RIDE Rhode Island Department of Education

English Learners

Updated Criteria, Policies and Procedures

Q&A

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Non-Regulatory Guidance: English Learners and Title III of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA)

Addendum to September 23, 2016 Non-Regulatory Guidance: English Learners and Title III of the Elementary and Secondary Education Act (ESEA), as Amended by the Every Student Succeeds Act (ESSA)

RI Regulations Governing the Education of English Language Learners.

Last update: 5/19/2021

Background:

1B. What are the requirements for an SEA to establish standardized statewide entrance and exit procedures for English Language learner students (ELs) under the ESEA?

Under section 3113(b)(2) of the ESEA, each SEA receiving a Title III, Part A State formula grant must establish and implement standardized statewide entrance and exit procedures for ELs after conducting timely and meaningful consultation with local educational agencies (LEAs) representing the geographic diversity of the State. The requirement that the procedures be "statewide" means they must be consistently applied across the State.

2B. Why has RIDE changed the identification and exit criteria?

With reference to the information in item 1B, the identification and reclassification criteria have been updated to meet the new ESSA requirements and a change in assessments.

3B. What does it mean for English language proficiency standards to be "aligned with" academic standards?

The ESEA requires that a State's English language proficiency standards be "aligned with" a State's challenging academic standards. (ESEA Section 1111(b)(1)(F)).
Just as under the former law, a State's English language proficiency standards must be aligned with the challenging academic standards in the content areas of reading/language arts, mathematics, and science. It is especially important that the English language proficiency standards reflect the language demands of each content area. For example, as mathematics assessments become increasingly language-heavy, it is essential that ELs learn the corresponding English vocabulary of mathematics in order to succeed in that subject area.

A State's English language proficiency standards should reflect research on the process of language acquisition and, based on this research, reflect the elements needed for EL students to acquire the English language skills necessary to meet academic content standards. As such, English language proficiency standards should be designed to assist teachers in moving EL students towards both proficiency in the English language and proficiency on a State's academic content standards. The goal of English language proficiency standards is to build a foundation in the English language that will enable EL students to succeed in each academic content area.

4B. What is the difference between English language proficiency standards and content standards in reading/language arts?

Reading/language arts standards are not the same as English language proficiency standards. English language proficiency standards should be specifically developed for students who are ELs and define progressive levels of competence in the acquisition of the English language. English language proficiency standards must be derived from the four language domains of speaking, listening, reading, and writing. (ESEA Section 1111(b)(1)(F)). The Rhode Island Department of Education (RIDE) has adopted the WIDA ELP Standards.
Reading/language arts standards, on the other hand, describe what all students should know and be able to do in the specific academic content area of reading/language arts.

5B. **What is the relationship between the State English language proficiency standards and the State English language proficiency assessment?**

Title I requires that a State's English language proficiency assessments be aligned with its English language content standards assessment. (ESEA Section 1111(b)(2)(g)). This strengthens the assessment's validity, which is not only required under Title I but is also consistent with the obligation under Title VI and the EEOA to use valid and reliable criteria for assessing English proficiency.

Assessment:

1A. Why are EL students assessed with the ACCESS assessment?

The ESEA requires that LEAs must assess all ELs using the annual English language proficiency assessment, including those students whose parents have declined to enroll them in, or had them removed from, Language Instruction Educational Programs (LIEP). All ELs enrolled in schools served by the State must be assessed annually using the State's English language proficiency assessment. (ESEA Section 1111(b)(2)(G)).

2A. Can the ACCESS assessment be given more than once during the academic year?

No. The statewide ELP assessment for purposes of growth monitoring, program services, and reclassification, is annual. Other benchmark assessments can be locally determined and administered by LEAs.

3A. What other benchmarks can LEAs use to monitor growth?

LEAs in Rhode Island can choose standard aligned benchmark assessments as locally determined to monitor growth. WIDA's publication *Choosing an Interim Assessment Guidelines for Stakeholders* can be used by schools, districts, and states when making decisions about which interim assessment tool to use. An interim assessment, used in addition to ACCESS for ELLs, provides educators with information to better tailor instruction, gauge student growth, and predict future performance on summative assessments.

