Guidance on English Learner Education Services and Programming

March 2024

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# Introduction

English Learners (ELs) are among the most diverse student groups in Massachusetts and across the nation, representing a range of cultural, linguistic, educational, and socioeconomic backgrounds. They bring their school communities a wealth of cultural and linguistic assets, as well as additional cognitive, social, emotional, political, and economic potential.

Education is a basic right of all children in the United States, including students who are ELs. Federal civil rights laws, namely, Title VI of the Civil Rights Act of 1964 (Title VI) and the Equal Educational Opportunities Act of 1974 (EEOA), require schools to take appropriate steps to address the language barriers that prevent ELs from meaningfully participating in their education. Courts and federal guidance have interpreted these provisions to require districts to provide sufficient language and academic supports to enable ELs to become English proficient and meet academic standards in a timely manner. In addition, federal education laws such as the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act of 2016 (ESSA), address specific requirements for supporting ELs.

The Rethinking Equity and Teaching for English Language Learners (RETELL) initiative in place in Massachusetts since 2011, is a multifaceted approach to addressing the needs of ELs. It is designed to provide ELs access to effective instruction and to close proficiency gaps. A key component of RETELL is SEI training for core academic teachers and career vocational technical teachers of ELs and certain administrators who supervise/evaluate such teachers. RETELL also features the use of the World-Class Instructional Design and Assessment (WIDA) English language proficiency standards and assessment framework and ongoing opportunities for educators and administrators to extend their skills and knowledge related to educating ELs.

On November 22, 2017, Governor Baker signed into law the "Act Relative to Language Opportunity for Our Kids," Chapter 138 of the Acts of 2017, commonly referred to as the LOOK Act, which amended certain sections of G.L. c. 69, 70 and 71A. The law aims to provide districts with more flexibility in determining the design and implementation of English learner education (ELE) programs to meet the needs of ELs, while maintaining accountability for timely and effective English language acquisition.

The purpose of this guidance is to assist districts in developing ELE programs in compliance with federal and state laws and regulations while providing recommendations for best practices.

# Part I: Identification and Placement Procedures

The term “English learner” is defined in the Elementary and Secondary Education Act (ESEA), Section 8101(20), as amended by the Every Student Succeeds Act (ESSA) as follows.[[1]](#footnote-2)

**The term "English learner," when used with respect to an individual, means an individual—**

1. who is aged 3 through 21;
2. who is enrolled or preparing to enroll in an elementary school or secondary school;
3. (i) who was not born in the United States or whose native language is a

 language other than English;

 (ii) (I) who is a Native American or Alaska Native, or a native resident of the

 outlying areas; and

 (II) who comes from an environment where a language other than English has had a significant impact on the individual’s level of English language proficiency; or

 (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

1. whose difficulties in speaking, reading, writing, or understanding the English

language may be sufficient to deny the individual —

 (i) the ability to meet the challenging State academic standards;

 (ii) the ability to successfully achieve in classrooms where the language of

 instruction is English; or
(iii) the opportunity to participate fully in society.

***State law* defines the term “English learner” as:**

“a student who does not speak English or whose native language is not English, and who is not currently able to perform ordinary classroom work in English.[[2]](#footnote-3)”

**Multilingual Learner & English Learner Terminology**

Consistent with the new [Educational Vision](https://www.doe.mass.edu/bese/docs/fy2023/2023-05/item7.1-educational-vision.pdf) and the asset-based lens it uses, the Massachusetts Department of Elementary and Secondary Education (the Department) will begin using the term “Multilingual Learners” (MLs) when referring to students who are, or have been, consistently exposed to more than one language. This inclusive term includes a variety of student groups who use other languages in addition to English, including English learners (EL), former English learners (FEL), students whose first language is not English, heritage language learners, world language learners, students in dual language programs, etc. This shift in terminology takes an asset-based approach to 1) acknowledge that students’ first languages and cultures are a strength; and 2) emphasize the importance of literacy and proficiency in multiple languages. Adopting this term is one step toward operationalizing the Department’s [Educational Vision](https://www.doe.mass.edu/bese/docs/fy2023/2023-05/item7.1-educational-vision.pdf), which promotes “culturally and linguistically sustaining practices that will support students to thrive by creating affirming environments where students have a sense of belonging, engage in deeper learning, and are held to high expectations with targeted support.” Specifically, it aligns with DESE’s commitments that “all students are known and valued” by respecting and honoring “what they bring to the school community, including their unique identities, strengths, interests, needs, languages, exceptionalities, and backgrounds” and engaging in “learning that values and builds on their background knowledge, lived experiences, and cultural and linguistic assets.”

The Department will also continue to be intentional about using the term English learner (EL) for policy, data reporting, and other purposes referring to the specific subset of MLs who are classified as ELs. Because English learner is the term that is used in federal and state laws, regulations, and policies, it is important not to dilute the federal and state protections and rights to which ELs are entitled and be explicit about when we intend to refer to this designated group versus when our purpose warrants a broader and more inclusive term.

In summary, the Department will continue using the term English Learner or EL for legal compliance, data reporting, and other EL related purposes. For all other purposes, the Department will begin using the term Multilingual Learner or ML. Schools and districts should communicate clearly with their community about when to use ML vs. EL and that stakeholders understand that ELs are the group that must continue to be provided English Learner Education services in accordance with state and federal requirements.

Under federal[[3]](#footnote-4) and state law,[[4]](#footnote-5) districts must take appropriate steps to identify ELs so they can receive instruction designed to assist them in learning the English language and subject matter content, and their parents can participate in the decision-making process relative to the type of program the identified ELs will receive.

## **District Obligations to Identify English Learners**

Under federal[[5]](#footnote-6) and state law[[6]](#footnote-7) districts must take appropriate steps to identify ELs so they can receive instruction designed to assist them in learning the English language and subject matter content, and their parents can participate in the decision-making process relative to the type of program the identified ELs will receive. When a new student enrolls in a school district, it is the district’s obligation to determine whether the student is an EL by following appropriate procedures and placing the student in the appropriate instructional program to support content area and English language learning. Districts must also identify Former English learners (FELs) upon their registration in the district and monitor them to ensure that they have meaningful opportunities to participate in the standard instructional program and provide support as needed.

In order to meet ELs’ diverse needs, districts must start by properly identifying students who need English language support. The diagram below provides a process for determining whether a newly enrolled student is an EL. However, districts should consider the student’s placement in their previous district and review available documents and the data available in Edwin Analytics for any student transferring from another Massachusetts district.[[7]](#footnote-8) Regardless of the information provided in the new district’s Home Language Survey (HLS), districts should place students identified as ELs in their former district in an English Learner Education (ELE) program. ELE services should be provided upon enrollment.[[8]](#footnote-9) Please note that if there is documentation of the student’s status as a FEL, then districts should monitor the student’s progress for four years[[9]](#footnote-10).

Step 1: Establish procedures in accordance with Department guidelines to identify students who may be ELs or FELs.

Districts should have written policies and procedures in place for accurately identifying ELs and FELs in a timely, valid, and reliable manner. It is important to define these policies clearly and to maintain the consistency of the practices by providing ample training opportunities to the staff who are responsible for all steps of the process. This will support district compliance with federal and state laws and regulations.

In order to increase the validity and reliability of the process, districts’ policies and procedures should emphasize the following:

* Clearly state the purposes and intended uses of the HLS to those who will administer it and to those who will complete the survey. Clarify that the intent of the HLS is not to confirm citizenship status or predetermine ELE services. Establish clear procedures for administering the survey and clarifying responses.
* Establish clear procedures for analyzing HLS results to determine whether the student is a potential EL and should complete a screening test. A potential EL is a student whose home language survey indicates that there is a language other than English spoken at home. Clarify how the district will utilize the student’s educational background information to determine whether a language proficiency screening test is required.
* Establish clear procedures to identify students who enroll in the district as FELs, to complete the four-year monitoring process and to provide them with support as necessary.
* Clarify how the district will utilize the student’s educational background information to determine whether a language proficiency screening test is required.
* Establish clear procedures to interpret HLS responses, including next steps that should be taken if responses are unclear or contradictory.
* Establish clear procedures to administer the screening test and describe how the district will keep records of this process.
* Define the roles and responsibilities of the staff making initial placement decisions, informing parents of such decisions by sending out parent notification letters, and data entry.
* Clearly indicate how the district will train all personnel involved in the initial identification process to ensure that they have sufficient knowledge to be able to implement the district’s initial identification procedures.

## ***Step 2*: Administer a home language survey (HLS) to all newly enrolling students.**

The primary purpose of a [home language survey](http://www.doe.mass.edu/ele/resources/communications.html) (HLS) is to find out whether there is a language other than English spoken at home, in which case the student should be assessed for English language proficiency. The HLS also presents an opportunity to collect other useful information about the student that will help district personnel understand the student's personal and educational history in order to plan an appropriate educational program.

