Guidance Handbook for Educators of English Learners with Suspected Disabilities

January 2017

Authors of the Handbook

Shereen Tabrizi, Ph.D., Special Populations Unit Manager

Michigan Department of Education

Jayne Sowers, Ed.D., Senior Technical Consultant
Great Lakes Comprehensive Center at American Institutes for Research

Joan deSouza, Ph.D., School Psychologist
Dearborn Public Schools

Contributing Advisory Members

Kristina Martinez-Precious, Principal
Muskegon Public Schools

Sara Rainwater, ESL Coordinator

Genesee Intermediate School District

Lena Montgomery, Early Childhood and Bilingual/ESL Manager
Wayne Regional Educational Service Agency

Su McKeithen-Polish, ESL Consultant
Macomb Intermediate School District

Deborah Szeman, ESL Consultant
Wayne Regional Educational Service Agency

Reviewers

Office of Special Education
Michigan Department of Education

Michele Cutcher, Ed.D., Regional Consultant
Michigan Department of Education

Maria Silva, English Learner Consultant
Michigan Department of Education

We acknowledge documents from state departments of education that informed this guidance document:

Arizona Department of Education, Office of English Language Acquisition Services. (2012). *A collaborative approach to students with dual labels*.

Connecticut Administrators of Programs for English Language Learners (CAPELL). (2011). *English language learners and special education: A resource handbook*.

Virginia Department of Education. (2009). *Handbook for education for students who are English language learners with suspected disabilities*.

In Appreciation

The Title III/EL (English Learners) Team members at the Michigan Department of Education, Office of Field Services, extend their sincere appreciation to the Great Lakes Comprehensive Center for their extensive and ongoing support throughout the process of developing this Guidance Handbook. The leadership team at the Center provided expertise by way of Dr. Jayne Sowers and continuous encouragement as well as the resources to edit and finalize this valuable resource for Michigan's educators. We are very thankful.

Table of Contents

Introduction

Purpose of the Handbook

The purpose of the *Guidance Handbook for Educators of English Learners with Suspected Disabilities* is to provide local education agencies (LEAs) with assistance as they identify and assess students who are English learners (ELs) for potential eligibility for special education and related services. Michigan's educators have a moral and legal obligation as well as a personal desire to recommend the most appropriate instructional programming for English learners. The Individuals with Disabilities Education Act (IDEA) requires LEAs to make "greater efforts to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities" (IDEA, 2004, P.L. 108-446, 20 U.S.C. § 1400(c)(12)(A)).

This document provides the following guidance to:

- Create an awareness of the laws, regulations, and policies related to the educational rights of ELs.
- Explain the research-based process of how students learn an additional language and how that process may lead to the over identification of ELs for special education.
- Promote a model for a collaborative approach among teachers, administrators, families, and others when planning programs and services for ELs.
- Provide consistent guidance for instructional programming, interventions, evaluation and determination for special education for ELs in Michigan.

The Guidance Handbook also includes frequently asked questions (FAQs), case scenarios, and helpful tools that assist in determining if an evaluation for a suspected disability and education services are needed.

Definition of "English Learners"

The Civil Rights Act of 1964 used the term "Limited English Proficient" (LEP) to describe individuals learning English as a second language. However, the new Every Student Succeeds Act (2015) replaces the "Limited English Proficiency" terminology with "English Learner". According to the federal authorities, a limited English proficient individual (English learner) is an individual who:

a) Was not born in the United States or whose native language is a language other than English; or

b) Who comes from an environment where a language other than English is dominant; or

c) Who is an American Indian or Alaska Native and who comes from an environment where a language other than English has had a significant impact on his or her level of English language proficiency; and

d) Who, by reason thereof, has sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

In the state of Michigan, the term "English learners" or "ELs" is used for this population of students. To determine if a student meets the EL definition, Michigan assesses students' language skills in listening, speaking, reading, and writing. If a student is determined to be an English learner, then the district must provide alternative language services to be supplemented financially by state and federal funds, such as Title I, Part A, Section 31a 'at risk' students or Title III, English Language Acquisition Program. The district conducts an annual assessment to determine the student's ability in one of six levels of English language proficiency. For assessments, Michigan uses the World-Class Instructional Design and Assessment (WIDA). "WIDA" was the title given to the three original states using the assessments: Wisconsin (WI), Delaware (D), and Arkansas (A). Now many states use the assessments, and WIDA moved to a new consortium model: "a non-profit cooperative group of states whose purpose is to develop standards and assessments that meet and exceed the goals of the Elementary and Secondary Education Act and promote educational equity for English language learners". Michigan joined the consortium in 2013, adopted the WIDA standards, and adopted WIDA *ACCESS* for ELLs' annual assessment. Michigan uses multiple indicators to determine students' readiness to exit the EL program as described in the Michigan Department of Education (MDE) Entrance and Exit Protocol (EEP). Districts use the multiple assessment results to determine the type, intensity, and duration of EL services they need to provide.

The Need: Prevalence Data and Disproportionality

This *Guidance Handbook* represents a collaborative effort by professionals in special education, English language learning and school psychology. A writing committee of professionals met on a regular basis to develop multiple drafts, beginning with the development of a problem statement:

> "Schools and districts need guidance, training, knowledge and skills for appropriate identification, assessment, and placement of *English learners with suspected disabilities*."

This need was strongly confirmed by a number of facts compiled from national, state, and local data:

- A continued national increase of ELs in schools (Institute of Education Sciences, 2014):
    - In 2002–03: ELs were 8.7 percent of students or approximately 4.1 million students.
    - In 2011–12: ELs were 9.1 percent of students or an estimated 4.4 million students.
- Students dually identified for both special education and EL services increased at a steady pace (Office of Special Education Programs Accountability Center, 2014).
- State departments of education and LEAs report that under- and over-representation of ELs in special education programs continue to be a concern.
    - ELs have been consistently overrepresented in special education at the secondary school level (Artiles, Rueda, Salazar, & Higareda, 2005; Linn & Hemmer, 2011) but underrepresented in the primary grades (Samson & Lesaux, 2009).
    - ELs with specific learning disabilities (Ortiz, Robertson, & Wilkinson, 2011) were typically referred for special education services in second and third grade with many of the students being retained or socially promoted.
    - Despite the need, oral language development was not a target of the early intervention efforts students received. These facts initially emerged from a 2003 study noting that “districts with smaller EL populations (99 or fewer LEP students) identify on average 15.8 percent of their ELs for special education services, while districts with 100 or more ELs identify on average 9.1 percent of their LEP students for special education” (Zehler, Fleischman, Hopstock, Pendzick, & Stephenson, 2003, p. 6).
- Districts and schools are unclear how to coordinate their services for ELs with potential or determined disabilities. Most coordination is not planned or formal, with the exception of individualized education program (IEP) meetings, and not based on specific mechanisms of formulated district policies (Zehler et al., 2003, p. 30).

- Teachers and schools face challenges in distinguishing between the normal acquisition for an EL to learn English and a language or learning disability. Noted expert of English language learning, Janette Klingner (n.d.), writes, “The single biggest error made in placing English language learners (ELLs) into special education is misinterpreting language acquisition as a learning or language disability.”
- Recent federal guidance stipulates that all ELs with disabilities must participate in state English language proficiency (ELP) assessments (U.S. Department of Education (ED) presentation at a Title III State Directors meeting, 2014). ED expects all states to develop guidelines for accommodations and alternate assessments that do not invalidate ELP annual assessment results.
- Michigan’s Title III (English Language Acquisition) team notes through district observations, trainings, and meetings that despite growth in the states’ EL population, most districts and schools do not have policies, procedures, or resources in place for providing special education services to ELs.

It is not an easy task to determine if an English learner is acquiring English in a developmentally appropriate trajectory or if a potential disability may be slowing down progress. The Guidance Handbook provides assistance for school and district staff to make such determinations, assisting them in developing and implementing policies and practices for ELs with potential disabilities. A misunderstanding exists in education that ELs must receive English services for a predetermined number of years, usually two or three, before being considered for needing special services. This is an erroneous practice, is detrimental to ELs who have disabilities, and is against the Child Find regulations 34 CFR § 300.111(a)(1) (see Appendix A).

Federal Acts and Court Cases

The education of ELs and students with disabilities is protected by law. It is important that English language teachers, teachers of students with disabilities, and general education teachers and administrators understand the law and precedent setting court cases.

All Students

Equal Educational Opportunities Act of 1974
This civil rights statute of 1974 served as a springboard for the rights of students with disabilities and students learning English. The Act prohibits states that receive federal funding from denying equal educational

opportunity to an individual on account of the person's race, color, sex, or national origin. "The statute specifically prohibits states from denying equal educational opportunity to limited English proficient students by the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in instructional programs," [20 U.S.C §1203(f)]

English Learners

Court Case: Lau v. Nichols (1974)

This suit was filed in San Francisco in 1974 and led to a landmark decision by the Supreme Court. The court determined that the school system's failure "to provide English language instruction to approximately 1,800 students of Chinese ancestry who do not speak English, or to provide them with other adequate instructional procedures, denies them a meaningful opportunity to participate in the public educational program and thus violates the Civil Rights Act of 1964" [*Lau v. Nichols*, 414 U.S. 563 (1974)].

Court Case: Castañeda v. Pickard (1981)

This court case became the most significant decision regarding the education of language-minority students since *Lau v. Nichols.* The 5th Circuit Court established a three-pronged test for evaluating programs serving ELs. According to the Castañeda standard, schools must do the following:

- Base their program on educational theory recognized as sound or considered to be a legitimate experimental strategy.
- Implement the program with resources and personnel necessary to put the theory into practice.
- Evaluate programs and make adjustments where necessary to ensure that adequate progress is being made.

These three prongs continue to serve as an internal test for districts to ensure they are providing adequately for their ELs.

Court Case: Plyler v. Doe (1982)
In 1982, the court ruled that public school districts could not deny immigrant students a free public education. The court also ruled that not only do undocumented children have the right to receive the same public education, but that they are also required, like U.S citizens and permanent

residents, to attend school until they are of age as determined by each state (e.g., 16, 17, or 18 years old).

Public schools and school personnel are not allowed to adopt measures that would prevent students from receiving access to public education based on their citizenship status. The court ruled that school officials cannot legally ask students to present proof of citizenship. They can only ask the student to provide proof that they reside within the boundaries of the school district. Districts need to ensure that those persons who enroll students in schools (e.g., school secretaries, counselors) are aware of this student and family right —they cannot be asked if they are U.S. citizens.

Emergency Immigrant Education Program Act (1984)
This original bill in 1984 authorized payments to states for **supplementary** educational services for immigrant children. As a subpart of the Title III Language Acquisition Act, it currently requires eligible districts that experience unexpectedly large increases in their student population due to immigration—

1) To provide high-quality instruction to immigrant children and youth
2) To help such children and youth —
(A) With their transition into American society; and
(B) Meet the same challenging State academic content and student academic achievement standards as all children are expected to meet [SEC. 3241]

Title III English Language Acquisition Act (2001)
By 2001, with the continued increase of ELs nationally, the Title III English Language Acquisition Act was developed by the United States Department of Education (ED), and passed by Congress. It served to consolidate the prior acts and articulate specific program and instructional requirements based on research and best practices for ELs. In Sec. 3102 of the Act, states and districts are required to:

- 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;

- Develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

- Develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

Additionally, states and LEAs are required to:

- Assess ELs on the annual state English Language Proficiency assessment (which in Michigan is WIDA) ESEA, Section 1111(b)(7), 3113(b)(3)(D)

- Be accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring:

  (A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and

  (B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 1111(b)(2)(B); and

- Promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children [section 1111(b)(2)(B)].

Students with Disabilities

A free appropriate public education for students with disabilities is protected by federal and state laws and regulations. It is important that English language teachers, teachers of students with disabilities, and general education teachers and administrators understand and comply with these legal requirements. Information about how to access these citations can be found in Appendix H.

Prerequisite Knowledge and Skills Educators Need

Having reviewed the definition of ELs, the need for the guidance, and the laws and court cases that provide the rights of ELs and the requirements for states and districts, this section focuses on basic knowledge that all Michigan educators need to have about ELs. Teachers of ELs and of bilingual students are required to complete additional university coursework and internships beyond the basic education courses. They must understand concepts such as language development, syntax, semantics, pragmatics, phonology, and methods for teaching language learners, and culture development and awareness. With the increased numbers of ELs in schools and classrooms across the United States, ideally all teachers will acquire some knowledge and skills in these areas to support the ELs in their classrooms.

The topics presented in this section serve as the foundation for understanding ELs: first and second language acquisition; classroom settings for ELs; classroom assessments for ELs; and best practices for instruction of ELs. These narratives are necessary in order to make informed decisions regarding ELs and potential special education services, but by no means provide the depth of information educators need to know about ELs. Educators are encouraged to seek additional information in other ways, including the resources listed in Appendix M.

First and Second Language Acquisition

Educators need to know how children learn a first language and how they learn a second language. Similarities exist, but differences are important to recognize as well. Young children typically develop their home languages or first languages (L1) in sequential, similar fashions. For example, regardless of the language, 1- and 2-year olds can point to a few body parts, follow simple commands, and put two-words together (e.g., "Go -Mama" with varied meanings such as "I want to go see -Mommy" or "Where is Mommy?") (see http://www.asha.org/public/speech/development/12/). This similar pattern happens in learning a second or new language. Understanding the similarities and the differences in second language acquisition benefits educators' teaching and students' learning.

Developing a Second Language (L2): Basic Interpersonal Communication Skills and Cognitive Academic Language Proficiency

Language learning takes time—it requires many years to become proficient. Research is clear that five to seven years or more (Collier 1987; Hakuta, Butler, & Witt, 2000) are required for students to develop full

second language proficiency (with some research suggesting even longer periods of time). This is because language is complex. Proficiency requires development in four domains: reading, writing, speaking, and listening. Young children learning their first language develop language at two levels. The first or initial level occurs during the first few years of language acquisition. A second more complex level occurs three to five years after the initial level development of language (Cummins, 1979). The initial level, termed Basic Interpersonal Communication Skills, or BICS, includes the student's ability to participate well in social interactions and daily routines. In fact, the student participates so well that in many instances teachers perceive the student's English ability to be much higher than it truly is.

The second, higher level of English understanding and expression is referred to as Cognitive Academic Language Proficiency (CALP), consisting of the language skills necessary to function in an academic setting. Examples of CALP are using and answering higher-order questioning (e.g., why, what if), using cause and effect reasoning, and conducting logical arguments. Teachers of ELs may assist classroom educators in understanding the language needed for accomplishing academic tasks and how they can assist in developing those skills with their ELs. Linguists have concluded that first and second language academic skills are interdependent, that is, a common underlying proficiency exists. In other words, to the extent that instruction in the student's first language (L1) is effective, then the child is able to transfer the proficiency to a second language (L2), provided there is adequate exposure (either in the school, community, or home environment) as well as motivation to learn (Cummins, 1981; Kaushanskaya, Yoo, & Marian, 2011).

To determine if students are advancing in their language learning and moving from BICS into CALPs, educators should observe, chart, and review the level of language that is developed over time, including vocabulary, syntax (order of words), and semantics (meaning of words).

