected and the general curriculum alone is inadequate to appropriately meet the student's educational needs. [Web](#).
- <sup>114</sup> For more information, see Tennessee Department of Education (2008). Assessment Considerations for Culturally and Linguistically Diverse Students. [Web](#).
- <sup>115</sup> U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>116</sup> For more information, see Parental Rights in *Chapter 1: Legal Guidelines*.
- <sup>117</sup> Equal Educational Opportunities Act (EEOA) (1974); U.S. Department of Justice, Civil Rights Division, & U.S. Department of Education, Office for Civil Rights (7 January 2015). *Dear Colleague Letter: English Learner Students and Limited English Proficient Parents*. [Web](#).
- <sup>118</sup> ESEA, Title III § 3302(a); Reauthorized under ESSA, Title I § 1112(e)(3)(A).
- <sup>119</sup> Title III § 3302; Reauthorized under ESSA, Title I § 1112(e)(3)(A).
- <sup>120</sup> Title III § 3302(a)(8); Reauthorized under ESSA, Title I § 1112(e)(3)(A)(viii).
- <sup>121</sup> For more information, see *Chapter 7: Exiting ESL Status*.
- <sup>122</sup> For more information, see *Chapter 8: WIDA*.
- <sup>123</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 8. [Web](#).
- <sup>124</sup> U.S. Department of Education (2015). *English Learner Toolkit*. Chapter 4. [Web](#).
- <sup>125</sup> For more information, see *Castañeda v. Pickard* (1981) in *Chapter 1: Legal Guidelines*.
- <sup>126</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>127</sup> ESSA § 1112(e)(3)(A)(v)
- <sup>128</sup> Equal Educational Opportunities Act (EEOA) (1974) § 1703(f)
- <sup>129</sup> Per the Tennessee State Board of Education Rules, Chapter 0520-01-03-.06 § (2)(a), the local board of education may adopt policies to award credits to students who have taken equivalent high school courses. [Web](#).
- <sup>130</sup> Tennessee State Board of Education Rules. Chapter 0520-01-03-.05 § (6)(a)(3)(iii). [Web](#).
- <sup>131</sup> Tennessee State Board of Education Rules. Chapter 0520-01-03-.03 § (11)(b). [Web](#).
- <sup>132</sup> Adapted from Metropolitan Nashville Public Schools' Course Progression Plans for English learners (2015).

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- <sup>133</sup> Equal Educational Opportunities Act (EEOA) (1974).
- <sup>134</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>135</sup> U.S. Department of Education, Office for Civil Rights (6 April 1990). Policy Regarding the Treatment of National Origin Minority Students Who are Limited English Proficient. [Web](#).
- <sup>136</sup> Tennessee State Board of Education Rules. Chapter 0520-01-03-.05 § (6)(a)(1)(ii). [Web](#).
- <sup>137</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>138</sup> U.S. Department of Education (27 September 1991). *Policy Update on Schools' Obligations Toward National Origin Minority Students with Limited English Proficiency* [Memorandum]. [Web](#).
- <sup>139</sup> For more information, see Title III Funding in *Chapter 1: Legal Guidelines*.
- <sup>140</sup> Tennessee State Board of Education. Rules, Regulations, and Minimum Standards for the Operation of the Public School System § 0520-01-03-.05 § (6)(a)(2)(iii). [Web](#).
- <sup>141</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>142</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>143</sup> For more information, see *Castañeda v. Pickard* (1981) in Chapter 1: Legal Guidelines.
- <sup>144</sup> Tennessee State Board of Education. Rules, Regulations, and Minimum Standards for the Operation of the Public School System § 0520-1-3-.05 § (6)(a)(1)(ii). [Web](#).
- <sup>145</sup> Adapted from Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>146</sup> California Department of Education Press (2010). *Improving Education for English Learners: Research-Based Approaches*. Sacramento: CDE Press.
- <sup>147</sup> ESSA, Title III § 3102(9)
- <sup>148</sup> Tennessee State Board of Education. ESL Program Policy (3.207). [Web](#).
- <sup>149</sup> Tennessee State Board of Education. Rules, Regulations, and Minimum Standards for the Operation of the Public School System § 0520-1-3-.05 § (6)(a)(2)(iii). [Web](#).
- <sup>150</sup> For more information, see *Chapter 5: Annual Assessments*.
- <sup>151</sup> For more information, see Considerations when Mainstreaming Students in *Chapter 7: Exiting ESL Status*.
