HANDBOOK FOR EDUCATORS

OF STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS WITH SUSPECTED DISABILITIES

VIRGINIA DEPARTMENT OF EDUCATION

APRIL 2015

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FOUNDATION FOR WORKING WITH STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS (ELLS)

Introduction

Purpose

Public schools within the Commonwealth of Virginia are committed to ensuring a free and appropriate public education for students with disabilities who are ages 2 by September 30th of the current school year through 21 in accordance with the *Code of Virginia*, at §§ 22.1-213 and 22.1-254, and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, at 8 VAC 20-80-10. This commitment includes providing equal access to appropriate educational services for students who are English Language Learners (ELLs), who may also have disabilities.

The purpose of this document, **Handbook for Educators of Students Who Are English Language Learners with Suspected Disabilities,** is to provide local educational agencies (LEAs) with assistance as they identify and assess students who are ELLs for possible eligibility for special education and related services. The Individuals with Disabilities Education Act (IDEA) suggests that "greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities." (IDEA, 2004, P.L. 108-446, 20 U.S.C. § 1400(c)(8)(A))

This Handbook will provide guidance for LEAs to:

- create an awareness of the laws, regulations, and policies related to the educational rights of students who are ELLs;
- explain the process and developmental stages of second language acquisition;
- promote a collaborative approach among teachers, administrators, and other personnel involved in the education of students who are ELLs;
- provide consistent guidelines for instructional interventions, special education identification process, and program options for students who are ELLs; and
- be used collaboratively with the Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

Traditionally, teachers have worked independently within their own disciplines. Educators have been confident that their educational and professional experience prepared them to meet their students' needs. However, student populations have changed. Current classroom demands require education professionals to adopt a different perspective and one that emphasizes professional consultation and collaboration. Cultural diversity, recognition of multiple learning styles, and varied needs of individual students necessitate differentiated instructional strategies for students who are ELLs within schools. Today, teachers and specialists from diverse disciplines must share responsibility for all students. Together they can meet students' varied needs.

Handbook for Educators of English Language Learners with Suspected Disabilities is the product of a collaborative effort by professionals who work with students in general and special education, ELLs, and other professional domains. This document addresses:

- the need for a resource delineating appropriate procedures and strategies to facilitate shared decision-making among educators for students who are ELLs with possible disabilities; and
- the commonality of learning needs across content areas.

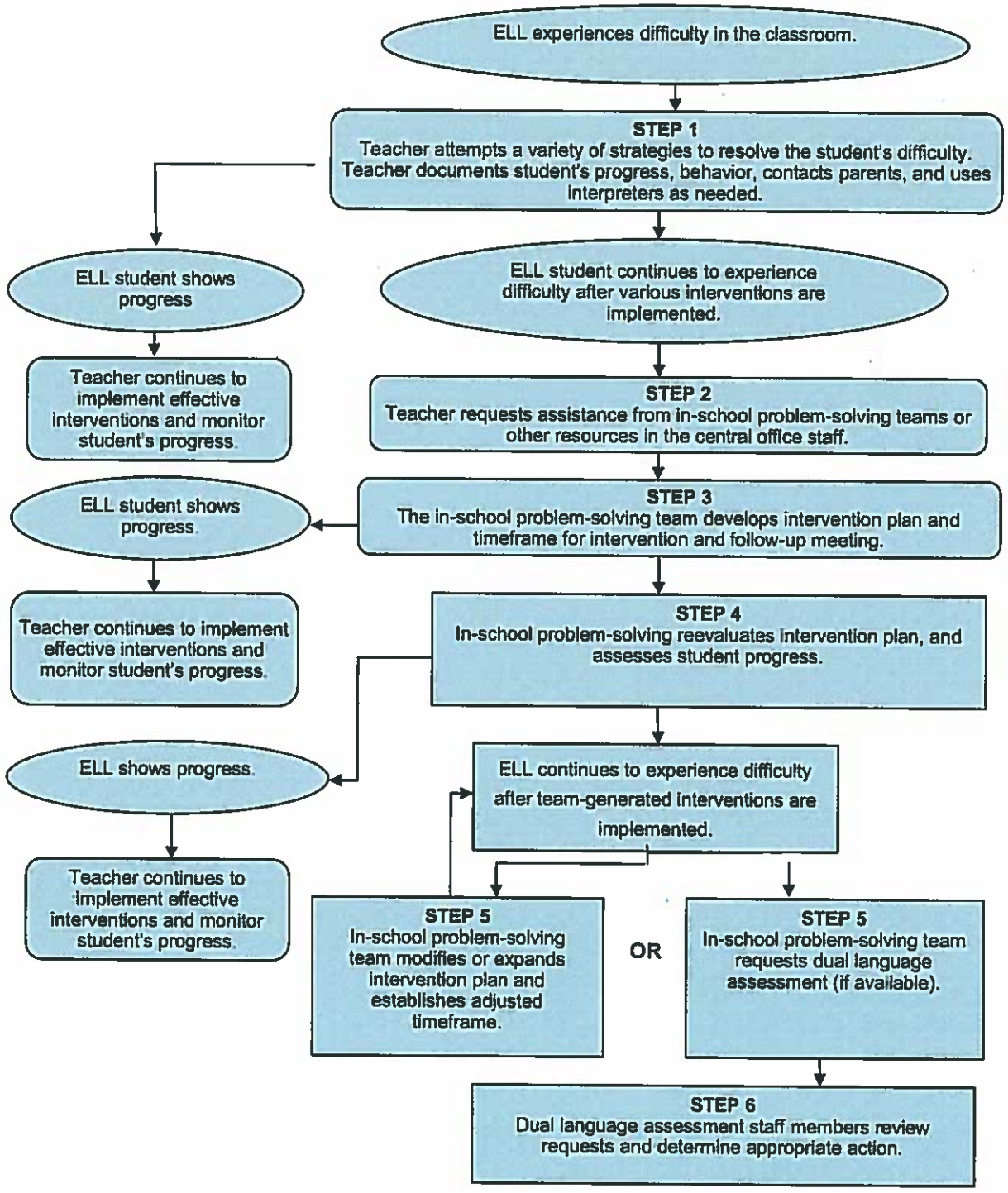
The reference to dual language assessment (DLA) teacher, dual language assessment, and interpreter are included and may be used as part of the evaluation.

Pre-Referral Intervention, Referral for Suspected Disability, Evaluation, and Eligibility: the Process for English Language Learners

Introduction and Background

Providing research-based and effective teaching methodologies in the general education classroom are strongly encouraged. By putting high-quality instruction in place with frequent student progress monitoring, student's instructional needs required under the *Elementary and Secondary Education Act of 1965* (ESEA), as amended by the *No Child Left Behind Act of 2001*(NCLB), and the Individuals with Disabilities Education Act (IDEA) may be met. By collaboratively designing and implementing appropriate strategies, the academic and language needs of many students who are ELLs who might otherwise be inappropriately suspected of having a disability and referred for special education can be addressed effectively within the student's general education and ESL classrooms. The multi-step process outlined in this guidance document is intended to be used for those students for whom there is insufficient evidence to reasonably suspect a disability. When the general education and ESL efforts do not meet student's needs and there is no clear suspicion of a disability, there are a series of steps to follow. The following flowchart details steps along the pre-referral, referral, evaluation, eligibility, and Individualized Education Program (IEP) continuum that promotes interdisciplinary partnerships, classroom-based interventions, and reduces inappropriate referrals for special education. If there is a clear suspicion of a disability, there must be no unnecessary delay in making the referral or providing appropriate services.

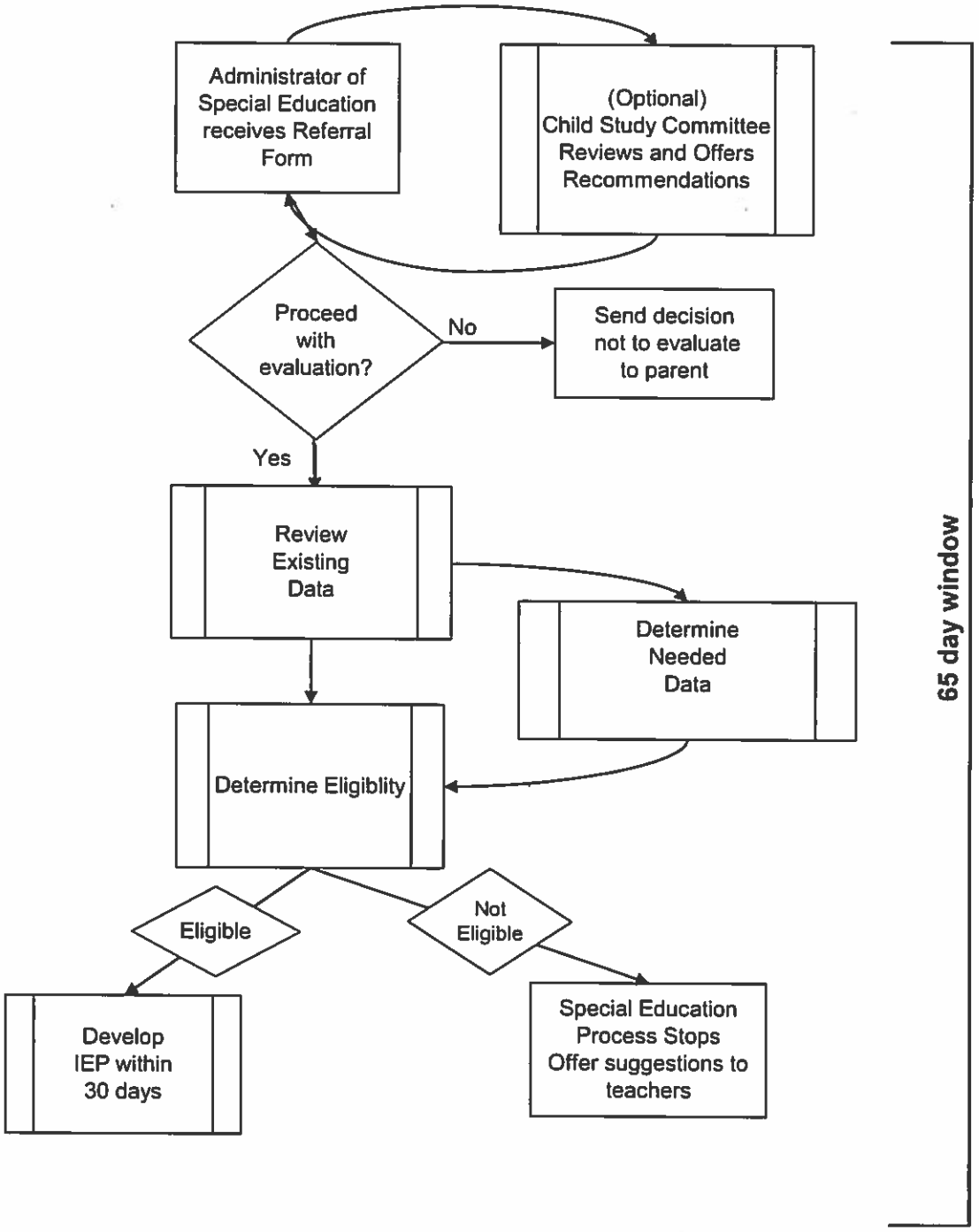
Pre-Referral Intervention Flow Chart



- Ovals refer to the ELL student's behavior or classroom performance.
- Rectangles delineate the educator's responses to the student.

The Special Education Process

Referrals for suspected disability may come from:
Student screening
Any person or group that suspects a disability



Pre-Referral Intervention

Before considering a student who is an ELL for special education, teachers should consult with other professionals and document the strategies used. Techniques such as differentiating content, instruction, and student products are highly recommended before conducting a formal evaluation. Teachers should maintain a record of strategies and interventions used with the student. If students are unresponsive to strategies and interventions, these data will be valuable to the evaluation team. There is no predetermined length of time for interventions to show significant improvement. Interventions must be provided on a consistent schedule for an adequate length of time (e.g., 4-6 weeks) with an appropriate data collection to determine if the student is responsive to the strategy. The guidance in this section is intended to be used when it is difficult to distinguish between language barrier or disability. When an obvious disabling condition is present, teachers should consult with the special education administrator to avoid any unnecessary delay in making a referral for evaluation or providing appropriate services.