In the classroom, teachers can use language sampling to determine growth and changes in English learning. Language samples may be kept in a small notebook for the teacher to carry around easily, writing quotes of the student's understanding of and use of English, including the date, the words, the context, and the meaning (Figure 1). If the teacher knows the student's L1, the teacher might indicate if the student's error is "good"—meaning that the student, while not using correct English, is carrying over some aspect from the L1—a normal stage in learning.

Figure 1. A language sample from a young Japanese EL

Date	Context	Words Spoken	Intent	Comment
January 10	Looking at a picture book	"Girl fast bike **ride**."	The girl is riding her bike fast.	Good error—In Japanese, verbs usually are at the end of the sentence.
February 12	Completing mathematical visual story problem	Boy **taking** three apples.	The boy is taking three apples.	Using "-ing" for present tense verb

Factors That Affect Second Language Acquisition

As with first language development, second language acquisition is a lengthy process with many variables affecting it. Recognizing those variables will aid teachers in understanding why individual students learn English at different paces and in a different order and why educators should not immediately be concerned if they do not see English developing at a pace they expect. Some factors that affect second language acquisition, which should be considered in discussions about a suspected disability for the English learner, include the following:

- Student's age—older students typically acquire an additional language at a slower rate than young children do.
- Student's prior experience in schooling and academic background—students who have attended school in the home country are familiar with the concept of school and have content knowledge in some subject areas to bring to his/her learning.
- Experiential background, family history, family literacy levels, and family expectations—if a family exemplifies reading at home, in either language, the student is more accustomed to the habit and value of reading.
- Affective barriers—for example, status as a refugee may mean witnessing traumatic events in the home country, leading to difficulty in feeling safe in the United States and at school.
- Ability to take risks—student is willing to speak aloud even when student knows his/her English is not correct.
- Cultural concerns and misunderstandings may lead to unpleasant situations, and at times, lack of feeling safe.
- Ability to read and write in first or native language—a student who is able to read and write in his or her native language may transfer those concepts to English faster and more effectively.

- A degree of native language loss may occur while learning a new language, which may appear as if the student has regressed or is not making progress.

A form for gathering student background information is provided as Tool 1 on page 73.

Learning a new language outside of content or context (i.e., grammar lessons) affects students' development of learning the language. Educators need to teach language and content simultaneously. Research conducted in a variety of program models (Grabe & Stoller, 1997) has shown that content-based instruction results in language learning, content learning, increased student motivation, and greater opportunities for employment. In addition, infusing language and content instruction allows for greater flexibility to be built into the curriculum and instructional activities, which enables the adjustment of instruction to the needs and interests of students. Additional reasons include the following:

- Anderson has proposed a cognitive learning theory for instruction that integrates attention to content and language. In this theory, skills (including language) and knowledge follow a general sequence of states of learning from the *cognitive stage* when students notice and attend to information in working memory; they engage in solving basic problems with the language and concepts they are acquiring, to the *associative stage* when errors are corrected and connections to related knowledge are strengthened; knowledge and skills become proceduralized, to the *autonomous stage* when performance becomes automatic, requiring little attentional effort. (Anderson, 1990, 1993).
- The presentation of coherent and meaningful information leads to deeper processing, which results in better learning (Anderson, 1990), and information that is more elaborated is learned and recalled better.
- Information that has a greater number of connections to related information promotes better learning (it is more likely that content will have a greater number of connections to other information) (Anderson, 1990).
- Facts and skills taught in isolation need more practice and rehearsal before being internalized or added to long-term memory; coherently presented information (thematically organized) is easier to remember and leads to improved learning (Singer, 1990); information that has a greater number of connections to related

information enhances learning, and content acts as the driving force for the connections to be made.

- Content-based instruction develops a wider range of discourse skills than does traditional language instruction (because of the incorporation of higher cognitive skills); Byrnes (2000) notes the increasing demands for high levels of literacy in languages other than English.
- When planned thoughtfully, content-based activities have the possibility of leading to "flow experiences," that is, optimal experiences that emerge when personal skills are matched by high challenge (Csikszentmihalyi, 1997, in Grabe & Stoller, 1997 and Stoller, 2002).
- Content-based instruction emphasizes a connection to real life, real world skills (Curtain & Hass, 1995); in content-based classes, students have more opportunities to use the content knowledge and expertise they bring to class (they activate their prior knowledge, which leads to increased learning of language and content material) (O'Malley & Chamot, 1990).

Frequently Asked Questions about Second Language Acquisition and Teaching ELs

This section contains a set of frequently asked questions and corresponding answers about second language acquisition and teaching ELs. These represent only a few of the myriad questions teachers may have and are specific to learning about ELs' development of English and its relationship to academic content development. Title III district directors should be called on to address other questions that educators and staff may have.

- *Does a student's literacy abilities in the home/first language (L1) transfer to development and learning of the second language (L2)?*

Yes. Although the surface (spoken) aspects (e.g., pronunciation, fluency) of different languages are clearly separate, underlying cognitive and academic proficiency is common across languages. This common underlying proficiency makes possible the transfer of cognitive and academic or literacy-related proficiency from one language to another. Studies consistently support the principle of linguistic interdependence across languages, including memory functioning of bilinguals, age and second language learning, and bilingual reading skills (Hakuta & Diaz, 1985). In addition, ELs may manifest **interference** or **transfer** from their first language (L1) to English (L2). This means that a child may make an English error due to the direct influence of an L1 structure. For example,

in Spanish, “esta casa es mas grande” means “this house is bigger.” However, a literal translation would be “this house is more bigger.” This is a normal phenomenon—a sign of a language difference, not a language disorder.

- *I have a student who does not speak English yet and has been in my classroom for three months. Is this okay? Is the student learning anything?*

Yes, the student is absorbing the language and some information. This is a time of acquiring receptive language—the understanding of a language. Receptive language occurs before expressive language or the speaking of a language. Also, known as the “silent period,” this is the receptive language development part of the language learning process. During this period, students develop the needed cognitive connections between their first language and the new language—English. They are working hard to internalize the vocabulary and the rules of English until they are confident enough to speak it. The younger the child, the longer the silent period tends to last. Older children may remain in the silent period for a few weeks or a few months, whereas preschoolers may be relatively silent for a year or more. Teachers’ use of pictures and real objects is imperative during these initial months, and allowing students to use them as well to demonstrate their learning is highly appropriate. Some ELs undergo the phenomenon of **language loss**. As they learn English, they lose skills and fluency in L1 if their L1 is not reinforced and maintained. This is called **subtractive bilingualism**, and it can be cognitively and linguistically detrimental to children's learning and to their family lives (especially if the parents speak only the L1 and no English). Ideally, children should experience **additive bilingualism**, developing English and maintaining and reinforcing their first languages and cultures.

- *If a student speaks with English fluency—that is, in sentences and is able to answer questions—why is he or she still enrolled in the EL program?*

The answer to this question connects to the discussion in the prior section about BICS and CALP. The student may appear to be fluent in English under specific circumstances, utilizing BICS. The student has the ability to use language in face-to-face communication, follow simple directions, and to do well on the playground and in other social settings. The ability to understand and complete school-related literacy tasks and master the content standards of English, previously described as CALP, requires five to seven years or more to develop, depending on a number of variables. Thus, while a student may speak fluently at the BICS level, test results

(i.e., WIDA ACCESS) indicate lack of ability at the CALP level, and therefore, the student remains enrolled in the EL program.

- *If a student has exited from an EL program, why does he or she still have problems with academic content?*

Because ELs generally require five to seven years or more to master English at the CALP level, this does not mean that the student no longer needs academic support. Although having formally exited an EL program, the student will likely require additional support toward grade-level performance.

- *How can I appropriately challenge EL students academically despite some English language limitations?*

The goal for ELs is to function as proficient and independent learners in the general education classroom and to be challenged academically as all students need to be. If an EL is assigned a task that he/she cannot successfully complete due to the student's current level of language proficiency, the student may lose motivation to succeed. Therefore, it is imperative to know the student's English proficiency level and academic abilities to assign appropriate tasks and challenges that will lead to understanding of the state academic standards and preparation for college and careers. Classroom teachers will need to collaborate with the EL teacher to determine the student's language needs and academic abilities. Also, teachers must not forget that ELs may be gifted and talented learners. Their limited English skills may hide higher skills in specific content areas or general learning areas. Districts are required to identify and provide challenging academics (e.g., Advanced Placement, dual enrollment courses) to all students, including ELs.

- *What can I do to accurately assess an ELs understanding of what I have taught?*

ELs want to be viewed as learning at the same rate as their English-speaking peers, especially as they become older. They may hesitate to ask questions when they are unclear about what the teacher said, as the students may be embarrassed. Therefore, formative assessment, including alternative differentiated and performance-based assessment options, are strongly recommended for ELs. These assessments provide opportunities to demonstrate acquired content knowledge while language skills are still developing. As an example, for graphing in mathematics, students can show their understanding of "The school is five blocks northwest of the library" by moving pictures on the graph made from a shower curtain with masking tape for grid lines. A student who is able to complete this level of

language understanding is also demonstrating a specific level of content knowledge in mathematics.

- *What do we need to do to include parents? What are parents' rights?*

Similar to the laws and procedures in special education, requirements exist for including and protecting the rights of parents of ELs. LEAs must follow those requirements as set by the Office of Civil Rights (OCR) and the Department of Justice (DOJ). The offices provided information in their January 7, 2015, "Letter to Colleagues". Districts are responsible for adhering to the information provided in the letter.

Instructional Delivery/Classroom Settings for ELs

LEAs and schools must provide a variety of instructional delivery models, classroom settings, and supports for their ELs. Along with explicit English language development instruction, programs for ELs should be of a high quality, focused on the development of language and literacy across the curriculum, while teaching complex thinking despite language proficiency levels, and provide sheltered content area instruction (which will be described later), as needed and primary language support or instruction where possible.

Types of Instructional Delivery Methods

A number of research-based program designs exist to ensure academic and emotional success of ELs in the classroom. The settings vary depending on the intensity of support provided for the EL in the native language or English. Students may be fully immersed in English in the mainstream classroom. They may be pulled out to receive English as a second language support or may receive support within the general education classroom by an EL teacher. Several evidence-based instructional delivery models and supports are implemented in Michigan schools.

Newcomer Program

For new arrivals and students with interrupted formal education, LEAs may establish newcomer programs. These programs offer specialized services and classes to help these students acclimate to U.S. schools, develop foundational skills in content areas (e.g., basic literacy and mathematics concepts), and prepare them for transition into general education classrooms. Newcomer programs are short term, typically lasting no longer than one year (ED, Developing Programs for English Language Learners: Glossary).

The initial support for newcomers includes providing parents and students with an orientation to the U.S educational system; the district's academic expectations; and available instructional support systems for ELs. Typically, students attend these programs before they enter more traditional English language development programs or mainstream classrooms with supplemental English as a second language (ESL) instruction.

Newcomer programs are especially effective and needed for older ELs—middle or high school—because they must learn both English and grade-level content in a short period. Language development and literacy are key to acquiring content and subject matter for middle and high school ELs. A review of best practices by Francis, Rivera, Lesaux, Kieffer & Rivera (2006) for newcomer programs includes the following:

- Content-based literacy instruction
- Instructional emphasis on developing academic language
- Explicit comprehension instruction
- Instruction in writing for academic purposes ESL

The ESL program includes techniques, methodology, and customized curriculum designed to teach ELs explicitly the English language, including the academic vocabulary needed to access content instruction and to develop their English language proficiency in all four language domains (speaking, listening, reading, and writing). Some classrooms are self-contained and taught by an ESL-endorsed teacher; other modes of delivery include collaborative teaching with the ESL-endorsed teacher joining the content area teacher in a general education setting and providing language support to the ELs.

Content-based ESL: Content-based ESL classes focus on the two required areas of learning for ELs:

- Developing English language proficiency
- Preparing ELs for success in mainstream classes, especially in the content areas

Typically, content-based instruction includes the use of topics from the subject areas and often includes the use of thematic units, such as seasons for the younger children or historical periods for older students. Lessons may be conducted across content areas, and thus teachers work together in the thematic units. The lessons target key content area vocabulary and language for the theme and specific academic tasks (e.g.,

creating a timeline, taking notes from reference materials, making an oral presentation) (Short, Hudec, & Echevarria, J. (2002).

Two-Way or Dual Language Immersion Bilingual Education

Dual language education is the learning of reading, writing, speaking, and listening across academic content areas in two languages. The classroom is usually comprised half of native English speakers and half of primary speakers of the other language. These programs are designed to help native and nonnative English speakers become bilingual and biliterate. The most common types are two-way immersion education: “90/10” and “50/50.” In a 90/10 model, 90 percent of instruction in the first year or two is in the partner or target language (e.g., Spanish) and 10 percent in English. During the early elementary grades, the percentage of instruction in the minority language decreases, while the percentage of instruction in English gradually increases. By the fourth or fifth grade, instructional time in each language reaches a 50/50 ratio. In the 50/50 model, instruction in English and the partner or target language is divided evenly at all grades (Howard & Sugarman, 2001). The two-way bilingual immersion program is based on the principle of clear curriculum separation of the two languages of instruction. Teachers do not repeat or translate the subject matter in a second language but strengthen concepts taught in one language across the two languages. The academic requirements are not diluted for dual language students, and research has shown that students are able to achieve the required academic performances (Thomas & Collier, 2002). The languages of instructions are alternated by theme or content area.

Structured English Immersion

Structured English immersion is designed to impart English language skills so that the ELs can transition and succeed in an English-only mainstream classroom once proficient. Instruction in these programs is in English, and teachers use strategies such as visuals, graphic organizers, and gestures to help make the English content comprehensible (ED, 2015) (see http://www2.ed.gov/about/offices/list/ocr/ell/glossary.html#newcomer_program).

Transitional Bilingual Education

In transitional bilingual education (TBE), a student receives education in English as well as in his or her native language across the content areas. Education in this setting continues for no more than three to five years to ensure that students do not fall behind in content areas like mathematics, science, and social studies while they are learning English. Research has

shown that many of the skills learned in the native language can be transferred easily to the second language later. The goal is to help students make the transition to mainstream, English-only classrooms as quickly as possible, and the linguistic goal of such programs is English acquisition only. In a transitional bilingual program, the student's primary language is used as a vehicle to develop literacy skills and acquire academic knowledge. Research indicates that students from kindergarten and first grade in TBE showed improved scores in more areas than those students from structured English immersion programs (Slavin, Madden, Calderón, Chamberlain, & Hennessy, 2010).

In transitional programs, students may receive native language instruction for as few as two (“early exit”) or as many as six (“late exit”) years alongside instruction in English. The proportion of language use can vary depending on school, district, or state bilingual instructional policies. Early exit programs differ from late exit ones in focusing more on moving ELs to English-only instruction quickly and less on maintaining students’ native language proficiency.

One type of late exit transitional model is developmental bilingual education (DBE), also known as “late exit bilingual” or “maintenance bilingual” programs. DBE provides instruction in both English and students’ native languages, but the goal is to teach English to language minority students rather than to foster dual language proficiency, as the bilingual model does. Nevertheless, DBE models promote English language learners’ facility in both their first and second languages (Calderón et al., 2011).

