

Serving Maine's English Learners

Policy and Resource Guide

ESOL and Bilingual Programs



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Definitions

bilingual – *adjective*, describes a person who is fluent in two languages or a program with two languages of instruction; in this country the term generally implies that one of the two languages is English, but this is not necessarily the case

DLL (dual language learner) – *noun*, generally used to mean a student who is learning a second language while continuing to develop his/her primary language; often refers to young learners developing dual literacy from early childhood; in this country the term generally implies that one of the two languages is English, but this is not necessarily the case

EL (English learner) – *noun*, a student who speaks a primary or home language other than English and has not yet achieved English language proficiency; the preferred term, as “English *language* learner” is seen as redundant by some; United States Department of Education and Maine Department of Education use EL

ELL (English language learner) – *noun*, a student who speaks a primary or home language other than English and has not yet achieved English language proficiency; no longer the preferred term (see EL)

ELP (English language proficiency) – *noun*, a level of skill in English comprehension and production that enables a student to meaningfully access the curriculum; *adjective*, describes an assessment that measures a student’s current level of skill in English comprehension and production

ESL (English as a second language) – *adjective*, describes a type of class, student, teacher, program, etc.; in recent years many perceive this acronym as pejorative, so it is being replaced with ESOL; “second” refers to the non-primary status of a language rather than the chronological order of acquisition (for example, a person may speak three languages before learning English, and English would still be referred to as a “second” language)

ESOL (English for speakers of other languages) – *adjective*, describes a type of class, student, teacher, program, etc.; it is perceived as more inclusive and is therefore the preferred term

LEP (limited English proficiency/limited English proficient) – *adjective*, describes a person who has not yet attained English language proficiency; used in No Child Left Behind but is now completely rejected by the field as insensitive and overly negative due to the word “limited”; avoid using LEP at all times

multilingual – *adjective*, describes a person who is fluent in several languages; in this country the term generally implies that one of the several languages is English, but this is not necessarily the case

native language – *noun*, used to refer to a language that a person acquires from infancy or early childhood; it is not recommended to use this term as it is not easily defined and individuals may perceive themselves as native or non-native speakers regardless of the circumstances of acquisition

non-native language – *noun*, used to refer to a language that a person acquires after infancy or early childhood; it is not recommended to use this term as it is not easily defined and individuals may perceive themselves as native or non-native speakers regardless of the circumstances of acquisition

Introduction

The Maine Department of Education proudly welcomes students and families from diverse cultural and linguistic backgrounds. The staff of English for Speakers of Other Languages (ESOL) and Bilingual Programs provides support to administrators and teachers to ensure that all English learners (ELs) are enabled to achieve English language proficiency and fulfill their academic potential.

The Maine Department of Education requires School Administrative Units (SAUs) to:

- I. Create a Lau Plan;
- II. Identify ELs
- III. Develop and provide a program of services to meet the academic and linguistic needs of ELs;
- IV. Administer all required state assessments to measure student progress; and
- V. Continue to evaluate the program of services and modify when needed.

If you have questions or require assistance in meeting these requirements, please contact:

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Director of ESOL/Bilingual Programs & Title III
Maine Department of Education
23 State House Station
Augusta, ME 04333
Office: (207)624-6627
Cell: (207)441-9043
april.perkins@maine.gov

Lau Plan

A Lau Plan is a detailed description of how a School Administrative Unit (SAU) will provide services to English learners (ELs). Maine requires that all SAUs have a board-adopted Lau Plan, regardless of whether ELs currently attend school there. Named after the [Lau v. Nichols U.S. Supreme Court Decision of 1974](#), the landmark case that confirmed the rights of English learners to equitable education in English, Lau Plans are a requirement established by the Office for Civil Rights (OCR) (Title VI, 42 U.S.C. § 2000d et seq.).

It is important to review the SAU's Lau Plan regularly, and submit for board action as needed, to ensure that the Lau Plan reflects current SAU, state, and federal policies.