Consultation with an ESL professional is highly recommended. These professionals can provide information on differences between the student's first language and English language to include dialect, pronunciation, grammatical structures, and social constructs.

STEP 1 The teacher attempts a variety of strategies to resolve the student's difficulty. The teacher documents student's progress and behavior, contacts the parents, and uses interpreters as needed.

STEP 2: The teacher requests assistance from the in-school problem solving team [student support team (SST), teacher assistance team (TAT), child study committee, etc.] or from other resource personnel in the central office. The in-school problem solving team reviews pertinent data about the student and begins completing the Student Data Checklist in Appendix D with input from parents or family using an interpreter as needed. ***The in-school problem solving team should include the student's ESL teacher, a dual language assessment (DLA) teacher, or other personnel with expertise in the second language acquisition process.***

The Student Data Checklist (located in Appendix D) ensures that the referring source reviews the student's cumulative files for pertinent information about the student's current academic difficulties. In some cases, data obtained from formal records may indicate a need for ESL, medical treatment, or alternative instructional placement not previously noted by the school.

STEP 3: The in-school problem solving team develops an intervention plan, using information from the Student Data Checklist, monitors the student's response to systematic, sustained, and targeted interventions, and schedules a follow-up meeting.

Through early collaboration, a systematic intervention plan and implementation schedule can be designed that offers the at-risk student alternative instructional assistance and support. ***The in-school problem-solving team for students who are ELLs should include an ESL teacher or someone with second language acquisition expertise as well as other staff members who work with the student or who have expertise to assist teachers in addressing their concerns about the student.***

The in-school problem solving team:

- supports classroom teachers on a day-to-day basis;
- serves as a peer problem solving group;
- is designed to provide prompt, accessible support to teachers;
- places the initiative for action in the hands of the classroom teacher(s);
- allows teachers to share knowledge and talent with each other; and
- determines the time frame of the interventions based on the student's progress.

Central office ESL and special education staff members may also be available as resources.

When no formalized in-school problem-solving committee exists, a team consisting of general and ESL teachers, counselors, and other personnel involved with the student can be created. This team may identify strategies and interventions, develop an implementation plan, and review the student's progress. The student's progress and response to recommended interventions must be carefully monitored and documented by all teachers and shared at follow-up meetings with the in-school problem-solving team.

STEP 4: The in-school problem-solving team reconvenes to review data, evaluate the effectiveness of the intervention plan, analyze the student's progress, and consult with school and central office resource personnel as needed.

STEP 5: The in-school problem-solving team modifies, expands, or continues implementing the intervention plan and establishes an adjusted time frame for a follow-up meeting.

OR

The in-school problem-solving team requests consideration for a DLA.

The in-school problem-solving team reconvenes after the agreed upon interventions and strategies have been systematically implemented for the predetermined length of time. At this meeting, the team reviews recent samples of the student's work, teacher anecdotal records, and other relevant documentation in order to assess the progress achieved and to determine the next course of action. If team members decide that steps taken are producing satisfactory results, they may recommend further implementation, modification, or expansion of the intervention plan and establish the next review date. If the team determines that the student is making insufficient progress despite the interventions, the team, as a group, may request consideration for a DLA.

Pre-Referral Dual Language Assessment

STEP 6: If requested, the DLA is administered to determine proficiency in both English and the home language, to analyze the student's progress along the second language acquisition continuum, and to identify language(s) for future testing (if necessary). The DLA report is sent to the school's in-school problem-solving team and the ESL lead teacher or department chairperson. Upon receipt of the DLA report, the problem-solving team reviews the information and determines if a referral for special education is warranted.

Questions and Answers

Why should a DLA be conducted?

The Individuals with Disabilities Education Act (IDEA) mandates that evaluations for possible special education services should be provided and administered in the native language or 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 do so. (34 CFR § 300.304(c)(1)(ii)) The DLA provides information regarding expected second language learning and helps determine whether or not concerns are due to common second language acquisition processes or if they may signal other areas of concern that warrant consideration for further assessment.

Who needs a DLA?

Any student who is an ELL, including preschool children, having difficulty in school may be considered for a DLA. The DLA may vary in form and content from student to student according to individual needs and backgrounds. While the majority of students who are ELLs require complete DLAs, some students may only require a partial DLA. Partial DLAs may include language dominance confirmation, home language analysis, or telephone consultations. Since many variables affect whether or not a DLA is needed and which type of assessment is necessary, any questions or concerns should be discussed by the team working with the student.

Students who are ELLs already receiving services in special education and those preschool children who are due for reevaluations should be considered for a DLA before further reevaluation is initiated. If a previously administered DLA has determined that the student is English-dominant, a second DLA is generally not needed as long as the student has remained in an English-speaking educational environment since the first DLA was conducted. Although it is permissible to complete a DLA prior to completing additional assessments as part of the reevaluation of a child with a disability, reevaluations must still occur within mandated timelines. In addition, if a parent requests a reevaluation, or if the child's needs warrant a reevaluation, LEA personnel must respond within a timely manner. Finally, if the DLA is completed as part the evaluation and eligibility process for a child with a disability, parental consent is required. (34 CFR § 300.303; 8 VAC 20-80-54 F. and H.)

What is the purpose of a DLA?

A DLA is a procedure conducted by a DLA teacher or services staff members to:

- determine home language proficiency and skills;
- establish English proficiency and skills within the second language acquisition continuum;
- identify dominant language(s), if any, for the purpose of further evaluation and assessment, if needed;
- address concerns using second language acquisition research and an ESL perspective; and
- recommend effective classroom strategies and interventions.

The DLA report provides information that will help the school staff determine appropriate interventions. Reports may include suggestions for effective strategies and instructional programs or approaches to meet the needs of the student. The report places the student's progress along the second language acquisition continuum. DLA results may provide additional information that is helpful when determining if a referral for evaluation to determine eligibility for special education should be initiated and in what language(s) assessments should be conducted.

When should a DLA be requested?

The DLA should be requested only after a variety of interventions, instructional strategies, and program options have been explored, attempted, implemented, and documented. Steps 1 through 4 of the prereferral intervention process (flowchart) should be completed before the school team requests consideration of a DLA. The DLA should be a step that is often completed before a referral for evaluation to determine eligibility for special education. The DLA report helps the school determine the need for further action and identifies the appropriate language(s) for further evaluation. If a DLA has not been completed and a student is referred for evaluation, the team may want to consider completing a DLA as part of the evaluation process.

Who should request a DLA?

Teachers, counselors, administrators, other school personnel, parents, or primary caregivers may request consideration for a DLA. Documentation that the school has followed the prereferral procedures outlined in the prereferral intervention flowchart should be evident. The process suggests that a group of educators or a team at the school level discuss concerns and that a consensus on the need for a DLA be reached after other appropriate, targeted interventions have been systematically implemented and the student's response to those interventions has been monitored and documented. The members of an in-school problem-solving team, including the referring source(s) and an ESL or a DLA teacher, should be included when considering a student for a DLA.

What are the components of a DLA?

The DLA should consist of a variety of formal, standardized assessment instruments, interviews, and observations of the student. Tests may be administered in both English and the student's home language, either by a bilingual DLA teacher or with the assistance of a trained interpreter. The final report is submitted to the school's team and ESL lead teacher or department chairperson. Each DLA is tailored to the individual student according to his or her age, grade level, length of time in the United States or in English-speaking schools, and the concerns stated. The DLA explores academic areas, assesses language acquisition and proficiency, as well as higher-level thinking skills. The assessment can include evaluating the student's receptive and expressive vocabulary, oral communicative ability, reading comprehension, speaking skills, story retelling ability, and writing skills, among other domains. The length of the DLA varies depending on the literacy level of each individual student.

Formal assessment instruments should be used with extreme caution. Many test items do not translate into other languages, are not reflective of cultural expectations in other countries, and are selected because they are appropriate for native English speakers. If standardized test instruments are used, information collected should be viewed as qualitative and not quantitative. Performance-based assessments may include:

- story retelling;
- writing samples;
- behavioral observations;
- readiness tasks; and/or
- communication and consultation with school staff and/or family members

Beginning the Special Education Process

The Individuals with Disabilities Education Act (IDEA) and its federal implementing regulations, the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, and local school division special education policies and procedures regulate the special education process. School divisions must ensure that appropriate steps are followed and adhere to special education timelines. A system to resolve disputes between parents and school staff and ensure compliance with special education regulations is maintained by the Virginia Department of Education. Interpreters should be used, as needed, throughout the special education process. They may help notify parents of meetings, confirm dates and times, and explain the special education process and parent/student rights and how they may affect the child. Interpreters should also be included in interpretive conferences and IEP meetings. Every effort should be made to enlist the services of the same interpreter throughout the process to establish a consistent and ongoing rapport with the family.

Referral for Evaluation

Parents, teachers, staff members, or others who suspect that a student may have a disability and is in need of special education and related services may make a referral. Referrals should be addressed to the school division's special education administrator or designee.

Receipt of Referral by Special Education Administrator or Designee
The special education administrator or designee will use the school division procedures to review the referral which may involve the school's child study committee or other mechanism. If it is determined that an evaluation is warranted, the decision about eligibility must be made within 65 business days from the date of the special education administrator or designee receives the referral for evaluation. (8 VAC 20-80-54 H.)

Determination of Needed Evaluation Data

As part of an initial evaluation, a group that is comprised of the same individuals as an IEP team, and other qualified professionals, as appropriate, shall review existing evaluation data on the child. Existing data may include evaluations and information provided by the parent or parents of the child, current classroom-based, local, or state assessments, and classroom-based observations, and observations by teachers and related services providers. (34 CFR § 300.305(a)(1)) On the basis of that review and input from the child's parent or parents, the group will identify what additional data, if any, are needed to determine whether the child has a particular disability or disabilities. This process shall be considered the evaluation, if no additional data are needed. The data will also be used to determine the present levels of performance and educational needs of the child, whether the child needs special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum. The group completing the review may conduct its review without a meeting. The local educational agency shall provide notice to ensure that the parent or parents have the opportunity to participate in the review. If there is a meeting, the local educational agency shall provide notice of the meeting early enough to ensure that the parent or parents will have an opportunity to participate. The notice must indicate the purpose, date, time, and location of the meeting and who will be in attendance. After receiving parental consent to evaluate the student, the local educational agency shall administer tests and other evaluation materials as may be needed to produce the data.

Comprehensive Evaluation of English Language Learners

If a referral for special education is made, all pertinent information should be made available to the appropriate school staff. The student's ESL teacher, DLA teacher, or other personnel with expertise in the second language acquisition process should be included in any meeting. Once a student is referred to the administrator of special education, strict timelines must be followed. If the decision is to evaluate, the school division has 65 business days from the receipt of the referral for evaluation by the special education administrator or designee to complete the eligibility process. Parents must be notified and invited to participate in the process (informed parental consent must be provided for evaluations) and interpreters should be made available, as needed.

Depending on the recommendations within the DLA report regarding the child's native language , the evaluation of the student may be administered in one of three ways:

1. Entirely in the ELL's home language, ideally with a bilingual staff member or with the assistance of a trained interpreter,
2. In both the home language and English (If specified in the Dual Language Assessment report, bilingual testing may require the concurrent presentation of test items and directions in both languages.), or
3. In English only.

