



NOXUBEE COUNTY SCHOOL DISTRICT

English Language Learners District Plan

Guidelines for Meeting the Instructional Needs of
English Learners

2023-2024 School Year
Washington Cole IV, Ed.D.
Superintendent

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This document provides direction to all NCSD staff involved in the instructional delivery of the curriculum. The document is designed to comply NCSD Board of Trustees' policies and policy directives.

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FORWARD

The purpose of this document is to provide support to the Noxubee County School District (NCSD) in its effort to serve the needs of English Learners. The materials in this document are intended to provide educators with appropriate services and resources necessary for English Learners to attain English proficiency and reach high academic standards.

This document is based on the Mississippi English Learner Guidelines: Regulations, Funding Guidance, and Instructional Supports 2018 and the U.S. Department of Education's English Learner Toolkit for State and Local Education Agencies. To ensure consistency in understanding the purpose and to accomplish successful implementation, key sections of the MS EL Guidelines have been duplicated.

**Noxubee County School District
Mission, Vision, Motto, Theme**

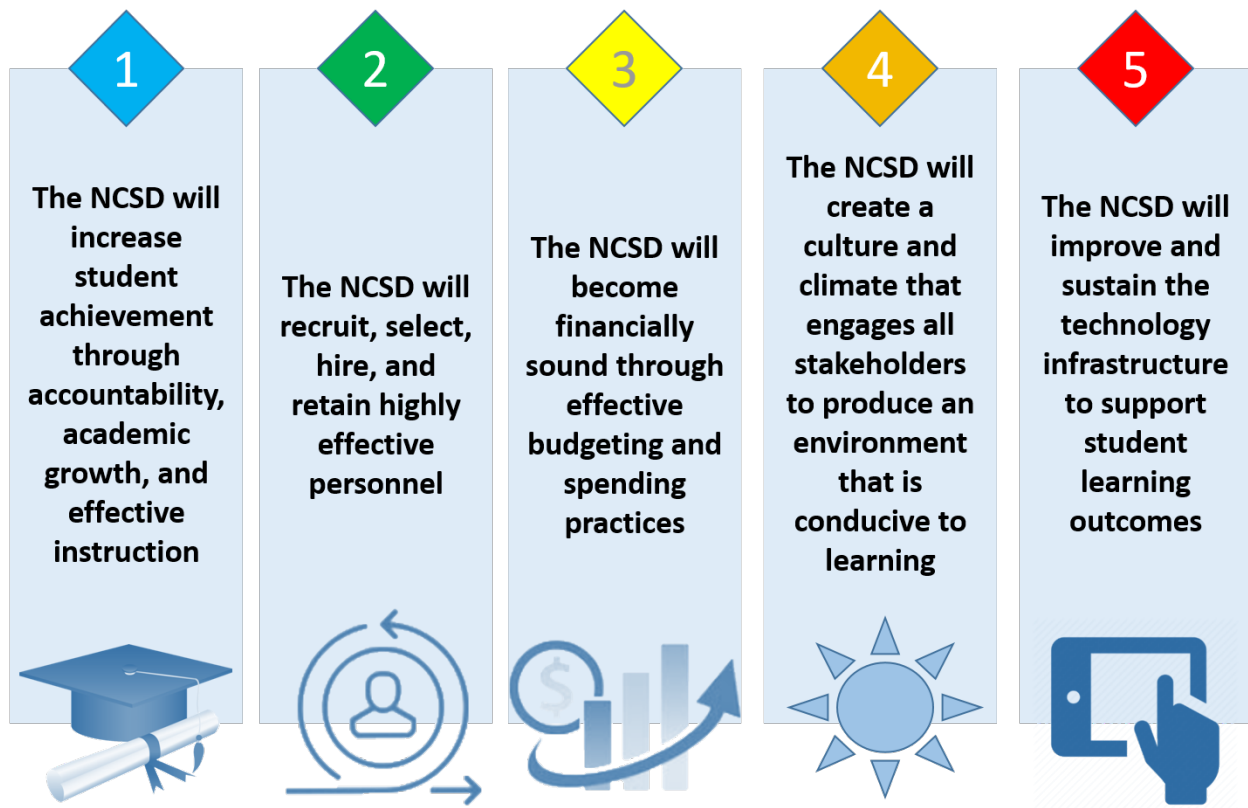
MISSION: In collaboration with all stakeholders, the NCSD is committed to excellence by empowering and challenging all students to be innovative and proactive while striving to achieve college and career readiness for the 21st century.

VISION: The vision of the NCSD is to empower all students to become productive citizens.

MOTTO: One Team One Goal

THEME: Roaring to Success

CORE VALUES: ACCOUNTABILITY, SERVICE, INTEGRITY, COMMITMENT, RELATIONSHIPS



INTRODUCTION

The Noxubee County School District (NCSD) enrolling 1,400 students in 3 schools with an EL population near 30 (2.1 %).

The mission of our EL program is to optimize individual student learning for success in a global community.

This plan provides the procedures and practices necessary for ensuring all EL students enrolled in the NCSD receive a quality education. These guidelines will heighten awareness of the importance of these students making growth and meeting the requirements of the state, as well as supporting the vision of being a district striving to achieve an “A” rating.

RIGHTS OF ENGLISH LANGUAGE LEARNERS AND THEIR FAMILIES

The following federal laws clarify the obligation of every school not only to enroll students from diverse language backgrounds but also to provide the foundation for guidance in establishing an equitable, quality education for Mississippi students, including ELs:

- Title VI of the Civil Rights Act of 1964
- May 25, 1970, Memorandum
- Lau vs. Nichols – 1974
- Equal Education Opportunities Act of 1974
- Plyler vs. Doe – 1982
- Presidential Executive Order 13166
- Title III of the No Child Left Behind Act of 2001

EL DEFINITION, IDENTIFICATION AND PLACEMENT

Definition:

An English Learner (EL) may be defined as a student who was not born in the United States or whose native language is other than English and comes from an environment where a language other than English is dominant. A student who is a Native American of Alaska or a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual’s level of English language proficiency. A student who is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant.

Guidelines for Registration:

1. Proof of Age- A valid birth certificate, a valid passport, or other official document listing date and place of birth. Birth certificate is not required. Other documentation of birth date must be accepted in the absence of a valid birth certificate.
2. Registration forms- School registration forms are to be completed and filed at the school.

3. Home Language Survey- District-wide form to be completed through the online registration process by the parent/guardian of ALL NEW STUDENTS registering for grades K-12.

A social security card is NOT necessary for enrollment or school lunch forms. If the student does not have a social security card, the school should assign a number.

Grade Level Placement:

ELs should be placed at their age-appropriate grade level. Some situations allow for exceptions. If a student is less than seven years old and has not attended school before, it is often best to place the student in kindergarten. Grade level placement should be on a case-by-case basis, using information available such as previous school records (if available) and personal history.

Transferring Foreign Credits:

The school guidance counselor should be trained in assessing non-U.S. school transcripts for appropriate awarding of credits. Students should not be required to repeat content classes they had in their native language just because of their lack of English skills. Every effort should be made to review previous school records and transcripts to evaluate and award transfer credits.

Any transfer student from a school or program (correspondence, tutorial, or home study) not accredited regionally or by a state board of education [or its designee(s)] is given either a standardized achievement test(s) or teacher-made special subject test(s) to determine the appropriate classification of the student within thirty (30) days after filing for transfer. Notice of the administering of such test(s) shall be given to the applicant not less than five (5) days prior to the date of the administration of such test. {MS Code § 37-15-33} (7 Miss. Admin. Code Pt. 3, Ch. 36, R. 36.1, R. 36.2, R. 36.3, R. 36.4)

Procedures:

To effectively serve EL students and make appropriate educational decisions, procedures are necessary for the identification, assessment, and placement of these students. The NCSD will follow the three-step process for identifying and placing a student in the EL program.