4A. May an LEA administer a local ELP assessment to satisfy the ESEA requirement for an annual ELP assessment?

No. RIDE requires that all LEAs administer the adopted statewide ELP assessment uniformly and annually, to all ELs in schools served by the State, in grades kindergarten through grade twelve. An LEA may, however, use a local ELP assessment for other purposes, such as to help determine the needs of and provide appropriate instructional supports to ELs so that they can attain ELP.

5A. Are there accommodations and accessibility features specific to ELs taking assessments?

Yes. These accommodation and accessibility features are updated regularly by RIDE and published on the website to better serve the needs of ELs taking state adopted assessments.

Identification/Entry Criteria:

1I. Why is the newly adopted identification criteria higher than the exit criteria?

RIDE has determined that allowing for a rigorous proficiency measure at 5.0 to be adopted during the identification of potential ELs, this will ensure that students who might need and benefit from services, will receive English language development supports. This decision has been taken in the interest of those students who might otherwise struggle to reach academic success along with their peers.

2I. Why have the qualifying scores for identification increased?

As mentioned in item 3B, the alignment to rigorous academic standards required the revision of the minimum cut scores for identification and exiting purposes.

3I. Are there specific procedures for screening students with disabilities?

The procedure for screening students with disabilities should occur in consultation with the special education department, or related service providers. Steps for identification are detailed in the Rhode Island Multilingual Learners (MLLs) / English Learners (ELs) Screening, Identification, Placement, and Reclassification. In cases where a student is enrolling in Kindergarten with an IEP from preschool, the individual administering the EL screening must consult with special education and related service providers as appropriate, to ensure that specific needs are considered in the screening process. When screening any students, particular attention must be given to providing universal accommodations. In addition, for students with a documented IEP, or 504, all necessary accommodations must be in place.

4I. How should a potential EL with a disability that precludes his or her screening in one or more domains be identified for services?

A student whose disability precludes assessment in one or more domains of the screening assessment (speaking, listening, reading and writing), such that there are no appropriate accommodations for the affected domain or domains, must be screened in the domains that will provide valid data for placement purposes. The LEA should maintain documentation on which domains were screened and that accommodations were provided if needed. Finally, such student would qualify for services if the reported scores in the screened domains are below 5.0.

5I. Can LEAs re-screen students who have been previously screened or received EL services?

The Rhode Island Multilingual Learners (MLLs) / English Learners (ELs) Screening, Identification, Placement, and Reclassification document outlines the state-recommended procedure for identifying ELs in accordance with Title 16, Chapter 16-54, sec. L-43,4. This procedure is based on a review of current research and best practices, and federal recommendations by the Department of Education.

In an effort to standardize and eliminate uncertainty in the process by which students are identified as ELs, the procedure will serve many purposes, including reducing unnecessary English

language proficiency re-screening of students and introducing added stability and predictability for students and parents who move from one LEA to another within the state.

Re-screening a student who scored above the proficiency cut score is not beneficial nor recommended. Additionally, if a student received continuous education in U.S. schools where the language of instruction remained English, there are no specific provisions for which the student should be re-screened for English language proficiency.

Consistent with WIDA guidelines, students enrolling in kindergarten, and students participating in the pre-kindergarten program, will be assessed as outlined in the language screening assessment Testing Administration Manual.

6I. Should academic records be consulted to make decisions regarding placement?

When placing a student in a language development program, academic records provide useful information to inform the most appropriate placement. In particular, for students who attended bilingual/dual language programs, an academic record review will highlight students' strengths that must be taken into consideration upon placement.

7I. May the parent of a child who is identified as an EL decline to enroll in, or have the student removed from, the LIEP?

Yes. Each LEA must provide written notification to parents of ELs of, among other things, information pertaining to the right of parents to have their child removed from the LIEP or to decline to enroll in such program. (ESEA 1112(e)(3)(A)(viii)). Under Title VI and the EEOA, a parent's decision to opt out of a program for ELs must be knowing and voluntary, and an LEA may not recommend that parents decline all or some services within a program for ELs for any reason.

Note, however, that if an EL is not participating in the LIEP, the LEA still has the obligation under Title VI and EEOA to take "affirmative steps" and "appropriate action" to provide the student with access to its educational programs. The English language development and other academic needs of such an EL student must still be met.