**When administering the HLS, districts must:**

* Administer the HLS to ALL new students. Districts should administer the HLS **provided by the Department** to the parents of all new students enrolling in Pre-Kindergarten (Pre-K) through 12th grade[[10]](#footnote-11) [[11]](#footnote-12). If enrollment takes place at a central intake location, there should be a sufficient number of individuals designated and trained in administering the HLS at that location. If the enrollment takes place directly at schools, each school should identify and train at least one person to administer the HLS.
* **Establish a record-keeping system.** HLSs provide useful information about ELs. Districts should file HLSs in students’ cumulative folders as a resource for educators. Districts should keep a record of the parents’ primary or preferred language for future communications.

If the district has an online registration system, it is important for the district to provide instructions and access to written translations of the HLS questions in parents’ primary or preferred language, to the extent practicable. The Department has made available translated versions of the HLS on its [website](https://www.doe.mass.edu/ele/resources/communications.html). Districts should also have registration processes in place for parents who do not have access to the web or who need support with completing the HLS.

## ***Step 3*: Screen the English proficiency of a student when the answer to any of the questions on the HLS is a language other than English.**

Districts must screen every newly enrolled student whose HLS indicates that there is a language other than English spoken at home**.** In other words, districts must administer a language proficiency screening test when the answer to any question on the HLS is a language other than English with the following limited exceptions:

* Students who were previously classified as ELs and were then reclassified as FELs in their former districts;
* Students who transferred from another district within Massachusetts;
* The only reason another language is referenced on the HLS is due to the student's enrollment in a world language course.

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| **Students who transferred from another WIDA state with ACCESS results from the last calendar year** |
| ACCESS score lower than 4.2 overall and 3.9 literacy score | No need to screen for English language proficiency. Code the student as an EL and start providing services. |
| ACCESS score 4.2 or higher overall and 3.9 or higher literacy score | No need to screen for English language proficiency. You can reclassify the student as FEL and start the 4-year FEL monitoring process. |
| ACCESS score lower than 4.2 overall and 3.9 literacy score, but the student met the exit criteria of the state they came from and reclassified as a FEL .​ | Massachusetts cannot accept the other state's reclassification determination based on their exit criteria. No need to screen for English language proficiency, but code the student as an EL and start providing services.​ |

### [**Parent Notification Regarding English Language Education**](https://www.doe.mass.edu/ele/resources/communications.html)

Districts will, at least annually, provide parents of ELs and potential ELs who just enrolled in the district with a notification that must be sent by mail **no later than 10 days from enrollment of the student in the school district**.This notification will include:

* a simple, easy to understand description of the purpose, method, and the content of the available ELE programs in the district;
* information regarding parents’ right to choose an ELE program among those offered by the district;
* information regarding parents’ rights to request a new language acquisition program in accordance with the law;
* information about available conferences or meetings for parents to learn about the ELE programs offered in the school district;
* information regarding parents’ rights to visit an ELE program in the school district; and
* information regarding the parents’ right to withdraw a student from a language acquisition program.

[Parent Notification Regarding English Language Education](https://www.doe.mass.edu/ele/resources/communications.html) template provided by the Department includes all the elements listed above.

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| --- |
| **Massachusetts state law specifies that "no person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of race, color, sex, gender identity, religion, national origin or sexual orientation." G.L. c. 76, § 5. Therefore, it is important that school districts ensure that their enrollment policies and practices do not discriminate against English learners.** ***See also*** [**Attorney General Advisory: Equal Access to Public Education for All Students Irrespective of Immigration Status**](https://www.mass.gov/info-details/attorney-generals-advisory-regarding-equal-access-to-public-education-for-all-students-irrespective-of-immigration-status?_gl=1*3q56gl*_ga*MzkwMDM2NDUxLjE1ODEzNTkzOTA.*_ga_MCLPEGW7WM*MTcwOTU3NTE5NS4xMC4wLjE3MDk1NzUxOTUuMC4wLjA.) **and DESE's** [**Welcoming Newcomer and Refugee Students & Families Memorandum**](https://www.doe.mass.edu/news/news.aspx?id=26713) **(March 8, 2022)** |

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## ***Step 4:* Determine whether the student is an EL using screening test results and make an initial placement decision.**

Districts should use the results of the language screening assessment to determine whether the student **is** or **is not** an EL.

Initial Identification of ELs in public school Pre-K programs[[12]](#footnote-13)

Under the definition of English learner in section 8101(20) of the Elementary and Secondary Education Act of 1965 (ESEA), a child may meet the definition of EL as young as age three. Therefore, it is the district’s obligation to administer the HLS to enrolling Pre-K programs. If the answer to any of the questions in the HLS is a language other than English, districts should [**Pre-K Screening Tool**](https://www.doe.mass.edu/ele/resources/prek-identification-screening-tool.docx)provided by the Department following the directions included. Any student who receives 4 or more “No” responses to the questions in the screening tool should be coded as EL, placed in an English learner program and begin to receive services that will target rapid English language acquisition.

Initial Identification of ELs in Kindergarten

All incoming Kindergarten students who have a language other than English on their HLSs must be screened with WIDA Screener for Kindergarten regardless of their EL or non-EL status when they were in Pre-K. Kindergarten students that enroll at the beginning of the school year will take only the Speaking and Listening components of the WIDA Screener for Kindergarten test. If a student enrolls in the district in the second half of the student’s kindergarten year, then the student will take all four components of the test: Listening, Speaking, Reading, and Writing. The results of the screening test will help guide ELE program placement determinations. Students whose HLS indicates a language other than English is spoken at home, but who were not classified as ELs based on their Listening and Speaking results in the first half of the kindergarten year, may take the Reading and Writing components of the test in the second half of the kindergarten year to determine whether or not they should be classified as an EL.

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| **Students who were identified as ELs in PreK, but do not qualify for ELE services based on the WIDA Screener for Kindergarten will NOT be considered FELs.** **They should be coded as non-ELs.​** |

### **Early Administration of WIDA Screener for Kindergarten**

WIDA Screener for Kindergarten is typically administered to students entering kindergarten either at the start of the school year (July to September) or to those entering during the school year. If the district is administering the WIDA Screener for Kindergarten to students preceding their initial enrollment in kindergarten, the earliest recommended testing window is from mid-April to June. Administration of the test earlier than mid-April may not support accurate decision-making about these young students’ English language development. For more information, please see [WIDA Screener for Kindergarten, Guidance for Administration During Kindergarten Registration](https://portal.wida.us/resource/detail/dd439645-ab53-ec11-a2d5-0050568b4ed0)[[13]](#footnote-14).

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| --- |
| **Districts should note that WIDA Screener for Kindergarten is the only screening tool that will be used for the identification of students as ELs in Kindergarten and incoming Grade 1.** |

Table 2: Initial Identification of ELs in Kindergarten

|  |  |  |  |
| --- | --- | --- | --- |
| **TEST** | **Kindergarten** | **DOMAINS ASSESSED** | **Not EL** |
| **WIDA Screener for Kindergarten** | First Semester | Listening;Speaking | Listening – at least Level 5; AND Speaking – at least Level 5 |
| **WIDA Screener for Kindergarten** | Second Semester | Listening; Speaking; Reading; Writing  | Listening – at least Level 5; AND Speaking – at least Level 5; ANDReading and Writing – at least Level 5 in one domain and at least Level 4 in the other |

### **Initial Identification of ELs in grades 1-12**

Any student who takes the WIDA Screener and scores an overall composite proficiency level **and** a composite literacy (reading/writing) proficiency level of 4.0 or below is an EL and is eligible for ELE services. Only students who achieve a 4.5 composite proficiency level **as well as** 4.5 composite literacy (reading/writing) proficiency level are deemed English proficient.

Students newly enrolled in the first half of Grade 1 will take WIDA Screener for Kindergarten, as the Screener Test Administration Manual recommends, and districts should use cut scores for the second semester of Kindergarten to determine eligibility for ELE services for such students.

Table 3: Initial Identification of ELs in grades 1-12

|  |  |  |
| --- | --- | --- |
| **GRADE** | **DOMAINS ASSESSED** | **Not EL** |
| **1-12** | All four | overall composite proficiency level 4.5 or higher**and**composite literacy proficiency level 4.5 or higher |

School districts must provide students who are identified as English learners with English learner education services so that they have the opportunity to participate meaningfully and equally in the district’s educational program ([G.L. c. 71A, § 4](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71A/Section4); [603 CMR 14.04](https://www.doe.mass.edu/lawsregs/603cmr14.html?section=04)).

### **Initial Identification of Students with Interrupted or Limited Formal Education (SLIFE)**

State law requires that ELE programs are designed to meet the linguistic and educational needs and the demographic characteristics of ELs in the school district. *See* [G.L. c. 71A, § 4](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71A/Section4). Districts should identify SLIFE students so that they can better meet the academic and linguistic needs of these students. SLIFE students should be coded in the Department's Student Information Management System (SIMS) using SIMS Data Element DOE41-01.

For more information about the definition of SLIFE, procedures to identify SLIFE and programming considerations, please see the [Massachusetts Students with Limited or Interrupted Formal Education (SLIFE) Definition and Guidance](https://www.doe.mass.edu/ele/slife/default.html).