Step 1- Identification:

Parents/guardians are asked to complete the Home Language Survey (HLS) during the registration process. To ensure that all students receive the education services they need, the law requires us to ask questions about students' language backgrounds on a Home Language Survey (HLS). The answers to the following questions will tell us if a student's proficiency in English should be evaluated and help us to ensure that important opportunities to receive programs and services are offered to students who need them. A copy of the HLS can be found in the appendix of this document.

The questions of the HLS are as follows:

1. What language (s) is (are) spoken in your home?
2. Which language did your child learn first?
3. Which language does your child use most frequently at home?

4. In which language do you most frequently speak to your child?
5. In what language would you prefer to get information from the school?

If any question indicates a language other than English is spoken in the home, the student is referred to the EL teacher for administration of the placement test. The HLS is not the sole identifier for placement in the EL program.

Step 2- Initial Assessment:

A student whose HLS indicates the need for a placement test must be administered within thirty (30) days of enrollment at the beginning of the school year. Students who register after the beginning of the school year must be assessed within two (2) weeks of enrollment.

The placement test assesses English proficiency in all four domains of language development - listening, speaking, reading, and writing - as well as comprehension, to ensure that a student's language needs are properly identified and addressed through the district's EL program.

Students who were previously administered the LAS Links placement assessment or have taken the annual state-adopted English Language Proficiency Test (ELPT) do not need to be rescreened.

A certified EL teacher is responsible for administering the placement assessment. The placement assessment information should be notated on the student's HLS and filed in the cumulative folder.

Step 3-Parental Notification:

Prior to the initial placement of a student in an EL program, the district must notify the student's parent(s) or guardian(s).

Each Local Education Agency (LEA) or school serving ELs shall inform the parents that their child(ren) have been placed in an instructional program for ELs no later than 30 days after beginning of the school year. If the student is identified after the beginning of the school year, the LEA/school shall notify parents within two weeks of the student's placement in a program for ELs. Once a student has been identified as eligible for language assistance, the parent must be notified in the parent's native language.

Parents are not required to respond to the notification for the student to participate in the districts EL program; parents do have the right to waive EL services and decline any services provided. However, the student remains in the EL program. If a student has been identified as an EL, the student is still required by federal law to take the annual ELPT until the student meets state exit criteria, regardless of parental refusal of services.

Step 4- Student Assessment:

The NCSD will evaluate each ELs language attainment annually during the designated period as established by the MDE using the ELPT. EL students are expected to meet the academic requirements set forth by the LEA/SEA for promotion/graduation. Assessment requirements for high school students are outlined in Mississippi School Board Policies 3801, 3802, 3803, and 3804. Third grade students will be

required to meet expectations of MDE's *Literacy-Based Promotion Act*. Students who do not meet the requirements of the *LBPA* may qualify for a Good Cause Exemption.

Step 5- Exiting and Monitoring:

Exiting-Per MDE, an EL student is required to obtain the following proficiency levels on the LAS Links ELPT to exit the EL program:

LAS Links: Overall 4-5; Reading 4-5; Writing 4-5

Monitoring-After students have exited EL status, their academic progress is monitored for 4 years. Monitoring will be conducted and documented every 9 weeks, with a Student Evaluation Team (SET) reviewing monitored student's grades, assessment, and other related data. If an exited EL is not progressing academically as expected and monitoring suggests a persistent language need, the student will be re-evaluated using the Las Links Placement Test to see if the student needs additional language services. If the student re-enters the EL program based on the results of the placement test, the parent's consent to reentry will be requested.

SERVICES

Staffing and Resources:

The NCSD has an EL Coordinator who is an employee in the Office of Federal Programs. The responsibility of this position is to ensure EL students are identified in an efficient and timely manner and that a quality EL program is provided to meet student needs. This person functions as a liaison for all persons involved with the EL program: students, teachers, parents, administrators, school board members, and the community. The EL Coordinator is responsible for ensuring that schools within the district know and understand federal and state mandates, policies and procedures for EL students, and the importance of collecting and submitting data in accordance with the Every Student Succeeds Act (ESSA) and the Mississippi Department of Education.

The NCSD does not have financial capacity to employ EL teachers at each school. Also, in our geographical location it is difficult to recruit EL teachers. The responsibility of effectively instructing EL teachers is placed on the building level administration, the academic school officers (lead teachers), and the classroom teachers. The responsibilities are as follows:

- Provide English language instruction for students
- Collaborate with school staff in the language development of ELs
- Obtain Home Language Surveys in which a language other than English is indicated from MSIS/Cohort clerks
- Administer placement test for identification of ELs
- Ensure all original EL documents are filed in the students' cumulative folder
- Maintain and distribute EL rosters to stakeholders as changes occur
- Collaborate with SET team to ensure exiting and monitoring criteria are met
- Collaborate with stakeholders to ensure best practices and supports for EL are made available

- Continue to participate in opportunities which will further expand expertise in the field
- Perform tasks and assume responsibilities as may be assigned by the EL Coordinator or superintendent
- Adhere to the Mississippi Code of Ethics
- Maintain confidentiality and privacy of all NCSD records

EL Instruction:

The NCSD utilizes both a pull-out method, whole group instruction, small group instruction, and individualized in-classroom instruction for providing EL instruction. EL students are provided regular standards-based language instruction as specified in the students' LSP. All teachers should hold ELs to the same high academic standards that are expected of all students; however, content teachers must understand that to do this, differentiated instruction, modifications, and accommodations must be provided to each EL for instruction and assessment to be meaningful and to meet individual needs as required by law.

Student Evaluation Team:

The Student Evaluation Team (SET) is a school team responsible for guiding and monitoring the placement, services, and assessment of students who are ELs. The SET must be comprised minimally of the classroom teacher, teacher assistant (if applicable), one (1) building level administrator, academic school officer, school counselor, and a parent representative, if needed. The SET team should meet quarterly to evaluate progress.

Language Service Plan:

Each student designated as an EL must have an LSP, which should be updated annually until the student exits the program.

The SET should use the following guidelines for implementing the LSP:

1. Convene as needed to discuss changes or adjustments in the EL's instructional services.
2. Review student's progress in language acquisition and academic achievement annually.
3. Identify accommodations needed on state assessments. Additional classroom strategies and accommodations should be identified as appropriate.
4. Communicate in a timely manner the student's LSP with faculty and staff who interact with and provide instruction for the student.

GRADING

Grading Guidelines for ELs:

If an EL student is retained, the LEA must have documentation of all interventions, accommodations, and modifications attempted. The student should be referred to the Multi-Tiered System of Support (MTSS) when it becomes evident the student is struggling.

Though the decision to promote or retain must be made on a case-by-case basis, any decision to retain an EL must be accompanied by documentation demonstrating that appropriate accommodations and modifications were employed throughout the year to assure compliance with Federal requirements (May 25, 1970 Memorandum).

ENGLISH LEARNERS AND OTHER PROGRAM SERVICES

Guidelines for Gifted Education Students:

In the identification of ELs for gifted services, students must meet the criteria determined by the state, LEA, or school.

Gifted students who are also ELs should receive programming services designed to develop their specific area(s) of strength or ability and should be conducted in the language that would give the student the greatest advantage for optimal learning and performance. This does not preclude continuing English language instruction and developing proficiency in English use; developing English proficiency should complement and supplement, not substitute for, the development of the student's significant strengths and abilities.

The time spent in the development of English proficiency should not take precedence over appropriate instruction and learning in the student's areas of strength and talent. For example, a mathematically gifted, non-English proficient student should receive advanced and accelerated mathematics instruction and opportunities to perform at optimal levels. The language of instruction should serve the optimal development of the student's mathematics ability. The student should spend as much quality time in high-level mathematics learning and production as would a highly English proficient, mathematically gifted student.