Assessment protocols and tests used in schools are typically designed for native English speakers. To reduce the possibility of identifying a student who is an ELL as a child with a disability or determining a student does not have a disability when in reality they do, all correct responses in one or both languages should be accepted (Paradis, 2005). This practice may also reduce the language and cultural bias inherent in many tests. In addition, all assessment results should be used as qualitative measures and interpreted with extreme caution. Virginia regulations governing special education require that any nonstandard administration of tests be documented in the professional's report. Because of the cultural and linguistic differences between the child's primary language and English, standardized test scores may not be used and must be only one part of a multifaceted evaluation.

Dynamic assessment is a supplemental approach to traditional standardized assessments for students who are ELLs. Some students who are ELLs may perform poorly on standardized tests due to unfamiliarity with the testing situation, cultural or linguistic differences, or language issues. The use of dynamic assessment techniques can assist in determining strategies for intervention as well as providing information about learning process. The types of dynamic assessment techniques are testing limits, graduated prompting, and test-teach-retest. Of these, test-teach-retest is best suited for differentiating language differences from disorders (Gutierrez, 2001).

The data that is used to determine eligibility decisions should also be derived from performance-based assessment in the classroom, observations, and information gathered from parents and other professionals. The student's performance must be compared to that of other students who are ELLs of the same cultural group who speak the same dialect and who have had similar exposure to and opportunities to use English. Tests marketed for speakers of languages other than English must be interpreted with extreme caution because they may not be standardized on students who are ELLs living in the United States. Tests standardized on children living in other countries or on monolingual English-speaking students will be linguistically and culturally biased and yield invalid scores. Eligibility committees should rely on performance-based assessment, observations, careful interpretation of test scores, and the collaborative expertise of ESL teachers, classroom teachers, and test administrators. Observations by appropriate specialists (psychologists, speech-language pathologists, special education teachers, etc.) are strongly recommended.

Since students who are ELLs cannot be denied access to special education and related services due to the lack of appropriate test instruments and procedures, a continued and expanded commitment to exploring interventions and dynamic evaluation strategies is essential. Only by pursuing multidimensional and dynamic forms of assessment and by seeking interdisciplinary input and informed dialogue between educators can the difficult task of intervention, evaluation, eligibility, and appropriate placement for students who are ELLs be improved. Assessments should be completed in the language(s) recommended in the dual language assessment report.

An evaluation for special education eligibility must ensure that tests, assessments, and other evaluation components are selected and administered so as to be neither culturally nor racially discriminatory. Tests, assessments, and other evaluation components are provided and administered in language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer.

Materials and procedures used during the assessment are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills. Reports must indicate if the assessment was administered in a language other than English or if an interpreter was used.

The evaluation process must gather comprehensive information, including functional, developmental, and academic information about the student and may not use any single measure or assessment as the sole criterion for determining whether the student is a child with a disability. Two days prior to the eligibility meeting, the evaluation components should be assembled and made available to the parents by the assigned staff members (34 CFR § 300.304(b)(1); 8 VAC 20-80-54 E. 16). The evaluation components may include the following:

- Psychological assessment;
- Sociocultural assessment;
- Parent involvement;
- Educational assessment;
- Hearing screening;
- Vision screening;
- Teacher narrative (general education and ESL);
- Classroom observation (general education and ESL);
- Anecdotal records, including entry language assessment results and student portfolio records;
- Adaptive behavior;
- Speech language assessment;
- Audiological assessment; and
- Other areas as identified by the committee, (e.g., occupational therapy, physical therapy, medical information, etc.).

When conducting a reevaluation, the IEP reevaluation committee should include an ESL teacher or representative. If the committee determines assessments are needed, a referral for consideration of a DLA may be made prior to initiating the reevaluation.

Questions and Answers

What are appropriate instruments to use when assessing students who are ELLs?

Professionals who complete evaluations or reevaluations of the students who are ELLs should first read the student's DLA report and follow specific recommendations relative to the need for interpreters or translations during evaluations for special education eligibility. The use of dynamic assessment techniques can assist in determining strategies for intervention as well as providing information about learning processes. It is essential that students be evaluated comprehensively in all areas related to the suspected disability. Evaluators must complete assessments in the areas of concern and be particularly careful with the use of instruments. Many of the assessment instruments currently on the market are standardized on English-speaking American children representative of the demographics of a previous United States census. Use of any standardized test would be a nonstandard administration. Scores derived from these standardized measures cannot be used as quantitative measures but may provide qualitative information on the student's areas of strength and weakness.

Evaluators must consider the student's ability to communicate and handle standardized procedures and problem solving skills, and they must describe them fully in their formal reports. Although some tests have been translated into Spanish, the populations the tests are standardized may not match the student being evaluated. Therefore, the instrument only reflects a translation and the derived information may be no more reflective of the child's background than any other measure. Current research indicates that the assessment team needs to gather information from a variety of sources in order to develop a picture of the child's current functioning and needs.

What steps can evaluators take to ensure that test results reflect a student's actual ability and performance and not just the student's English language proficiency?

There is no simple way to ensure that evaluators can develop a fair picture of the student's actual ability. The evaluators should assess comprehensively and use multiple measures to determine the student's functioning level. When possible, evaluators should share results and compare actual classroom and home functioning to assessment data. Information about the student's level of proficiency should be discussed. Due to linguistic and cultural bias which may be present in standardized evaluation measures, the student's response to appropriate and sustained, targeted interventions must be considered along with the results of any assessments administered. When evaluating students who are ELLs, considering the results of observations, dynamic assessment techniques, and authentic assessment practices including alternative and/or performance evaluations is considered "best practice."

How should evaluators report the test scores they obtain?

Strengths and weaknesses may be summarized from student performance on assessment measures, but scores obtained are not valid due to differences in the norming sample, cultural and linguistic bias, and nonstandard administration. In all cases, evaluators should cautiously interpret test data.

If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions must be included in the report. Clarifying statements such as "Current test results may not reflect non-English speakers' backgrounds" or "Tests were administered under nonstandard conditions" must be used. Because students who are ELLs are not represented in the norming population of most standardized assessments, analysis and interpretation of the student's performance should include the results of alternative and other culturally competent assessment practices.

If an interpreter assisted in the testing situation, this factor must also be noted in the formal evaluation report. It is important to reiterate any deviation from the norming population, variance from established procedures, or extenuating circumstances for nonstandard interpretations of test results. Any reported data should be treated carefully when decisions or recommendations are made.

Determination of Eligibility for Special Education

School divisions have specific procedures for determining whether a child has a disability and by reason, thereof, needs special education and related services. To determine whether a student who is an ELL is eligible for special education, consideration of his or her English language development should be given through interdisciplinary collaboration. Federal and state regulations governing special education programs require that "students must not be determined eligible for special education and related services if the determinant factor is limited English proficiency or lack of instruction in reading or math." Input from the ESL teacher, the dual language teacher, or other personnel with expertise in the second language acquisition process at the eligibility meeting is necessary in order to place the student's progress along the second language acquisition continuum. This interdisciplinary collaboration will help determine the extent of need for both ESL and special education services.

A written copy of the evaluation report must be made available to parents no later than two business days before the eligibility meeting. The eligibility committee must convene to determine whether or not a child is eligible for special education and related services within 65 business days after the receipt of the referral for evaluation by the special education administrator or designee, unless the timeline is properly extended. If needed, an interpreter should be included in the eligibility meeting.

Upon completing the administration of tests and other evaluation materials or after determining that additional data are not needed, a group of qualified professionals and the parent or parents of the child must determine whether the child is, or continues to be, a child with a disability. The group must include, but not be limited to, local educational personnel representing the disciplines providing assessments, the special education administrator or designee, and the parent or parents. At least one educational agency representative in the group must have either assessed or observed the child. The group may be an IEP team, as long as the above requirements and notice requirements are met.

If determining whether a child suspected of having a specific learning disability is eligible for special education and related services, the group shall include the child's regular teacher. If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of that age or for a child less than school age, an individual qualified to teach a child of that age. At least one person qualified to conduct diagnostic examinations of children, such as a school psychologist, speech-language pathologist, teacher of specific learning disabilities, or reading specialist must participate in the eligibility determination.

A student with a disability must be reevaluated no later than the third anniversary of the date the child was last found eligible for special education and related services, unless the parent and the LEA agree otherwise (34 CFR §§ 300.304 and 300.309(c).

Eligible Decision

If the student is found eligible for special education and related services, the Individualized Education Program (IEP) is developed. The IEP team will determine the student's present level of educational performance, goals, and services. The student may receive both ESL and special education services based on student's academic and language needs. Provision of ESL services should be noted on the present level of educational performance page of the IEP. The IEP team should include the student's ESL teacher, a dual language assessment teacher, or other personnel with expertise in the second language acquisition process.

Not Eligible Decision

If the student is found not eligible for special education and related services, the eligibility committee must provide information relevant to instruction for the child and any other recommendations to the child's teachers and any team convened to assist the student. School staff must determine additional appropriate support and/or alternative programs to assist the student. Results of the evaluation should be shared with the student's teachers following the procedures that protect confidentiality of the child.

If the student who is an ELL is found not eligible for special education services, the school staff or team continue to serve as a resource and to provide support to both the student and his or her teachers as needed. Such ongoing cooperation will ensure that ineligibility for special education does not result in an end to appropriate interventions or monitoring. If concerns persist despite support interventions and/or participation in alternative programs implemented to help the student, the school may consider reevaluating the student at a later date.

Development of the Individualized Education Program (IEP)

If the student is found eligible for special education, the IEP team with the appropriate composition (as per special education regulations) must meet within 30 calendar days of the eligibility determination. An ESL representative should be a member of the IEP team for any ELL. If an interpreter is needed, one should be made available.

The student may begin receiving special education and related services after the parent provides consent to implement the proposed IEP. Written consent must be obtained before any special education services can begin or before a change of placement occurs. To the extent possible, all parents of ELLs should receive oral and written notification of IEP meetings in both the home language and English.

The student's IEP team must meet at least annually to review and revise the IEP; however, the team may reconvene more frequently at the request of any team member, including the parent. Information regarding the student's ESL services should be included in the student's present level of academic achievement and functional performance and considered when determining goals, accommodations and modifications, and services that are included in the IEP.

Questions and Answers

What program options are open for students who are ELLs once they are found eligible for special education?

If an ESL student is found eligible for special education and related services, the IEP team, including an ESL teacher or someone with second language acquisition expertise, should develop an individualized education program including the appropriate instructional program or combination of programs to address the student's academic, functional, and second language needs. The IEP team members must review the student's academic history, ESL assessment summary, and all other pertinent information to jointly determine the appropriate services for that student. A range of service options are available. Some examples of combinations of services include:

1. ESL and special education services: The student who is an ELL with a disability may receive both ESL and special education services. The student may continue participating in ESL at the same level or may be placed at a higher or lower ELP level as needed. For example, high school students at the ELP Level 2 may receive two periods of ESL daily. However, the IEP team may agree that a particular ELP Level 2 student with a disability will receive only one period of ESL, provided the specific academic and language needs of that student can be addressed using a combination of special education and ESL services.

2. Itinerant ESL and special education services: Some students who are ELLs have disabilities that prohibit their participation in general ESL classes. Students with greater needs may require much lower teacher-student ratios than are available in the ESL classrooms. Also, there may be students whose disabilities mandate that they attend a special education center or school where they cannot access general ESL services. In some of these cases, the ESL program may provide an itinerant ESL teacher to work with a particular student, either in the special education classroom, on a small-group basis, or using a combination of service delivery models.

3. For some students, the IEP team, including the ESL teacher or representative, may determine that ESL will no longer be a necessary part of the student's curriculum: This decision is made by the IEP team and should be the exception rather than the rule. To consider withdrawing a student from the ESL program, the IEP team should carefully review the student's ESL history, ESL progress records, and the assistance that might be provided instead of ESL instruction. Examples of appropriate reasons for considering alternative assistance instead of ESL include instances in which a student has stopped making progress in ESL after protracted enrollment in the program, instances in which the student's disability might hinder his or her safety or the safety of others in general education classes and/or ESL, and instances in which an alternative program has been identified as being of greater benefit to the student than ESL. In all cases, the collaboration of general education, ESL, and special education teachers is necessary to explore, consider, and determine the best program or combination of programs for students who are ELLs.