## ***Step 5:* Notify parents and/or legal guardians of screening test results and initial placement decision.**

### **Notification for** [**English Language Education (ELE) Program Placement**](https://www.doe.mass.edu/ele/resources/communications.html)

Districts will provide parents of ELs identified for participation or participating in an ELE program, including identified Pre-K students, with a notification **within the first 30 days of the school year**.[[14]](#footnote-15) This notification will include:

* the reasons for the identification of their child as an EL and the need for the child’s placement in an ELE program;
* the child’s level of English proficiency, how such level was assessed, and the status of the child’s academic achievement;
* the methods of instruction used in the program in which their child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;
* how the program in which their child is, or will be, participating, will meet the educational strengths and needs of their child;
* how the program will specifically help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation;
* the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for English learners, and the expected rate of graduation from high school (including the four-year adjusted cohort graduation rates and extended-year adjusted cohort graduation rates for students in such a program) if funds are used for children in high schools;
* in the case of a child with a disability, how the ELE program meets the objectives of the individualized education program of the child; and
* information pertaining to parental rights that includes written guidance:
	+ detailing the right that parents have to have their child immediately removed from their ELE program upon their request;
	+ detailing the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and
	+ assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered.

[English Language Education (ELE) Program Placement](https://www.doe.mass.edu/ele/resources/communications.html) form provided by the Department includes all the elements listed above.

Districts will provide both notifications in a language that the parent can understand, to the extent practicable. Sample notification letters are available in English and other languages at <http://www.doe.mass.edu/ele/resources/communications.html>.

“Opt-out” Requests

The decision to opt-out must be voluntary and informed, and not the product of district practices or influence, the result of inadequate or inaccurate information, or inadequate district resources. In opt-out cases, the district must inform the parent or legal guardian of the services the child would receive in the district’s ELE programs, as well as the type of support that the district will provide to the student if the parent or legal guardian decides to opt-out. **Parents or legal guardians should revisit their decision to opt-out every year and submit a new request for the current academic year.**

If a parent of an EL decides to “opt out” of an ELE program, the district should place the student in an English language classroom with an SEI-endorsed teacher and maintain the parent’s opt-out notice for each year in the student’s file. Under federal law, districts must provide instructional support to ensure all ELs, including those whose parent(s) has chosen to “opt out” of ELE programs, have access to the curriculum and receive the same opportunities to master the academic standards and curriculum frameworks as their native English-speaking peers.[[15]](#footnote-16) Districts must also classify them as “ELs” on district reports, annually assess their language proficiency with the state mandated English language proficiency test ACCESS for ELLs and notify parents of their child’s participation in such assessments, as well as assessment results. Therefore, in practice, a parent’s choice to opt their child out of an ELE program ordinarily means their child will not receive separate English as a Second Language (ESL) instruction focused on language development, but the district will provide the necessary support and actively monitor the student’s progress to meet the student’s English language and academic needs. Districts may also provide additional literacy and language support through reading specialists qualified to teach ELs or establish structured opportunities for the students’ content area teachers to plan content area instruction in collaboration with a licensed ESL teacher.[[16]](#footnote-17)

Districts must also keep a record of how such students are provided meaningful access to the curriculum and how they are progressing academically. When a student demonstrates English proficiency through ACCESS for ELLs described in Part IV, districts should reclassify the student and document the change in the student’s EL classification, including evidence used to inform the reclassification, in the student’s record.

## ***Step 6:* Code the student as an EL in all future SIMS reports submitted to the Department until the student is reclassified as a Former English Learner (FEL).**

Districts submit data for the Department's Student Information Management System (SIMS) three times each year (i.e., in October, March, and June). Districts must code all students identified as English Learners on SIMS Data Element *DOE025* in all SIMS reports. The following SIMS Data Elements are also relevant to students identified as ELs. For more information about how to complete EL-related SIMS Data Elements, see the [SIMS Data Handbook.](http://www.doe.mass.edu/infoservices/data/sims/)

Table 4: SIMS Codes

| **SIMS CODES** | **VALUES** | **DESCRIPTIONS IN SIMS** |
| --- | --- | --- |
| **DOE021** |  | EL Students in their first year in U.S. schools |
| **DOE022** |  | Immigrant status |
| **DOE023** |  | Country of Origin |
| **DOE024** |  | First (Native) Language |
| **DOE025** |  | English Learner |
|  |  | Student is an English Learner |
| **DOE026** | 00 | Not enrolled in an English language education program |
|  | 01 | Sheltered English immersion - A full day of sheltered grade-level content instruction and English as a Second Language (ESL) instruction. Sheltered content instruction is content instruction that is modified such that an EL student may comprehend it and participate in the class at his or her level of English proficiency. All instruction and materials are in English. |
|  | 02 | Dual Language Education[[17]](#footnote-18)— A bilingual program designed to promote bilingualism and biliteracy, cross-cultural competency and high levels of academic achievement for both native English speakers and English learners from a single language background. |
|  | 03 | Other bilingual programs *—* Other bilingual instructional program for English learners (i.e., not Dual Language Education or Transitional Bilingual Education) |
|  | 04 | EL student whose parent/guardian has opted out of all ELE programs offered in the district. |
|  | 05 | Transitional Bilingual Education - An instructional program in which the native language of the EL student is used to support the student’s development of English and content learning and is then gradually phased out of instruction as a student’s English proficiency increases. |
| **DOE41** | 00 | Not SLIFE |
|  | 01 | SLIFE |

Districts must maintain records of each student enrolled in an ELE program. These records must include, but are not limited to, entry/exit information, ACCESS for ELLs and MCAS scores, screening test results, report cards and progress reports, documentation of monitoring for FELs and opt-out students and documentation of conferences and written communication with the parent.

# Part II: English Learner Education Program Development

Under state and federal law, English learners must be taught to the same academic standards and have the same opportunities as others to master such standards.[[18]](#footnote-19) Instruction provided to ELs must be appropriate for their individual English language proficiency level, while providing access to grade-appropriate content.

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| **A district that enrolls any number of ELs must plan, articulate, and implement an educational program and approach(es) designed to meet the academic and language development needs of its ELs. ELE programs must provide ELs with:** * **systematic, explicit, and sustained development of English as a Second Language (ESL), and**
* **meaningful participation in the district’s general educational program.**
 |

## **Castañeda’s Three-Pronged Test**

The Department will apply the [three-pronged test](https://www.doe.mass.edu/ele/resources/castaneda-three-pronged-test.docx) established by the United States Court of Appeals for the Fifth Circuit in *Castañeda v. Pickard* (*Castañeda*)*[[19]](#footnote-20)* to determine whether a school district’s ELE program complies with certain federal and state laws and regulations. The U.S. Department of Justice and the U.S. Department of Education’s Office for Civil Rights also use the three-pronged test to determine ELE program compliance under the federal EEOA and Title VI laws respectively[[20]](#footnote-21).The *Castañeda’s Three-Pronged Test* sets forth the following analytical framework that districts should consider in developing, implementing, and evaluating their ELE program and activities:

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| **Castañeda’s Three-Pronged Test** |
| * The educational theory underlying the language assistance program is recognized as sound by some experts in the field or is considered a legitimate experimental strategy.
* The program and practices used by the district are reasonably calculated to implement effectively the educational theory adopted by the district.
* The program succeeds when producing results indicating that students’ language barriers are actually being overcome.
 |

**Prong 1: The Educational Theory**

**The educational theory underlying the language assistance program is recognized as sound by some experts in the field or is considered a legitimate experimental strategy.**

Each district must define the educational approach(es) it will use to meet the academic and language needs of its EL population by providing ELs with systematic, explicit, and sustained English language development and meaningful participation in the district’s general educational program.

After the school district identifies a student as an EL, it must place the student in an ELE program. Massachusetts recognizes Sheltered English Immersion (SEI), Dual Language Education (DLE) and Transitional Bilingual Education (TBE) programs as sound for purposes of the Prong 1 of Castañeda test. When districts consider providing a program other than SEI, DLE or TBE, they will need to refer to the research that defines the program as sound and appropriate for the student population that it will serve.

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| The Department uses the term English language development (ELD) to describe all of the language development that takes place throughout the day in content classes and during the time dedicated to English as a Second Language (ESL) instruction:* **ELD in content:** English language development occurs in content classrooms that have at least one EL and in DLE classrooms where students receive content instruction in English. SEI- or Bilingual-endorsed, content-licensed educators shelter academic instruction and help ELs develop discipline-specific academic language and learn grade-level content along with their proficient English-speaking peers.
* **ELD in ESL**: English language development also occurs in ESL classes, when groups of ELs receive systematic, explicit, and sustained English language instruction. For more information about ESL instruction in Massachusetts, please see [ESL Instructional Support.](https://www.doe.mass.edu/ele/instruction/default.html)
 |

#### **ESL**

Districts must include ESL instruction in the implementation of their ELE program(s) to advance English language development and promote academic achievement of ELs. ESL instruction must provide systematic, explicit, and sustained language instruction. ESL instruction may focus on academic language and include social and academic language in all four domains, including listening, speaking, reading, and writing. Effective ESL instruction supports student success in school, including improvement of ACCESS for ELLs scores and acceleration of academic achievement. Effective ESL instruction also supports long term goals such as college, career, and civic readiness.