Bilingual Heritage Language Instruction

Bilingual heritage language learners represent students who are members of indigenous communities (e.g., Pottawatomi, Odawa, Hawaiian) and who are learning English. Their level of literacy in their indigenous language varies, but they have a cultural connection to the language (Kelleher, 2010). Kelleher notes that:

> the focus of instruction might be community-oriented and focused on language preservation and maintenance, or it might be on heritage language development. Language instruction is part of a larger effort to pass on cultural connections to younger generations (Fishman, 2001; McCarty, 2002).

In a K–12 bilingual heritage language instructional program, the intent is to retain and enhance the student's indigenous language by instruction in that language so that the native speaker can achieve biliteracy in English and the native language. Program models include a curriculum designed to build on the skills that native speakers bring, develop those skills in their language in new contexts and domains, and increase students' pride in their heritage, requiring a strong collaboration with an ethnic community (Peyton, Ranerd, & McGinnis, 2001).

Sheltered Instruction and Use of the Sheltered Instruction Observation Protocol (SIOP)

In the sheltered English classroom, the student is "sheltered" in learning English through the teacher's embedding of second language learning principles in the classroom. Principles used in sheltered instruction include the following:

- Decrease in the complexity of the language used
- A slower rate yet normal intonation of speech
- Use of context clues
- Extensive use of models, graphics, and visuals
- A connection between the content and the students' experiences

The results of these instructional practices are an increased understanding by the student as the teacher is using language that is "comprehensible" to the student. Underlying sheltered instruction (SI) is Stephen Krashen's theory of "comprehensible input." Krashen theorized that language learners best acquire language if the "input" from the speaker (teacher) is one step beyond the student's current ability or "input + 1" (Krashen, 1982).

A select group of researchers investigated the use of SI and created professional development tools for educators about SI. Their work became known as the "Sheltered Instruction Observation Protocol (SIOP)" (Short, Hudec, & Echevarria, 2002). As with the earlier list of SI principles, SIOP includes teaching comprehension of the content for students through techniques such as the use of visual aids, modeling, demonstrations, graphic organizers, vocabulary previews, predictions, adapted texts, cooperative learning, peer tutoring, multicultural content, and native language support. When using SIOP, teachers strive to create a nonthreatening environment where students feel comfortable taking risks with language. They also make specific connections between the content being taught and students' experiences and prior knowledge and focus on

expanding the students' vocabulary base. The eight interrelated components of SIOP address the linguistic and academic needs of ELs:

- Lesson preparation
- Building background
- Comprehensible input
- Strategies
- Interaction
- Practice and application
- Lesson delivery
- Review and assessment (Short et al., 2002)

Summary

Districts need to review the research and the data about their students to carefully select and implement with fidelity the training that their teachers and assistants need about first and second language acquisition, types of instructional delivery and classroom strategies, and instructional delivery models. Such thoughtful considerations and implementation should lead to an increase in ELs' English learning and academic achievement.

Determining Appropriate Curriculum, Instruction and Interventions for English Learners

Determination of appropriate instruction for EL students occurs through the application of the following effective practices (Figure 2).

Figure 2. Determining Appropriate Instruction for English Language Learners

Effective Practice 1: Ensure appropriate placement, evidence-based instruction, curriculum, and interventions are provided to students

Effective Practice 2: Review prior information, determine and conduct appropriate assessments and interventions **(Tools 1- 3).**

Effective Practice 3: Discuss current/recent information.

If the results support the need for systematic interventions, one or more of these processes should be implemented to assist the student:

- Implement a multi-tiered system of support for the student by providing additional or different supports in curriculum and/or instruction than previously implemented.
- Change the classroom setting or program to provide additional support to the learner.
- Allow more time for the student in the current setting.
- Complete additional student or classroom observations and assessment to gain additional information about the student's needs and learning.
- Provide more support or training for classroom teacher(s).

Effective Practice 1: Ensure Evidence-Based Curriculum, Instruction, and Interventions

As discussed earlier, the research and evidence-based practices provide information as to appropriate types of programs and instruction for ELs and are described further in this section. These practices and support systems should be considered by the instructional team and program administrators. If the types of program, instructional practices, and curriculum are not clearly defined and implemented with fidelity, one or more of them may be a reason for the student's learning difficulties.

Evidence-Based Curriculum

Appropriate instruction for ELs is provided in numerous studies. A frequent reference is the report from the National Literacy Panel on Language Minority Children and Youth (August & Shanahan, 2006). The report includes the importance of intensive oral language instruction and a focus on motivating the learners. When some ELs may appear to lack motivation, the panel encourages teachers to examine whether their assignments are meaningful and relevant, at the appropriate instructional level, and comprehensible to students, and if the students have the tools needed to accomplish their assignments. In another report, Harry and Klinger (2006) support a similar focus on the explicit teaching of oral language, which they view as a prerequisite to the student's development of reading fluency and comprehension.

The first step is for the school or district to provide appropriate curriculum and instruction for the learner over an extended period. In their review, the instructional team should address the following questions:

- What was the instruction and curriculum used for the EL? What is appropriate for the student? How do you know?
- Was the instruction explicit, systemic, and implemented early? How do you know?
- Was the instruction based on assessment of the student's strengths and needs with ongoing progress monitoring? How? Were changes made in the instruction and curriculum as determined by progress monitoring data?
- Who implemented the instruction and curriculum? Was the teacher a trained EL educator or a general educator who received strong and continuous support by the EL educator or coach or someone else, such as an assistant or paraprofessional?
- Describe how the instruction and curriculum were implemented and monitored.

- How was the determination of fidelity of implementation of curriculum and instruction monitored?
- Were the instructional method and curriculum implemented within a sufficient amount of time to allow changes to occur in the student's skills level?

"Tool 4 Curriculum and Instruction Checklist" (p.89) assists the instructional team in determining if the student has received the appropriate curriculum and instruction.

Evidence-Based Instruction

Federal law describes the requirements for instruction of ELs. Specific to literacy instruction, the instructional team considers if the student has received appropriate instruction in reading, including the essential components of reading instruction. Klingner et al. (2010) recommends strategies for each literacy domain, such as oral language, word work, fluency, comprehension, cross-language connections, writing, connections at home, and community (pp. 34–37).

The instructional team should review and be confident that the core reading curriculum meets the following standards to ensure that the EL has received appropriate instruction:

- High-quality and comprehensive
- Culturally and linguistically appropriate
- Evidence-based
- Aligned with state and local grade level and grade span expectations
- Includes the essential components of reading instruction (phonemic awareness, phonics, fluency, vocabulary, and comprehension)
- Utilizes the students' L1 literacy abilities, as appropriate

In addition, both reading and mathematics curriculum and instruction should focus on and be aligned with the instructional shifts that occur in Michigan's content standards. In reading, the instructional shifts are as follows:

- Regular practice with complex texts and their academic language

- Reading, writing, and speaking grounded in evidence from texts, both literary and informational
- Building knowledge through content-rich nonfiction

In mathematics, the four instructional shifts are the following:

- High-quality and comprehensive
- Culturally and linguistically appropriate
- Evidence-based
- Aligned with the state standards

Scientifically based mathematics programs include the essential components of mathematics instruction (conceptual understanding, procedural fluency, strategic competence, adaptive reasoning, and productive response), as recommended by the National Council of Teachers of Mathematics (Rutherford, 2015) (see http://www.nctm.org/Publications/Teaching-Children-Mathematics/Blog/What-Do-the-Standards-for-Mathematical-Practice-Mean-to-You).

Similar to literacy instruction, it is recommended that ELs be screened for potential problems in mathematics, identified if risk factors are determined, and provided targeted supplemental instruction. Gersten, Beckmann, Clarke, Foegen, Marsh, Star, and Witzel (2009) identified the following effective mathematics practices:

- Instructional materials focus on in-depth treatment of whole numbers in kindergarten through Grade 5 and on rational numbers in Grades 4 through 8.
- Instruction during intervention should be explicit and systematic by providing models for problem solving, verbalization of thought processes, guided practice, corrective feedback, and frequent cumulative review.
- Interventions should include instruction on solving word problems that are based on common underlying structures.
- Intervention materials should include opportunities for students to work with visual representations of mathematical ideas, and interventionists should be proficient in the use of visual representations of mathematical ideas.
- Interventions at all grade levels should devote about 10 minutes in each session to building fluent retrieval of basic arithmetic facts.

- The progress of students receiving supplemental instruction and other students who are at risk should be monitored.

In supporting the instruction, scientifically based curricula must be used; that is, the curricula should apply rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; it should employ systematic, empirical methods that draw on observation or experiment; and it should involve rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn [see ESEA Sec 9101 (37)].

Instruction and curriculum need to adhere to the cognitive and linguistic abilities and interests of ELs. Classroom teachers need to consider:

- What are the supplemental materials that are available and linguistically appropriate for ELs?
- Do school or district data sets determine that the selected curriculum is impacting the learning of the students?

The learning environment must be responsive to ELs both linguistically and culturally, remembering that the students are gradually learning a new language while simultaneously learning new content. Therefore, linguistically accessible, grade-level appropriate, and culturally relevant curriculum and instruction are needed. An excellent resource for teachers to use when considering the skills needed by their ELs is the “Overview of the Common Core State Standards Initiatives for ELLs” (TESOL International Association, 2013).

Implementation Integrity

To assess the integrity of curriculum implementation, several factors should be examined through existing mechanisms, such as the district leadership process, district improvement process, curriculum review and adoption process, professional development plans, integrity checklists, and school and classroom walk-throughs. These factors include:

- The length of time the curriculum has been in place in the school.
- The amount of training the teachers received in using the curriculum and supplemental instruction.
- The degree to which the teachers implemented the prescribed instructional procedures and materials associated with the core curriculum and supplemental instruction.

- The degree to which the teachers used effective instruction methodologies and techniques (e.g., differentiation, scaffolding, frequent opportunities to respond with corrective feedback).
- The length of time the student was taught the curriculum

Appropriate Interventions in the Classroom

If it is determined that the EL needs additional support, several interventions are considered appropriate in Michigan. The most common system used is the multi-tiered system of supports (MTSS). The school or district determines the support system to use, but the system must be adjusted to fit the needs of ELs. The student instructional team must determine the appropriate interventions, develop those interventions, and implement and monitor the fidelity of implementation. The team must review for the following evidence:

- Interventions were scientific, research-based, and represent instructional effective practice for each of the student populations being served and were of sufficient intensity (e.g., interventions should be described and documented on Intervention Plans).
- Interventions were delivered with fidelity by qualified personnel (e.g., written observations of delivery of interventions, interview checklists or self-evaluation checklists that monitor integrity of intervention).
- Interventions were implemented for a sufficient amount of time to allow changes to occur in the student's skills level. ("Sufficient" time will vary depending on such factors as initial baseline performance level, skill area, intensity of intervention, intervention program recommendations from publisher for fidelity, and age of student.)
- Changes were made to an intervention when progress-monitoring data indicated the student was not making progress (e.g., intervention plans, personal literacy plans, and progress monitoring graphs).

Documentation of progress monitoring should include both a visual display of the student's response to intervention (i.e., aim line, trend line), and a quantitative index of the student's rate of improvement, determined by the student's slope of progress. The rate of improvement is the amount of improvement divided by the time devoted to it. Information on progress monitoring assessments and calculating the slope of progress can be found at the National Center of Progress Monitoring, the RTI Action Network, and the Vanderbilt University's IRIS Center.

Multiple measures must be used to make educational decisions for ELs to ensure accuracy of identifying students' strengths and areas of need. Standardized tests tend to lack cultural sensitivity to the unique needs of ELs, have not been standardized on groups of ELs, and, therefore, are not appropriate to measure ELs' achievement. Curriculum-based assessments, dynamic assessment frameworks, and performance-based measures aligned to ESL curriculum and instruction that are evidence-based are appropriate in examining progress for ELs.

An EL's performance should be compared to other ELs in the same program *in addition* to non-EL peers. Because an EL might score low on a standardized measure that is conducted in English—in which the student is not yet proficient nor is the measure normed on ELs—it is important to examine the EL's progress on WIDA levels.

The student's progress in English language acquisition, based on evidence or research-based intervention, is regularly monitored to determine whether the student (or a group of comparable ELs) is progressing with the current curriculum and instructional program. This determination must be made before changing the interventions. ELs' alternative language program (ALP) services, although important and necessary, should not be the only interventions considered under the MTSS process. The ALP should be considered as part of core instruction provided by the district to remove language barriers to learning the academic content. It should be used prior to determining whether intervention for smaller groups of individuals, or individuals within that group, is needed.

Specific Intervention Models used in Michigan

Intervention through MTSS: MDE supports the use of a multi-tiered system of supports (MTSS), which is defined as an integrated, multi-tiered system of instruction, assessment, and intervention designed to meet the achievement and behavioral health needs of *all* learners. Experience has demonstrated that in order to increase achievement, successful systems plan their improvement efforts collaboratively. Developing one common plan for improvement streamlines the school's and district's efforts and resources to maximize improvement for all learners. By strategically embedding a MTSS framework into the district and school improvement plan, a school system sets itself up for continuity and alignment in the implementation of a research-based system.

The MTSS used with ELs incorporates both academic and behavioral issues to assist all students with an additional emphasis on English language development and instruction. Michigan's MTSS includes eleven essential elements arranged by 5 cluster areas:

1. Instruction and Intervention

- *Effective instruction for all learners*. A unified system of comprehensive service delivery requiring significant general and special education system change used to meet the needs of all learners.
- *Early intervention*. All learners are screened through assessments several times per year to identify learners who are not making expected progress. These learners are provided with targeted interventions and monitored for progress on an ongoing basis.
- *Multi-tiered model of instruction and intervention*. Levels of intervention used to meet the learning needs of all learners.
  - Tier 1 is the research-based core curriculum and classroom interventions that will be available to all learners and effectively meet the needs of 80 percent to 85 percent of the students.
  - Tier 2 is a targeted group of interventions serving approximately 15 percent of the learners. These supports are provided in addition to the continuation of Tier 1 instruction. Learners will move fluidly between Tier 1 and Tier 2.
  - Tier 3 interventions serve approximately 5 percent of the learners. Learners at this level receive intense individual interventions while continuing to receive Tier 1 instruction. Based on their performance, learners move fluidly between all three tiers.

2. Data and Assessment

- *Monitor student progress to inform instruction*. Teachers use relevant data to measure, on an ongoing basis, student progress to inform their educational decision making and impact what they are doing to improve student achievement.
- *Data-based decision making*. The district, school, and staff use data to guide all of their instructional decisions.
- *Use assessments for three purposes: universal screening, diagnostics, and progress monitoring*. Staff members use an assessment to screen the instructional needs of all learners. As learners are identified for more intensive instruction or interventions, staff members use diagnostic assessments to identify the specific learning needs of all learners. Staff members monitor the progress of the student to inform their ongoing decision making.

3. Stakeholder Engagement

- *Engage families and community*. Families and community are engaged and informed in the instructional process.

4. Implementation Evidenced-Based Practices

- *Research-based core curriculum* (aligned with Michigan's state standards). The curriculum is aligned with the Michigan standards to ensure that learners are exposed to curriculum that has demonstrated effectiveness in meeting the learning needs of at least 80 percent of the student population.
- *Research and evidence-based, scientifically validated, instruction and interventions*. The district, school, and teachers use instruction and interventions that have been validated through research and evidence as having a substantial impact on student achievement.
- *Implement with fidelity*. Staff members implement instructional and intervention practices according to the intent of the research base.