In addition, the ESEA requires that the LEA still must assess all ELs using the annual English language proficiency assessment, including those students whose parents have declined to enroll them in, or had them removed from, LIEPs. All ELs enrolled in schools served by the State must be assessed annually using the State's English language proficiency assessment. (ESEA Section 1111(b)(2)(G)).

Reclassification/Exit Criteria:

1R. Why is the overall exit cut score lower that the entrance cut score?

The RI overall exit cut scores embeds the weighted proficiency levels of all four domains and allows for a more flexible report of students' strengths. The determination of the score includes the following guiding rationales: WIDA set English language proficiency at 5.0, and by setting the exit criteria at 4.8, RI has built in a confidence interval eliminating the need for a waiver. Students in RI are provided with a two-year monitoring phase during which LEAs analyze student data to determine if additional services are needed. Local data results on statewide assessments have shown that a 4.8 proficiency on the ELP assessment is in line with proficiency on adopted content state assessments.

2R. Can students be exited from EL services with a proficient score on the state ELA content assessment?

No. An EL must be exited from EL status for ESEA purposes (i.e., for purposes of Title I and Title III requirements) when the student satisfies the State's standardized statewide exit procedures. Because section 3113(b)(2) of the ESEA requires a State to implement statewide exit procedures, a student who meets the exit procedures is no longer an EL for ESEA purposes, and the State may no longer use Title III funds for services for that student. Title VI's implementing regulations have been interpreted by case law to require that a student demonstrate proficiency on a valid and reliable ELP assessment in order to be exited from EL status. The requirement that an EL be exited from EL status for ESEA purposes when the student satisfies the criteria included in the State's standardized statewide exit procedures applies also to an EL with a disability.

3R. Can other indicators be considered to exit students from EL services in Rhode Island?

No. Rhode Island has not adopted additional indicators for reclassifying a student, other than the ELP assessment. Under the ESEA, in a State that adopts additional exit procedures, a student who scores proficient on the ELP assessment is not exited until the student meets those additional objective procedures. In such a State, for example, if a student scored proficient on the ELP assessment but a statewide teacher rubric that is a part of the exit procedures indicated that the student should not be exited, then that student would remain an EL for all ESEA purposes, until she meets all the exit procedures.

4R. What are the exit criteria for students with disabilities?

The requirement that an EL be exited from EL status for ESEA purposes when the student satisfies the criteria included in the State's standardized statewide exit procedures applies to an EL with a disability as well. For the specific criteria, please refer to the State-Defined Required English Language Instruction Program Exit Criteria. To ensure that the language proficiency of such a student is validly and reliably assessed, the Individualized Education Program (IEP) Team or, in the case of a student served only under Section 504 or Title II of the ADA, the Section 504 Team or individual or group designated to make those decisions under Title II of the ADA, must determine whether an EL with a disability needs to receive appropriate accommodations on the regular annual ELP assessment or, for an EL who is a student with a most significant cognitive disability as

identified under 34 CFR §200.6(a)(1)(ii), needs to take an alternate assessment to the regular ELP assessment, if he or she cannot take the regular ELP assessment, even with appropriate accommodations. An IEP Team, a Section 504 team, or the individual or group designated to make those decisions under Title II of the ADA must make this determination on a case-by-case basis in light of the particular needs of an EL with a disability. Students with disabilities can exit in one of 3 different ways as outlined in the State-Defined Required English Language Instructional Program Exit Criteria.

5R. May an EL with a disability whose disability precludes his or her assessment in one or more domains of the State ELP assessment be exited from language services?

Under 34 C.F.R. §200.6(h)(4)(ii), if it is determined on an individualized basis that an EL has a disability that precludes assessment in one or more domains of the ELP assessment (speaking, listening, reading and writing), such that there are no appropriate accommodations for the affected domain or domains, an SEA must assess the child's English language proficiency based on the remaining domains in which it is possible to assess the student. For example, a non-verbal EL who because of an identified disability cannot take the speaking portion of the ELP assessment.