Guidelines for Students with Disabilities:

As with other populations, one expects a range of abilities among students whose English proficiency is limited. The difficulty often comes in determining whether a learning problem is related only to the English language issue or whether there is an actual disability present. Students learning English, because of their cultural and linguistic background, have special instructional needs. When a student is having difficulty mastering specific skills, it is important for the teacher to accommodate the instructional strategies and/or instructional pace for the student. Just because the student requires accommodations to his/her program does not necessarily mean that he/she has a disability or that he/she should be referred to special education.

If, however, the student continues to have difficulty after consistent language accommodations and instructional interventions have been attempted for a reasonable amount of time and the interventions from Tiers 1 and 2 have not resolved the issues, the student should be referred to the SET.

Knowledge of second language acquisition, along with the following information, is essential in determining the possible need for different interventions or future referrals for additional services:

At this point, one of two things may happen: (1) the SET may recommend additional interventions and accommodations for the classroom. If these supports are successful, the student may be served successfully in the general education classroom with the recommended supports in place. If the additional interventions and accommodations are not successful, (2) the SET can then make a referral the Multi-disciplinary Evaluation Team (MET) to determine the need for a comprehensive assessment. If the student qualifies as a student with a disability under the Individuals with Disabilities Education Act (IDEA), he/she may be served through the special education program.

Depending on the extent of the student's disability, it is always appropriate for the general education teacher, EL teacher, and the special education teacher to work collaboratively to meet the needs of the student. The fact that an EL has a disability does not replace the need for language assistance. The plan for providing language assistance and support should be delineated in the student's Individual Education Plan (IEP). ELs should be dually served through both programs. In the event another means of support will be more beneficial to the student, the Special Education team and the EL teacher should work together to determine the most effective plan and to provide needed support for implementation.

The SET and the IEP Committee members should consider meeting together to set both language and academic goals for ELs identified in SPED based on their areas of expertise.

Specific procedures for special education assessment are provided in the Mississippi Policies and Procedures Regarding Children with Disabilities under the Individuals with Disabilities Education Act Amendments of 2004, State board policy 74.19. Proficiency assessment in both English and the child's first language can identify the dominant language for the purpose of further evaluation and assessment if needed. Non-verbal tests are another alternative.

All students who qualify for services under IDEA, regardless of the type or degree of disability, share certain rights and needs, including:

- The right to a free and appropriate public education,
- The right to an Individualized Education Program (IEP) specifying the student's unique needs along with the special education and related services the student is to receive,
- The need to have cognitive, linguistic, academic, and social/emotional characteristics considered and appropriate environmental modifications or accommodations made.

Guidelines for ELs and Multi-Tiered Systems of Support (MTSS):

Response to Intervention (RTI) integrates assessment and intervention within a multi-level prevention system to maximize student achievement and to reduce discipline infractions.

With RTI, schools identify students at risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending on a student's responsiveness and identify students with learning disabilities or other disabilities (National Center on Response to Intervention). EL students are eligible for intervention services, and instructors will assist with the documentation process.

APPENDICES

- A. Glossary of Terms
- B. Rights of English Learners
- C. Home Language Survey
- D. Language Service Plan Template
- E. United States Department of Education COVID-19 English Learners Services Fact Sheet

Appendix A

Glossary of Terms

Glossary
Common Acronyms

EEOA	Equal Educational Opportunities Act
ELD	English Language Development
EL	English Learner
ESSA	Every Student Succeeds Act
IEP	Individualized Education Plan
LEA	Local Education Agency
MDE	Mississippi Department of Education
MET	Multi-Disciplinary Evaluation Team
NCELA	National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs
NRT	Norm-Referenced Test
OCR	Office of Civil Rights
OELA	Office of English Language Acquisition
SEA	State Education Agency
SET	Student Evaluation Team
USDOE	United States Department of Education

Common Terms

Accommodation: Adapting language (spoken or written) to make it more understandable to second language learners. In assessment, accommodations may be made to the presentation, response method, setting, or timing/scheduling of the assessment.

Alternative Assessment: Assessment that is different from a traditional computer-based test. This type of assessment usually examines how well a student can perform a realistic task.

Bicultural: Identifying with the cultures of two different language groups. To be bicultural is not necessarily the same as being bilingual, and vice-versa (Baker, 2000).

Biliteracy: The ability to effectively communicate or understand thoughts and ideas through two languages' grammatical systems and vocabulary, using their written symbols.

Bilingualism: Defining bilingualism is problematic since individuals with varying bilingual characteristics may be classified as bilingual. One approach is to recognize various categories of bilingualism such as bilingual ability through the determination of bilingual proficiency that includes consideration of the four language dimensions: listening, speaking, reading, and writing.

Carnegie Unit: A standard measure of high school work indicating the minimum amount of time that instruction in a subject has been provided. Awarding of one Carnegie unit indicates that a minimum of 140 hours of instruction has been provided in regular and laboratory classes over a school year; awarding of ½ Carnegie unit indicates that a minimum of 70 hours has been provided.

Culture Shock Cycle: Euphoria, during this initial phase the student will experience a period of excitement over the newness of the surroundings. Culture shock refers to the symptoms ranging from mild irritability to deep psychological panic and crisis. Some problems of the acculturation process are solved while other linger. Individuals become more empathic with other persons in the second culture and more accepting of the new surroundings. It is also described as homelessness in that individuals do not feel bound to the native culture nor fully adapted to the second one. Assimilation, this stage represents near or full recovery as shown by acceptance of the new culture and self-confidence in the "new" person who has developed in the new culture.

Cultural Diversity: Understanding that students come from a variety of ethnic, geographic, economic, and religious backgrounds and how these diverse cultural and/or academic backgrounds impact the instructional process.

Dominant Language: The language with which the speaker has greater proficiency and/or uses most often.

English Learner (EL): The language in the No Child Left Behind Act of 2001 identifies language minority students as limited English proficient students or LEPs. However, the Mississippi Department of Education follows the suggestion of the National Research Council with the identification of these students as English language learners or ELs since this term highlights the positive aspect of the English language acquisition process. The terms for EL and LEP may be used interchangeably. According to

Title III of the No Child Left Behind Act of 2001, an English language learner is an individual:

- A. Who is aged 3 through 21; was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or · is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and
- B. Who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to gain experience successfully in classrooms where the language of instruction is English or to participate fully in our society.

Home Language Survey (HLS): Form completed by parents/guardians that gives information about a student's language background. Must be on file for every EL student.

Immigrant Child: According to Title III of the No Child Left Behind Act of 2001, an immigrant child is an individual who:

- A. is aged 3 through 21;
- B. was not born in any State; and
- C. has not been attending one or more schools in anyone or more States for more than three (3) full academic years.

Informed Parental Consent: The permission of a parent to enroll their child in an EL program, or the refusal to allow their child to enroll in such a program, after the parent is provided effective notice of the educational options and the district's educational recommendation.

Interpreter: A person who translates orally from one language to another.

Interventions: All students are entitled to appropriate instructional interventions. Interventions may include alternative strategies and assessments and additional time to learn the curriculum. Interventions provide additional opportunities for students to master the curriculum. They differ from modifications since interventions do not include changing or deleting objectives in the curriculum. EL classes are appropriate instructional interventions for EL students. Core content courses delivered through a sheltered approach are also appropriate interventions for EL students.

Language Educational Program: According to Title III of the No Child Left Behind Act of 2001, language educational program means an instruction course:

- A. in which ELs are placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student academic achievement standards; and
- B. that may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

Language Proficiency: Refers to the degree to which the student exhibits control over the use of language, including the measurement of expressive and receptive language skills in the areas of

phonology, syntax, vocabulary, and semantics and including the areas of pragmatics or language use within various domains or social circumstances. Proficiency in a language is judged independently and Local Education Agency (LEA): Also referred to as a school district.