Common Questions From Across The Disciplines

Below are questions frequently asked by administrators, classroom teachers, English as a Second Language (ESL) teachers, and special educators. This publication is intended to provide guidance to be used in conjunction with state and federal regulations.

Can students receive both English as a Second Language (ESL) and special education services?

Yes. There are no regulations that prohibit a student from participating in both programs. Once a child is identified as a child with a disability for special education and related services, the IEP team must look at his or her specific functional, language, and academic needs and select the appropriate instructional program to meet those needs, while ensuring the minimum amount of fragmentation of the academic day. This collaborative model may include participation in one or both programs.

What is the process for entering and exiting the ESL program?

The Home Language Survey should be administered to each student registering in a public or private school within the Commonwealth of Virginia. By federal definition, if the Home Language Survey identifies a language other than or in addition to English present in the home, the student should be assessed to determine if the student is in need of English as a Second Language (ESL) services.

An analysis of the student's performance on the division English language performance assessment determines eligibility for the ESL program and the level of English language proficiency. Virginia has adopted the World-Class Instructional Design and Assessment (WIDA) English Language Proficiency (ELP) levels as follows:

ELP Level 1	Entering
ELP Level 2	Emerging
ELP Level 3	Developing

ELP Level 4	Expanding
ELP Level 5	Bridging
ELP Level 6	Reaching

After entering the ESL program, students are assessed on an ongoing basis to determine movement from level to level. When a student meets the attainment criteria of a Composite Score of 5.0 or higher and a Literacy Score of 5.0 or higher or is assessed with the Proficiency Level 5 checklist from the Virginia English Language Proficiency Checklist for Limited English Proficient Students in Kindergarten through Grade 12 with Hearing and Visual Impairment, the student exits the ESL program and is monitored for two years.

How long do we wait before referring a student who is an ELL?

There is no time restriction on referring an ESL student. School staff may consider referring a student when:

- objective data support the possibility of a disability.
- educators can rule out the influence of language, culture, economics, or environmental issues as the primary reason for a student's lack of or slow academic progress.
- systematic, appropriate, sustained, and targeted interventions, instructional strategies, and program options implemented have proven unsuccessful.

Can primary grade students who are ELLs or older ELP Level 1 students be referred for special education?

Yes. Every student is viewed as an individual with a unique profile. Teachers should consult with the special education administrator or designee or avoid unnecessary delays in making a referral for evaluation or determining eligibility for special education and related services. Students who are ELLs at any proficiency level may have disabilities. A set length of time in the ESL program is not a prerequisite for consideration for special education. Staff members should consider information from teacher anecdotal records, classroom observation, performance-based assessment, and the functional deficits the student exhibits in an educational setting in addition to the formal testing instruments available. The results of the dual language assessment and input from an ESL teacher or other personnel with expertise in the second language acquisition process will also help create an appropriate program for the student who is an ELL with special needs.

Can students who are ELLs with little or no previous formal education in their home countries be referred for special education?

Yes. However, the student's difficulty in a United States school most often is the result of a lack of formal education rather than a disability. A variety of services can be provided to support instruction of ESL literacy (ELP Level 1) students. Support in the classroom can be enhanced by volunteer tutors, appropriate software programs, and instructional techniques that may include the use of cooperative learning, differentiated instruction, and experiential hands-on methods (visuals and manipulatives) to ensure an appropriate match between the student's learning style and the curriculum. While a student's previous formal education history will likely affect the student's academic performance in United States schools, limited schooling in and of itself does not constitute a disability under IDEA. Since many countries do not offer special education alternatives, students with special needs may have been excluded from school. Students who may not have received appropriate services and students who do not respond to instructional strategies and interventions may be candidates for referral for evaluation.

If parents' have a native language other than English, should they be encouraged to speak their native language or be advised to speak only English with their children at home?

Parents should be encouraged to speak in the language that is most comfortable for them to create a language enriched environment in the home. Current studies on the effect of bilingualism on the academic growth of students conclude that when children maintain their first language ability they transfer skills to their second language. In fact, native language proficiency is a powerful predictor of the rapidity of second language development (Hakuta, 1990).

Does language switching signify a problem?

Language mixing or code switching involves alternating words or phrases from one language to another. Evidence of this process is not necessarily an indication of inadequacy in language development. Code switching is not necessarily due to an inability to come up with the right word or phrase in one language. It may reflect a skill that evolves through high levels of proficiency in both languages. Mattes and Omark (1984) state, "The code switching behavior observed among normal bilingual speakers allows for greater precision in the expression of culturally-related concepts and serves to enhance the effectiveness of the communication." Language mixing is typical as children start to acquire words and language skills in a second language.

How should special education teachers, ESL teachers, general education teachers, and speech-language pathologists work together as a team?

Ideally, interdisciplinary collaboration begins as soon as the student begins to exhibit academic difficulties. In the case of preschool children, collaboration begins as soon as the child exhibits developmental delays. The expertise of educators in different disciplines can help establish changes in the curriculum and develop appropriate strategies to help the student who is an ELL. A team approach promotes support for differentiated instruction and the sharing of ideas and materials. The team can also determine timelines for future action and the need for a dual language assessment and further testing.

Do students who are ELLs need an IEP or 504 plan to receive testing accommodations on Standards of Learning (SOL) assessments?

Students who are ELLs at ELP levels 1 through 5 may receive appropriate and allowable testing accommodations on SOL assessments based on their ELL status as specified in their LEP Student Assessment Participation Plan. Prior to the administration of SOL assessments, testing accommodations should be used routinely during classroom instruction and classroom assessments. A complete list of testing accommodations and criteria for providing testing accommodations to ELLs on SOL assessments are located in Appendix B of all SOL *Examiner's Manuals* and in the *Limited English Proficient Students: Guidelines for Participation in the Virginia Assessment Program.* These documents are posted on the VDOE Assessment Web site at http://www.doe.virginia.gov/VDOE/Assessment/home.shtml.

What are the procedures for documenting appropriate participation in SOL assessment and testing accommodations for students who are ELLs with disabilities?

If an ELL is also identified as having a disability under the Individuals with *Disabilities Education Improvement Act of 2004* (IDEA), or is identified as an "otherwise qualified handicapped" student under Section 504 of the Rehabilitation Act of 1973, determinations regarding SOL assessment participation and providing appropriate testing accommodations must be made by the Individualized Education Program (IEP) Team or 504 Committee in collaboration with the LEP Committee. These determinations must be documented in the student's IEP or 504 Plan as well as the LEP Student Assessment Participation Plan.

Due to their specific disability, some students who are ELLs receiving special education and related services do not receive direct ESL services. Do these ELLs still have access to testing accommodations on SOL assessments based on their ELL status?

Yes. All ELLs, regardless of instructional program or placement, are eligible for testing accommodations on SOL assessments based on their ELL status. ELLs who are receiving special education and related services are entitled to the allowable accommodations determined by their IEP team or 504 committee in addition to any testing accommodations allowable based on their ELL status as determined by the LEP committee. All determinations regarding the ELL's SOL assessment participation must be made by the Individualized Education Program (IEP) Team or 504 Committee in collaboration with the LEP Committee and documented in the student's IEP or 504 Plan as well as the ELL's LEP Student Assessment Participation Plan.

What is the difference between ELP Level 5 and ELP Level 6 students?

ELP Level 5 students are ELLs who continue to receive ESL services and are eligible for accommodations on SOL assessments. ELP Level 6 students no longer receive ESL services, are formally monitored for two consecutive years, and are **not** eligible for accommodations on SOL assessments.

What should teachers do if a student, who has never been in an ESL program and may qualify for ESL services, begins to exhibit difficulty in the classroom?

Students who have never been in an ESL program may perform below grade level during the time it takes to achieve age-appropriate levels of Basic Interpersonal Communicative Skills (BICS) and Cognitive Academic Language Proficiency (CALP). In fact some students may have adequate social language but are not able to understand the academic language required in their classrooms. These students continue to need support from their classroom teachers as they further develop and refine their language and academic skills.

To determine whether the student's difficulty is due to English language acquisition or if it warrants further assessment, the school should investigate why the student has not been identified as ELL. Once ESL eligibility for a child has been determined, the school should follow the steps outlined in the pre-referral intervention section. The gathering of pertinent background information, implementation of systematic, sustained, and targeted early prereferral interventions across a variety of disciplines, and monitoring and documentation of the student's performance are key in determining whether consideration for special education is warranted.

If research indicates that it can take from five to seven years (or longer) to acquire Cognitive Academic Language Proficiency (CALP), should we wait that length of time before referring a student for special education?

No. Students who are ELLs may be referred for a suspected disability at any point in the process of acquiring a new language. Teachers should follow the prereferral intervention steps and gather data on strategies and interventions used to inform their decision. Educators should not assume that a student's difficulty is because of a lack of exposure to English or that the student has a disability. The gathering of pertinent background information, implementation of systematic, sustained, and targeted prereferral interventions across a variety of disciplines, and monitoring and documentation of the student's performance are critical in determining the reason for a student's academic difficulty.

Is parental permission required prior to conducting a Dual Language Assessment (DLA)?

If the data being collected will not be used to determine the child's eligibility for special education, parental permission is not required; however, parental notification is necessary. A parental notification form should be sent to the parents of the student being considered for a DLA. When available, the parental notification form is provided in both English and the student's home language. Although parents have a right to refuse a DLA, the school should encourage them to allow the assessment in order to obtain more reliable results and remain in compliance with regulations. Interpreter services and written translations should be used as needed. All communication with parents should be dated and documented.

If the results of the DLA will be used as a part of the eligibility decision-making process, special education regulations require informed parent consent. School staff should consult with the special education administrator or designee to ensure the appropriate special education forms and permissions are obtained.

Should ESL and special education staff members have parallel planning times to collaborate and to review student progress?

Although parallel planning times would be an ideal way to ensure that ESL and special education staff members have established collaborative time, this is not always possible. ESL representatives and special education staff members should work with school administrators to discuss and develop a plan to best meet the student's educational requirements. This planning should occur prior to the start of or early in the school year and continue throughout the year.

How are Students Who Are ELLs and Children with Disabilities Different?

Comparison of Characteristics

On the surface, students who are ELLs and children with disabilities may appear to be similar; however, there are differences.

The chart provides a comparison of children who are ELLs and those with a disability.

Characteristics	ENGLISH LANGUAGE LEARNER	CHILD WITH A DISABILITY
Communication Skills	Normal language learning potential. Communicative use of English is reduced and easily noted by native speakers. May be misdiagnosed as speech and language disorder. Usually there may be home language impact and inter-language variables in voice and/or articulation. Can be communicatively proficient to function in society.	May exhibit speech and language disorders in the areas of articulation, voice, fluency, or receptive and expressive language; may not always achieve communicative competence in either first or second language.
Language Skills	Home language skills were appropriate for age level prior to exposure to a second language. The nonverbal communication skills are culturally appropriate for age level, e.g., eye contact, response to speaker, clarification of response, turn taking, etc. Student may not know specific vocabulary, but he or she may be familiar with item or concept. Sentence structure and grammar is in highly transitional stage that follows similar patterns of normal language development. Student may pass through predictable periods, e.g., silent period, speech emergence, etc.	May exhibit needs in understanding and expression including vocabulary and word finding, following directions, sentence formulation, and pragmatics in either first and/or second language. Degree of disorder varies depending on processing skills and cognitive level. Difficulties in home language cannot be attributed to first language loss due to length of time in English-speaking schools. Difficulties in English do not correspond to those expected based on student's length of time in English-speaking schools.