Maine requires that all SAUs have a board-adopted Lau Plan, regardless of whether English learners currently attend school there.

The Education Alliance at Brown University outlines the [essential components](#) of a Lau Plan, which include the legal foundation for service, student assessments, an instructional plan, family engagement, qualified personnel, a coordination plan, a budget, adjunct services, and other possible considerations. For guidance on writing a Lau Plan, see the Education Alliance's detailed steps [here](#).

Note that the Lau Plan must align with Maine Department of Education policies for staffing, identification, exit, and monitoring as outlined in this policy and resource guide. It is recommended that an SAU's Lau Plan address all aspects of an EL's education, including placement, program design and evaluation, assessment, family engagement, professional development for all teachers, access to special programs such as career and technical education, gifted and talented, and Advanced Placement, and participation in extracurricular activities.

A board-adopted copy of the SAU's Lau Plan must be sent to april.perkins@maine.gov at the Maine Department of Education.

English Learner Identification

Language Use Survey

Each SAU must have the [Language Use Survey](#) (LUS) as part of its enrollment packet. Only the LUS provided by the Maine Department of Education is to be used and no alterations in content are permitted. (See Appendix A: Language Use Survey). An LUS is to be given to the parents/guardians of all newly enrolled students (pre-K to 12) and used to preliminarily identify students who may not yet be proficient in English.

If any question on the LUS is answered with a language other than English (or with English and an additional language) the student is to be administered an English language proficiency screener. If all questions are answered with English only, no further action is required. In either case, **the LUS must be kept in the student's cumulative file.** (See Appendix B: LUS Decision Tree.)

The LUS is available in English and 25 of Maine's most commonly spoken languages. It is recommended to have a [language identification card](#) available at the time of enrollment so that a parent/guardian may indicate which translated version of the LUS is needed. Parents/guardians who are not proficient in English may require interpretation, which is to be provided by the SAU. (The Maine DOE does not endorse any particular translation/interpretation service, but a list of agencies is available [here](#).)

Please share this [Language Use Survey training video](#) with all staff who assist families in enrolling.

English language proficiency screening

Having another language spoken in the home or routinely used in other settings is *not* an automatic identification of a student as an EL. The administration of the WIDA Screener Online for grades 1-12 or the Kindergarten W-APT or Kindergarten MODEL is the next step to determine which students should receive English language support services. Maine is a member of the [WIDA](#) Consortium, and as there is not yet a screening tool produced by WIDA for students younger than 4.5, students in pre-K may be screened with the psychometrically-valid English language proficiency (ELP) assessment tool of the SAU's choice. (Contact april.perkins@maine.gov if you need assistance finding an appropriate assessment. The most commonly-used assessment is [preLAS](#). Note that developmental or kindergarten-readiness screeners do not meet this requirement.)

Grade	Screening Assessment	Minimum Score Required to be Non-EL
Pre-k	ELP screener of the SAU's choice	at the discretion of the SAU*
1 st semester K	Kindergarten W-APT	listening and speaking 29
2 nd semester K/1 st semester 1 st grade	Kindergarten W-APT	listening and speaking 29 reading 14 writing 17
1 st semester K	Kindergarten MODEL	oral language proficiency level 6.0**
2 nd semester K/1 st semester 1 st grade	Kindergarten MODEL	composite proficiency level 6.0**
2 nd semester 1 st grade-12 th grade	WIDA Screener Online	composite proficiency level 4.5

*It is recommended to set high expectations for pre-k students in order to ensure that all bilingual/multilingual students who may benefit from English language support services are identified.

**Note that the Kindergarten MODEL minimum score is higher than grades 1-12 because MODEL is scored using an outdated score scale. WIDA Screener Online is aligned to the current proficiency levels on ACCESS for ELLs.