Migrant Child: Migratory child means a child who is, or whose parent, spouse or guardian is, a migratory agricultural worker or migratory fisher and who, in the preceding thirty-six (36) months, has moved from one school district to another to obtain or accompany such parent, spouse, or guardian in order to obtain temporary or seasonal employment in agricultural or fishing industry as a principal means of livelihood.

Native Language: The first language learned in the home, or the home language. Often, it continues to be the students' stronger language in terms of competence and function.

Office for Civil Rights (OCR): The Office of Civil Rights of the U.S. Department of Education is responsible for enforcing Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, national origin, disability, sex, or age.

Parent Involvement: Any program or activity that encourages parents to become involved in their child's education; for example, conferences, volunteering, helping the child with homework, attending workshops on parenting.

Phase or Stage: Periods of language development that area typically used in discussion of language ability instead of ages to refer to a child's progress in second language development.

Primary Language: The language of most benefit in learning new and difficult information.

Pull-out: A program model in which a paraprofessional or tutor pulls students from their classes for small group or individual work. Also, a paraprofessional or tutor may serve students in a small group within the regular classroom setting.

Push-in: when the English teacher comes into the general education classroom and aids the English language learners.

Student Evaluation Team (SET): A group of educators who meet to discuss interventions for students having trouble in school.

Syntax: The study of the sentence patterns of a language and the rules that govern the correctness of the sentence.

Teachers of English to Speakers of Other Languages (TESOL): This is the international professional organization.

Title I: Title I of the No Child Left Behind Act of 2001 supports programs to assist economically disadvantaged students and students at-risk of not meeting educational standards. The reauthorized Title I make it clear that EL students are eligible for services on the same basis as other students.

Title III: Title III of the No Child Left Behind Act of 2001 ensures that EL students, including immigrant children and youth, develop English proficiency and meet the same academic content and academic achievement standards that other children are expected to meet. Title III effectively establishes national policy by acknowledging the needs of EL students and their families.

Title VI: Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance.

Total Physical Response (TPR): Communicative approach where students respond with actions, not words first. Instruction is accomplished with commands.

Translator: A person (or computer program or application) that translates written documents from one language to another. This term is used simultaneously with the term interpreter.

Waiver: Official document needed for parents who decline the services of the language instruction educational program while the student is considered EL. In these cases, a waiver is required. The waiver must state that students are held accountable for meeting all grade level expectations regarding Mississippi curriculum and state mandated standardized testing.

Appendix B

Rights of English Learners

Rights of English Learners

1964 Civil Rights Act, Title VI

“No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” 42 U.S.C. § 2000d.

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance. Public institutions (like schools) must provide equal quality of educational services to everyone including those who are Limited English Proficient (LEP). Title VI covers all educational programs and activities that receive Federal financial assistance from the United States Department of Education.

May 25, 1970, Memorandum

“The purpose of this memorandum is to clarify policy on issues concerning the responsibility of LEAs to provide equal educational opportunity to national origin minority group children deficient in English language skills.

Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the education program offered by a LEA, the LEA must take affirmative steps to rectify the language deficiency to open its instructional program to these students. School districts have the responsibility to notify national origin- minority group parents of school activities, which are called to the attention of other parents. Such notice to be adequate may have to be provided in a language other than English.

Lau v. Nichols (US Supreme Court Decision 1974)

The failure of school system to provide English language instruction to national origin students who do not speak English, or to provide them with other adequate instructional procedures, denies them a meaningful opportunity to participate in the public educational program, and thus violates § 601 of the Civil Rights Act of 1964, which bans discrimination based "on the ground of race, color, or national origin," in "any program or activity receiving Federal financial assistance," and the implementing regulations of the Department of Health, Education, and Welfare. Pp. 414 U. S. 565-569.

The Supreme Court stated that these students should be treated with equality among the schools. Among other things, Lau reflects the widely accepted view that a person's language is so closely intertwined with their national origin (the country someone or their ancestors came from) that language-based discrimination is effectively a proxy for national origin discrimination.

1974 – Equal Education Opportunities Act

The Equal Education Opportunities Act of 1974 states: “No state shall deny equal educational opportunity to an individual based on his or her race, color, sex, or national origin by the failure of an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.”

The EEOA prohibits discriminatory conduct, including segregating students based on race, color or national origin, and discrimination against faculty and staff serving these groups of individuals, as it interferes with their equal educational opportunities. Furthermore, the EEOA requires LEAs to take action to overcome students' language barriers that impede equal participation in educational programs.

Plyler v. Doe (U.S. Supreme Court Decision 1982)

“The illegal aliens who are plaintiffs in these cases challenging the statute may claim the benefit of the Equal Protection Clause, which provides that no State shall „deny to any person within its jurisdiction the equal protection of the laws“ . . . The undocumented status of these children does not establish a sufficient rational basis for denying them benefits that the State affords other residents . . . No national policy is perceived that might justify the State in denying these children an elementary education.”

-457 U.S. 202

The right to public education for immigrant students regardless of their legal status is guaranteed. Schools may not require proof of citizenship or legal residence to enroll or provide services to immigrant students.

- Schools may not ask about the student or a parent’s immigration status.
- Parents are not required to give a Social Security number.
- Students are entitled to receive all school services.

Presidential Executive Order 13166

“Entities receiving assistance from the federal government must take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to the programs, services, and information those entities provide.”

Recipients of federal assistance are required to help students overcome language barriers by implementing consistent standardized language assistance programs for LEP. In addition, persons with limited English proficiency cannot be required to pay for services to ensure their meaningful and equitable access to programs, services, and benefits.

Title III of the No Child Left Behind Act of 2001

Title III of the No Child Left Behind (NCLB) Act requires that all English language learners (ELs) receive quality instruction for learning both English and grade-level academic content. NCLB allows local flexibility for choosing programs of instruction, while demanding greater accountability for ELs' English language and academic progress.

Under Title III, states are required to develop standards for English Language Proficiency and to link those standards to the state's Academic Content Standards. Schools must make sure that ELs are part of their state's accountability system and that ELs' academic progress is followed over time by:

- establishing learning standards, that is, statements of what children in that state should know and be able to do in reading, math, and other subjects at various grade levels; creating annual assessments (standardized tests, in most states) to measure student progress in reading and math in grades 3-8 and once in high schools;

- setting a level (cut-off score) at which students are considered proficient in tested areas; and
- reporting to the public on what percentages of students are proficient, with the information broken down by race, income, disability, language proficiency, and gender subgroups.

Appendix C

Home Language Survey



HOME LANGUAGE SURVEY

FOR K-12 SCHOOL DISTRICTS

STUDENT INFORMATION

Student Name _____ **Grade** _____
First Middle Last

Date of Birth _____ **Gender** _____ **School** _____

1. What is the dominant language **most often** spoken by the student? _____
2. What is the language **routinely** spoken in the home, regardless of the language spoken by the student? _____
3. What language was **first** learned by the student? _____
4. Does the parent/guardian need **interpretation** services? Yes No
 If so, what language? _____
5. Does the parent/guardian need **translated** materials? Yes No
 If so, what language? _____
6. What was the date the student first enrolled in a school in the United States? _____
MM/YYYY
7. In what country was the student born? _____

Parent / Guardian Signature _____
Date (MM/DD/YYYY)

DISTRICT USE ONLY

Designated English Learner on the LAS Links Screener

DOCUMENTATION OF LAS LINKS SCREENER FOR STUDENT					
Date	Speaking Score	Listening Score	Reading Score	Writing Score	Composite Score

Appendix D

Language Service Plan Template

APPENDIX B | Language Service Plan (for Students with Limited English Proficiency)

This form should be completed by the individual responsible for providing the instructional program for the EL students and the classroom teacher. This form should be updated annually. **Person completing this form**