Characteristics	ENGLISH LANGUAGE LEARNER	CHILD WITH A DISABILITY
Sensory Functioning	Usually normal. Auditory and/or visual acuity defects are compensated with aids.	May have auditory and/or visual acuity and/or processing difficulties.
Health	No significant health characteristics for this group, but consider developmental factors in cultural context.	May have a history of risk: complications during pregnancy or birth, ear infections or hearing problems, sleep or eating disturbances, incontinence, and family incidence of inherited conditions, such as learning disability, deafness, etc.
Cognitive Abilities	Determining cognitive skills is often difficult due to the student's developing English language proficiency. Academic difficulties may be related to issues such as cultural differences, lack of or limited educational experiences in the home country, and differences in background/prior knowledge.	May include the full range of cognitive abilities. Deficits may result in significant educational impact which requires specialized instructional support. English-normed tests must be interpreted with caution.
Academic Functioning	Normal language learning potential. Apparent problems due to culturally determined learning style, different perceptual strategies, or lack of schooling in home country.	A valid measure of educational impact may not be calculable. Other factors must be considered and may include inability to make progress in new language acquisition, difficulty retaining academic information in spite of a variety of systematic, sustained, and targeted interventions; history of and reasons for difficulty in schools in home country, and difficulty in acquiring the home language, etc.

Characteristics	ENGLISH LANGUAGE LEARNER	CHILD WITH A DISABILITY
Progress	Progress in home language is contingent upon adequacy and continuation of home language instruction. Academic progress in English will depend on the quality and quantity of English instruction. English progress should continue steadily even if slowly. During the language transition period, English performance may lag, and first language skills may decrease due to lack of continued instruction in home language.	For possible giftedness, may show remarkable progress in some areas when tasks are analyzed, taught sequentially, and include higher extent of teacher-pupil interaction. Skills may jump years in one year. For possible disability, may show less than expected progress in English acquisition and development of academic skills. May show a marked or extreme discrepancy between different areas (e.g., oral skills and writing skills, etc.) that cannot be attributed to lack of sufficient time or appropriate interventions.
Productivity	Verbal and written directions may not be understood due to insufficient English development. This may lead to students not beginning tasks or switching tasks without assistance.	Verbal directions may be too complex. May be unable to read written directions. May want to do task, be embarrassed about lack of skill, or not be able to concentrate. May not begin task without assistance. Student often unable to switch from task to task.
Social Abilities	May have some social problems due to lack of familiarity with American customs, language, expected behaviors, etc. Good normal potential. Because of lack of English competency, student may experience social isolation and may be likely to be a follower rather than a leader in a group of English speakers.	May exhibit difficulties with social/emotional skills which are not attributable to adjustment and acculturation.

Adapted from: The Larry P. Task Force, (1989). "The Larry P. Task Force Report. Policy and Alternative Assessment Guidelines Recommendations." California Department of Education, Special Education Division, by the George Washington University Evaluation Assistance Center (EAC) and the Fairfax County *CLiDES Handbook* Team.

Second Language Acquisition

Second language acquisition is a complex process that develops over an extended period of time. It varies with each individual student and is contingent on many factors that can affect the process. Since language depends largely on the context in which it takes place and is acquired in varying degrees of proficiency, it is useful to examine the various factors that affect it as they relate to the individual student's learning and academic growth. Some typical examples of these factors include:

Anxiety	Students who fear failure and the lack of social acceptance may experience anxiety that interferes with their learning.
Culture	Cultural differences may influence students' behaviors in the classroom. Learning styles may reflect cultural experiences. The role of parents in the educational process may also reflect their cultural backgrounds and may differ from what is expected in American schools.
Family Situation	The home and family environment in which the student lives can greatly affect the student's academic success and educational experience. Students who have left family members behind in their home countries may be unhappy. Students whose families are experiencing financial and/or emotional difficulties may have trouble adjusting to the new learning environment. Students who come from families that stress the importance of education may have well-developed learning skills.
Instruction	Differentiated instructional programs that incorporate a variety of strategies designed to reach individual student's various learning styles and provide a rich language environment offer the best chance of success for English language learners.
Internationally Adopted Children	International adoptees who are not native-English speakers in their country of origin experience some of the same issues as students who are ELLs even though their parents may be competent speakers of English.
Language Loss	Many factors are at play in learning (acquisition) and unlearning (loss) the first and second languages. This can be a simple reversal of learning. The type and speed of attrition depends on the individual and on his or her age and skill level. For the second language, attrition has been affected differently depending on what is the dominant first language environment. (National Clearinghouse for English Language Acquisition)
Life Experiences	The prior knowledge and experience of students help in their development of related language, vocabulary, and concepts. Students from war-torn countries may experience more difficulty developing the trust necessary for developing language-learning skills in a new environment. Students with diverse cultural traditions may be able to strengthen their language learning skills by contrasting their life experiences with their new environments.

Literacy	Literacy in a student's home language facilitates the transfer of skills to a second language; however, a different writing system (alphabet) may cause students difficulty with reading, writing, and spelling in a second language.
Motivation	Students who are successful in the learning environment or those who are encouraged to succeed are usually motivated to learn. All other factors listed here also influence motivation.
Personality	Outgoing students usually take advantage of opportunities to practice their language learning with others.
School-Community	A student whose home language and culture are appreciated and valued will develop a positive self-concept and bring cultural richness to both the school and the community.
Self-Concept	Self-confident students take risks with learning, get more opportunities to build language skills, and are not as easily discouraged by errors.
Silent Period	Listening to and understanding spoken language is the essential ingredient in second language acquisition. For this reason, teachers are urged not to force production, but rather to allow students a "silent period" during which they can acquire some language knowledge by listening and understanding. The silent period may last days, weeks or months.
Teacher	Students will usually thrive with a caring teacher who offers ample opportunities for learning in a stimulating multisensory environment.
Other Students	All students should be encouraged to model effective learning strategies and appropriate classroom behavior for their peers. Language minority students are often influenced by good learning techniques and appropriate behavior demonstrated by their peers. These peers may also serve as constructive role models for good classroom behavior and effective learning methods.

Similarities Between First and Second Language Acquisition

First language acquisition and second language acquisition show many similarities; however, educators may focus on the differences in performance between a first language learner and a second language learner in the classroom. When working with ELLs, it may be helpful for monolingual English-speaking teachers to draw on their knowledge of how children acquire a first language in order to better understand the process. First language acquisition begins at birth and continues to develop substantially for the first 12 years. Language continues to be acquired throughout one's adult life. Just as the average monolingual 12-year-old is not proficient in the cognitive academic language necessary for studying 11th grade U.S. History, the average English language learner will most likely not be proficient in the cognitive academic language required for fourth-grade social studies after one year of learning English. When teachers understand the similarities in language acquisition, they can focus on the tasks the student can do rather than the difficulties the student may be experiencing.

Similarities between first and second language acquisition include the need for instruction suited to the learner's individual stage of development and language instruction within the context of curriculum material. First and second language learners may:

- produce frequently used short phrases to initiate conversation or telegraphic speech in which key words are used to convey the essential meaning (Boy catch ball);
- use overgeneralizations of grammatical rules (He goed to school yesterday);
- develop language in a nonlinear manner; and/or
- acquire concrete (contextualized) language before abstract (decontextualized) language.

Questions and Answers

Will literacy skills transfer from first to second language?

If a student has learned academic skills such as reading, writing, and organization of information in a first language, then these skills will be applied to academic learning as the second language develops.

Why isn't this student talking? Is the student learning anything?

Most learners of another language go through a period of time when they develop receptive language skills before they are able to express themselves. They are listening but not yet speaking. This silent period parallels the stage in first language acquisition when a child is internalizing language before he or she begins to speak. ELLs in the classroom may be silent as they internalize the vocabulary and rules of the new language until they are confident enough to speak. Although an ELL student may be more comfortable speaking with other students who are ELLs within the ESL setting, the same student may remain silent in the general education classroom while he or she builds this confidence.

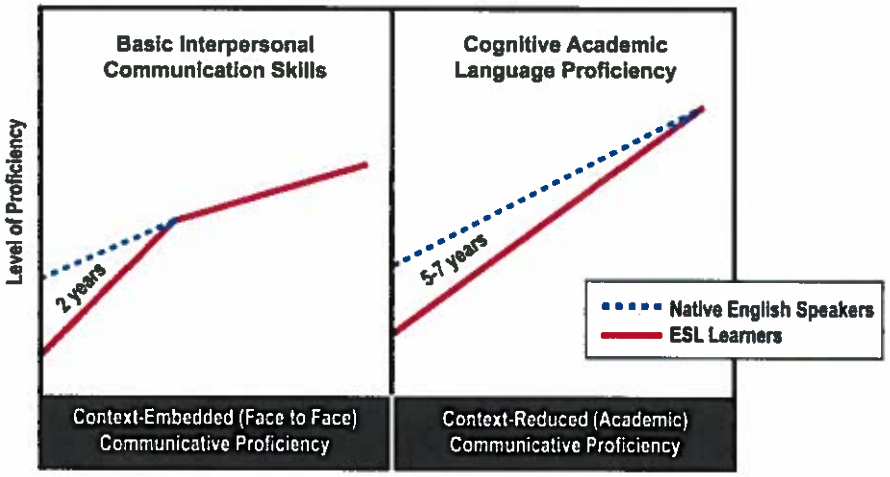
The silent period is part of the learning process. During this period, students are making the needed connections between the home language and the new language. The silent period may last days, weeks, or months and depends on a variety of factors including age, ability level of the child, emotional factors, and life experiences.

If a student appears fluent in English, why is he or she still in the ESL program?

Conversational proficiency is the ability to use language in face-to-face communication; whereas, academic proficiency is the ability to carry out school-related literacy tasks. A framework developed by Jim Cummins, a researcher in second language acquisition, is often used to explain the difference between conversational and academic proficiency.

According to Cummins, a student who uses his or her basic interpersonal communication skills (BICS) or "social language" with peers and in some classroom discussions may seem fluent to a teacher. However, the student may still need to be in ESL classes or require other forms of academic support. Research shows that, under the best circumstances, it may take up to four years for an ELL to acquire Basic Interpersonal Communication Skills (BICS) and between five and seven years to acquire Cognitive Academic Language Proficiency (CALP). For students with limited, interrupted, or no previous schooling, this CALP development may take up to nine years. Students who are ready to exit the ESL program will be at some stage of CALP development (see following chart).

Length of Time Required to Achieve Age-Appropriate Levels of Context-Embedded and Context-Reduced Communicative Proficiency



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What kind of language skills can we expect of a student at different stages of language learning?

Students' skills will vary from stage to stage. A student in the early stages of Basic Interpersonal Communicative Skills (BICS) may be able to follow simple pictorial or written directions, make sound and symbol associations, and complete simple listening, reading, and writing activities. As the student develops further in language skills, he or she may begin to participate in interpersonal conversations about various topics such as movies, holidays, and school activities. The student will be able to follow spoken directions, but may require the assistance of props and concrete objects.

When the student begins to acquire Cognitive Academic Language Proficiency (CALP), he or she can work with others to complete a cognitively demanding task, engage in more involved discussions about school subjects, and begin to participate in more complex academic activities with other students. As the student becomes more proficient, he or she will follow written directions, take notes, read content material, prepare written reports, and participate in more cognitively demanding activities within the school setting. Individual differences in prior knowledge, learning styles, skills, previous academic history, and abilities will determine how quickly an individual student will progress through the various stages of language acquisition.

What can I do to accurately assess an ELLs understanding of what I have taught?

Second language students want to be viewed as learning at the same rate as their English-speaking peers. They may hesitate to ask questions when they are unclear about what the teacher has said because it puts them in what may be perceived as an embarrassing situation. Formative assessment, including alternative differentiated and performance-based assessment options, are strongly recommended for students who are ELLs and provide opportunities to show what they have learned while their language skills are still developing.

