

## **CHAPTER 3: IDENTIFICATION AND ASSESSMENT OF ENGLISH LANGUAGE LEARNERS**

### **3.1 PURPOSE AND SCOPE**

This chapter was developed to provide SELPA and District staff members with a concise, practical, and sequential approach to the identification, assessment, and programs for students with disabilities, who are English learners (EL). When considering possible special education and related services, extreme care must be taken to avoid the over identification of students as disabled, as well as the exclusion of English learners who may have a disability. With this in mind, two specific challenges are presented to educators:

1. To utilize appropriate assessment tools and procedures and to provide services in the least restrictive environment
2. To incorporate language and culture into a special education curriculum

### **3.2 IDENTIFICATION AND REFERRAL OF ENGLISH LEARNERS SUSPECTED OF HAVING A DISABILITY**

Procedures for Identification and referral for special education and related services for all students are described in Chapter 1 of this *Special Education Procedural Handbook*. Please refer to that chapter for complete information. Special considerations for EL students are included in the following sections.

### **3.3 SPECIAL CONSIDERATIONS FOR EL STUDENTS PRIOR TO REFERRAL**

Unless the student has a severe disability, including but not limited to severe vision and hearing impairments, severe physical impairment, severe mental retardation, autism, or severe health impairment, the student should be allowed sufficient time to acquire English proficiency and receive appropriate academic instruction in language arts and math.

It is critical to differentiate between a student who is not achieving in the classroom because English is not his/her primary language and a pupil who is not achieving due to a disabling condition.

Following are some relevant sections of state and federal law that are particularly important in determining eligibility for special education instruction and services:

Education Code (EC) 56303: “A pupil shall be referred for special education instruction and services only after the resources of the regular education program have been considered, and when appropriate, utilized”

California Code of Regulations (CCR), Title 5 3023 (b) “The normal process of second language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition”

Federal Code of Regulations (CFR) a 300.534: “A child may not be determined to be eligible....if (i) the determinant factor for that eligible determination is ...1) lack of instruction in reading or math, or (2) limited English proficiency ... and (ii) the child does not otherwise meet the eligibility criteria under 300.7”

### **3.4 STUDENT STUDY TEAM (SST)**

The Student Study Team is designed to offer immediate assistance and suggestions for teachers, parents and support staff for an individual student who is not making progress or exhibiting various types of problems in the classroom and/or school. Through effective utilization of this team, many identification errors can be avoided. The Student Study Team serves as a group of school and/or district personnel and parents, who will discuss pupil strengths and problems and possible interventions.

#### **3.4. A Team Members**

Members of the team may include the following:

- At least one regular education teacher
- Bilingual personnel
- Principal or administrator
- Parent
- Special Education teacher
- School Psychologist
- School Nurse
- Counselor or specialists
- Speech/Language pathologists`
- Interpreters (as needed)
- Pupil (as appropriate)
- Others

#### **3.4. B Student Study Team Responsibilities**

Referrals for special education assessment are processed through the Student Study Team. The team will review the student’s strengths, concerns, prior interventions and modifications that have been considered, and/or utilized. The results of the interventions will be documented. A plan will be developed, listing additional interventions, and the individuals responsible for implementing them with a follow-up date to review the pupil’s progress.

### **3.5 ASSESSMENT PROCEDURES FOR ENGLISH LEARNERS**

After interventions have been tried and programmatic changes have occurred, some students, who have been referred to the SST will need a special education assessment.

Special assessment requirements for students whose primary language is other than English are included in this section.

#### **3.5. A Psycho-Educational Assessments**

Assessment requirements important to English learners include the following:

1. Assessments with pupils of limited English proficiency shall be administered in the child's native language or mode of communication, unless clearly not feasible to do so (EC 56320, EC 56001).
2. Assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected. (CCR, Title 5: 3023)
3. Materials are selected and administered so as not to be racially, culturally or sexually discriminatory (EC 56320, EC 56001).
4. A variety of assessment tools and strategies will be used to gather relevant functional and developmental information, including information provided by the parent (EC 56320).
5. No single procedure is used as the sole criterion for determining an appropriate educational program for an individual child (EC 56320, EC 56001).

The assessment team may include, but is not limited to:

1. School psychologist
2. Language and speech specialist
3. Regular education teacher(s)

4. Special education teacher
5. School nurse
6. Bilingual specialist
7. Principal/vice principal/counselor
8. Parent

### **3.5. B Other Procedures for Gathering Information**

It is necessary to review existing procedures and their applicability for appropriate identification and instructional planning. Appropriate standardized tests are often not available in all languages. A broader variety of methods are often necessary to obtain the information needed to determine if the referred EL pupil is, in fact, an individual with a disability.