5. Problem Solving

- *Collaborative problem solving model*. A structured, systematic problem-solving model based in general education identifies student learning needs, analyzes learning problems, and guides instructional decisions.

For more information, refer to the MTSS document:

Intervention Through Response to Intervention (RtI)

Many of Michigan's schools apply the RtI model. Both RtI and MTSS follow the same intervention processes. RtI integrates assessment and intervention within a multilevel prevention system to maximize student achievement and to reduce behavioral problems. RtI schools use data to identify students who are at risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, adjust the intensity and nature of those interventions depending on a student's responsiveness, and identify students with learning disabilities or other disabilities. Although discussions in the field frequently refer to "tiers" to designate different interventions, RTI terms are described as "levels" rather than tiers to refer to three prevention foci: primary *level*, secondary *level*, and tertiary *level*. Within each of these levels of prevention, there

can be more than one intervention as described in the Center on Response to Intervention website.

MTSS promotes many of the same supports and components as RtI:

- Uses high-quality standards and research-based, culturally and linguistically appropriate instruction with the belief that every student can learn
- Integrates a data collection and assessment system, including universal screening, diagnostics, and progress monitoring systems to inform decisions appropriate for each tier of service delivery to students
- Relies on a problem-solving systems process and method to identify problems, develop interventions, and evaluate the effectiveness of the interventions in an MTSS delivery
- Seeks and implements appropriate research-based interventions
- Uses schoolwide and classroom research-based positive behavioral supports for achieving important social and learning outcomes
- Implements a collaborative approach to analyzing student data and working together during the intervention process

MTSS has a broader scope when compared to RtI in that MTSS includes the following:

- "Focusing on aligning the entire system of initiatives, supports, and resources
- Systematically addressing support for *all* students, including high achievers
- Setting higher expectations for all students through intentional design and redesign of integrated services and supports rather than selection of a few components of RtI and intensive interventions
- Endorsing universal design for learning instructional strategies through differentiated content, processes, and product
- Integrating instructional and intervention support so that systemic changes are sustainable and based on CCSS-aligned classroom instruction." (California Department of Education, 2015).

Effective Practice 2: Review Prior Information, Determine and Conduct Appropriate Assessments and Interventions

For Best Practice 2, before conducting any new assessments, information from prior assessments and sources should be obtained and reviewed. These should include the school records noting number of days tardy, attendance rates, and grades; scores on the standardized language proficiency tests (WIDA); and results from other formal assessments. The instructional team (classroom teacher, EL teacher, special education teacher as needed, interventionist, etc.) should review summaries from informal assessments of the classroom teachers and EL teachers, such as teacher logs, teacher observations, student projects, and oral language and writing samples. At the middle and secondary levels, information should be received across the content areas for problem areas. Based on the review of these results and the data in Effective Practice 2, such as determining if the student is receiving instruction that reflects effective practices for ELs, the team determines the additional assessments to be conducted.

Factors that should be considered when determining assessments for an EL student include the following:

Using Appropriate Assessment Materials and Processes

As with any assessment, it is critical that the right person conduct the assessment using the right protocol. An experienced bilingual educator or an English language educator and a school psychologist with knowledge about ELs should determine the appropriate materials and procedures to assess an EL. The assessment must clearly assess content knowledge and cognitive skills rather than English language skills. The following factors are required when assessing an EL:

- Collaborate with an EL educator regarding student information that will facilitate assessment procedures.
- Obtain information from classroom teachers and others who have frequent contact with the student.
- Use culturally fair, bilingual assessments (if applicable), and unbiased assessment tools, and rule out the presence of cultural and linguistic factors when assessing students from diverse backgrounds.
- Follow appropriate procedures for the use of interpreters and translators.

Utilizing Interpreters

When an EL student is not proficient enough to understand oral or written communication and directions, a licensed interpreter who speaks the student's native or primary language should be involved during all parts of the evaluation, including student testing, collecting information or communication samples, and communicating with the student's parents. An interpreter who joins the evaluator or assessor must be adequately trained on specific procedures and how to interpret educational terms and processes prior to joining the assessment team. This training and adhering to proper protocol will ensure assessment validity.

Applying Progress Monitoring Tools

In combination with formal assessments, progress-monitoring tools assist in providing additional information to interpret the assessment results. Progress monitoring tools consider how the student's **rate of progress** compares to the **expected rate of progress**. The student's area of concern is defined in measureable terms, is monitored with an objective, valid, ongoing assessment tool that is directly linked to the area of need with the results monitored over time to ensure reliability. All progress-monitoring tools and methodology must be culturally and linguistically appropriate. The student's baseline level of performance is established at the start of an intervention. A goal is decided on that can be realistically reached in a reasonable time. The student's performance data are collected weekly to determine the student's response to the intervention. If the student's response is not consistent with the goal, modifications are made to the intervention. A comparison of expected rate with actual rate is made. When making decisions about rate of educational progress, teams must clearly identify the standard to which progress will be compared. Three standards for evaluating students' rate of progress have been identified: Research Sample Norms, Local School/District Norms, and Criterion-Referenced Benchmarks (Hoover, 2012; Shinn, 1989). In each instance, individual student's growth rates are compared to the expected rate of progress within each grade as found in a research sample, a local norm sample, or an expected rate of progress to meet criterion-referenced benchmarks or grade-level equivalents.

Effective Practice 3: Discuss current information

In Effective Practice 3, the student instructional team examines the data for an evidence that the student has not made sufficient progress even after the provision of intensive interventions. Refer to Tools 1-3 (appendices) for recommended data gathering questions to assist in gathering appropriate and necessary information on the student.

Additional tools are included in the Office of Civil Rights and Department of Justice letter listed in the reference section. If the team suspects a disability, they must request an evaluation for special education.

In summary, the district should follow Effective Practices 1–3 (as outlined in the flow chart on page 21). Districts may require the specific documentation be kept in the student's file. A listing of the questions for this data collection about student background, curriculum, and instruction is available in Tools 1-4, pp. 76-90.

Child Find Obligations

When a district suspects a student has a disability, SEAs and LEAs have a federal obligation under the Child Find activities of the IDEA (Appendix A). These activities are undertaken for children who are suspected of having a disability and who may need special education services. The IDEA states:

> The State must have in effect policies and procedures to ensure that—All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated." 34 CFR § 300.111(a)(1)

If at any time during an MTSS intervention process the district has reason to suspect that a student has a disability, the use of MTSS does not diminish a district's obligation under the IDEA to obtain parental consent and evaluate a student in a timely manner.

According to 34 CFR §300.301(b), a parent of a child or a public agency may initiate a request for an evaluation to determine if a child is eligible for special education programs and services. Once this request for an evaluation is made, then the timelines of the Michigan Administrative Rules for Special Education at R 340.1721b begin. Within 10 school days of receipt of a written request for any evaluation, the public agency shall provide the parent with written notice consistent with 34 CFR § 300.503, and if the LEA is going to evaluate, it must obtain parental consent.

Once the district receives the parental consent for an evaluation, the district has 30 school days to determine the student's eligibility and provide notice of an offer of a free appropriate public education. The timelines for an initial evaluation are found in R 340.1721b and are outlined in Appendix B.

Evaluation Process

In Michigan, an evaluation for eligibility for special education is conducted by a multidisciplinary evaluation team that includes a minimum of two persons who are responsible for evaluating a student suspected of having a disability. The required evaluators are outlined in the eligibility categories found in the Michigan Administrative Rules for Special Education R 340.1705-1717 and are outlined in the following chart.

Category		Evaluators
Cognitive Impairment		Psychologist
Rule 340.1705	Cognitive impairment; determination	
Emotional Impairment		Psychologist or psychiatrist and school social worker
Rule 340.1706	Emotional impairment; determination; evaluation report	
Hearing Impairment		Audiologist and an otolaryngologist or otologist
Rule 340.1707	Hearing impairment explained; determination	
Visual Impairment		Ophthalmologist or optometrist
Rule 340.1708	Visual impairment explained; determination	
Physical Impairment		Orthopedic surgeon, internist, neurologist, pediatrician, family physician, or any approved physician
Rule 340.1709	“Physical impairment” defined; determination	
Other Health Impairment		Orthopedic surgeon, internist, neurologist, pediatrician, family physician, or any approved physician
Rule 340.1709a	“Other health impairment” defined; determination	
Speech and Language Impairment		Teacher of students with a speech and language impairment or a speech and language pathologist
Rule 340.1710	“Speech and language impairment” defined; determination	
Early Childhood Developmental Delay		Evaluators are determined by a multidisciplinary evaluation team
Rule 340.1711	“Early childhood developmental delay” defined; determination	

Category	Evaluators
Specific Learning Disability Rule 340.1713 Specific learning disability defined; determination	Student's general education teacher (or a teacher qualified to teach student's age) plus a person qualified to conduct individual diagnostic exams, such as a school psychologist, authorized provider of speech and language, or a teacher consultant
Severe Multiple Impairments Rule 340.1714 Severe multiple impairment; determination	Psychologist and, depending upon the disabilities in the physical domain, evaluations required in R 340.1707, R 340.1708, R 340.1709, R 340.1709a, or R 340.1716
Autism Spectrum Disorder Rule 340.1715 Autism spectrum disorder defined; determination	Psychologist or psychiatrist, authorized provider of speech and language, and a school social worker
Traumatic Brain Injury Rule 340.1716 "Traumatic brain injury" defined; determination	Assessment from family physician or any approved physician
Rule 340.1717 Deaf-blindness	Ophthalmologist, optometrist, audiologist, otolaryngologist, otologist, family physician or other approved physician; teacher of students with visual impairment and a teacher of students with hearing impairment

34 CFR § 300.304(c)(4) also indicates that the district must ensure that the student is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

34 CFR § 300.304(b) and (c) give specific requirements for evaluation procedures:

Each public agency must ensure the following:

1. A variety of assessments and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parent.

2. No single measure or assessment is used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student.
3. Technically sound instruments are used that may assess the relative contribution of cognitive, behavioral facts, in addition to physical or developmental factors.

Assessments and other evaluation materials used to assess the student must meet the following criteria:

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis

(ii) Are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer

(iii) Are used for the purposes for which the assessments or measures are valid and reliable

(iv)Are administered by trained and knowledgeable personnel

(v) Are administered in accordance with any instructions provided by the producer of the assessments

Some assessments that the multidisciplinary evaluation team may want to use include the following:

- State assessment data or local assessment aligned with state standards
- WIDA ACCESS for ELs, and interim language proficiency assessment
- Data from local districtwide assessment that is aligned with the state standards
- Progress monitoring data (such as end-of-course quarterly or interim assessments) collected in regular intervals for individual or groups of students
- Authentic assessment (e.g., portfolios, observations, teacher-made assessments using rubrics)

The purpose of the evaluation is two-fold: it needs to provide enough information to determine if the student has a disability under

34 CFR § 300.8 and the content of the student's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum or for a preschool child, to participate in appropriate activities (34 CFR § 300.304(b) (1) (i) and (ii)).

Determination of Eligibility

Upon the completion of the evaluation, the individualized education program team makes a determination if the student is eligible for special education programs and services. According to 34 CFR § 300.321, the IEP team includes the following:

1. The parent(s) of the child
2. Not less than one regular educator of the student (if the student is or may be participating in the regular education environment)
3. Not less than one special education teacher
4. A representative of the public agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities

(a) Is knowledgeable about the general education curriculum

(b) Is knowledgeable about the availability of resources of the public agency

5. A person who is qualified to interpret the results of the evaluation

The student must meet the eligibility criteria of one of the categories found in the Michigan Administrative Rules for Special Education R 340.1705-1717. In addition, a student is considered eligible if the following are true:

1. The student has a disability that negatively impacts his/her educational performance.
2. The student needs special education in order to progress in the general education curriculum.

It is essential that the IEP team include participants who have knowledge of the student's language needs and understand cultural differences and how they impact language development. It is also important that the IEP team include professionals with training and expertise in second language acquisition and how to differentiate between the student's needs stemming from a disability and those resulting from a lack of English language proficiency (US Department of Education-OELA, 2015).

According to 34 CFR § 300.306(b), when considering special education eligibility, a student must not be determined to be eligible if the determinant factor for eligibility is any of the following:

1. Lack of appropriate instruction, including the essential components of reading: phonemic awareness, phonics, vocabulary development, reading fluency, including oral reading skills and reading comprehension strategies
2. Lack of appropriate instruction in mathematics
3. Limited English proficiency

When reviewing a student's English proficiency, the student instructional team should consider the following:

- ELs' rates in acquiring English proficiency vary depending on several factors, including but not limited to the amount of prior education before coming to the United States; the level of proficiency in their home language; and the level of language support received from the school, home, and community in the past.
- ELs who grow up in the United States are often considered "simultaneous bilinguals" whose full language skills would be a composite of both the first and second language. Therefore, the teaching team should assess concept knowledge and vocabulary in both native language, if appropriate, and English in order to accurately obtain the student's full language proficiencies.
- Mixed proficiency in the native language and in English is not an indicator of language impairment. A student may demonstrate strengths and weaknesses in either or both languages depending on instruction and usage of first language and second language at home and school.
- When an underlying difficulty is due to a disability, it will manifest itself across languages and contexts. For example, if the child is having difficulty following directions, then the team should see if the same difficulty occurs in social as well as academic settings and whether it occurs in the home language as well as in English. It would be inappropriate to find that the EL student has a disability in one language and not the other. The team should also find out if the student is progressing in learning English at about the same level as the student's EL siblings or peers (Ortiz et al., 2011).

If an IEP team determines that a student is eligible for special education, the team will develop an IEP, which is defined at 34 CFR § 300.22 as a written statement for a child with a disability that is developed, reviewed,

and revised in accordance with 34 CFR § 300.320 through 300.324. The IEP also must include the requirements of R 340.1721e. The IEP must address the EL's language needs and include disability-related services designed to address these needs. The instructional services should allow ELs with a disability to be involved and make continuous progress in the general education curriculum and to participate in extracurricular activities (US Department of Education-OELA, 2015).

Appendix A. Child Find

Michigan Special Education One Pager: Child Find

Component	District Practices
Public Awareness	All public agencies that provide education to children have a federal obligation to identify, locate, and evaluate all children who are suspected to have a disability. School districts must regularly—at least once every school year—inform teachers, parents, non-public schools, and the local community about evaluation and special education services available at no cost to parents and about how to access the services.
Referral (ages birth to 3)	School districts and service areas must accept referrals from any source. A referral must be submitted within seven calendar days of identifying that a child has a potential need for services. A referral starts the 45 day timeline for completion of an evaluation and an Individualized Family Service Plan (IFSP). A referral is NOT used for a student aged 3 through 25. See *Written Request for Initial Evaluation.*
Written Request for Initial Evaluation (ages 3 through 25)	When a written request for an evaluation is received, the district must provide notice and request parental consent. Parental consent must be obtained before initiating the evaluation process. Only a parent or a school district is permitted to request an initial evaluation.
Notice	Before a district evaluates a child, the district must give written information to the parent to inform them about the evaluation and request written signed consent from the parent. The written information given to the parent is called a "notice." This notice must meet all the requirements of the *Individuals with Disabilities Education Act* (IDEA) and the *Michigan Administrative Rules for Special Education* (MARSE).
Consent to Evaluate	The district must have written and signed parental consent before the district is permitted to evaluate a child. *Under no circumstances is a district allowed to evaluate a child suspected of having a disability without permission in the form of written, signed consent from the child's parent.*
Evaluation	For every child for whom the district receives written signed parental consent to evaluate, the district will complete an evaluation following all the requirements in the IDEA and the MARSE. (NOTE—the evaluations conducted for Child Find are commonly referred to as Initial Evaluations. See Michigan One Pager (MOP) "Timeline for Initials" for more specific information.)