This is also consistent with obligations under Federal civil rights laws. A determination that a disability precludes assessment in one or more domains must be made on an individualized basis by the child's IEP Team, the student's 504 team or, for students covered under Title II of the ADA, by the team or individual designated by the LEA to make those decisions. Under the very rare circumstances when a student's disability precludes assessment in one or more domains, the student may be exited under the State's exit procedures based on a score of proficient on the remaining domains in which the student is able to be appropriately assessed.

An SEA that uses a composite or weighted score across the domains should determine what revised composite or weighting is needed for exit in less than all four domains. Please refer to the RI Exit Request Missing Domain for a weighted scale score calculation for exit purposes. The Department expects that only in very rare circumstances will children need to be assessed in fewer than four domains due to a disability that precludes assessment in a particular domain, and that the vast majority of ELs with disabilities will be able to be assessed in all four domains, with appropriate accommodations as needed, or by taking an alternate ELP assessment for ELs who are students with the most significant cognitive disabilities.

6R. May a SEA exit an EL from language services using only the student's score on the State reading/language arts assessment?

No. Section 1111(b)(1)(F) of the ESEA requires each SEA to adopt ELP standards that "are derived from the four recognized domains of speaking, listening, reading and writing," "address the different proficiency levels of ELs" and "are aligned with the challenging State academic standards." The ESEA thus recognizes that English language proficiency and State academic content standards are distinct concepts. While assessments on ELP and reading/language arts content are related, they fundamentally measure different skills. The annual ELP assessment must be a valid and reliable measure of ELP, including speaking, listening, reading and writing skills, and must be aligned with the ELP standards. Title VI's implementing regulations have been interpreted by case law to require that a student demonstrate proficiency on a valid and reliable ELP assessment in order to be exited from EL status.

7R. May an LEA remove a student's EL designation if that student was erroneously identified as an EL, even if the student does not score proficient on the annual ELP assessment?

An erroneously identified EL is a student who was identified as an EL but should not have been because the student does not in fact meet the definition of "English learner" in ESEA section 8101(20). The erroneous identification may have occurred as part of the initial identification process, e.g., due to inaccurate completion of the home language survey, administration of an EL screening assessment without providing for appropriate accommodations for a student with disabilities, inaccurate scoring on the annual ELP assessment, or other reasons.

In instances where a student is considered to be erroneously identified as an EL, an LEA should determine how to proceed based on the individual circumstances. For example, if the LEA discovers that appropriate accommodations on the EL screening assessment were not provided to a student with a disability, the logical next step would be to re-test the student with appropriate accommodations. If the results of the screener assessment show that the student is not an EL, the EL designation would be removed.

Erroneous identification may also occur when a parent misunderstands the home language survey and indicates that languages other than English are spoken at home because there is occasional use of a language other than English, even though English is the dominant language used at home and the student does not speak or understand any language other than English. In that case, the LEA could remove the EL designation since the student should not have been identified as an EL in the first place.

These are rare exceptions to the general rule that, after a student is identified as an EL, the LEA may not remove the EL designation before that student scores proficient on the assessment of the four language domains, even if the student's parents object to the EL designation (although parents have the right to decline services).

8R. What are the 2 years of monitoring for ELs?

Recently reclassified ELs are monitored for the two years immediately following the exit from direct services in LIEP as required by RI Regulations Governing the Education of English Language Learners.

EL Census:

1C. What is the purpose of the EL Census?

The purpose of the EL Census is to maintain an updated and detailed record for students who receive or received English language development services. Additionally, the EL Census provides a clear count of students to secure different funding sources. Finally, the EL Census provides the collection of data that RIDE utilizes to administer the annual ELP assessment, and monitor students' growth.

2C. Will the Alternate ACCESS scores appear on the EL Census?

Yes. The EL Census regularly undergoes updates to collect data that informs LEAs and other stakeholders working with ELs. Among the updates, the reporting of the Alternate ACCESS scores have been included.

3C. Do we have to create a record for the students who are screened, but do not qualify for services?

All students who are screened as potential ELs should be recorded in the EL Census to prevent re-screening when a student moves from one LEA to another. To provide a complete view of students across LEAs, the EL Census allows users to see previous services and screener data from other LEAs.