It is required that all ELs be identified within 30 days of enrollment from the beginning of the school year or within two weeks of enrollment mid-year.

The screening tests assess English language proficiency in all four domains of language development – listening, speaking, reading, and writing – and evaluate social and instructional English,

as well as academic language corresponding to the subject areas of language arts, mathematics, science, and social studies. The screening test score is used to determine the student's initial English language proficiency (ELP) level. Additionally, other screenings, observations, and consultations should be used to inform development of the student's program of services. **Screening results must be kept in the student's cumulative file.**

ACCESS for ELLs cannot be administered without first confirming a student's EL status through the required screener. For students who enroll and are identified as ELs near or during the ACCESS for ELLs testing window, this will mean taking the screener and ACCESS for ELLs with little time between them.

Students transferring to a Maine public school from another state (or from a school operated by the Bureau of Indian Education or any private school) must undergo the same EL identification process as all other students. EL identifications made in other states are not recognized in Maine. However, if a Maine SAU is able to obtain ACCESS results from another WIDA consortium member state, those results will be considered valid and an ELP screener need not be administered. Maine does not recognize the exit criteria of other states; a student who has exited in another state may continue to be an EL in Maine if that state's exit threshold is lower than Maine's.

An EL identification made in a Maine SAU is recognized by all other Maine SAUs. However, it is still required to administer an LUS to families enrolling in the SAU for the first time. If an SAU is able to ascertain a newly-enrolled student's EL status (either through documentation in the student's cumulative file or via Synergy), it is not required to rescreen the student. That said, it often takes a significant amount of time to receive the cumulative file from the previous SAU, so SAUs should expect and prepare to administer an ELP screener to all potential ELs.

It is required under Section 1112 of ESSA that all ELs be identified within 30 days of enrollment from the beginning of the school year or within two weeks of enrollment mid-year.

For questions regarding entering EL data into the state system, please contact the Maine Department of Education [Data Helpdesk](#).

(207)624-6896

medms.helpdesk@maine.gov

Fax: 1-866-219-8344

Hours: Monday through Friday from 8:00 a.m. to 4:00 p.m.

Identifying ELs with learning disabilities

Screening for ELP is separate and distinct from special education screening. EL status in itself is not a disability covered by IDEA or Maine special education regulations. ELs should not be placed in any special education program unless their exceptionality is well-documented (including assessment of the student's native language skills) and appropriate procedures for special education services have been followed, independent of the EL identification. See [CCSSO English Learners with Disabilities Guide](#) for more information.

Students may qualify for and have legal entitlement to both ESOL and special education services. Appropriate screening is required to determine students' eligibility for each type of service. Depending on a student's learning disability and IEP, universal testing tools or accommodations may be needed in order to measure ELP. When evaluating an EL for learning disabilities, screening must be linguistically and culturally appropriate. It is advisable to measure a student's skills in the student's primary language in order to clarify whether challenges are due to a learning disability or English language development.

For ELs with IEP teams, the United States Department of Education has provided the following [guidance](#):

"It is important that IEP Teams for ELs with disabilities include persons with expertise in second language acquisition and other professionals, such as speech-language pathologists, who understand how to differentiate between limited English proficiency and a disability. The participation of these individuals on the IEP Team is essential in order to develop appropriate academic and functional goals for the child and provide specially designed instruction and the necessary related services to meet these goals."

Students may qualify for and have legal entitlement to both ESOL and special education services.

Note: Alternate ACCESS is appropriate only for students with the most significant cognitive disabilities. ELs must be approved to take the alternate state academic assessment in order to be eligible to take Alternate ACCESS. (See [Alternate ACCESS for ELLs Participation Criteria Decision Tree](#).)

Post-enrollment identification

Throughout the school year, teachers should observe students who were not initially identified as ELs in order to determine whether English language support services may be needed.

If the original LUS does not indicate a primary or home language other than English, an ELP screener can be administered only if one or both questions in the "School Use Only" section of the LUS is answered affirmatively by a teacher.