These methods may include, but not be limited to, norm referenced tests, criterion referenced tests, curriculum based measurements, systematic observations of behavior in a variety of school settings, structured interviews, progress monitoring data, etc.

### **3.5. C Additional Assessment Guidelines**

Following are additional guidelines to consider when assessing a student with limited English proficiency:

- Review recent and previous results of the California English Language Development Test (CELDT).
- Assess using non-language measures (e.g., performance).
- Use a trained interpreter whenever needed.
- Assess achievement in both primary language and English.
- Do not accept scores on translations of tests as valid; use other, non-biased or non-test based measures to support the scores. (Document!)
- Assess adaptive behavior, mindful of different cultural norms.
- When considering the presence of a language disability, consider whether primary language is deficient when compared to peers and school

population. Is language generally depressed (common in low socioeconomic populations) or are there significant peaks and valleys? Is there evidence of a true language disability?

### **3.6 ELIGIBILITY CRITERIA AND PROGRAM OPTIONS**

#### **3.6. A Determining Eligibility**

Specific eligibility criteria to determine if a child has a disability are described in Chapter 6 of the Special Education Procedural Handbook.

Please refer to Chapter 6 for specific criteria for each disability.

The thirteen federal categories of disability include the following:

- Autism
- Deaf-Blindness
- Deafness
- Emotional Disturbance
- Hearing Impairment
- Mental Retardation
- Multiple Disabilities
- Orthopedic Impairment
- Other Health Impaired
- Specific Learning Disability
- Speech and Language
- Traumatic Brain Injury
- Visual Impairment

#### **3.6. B Program Options**

All students in need of special education and related services, including students identified as English learners (EL), are to be served under the requirements of current state and federal law.

Districts need to offer appropriate resources to ensure that each English learner with a disability receives appropriate *educational and linguistic opportunities in the least restrictive environment*. A full continuum of program options will be available to each special education student. To the maximum extent appropriate, children with disabilities are educated with children who are not disabled.

A full continuum of program options include, but are not limited to the following:

1. Regular education program with specially designed modifications.
2. Regular education classroom with resource specialist and/or designated instruction and services (DIS).
3. Regular education classroom with services or support from a special day class teacher and/or designated instruction and services.
4. Special Classes and Centers.
5. Nonpublic, nonsectarian school services.
6. State special schools.

Students may receive primary language support and/or language development services in any of the above program options, when determined appropriate by the IEP team.

### **3.7 IEP DEVELOPMENT FOR ENGLISH LEARNERS WITH DISABILITIES**

The Individualized Education Program (IEP) teams should ensure that:

- (a) IEPs include linguistically appropriate goals and objectives, including when necessary use of the student's primary language;
- (b) necessary documentation and translation services are provided to parents as needed; and
- (c) teachers providing the students the district's core curriculum are appropriately certified.

Other requirements include:

- Qualified teachers
- Sufficient and appropriate basic and supplemental resources to ensure access to the district's core curriculum.
- When possible translation of required parent notifications/documents, including IEP parent rights to inform and involve parents of EL students, and translation services as required by state and federal laws.
- Opportunities for parents to become members of the district and/or school advisory committees.

### **3.7. A Linguistically Appropriate Goals, Objectives and Programs**

CCR, Title 5, Section 3001 (s): *“Linguistically appropriate goals, objectives, and programs means those activities which lead to the development of English language proficiency; and those instructional systems either at the elementary or secondary level which meet the language development needs of the limited English language learner. For individuals whose primary language is other than English, and whose potential for learning a second language, as determined by the individualized education program team, is severely limited, nothing in this section shall preclude the individualized education program team from determining that instruction may be provided through an alternative program pursuant to a waiver under Education Code section 311(c), including a program provided in the individual’s primary language, provided that the IEP team periodically, but not less than annually, reconsiders the individual’s ability to receive instruction in the English language.*

### **3.7. B IEP Considerations for English Learners**

Linguistically appropriate goals and objectives have the following characteristics:

- They are appropriate for the cognitive level of the student.
- They are appropriate for the linguistic level of the student.
- They match the developmental level of the student’s primary (L1) or secondary (L2) language.
- They match the student’s general education transition criteria and district reclassification policy.

### **3.7. C Additional Linguistic and Cultural Considerations**

Culturally appropriate goals and objectives have the following characteristics:

- They access the student’s prior knowledge and experiences.
- They incorporate culturally relevant materials and experiences.
- They affirm the student’s cultural heritage.