Child Find activities are undertaken for children who are suspected of having a disability and who may need special education services. The *Individuals with Disabilities Education Act* (IDEA) states: "The State must have in effect policies and procedures to ensure that—All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated." § 34 CFR 300.111(a)(1)

Child Find systems must also include students who are advancing from grade to grade, those who are highly mobile, and those enrolled by their parents in non-public schools.

These special education policies are required under the *Individuals with Disabilities Education Act* (IDEA) and the *Michigan Administrative Rules for Special Education* (MARSE).

This document is produced by the Michigan Department of Education. To learn more, visit www.michigan.gov/ose-eis and select Annual Performance Report/State Performance Plan under the Special Education tab. For an overview of the State Performance Plan Child Find Indicator 11, visit www.cenmi.org and select Special Education Facts under the Documents tab.

MICHIGAN Department of Education

Office of Special Education

OSE Policy Document—MOP002

Revised Date:
Publication Date: 8/3/12

Appendix B. Timeline for Initials

Michigan Special Education One Pager: Timeline for Initials

Activity	Timeline
Public Awareness School districts must inform the public about available special education programs and services and how to access those programs and services. This is part of the district's Child Find responsibility.	**Annually; Ongoing**
Request for Initial Evaluation When a child is suspected of having a disability, a written request for an initial evaluation is submitted to school district personnel.	**Anytime**
Parental Consent to Evaluate When a request for an initial evaluation is received the district must request parental consent to evaluate a child suspected of having a disability.	**Within 10 school days** Counted from the date the district receives the request.
Evaluation A Multidisciplinary Evaluation Team (MET) conducts the initial evaluation.	**Within 30 school days*** Counted from the date the district receives the Parental Consent to Evaluate to the offer of a FAPE (the time to complete the Evaluation is included in the 30 school days). *If the parent and the district agree, the timeline for initial activities may be extended beyond 30 school days.
Individualized Education Program (IEP) The IEP Team is convened to determine eligibility or ineligibility. If eligible, the team develops the child's IEP. The IEP is completed when the district makes an offer of a Free Appropriate Public Education (FAPE) to the child's parent.	
Notice to Parent of Intent to Implement The public agency provides written notice to the parent about where and when the district intends to implement the IEP.	**Within 7 school days** Counted from the date of the IEP Team meeting.
Parental Consent for Provision of Programs and Services Parent consent is required before special education programs and services are provided to a child for the first time.	**Within 10 school days** Counted from the date the district initiates delivery of the Notice to Parent of Intent to Implement.
Implementation The district implements the child's IEP.	**Within 15 school days*** Counted from the date of the Notice to Parent of Intent to Implement. *If the parent and district agree, the timeline for implementing the IEP can be extended.

Initial evaluations and initial individualized education programs (commonly referred to as 'initials') are activities undertaken for a child who is not currently receiving special education services.

These special education policies are required under the *Individuals with Disabilities Education Act* (IDEA) and the *Michigan Administrative Rules for Special Education* (MARSE).

This document is produced by the Michigan Department of Education.

To learn more, visit www.michigan.gov/ose-eis and select Annual Performance Report/State Performance Plan under the Special Education tab. For an overview of the State Performance Plan Child Find Indicator 11, visit www.cenmi.org and select Special Education Facts under the Documents tab.

MICHIGAN Department of Education

Office of Special Education

OSE Policy Document—MOP001

Revised Date: 3/5/12
Publication Date: 11/10/09

Appendix C. Case Studies and Scenarios

ELs and Suspected Speech and Language Impairment

Reiko is a second grade native Japanese speaker who was enrolled in her school in kindergarten, shortly after arriving in the United States. Her family consists of her mother, father, and a younger sister. The family speaks Japanese at home to maintain the language as the family will return home in three years after the father's term as a vice president at the local automobile factory. In the school district, Japanese is not available as a bilingual language. Thus, Reiko receives EL services through a pull-out program for one hour a day and one hour with the EL teacher in her classroom each day. The classroom teachers are trained in SIOP and use it intermittently. It is April, and the classroom teacher is concerned in that Reiko has received almost three years of English instruction and continues to make errors such as the following:

- In sounding out words in reading: difficulty with diphthongs, /ou/ as in "cow" and with the consonants, "r" – "g" – "l"
- In reading: sometimes looks at book from left page to right
- When writing creates sentences in order of: subject + object + verb, "Mommy the car drive"
- In writing or speaking, often does not include the subject: "At home, go drive" (assumes the listener knows it is Mommy)
- In writing and speaking, does not change the order of a question but add rising intonation when speaking: "Momma go drive?" (rising intonation)
- Attempts to add past tense to adjectives: "I like fasted ran."

Through observations, the speech language therapist, the EL specialist, and the classroom teachers assembled these examples of Reiko's speech and language and other items in the student's portfolio. The team has searched their community for a Japanese interpreter, but none can be found. However, a native Japanese speaker from the automobile plant where Reiko's father works is available, and is willing to meet with the EL teacher. The situation is not described in detail; it is simply put that the teachers wish to learn more about the Japanese language in order to help the children and confidentiality is kept by not mentioning the student or parents' family name.

The teacher mentions each item on the list and if the item is similar or different in Japanese. The parent responds that for each item the student is following the pronunciation and/or the grammar from Japanese. The teacher returns to the school and meets with the other specialists and

explains the situation. The team decides not to pursue a special education evaluation, at the time, as the errors seem to be “normal” for the student; they are transference from the student’s L1. However, they will review the EL support the child is receiving and find ways to enhance her learning, and continue to monitor the student’s progress.

ELs and Suspected Emotional Impairment

A student in third grade was referred to the MTSS team because she did not respond to the teacher either in her native language or in English. She did not make eye contact and appeared distracted and withdrawn. The teacher was concerned because the student did not have friends at school. The teacher met with the student’s parents, and they reported that they had emigrated from Iraq three years ago due to the war. Prior to coming to the United States, they were in a resettlement refugee camp. The mother reported that the student speaks to them in her native language at home and does not complain about school. She plays with her siblings.

In response, the teacher paired the student with a fifth grade student mentor and seated her next to peers who were sociable, friendly, and of the same gender. After six weeks, the student began to respond to the teacher and the fifth grade mentor. The MTSS team conducted a classroom observation and noted that the student was intent on listening rather than responding. This might be due to the student being in the silent period, which can last for several months for a younger EL student. The usual progress of second language learning is a time when the student’s focus is more on listening than on speaking in order to analyze the nuances of the second language. It is essential, therefore, that when considering an EL student who may be at risk for an emotional impairment, information must be considered in the context of the student’s social and cultural background as well as the setting in which he or she is functioning. When determining eligibility for special education under the category of emotional impairment, it is also important to consider linguistic differences and cultural influences on a student’s behavior.

In this scenario, the student demonstrated school behaviors such as playing in isolation, not speaking in academic settings only, having trouble with following directions, and expressing ideas and feelings. Such behaviors could have been misinterpreted or mislabeled as emotional or behavioral problems when in fact they were behaviors common to the typical developmental stages related to acquiring a new language. It is, therefore, critical that MTSS team members have an understanding of the acquisition of a new language and that the information considered by the team is gathered from a variety of sources. This ensures accurate

information about the linguistically diverse student's cultural and family background, knowledge and developmental, functional, and academic levels. Such an understanding of the individual student will enable teams to distinguish between behaviors associated with second language acquisition and those that might be indicative of an emotional impairment.

EL and Suspected Learning Disability

A middle school student comes from a family that uses L1 at home, and the student is exposed to English during the school day. The student was referred through the MTSS process because the student did well on oral language proficiency tests on the WIDA but reading comprehension was the area of concern. The MTSS team reviewed his academic history and noted that reading comprehension was much lower when compared to classmates on the Northwest Evaluation Association (NWEA). Also, the teacher noted that he lagged behind his peers in other academic skills. The referring teacher suspected a specific learning disability in reading comprehension.

The MTSS team provided the following interventions: After school tutoring was provided to help him catch up with his classmates because his parents spoke L1 and were unable to provide homework assistance. The reading interventionist provided small-group assistance. Staff members met with the parents to learn about the student's background and form a partnership for the student's success.

The MTSS team met regularly to decide if reading comprehension concerns were still evident after providing intensive support to determine if it is a language issue or a learning disability. Progress monitoring reports indicated progress in mathematics, followed by gains in social studies and science. However, language arts showed minimal progress. The questions being addressed related to the EL's academic progress: Are the skills gained over time considered in terms of strengths and weaknesses? Does the student's learning favor some areas, such as mathematics versus language arts?

The team's proactive approach included obtaining consent from parents to evaluate the student for a suspected learning disability (SLD). The assessments, by the speech and language consultant, determined that the student's expressive and receptive language abilities were consistent. The interventionist's evaluation determined that language dominance and proficiency in L1 was higher when compared to L2. The school psychologist used the C-LIM from the Essentials of Cross Battery Assessment disc to determine whether or not the student's score profile is reflective of an SLD profile or bilingual issue.

*Culture Language Interpretive Matrix (C-LIM) Analysis**
The C-LIM is a tool for assessing the extent to which a person's performance on norm-referenced tests might have been influenced more by cultural and linguistic factors than by actual ability. Because the student is not a native English speaker, it is necessary to establish the validity of the results obtained from testing to ensure that they are accurate estimates of ability or knowledge and not the manifestation of cultural or linguistic differences. To this end, a systematic evaluation of the possible effects of lack of acculturation and limited English proficiency was carried out using the C-LIM.

Because the observed pattern is consistent with performance that is typical of nondisabled, culturally, and linguistically diverse individuals with average ability, it can be reasonably concluded, with supporting multiple sources of data, that test performance should not be attributed primarily to the presence of a learning disability.

Therefore, the team decided to continue supporting and monitoring the student's progress, as the academic concerns were more likely due to the acquisition of second language rather than a learning disability.

* This assessment has limited research support.

Appendix D. Frequently Asked Questions

Following are questions frequently asked by administrators, classroom teachers, EL teachers, and special educators.

Can students receive both EL and special education services?

Yes. If an EL student is eligible to special education services, he or she still needs specialized language instruction such as through English language development, bilingual or ESL, SIOP, or Structured English Immersion. This collaborative model may include participation in one or both programs. ELs with a disability are entitled to a full range of seamless services designed to meet their individual language and learning needs. A student who is determined to be eligible for special education has the right to a Free Appropriate Public Education (FAPE) that is defined at 34 CFR § 300.17 as special education and related services that are provided at the public expense and in conformity with the student's IEP.

What is the process for entering and exiting the EL program?

MDE has created common and standard Entrance and Exit Protocols (EEPs) for identifying, assessing, placing, and exiting ELs from the EL program. The document is available on the MDE website; once on the website, click on English Learner and Immigrant Programs.

Should parents be encouraged to speak their native language or be advised to speak only English with their children at home?

Parents should be encouraged to speak in the language in which they are most proficient in order to create a language-rich environment at home. Current studies on the effect of bilingualism on the academic growth of students conclude that native language proficiency is a powerful predictor of the rate of second language acquisition. It is far better for parents to converse and read aloud to their children in their dominant language than to not read to them at all. Older siblings can also be helpful with English language development and with other literacy tasks, such as reading to and with the sibling in English.

Does the student's back-and-forth use of the home language and English signify a problem?

Alternating words or phrases from one language to another is termed language mixing or code switching. It does not necessarily indicate inadequacy in language development. Research has shown that code

switching among normal bilingual speakers allows for greater precision in communication, especially of cultural topics. Language mixing is common as children start to acquire vocabulary and language skills in a second language.

How should teachers of students with disabilities, EL teachers, general education teachers, and speech and language pathologists work together as a team?

Ideally, collaboration should occur constantly to shape a program of services for which all children can benefit from the expertise these individuals provide. Yet, it becomes more important for focused conversations to begin about an individual student as soon as the student begins to exhibit academic difficulties. In the case of preschool children, the collaboration should be no different and should begin to be more individually focused as soon as the child exhibits developmental delays. The expertise of educators in different disciplines, including the EL teacher, can help establish modifications and adaptations in the curriculum, develop appropriate strategies to help the EL student, and monitor student progress. A team approach (collaborative teaching, co-teaching) promotes support for differentiated instruction and the sharing of ideas and materials. The team can also determine timelines for further action and the need for further assessment.

Do ELs need an IEP or 504 plan to receive accommodations on local and state assessments?

All ELs are entitled to specific testing accommodations on state, district, and classroom assessments as long as they receive such accommodations during daily instruction. However, additional accommodations may be available if the student has an IEP or a 504 Plan. (Refer to the State Assessment Coordinator's Manual for standard accommodations, available on the MDE website.) Districts should have common procedures for accommodations and adaptations used during the instructional delivery as well as during the local assessment. Refer to MDE's Assessment Manual at the following links:

Supports and Accommodations Manual

Supports and Accommodations Table

If research indicates that it can take from five to seven years (or longer) to acquire cognitive academic language proficiency, shouldn't we wait that length of time before referring a student for special education?

No. EL students may exhibit disabilities at any point in the process of acquiring a second language. Service coordination is critical to the success of ELs with disabilities; they have legal rights to both services [Child Find 34 CFR § 300.111(a) (1)].

How do we know if an EL should be evaluated for special education?

When a student is not proficient in English and is experiencing significant academic difficulties, it can be a challenge to determine if the difficulty stems from the language difference or from a true disability that would require the provision of special education and related services. In many cases, school personnel may never know for sure the reason behind the student's difficulties. However, there are recommended procedures (see Effective Practice 1 and 2) to help reach the most accurate conclusions possible. In the end, the important result of the process is that the student receives appropriate services and the best opportunity for academic success. If at any point school personnel suspect a disability, they are required to request an evaluation to determine eligibility for special education).

How long do we wait before we request an evaluation for a suspected disability for an EL student?

There is no set time. School staff should consider requesting an evaluation when any of the following are evident:

- Objective data support the possibility of a disability.
- Educators can determine the influence of language, culture, economics, or environmental factors are not the primary reason for lack of academic progress.
- Primary reasons for a student's lack of or slow academic progress have been identified.

- The implementation of systematic, sustained, targeted interventions, and program options, including progress monitoring, have proven unsuccessful.

Can primary grade students who are ELs or older (WIDA ELP Level 1 students) be referred for special education?

Yes. Every student is viewed as an individual with a unique profile. Teachers should consult with the special education administrator or designee to avoid unnecessary delays in making a request for a special education evaluation. Students who are ELs at any proficiency level may have disabilities. A set length of time in the ESL/bilingual program or in U.S. schools is not a prerequisite for consideration for special education. Staff members should consider information from teacher anecdotal records, classroom observation, performance-based assessment, and the functional deficits the student exhibits in an educational setting in addition to the formal testing instruments available.