Teachers can increase the students' level of understanding by providing instructional materials that offer multiple context clues. This will allow students to make better connections with the content material. Teachers can interpret body language to determine if a student understands while another student shares what has been presented to the class. A learning log or dialogue journal can also be used to determine how much a student understands from the lesson. Students can write or draw diagrams in their learning logs in response to what they learned from a lesson. They may also write questions about something they did not understand. This allows the teacher an opportunity to respond orally or in writing to further clarify information for the student. A dialogue journal is an effective means of documenting what the student understands and provides ongoing communication between the teacher and the student. In short, teachers should use the same techniques of differentiation with their ESL students as they do with the rest of their classroom. It is critical to differentiate content, instructional processes, and expected outcomes to match the student's language level.

Should ELL students take standardized tests?

Section 1111(b)(3)(C)(i) of the *Elementary and Secondary Education Act of 1965* (ESEA) requires that all ELLs participate in state content assessments. Therefore, as with all students enrolled in Virginia public schools, all ELLs participate in the Virginia Assessment Program. A school-based LEP committee will determine the ELL's participation in the SOL assessments as required by Section 8 VAC 20-131 G of the Regulations Establishing Standards for Accrediting Public Schools in Virginia. The school-based LEP Committee must complete an LEP Student Assessment Participation Plan for each ELL taking SOL assessments.

Determination of an ELL's participation in SOL assessments should be made according to the *Limited English Proficient Students: Guidelines for Participation in the Virginia Assessment Program.* These guidelines provide details for determining an ELL's participation in SOL assessments, the Virginia Grade Level Alternative (VGLA) *Reading* assessment (if eligible), procedures for providing testing accommodations, procedures for exempting ELLs from participation in certain SOL assessments, and documentation requirements.

Working With Interpreters

Interpreters function as a link between the school, the child, and the child's family. Their work requires two separate functions: to translate test questions and student responses accurately and impartially, and to help interpret school information and program recommendations to the family, as well as family history, family dynamics, and concerns to the school. Interpreters are sometimes able to provide information on differences between the student's language and English. These differences may include sounds that are not present (phonemic inventory), grammatical differences, and differences in social rules of the language. This requires flexibility and the ability to view testing and conferencing as different roles.

Suggestions for working with interpreters and translators*:

- Anticipate difficulties in communication and address them openly.
- Anticipate that the interpreter or translator may identify with the students of the target language and culture and may want to help them produce the correct answers.
- Let the interpreter or translator know when their assistance is beneficial and when it may be counterproductive.
- Anticipate that families and children may unburden their tragedies on the interpreter.
- Be prepared to provide emotional support for the interpreter when this happens.
- Anticipate the need for some trust-building dialogue between the educators and the bilingual service providers.
- Be prepared to respond to questions about the roles of school personnel and other professionals involved with the case.
- Anticipate occasions when you will learn about the inhumanities, kindnesses, and triumphs of humankind. Be prepared to confront these insights empathically as well as realistically.
- Anticipate that the difficulties faced by bilingual service providers and the professionals who work with them will require the understanding, support, and compassion that a team can provide.

* Adapted from ©1993 by Communication Skill Builders, Inc.

It is the responsibility of school personnel to request an interpreter when appropriate and to inform the parent of this service prior to any meeting. This process includes specific activities that should occur prior to, during, and after the interpreting process. The interpreter should understand the intent and the desired outcome of the meeting. Trained interpreters are preferable to family members. Family members should only be used when attempts to obtain other bilingual individuals have been exhausted. School personnel should guide and direct the activity in which the interpreter is involved. The process involves three stages: briefing or pre-assessment, which occurs prior to the conference or testing; communication, which consists of the interaction with the student or parent; and debriefing or post-assessment, which takes place after the student or parent has left. It is recommended that the same interpreter be used to enhance rapport and provide consistency.

Note: For the purpose of this guide, "interpreters" are those who translate orally; "translators" are those who translate written material.

Using Interpreters During the Assessment Process

Well-trained interpreters can be the bridge between the school and non-English-speaking families. They can help provide valuable information about cultural and linguistic features of the child's native language, the child's history and performance, emotional adjustment, cognitive development, and adaptive behaviors. Since interpreters can communicate with the student and with the parents, these interactions tend to be more authentic and relaxed and often yield an accurate appraisal of the student's skills and needs. Thus, the role of interpreters is invaluable to the entire process of evaluation and determining appropriate services for the student who is an ELL.

Pre-assessment

School personnel should:

- relay the purpose, plans, and expectations for the testing session or meeting;
- provide descriptions of English terms used by teacher, psychologist, speech-language pathologist, social worker, or other professionals; and
- understand that an interpreter may need to use lengthier utterances than a direct translation to establish context when an unfamiliar term or concept may not exist in the home language.

Testing personnel should:

- explain the protocols of the tests and standardized administration of tests;
- build rapport with the interpreter;
- stress confidentiality and remind interpreters not to prompt, comment on responses, or add or repeat information unless the educator approves or requests such action; and
- inform the interpreter of any unusual information about the child.

Interpreters and translators should*:

- be honest with everyone involved in the communication process;
- maintain confidentiality by informing everyone that they will serve only as a vehicle for facilitating communication;
- continue to maintain confidentiality by not discussing the information after the interpretation session has been completed;
- remain neutral throughout the communication process and keep the focus on the student and the testing facilitators;
- look for natural pauses in the communication at which to stop to explain to all parties what is happening;
- develop an outline of the important points to be communicated;
- refer to the outline and take notes to help the educators with whom they are working;
- consult a bilingual dictionary, when necessary, for clarification of word meanings; and
- summarize the communication and expectations for future collaboration.

* Adapted from ©1993 by Communication Skill Builders, Inc.

During Assessment

NOTE: Virginia is an English only state; therefore, all assessments must be in English only.

Testing personnel should:

- present test items;
- maintain control and responsibility;
- observe and document student behaviors; and
- encourage the interpreter to ask questions and seek clarification.

The interpreter should:

- be aware of dialect differences;
- state questions clearly;
- be familiar with content and vocabulary of the test;
- request clarification from educator as needed;
- observe and report the student's responses and significant behaviors with precision and objectivity;
- document the student's responses verbatim in the home language;
- inform the school staff members of any cultural or language factors that may affect the session;
- understand the confidential nature of his or her job;
- play an impartial role; and
- use a bilingual dictionary, if needed.

Post-assessment

Time should be allotted following the meeting or testing session to exchange information and to clarify what transpired. The educator and the interpreter should:

- discuss assessment results and observations; and
- review expectations and follow-up needs, if any.

Communicating With Families

Many resources that address ways to establish effective and positive communication with parents are available to teachers and other educational professionals. Understanding the informal rules of communication among the diverse cultures represented in the student population will make communication easier. The teacher who is sensitive to the implications of cultural diversity respects the cultural and family traditions of the parents with whom he or she is meeting. The literacy level of the parent(s) in the home language must be considered when communicating through printed materials even though these have been translated. In the United States, students with disabilities are eligible to receive a variety of supports and alternative services. Parents from other cultural backgrounds may have a different perception of children with special needs. Thus, educators cannot assume the way disabilities are perceived in the United States is a universal viewpoint. School staff members should be sensitive to a parent's reaction to possible special education identification and associated perceived stigma.

Cultural dissonance may result when individuals from different backgrounds have different views about:

- people with disabilities;
- the goals of education;
- the difficulties the child is presenting;
- the stigma associated with a disability; and/or
- how parents and schools treat children with disabilities.

Various countries accommodate children with special needs in different ways. In the United States, every child is entitled to a free and appropriate public education (FAPE). Parents who are unfamiliar with this right, the regulations, and the process:

- might not register a child with special needs for school;
- may be reluctant or apprehensive about acknowledging the difficulties a child is exhibiting;
- may avoid placing the child in an available appropriate program; and/or
- may avoid attending meetings to discuss the issue.

The special education process from referral through eligibility has many steps. It is important that the teacher helps the parents of the ELL:

- become aware of why their child is being referred;
- understand the steps in the referral, evaluation, and eligibility process;
- understand the terms used during the special education process;
- become familiar with the various service delivery models; and
- understand their rights and procedural safeguards in the special education process.

It is also important that interpreters be involved when any issues are identified by school staff. However, school staff members should be aware that while interpreters are available during meetings for any parent who needs one, special education terms and the intent of the language may not translate accurately. For this reason, the use of family members and those not trained in special education terminology is not recommended. Regardless of whether or not an interpreter is used, educators must take the time to ensure that all parties understand the sensitive nature of all information about a child and respect rules regarding confidentiality. Communication between school personnel and parents can be enhanced in various ways. The various strategies will vary depending on the individual situation and background of the family members.

In the case of international adoptees, parents may speak fluent English, but the use of interpreters may still be warranted to communicate effectively with the child. In some adoption cases, the child will no longer have access to speakers of the native language and may sustain language loss. A DLA and use of an interpreter will assist teams in determining proficiency in both languages.

Setting the Climate for a Meeting

It may be difficult for parents to get time away from work or to arrange for transportation to attend school meetings. Before scheduling a meeting, school staff members should consider whether a telephone conversation through an interpreter could replace a meeting. However, when attendance at a meeting is necessary, school staff members must:

- clarify the reason for the meeting and schedule it at a time that is mutually agreeable to parents and school staff members;
- allow additional time for clarification as needed;
- ensure that the physical environment is comfortable;
- be aware of body language and its implication in other cultures (e.g., comfortable distance between people, use of gestures, and eye contact);
- reaffirm the importance of cooperation and stress that the goal of the meeting is to determine the best way to meet the needs of the child and to develop a plan that is agreeable to all parties;
- determine if child care will be needed for the student or younger siblings. If appropriate, provide materials and arrange for help from staff members;
- be punctual;
- respect the parent's schedule and have all the materials that will be needed including translations of available special education documents. Since translations are not available in all languages, a skillful interpreter is the key element in providing appropriate information between educator(s) and parent(s); and
- use effective means of transmitting details contained in any written document in response to the parents' level of literacy in English and the home language.

Remember that reading the content of translated materials may be impossible for parents who are not literate in the native language.

Building Trust and Relationships

Trust and respect are the cornerstones of any good relationship between parents and professionals. While it may take time to establish a sense of trust as educators become familiar with traditions from other cultures, this extra effort is essential to work with parents on an ongoing basis. Educators may make parents feel more at ease if they:

- use the correct pronunciation of the parents' names;
- ask parents about the family and its dynamics, how decisions are made, and how rules are established;
- give parents an opportunity to talk about their goals for their child;
- are aware that, in some cultures, the avoidance of eye contact is a sign of respect and does not indicate disinterest;
- view the parents as valued team members who have important knowledge about the child as well as specific concerns. The parents' levels of English proficiency and self-confidence in English may affect the degree to which they participate, even with an interpreter. Some parents may not ask questions but may wait to be told what is important. Do not assume that this lack of assertiveness implies agreement with school observations or recommendations. In fact, it may signal disagreement or confusion and frustration with the recommendations or outcomes;
- ensure that the interpreter translates any conversation held among those present so that the parents feel involved at all times;
- acknowledge the parents' concerns as legitimate. It may be very difficult for parents to voice their concerns;
- listen attentively to the parents;
- talk about the student's academic, behavioral, and social strengths and positive traits, as well as areas of need;
- respect the parents' right to disagree; and
- follow up after the meeting.

Helping Parents Understand

To avoid misinterpretation of information during the referral and evaluation process, teachers should:

- call or meet with the interpreter prior to the meeting to review the parents' rights, paperwork, terms, and conditions. This will help familiarize interpreters with new vocabulary and concepts so that the information can be relayed accurately to the parents;
- advise parents to help them make informed decisions. The knowledge of what the school system can and cannot do will enable parents to be productive members of the school team and to have realistic expectations of the services available to better help their child; and
- ensure that the information presented is accurate and complete.