Districts have the flexibility to choose the ESL instructional delivery approaches(s) that are most suitable for their context and their students’ needs (self-contained, pull-out, push-in, co-teaching, or embedded). See DESE’s additional guidance on [ESL Instructional Delivery Approaches](https://www.doe.mass.edu/ele/esl-toolkit/fundamentals/delivery-approach/default.html). Regardless of the vision, setting, and methods for the program, ESL unit plans or an ESL curriculum should guide ESL instruction. See additional [guidance and resources](https://www.doe.mass.edu/ele/esl-toolkit/tools-resources/default.html) on High Quality ESL Curriculum Review, Design, and Evaluation.

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| **ACADEMIC TUTORING IN CONTENT SUBJECTS OR SHELTERING THE CONTENT FOR ELs IN A CORE CONTENT CLASSROOM IS NOT A SUBSTITUTE FOR** **ESL INSTRUCTION.** |

**Recommended Periods of ESL instruction for ELs Based on ACCESS for ELLs® Results (full-day Kindergarten through grade 12)**

| **ACCESS for ELLs Overall (Composite) Score** | **Recommended Periods of ESL Instruction** |
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| **Foundational****ACCESS Level 1 and Level 2**  | **At least two to three periods (a period is not less than 45 minutes) per day of direct ESL instruction, delivered by a licensed ESL teacher** |
| **Transitional****ACCESS Level 3 and Level 4**  | **At least one period (a period is not less than 45 minutes) per day of direct ESL instruction, delivered by a licensed ESL teacher** |

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| **Scenarios for Recommended Periods of ESL Instruction and ELP Levels​** |
| **Scenario** | **District/School Considerations** |
| A student scored a composite 3.3 on her last ACCESS administration and is scheduled for one period of ESL instruction with other Transitional-level students. She has been struggling to make progress in this setting, and her school is not sure how to support her with her language development.​ | Just because the student is at Level 3 does not mean that this student would not benefit from more ESL instructional time, especially if she is struggling. Her team of educators can look at multiple measures of the student’s progress and decide to provide more ESL until she starts showing adequate progress.​ |
| A student is in ESL 2 class at the district's high school, where he was placed because he scored a composite level 2.3 on ACCESS last year. Based on this year’s ACCESS administration, the student is again at a Level 2 (composite score 2.8). The high school team is trying to figure out which ESL class to schedule him for the next year. | The district should not place the student in ESL 2 class again just because the student has not moved to Level 3. The school-based team should consider other data points about the student's progress to determine the most beneficial ESL services. If he already passed ESL 2, this could include taking ESL 3 next year since he will not likely benefit from repeating the same class. ​ |
| A student is at Level 3 as measured with ACCESS (composite level 3.0-3.9), and she would like to enroll in AP Biology. ​ | English learners at all proficiency levels can benefit from advanced level courses with appropriate support. ​This student’s English proficiency level should not be a barrier to taking AP Biology, though she may need additional supports. |

**ESL Instruction for Kindergarten and Pre-Kindergarten (Pre-K) Students**

Children attending Kindergarten and Pre-K are developing language in general, and the level of English language acquisition will vary from child to child as with any developmental milestone. Districts should reflect on how children at this early age learn language and to what extent existing classroom practices are responsive to young children’s developmental needs. ESL teachers should be involved in the planning of English language development services for ELs at that age and those services should generally be provided in the context of an inclusive, language-rich classroom environment and actively support both social and academic language.

Districts should establish procedures to monitor the progress of ELs in Kindergarten and Pre-K in English language acquisition. ESL teachers assigned to fulfill monitoring activities of Kindergarten and Pre-K EL students in collaboration with other teachers teaching at these grade levels should carefully review the outcomes of the classroom practices provided to such students and adjust if necessary to meet these students’ linguistic needs.

#### **ELE Program Types**

##### **Sheltered English Immersion (SEI) program**

“[Sheltered English immersion](http://www.doe.mass.edu/ele/guidance/)'' is defined in G.L. c. 71A as “an English language acquisition process for young children in which nearly all classroom instruction and instructional materials are in English, but with the curriculum and presentation designed for children who are learning the language. Books and instruction materials are in English and all reading, writing, and subject matter are taught in English. Although teachers may use a minimal amount of the child's native language when necessary, no subject matter shall be taught in any language other than English, and children in this program learn to read and write solely in English.”

##### **Dual Language Education (DLE)**

A [DLE program](https://www.doe.mass.edu/ele/guidance/dle.docx) is a model designed to promote bilingualism and biliteracy, cross-cultural competency, and high levels of academic achievement for both native English speakers and ELs from a single language background. DLE programs are additive bilingual programs because all students develop and maintain their home language while adding a second language to their repertoire. They receive the same core content as all students in the state, and the instruction is in two languages throughout the program. From a program design perspective, DLE programs should begin in the early grades (PreK–K) and may continue through the secondary level.

##### **Transitional Bilingual Education**

The goal of [Transitional Bilingual Education (TBE)](https://www.doe.mass.edu/ele/programs/tbe.docx) is for ELs to be able to achieve long-term academic success through English-medium instruction in general education classrooms. Although teachers use the home language for instructional purposes, the transitional nature of the program does not support the further development of the students’ home language. Districts can initiate TBE programs at any level, including middle and high school.

#### **Starting a New ELE Program: SEI and Alternative Program Proposals**

The LOOK Act creates a new opportunity for districts to consider the programmatic needs of ELs. The Department recommends that districts examine their current ELE programs to determine whether they are the best choice to support ELs in developing their English language skills while they access grade-level content. It is possible that another ELE program can improve the quality of education for ELs when well implemented. Although the Department recognizes SEI, DLE and TBE as sound and effective ELE programs for meeting the linguistic and academic needs of ELs, one can be a more appropriate educational choice for a specific student population given their strengths and needs, and in response to requests from parents. Districts should make the decision to start a new ELE program in consultation with stakeholders after a careful analysis of available data and consideration of the strengths and needs of students involved.

The table below includes some scenarios to clarify when a district needs to submit an ELE program proposal to the Department with the following information:

* The new instructional program selected;
* How the new program meets the needs of the student population to be served;
* The number and expected qualifications of the program’s educators;
* The number, home language and English proficiency levels of students expected to be enrolled in the program; and
* A description of the current ELE program(s).

| **Scenario** | **Program Proposal Submission Requirement** |
| --- | --- |
| The district has: * SEI program in Grades K-12;
* Spanish Dual Language Education program in two separate elementary buildings;
* Transitional Bilingual Education (TBE) program in Portuguese at the high school; and
* Transitional Bilingual Education (TBE) program in Spanish at the high school.

The district is proposing a TBE Spanish program at a middle school for the following year. | **The district submits a program proposal for the TBE Spanish program in middle school.** |
| The district currently has a: Spanish DL program in one of its elementary schools.The district would like to start a Spanish DL program in a different elementary school.  | **The district submits a program proposal since the new Spanish DL program is at a different location.** |
| The district currently has an SEI program in Grades Pre-K - 12 and would like to start a new Dual Language Education Spanish program at one elementary school. | **The district submits a program proposal for the new Dual Language Education Spanish program at the elementary school.** |
| The district has a Dual Language Spanish program in K-5 and would like to expand the program to middle school. | **The district submits a program proposal for the expansion of the program to middle school.** |

The LOOK Act requires districts interested in offering a new ELE program to submit their proposal to the Department and to the district’s Parent Advisory Council for review. After consulting with the Parent Advisory Council, if applicable, districts should submit their proposal to the PQA Web-Monitoring/Web-Based Monitoring System (WBMS), an application link available in the Security Portal, the official website of the Commonwealth of Massachusetts, Executive Office of Education. The Department will review the proposal in two steps and determine whether the proposed program is well-designed, resourced, and is likely to be effective in supporting ELs to be successful in simultaneously developing language and learning grade-level content.

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| **Districts planning to start new SLIFE or Newcomer programs also need to submit a proposal to the Department.** |

#### **ELE Programming for Newcomers**

According to the U.S. Department of Education’s [Newcomer Toolkit](https://ncela.ed.gov/educator-support/toolkits/newcomer-toolkit) (June 2023), **newcomers** are “K-12 students born outside the United States, who have arrived in the United States in the last three years, and who are also still learning English. This designation is temporary.” They are a heterogenous group with different needs; some may arrive in the U.S. voluntarily, while others are forced to leave their home countries due to violence, war, or natural disasters (e.g., refugees or asylees). Some may adjust to life and school in the U.S. with relative ease, while others encounter significant challenges. In addition to facing challenges adjusting to a new life in America, newcomer students and their families are also adjusting to an education system and language that may be very different from their prior experiences. Schools and districts have the important responsibility of providing a safe, welcoming, and inclusive environment for newcomers and their families. In some cases, this may mean the development of a Newcomer Program; in other cases, it may mean serving newcomers through existing ELE programs, such as SEI, DLE, or TBE. In either case, it is important to understand newcomers’ backgrounds and unique needs and tailor academic and social-emotional supports to help meet their needs.