Can students who are ELs with little or no previous formal education in their countries be evaluated for a suspected disability?

Yes. However, the student's difficulty in a U.S. school most often is the result of a lack of formal education rather than a disability. A variety of services can be provided to support instruction of literacy in English and the native language if available (WIDA ELP Level 1 students). Support in the classroom can be enhanced by flexible guided language development grouping, content-based literacy, appropriate software programs for ELs, and instructional techniques that may include the use of cooperative learning, differentiated instruction, and experiential hands-on methods (visuals and manipulatives) to ensure an appropriate match between the students' learning style and the curriculum. Although a student's previous formal education history will likely affect the student's academic performance in U.S. schools, limited schooling in and of itself does not constitute a disability under IDEA. Because many countries do not offer special education alternatives, students with disabilities may have been excluded from school services. Frequent progress monitoring is essential to measure if an EL is learning at an expected rate. Students who do not

respond to evidence-based instructional strategies and systematic rigorous interventions may need to be evaluated to determine eligibility for special education programs and services.

If a student has moved to WIDA ELP Level 5, why might he or she have challenges understanding content language?

It is likely to take anywhere from five to seven or more years for students who are ELs (depending on the student's ability and prior educational history) to demonstrate mastery at the Cognitive Academic Language Proficiency (CALP) level. Therefore, it is important for the general education teacher to recognize that students who are ELs (WIDA ELP Level 5) will need ongoing support as they continue to work toward grade-level performance across content areas.

Appendix E. References

American Speech-Language-Hearing Association. What should my child be able to do: One-to-two years?

Anderson, J. R. (1990). *Cognitive psychology and its implications* (3rd ed.). NY: W. H. Freeman.

Anderson, J. R. (1993). Problem solving and learning. *American Psychologist, 48*, 35–44.

Artiles, A. J., Rueda, R., Salazar, J. J., & Higareda, I. (2005). Within-group diversity in minority disproportionate representation: English language learners in urban school districts. *Exceptional Children*, *71*(3), 283–300.

August, D., & Shanahan, T. (Eds.). (2006). *Developing literacy in second-language learners: A report of the National Literacy Panel on language-minority children and youth.* Mahwah, NJ: Erlbaum.

Byrnes, H. (2000). Languages across the curriculum—interdepartmental curriculum construction. In M-R. Kecht & K. von Hammerstein (Eds.), *Languages across the curriculum: Interdisciplinary structures and internationalized education*. Columbus, OH: The Ohio State University, National East Asian Languages Resource Center.

Calderón, M., Slavin, R., & Sánchez, M. (2011). Effective instruction for English learners. *Future of Children*, *21*(1), 103–127.

California Department of Education. (2015). *Definition of MTSS.* Sacramento, CA: Author.

Center for Applied Linguistics. (n.d.). The SIOP model. Washington, DC: Author.

Center for Applied Linguistics. (n.d.). *Two-way immersion education: The basics. Washington, DC: Author.*

Collier, V. (1987). Age and rate of acquisition of second language for academic purposes. *TESOL Quarterly*, *21*(4), 617–641.

Collier, V., & Thomas, W. (1979). The astounding effectiveness of dual education for all. *NABE Journal of Research and Practice*, *2*(1).

Csikszentmihalyi, M. (1997). *Finding flow: The psychology of engagement with everyday life.* New York: Harper Collins.

Cummins, J. (1979). Cognitive/academic language proficiency, linguistic interdependence, the optimum age question and some other matters. *Working papers on bilingualism*, 19, 121–129; ERIC 104334.

Cummins, J. (1981). The role of primary language development in promoting educational success for language minority students. In Schooling and Language Minority Students: A theoretical framework (1st ed., pp. 3-49). Sacramento, CA: California State Department of Education Office of Bilingual Bicultural Education.

Curtain, H. A., & Pesola, C. A. (1994). *Languages and children: Making the match* (2nd ed.). New York: Longman.

Curtain, H., & Haas, M. (1995) *Integrating foreign language and content instruction in grades K–8*. Teachers College, Columbia University. Retrieved from CAL Online resources at:Cal.org

Equal Educational Opportunities Act of 1974, 20 U.S.C. §1203(f). (1974).

Francis, D. J., Rivera, M., Lesaux, N., Kieffer, M., & Rivera, H. (2006). Practical guidelines for the education of English language learners: Research-based recommendations for serving adolescent newcomers. Houston, TX: University of Houston for the Center of Instruction.

Gay, G. (2000). *Culturally responsive teaching: Theory, research and practice.* New York. Teachers College Press.

Gersten, R., Fuchs, L., Williams, J., & Baker, S. (2001). Teaching reading comprehension strategies to students with learning disabilities. A Review of Research. *Review of Educational Research, (*71) 2, 279-285.

Gersten, R., Beckmann, S., Clarke, B., Foegen, A., Marsh, L., Star, J., & Witzel, B. (2009). *Assisting students struggling with mathematics: Response to intervention (RtI) for elementary and middle schools* (NCEE 2009-4060). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Services.

Grabe, W., & Stoller, F. L. (1997). Content-based instruction: Research foundations. In M. A. Snow & D. M. Brinton (Eds.), *The content-based classroom: Perspectives on integrating language and content* (pp. 5–21). New York: Longman.

Hakuta, K., & Diaz, R. (1985). The relationship between degree of bilingualism and cognitive ability: A critical discussion and some new longitudinal data. In K. E. Nelson (Ed.). *Children's language*, Vol. 5. (pp. 319–344). Hillsdale, NJ: Erlbaum.

Hakuta, K., Butler, Y., & Witt, D. (2000). *How long does it take English learners to attain proficiency?* Los Angeles, CA: University of Southern California.

Hamayan, E., Marler, B., Sanchez-Lopez, C., & Damico, J. (2013). *Special education considerations for English language learners: Delivering a continuum of services* (2nd ed.). Philadelphia, PA: Caslon.

Harry, B., & Klinger, J. K. (2006). *Why are so many minority students in special education? Understanding race and disability in schools.* New York: Teachers College Press.

Hoover, J., & Collier, K. (1997). *Meeting the needs of culturally and linguistically diverse exceptional learners pre-referral to mainstreaming.* Boulder, CO: Research and Program Development, AISES, University of Colorado.

Hoover, J. (2012). Reducing unnecessary referrals: Guidelines for teachers of diverse learners. *TEACHING Exceptional Children, 44*(4), 38–47.

Howard, E. R., & Sugarman, J. (2001). *Two-way immersion programs: Features and statistics.* Washington, DC: Center for Applied Linguistics.

Individuals with Disability Education Act Amendments of 2006 , Pub. L. No. 105-17 (2006).

http://www.gpo.gov/fdsys/pkg/CFR-2006-title34-vol2/pdf/CFR-2006-title34-vol2.pdf

Institute of Education Sciences. (2014). Fast facts: English language learners. Washington, DC: U.S. Department of Education, Institute of Education Sciences.

Kaushanskaya M., Yoo, J., & Marian, V. (2011). *The effect of second-language experience on native-language processing*. Evanston, IL: Bilingualism and Psycholinguistics Research Group.

Kelleher, A. (2010). *Heritage briefs: Who is a heritage language learner?* Washington, DC: Center for Applied Linguistics.

Klingner, J. (n.d.). Distinguishing language acquisition from learning disabilities. New York: New York City Department of Education. [cited on p. 7]

Klingner, J. K., & Eppolito, A. (2014). *English language learners: Differentiating between language acquisition and learning disabilities*. Arlington, VA: Council for Exceptional Children.

Klinger, J. K., Soltero-Gonzalez, L., & Lesaux, N. (2010). Response to intervention for English language learners. In M. Lipson & K. Wixson (Eds.), *Successful approaches to response to intervention (RTI): Collaborative practices for improving K-12 literacy* (pp.134-162). Newark, DE: International Reading Association.

Krashen, S. (1982). *Principles and practices in second language acquisition.* NY: Pergamon Press.

Lau v. Nichols, 414 U.S. 563 (1974).

Linn, D., & Hemmer, L. (2011). English language learner disproportionality in special education: Implications for the scholar-practitioner. *Journal of Educational Research and Practice, (1)*1, 70–80.

Michigan Department of Education. (2015). *Michigan administrative rules for special education (MARSE)*. Lansing, MI: Author.

Nguyen, H. T. (2012). General education and special education teachers collaborate to support English language learners with learning disabilities. *Issues in Teacher Education (21)*1, 127–152.

O'Malley, J. M., & Chamot, A. U. (1990). *Learning strategies in second language acquisition*. NY: Cambridge University Press.

O'Malley, J. M., & Pierce, L. V. (1994). State assessment policies, practices, and language minority students. *Educational Assessment, 2*(3), 213–255.

Ortiz, A. A., Robertson, P. M., Wilkinson, C. Y, Liu, J., & McGhee, B. D. (2011). The role of bilingual education teachers in preventing inappropriate referrals of ELLs to special education: Implications for response to intervention. *Bilingual Research Journal: Journal of the Association for Bilingual Education, 34,* 316–333.

Peyton, J. K., Ranard, D. A., & McGinnis, S. (Eds). (2001). *Heritage languages in America: Preserving a national resource*. Washington, DC & McHenry, IL: The Center for Applied Linguistics & Delta Systems.

Plyler v. Doe, 457 U.S. 202 (1982).

Rutherford, K. (2015). What do the standards for mathematical practice mean to you? Reston, VA: National Council of Teachers of Mathematics.

Samson, J. F., & Lesaux, N. K. (2009). Language-minority learners in special education: Rates and predictors of identification for services. *Journal of Learning Disabilities*, *42*(2), 148–162.

Schütz, R. (2014). Stephen Krashen's theory of second language acquisition. Brazil: English Made in Brazil.

Shinn, M. (Ed.). (1989). *Curriculum-based assessment: Assessing special children.* New York: Guilford Press.

Short, D., Hudec, J., & Echevarria, J. (2002). *Using the SIOP model: Professional development model for sheltered instruction.* Washington, DC: Center for Applied Linguistics.

Singer, M. (1990). *Psychology of language: An introduction to sentence and discourse processing.* Hillsdale, NJ: Erlbaum.

Slavin, R. E., Madden, N., Calderón Chamberlain, A., & Hennessy, M. (2010). Reading and language outcomes of a five-year randomized evaluation of transitional bilingual education.

Stoller, F. (2002, March). *Content-based instruction: A shell for language teaching or a framework for strategic language and content learning?* Keynote presented at the annual meeting of Teachers of English to Speakers of Other Languages, Salt Lake City, UT.

TESOL International Association. (2013). *Overview of the common core state standards initiative for ELLs: A TESOL issue brief.* Alexandria, VA: Author.

Thomas, W. & Collier, V. (2002). *A national study of school effectiveness for language minority students' long-term academic achievement.* ERIC Number: ED475048.

U.S. Department of Education. (n.d.). *ED Data Express: Data about elementary and secondary schools in the U.S.—Definitions*. Washington, DC: Author.

U.S. Department of Education, Office of Civil Rights, Programs for English Language Learners, Lau vs Nichols, 1974

U.S. Department of Education, Office for Civil Rights, Programs for English Language Learners. (n.d.), *Part IV: Glossary*. Washington, DC: Author.

U.S. Department of Education, Office of Elementary and Secondary Education. (n.d.). *The Elementary and Secondary Education Act of 2001*. Washington, DC: Author.

U.S. Department of Education. (2005). *Developing programs for English language learners: Glossary*. Washington, DC: Author.

U.S. Department of Education, Office of English Language Acquisition (OELA). (2015). *English Learner Tool Kit, Chapter 6. Addressing English learners with disabilities*. Washington, DC: Author.

U.S. Department of Education, Office of Special Education Programs. (n.d.). *History: Twenty-five years of progress in education children with disabilities through IDEA.* Washington, DC: Author.

Zehler, A., Fleischman, H., Hopstock, P., Pendzick, & Stephenson, T. (2003). Descriptive study of services to LEP students and LEP students with disabilities. Washington, DC: U.S. Department of Education, Office of English Language Acquisition.

Appendix F. Acronyms

AMAO Annual measurable achievement objectives

BICS Basic interpersonal communication skills

CALP Cognitive academic language proficiency

DOJ Department of Justice

ESSA Every Student Succeeds Act

ESL English as a second language [often used interchangeably with English Learner (EL) and English for Speakers of Other Languages (ESOL)]

IDEA Individuals with Disabilities Education Act

IEP Individualized education program

IT Interpreter

L1 Student's first (or home) language

L2 Student's second language

LEP/EL Limited English proficiency; terminology used in Title III federal law for English learners. The Every Student Succeeds Act (ESSA) has changed the term LEP to English learners.

MARSE Michigan Administrative Rules for Special Education

MTSS Multi-tiered system of supports

OCR Office of Civil Rights

SIOP Sheltered instruction observation protocol

SLI Speech-language impairment

SLD Specific learning disability

SST Student support team

TAT Teacher assistance team

TBE Transitional bilingual education (program)

Appendix G. Glossary of Terms

AMAO, Annual Measurable Achievement Objectives are ESEA, Title III federally required district goals to measure and report the linguistic progress, linguistic proficiency, and academic progress of ELs.

BICS, Basic Interpersonal Communication Skills, or often described as the language learner's social or conversational language. The term was developed by Jim Cummins (1984) in distinguishing types and levels of language proficiency.

CALP, Cognitive Academic Language Proficiency, is the term used by Jim Cummins (1979) to refer to the language ability required for academic achievement in a context-reduced environment. It is the language students need to read and write and solve problems in math, social studies, English literature, science labs, etc. CALP takes a significantly longer period of time to develop than does the social language (BICS).

Student Study Team (**SST**), Student Support Team (**SST**), and Teacher Assistance Team (**TAT**) are types of informal, school-based, problem solving teams that meet regularly to investigate strategies to help students who are experiencing difficulty. For students who are ELs, the teams need to include the EL teacher, a dual language teacher, or someone with second language acquisition knowledge and experience.

Code switching is a stage in the second or additional language acquisition process in which learners use words from both their first language and English while speaking and writing. This term is also known as language mixing.

Comprehensible input represents the language *level* to which students are exposed that *is* understandable *to them*. Access to comprehensible input is a necessary condition for language acquisition to take place.

Interpreters are individuals who convert verbal information presented in one language into another. They are required to have specific certification to serve in educational settings.

Language proficiency level indicates the English proficiency of an EL learner. ESL proficiency levels are based on WIDA domains of listening, speaking, reading, and writing skills. WIDA English Language Proficiency (ELP) levels are as follows:

WIDA English Language Proficiency (ELP) Levels	
Level 1	Entering
Level 2	Beginning
Level 3	Developing
Level 4	Expanding
Level 5	Bridging
Level 6	Reaching, First Year

Michigan's MTSS, **Multi-tiered System of Supports**, is a framework for instruction, assessment, and intervention designed to meet the achievement and behavioral health needs of all learners.

Sheltered content instruction is instructional techniques and strategies that enable ELs to learn academic subject matter in English.

SIOP, **Sheltered Instruction Observation Protocol,** is a research-based and validated model of sheltered instruction. The SIOP model helps teachers plan and deliver lessons that allow ELs to acquire academic knowledge as they develop English language proficiency.