STUDENT NAME		DOB		Age	
PRIMARY LANGUAGE SPOKEN		LANGUAGE(S) SPOKEN IN HOME			
ADDITIONAL LANGUAGE(S)		DATE FIRST ENROLLED IN A U.S. SCHOOL		IMMIGRANT STATUS (< 3 yrs)	
PARENT/GUARDIAN NAME					
PHONE (home)		(work)		(cell)	
HOME/SCHOOL COMMUNICATION to parent/guardian is requested in:		<input type="checkbox"/> English OR <input type="checkbox"/> Native Language: _____ <input type="checkbox"/> Oral OR <input type="checkbox"/> Written			

ACADEMIC HISTORY PRIOR TO ENTERING CURRENT DISTRICT					
Age Started School		Years in Preschool/K		Years in grades 1-5	
Years in grades 6-12		Last grade completed			
		<input type="checkbox"/> Interrupted Formal Education <input type="checkbox"/> Limited Schooling <input type="checkbox"/> No Formal schooling			
Has the student been referred for Special Education?		Does the child have an IEP?		Does the child have an 504 Plan?	
<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Yes <input type="checkbox"/> No	

ACADEMIC ACHIEVEMENT LEVEL HISTORY				
SUBJECT	BELOW GRADE LEVEL	ON OR ABOVE GRADE LEVEL	METHOD USED TO DETERMINE LEVEL	INFORMATION NOT AVAILABLE
<i>Example: Math</i>	<i>X</i>		<i>Course grade from previous year (D)</i>	
Math				
Reading				
Writing				
Social Studies				
Science				

ENGLISH LANGUAGE PROFICIENCY TEST INFORMATION															
TEST	Date	Score	Level	Date	Score	Level	Date	Score	Level	Date	Score	Level	Date	Score	Level
ELPT Speaking															
ELPT Listening															
ELPT Reading															
ELPT Writing															
Composite SCORE															

EL SERVICE			
Date Identified EL Program:		Date Entered EL Program:	
<input type="checkbox"/> Student will receive Direct EL Services for _____ Minutes _____ Days a week			
<input type="checkbox"/> Student will be placed in an EL Class for one Credit (Grades 7-12 only) Year: _____ Semester: _____			
<input type="checkbox"/> Parents Declined Services (school is still obligated to serve)		Comments:	
Number of years until the student is identified as a Long Term English Learner (LTEL):			
List specific measurable goals for each domain (Listening, Speaking, Reading, and Writing):			
LISTENING	SPEAKING	READING	WRITING

STANDARDIZED TESTING ACCOMMODATIONS		
Refer to the current edition of the Mississippi Test Accommodations Manual for the allowable accommodations for each assessment. Specify each testing accommodation, the code for the accommodation, and each standardized test to which the accommodation applies. NOTE: The accommodations listed below must be used during regular classroom assessments and on district wide assessments prior to being used on state wide assessments.		
ACCOMMODATION(S)	CODE #	TEST(S)

All testing accommodations are classroom accommodations, however not all classroom accommodations are state testing accommodations.

CLASSROOM INSTRUCTIONAL SUPPORTS AND ACCOMMODATIONS/MODIFICATIONS

To meet the needs of this child, the following are recommendations for use in regular classroom instruction:

<input type="checkbox"/> Paraphrasing or repeating directions in English <input type="checkbox"/> Personal cueing <input type="checkbox"/> Read the test directions (but not the test items) to individual students or in a small group – repeating and/or paraphrasing the directions, if needed <input type="checkbox"/> Dictation of answers to test administrator/proctor (scribe) in English only <input type="checkbox"/> Reader (oral administration) <input type="checkbox"/> Native language word-to-word dictionaries/electronic word-to-word dictionaries (no definitions) <input type="checkbox"/> Present questions in same phrasing as learning/review <input type="checkbox"/> Reduced and/or modified class & homework assignments <input type="checkbox"/> Modified assessments (i.e. oral) <input type="checkbox"/> Break tasks/directions into subtasks <input type="checkbox"/> Increase wait time <input type="checkbox"/> Additional time to complete assignments and tests <input type="checkbox"/> ESS (Extended School Services) <input type="checkbox"/> Provide questions for classroom discussion in advance <input type="checkbox"/> Label items in the room <input type="checkbox"/> Previewing of academic content	<input type="checkbox"/> Provide shortened assignments <input type="checkbox"/> Face student when speaking – speak slowly <input type="checkbox"/> Print instead of using cursive; type all notes, tests, handouts <input type="checkbox"/> Use high interest/low vocabulary text material <input type="checkbox"/> Use overhead and provide students with copies of teacher transparencies/notes/lectures <input type="checkbox"/> Make instruction visual – use graphic organizers, pictures, maps, graphs, etc. to aid understanding <input type="checkbox"/> Highlight/color code tasks, directions, letters home <input type="checkbox"/> Pair ELs with an English speaking “peer partner” for assistance <input type="checkbox"/> Provide preferential seating or seating with a peer partner <input type="checkbox"/> Check for comprehension often <input type="checkbox"/> Ask questions that allow the student to answer successfully <input type="checkbox"/> Allow the student opportunities to read aloud successfully <input type="checkbox"/> Use manipulatives <input type="checkbox"/> Use audiobooks <input type="checkbox"/> Record material for student listening <input type="checkbox"/> Vocabulary matching/fill-in-the-blank exercises w/ words <input type="checkbox"/> OTHER:
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PERSONS INVOLVED IN THE DEVELOPMENT OF THE LANGUAGE SERVICE PLAN

By signing this form, I am indicating that I have read and understood the Language Service Plan information.

_____ PRINCIPAL <i>Signature</i>	_____ PRINTED NAME	_____ PARENT <i>Signature</i>	_____ PRINTED NAME
_____ EL COORDINATOR <i>Signature</i>	_____ PRINTED NAME	_____ PARENT <i>Signature</i>	_____ PRINTED NAME
_____ EL TEACHER <i>Signature</i>	_____ PRINTED NAME	_____ STUDENT <i>Signature</i>	_____ PRINTED NAME
_____ TEACHER <i>Signature</i>	_____ PRINTED NAME	_____ INTERPRETER <i>Signature</i>	_____ PRINTED NAME
_____ TEACHER <i>Signature</i>	_____ PRINTED NAME	_____ DATE	

Exit/Monitor Status Documentation
(for Students meeting qualifications to exit EL Services)

This form should be completed by the individual responsible for exiting and monitoring the individual student.

STUDENT NAME		DATE OF BIRTH	
PARENT/GUARDIAN NAME			
PHONE	(home)	(work)	(cell)
HOME/SCHOOL COMMUNICATION to parent/guardian requested in:		<input type="checkbox"/> English OR <input type="checkbox"/> Native Language: _____ <input type="checkbox"/> Oral OR <input type="checkbox"/> Written	
PERSON RESPONSIBLE FOR COMPLETING THIS FORM			
YEAR 1	YEAR 2	YEAR 3	YEAR 4

EL EXIT INFORMATION				
EXIT Eligibility Date				
To be eligible for exit from EL status, students must earn a 4 or 5 on the Reading, Writing, and Overall on the LAS Links assessment. Criteria determining exit from EL status (scores from the ELPT):				
			Date of test: _____	
LISTENING	SPEAKING	READING*	WRITING*	OVERALL*

MONITORING										
Start Date		Date of Parent Notification		Expected date for CONCLUSION OF MONITOR STATUS <i>(Minimum of 4 years)</i>						
REPORT CARD AND STATE ASSESSMENT RESULTS										
YEAR 1					YEAR 2					
Grade level:		School Name:			Grade level:		School Name:			
	Q1	Q2	Q3	Q4		Q1	Q2	Q3	Q4	
ELA					ELA					
Math					Math					
Science					Science					
Social Studies					Social Studies					
Other					Other					
Other					Other					
State Assessment Results:					State Assessment Results:					
Is student on track to graduate on time? <input type="checkbox"/> Yes <input type="checkbox"/> No					Is student on track to graduate on time? <input type="checkbox"/> Yes <input type="checkbox"/> No					