As described in the [U.S. Department of Education’s Newcomer Toolkit](https://ncela.ed.gov/educator-support/toolkits/newcomer-toolkit), a Newcomer Program refers to a specially designed program within a public school for newcomer students. These programs are temporary, with students moving into general education classrooms as soon as possible, generally within a year of entering the program. There should be clear entrance and exit criteria for students in the program, along with a common vision for culturally and linguistically sustaining practices that attend to newcomers’ conceptual, analytic, and language practices simultaneously, while also providing social-emotional supports and engaging families and community partners with the goal of promoting a sense of belonging for newcomers and their families in the school community. In the design of Newcomer Programs, districts should pay special attention to identifying opportunities for newcomers in these programs to be integrated with non-EL peers and should establish clear processes for newcomers’ transition to mainstream programs or postsecondary options. See below, under ”Prong 2: Implementation” for more guidance about how to structure self-contained programs, like Newcomer Programs, in the least segregative manner. Districts that wish to start new ELE programs specifically for newcomers must complete the new ELE program proposal process, while districts that educate newcomers in existing ELE programs do not.

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| **For districts considering the formation of a Newcomer Program, see the U.S. Department of Education’s** [***Newcomer Toolkit***](https://ncela.ed.gov/educator-support/toolkits/newcomer-toolkit) **(June 2023),** [**Chapter 4: Providing High-Quality Instruction for Newcomers**](https://ncela.ed.gov/sites/default/files/2023-09/NewcomerToolkit-Ch4-09152023-508.pdf) **for helpful guidelines about key components of Newcomer Programs, with examples of processes and practices.****See also** [**“A Memo from the Commissioner: Welcoming Newcomer and Refugee Students and Families”**](https://www.doe.mass.edu/ele/resources/2022-0406welcoming-newcomer-refugee.docx) **(April 6, 2022) and** [**“Enrolling and Supporting Newcomer Students in Massachusetts Schools & Districts Frequently Asked Questions.”**](https://www.doe.mass.edu/ele/guidance/newcomer-faq.docx) |

#### **ELE Programming for Students with Limited or Interrupted Formal Education (SLIFE)**

**SLIFE (students with limited or interrupted formal education)** are English learners, ages 8-21, who have gaps in their education from their home country due to no formal schooling, interruptions in formal schooling defined as at least two or fewer years of schooling than their typical peers, or consistent but limited formal schooling (e.g., school days were significantly shorter or compulsory education ended earlier than in the U.S.). SLIFE may have emerging literacy skills in home language and/or English and need intensive supports to strengthen foundational skills in literacy, numeracy, and other content areas. They are often at risk of dropping out of school and may need intensive support. In some districts, SLIFE are placed in existing ELE programs, such as SEI or transitional bilingual education, and receive additional support to close the educational gaps in their academic background. Other districts specifically design ELE programs for SLIFE, such as programs that include high intensity English and/or home language instruction. These may be part of, or separate from, Newcomer Programs. Districts that wish to start new ELE programs specifically for SLIFE must complete the new ELE program proposal process, while districts that educate SLIFE in existing ELE programs do not.

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| **Please see** [**Massachusetts Students with Limited or Interrupted Formal Education (SLIFE) Definition and Guidance**](https://www.doe.mass.edu/ele/slife/default.html) **to learn about the guiding principles, tools, and resources for district success with SLIFE.****See also** [**“Understanding and Supporting Students with Limited or Interrupted Formal Education (SLIFE) in Massachusetts: A Review of Literature”**](https://www.doe.mass.edu/ele/slife/literature-review.pdf) **(November 4, 2022).** |

#### **Preliminary Proposal**

Districts must submit a preliminary proposal by **November 15** for ELE programs they plan to implement in the next academic year. A successful preliminary proposal includes a short description of the proposed ELE program, information regarding the demographics of the student population to be served, an analysis of the district’s current ELE program(s) based on the Castañeda’s Three-Pronged Test and a confirmation of submission of the proposal to the district’s English Learner Parent Advisory Council (ELPAC), and consultation with the ELPAC, if applicable. The Department will review the preliminary proposal and determine whether it demonstrates thoughtful, comprehensive, and informed planning. Districts with a preliminary proposal demonstrating such planning will move forward and submit a complete proposal by **January 1**. The Department developed the process in the WBMS with practicality and efficiency in mind to encourage districts to consider their options when planning ELE services for their ELs. All districts that have a preliminary proposal that demonstrates appropriate planning will receive technical assistance from the Department before they submit their full ELE program proposal to support their efforts in developing well-designed ELE programs.

In some cases, the Department will determine that additional planning is necessary before the district can move forward with a proposal. In those instances, the Department will provide technical assistance to help the district prepare to submit an updated preliminary proposal in a future year.

#### **Complete Proposal**

The complete ELE program proposal provides an opportunity for the district to fully describe their proposed program design, and importantly, consider how the proposed program will complement existing district structures and supports for ELs. The complete proposal also requires districts to consider how they will achieve Prong 3 of the Castañeda test related to proving the effectiveness of the program’s ability to develop ELs’ English language skills. Taken with the preliminary proposal, the complete proposal helps new ELE programs in the Commonwealth meet the needs of the ELs that they serve.

The LOOK Act requires districts to submit their complete ELE program proposals to the Department by **January 1** of the year they plan to start the implementation of the program. A district that intends to offer a new sheltered English immersion or alternative English learner instructional program in the next academic year must consult again with the ELPAC before the complete proposal is submitted for the Department’s review. The Department will review the information submitted by the school district pursuant to 603 CMR 14.04(4). If the Department finds that a proposed ELE program fails to meet the requirements of federal or state law, it will notify the school district in writing within 90 days. The notice will cite the requirements with which the program would not comply and include corrective actions. The district will have 30 days to submit a revised proposal that incorporates such corrective steps. The Department will review the revised proposal to determine if the school district has incorporated the corrective steps the Department identified and will notify the school district in writing if it may commence the program with or without conditions. A school district that was required to take corrective steps will not commence a proposed ELE program unless it has received written notification from the Department that it may do so.

#### **Enrollment of an EL for the First Time**

Districts that enroll an EL for the first time must provide language assistance services to the EL without delay. Such districts should contact the Department for guidance on how to initiate ELE services and complete the ELE program proposal process.

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| **A quick reference guide for SEI and alternative program proposals is available on the** [**Department’s website**](http://www.doe.mass.edu/ele/resources/program-dev-eval.html)**.** |

### **Prong 2: Implementation**

**The program and practices used by the district are reasonably calculated to implement effectively the educational theory adopted by the district.**

Once the district has determined the program type it will use to meet the academic and language needs of its ELs, it needs to provide the necessary resources to implement the program including qualified instructional and support staff, ESL and content curricula, instructional equipment and materials and instructional space.

**Avoiding Unnecessary Segregation for ELs:** While some ELE programs may require that ELs receive separate instruction for a limited period of time (such as a newcomer program), the Department expects districts to carry out their chosen ELE programs in the least segregative manner. Although there may be program-related educational justifications for providing a degree of separate academic instruction to ELs, these programs should be voluntary and the district should create opportunities for ELs to be with their English-speaking peers during lunch, recess, extracurricular activities and in classes such as physical education, music, and art.

It is important for districts to establish entry and exit criteria into self-contained programs and have systems for regularly monitoring students’ progress to allow appropriate transitions out of the newcomer ELE program and to avoid unnecessary segregation. Districts should note that self-contained program placements should be planned for a limited duration, generally for one year.

Districts must provide ELs in self-contained programs with equal access to grade level curricula, special education, and extracurricular activities. Please, see English Learner Tool Kit (U.S. Department of Education), [Chapter 5: Creating an Inclusive Environment and Avoiding Unnecessary Segregation.](https://ncela.ed.gov/files/english_learner_toolkit/5-OELA_2017_inclusion_rev_508C.pdf)

**Instructional and Support Staff:** Districts should identify the number of instructional and support staff appropriate to implement the district’s ELE program (e.g., qualified teachers, interpreters, translators, and others). Educators who teach ELs must hold an appropriate license or current waiver issued by the Department. Districts must also take steps to ensure that core academic teachers providing sheltered English instruction to one or more ELs and principals/assistant principals or supervisor/directors (for example, the department head) who supervise or evaluate such teachers have or obtain their SEI endorsement. Similarly, “career vocational technical teachers” providing sheltered English instruction to one or more ELs and principals/assistant principals or supervisors/directors who supervise or evaluate such teachers must have or obtain the SEI Endorsement in accordance with the timelines specified in 603 CMR 14.08. Prior to the beginning of each school year, districts, including charter schools shall verify that each of the educators in an English learner program is properly endorsed for that program.