Silent period is a period of time during which the English learner may not speak when in an environment where only the new language is spoken. The length of the silent period varies for each student based on numerous variables and corresponds to the time it takes for the student to internalize the new language. During the silent period, the student is beginning to make connections between the first language and English. The student is developing an understanding of English (reception language) before being comfortable with speaking or writing the language (expressive language).

Title III is the federally funded program of "English Language Acquisition for Limited English Proficient and Immigrant Students." Federal funding is provided to assist SEAs and LEAs in meeting these requirements to meet the requirements of the law that LEP students must not only attain English proficiency but simultaneously meet the same academic standards as their English-speaking peers in all content areas.

WIDA, World-Class Instructional Design and Assessment, is a non-profit consortium of states whose purpose is to develop standards and assessments that meet and exceed the goals of the Elementary and Secondary Education Act and promote educational equity for English Learners. WIDA includes English language development standards and EL assessments which Michigan and other states use in order to test, support and monitor ELs.

Appendix H. Resources

Effective Instructional Practices for ELs

Baker, S., Lesaux, N., Jayanthi, M., Dimino, J., Proctor, C. P., Morris, J., Gersten, R., Haymond, K., Kieffer, M. J., Linan-Thompson, S., & Newman-Gonchar, R. (2014*).* Teaching academic content and literacy to ELs in elementary and middle school (NCEE 2014-4012). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

- Research and evidence based practices for teaching content and literacy instruction to elementary and middle schools ELs.

Coltrane, B. (2003). *Working with young English language learners: Some considerations.* ERIC Digest, ED481690

- Working with young ELs and their families; the importance of maintaining the home language and other aspects.

Collier, V., & Wayne, T. (2009). *Educating English learners for a transformed world.* New Mexico: Fuente Press.

Council of Chief State School Officers. (2011). Accommodations manual: How to select, administer, and evaluate the use of accommodations for instruction and assessment of students with disabilities. Washington, DC: Author. The guidance pertains to students with disabilities who participate in larger scale assessments and the instruction they receive. The manual can be adapted to ELs based on state policies and requirements.

Gersten, R., Baker, S. K., Shanahan, T., Linan-Thompson, S., Collins, P., & Scarcella, R. (2007). Effective literacy and English language instruction for English learners in the elementary grades: A practice guide (NCEE 2007-4011). Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education.

- Providing effective literacy instruction for English language learners in the elementary grades.

Haynes, J. SIOP: Making content comprehensible for ELLs.

Herrmann, E. (2014). Sheltered instruction and English language development: Key components.

National Center for Learning Disabilities (2006). *IDEA parent guide.* http://www.ncld.org/wp-content/uploads/2014/11/IDEA-Parent-Guide1.pdf.

Smallwood, B. (2002). *Thematic literature and curriculum for English language learners in early childhood education.* http://files.eric.ed.gov/fulltext/ED470980.pdf
- Appropriate curriculum for young (3–8 year old) ELs.

Stanford University. (Website). Understanding language.
- Includes papers, teaching resources, and videos by EL scholars and researchers.

Thomas, W., & Collier, V. (2012). *Dual language education for a transformed world.* New Mexico: Fuente Press.

Zwiers, J. & Crawford, M. (2009). How to start academic conversations. Educational Leadership*, 66*(7), 70-73.
- Ideas for scaffolding conversations with ELs.

Bilingual Resources

American Speech-Language-Hearing Association. Learning two languages.

ERIC Digest. *What elementary teachers need to know about language.* ED447721 2000-11-00.

National Association of Bilingual Education. What is bilingual education*?*

National Children's Latino Institute. The benefits of bilingual education.

ELs with Potential Disabilities

Burr, E., Haas, E., & Ferriere, K. (2015). Identifying and supporting English learner students with learning disabilities: Key issues in the literature and state practice (REL 2015–086). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory West.
- A review of research and policy to identify and support ELs with possible learning disabilities.

Sánchez, M.T., Parker, C., Akbayin, B., & McTigue, A. (2010). Processes and challenges in identifying learning disabilities among students who are English language learners in three New York State districts (Issues & Answers Report, REL 2010–No. 085). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast and Islands.

- A summary of processes from three districts to identify ELs with learning disabilities including staff organization, child study team staffing and roles supports and interventions, and monitoring student progress in interventions and referrals. Challenges are presented that could serve to problem-solve implementation for other districts.

U.S. Department of Education, Office of Special Education and Rehabilitation Services, Dear Colleague: Dyslexia Guidance. October 23, 2015.

This document reviews policies, procedures and practices addressing MTSS and the educational needs of students with specific learning disabilities, including dyslexia, dyscalculia and dysgraphia.

Office of English Language Acquisition

U.S. Department of Education, Office of English Language Acquisition (OELA).

- The Offices of Civil Rights and Department of Justice have developed 10 chapters for districts and schools on practices and procedures pertaining to ELs.

Parents and Families

Broatch, L. (n.d.). Helping English language learners who struggle in school.

- Some ideas for parents to determine if their EL child has a learning disability.

Center for Parent Information and Resources. (2010). *Considering limited English proficiency: Developing the IEP*.

Colorin' Colorado. (n.d.). How to reach out to parents of ELLs. Succinct and helpful ideas including using their preferred language; educating them on the U.S. school system; arranging home and community visits; and more.

Jennings, D. (n.d.). A parent's perspective on response to intervention.

Parent Information Center. (n.d.). A family guide to response to intervention.

- Four-page introductory paper for parents about RtI.

RTI Network. (2007). Working with culturally and linguistically diverse families.

- A one-page brief describing cultural competence, why it is important, and keys to developing it in with diverse communities.

U.S. Department of Education. (2005). If you think there's a problem. (Cited on Colorin' Colorado).

- Succinct and helpful ideas for working with parents including types of skills young child should be able to do.

Special Education

- Individuals with Disabilities Education Act (IDEA) 20 U.S.C. chapter 33, section 1400 et seq. idea.ed.gov.
- Code of Federal Regulations. Title 34. Education. Part 300. www.ecfr.gov.
- Michigan Administrative Rules for Special Education (MARSE) w3.lara.state.mi.us/orr/Files/AdminCode/1113_2012-106ED_AdminCode.pdf.
- U.S. Department of Education, Office of Special Education and Rehabilitative Services. (2014). *Questions and Answers regarding the inclusion of English learners with disabilities in English language proficiency assessments and Title III annual measurable objectives.* Washington, DC: Author.
  This document provides guidance on the inclusion of ELs with disabilities in ELP assessments under ESEA Act of 1965, as amended. (An addendum was released in 2015).

Appendix I. Professional Organizations

CEC: The Council for Exceptional Children

MCEC: Michigan Council for Exceptional Children

MASEA: Michigan Association of Special Education Administrators

NABE: National Association of Bilingual Education

NASDSE: National Association of State Directors of Special Education

TESOL: Teachers of English to Speakers of Other Languages

MABE: Michigan Association for Bilingual Education

MTESOL: Michigan Teachers of English to Speakers of Other Languages

Appendix J. Professional Supports

Great Lakes Equity Center

- One of 10 regional Equity Assistance Centers (EACs) funded by the U.S. Department of Education.
- Provides technical assistance, resources, and professional learning opportunities related to equity, civil rights, and systemic school reform to the state departments of education of Michigan, Illinois, Indiana, Minnesota, Ohio, and Wisconsin.
- Website includes tools, research, and reports.

Center on Response to Intervention

- Formally federally funded by the Office of Special Education Programs from 2007–12 to the American Institutes for Research (AIR)
- The federal funding ended in 2012, but AIR took over upkeep and maintenance of the Center's website and products.
- Products and resources developed under the Center continue to be available and free to the public.

National Clearinghouse for Language Acquisition

- Funded by the Office of English Language Acquisition, Language Enhancement and Academic Achievement for Limited English Proficient Students (OELA) of the U.S. Department of Education.
- NCELA Nexus is a semimonthly e-newsletter to share new resources, upcoming events, and other announcements, and provide links to opportunities for jobs, education, and funding related to the education of ELs and the EL community. Nexus subscribers may also receive occasional, time-sensitive announcements from OELA and NCELA.

RTI Action Network

- Dedicated to the effective implementation of RtI in school districts nationwide with a goal to guide educators and families in the large-scale implementation of RtI; includes toolkits, rubrics, protocols, and more.
- The RtI Action Network is a program of the National Center for Learning Disabilities.

Appendix K. Assessments

Appropriate Screening and Progress Monitoring—Overview

Brown, J. E., & Sanford, A. (2011). RTI for English language learning: Appropriately using screening and progress monitoring tools to improve instructional outcomes.

The following is a list of assessments available for gathering additional information to help determine whether an EL is eligible for special education services. Assessments must be selected that are not discriminatory on a racial or cultural basis. When a nondiscriminatory evaluation instrument cannot be found, the decision-making team must be made aware of the limitations of the instrument.

In addition, as mentioned earlier, the school must ensure that the evaluations are administered in the language most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer. All assessments must be administered by qualified or licensed professionals. Tests normed solely on native English-speaking students have limited validity for ELs and must be viewed in that light. Using more than one measure or assessment to determine whether a child has a disability and to determine an appropriate educational program is required. Tests are only one source of information, and therefore, it is required to gather evidence from multiple sources (such as past educational history and teacher input) as noted earlier in this guide.

Bilingual and Culture Fair Assessments

Aprenda

Aprenda is a Spanish achievement test for native speakers of Spanish from kindergarten through grade nine. It is available through Harcourt Assessment, Inc. Aprenda III was introduced in 2005. It is used to assess student achievement and critical thinking skills in reading, mathematics, language arts, science, and social sciences.

Bilingual Verbal Ability Test (BVAT)

Available through Riverside Publishing, the BVAT is a test to evaluate a bilingual student's academic readiness, assist in placing a bilingual student in an appropriate program, and plan a suitable program for the student. The overall test score is based on the student's knowledge and reasoning skills using both English and the student's native language. It is available in the following 15 languages: Arabic, Chinese, English, French, German, Haitian-Creole, Hindi, Italian, Japanese, Korean, Polish, Portuguese, Spanish, Turkish, and Vietnamese.

The test consists of three individually administered parts:

- Picture Vocabulary—The student names a pictured object with the pictures gradually becoming more difficult. This measures word retrieval ability.
- Oral Vocabulary—Again, the test questions gradually become more difficult as the student is required to give synonyms and antonyms. These questions measure knowledge of word meaning.
- Verbal Analysis—Students are required to figure out the relationship between two words and then find a word that fits the same relationship to a third word. This part measures verbal reasoning.

Administration of all parts is done in English first. When a student gives an incorrect response, it is then readministered in his or her native language. Scores can be interpreted as either age-based or grade-based.

Language Assessment System Links in English or Spanish
Assesses English or Spanish language ability and proficiency from kindergarten through Grade 12. Helps to determine primary language proficiency. Assesses listening, speaking, reading and writing skills in one or both languages.

Logramos
The Logramos is a Spanish achievement test for mathematics, language, reading comprehension, word analysis, vocabulary, and listening comprehension. Spanish-dominant students from kindergarten through 12th grade can be given the test to determine their native language proficiency and to help with their instruction. Logramos is a group administered assessment available through Riverside Publishing.

TONI-4
Available through Pearson, the TONI-4 is a language-free assessment of nonverbal intelligence and reasoning abilities. A culturally reduced test, it is a measure of problem solving, abstract reasoning intelligence, and aptitude that does not require reading, writing, speaking, or listening. It is appropriate for those who have or are believed to have disorders of communication or thinking such as language disability, stroke, disease, head injury, or other neurological impairment. Responses simply require and individual to nod, point, or give a symbolic gesture to indicate a response. It measures nonverbal intelligence by requiring test takers to answer with meaningful gestures such as pointing, nodding, or blinking. Ages: 6 through 89 years.

Brigance Diagnostic Assessment of Basic Skills (Spanish)

Published by Curriculum Associates, Inc., the Brigance Diagnostic Assessment of Basic Skills can be administered to ELs from kindergarten through sixth grade. It is a test for students whose native language is Spanish to determine whether a student's weakness is due to limited English proficiency or to a specific learning disability. In addition, it can be used to determine language dominance or to establish if a student is working at grade level in academic subjects in Spanish.

The test consists of eight sections:

- Readiness
- Speech, listening, oral reading
- Word recognition, word analysis, vocabulary
- Reading comprehension
- Spelling, writing
- Number, number facts
- Computation-whole numbers, fractions, decimals
- Math problem solving

A student does not need to take all sections of the test as the teacher or test administrator is encouraged to mark off skills that he or she knows that the student has already mastered. The test is administered individually and is untimed.

Raven's Progressive Matrices measures an individual's ability to understand perceptual relations and to reason by analogy, independent of language, motor skills, and formal schooling. The Standard Progressive Matrices is designed to minimize language demands. It consists of multiple-choice questions to assess cognitive abilities. The test is standardized with a variety of cultural groups from China, Russia, India, Kuwait, and Africa to European nations.

Kaufman Assessment Battery for Children, Second Edition (KABC II)

KABC II subtests are designed to minimize verbal instructions from the test administrator and responses from the student. Test items contain minimal cultural content so that children of diverse backgrounds can be assessed more fairly. A range of scales and subtests provides a detailed analysis of cognitive abilities, including comprehension-knowledge ability, visual/simultaneous processing, sequential/short term memory, planning/fluid intelligence, and long-term memory.

Leiter International Performance Scale, Third Edition (Leiter-3)
Provides a nonverbal measure of intelligence that may be used for ELs, hearing impaired, speech impaired, cognitively delayed, or students on the Autism Spectrum. It assesses cognitive potential (nonverbal IQ, attention/memory, processing speed and nonverbal memory) in children, adolescents and adults ages 3 years to 75 plus years.

Bateria III Woodcock-Munoz NU is the parallel Spanish language version of the Woodcock Johnson III NU Tests of Cognitive Abilities. These tests are designed to provide comprehensive information about cognitive abilities and processing strengths and weaknesses. The cognitive battery provides a language-reduced Broad Cognitive Ability score and a bilingual General Intellectual Ability score. It also provides CALP levels.

Standford-Binet Intelligence Scales, Fifth Edition (SB5)
Provides enhanced nonverbal/low verbal content that requires minimal verbal responses. As a battery of cognitive tests, SB5 provides five factors of cognitive ability: Fluid Reasoning, Knowledge, Quantitative Reasoning, Visual-Spatial Processing, and Working Memory. Ages: 2 to 85 + years.

Universal Nonverbal Intelligence Test (UNIT)
Measures general intelligence, memory and nonverbal reasoning skills. UNIT's administration and response formats are nonverbal. Test materials have been designed to be culturally and ethnically sensitive. Ages: 5 to 17 years.

Comprehensive Test of Nonverbal Intelligence (CTONI-2)
Evaluates general and specific memory functions in children and adults whose performance on traditional tests might be compromised by language or motor abilities. The CTONI-2 measures analogical reasoning, categorical classification, and sequential reasoning using six subtests. Ages: 5 through 59 years.

Appendix L. Parents and Families

Working with culturally and linguistically diverse families (n.d).