- <sup>152</sup> Adapted from Tennessee Department of Education (2014). *Tennessee Licensure Standards and Induction Guidelines*. [Web](#).
- <sup>153</sup> Tennessee Department of Education. *Title III: English as a Second Language*. [Web](#).
- <sup>154</sup> Tennessee Department of Education, *Tennessee Licensure Standards and Induction Guidelines*. [Web](#).
- <sup>155</sup> Tennessee State Board of Education ESL Program Policy (3.207). [Web](#).
- <sup>156</sup> For more information, see *Chapter 1: Legal Guidelines*.
- <sup>157</sup> ESSA § 1111(b)(2)(B)(vii)
- <sup>158</sup> As defined under the Individuals with Disabilities Education Act (IDEA) § 602(3)
- <sup>159</sup> Adapted from ESEA, Title I § 1111(b)(3)(C)(x)
- <sup>160</sup> Adapted from ESEA, Title I § 1111(b)(7)
- <sup>161</sup> Adapted from Tennessee Department of Education. *Procedures for Participation of Students in the Tennessee's Assessment System*.
- <sup>162</sup> Adapted from Tennessee Department of Education. *Procedures for Participation of Students in the Tennessee's Assessment System*.
- <sup>163</sup> Lawrence Erlbaum Associates, Inc. (2002). Standardized Achievement Tests and English Language Learners: Psychometrics Issues. *Educational Assessment*. 8(3), 231-257. [Web](#).
- <sup>164</sup> Shane R. Jimerson. (2001). Meta-analysis of Grade Retention Research: Implications for Practice in the 21<sup>st</sup> Century. *School Psychology Review*. Volume 30. [Web](#).
- <sup>165</sup> Tennessee State Board of Education. Rules, Regulations, and Minimum Standards for the Operation of the Public School System § 0520-01-03-.05 § (3)(b). [Web](#).



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- <sup>166</sup> *Lau v. Nichols*, 414 U.S. 563 (1974). [Web](#).
- <sup>167</sup> Equal Educational Opportunities Act (EEOA) (1974)
- <sup>168</sup> Adapted from Jimerson, S.R., Woehr, S.M., Kaufman, A.M., & Anderson, G.E. (2004). Grade Retention and Promotion: Information and Strategies for Educators. *National Association of School Psychologists*, 61-64.
- <sup>169</sup> Adapted from Jimerson, S.R., Woehr, S.M., Kaufman, A.M., & Anderson, G.E. (2004). Grade Retention and Promotion: Information and Strategies for Educators. *National Association of School Psychologists*, 61-64.
- <sup>170</sup> ESEA, Title III § 3121(a)(4); Reauthorized under ESSA, Title III § 3121(a).
- <sup>171</sup> ESEA, Title III § 3121(a)(2); Reauthorized under ESSA, Title III § 3121(a).
- <sup>172</sup> Equal Educational Opportunities Act (EEOA) (1974)
- <sup>173</sup> For more information, see *Chapter 3: Identifying & Placing EL Students*.
- <sup>174</sup> ESSA, Title III § 3121(a)(5).
- <sup>175</sup> ESSA Title III § 3121(a)(4) and (5).
- <sup>176</sup> ESSA Title III § 3121(a)(4) and (5).
- <sup>177</sup> ESSA Title I § 1111(c)(4)(A)(ii).
- <sup>178</sup> Adapted from WIDA (2012). 2012 Amplification of the English Language Development Standards.
- <sup>179</sup> Adapted from WIDA (2012). 2012 Amplification of the English Language Development Standards.
- <sup>180</sup> For more information, see *Chapter 3: Identifying & Placing EL Students*.
- <sup>181</sup> Tennessee State Board of Education ESL Program Policy (3.207). [Web](#).
- <sup>182</sup> Adapted from Texas Education Agency (2015). Frequently Asked Questions: Allowable Use of Title III, Part A Funds.
- <sup>183</sup> ESEA, Title III § 3115(g); Reauthorized under ESSA, Title III § 3115(g).
- <sup>184</sup> For more information, see *Lau v. Nichols* (1974) in *Chapter 1: Legal Guidelines*.
- <sup>185</sup> ESEA § 9501(a)(3); Reauthorized under ESSA § 8501(a)(3)
- <sup>186</sup> ESEA § 9501(d)(1); Reauthorized under ESSA § 8501(d)(1)