A core academic teacher assigned to provide instruction to an EL in a bilingual education setting, such as DLE or TBE programs, must be properly qualified in the field and grade level of the assignment. Furthermore, such a core academic teacher responsible for the instructional component provided in a language other than English should hold the Bilingual Education Endorsement or a valid waiver issued by the Commissioner. Core academic teachers responsible for the instructional component provided in English must have either the Bilingual Education Endorsement or the SEI Endorsement. Similarly, a principal/assistant principal, or supervisor/director who supervises or evaluates a core academic teacher assigned to provide instruction to an EL in a bilingual education setting must hold the Bilingual Education Endorsement or the SEI Endorsement.

[**ESL**](https://www.doe.mass.edu/ele/esl-toolkit/tools-resources/curriculum-review-rubric.docx) **and Content Curricula:** Regardless of the ESL approach, method, or setting of instruction (pull-out, push-in, co-teaching, embedded, or self-contained), districts must provide ELs with subject matter content and ESL instruction aligned to the Massachusetts Curriculum Frameworks and the WIDA ELD Standards Framework. Whether it is district-developed or purchased, an ESL curriculum that addresses the English language needs of the EL population at all levels is integral to an effective ELE program in which ELs become English proficient at a rapid pace. The Department supports curricula that are coherent, aligned to state standards, and efficacious. To assist districts in their efforts to teach ELs with high-quality instructional ESL curricula and materials, the Department developed a review process that supports a school district’s evaluation of:

* Whether materials provide a full year’s worth of dedicated ESL instruction, given the Massachusetts Definition of ESL Instruction,
* Whether ESL instructional materials are aligned to the WIDA English Language Development Standards Framework, 2020 Edition (henceforth known as the ELD Framework)–and integrated with the Massachusetts Curriculum Frameworks, and
* Quality of ESL instructional materials, as interpreted through the [HQIM-NGESL rubric.](https://www.doe.mass.edu/ele/esl-toolkit/tools-resources/curriculum-review-rubric.docx)

**Instructional Equipment and Materials:** Districts must also identify and make available the materials and resources such as specialized books and equipment as needed to implement the ELE program in the district. Instructional materials provided to ELs should be equivalent to the ones provided to the other students in the district.

**Instructional Space:** Districts are required to educate ELs in appropriate facilities, comparable to the facilities provided to non-ELs.

**Prong 3: Program Evaluation**

**The program succeeds when producing results indicating that students’ language barriers are actually being overcome within a reasonable period of time.**

It is not enough that the program be well-planned, articulated, and resourced appropriately. It must also be effective.

Every district in Massachusetts must conduct periodic evaluations of its ELE program **at least every two years** to determine whether the program is efficient in developing students’ English language skills and increasing their ability to participate meaningfully in the district’s general educational program. Where the district determines that the program is not effective, it must take steps to make appropriate program adjustments or changes that are responsive to the outcomes of the program evaluation.

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| **A** [**sample program evaluation tool**](https://www.doe.mass.edu/ele/resources/castaneda-three-pronged-test.docx) **districts can use is available on the Department’s website.** |

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# Part III: ELE Services for ELs

After the identification of a student as an EL, the school district must place the student in an English language education (ELE) program. G.L. c. 71A requires that students classified as ELs receive ELE services in a program that will meet their linguistic and academic needs. The requirement to provide ELE services to ELs applies to all districts that enroll one or more ELs.

Districts must prioritize students’ linguistic needs when they assign them to an ELE program and plan the level of services students will receive when they first enroll. WIDA Screener results and a review of students’ previous academic records (if available) will produce initial English proficiency information about a student. The ELE program provided should incorporate flexibility to make adjustments in service delivery based on the additional data gathered following the initial placement.

Parents of ELs may submit a request to the district for the placement or transfer of their child into a specific ELE program available in the district as long as the program is appropriate for the age and grade level of the student. The superintendent or the superintendent’s designee must review such requests and respond to them in no more than 20 school days after the receipt of the request.

EL parents may also request the implementation of a specific ELE program. When parents of at least twenty ELs submit such a request, districts must provide the parents with a response in no later than 90 days and either offer a plan for the implementation of the requested program or deny the request in writing with an explanation of the denial.

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| **English Learners with Disabilities****Some ELs may have disabilities and qualify for special education services. Language development programming and special education programming are not mutually exclusive and all ELs must receive all services, supports, resources, and programming for which they are eligible.** **Please see the Department’s** [**Guidance for Supporting ELs with Disabilities**](https://www.doe.mass.edu/ele/guidance/disabilities.docx) **for more information.** |

## **Access to Curricular and Extracurricular Programs and Activities**

School leaders and teachers are responsible for making the challenging academic standards accessible to students who are learning rigorous academic content while learning the language of the content instruction. Instructional content for ELs must be age-appropriate and standards-based. Districts must award ELs credit that will count towards graduation and promotion upon successful completion of the coursework.

ELs must have equal access to all educational program opportunities and instructional programs or extracurricular activities available within the school for which they qualify. Their level of English proficiency does not determine participation in academic programs and services including career and technical education programs, counseling services, special education services, gifted and talented programs, performing and visual arts, athletics, and any elective classes offered in the school. For instance, unless a particular GATE (Gifted and Talented Education) program or advanced course requires proficiency in English for meaningful participation, schools must ensure that evaluation and testing procedures for GATE or other specialized programs do not screen out ELs because of their limited English proficiency.

Districts must locate, identify, and evaluate ELs who may have a disability in a timely manner and may need special education services or disability-related services under Chapter 71B of the General Laws, the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973. To avoid inappropriately identifying ELs as students with disabilities because of their limited English proficiency, districts must assess ELs in their home language and in the form most likely to yield accurate results of the student’s abilities, unless it is clearly not feasible to do so.

ELs also have a right to receive any guidance and counseling offered by the district in a language they can understand, including, e.g., academic, psychological, college and career counseling as provided by the school psychologist, school adjustment counselor/social worker, guidance counselor or career counselor.

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| **Districts must ensure that ELs across all levels of language proficiency can access and fully engage with the rigorous grade-level standards.** |

## **Monitoring Progress of ELs**

The district must have an adequate system in place to screen, track, and evaluate ELs’ growth in both English proficiency and academic achievement by using diagnostic, formative, interim, and summative assessments. The Department recommends districts provide training for their staff to allow them to effectively administer and analyze the assessment data.

**Annual Summative Assessment: ACCESS for ELLs**

As noted earlier, federal and state laws require districts to assess ELs annually to measure their proficiency in reading, writing, listening, and speaking English, as well as the progress they are making in learning English.

ACCESS for ELLs is based on the WIDA English Language Development standards and administered once annually to ELs in K-12 in January-February. It is a standards-based, criterion-referenced English language proficiency test designed to measure ELs' proficiency in English. It assesses social and instructional English used within the school context as well as the language associated with language arts, mathematics, science, and social studies across the four language domains (listening, speaking, reading, and writing). The scores produced by ACCESS for ELLs will identify which proficiency level an EL has achieved at the time of the assessment (mid-year) in each of the single domains of speaking, listening, reading, and writing and the composite areas of literacy, oral language, comprehension, and overall proficiency.

Staff who will be administering ACCESS for the first time must complete training and certification prior to the ACCESS testing window. Training and certification are required every two years for all tests being administered, including MCAS.

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| **For further information about ACCESS for ELLs testing, please visit** [**http://www.doe.mass.edu/mcas/access/**](http://www.doe.mass.edu/mcas/access/)**.** |

### **Interim assessments**

Establishing rigorous monitoring systems that include periodic benchmarks of English language development allows districts to monitor ELs’ progress over time, determine when students are not making appropriate progress, and provide additional support to enable ELs to reach English proficiency and gain grade level content knowledge.

Districts can use the WIDA MODEL as an interim assessment up to two times a year to track English language proficiency progress of the students. Districts can also choose other interim assessments to monitor EL progress in English language acquisition throughout the year. In case these are commercial assessments, then districts should follow the testing guidelines provided. Interim assessments are not required but can produce valuable information for educators. The district should balance the need for this type of information with the time required to administer the assessments. Robust formative assessment practices classrooms will also provide valuable information on students’ language development.

### **Formative Assessments**

Formative assessment practices are an integral component of monitoring students’ progress toward objectives and goals. Districts should integrate formative assessment practices into the ongoing teaching and learning. This dynamic process of assessment, timely feedback, deployment of expert scaffolding, and adjustment of instruction enables teachers to adjust teaching through formative moves that help students make progress toward goals. Moreover, formative assessments can create a teaching and learning space that also acknowledges that language development is not a simple linear process, but rather a more complex series of actions that requires sustained, explicit, and systematic processes of feedback, scaffolding, and constant adjustment through meaningful interaction. Ongoing formative assessments accompanied by effective teacher feedback also give students a steady flow of information about their learning in relation to instructional goals. Training in formative assessment for teachers of ELs is a valuable investment.

## **Benchmark Requirements**

English language proficiency benchmarks for ELs support district staff to strengthen student outcomes for ELs. The Department will annually determine the English language proficiency benchmarks for individual ELs and provide them to each district every fall. Meeting benchmarks means that an EL is on track to attain English proficiency within six years of entering a Massachusetts public school. The Department will define and disseminate to districts each fall the English language proficiency benchmarks, or individual targets, for each student’s annual progress toward English proficiency. For more information about benchmark requirements, please see [Guidelines for the Use of Benchmarks toward Attaining English Proficiency](http://www.doe.mass.edu/ele/guidance/benchmark-guidelines.docx).