MONITORING, continued									
Start Date		Date of Parent Notification		Expected date for CONCLUSION OF MONITOR STATUS <i>(Minimum of 4 years)</i>					
REPORT CARD AND STATE ASSESSMENT RESULTS									
YEAR 3					YEAR 4				
Grade level:		School Name:							
	Q1	Q2	Q3	Q4		Q1	Q2	Q3	Q4
ELA					ELA				
Math					Math				
Science					Science				
Social Studies					Social Studies				
Other					Other				
Other					Other				
State Assessment Results:					State Assessment Results:				
Is student on track to graduate on time? <input type="checkbox"/> Yes <input type="checkbox"/> No					Is student on track to graduate on time? <input type="checkbox"/> Yes <input type="checkbox"/> No				

If the information on this form indicates that the former EL student is struggling, indicate steps that will be taken to support the student and the results:

- Student was referred for intervention services (appropriate documentation must be completed)
- Student was referred for Counseling
- Student was referred for rescreening for EL services. In order for students to be re-entered in the EL program, they must retake the LAS Links placement test and meet qualifications. **(This should only be done if language is considered the primary cause for academic struggles.)**

COMMENT(S) (Indicate steps taken to support the student):

Appendix E

USDOE Fact Sheet Providing Services to English Learners During the COVID-19 Outbreak

FACT SHEET

PROVIDING SERVICES TO ENGLISH LEARNERS DURING THE COVID-19 OUTBREAK

May 18, 2020

This fact sheet outlines States' responsibilities to English learners (ELs) and their parents¹ during the extended school closures and, in some cases, the move to remote learning² due to the national emergency caused by the novel Coronavirus disease 2019 (COVID-19). A local educational agency (LEA) should collaborate with its State educational agency (SEA) and local public health department, as appropriate, in implementing the guidance provided below. This document does not create any rights for any person and does not impose any additional requirements beyond those included in applicable law and regulations. It is intended to provide additional information about requirements in the Elementary and Secondary Education Act of 1965 (ESEA) and other Federal laws related to ELs in light of COVID-19 and this specific situation.

Annual ELP Assessment

1. In a situation where the SEA cannot administer English language proficiency (ELP) assessments in spring 2020 because of school closures due to the COVID-19 national emergency, will the U.S. Department of Education (Department) waive the ESEA requirement to administer ELP assessments to all ELs?

Yes. On March 20, 2020, the Secretary invited requests for waivers of assessment, accountability, and related reporting requirements in the ESEA for the 2019-2020 school year. With respect to assessments specifically, the Secretary invited requests to waive the requirements in Section 1111(b)(2) of ESEA, including the requirement in Section 1111(b)(2)(G) of ESEA to administer an ELP assessment in school year 2019-2020. All SEAs have requested and been granted this waiver for the 2019-2020 school year. Some SEAs have already administered some of their assessments to some of their students, and an SEA may elect to continue administering some portion of their State assessments.

Under the waiver discussed above, an SEA that was unable to complete assessments for all ELs in school year 2019-2020 does not need to administer ELP assessments to the remaining ELs who were not assessed this year. If an SEA was unable to complete assessing all ELs in the school year 2019-2020, the SEA has the option to administer the ELP test in the fall of 2020, where possible, consistent with the State's ELP exit procedures. For specific questions relating to exit procedures tied to the annual ELP assessment, please see the section below on "Exit

¹ The term "parent" includes a legal guardian or other person standing *in loco parentis* (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare). (Section 8101(38) of ESEA).

² In this document the term "remote learning" and "distance learning" are used interchangeably and for purposes of this document the terms mean the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications. (Section 8101(14) of ESEA).

Procedures.” All States are required to administer ELP assessments in the 2020-2021 school year.

2. How should an SEA that receives a waiver of the requirement to administer the ELP assessment make decisions regarding the instruction and placement of ELs without data from the ELP assessment?

An SEA and its local educational agencies (LEAs) typically use the annual ELP assessment to inform instruction and placement of ELs, in addition to decisions on exiting students from EL status. If the SEA could not complete the annual ELP assessment for some or all of its ELs, the SEA and its LEAs could schedule the ELP assessment if schools reopen in the 2019-2020 school year or early in the 2020-2021 school year, if possible, in order to use ELP assessment results for instruction and placement decisions, as well as for exit determinations. If that is not possible, an LEA could use other resources to make instructional and placement decisions for its ELs when school resumes. Some LEAs may use formative assessments and/or EL specialists and teacher input to help inform instruction and placement decisions. For example, if an LEA normally uses a team comprised of EL specialists and content teachers to determine when an EL no longer needs a sheltered classroom setting and can be placed in content classrooms with support from an EL teacher, the LEA can continue to do so, either during remote operation in the 2019-2020 school year or in-person or remotely during the 2020-2021 school year. For exit from EL status in the absence of the annual ELP assessment, see the section below on exit procedures.

For those students for whom the SEA has ELP assessment data from the 2019-2020 school year, the SEA should use those results to inform instruction, placement, and exit of ELs. Note, however, that it may be the case that some ELs’ English proficiency may have decreased since they were assessed because they may have experienced limited instruction for an extended time during the school closures. Therefore, schools should closely monitor ELs, including those students who have been exited from EL status based on the 2019-2020 ELP assessment, to evaluate whether such students need additional services or should be re-classified as ELs.

Entrance Requirements

3. If a student moves into a new LEA that is currently closed due to the COVID-19 national emergency, must staff at the enrolling LEA screen the student for EL identification within 30 days?

If an LEA’s schools are physically closed and it is not providing any educational services to students, there is no obligation to screen new students for EL status. However, if the LEA is operating via remote learning, the LEA must screen new students to determine EL status to the extent possible. Sections 1112(e)(3) and 3113(b)(2) of ESEA require that students be identified for EL status within 30 days of enrollment in a school in a State; for students who enroll after the beginning of the school year, the LEA must send the required parent notice within two weeks of a student being placed in a language instruction educational program (LIEP).

However, the Department recognizes that, during the COVID-19 national emergency, many facilities are physically closed, including those normally used for registration and screening. An

LEA that is continuing to enroll new students during the COVID-19 national emergency should attempt to identify ELs remotely to the greatest extent possible. For example, the LEA's online registration process could include a home language survey for parents, and the LEA may be able to conduct a version of its screening assessment online. Funds received under the Elementary and Secondary School Emergency Relief Fund (ESSERF) or the Governor's Emergency Education Relief Fund (GEERF) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)³, enacted on March 27, 2020, can generally be used for these purposes.

An LEA may also communicate with parents by telephone, with interpreters as needed, to conduct an oral home language survey in the parent's native language to identify potential ELs and may explain to parents orally the information required by Section 1112(e)(3) of ESEA to be included in the parent notice⁴ in order to start providing EL services remotely to those students. When the school physically reopens, the LEA would complete the full identification procedures to promptly ensure proper identification and placement for new ELs.

4. May an LEA presumptively identify an EL based on an oral home language survey alone, even if the statewide standardized entrance procedures require additional criteria (e.g., a screener assessment) for identification?

The Department recognizes that extended school closures have made it difficult for SEAs to implement their statewide, standardized entrance procedures. SEAs and LEAs may need to adjust their statewide, standardized entrance procedures temporarily to allow for the use of available online resources and other options (see question 3 above) to identify EL students as quickly as possible in order to start services for those students. SEAs and LEAs could apply temporary entrance procedures that permit the presumption of EL identification based on a home language survey and rely on appropriate follow up, including but not limited to, discussion with parents and/or students (as appropriate) in order to provide needed language services, if the alternative is failing to provide any English language services to students in need of them. An SEA must ensure statewide communication of, and maintain documentation of, any temporary change in its entrance procedures for the 2019-2020 school year due to the COVID-19 national emergency.

