

VI. Evaluating EL Students for Special Education Services and Providing Special Education and English Language Services

The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) address the rights of students with disabilities in school and other educational settings.

If an EL is suspected of having one or more disabilities, the LEA must evaluate the EL promptly to determine if the EL has a disability,¹ or disabilities, and whether the EL needs disability related services (which are special education and related services under IDEA or regular or special education and related aids and services under Section 504).

- Disability evaluations may not be delayed because of a student's limited English language proficiency (ELP) or the student's participation in a language instruction educational program (LIEP).
- A student's ELP cannot be the basis for determining that a student² has a disability.

Researchers have identified four potential factors that may contribute to the misidentification of special education needs, and learning disabilities in particular, among students who are ELs:

- (1) The evaluating professional's lack of knowledge of second language development and disabilities;
- (2) Poor instructional practices;
- (3) Weak intervention strategies; and
- (4) Inappropriate assessment tools (Sánchez, Parker, Akbayin, & McTigue, 2010).³

For EL students, in addition to the required IEP team participants under IDEA, it is essential that the IEP team include participants who have knowledge of the student's language needs.

It is important that IEP teams include professionals with training, and preferably expertise, in second language acquisition and how to differentiate between the student's needs stemming from a disability or lack of ELP.⁴

- Under IDEA, the LEA must take whatever action is necessary to ensure that the student's parents understand the proceedings of the IEP team meeting, including arranging for an interpreter for parents with limited English proficiency (LEP) or parents who are deaf. Under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act, for an LEP parent to have meaningful access to an IEP or Section 504 plan meeting, it also may be

¹ U.S. Department of Education, Office of English Language Acquisition. (2017). English Learner Tool Kit (2nd Rev. ed.). Washington, DC: Author.

² IDEA refers to a 'child' with a disability. In this document 'student' is used to mean 'child' under IDEA.

³ U.S. Department of Education, Office of English Language Acquisition. (2017). English Learner Tool Kit (2nd Rev. ed.). Washington, DC: Author.

⁴ *Ibid.*

necessary to have the IEPs, Section 504 plans, or related documents translated into the parent's primary language.⁵

- Should parents decline disability-related services under IDEA and Section 504, the SEA and LEA remain obligated to provide appropriate language assistance services to ELs. If parents opt out of specific EL programs and services, but have consented to the provision of disability related services, the LEA remains obligated to provide such services as required in the IEP or Section 504 plan, and to conduct ELP monitoring and/or provide language assistance as appropriate.⁶

⁵ *Ibid.*

⁶ *Ibid.*