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| **The LOOK Act establishes the following requirements for districts:*** **Adopt procedures to identify ELs who do not meet English proficiency benchmarks;**
* **Establish a process for the district to:**
* **identify the areas in which identified ELs need improvement and establish personalized goals for attaining English proficiency;**
* **assess and track the progress of ELs who did not meet benchmarks in the identified areas in need of improvement;**
* **review resources and services available to assist ELs in the identified areas in need of improvement; and**
* **incorporate input from the parents or legal guardian[[21]](#footnote-22) of the identified EL.[[22]](#footnote-23)**
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## **Students in Out-of-District Placements**

Some English learners may be served in out-of-district placements, such as approved private special education schools. The state special education regulations at 603 CMR 28.06(3)(b) state that “the school district is required to monitor the provision of services to and the programs of individual students placed out-of-district. Documentation of monitoring plans and all actual monitoring shall be placed in the files of every eligible student who has been placed out-of-district. To the extent that this monitoring requires site visits, such site visits shall be documented and placed in the students' files for review. The duty to monitor out-of-district placements cannot be delegated to parents or their agents, to the Department, or to the out-of-district placement. The school district may, however, contract directly with a person to conduct such monitoring.”

The school districts should make sure that:

* + - * Parent notification letters as described in this document are sent to parents.
			* Students in out-of-district placement participate in ACCESS for ELLs testing as appropriate.
			* Students receive all services to which they are entitled.
			* Former English learners and students whose parents have opted them out of English learner services are monitored to make sure they receive the support they need to be successful in academics and English language acquisition.
			* They comply with all other applicable federal and state requirements.

# Part IV: Reclassification of ELs

Districts must annually assess ELs’ language proficiency and academic achievement to determine whether such students have achieved English language proficiency and **must be reclassified as former ELs**. Exit from EL status is an important decision because a premature exit may place a student who still has linguistic needs at risk of academic failure, while unnecessary prolongation of EL status (particularly at the secondary level) has consequences as well since it can limit educational opportunities, lower teacher expectations, and demoralize students.

## **ACCESS for ELLs Reclassification Criteria**

School-based teams must review the annual ACCESS for ELLs results when making placement or reclassification decisions for ELs. Districts should not reclassify students based on the number of years an EL has been in an ELE program or their disability.

**Students with an overall score of 4.2 or more and a composite literacy score of 3.9 or more on ACCESS** **for ELLs** have acquired enough English language skills to be reclassified by the district. Such students must be reclassified as former English learners (FELs).

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| **All students who reach an overall composite score of 4.2 and a composite literacy score of 3.9 or more on the ACCESS for ELLs test must be reclassified as former English learners (FELs).** |

## **Alternate ACCESS for ELLs (ACCESS ALT) Reclassification Criteria[[23]](#footnote-24)**

The U.S. Department of Education’s Title III Office has strongly encouraged states to develop statewide processes for exiting students who take alternate English language proficiency assessments. Criteria for reclassification as a former EL (FEL) must include minimum scores on the ACCESS ALT assessment and may include other state-defined considerations.

While this section focuses on the criteria for reclassifying ELs who take the ACCESS ALT assessment, the larger context is that school districts have a duty to properly identify and serve all ELs with disabilities, including those with the most significant cognitive disabilities. For example, under the Individuals with Disabilities Education Act (IDEA), school districts must make sure that any “assessments and other evaluation materials used to assess a child under this section -- (i) are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer; (iii) are used for the purposes for which the assessments or measures are valid and reliable; (iv) are administered by trained and knowledgeable personnel; and (v) are administered in accordance with any instructions provided by the producer of the assessments.” [[24]](#footnote-25)

The ACCESS ALT has been the state’s language proficiency assessment for the very limited number of ELs who qualify as among those with the most significant cognitive disabilities[[25]](#footnote-26). For each such student, districts must **first** consider the results of the ACCESS ALT to identify the student as a potential candidate for reclassification from EL status. If a student meets the minimum criteria on the ACCESS ALT assessment, the School-Based Language Team[[26]](#footnote-27) must also consider [**English Language Proficiency Observation Forms**](https://www.doe.mass.edu/ele/resources/access-alt-guidance.docx) completed by the student’s special education and English as a Second Language (ESL) teachers to determine whether the student has achieved English language proficiency and is ready to exit ELE services.

In Massachusetts, an EL student who takes the ACCESS ALT is eligible to exit ELE services and be reclassified as a former EL (FEL) when the student meets the criteria outlined in Table 1. Before exiting an EL student who took the ACCESS ALT test from ELE services, the School-Based Language Team must determine that the student has achieved English language proficiency by meeting the criteria outlined below.

**Criteria for Making Exiting Decisions for ELs**

**Who Take the ACCESS ALT Assessment**

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| **All of the following criteria must be met****for an EL student who takes the ACCESS ALT assessment****to be eligible for reclassification as a former EL (FEL)**  |
| 1. **The student must have participated in the ACCESS ALT Assessment and**

 **attained, at minimum, the following score:** **Level P2 – Overall Composite**1. **The student must have achieved a score of 12 on the English Language Observation Forms completed both by the student’s special education teacher and ESL teacher.**
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The School-Based Language Team should have strong two-way communication with parents/guardians of ELs about exiting decisions. If the parents/guardians have limited English proficiency, the School-Based Language Team must communicate with parents/guardians in their primary language about exiting decisions.

The School-Based Language Team must complete the [Reclassification Form for ACCESS ALT](https://www.doe.mass.edu/ele/resources/access-alt-guidance.docx),to be maintained by the district, documenting all of the data and information considered when determining that the student was ready to exit from EL status, including the scores on the ACCESS ALT assessment.

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| **\*After years of test development, the redesigned Alternate ACCESS for ELLs is launching for the 2023–24 WIDA testing year. As part of the redesign, WIDA is retiring the name Alternate ACCESS for ELLs. The new name of the assessment is WIDA Alternate ACCESS.** **The Department will update this guidance and provide the new cut scores for the WIDA Alternate ACCESS as soon as the data analysis is completed.****DISTRICTS WILL NOT START RECLASSIFICATION PROCESS BEFORE THE DEPARTMENT PROVIDES CUT SCORES FOR WIDA ALTERNATE ACCESS.** |

## **Former ELs (FELs)**

After evaluating the available student data, if the student is eligible for reclassification the team should remove the EL classification and change the student’s language proficiency status in the next SIMS district report.

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| **When a student is reclassified as FEL, the district must:*** remove the student’s coding as EL on the SIMS report to the Department (i.e., SIMS: *DOE025* – record 00 under “EL”). Typically, this decision will be made before the start of the following school year, in time for the October SIMS data collection;
* notify the parent/guardian of the change in the student’s classification;
* update all relevant school/district records as appropriate; and
* design and implement a process for routinely monitoring the students’ academic progress for four years[[27]](#footnote-28).
* design and implement a process to ensure that FELs have meaningful access to grade level content instruction and any academic deficit they may have while acquiring English is remedied.
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## **Monitoring the Progress of FELs**

Districts must monitor FELs for four years to ensure that they have not been prematurely exited; any academic deficits incurred as a result of participating in the EL program have been remedied; and they are meaningfully participating in the standard program of instruction comparable to their never-EL peers. In order to accomplish these goals districts need to establish robust and rigorous procedures that may include:

* regular, structured meetings between an ESL teacher and the students’ content instruction teachers and/or the school-based language assessment team to discuss the student’s academic progress;
* regular observations of student participation and performance;
* support systems to maximize learning opportunities in content classes;
* conversations with parents about student’s academic performance and English language development.

In addition, schools serving FELs should consider:

* assigning FELs, at least initially, to SEI endorsed teachers licensed in the appropriate content area;
* providing regular, structured times during the school day or week for sheltered content area and ESL teachers to plan instruction collaboratively for FELs;
* providing additional opportunities for the student to participate in small group instruction and learning throughout the school day, as well as after school and during the summer; and
* designing and providing additional individualized learning support and opportunities to check on academic progress.

If some FELs fail to make academic progress, as measured by their grades and content area assessments after their classification as ELs has been removed, and if a school-based team familiar with these students determines that this failure is due to the lack of English proficiency, then districts must rescreen the student to see if the

student must be offered additional ELE services. If the student is reentered into EL services, the district should document the reasons why as well as the parent’s consent to reentry.

# Part V: Parent Empowerment

**Home Language Survey**

When parents enroll their child in a public school, they are asked to complete a home language survey (HLS) that helps the school identify potential ELs and learn the parents’ primary or preferred language of communication.

Districts should inform parents about the importance of the HLS and provide them with assistance, if needed, to complete the HLS. In the absence of reliable information on the HLS, children who need ELE services to attain English proficiency may initially be missed in the process and placed in classrooms where no language support is available. Consequently, students may lose access to needed sheltered content and ESL instruction.