Checking for Clarity

Participants may leave a meeting with different understandings of what was said or the next steps to follow. To avoid misinterpretation, educators should strive for clarity. Staff members should:

- ask parents specific questions to check for understanding. Even if the parents appear English proficient, many of the special education terms and concepts do not exist in the home cultures of language minority families;
- avoid jargon and use acronym free language;
- use active listening techniques and restate a parent's comments in a clear and positive manner. It is important to check the intent of the message to make sure that everyone is clear and comfortable with the outcomes of the meeting;
- do not assume that lack of assertiveness implies agreement. Cultural differences, confusion over events or the purpose of the meeting, or disagreement with the recommendations and outcomes may be difficult for families to communicate; and
- at the end of the meeting, clarify and repeat any agreements reached.

Resolving Differences

In order to resolve differences, the following strategies might be considered to help reach consensus:

- Focus on the child's needs;
- Realize that differing values should not cause conflict;
- Prioritize carefully. Only a few issues may be settled at a time, especially when parents are unfamiliar (and perhaps uncomfortable) with the process; and
- Be patient and supportive. For many language minority parents, understanding the American perspective on special education may be challenging.

Parents and adult students (age 18) should be provided procedural safeguards upon referral for evaluation and at other designated times as outlined in the regulations governing special education. These procedural safeguards outline a parent's rights and offer guidance in the event of a dispute. Parents have the right to access services including mediation, complaints, and due process while their child is being evaluated for possible eligibility for special education and related services. Additional information about dispute resolution processes is available on the VDOE Web site: http://www.doe.virginia.gov/VDOE/dueproc/.

APPENDIX A

Acronyms

AUT	Autism
BICS	Basic Interpersonal Communication Skills
CALP	Cognitive Academic Language Proficiency
DB	Deaf-Blindness
DD	Developmental Delay
DLA	Dual Language Assessment
DSS	Department of Social Services
ESOL	English for Speakers of Other Languages
ED	Emotional Disability(formerly, Emotional Disturbance)
FAPE	Free Appropriate Public Education
FECEP	Family and Early Childhood Education Program (Head Start)
HEW	Health, Education, and Welfare
HI	Hearing Impairment
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
ID	Intellectual Disability (formerly, Mental Retardation)
LD	Learning Disability
LEA	Local Educational Agency
LEP	Limited English Proficient
LM	Language Minority
LSC	Local Screening Committee
LRE	Least Restrictive Environment
L1	First Language
L2	Second Language
MD	Multiple Disabilities

MR	Mental Retardation (see Intellectual Disability)
OHI	Other Health Impairment
OI	Orthopedic Impairment
OT	Occupational Therapy
PD	Physical Disability
PDC	Preschool Diagnostic Center
POS	Program of Studies
PS	Preschool
PT	Physical Therapy
SASI	School's Administrative Student Information
SD	Severe Disability
SEA	State Educational Agency
SLI	Speech-Language Impairment
SLD	Specific Learning Disability
SOL	Standards of Learning
SSP	Student Support Process
SST	Student Support Team
TAT	Teacher Assistance Teams
TBI	Traumatic Brain Injury
VI	Visual Impairment

APPENDIX B

Glossary of Terms

Acculturation is the process of adapting to a new culture. It involves developing and understanding a new pattern of thoughts and beliefs. It also involves learning a new system of communication. Acculturation can be a long process and differs from student to student depending on personality, the family's reason for leaving the home country, and the amount of comfort in the new culture.

Additive Bilingualism takes place when an individual language learner learns or acquires a new language while maintaining the first language.

Administrative Review is a voluntary, informal dispute resolution process available when there is a disagreement with any matter pertaining to special education procedures. The process may involve the student and/or his parents, school staff members, and other professionals as appropriate.

Annual Review is a scheduled yearly IEP team meeting involving the student with a disability and/or his parents and appropriate professionals. The purpose of the meeting is to develop, review, and revise a student's IEP, including, as appropriate, goals and objectives, services, and program modifications and supports.

Arrested Language Development may occur when young children who have not fully developed first language skills are immersed in English-only academic environments. In this situation, home language skills begin to diminish before mastery of the second language; therefore, the student appears delayed in both languages. This may also occur when internationally adopted children are no longer exposed to their native language.

Assessment is the instrument by which data is collected. Assessment includes tests and other measures such as:

Authentic Assessment is a collection of data including teachers' anecdotal records, student work portfolios, and previous educational history (also called **alternative** and **performance assessment**).

Educational Assessment is a measure of current academic achievement, classroom performance, and observed strengths and weaknesses.

Psychological Assessment is a measure of cognitive ability, learning style, perceptual skills, and emotional functioning.

Sociocultural Assessment is a developmental history, family and educational background, adaptive behavior, and medical status.

Speech and Language Assessment is a measure of articulation, voice, fluency, oral language, and oral motor functioning. Other types of assessments may include: hearing screening, medical exam, occupational or physical therapy assessment, and audiological exam.

Base School is the student's neighborhood school.

BICS (Basic Interpersonal Communication Skills) represent the initial conversational, social language produced and understood by second language learners. Research shows that it may take up to three years for a limited English proficient student to acquire BICS. The language-learning continuum leads from survival and social language (BICS) to the complex academic language needed for school success (see CALP).

CALP (Cognitive Academic Language Proficiency) is the kind of complex, academic language that is needed for success in school. It can take from five to ten years to develop this level and type of proficiency depending on variables specific to the individual learner. CALP is needed to perform the higher-level thinking skills delineated in Bloom's taxonomy such as analysis, synthesis, and evaluation.

Child Find is an initiative that locates, evaluates, and identifies children and young adults from birth through 21 years of age who may be in need of special education and related services.

Case Manager is the staff member responsible for collecting and monitoring student information during the referral and evaluation process.

Child Study Committees (CSC), Student Support Teams (SST), and Teacher Assistance Teams (TAT) are types of informal school-based, problem solving teams that meet to investigate strategies to help students who are experiencing difficulty. In the case of students who are ELLs, the CSC, SST, or TAT should include the ESL teacher, a DLA teacher, or someone with second language acquisition expertise.

Child With a Disability is a child who has been identified and evaluated in accordance with the regulations governing special education. Children are found eligible under one or more of the following categories: autism, deaf-blind, deafness, developmental delay, emotional disability (formerly emotional disturbance), hearing impairment, intellectual disability (formerly mental retardation), multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment including blindness. A student is found eligible for special education if he or she exhibits a disability that requires special education and related services.

Code Switching is a stage in the second language acquisition process in which learners use words from both the first and second language while writing or speaking. This term is also known as language mixing.

Comprehensible Input represents the language to which a student is exposed that can be understandable. Access to comprehensible input is a necessary condition for language acquisition to take place.

Comprehensible Output is the language produced by the student that is sufficient to communicate the intended meaning.

Contract Service is a private service delivery model that may be appropriate for students whose needs cannot be served within the public schools. Contract service may include day or residential placement.

Counseling Service is a related service included on a student's IEP. The duration is determined by the IEP team. The focus is on specific aims and objectives to promote the student's social, emotional, and academic growth within the school environment.

(Virginia) Department of Rehabilitative Services is an agency that offers assistance to persons with physical, mental, learning, and emotional disabilities in preparation for employment.

Dominant Language is a student's stronger language as determined by assessments. Dominance does not constitute proficiency. ESL students frequently become dominant in English due to first language loss while remaining limited in their English skills.

Dual Language Assessment (DLA) determines the student's skills in both the home language and English and establishes dominant language(s) for further testing. The decision to request and conduct a dual language assessment may be a prereferral intervention. If the DLA is completed, this information should be considered by educators working with the student.

Due Process is a set of procedures set up by the law that provides a legal mechanism for the resolution of disagreements among students, families and school system staff members.

Eligibility Committee is composed of the parent or primary caregiver and a team of qualified professionals, one of whom has either assessed or observed the student. Other professional staff members with specialized knowledge may participate in the decision making. In cases of students who are ELLs, the eligibility committee should include the ESL teacher, a DLA teacher, or someone with second language acquisition expertise.

English for Speakers of Other Languages (ESOL) Program is designed to meet the needs of identified language minority students to develop their English language proficiency skills in order to function successfully in the classroom. Program models include both pullout and in-classroom support. Students who exit the ESL program may require additional academic support to succeed in the classroom as they continue to develop their cognitive academic language proficiency (CALP). (See Language Proficiency Level)

English Language Learner (ELL) is a national-origin-minority student who is limited English proficient. This term is often preferred over limited English proficient (LEP) as it highlights accomplishments rather than deficits.

Evaluation refers to the process of collecting and reviewing assessment data.

Fine Motor Coordination refers to the small muscles of the body, especially those of the hands, fingers, toes, and eyes and those involved in the production of speech.

Formulaic Speech consists of phrases or chunks of language that are learned and used in both appropriate and inappropriate settings.

General Education Curriculum relates to the content of the curriculum and not the setting in which it is delivered.

Gross Motor Coordination refers to the movements of the large muscles of the body used in activities such as standing, walking, and balancing.

Home Language (L1) is the language spoken in the home by family members or caregivers. It is sometimes referred to as native, heritage, or first language.

Home Language Survey (HLS) is a survey form that should be given to the parents or guardians of all students registering in school. This form requests specific information about the languages spoken in the home and is needed to identify students who should be assessed for ESL eligibility.

IEP (Individualized Education Program) is a written plan describing the special education and related services specifically designed to meet the unique educational needs of a student with a disability. In the case of students who are ELLs, the IEP team should include the ESL teacher, a DLA teacher, or someone with second language acquisition expertise as well as parents and staff members.

IFSP (Individualized Family Service Plan) is the plan designed for infants and toddlers with disabilities who are served by the local early intervention system under Part C of IDEA.

Inclusion in Schools refers to students with disabilities who are being educated with their peers without disabilities while engaged in a challenging curriculum that allows progress toward their IEP goals. (See Least Restrictive Environment definition for further information.)

Individuals With Disabilities Education Act (IDEA) ensures a free appropriate public education to all children with disabilities. It also provides certain rights for students and their parents.

Intelligibility refers to the level at which a student's speech is understood by listeners.

Interpreter (Foreign Language) is a person who converts verbal information presented in one language into another language. Interpreters may serve as a conduit for communication between parents and the educational team and often bridge the cultural gaps that may exist between them.

Interpreter (Deaf/Hard of Hearing) A qualified interpreter for students who are deaf or hard of hearing provides translation from one language to another (e.g., spoken language to sign language) and includes oral interpreters and transliterating for signed English systems or for cued speech/cued language.

ISP (Individualized Service Plan) is a written plan that describes the special education and related services that will be provided to a child who is parentally-placed in a private school who has been designated to receive services. (34 CFR § 300.34)

L1 is the abbreviation for first language and refers to the language first learned by the student in the home.

L2 is the abbreviation for second language and refers to the second or additional language learned by the student.

Language Loss (See Arrested Language Development and Subtractive Bilingualism)

Language Minority Student is a student who has a language other than or in addition to English in his or her background. This may include a student who was born in this country but whose parents or primary caregivers speak another language, a bilingual student, a student currently receiving ESL services, a student who has exited the ESL program, or a student who has never received ESL services.

Language Proficiency Level indicates the English proficiency of ESL students. ESL proficiency levels are based on assessment of listening, speaking, reading, and writing skills. Virginia has adopted the World-Class Instructional Design and Assessment (WIDA) English Language Proficiency (ELP) levels as follows:

English Language Proficiency (ELP) Levels
Level 1 – Entering
Level 2 – Emerging
Level 3 – Developing
Level 4 – Expanding
Level 5 – Bridging
Level 6 – Reaching (Reclassified as FLEP (formally limited English proficient), no longer required to take the ACCESS for ELLs® test /an annual English language proficiency assessment.)

LEA (Local Educational Agency) in Virginia is the local school division or state operated program.

Least Restrictive Environment (LRE) is the setting determined by the IEP team that gives the child to the maximum extent appropriate, education with children who are not disabled while meeting the child's learning and physical needs. It also means that special classes, separate schooling, or other removal of a child with disabilities from the general education environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. To the maximum extent appropriate, students with disabilities must be educated with students without disabilities in the least restrictive academic environment.