Providing Services to ELs⁵

5. Must an LEA providing remote learning provide language instruction services to ELs?

Yes, if an LEA is providing remote learning for its students, the LEA must provide language instruction services to ELs. However, during the COVID-19 national emergency, the Department recognizes that physical school closures may affect how services are provided to ELs. EL services may be provided virtually, online, or via telephone. The Department understands that,

³ Pub. L. No. 116-136 (March 27, 2020).

⁴ See question E-1 of the 2016 EL guidance, found at <https://www2.ed.gov/policy/elsec/leg/essa/essatitleiiiguidentenglishlearners92016.pdf>, and Section 1112(e)(3)) of ESEA.

⁵ These responses to questions under this section pertain only to the current exceptional circumstances created by COVID-19, including this period of rapid transition to remote learning.

during this national emergency, schools may not be able to provide all services in the same manner they are typically provided.

The Department recommends that during remote learning, EL teachers continue to provide instruction to students who were previously in self-contained EL classrooms or in pull-out models. For classes in which ELs participated in mainstream classrooms with both a content teacher and an EL teacher, the EL teacher should continue to collaborate with the content teacher to ensure that the appropriate supports and accommodations are provided to the ELs in that class through remote learning. Additionally, during remote learning, teachers should continue to provide appropriate supports and accommodations to EL students who were previously in mainstream classrooms with only a content teacher to the greatest extent possible.

The Department encourages parents, educators, and administrators to collaborate creatively to continue to meet the needs of ELs. Consider practices such as remote instruction, telephone calls, meetings held on digital platforms, online options for data tracking, and documentation of services, supports, and accommodations provided. In addition, an LEA might consider non-technology-based strategies, such as providing instructional packets or assigning projects and written assignments to EL students. In each instance, the Department recommends continuity in providing language services to ELs to the greatest extent possible under the current circumstances.

6. If operating remotely, what is the minimum number of hours or days in a week that an LEA or school must provide English language services to ELs?

Under the ESEA, there is no particular program or method of instruction for EL students that is required, nor is there a standard amount of time that must be allocated to English language services. Further, the Department recognizes that the determination of how EL services are to be provided may need to be different during the COVID-19 national emergency. Please see also the response to question 5.

7. Must an LEA that is operating remotely provide language accommodations for ELs in content classes?

Yes. The LEA is required to provide language accommodations for ELs for content classes that are held remotely. Many accommodations may be effectively provided online. These may include, for example, extensions of time for assignments, videos with captioning or embedded interpreting, accessible or translated reading materials, other language services provided through video conferencing, an online translation dictionary, or other technological solutions. Funds under Title III of ESEA can be used for that purpose, provided they do not supplant State, local, or other Federal funds (see “Use of Title III Funds” section below). Funds received under the ESSERF or the GEERF of the CARES Act can generally be used for these purposes and are not subject to supplement- not- supplant requirements.

Although Federal law requires meaningful access to remote instruction, it does not mandate specific methodologies for providing that access. Where technology itself poses a barrier to access or where educational materials simply are not available in an accessible format, educators

may still meet their legal obligations by providing ELs equally effective alternate access to the curriculum or services provided to other students. In some cases, this may be accomplished, for example, through hard copy packets, teacher check-ins, or tutorials.

8. How can an LEA continuing to provide instruction remotely ensure that ELs have access to grade-level content in a platform without typical scaffolds and supports?

See response to question 7. SEAs, LEAs, schools, and teachers should use all available resources to meet EL students' needs while operating remotely. If the LEA's platform does not provide the EL supports it typically provides to its students, groups of educators could work together to craft relevant tools and resources for EL students. If remote education is continuing, ELs must receive appropriate language services and supports to the greatest extent possible.

9. Is an LEA required to continue to provide a free appropriate public education (FAPE) to ELs with disabilities during a school closure due to the COVID-19 national emergency?

If an LEA continues to provide educational opportunities to the general student population during a school closure, the school must ensure that ELs with disabilities also have equal access to the same opportunities, including the provision of FAPE.⁶ SEAs, LEAs, and schools must ensure that, to the greatest extent possible, each student with a disability, including each EL with a disability, can be provided the special education and related services identified in the student's individualized education program (IEP) developed under the Individuals with Disabilities Education Act (IDEA), or a plan developed under Section 504.⁷ The following resources outline a state's responsibility to infants, toddlers, and children with disabilities and their families, and to the staff serving these children. As additional resources become available they will be posted at www.ed.gov/coronavirus.

- [Questions and Answers on Providing Services to Children with Disabilities During the COVID-19 Outbreak](#) (March 12, 2020) [available at: <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>].
- [Supplemental Fact Sheet \(Español\)](#) Addressing Serving Children with Disabilities during COVID-19 national emergency (March 21, 2020) [available at: <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>].

10. Must an LEA operating remotely continue to provide equitable services to eligible ELs enrolled in private schools?

Yes, the LEA has an obligation to provide equitable services to eligible private school ELs and their teachers as agreed upon during the consultation process between LEAs and private school officials (Section 8501 of ESEA). However, due to school closures, additional consultation with private school officials may be required to determine if there are potential barriers to students receiving services via remote learning and how such barriers might be overcome. This discussion

⁶ See the regulations for Section 504 of the Rehabilitation Act of 1973 (Section 504) at 34 CFR §§ 104.4, 104.33; and the regulations for Title II of the Americans with Disabilities Act at 28 CFR § 35.130.

⁷ See the IDEA regulations at 34 CFR §§ 300.101, 300.201; and the Section 504 regulations at 34 CFR § 104.33.

might also include the option of temporarily suspending equitable services during school closures. Services could then resume once schools reopen and possibly extend into the summer. If funds allocated for equitable services in the 2019-2020 school year remain unobligated they must be carried over to provide services in the next academic year in addition to services the students otherwise would receive based on the 2020-2021 school year allocation.

Use of Title III Funds

11. If an LEA is providing remote learning, may funds under Title III of ESEA provide support for ELs by purchasing software for ELs in the content areas, or would that be considered supplanting?

The supplement-not-supplant⁸ requirement applies to funds under Title III of ESEA even when an LEA is conducting remote learning. However, while schools are operating via remote learning, Title III funds may be used to supplement the basic instruction or support that must be provided to ELs (i.e., to supplement the LIEP). For example, if an LEA purchases software for high school reading/language arts courses that includes embedded supports for ELs, such as pop-up translations or images to support instruction, then for those ELs in those courses, this could provide their “core” LIEP due to the embedded supports, and Title III funds could not be used for that software. The LEA may, however, choose to supplement, using Title III funds, that coursework with additional online resources and software for ELs or it may wish to add an EL support teacher, using Title III funds, to provide online support or support via telephone calls to students for additional assistance.

12. If an LEA provides for internet access, hotspots, and tablets or other devices for low-income students who do not have access to technology, may Title III funds provide similar resources for those low-income students who are ELs to enable their internet access?

No. If an LEA provides remote learning for everyone, including internet access or educational technology for low-income students, then the LEA cannot use Title III funds for that purpose for the low-income students who are ELs, because that would violate the supplement-not-supplant requirement in section 3115(g) of ESEA. The LEA may use Title III funds for supplemental hardware or software that is designed specifically for ELs (e.g., software to provide language accessibility features or tools) and that supplement the LIEP.