Districts may also provide families with information about topics related to children learning two or more languages, the benefits of being bilingual, the value of maintaining home language, and the value of becoming fully bilingual. Parents may also be informed that services that their children may be eligible for will help them be successful in their academic journey.

**Parent Notification Letters**

School districts must timely identify ELs and inform their parents about their children’s English language proficiency screening results, their parental rights, and ELE programmatic options. Parent notification letters should also be sent home annually thereafter to communicate the progress the child is demonstrating at acquiring English and their current EL status.

When a student does not meet English language proficiency benchmarks, the parent can provide input on the child’s [personalized goals](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71A/Section11).

Should the child meet the exit criteria and be reclassified as former EL, the parents should be notified regarding the student’s new placement.

For more information about parent notification letters, please see pages [13 and 14](#_Step_5:_Notify) of this guidance document.

**Opt-out Requests**

Parents of ELs may notify the districts of their wish to have their child “opt out” of ELE programs. The decision to opt out must be voluntary and informed. Parents should revisit their decision to opt out every year and submit a new request for the current academic year. For more information about opt-out requests see page 16.

## **Parental Input in Programmatic Decisions**

The parent of a student eligible to enroll in an ELE program may select any available ELE program offered by the district appropriate for the age and grade level of the student. If the program the parent requests would require the student to transfer to a different school within the district, the transfer request needs to be submitted using [the template](https://www.doe.mass.edu/ele/resources/communications.html) provided by the Department for the superintendent’s approval.

Parents may also request the implementation of a specific ELE program in the school district. If the district receives such a request from the parents of at least twenty students, it needs to respond to the request no later than 90 days by either providing a plan for implementation of the requested program, or a denial of the request, in writing, including an explanation of the denial.

## **English Learner Parent Advisory Councils**

Families and their communities foster a child’s academic and social and emotional development and growth. As such, collaborative partnerships among schools, families, and community organizations are crucial to student engagement and success. One way for schools to form partnerships with parents of ELs is to establish [English Learner Parent Advisory Councils (ELPACs)](https://www.doe.mass.edu/ele/guidance/elpac.docx) to promote and support the success of ELs.

A school district or charter school operating a language acquisition program serving 100 or more ELs or in which ELs comprise at least five percent of the district’s or charter school’s student population, whichever is less, are required to establish an ELPAC. Additionally, ELPACs are also required in each school designated as “underperforming” or “chronically underperforming” and operating a program for ELs. ELPACs are intended to advise school districts, school committees, boards of trustees, and schools regarding matters that pertain to ELs, such as providing advice on ELE programs, meeting regularly with school officials about educational opportunities for ELs, and providing input on school or district improvement plans as they relate to ELs.

## **Translation and Interpretation Services**

For information about communicating with parents who are limited English proficient, please see [Information for Limited English Proficient (LEP) Parents and Guardians and for Schools and School Districts that Communicate with Them](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-lep-parents-201501.pdf) and [Ensuring Meaningful Communication with Limited English Proficient Parents](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf).

# Conclusion

The Department’s guidance intends to support districts and ELE educators in serving ELs by creating successful ELE programs and reevaluating policies and practices to support districts in designing and implementing strong programs that comply with federal and state laws and regulations. The Office of Language Acquisition (OLA) looks forward to assisting districts in their efforts to develop ELE programs with a firm foundation for the success of ELs in schools and in their postsecondary path of choice.

1. See glossary of <https://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiguidenglishlearners92016.pdf> [↑](#footnote-ref-2)
2. Please see [G.L. c. 71A, § 2](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71A/Section2). [↑](#footnote-ref-3)
3. For more information on state educational agency (SEA) and school district obligations to ELs, the Department strongly encourages school officials and interested others to review the joint U.S. Department of Education (USDOE) and U.S. Department of Justice (USDOJ) EL policy document entitled *Dear Colleague Letter, English Learner Students and Limited English Proficient Parents (01/7/2015)* (referred to as “*Dear Colleague letter*” hereafter) at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf>. In preparing this document, the Department has drawn from the *Dear Colleague letter* for discussion of federal law and policy. [↑](#footnote-ref-4)
4. G. L. c. 71A; 603 CMR 14.00. [↑](#footnote-ref-5)
5. For more information on state educational agency (SEA) and school district obligations to ELs, the Department strongly encourages school officials and interested others to review the joint U.S. Department of Education (USDOE) and U.S. Department of Justice (USDOJ) EL policy document entitled Dear Colleague Letter, English Learner Students and Limited English Proficient Parents (01/7/2015) (referred to as “Dear Colleague letter” hereafter) at http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf. In preparing this document, the Department has drawn from the Dear Colleague letter for discussion of federal law and policy. [↑](#footnote-ref-6)
6. G. L. c. 71A; 603 CMR 14.00. [↑](#footnote-ref-7)
7. The EDWIN Analytics system contains a mechanism for requesting historical MCAS and ACCESS data about a recently enrolled student who transferred from another district in Massachusetts. For more information about requesting or “claiming” transferred student assessment data from EDWIN Analytics, email edwin@doe.mass.edu. [↑](#footnote-ref-8)
8. Parents may choose to opt their child out of ELE services. Please see section 5, which discusses opt-out requests in detail. [↑](#footnote-ref-9)
9. Under Title III of the ESEA, as amended by ESSA [Section 3121(a)(5)], LEAs must report on the number and percentage of former ELs meeting state standards for four years. For more information, see section J of the [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)](https://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiguidenglishlearners92016.pdf)  (U.S. Department of Education, Office of Elementary and Secondary Education, September 2016). [↑](#footnote-ref-10)
10. Please see the Home Language Survey document. Translated versions of this document are online at <http://www.doe.mass.edu/ele/resources/communications.html>. [↑](#footnote-ref-11)
11. The term “parent” as used in this document shall mean father, mother, or legal guardian. [↑](#footnote-ref-12)
12. The USDOE and USDOJ[*Dear Colleague Letter*](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf)(see footnote 1) states at p.18 that “…school districts must provide EL students equal opportunities to meaningfully participate in all programs and activities of the…district – whether curricular, co-curricular, or extracurricular. [fn omitted] Such programs and activities include pre-kindergarten programs….” [↑](#footnote-ref-13)
13. Please log in to the WIDA Secure Portal to access the [WIDA Screener for Kindergarten, Guidance for Administration During Kindergarten Registration](https://portal.wida.us/resource/detail/dd439645-ab53-ec11-a2d5-0050568b4ed0). [↑](#footnote-ref-14)
14. If initial identification of a student as an EL occurs during the school year, this notification must be provided to parents within the first two weeks of the student’s enrollment in an ELE program. [↑](#footnote-ref-15)
15. Title VI of the Civil Rights Act of 1964 (Title VI); Equal Educational Opportunities Act of 1974, 20 USC §1703(f) (EEOA). [↑](#footnote-ref-16)
16. *Dear Colleague Letter, English Learner Students and Limited English Proficient Parents (01/7/2015)* at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf> pages 29-32. [↑](#footnote-ref-17)
17. “DOE 026 02” is the SIMS code for Dual Language or Two-Way Immersion programs. [↑](#footnote-ref-18)
18. G.L. c. 71A, § 7; Equal Educational Opportunities Act, 20 USC § 1703(f); Title III of ESSA § 3102. [↑](#footnote-ref-19)
19. 464 F2d 989 (5th Cir. 1981). [↑](#footnote-ref-20)
20. See [*Dear Colleague Letter*](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf)(footnote 1). [↑](#footnote-ref-21)
21. The term “parent” means “parent or legal guardian” throughout this document. [↑](#footnote-ref-22)
22. [G.L. c. 71A, § 11](https://malegislature.gov/Laws/SessionLaws/Acts/2017/Chapter138). [↑](#footnote-ref-23)
23. This section will be updated after the WIDA Consortium releases the updated WIDA Alternate ACCESS assessment results and concordance tables. [↑](#footnote-ref-24)
24. 20 U.S.C. § 1414(b)(3)(A); 34 C.F.R. § 300.304(c)(1). For more information about serving ELs with disabilities, please see the U.S. Department of Education English Learner Toolkit, Chapter 6, available at https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap6.pdf. [↑](#footnote-ref-25)
25. While the focus of this guidance is on exiting ELs who take the WIDA Alternate ACCESS assessment, the Department will be providing additional guidance to school districts and IEP teams to assist them with determining whether an EL meets the definition of a student with the most significant cognitive disabilities and qualifies to take the WIDA Alternate ACCESS. [↑](#footnote-ref-26)
26. The School-Based Language Team making EL exiting decisions should at a minimum include an English as a Second Language (ESL) teacher and/or language specialist, the student’s special education teacher, related services providers (as appropriate), Evaluation Team Leader/IEP team chairperson, and other relevant professional staff who may be familiar with the student. While the School-Based Language Team makes ELE exiting decisions, it in no way impacts the role of the IEP Team under state and federal special education laws. [↑](#footnote-ref-27)
27. If an EL or a former EL is also a student with disabilities, the school district must also ensure that it complies with all applicable special education requirements relating to the student, such as the requirements in IDEA and G.L. c. 71B [↑](#footnote-ref-28)