Limited English Proficient (LEP) An LEP student in the Commonwealth of Virginia is classified according to the federal government definition as described in Public Law 107-110, the *No Child Left Behind Act of 2001*.

An LEP student is classified as one:
(A.) who is aged 3 through 21;
(B.) who is enrolled or preparing to enroll in an elementary school or secondary school;
(C.) (i.) who was not born in the United States or whose native language is a language other than English;
(ii.) who is a Native American or Alaska Native, or a native resident of outlying areas; and 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

(D.) whose difficulties speaking, reading, writing, or understanding the English language may be sufficient to deny the individual –

(i.) the ability to meet the state's proficient level of achievement on state assessments described in Section 1111(b)(3);

(ii.) the ability to achieve successfully in classrooms where the language of instruction is English; or

(iii.) the opportunity to participate fully in society.

[P.L. 107-110, Title IX, Part A, Sec. 9101, (25)]

Mediation is a voluntary confidential process to resolve disputes arising under IDEA, including issues relating to a student's identification, evaluation, or educational placement or to the provision of a free appropriate public education.

MDR (Manifestation Determination Review) is a process to review all relevant information to determine whether or not the student's behavior that is subject to disciplinary action is caused by the student's disability.

Native Language is the language spoken in the home by family members or caregivers; it is sometimes referred to as first, home or heritage language. (See **Home Language**)

Parent or Legal Guardian means the biological or adoptive parent of the child, the guardian, or the person acting in the place of a parent, including a court-appointed custodian.

Re-evaluation is considered at least every three years or when: 1) a student has been receiving special education services, and conditions warrant a reevaluation, 2) the child's parent or teacher requests it, or 3) determining that the child no longer has a disability that requires special education intervention.

Referral for Evaluation is the process through which any student, aged 2 through 21 inclusive, who is suspected of having a disability, shall be referred to the administrator of special education. The school division follows procedures to evaluate and determine if the child is eligible for special education and related services.

Related Services refers to those developmental, corrective, transportation, or other supportive services required to help a student with a disability benefit from special education (e.g., physical therapy, occupational therapy, speech or language services, etc.).

Semantics refers to the content or meanings of words (or signs) in the language code.

Silent Period is a period of time during which the LEP student may not speak when in an environment where only the new language is spoken. The length of the silent period varies from individual to individual and corresponds to the period when students internalize the new language system. During this time, students are beginning to make connections between the home language and the new language. Students are acquiring an understanding of the new language (receptive language) but are not yet beginning to communicate orally (expressive language).

Social Distance refers to the position of the learner in relation to his or her community. It includes factors dealing with the relationship between the learner's social group and target language community.

Special Education means specially designed instruction, at no cost to the parents, to meet the unique needs of students with disabilities. Such instruction may be conducted in the general education classroom or in other settings and is adapted or modified in content, methodology, delivery, and/or delivery of instruction. Students are identified for special education through an eligibility process. Categories and eligibility criteria may be found in state and local policies and procedures.

Subtractive Bilingualism occurs when the learner of a new language begins to acquire the new language but does not continue to develop or maintain his first language. In some cases, the learner experiences language loss in the home language. (See Arrested Language Development)

Syntax is the form, structure, and order of the language code. Syntax includes the rules for organizing words (or signs) in communication and governs the language aspects of how words occur in phrases and sentences.

Transition Planning helps with the planning for a student's transition from school to post-school life as an adult. It includes career interests and goals; interpersonal, social, self-advocacy, and independent living skills; courses and resources to meet goals; and linkages to adult service agencies.

Translator is a person who converts written information from one language into another language.

APPENDIX C

Legislation and Case Law

P.L. 108-446 The Individuals with Disabilities Education Act, (IDEA)

This law was formerly known as Public Law 94-142. This legislation undergoes regularly scheduled reauthorization. It guarantees a free and appropriate education to all students with disabilities. The primary mandates of the law that pertain to the ELL include:

- Establishing nondiscriminatory evaluation procedures appropriate for use with culturally and linguistically diverse students;
- Testing provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to provide or administer;
- Ensuring that the eligibility determination is not due to limited English proficiency;
- Developing an individualized education program (IEP) for each ELL with a disability that reflects his or her needs; and
- Providing oral and written information to parents in their native language as appropriate to facilitate informed parental involvement in the special education identification, assessment, eligibility, and service delivery processes.

P.L. 99-457 The Education of All Handicapped Children's Act Amendment of 1986

This act amends the 1975 Education of All Handicapped Children Act. It extends mandatory programming for children with disabilities from the age of three and provides incentives for programming beginning at birth.

The Rehabilitation Act of 1973 (Section 504)

This legislation prohibits discrimination on the basis of disability in any program or activity operated by an organization or entity receiving federal funding.

P.L. 107-110 No Child Left Behind Act of 2001 (NCLB)

The NCLB Act of 2001 reauthorized the Elementary and Secondary Education Act (ESEA) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind. ESEA undergoes regularly scheduled reauthorization. There are five overarching goals for all students. All students:

1. will reach high standards, at a minimum, attaining proficiency or better in reading and mathematics by 2013-2014.
2. will be taught by highly qualified teachers by 2005-2006.
3. will be educated in learning environments that are safe, drug free, and conducive to learning.
4. will graduate from high school.

5. All Limited English Proficient (LEP) students will become proficient in English and reach high academic standards, at a minimum, attaining proficiency or better in reading/language arts and mathematics.

Lau vs. Nichols (1974)

The premise for this case was that students were not being provided an equal education because they were unable to understand the language in which they were being taught. The Supreme Court stated, "There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum for students who do not understand English are effectively foreclosed from any meaningful education." Therefore, schools are required to develop students' proficiency in English so that they may meaningfully participate in the general education classroom.

The Equal Educational Opportunity Act (1974) (EEOA)

This act requires a local school agency to take appropriate action to overcome language barriers that impede students' equal participation in its instructional programs.

The Health, Education, and Welfare (HEW) Memorandum of May 25, 1970, Interpreting Title VI of the Civil Rights Act of 1964

The HEW memorandum provides current federal guidelines for school divisions regarding services for students who are ELLs and states: "Where the inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

The Civil Rights Act (1964), Title VI

This law mandates that no student may be excluded from participation in or denied the benefits of any public school system on the grounds of his or her national origin.

Brown vs. Board of Education of Topeka (1954)

This landmark case established racial desegregation of public schools. The United States Supreme Court ruled that separate but equal facilities are inherently unequal.

State Regulations

State regulations undergo regularly scheduled revisions.

Standards and Regulations for Public Schools in Virginia, Part IV. 8 VAC 20-131-70

The regulations establishing standards for accrediting public schools in Virginia (8 VAC 20-131-70) require that each school shall provide a program of instruction that promotes individual student achievement and is in keeping with the abilities, interests, and educational needs of each student. Instruction shall be designed to accommodate all students, including those with disabilities, those identified as gifted and talented, and/or those who have limited English proficiency.

Virginia Department of Education *April 2015*

Regulations Governing Special Education Programs for Children with Disabilities in Virginia

These regulations address identification, evaluation, eligibility, and service delivery for students with disabilities. They include specific provisions from IDEA and its federal implementing regulations as well as some Virginia specific protections that exceed the federal law for residents in Virginia.

APPENDIX D

Sample Forms

PARENTAL PERMISSION FOR DUAL LANGUAGE ASSESSMENT

FROM:_____
(Name of School Contact)

SCHOOL:_____ SCHOOL PHONE:_____

RE: Dual Language Assessment for:_____
(Name of Student

We wish to inform you that the school has requested a dual language assessment for your child. The purpose of the dual language assessment is to provide information on your child's home language and language development. The dual language assessment:

1. determines home language proficiency and skills;
2. establishes a level of English proficiency and skills; and
3. identifies dominant language(s), if any, for the purpose of further evaluation and assessment if needed.

The information attained through the dual language assessment will assist the school in determining the best instructional program and approach for your child.

Please feel free to call us if you have any questions.

Thank you.

Student Data Checklist

The following information may be found in the student's scholastic records file and is important in order to obtain background data for the English Language Learner.

Referring Source_____ Title_____ Date_____

School's Local Screening Chairperson_____ Phone_____

School_____ Phone_____

Student Name_____ ID_____ Sex_____ Grade_____

DOB_____ Place of Birth_____ Home Language(s) _____

Parent/Guardian Name_____ Parent/Guardian's Home Country _____

Home Phone_____ Work Phone_____

Entry Date U.S._____ Entry Date _____ Years in U.S. Schools _____

Years of Schooling in Home Language_____

Interrupted Education? No ( ) Yes ( ) Explain Educational History if Known:

_____

_____

_____

_____

_____

_____

_____

_____

YES	NO	Please check appropriate response and provide additional information below.
___	___	1. Has the student's scholastic records file been reviewed for relevant information?
___	___	2. Has a child study or other in-school problem solving team, including the ESL teacher, met to review this case?
___	___	3. Has the school followed the prereferral steps outlined in the **Handbook for Educators Working with English Language Learners with Suspected Disabilities?**
___	___	4. Has the student undergone any prior evaluation(s)? If so, check which one(s) ___ESL entry assessment ___Dual language assessment (If available) ___Standardized testing ___Classroom tests Other: _____

___ ___ 5. Does a review of the student file indicate a history of difficulty in the area(s) of concern? If so, please specify_____

___ ___ 6. a) Has the student ever been enrolled in an ESL program?
If so, where? _____

___ ___ b) Is the student currently enrolled in the ESL program?
If so, what is the current WIDA ELP level?
___1; ___2; ___3; ___4; ___5; or ___ 6

___ ___ c) Is the student no longer receiving direct ESL services?
If so, what is the student's current ELP status?
___ELP 6, Monitor year 1; ___ ELP 6, Monitor year 2;
____Other?_____
What was the student's Monitor year 1 date? _____

___ ___ 7. Is there a physical condition that may account for student's difficulties? _____

___ ___ 8. a) Does the student need glasses?____ hearing aid(s)? ____
Other_____

___ ___ b) Are glasses, hearing aids, or other specialized equipment worn or used in class?

___ ___ 9. Has the student participated in systematic support programs? If so, check which one(s).
___Reading Recovery
___Other: _____

___ ___ 10. Is frequent absence or tardiness a problem?

___ ___ 11. Have parents or guardians been contacted?

___ ___ 12. Is there a home language survey in the student's cumulative folder? (If so, please attach.)

___ ___ 13. Have intervention strategies been implemented in a systematic fashion? Please describe below.

PLEASE ATTACH ANY OTHER PERTINENT INFORMATION

ADDITIONAL COMMENTS:

_____

_____

_____

_____

_____

_____

_____

Virginia Department of Education *April 2015*

ESL ASSESSMENT SUMMARY

LAST NAME	FIRST	MIDDLE	ID NUMBER	DATE

Current ESL service delivery

ELEMENTARY:

__ In-class (inclusion) ___hours per ___day___ week

__ Small group ___hours per ___day___ week

Secondary:

_____ Direct ESL ____ hours per___ day____ week

_____ Mainstream ____ hours per ___day ___ week

_____ Special Education ____ hours per ___day ___ week

Kindergarten assessment Fall:_____Spring:_____

Most Current ESL Assessment

DATE:_____

Listening Proficiency Level _____

Speaking Proficiency Level _____

Reading Proficiency Level _____

Writing Proficiency Level _____

ESL ASSESSMENT RESULTS SUMMARY

Please complete the information below for each year the student has been in the ESL program.

School Year						
School						
Grade Level						
ESL Teacher						
	Fall/Spring	Fall/Spring	Fall/Spring	Fall/Spring	Fall/Spring	Fall/Spring
Listening Proficiency Level						
Speaking Proficiency Level						
Writing Proficiency Level						
Reading Proficiency Level						

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