The Michigan Department of Education—Parent Engagement Toolkit

Appendix M. Resources on MTSS or RtI and ELs

Collier, C. (2010). Asking the right questions.

Collier, C. (2010). Framework for instructional intervention with diverse learners: RTI for diverse learners. (pp.7–11). Thousand Oaks, CA: Corwin Press.

- Information to gather to answer specific questions to separate difference from disability considerations.

Echevarria, J. & Hasbrouck, J. (2009). Response to intervention and English learners.

- Six-page brief describing the three RtI tiers, types of appropriate assessments, and best practices for teachers of ELs.

Echevarria, J. & Vogt, M.E. (2011). *Response to intervention (RTI) and English learners: Making it happen – The SIOP® model.* Boston, MA: Pearson.

Hagan, E. C. (n.d.). Response to intervention: Implications for Spanish-speaking English language learners. RTI Action Network. Includes tips for effective instruction.

Else V., Hamayan, E. V., Marler, B., Sanchez-Lopez, C., & Damico, J. S. (2007). Some myths regarding ELLs and special education.

- Presentation of three myths to be dispelled as commonly held misconceptions regarding ELLs and special education.

Ford, K. (2011). Differentiated instruction for English language learners.

Hosp, J. (n.d.). Response to intervention and the disproportionate representation of culturally and linguistically diverse students in special education. RTI Action Network.

- Discussion of overrepresentation and why it is important to address.

National Association of School Psychologists. (2010). English learners and response to intervention: Information for K–6 educators.

- For educators, Grades K–6.
- Three-page overview of RtI, the tiers, and how they are useful in determinations and assistance for ELs and based on research.
- Describes six steps of Tier I reading implementation for schools and teachers to implement: early literacy measures, benchmarks, phonological awareness, letter naming fluency, alphabetic knowledge, and oral reading fluency.

National Center on Response to Intervention. (n.d.). A family guide to response to intervention.
- A collection of resources provides for parents and families about RTI as well as information for schools about working with parents and families throughout RTI implementation.

National Center on Response to Intervention. (2011). *RTI for English language learners:* Appropriately using screening and progress monitoring tools to improve instructional outcomes.
- A 20-page document outlining initial issues, particularly what teachers need to know about ELs; stages of second language proficiency; transitions to RtI and ELLs with specific information about formative assessments—screening and progress monitoring; concludes with two case studies.

Sánchez, M. T., Parker, C., Akbayin, B., & McTigue, A. (2010). Processes and challenges in identifying learning disabilities among students who are English language learners in three New York State districts. (Issues & Answers Report, REL 2010–No. 085). Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Regional Educational Laboratory Northeast and Islands.
- Helpful for districts in facing challenges of identifying and placement of ELs with potential learning disabilities.

Vaughn, S. (n.d.). Response to intervention in reading for English language learners. RTI Action Network.
- For educators, especially for special education teachers and administrators.
- Includes caveats and considerations for possible learning difficulties in EL learners; skills educators must have; role of universal screen and progress monitoring; and specific steps to consider and implement for the RtI tiers.
- Well-supported by research.

WIDA, Culturally and linguistically responsive RtI planning form

WIDA, Developing a culturally and linguistically responsive approach to response to instruction & intervention (RtI2) for English language learners

Tool 1. Student Background Checklist

The following information may be found in the student's CA60 file and is important to obtain background data for the English learner.

Referring Source _____

Title _____ Date_____

School's Screening Personnel_____

Phone #_____

School _____

Student Name_____ UIC _____

Sex_____ Grade_____

DOB_____ Place of Birth_____

Home Language(s) _____

Parent/Guardian Name _____

Parent/Guardian's Home Country _____

Home Phone_____ Work Phone _____

Cell Phone _____

Entry Date to U.S._____ or Years in U.S. Schools _____

Years of Schooling in Home Language _____

Interrupted Education? No ( ) Yes ( )

Explain Educational History if Known:

Specific Questions about Student Learning and Enrollment

	Yes	No	Comments
1. Has the student's records been reviewed for relevant information?			
2. Has a child study or other in-school problem solving team, including the EL teacher, met to review student's information?			
3. Has the school followed the pre-referral Effective Practices outlined in this guidance?			
4. Has the student undergone any prior evaluation(s)? a. WIDA Screening b. Dual language assessments c. State annual assessment d. Local assessment e. Classroom assessment f. Other	 a. b. c. d. e. f.	 a. b. c. d. e. f.	
5. Does a review of the student file indicate a history of difficulty in the area(s) of concern?			
6. Has the student ever been enrolled in an EL program? If so, where?			
7. Is the student currently enrolled in the EL program? If so, what is the current WIDA performance level? ___1; ___2; ___3; ___4; ___5;			
8a. Is the student no longer receiving direct EL services? 8b. If so, what is the student's current EL status? (FLEP) __Monitor year 1; __ Monitor year 2; __Monitor year 3; __ Monitor year 4;	a.	a.	

	Yes	No	Comments
9a. Is there a physical condition that may account for student's difficulties?	a.	a.	
9b. Has the student's vision been tested?	b.	b.	
9c. Has the student's hearing been tested?	c.	c.	
9d. Are glasses, hearing aids, or other specialized equipment worn or used in class?	d.	d.	
10. Has the student participated in systematic support programs, such as Reading Recovery or others? (name in "comments")			
11. Is the student frequently absent or tardy?			
12. Have the parents or guardians been contacted about the school's concerns?			
13. Is there a home language survey in the student's cumulative folder? (If so, please attach.)			
14. Have intervention strategies been implemented in a systematic fashion? Please describe.			

Adapted from Virginia Department of Education. (2009). Handbook for educators for students who are English language learners with suspected disabilities.

Tool 2. Sample Parent or Caregiver Interview Questions

The following parent interview (adapted from many sources) must be conducted in the parent's native language, if possible. Parents and caregivers need to feel they are in a safe environment and that the information will be used to help their child's education. Creating a trusting atmosphere is a critical first step. Parents/caregivers may be reluctant to answer honestly because of prior experiences in the education systems in their native countries or in not understanding the U.S. school system. It is critical to explain to parents that if their child is identified at some point as having learning difficulties, the U.S. education system will support and educate their child.

Dear Parent or Guardian,
In order to provide your child with the best education possible, we need to know about the child's language and education background. There are no right or wrong answers to the following questions, and your answers are only used to help us educate your child in the best way possible. Your honesty and thoughtfulness in answering these questions is greatly appreciated and will directly benefit your child's education.

About your child:

If there is more than one language spoken in your house, please feel free to include them all in your answers.

When your child was a baby:

1. What language did you speak to your child when he/she was a baby or young child? _____
2. In what language did your child say his/her first words? _____
3. In what language did your child speak as a baby or young child? _____
4. What language did other people in your house (other caregivers, babysitters, siblings, relatives) speak to your child when he/she was a baby or young child? _____
5. What language did you use to sing and/or read to your child when he/she was a baby or young child? _____

At the present time:

1. What language is spoken in the child's home or residence most of the time? _____

2. What language do you mostly use to speak to your child now?
   _____

3. What language does your child mostly speak to you?
   _____

4. What language does your child prefer to speak to others (siblings, caregivers, babysitters, relatives)? _____

5. When you have to give your child directions quickly, which language do you use? _____

Preschool Experience:

1. Did your child attend preschool? No _____ Yes _____

2. If yes, what was the language used by the teachers?
   _____

For students entering school in a grade other than kindergarten:

1. Does your child know how to read? No ___ Yes ___ If yes, in which languages? _____

2. Does your child know how to write? No ___ Yes ___ If yes, in which languages? _____

3. Is this the first time the child has attended a school in the United States? Yes ____ No ____

4. If no, where did he/she go to school previously?
   _____

5. What language was used for instruction?_____

6. Was there interruption in your child's education? No____ Yes ____
   If yes, for how long and when?
   _____

7. What was the length of the school day?
   _____

8. Did your child attend school daily/consistently?
   _____

9. In what month did the school year begin?

   _____

10. In what month did the school year end?

    _____

11. When were school vacations?

    _____

12. Has your child ever had difficulties learning? No ____ Yes _____

    If yes, please explain briefly:

    _____

    _____

14. Has your child ever received special services (teachers) to help his/her learning? No ____ Yes _____ If yes, please explain

    _____

15. Is there anything more you would like to tell us about your child's prior school or learning experiences?

    _____

    _____

Parent /Caregiver Questions

1. In what language would you like to receive written information from the school? _____
2. In what language would you prefer to communicate orally with school staff? _____

Taken from Connecticut Administrators of Programs for English Language Learners (CAPELL). (2011). English language learners and special education: A resource handbook. Hartford, CT: Connecticut State Department of Education. R

Tool 3. Consideration for Evaluating ELs

Following is a checklist to help the student Instructional Team collect pertinent information on ELs.

Student _____ Date _____

Yes	No	Don't Know	Questions
			1. **Literacy Development**: Does the child have age-appropriate development in L1 (home language)?
			a. Has the child been regularly exposed to L1 literacy-related materials?
			b. Is the child's vocabulary in L-1 well developed for his/her age?
			c. Was the child's L1 fluent and well developed prior to beginning to learn English?
			d. Have the child's parents been encouraged to speak or read in the L1 at home?
			2. **Personal and Family Factors**: After reviewing the child's personal data and family history, are there any emerging factors that could possibly contribute to the child's difficulty in learning?
			a. High degree of mobility
			b. Missing parent(s)
			c. Poverty
			d. Lack of prior education or disrupted schooling
			e. Poor attendance, truancy
			f. Need to work
			g. Other
Done ☐			For items marked "No," additional information is examined to further identify specific personal and family factors.

Yes	No	Don't Know	Questions
			3. **Physical and Psychological Factors**: After reviewing the child's health data, both past and present, have any factors emerged that could possibly contribute to the student's difficulty in learning?
			a. Impaired hearing
			b. Impaired vision
			c. Chronic dental pain
			d. Malnutrition
			e. Posttraumatic stress syndrome
			f. Other
Done ☐			For items marked "No," additional information is examined to further investigate those specific physical and psychological factors.

Yes	No	Don't Know	Questions
			4. **Previous Schooling**: Have student's school records (past and present) been located, reviewed, and analyzed? If past records are not available, have other means of gathering data been implemented?
			a. Has the student participated in a quality bilingual-ESL program(s) in previous years? b. Has the student had the benefit of uninterrupted formal school throughout his/her educational career?
			c. Has the student's previous schooling been at the same level of rigor as his/her current schooling?
			d. Does the language of instruction in the student's previous schooling match the language of instruction in the student's current learning environment?
Done ☐			For items marked "No," additional information is examined to further identify specific previous and current school issues.
			5. **Linguistic Abilities**: Have data been collected to reflect student's strengths and difficulties in linguistics and literacy development?
			a. Use of data from assessments in previous years
			b. Use of data from standardized language proficiency test (in L2 and if possible, in L1) and less than 6 months old
			c. Student work samples in L1 and L2 (oral language, reading, and writing; performance-based assessments) collected over time, reviewed, and analyzed
			d. Teacher observations or narrative documents concur with student work samples about student's language use in the learning environment

Yes	No	Don't Know	Questions
			e. Language use patterns and language dominance have been determined appropriately
Done ☐			For items marked "No," additional information is examined to further identify the specific linguistic abilities.
			6. **Academic Achievement Factors**: Have data been collected regarding the student's academic achievement?
			a. Use of data from assessments in previous years
			b. Use of results from a standardized achievement test (in L2 and L1 whenever possible) and are less than 6 months old
			c. Results in L2 are interpreted with full understanding as to the limits of validity and reliability for an EL
			d. Student work samples in L1 and L2 (oral language, reading, and writing; performance-based assessments) are collected over time, across subject and content areas, and are reviewed and analyzed
			e. Teacher observations or narrative documents concur with student work samples about the student's academic achievement
			f. Language use patterns language dominance have been determined appropriately
Done ☐			For items marked "No," additional information is examined to further identify the specific academic achievement factors?

Yes	No	Don't Know	Questions
			7. **Cultural Development**: Have data been collected regarding the student's cultural development?
			a. The student's culture is known, and staff members are cognizant of similarities and potential mismatches or conflicts with the dominant or school culture.
			b. A profile has emerged indicating student's capacity to function competently in the new nonnative culture.
			c. There is no indication of trauma exposure or posttraumatic stress syndrome.
			d. The student demonstrates the necessary resilience and coping skills to navigate both the new, nonnative culture represented by the dominant (school) culture as well as the native, family or community culture.
Done ☐			For items marked "No," additional information is examined to further identify specific previous and current cultural development issues.
			8. **Interventions:** Have appropriate interventions, capitalizing on student's strengths and reflective of "best practice" in the field of bilingual/ESL education, been suggested, implemented, and documented in an attempt to remedy the student's difficulty?
			a. Does the teacher(s) have training to implement the intervention(s)?
			b. Does the teacher(s) have materials and resources to implement the intervention(s)?
			c. Is there documentation to articulate the success or failure of a suggested intervention? Consider time, degree of effort, and variety of contexts.
Done ☐			For items marked "No," find additional information about intervention factors and work to improve.

Yes	No	Don't Know	Questions
			9. **Programming:** Have other program alternatives been tried in addition to, not in place of, bilingual/ESL programming? Indicate those below:
			___ Title I/31a ___One--On-One Tutoring
			___ Reading Assistance ___ Reading Recovery
			___ After School Activities ___ Summer School
			___ Social Work ___ Counseling
			___ Other
Done ☐			For items marked "No," consider additional interventions to assist the student and a plan for implementation.
			10. **Learning Environment:** Have all of the student's teachers, parents, and counselor or social worker worked together to create a linguistically, academically and culturally appropriate learning environment that has been implemented over time?
			Provide a description:
Done ☐			Notes or Comments:

Name and signature of staff member completing form:

_____

Position _____; Date_____

Others attending meeting:

Name	Position

If after collecting and discussing these data sets, a disability is suspected, the team is obligated to request an evaluation to determine eligibility for special education.

Adapted from Connecticut Administrators of Programs for English Language Learners (CAPELL). (2011). English language learners and special education: A resource handbook *(pp. 17–19).* Hartford, CT: Connecticut State Department of Education.

Tool 4. Curriculum and Instruction Checklist

Date: _____

Student's Last Name	First Name	Grade	Unique Identification Code (UIC)

Yes/Date	No	Curriculum, Instruction, and Other Factors	Sources for Answers
		1. Is the student receiving the necessary support to succeed?	
		2. Does the classroom teacher implement effective instructional practices for ELs on a consistent basis?	
		3. Has the classroom teacher received training to implement effective practices?	
		4. Does the EL teacher support this EL student?	
		5. Are the curriculum and instruction implemented with the necessary intensity and frequency to allow improvement in student's skills levels?	
		6. Are adjustments made in curriculum and instruction based on progress monitoring data?	

Yes/Date	No	Curriculum, Instruction, and Other Factors	Sources for Answers
		7. Do the student's teachers provide a linguistically, academically, and culturally appropriate learning environment at all times?	
		8. Have the teachers received professional development to provide linguistically, academically, and culturally appropriate learning environments for ELs?	

*****Methods for making determinations might include classroom observations, teacher interviews, review of lesson plans and curriculum materials

Note: If desired, the team may create a similar table specific for reading and mathematics instruction based on the specifics provided on pages 23-24.