For general internet access and educational technology to other students, States and LEAs should use State, local, and other Federal funds to provide the same access for ELs. For example, recipients of subgrants under the CARES Act ESSERF and GEERF can generally use those grants for student internet access and devices to enable online learning as well as accessible technology for ELs with disabilities, among other uses of funds. While short-term connectivity support may be necessary in some situations, the Department encourages SEAs and LEAs to consider ways to invest CARES Act funds in technology infrastructure and professional

⁸ Section 3115(g) of ESEA requires Federal funds made available under Title III to be used to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for ELs and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

development and training that will improve long-term capacity for remote learning. Information on using Federal education funds to support technology can be found at <https://tech.ed.gov/funding/> and <https://oese.ed.gov/offices/office-of-formula-grants/safe-supportive-schools/student-support-and-academic-enrichment-program/>. In addition, the following are examples of Department programs under the ESEA that provide funds that may be used to support access to devices for students (e.g., tablets, computers) and mobile hotspot devices and data plans:

- Title IV, Part A, Student Support and Academic Enrichment Grants (SSAE);⁹
- Title V, Part B, Subpart 1, Small, Rural School Achievement Program (SRSA);
- Title V, Part B, Subpart 2, Rural and Low-Income School Program (RLIS);
- Sections 7002 and 7003(b), Impact Aid; and
- Section 4624, Promise Neighborhoods.

Note that the allowability of costs is always situation- and program-specific. For that reason, if an LEA decides to use funds under one of these programs for costs related to device or mobile hotspot access, the LEA must be sure that the use of the funds is, under the specific circumstances of the expenditure and the program authority selected, reasonable and necessary for the purposes of that program, and does not violate other program requirements, such as supplement-not-supplant, if applicable. While funds under these programs may be used on device or mobile hotspot access in some appropriate circumstances, each program's purpose is not primarily focused on that issue.

13. May Title III funds be used to train teachers to use new online platforms and software designed for ELs? Does that training need to be limited to training EL teachers or may the LEA include all teachers who have ELs in their classes?

An LEA may use Title III funds for teacher training if it is specific to EL needs. The training could include all teachers if it is geared towards meeting the needs of ELs or if it relates to software or embedded supports for ELs. However, if the training is for the same online platform that all teachers will use for all classes, and does not address EL needs, then the use of Title III funds for such training would not be permitted, as it would be supplanting, rather than supplementing, other available funding sources. For more information about the ability to use Title III funds to provide supplemental supports for ELs, see the response to question 11.

⁹ Section 4109(b) of ESEA requires that, for LEAs receiving \$30,000 or more in Title IV, Part A funds, no more than 15 percent of those funds for activities to support the effective use of technology may be used "for purchasing technology infrastructure." Under the authority in section 3511 of the CARES Act, on April 3, 2020, the Secretary invited a waiver of this 15 percent spending limitation and subsequently approved a waiver in all 50 States, the District of Columbia, Puerto Rico, and the Bureau of Indian Education.

Exit Procedures

14. If an LEA is not able to complete the ELP assessment for all ELs in spring 2020, should all ELs be kept in EL status for the fall, even if some of them may be proficient in English according to their teachers? May an LEA exit such students without administering the ELP assessment?

An LEA may not exit an EL from EL status unless the student has demonstrated proficiency on a valid and reliable assessment that includes the four domains of listening, speaking, reading, and writing. There is an exception for an EL with a disability whose disability makes it impossible for the student to be assessed in a particular domain because there are no appropriate accommodations for assessing the student in that domain; such an EL can be exited from EL status based on the student's score on the remaining domains in which the student was assessed.¹⁰

An LEA that is not able to complete its ELP assessment for all ELs during the 2019-2020 school year due to the COVID-19 national emergency may elect to try to complete that ELP testing in the fall of 2020 when possible. Doing so may assist the LEA in implementing ELP exit procedures. If assessing ELs in the fall is not possible, an LEA should give particular attention to individualized determinations for the instruction and placement of each EL when schools reopen. Note, however, that it may be the case that an EL's English proficiency may have decreased because they may have experienced limited instruction for an extended time during the school closures. Therefore, schools should closely monitor each EL to evaluate whether they need additional EL supports. For example, an EL that may have been close to proficient in spring may need more English language development supports than the student was receiving immediately before the school's closure to ensure access to the general curriculum. An EL at the lower end of the proficiency spectrum may also have lost some English language skills during the COVID-19 national emergency and may need additional supports.

15. If an SEA has additional requirements for exit in addition to the ELP assessment (e.g., a teacher rubric) may the SEA change its exit procedures and exit ELs based only on the ELP assessment during the COVID-19 national emergency?

Yes, due to the extended school closures caused by the COVID-19 national emergency, an SEA may adjust its statewide exit procedures for the 2019-2020 school year to eliminate any additional criteria beyond the ELP assessment. An SEA may want to consider this option if, for example, it used teacher input as an additional exit criterion, but it expects that many of the teachers may be unavailable to complete such input when schools reopen because they have moved to a new school or LEA. In this situation, the SEA could instruct all LEAs to exit students based on the proficient score on the spring 2020 ELP assessment only (if it has that data). When the SEA administers the ELP assessment in spring 2021 on the State's usual schedule, the SEA would revert to the SEA's usual exit procedures that include other measures. By adjusting its statewide exit procedures temporarily to include only the ELP assessment, the SEA would help to ensure that a student in EL status who is proficient in English is able to exit, especially if, by not exiting, the student would be denied access to the full curriculum, e.g., by being in a self-

¹⁰ See 34 C.F.R. § 200.6 (h)(4)(ii).

contained classroom. An LEA should give careful consideration to the individualized EL instructional and placement decisions when schools reopen, to ensure that all ELs are receiving services appropriate for their EL needs (see questions 2 and 14 above). An SEA must ensure statewide communication of, and maintain documentation of, any temporary change in its exit procedures for the 2019-2020 school year due to the COVID-19 national emergency.

Parents of ELs

16. How should SEAs and LEAs ensure meaningful communication with parents of ELs in a language and format they can understand and access?

SEAs and LEAs have an obligation to ensure meaningful communication with parents of ELs in a language they can understand and to adequately notify limited English proficient (LEP) parents of information about any program, service, or activity of an SEA or LEA that is called to the attention of non-LEP parents. Many LEAs are sending crucial information to parents during this time regarding, for example, the expectations for parents to pick up or set up new technology, new enrollment protocols, and how to support their students at home. SEAs and LEAs should consider all possible methods in order to ensure meaningful communication with LEP parents of all students, including EL students. For example, an LEA should translate all mailings and emails to parents to ensure parents have access to the information in a language they understand. For parents who are not literate, some LEAs are using recorded telephone calls that go to families, which include several different recorded language options that parents can choose, but these recorded telephone calls should be developed carefully to help ensure that they are understandable. SEAs and LEAs can generally use CARES Act funds under the ESSERF and GEERF for communications with parents, including translation and interpretation services.

For information on various uses of Title III funds for parent and family engagement, see question E-4 of the 2016 EL guidance.¹¹

Resources

U.S. Department of Education website on COVID-19: <https://www.ed.gov/coronavirus>

U.S. Department of Education Title III, Part A website: <https://oese.ed.gov/offices/office-of-formula-grants/school-support-and-accountability/english-language-acquisition-state-grants/>.

National Clearing House on English Language Acquisition (NCELA): <http://ncela-stg.it-msg.com/>.

If you have questions for the U.S. Department of Education related to school closures and Covid-19, please email us at COVID-19@ed.gov.

If you have questions for the Office for Civil Rights (OCR), want additional information or technical assistance, or believe that a school is violating federal civil rights law, call your regional office or visit the website of the U.S. Department of Education's OCR at

¹¹ See <https://www2.ed.gov/policy/elsec/leg/essa/essatitleiii guidenglishlearners92016.pdf>.

www.ed.gov/ocr. You may contact OCR at (800) 421-3481 (TDD: 800-877-8339), at ocr@ed.gov, or contact OCR's Outreach, Prevention, Education and Non-discrimination (OPEN) Center at OPEN@ed.gov. You may also fill out a complaint form online at www.ed.gov/ocr/complaintintro.html.