If a student was administered an ELP screener at the time of enrollment and did not then qualify for EL status, a screener may be re-administered if academic challenges due to English language development arise later in the student's academic career.

Request for change in EL identification

If a student has been identified by a school in Maine as an EL, but a teacher, school administrator, parent/guardian, or the student himself/herself (over the age of 18) believes this identification to be incorrect, a request for change in identification may be made.

If the information provided on the LUS is not accurate and the parent/guardian feels that the student was therefore incorrectly identified as an EL, the parent/guardian can contact the district superintendent to request a change in identification. It is not acceptable for a school to change a parent's/guardian's original answers on an LUS or provide a new LUS for the parent/guardian to complete.

A teacher, school administrator, parent/guardian, or the student himself/herself (over the age of 18) can initiate a request for change in identification by submitting a letter or email (in any language) to the student's district superintendent. The superintendent must complete the [Request for Change in EL Identification](#) form. The following are required attachments:

- the letter or email from the teacher, school administrator, parent/guardian, or the student himself/herself (over the age of 18) to the superintendent, initiating the request for change in EL identification
- all language use surveys present in the student's cumulative file
- all English language proficiency screener score reports present in the student's cumulative file

A request for change in identification form can be submitted up to 90 days after enrollment*. The final decision will be made by a review committee (of at least three members) at the Maine Department of Education within two weeks of receipt of the request. The superintendent is responsible for informing the student's parent/guardian of the Department's final decision in the parent's/guardian's preferred language and format, written or oral. Oral notifications must be followed by written notice. **A copy of the decision from the Maine Department of Education must be kept in the student's cumulative file.**

An appeal is possible only in cases where additional pertinent information regarding the student's EL identification becomes available.

***Note:** All ELs are required to be identified within 30 days of enrollment from the beginning of the school year or within two weeks of enrollment during the school year. Requests made after the 90-day window has passed due to extenuating circumstances will be considered on a case-by-case basis.

Parent/guardian notification and rights

The Elementary and Secondary Education Act, Subpart 5: Administration, part C Section 3302 states that local education agencies (LEAs) must provide information to a parent/guardian in an understandable and uniform format and, to the extent practicable, in a language that the parent/guardian can understand. (See [resources for translation/interpretation](#).)

In addition, an interpreter should be present (in person or by phone service) to assist parents/guardians in communicating with school staff and at meetings of the Language Acquisition Committee (see program development section) to discuss the student's programming and progress in attaining English proficiency.

If the student is identified as in need of English language support services, the parents/guardians must be notified no later than 30 days after the beginning of the school year or within two weeks of identification during the school year, in accordance with the requirements of the Elementary and Secondary Education Act. Parents/guardians should be included in designing their child's educational program by direct participation in the Language Acquisition Committee meeting or by other means that allow parents/guardians to meaningfully contribute to the development of their child's ILAP. If a parent/guardian has objections or concerns about a student's program of service, other options should be discussed and considered. Parents/guardians should also be notified of all academic, extracurricular, and family engagement activities that are called to the attention of other parents/guardians. This [notice](#) from the US Department of Justice and the US Department of Education outlines requirements for translation/interpretation.

If a parent refuses English language support services this must be documented in the student's cumulative file, but parental refusal does not release the school or SAU from its responsibility to provide meaningful education to an EL. If an EL cannot make academic progress without English language support services, the student has a right to these services even if a parent refuses. (See [Administrative Letter 11](#) for further clarification.)

Parental consent is not required to administer an English language proficiency screener or ACCESS for ELLs. If a parent refuses administration of a required statewide standardized assessment such as ACCESS for ELLs, under State law the SAU is still responsible for administering the assessment to all students (See: MRSA 20-A, §6209: 1-A).

Enrollment in Schools and Immunization Policy

All ELs must be allowed to attend school, regardless of their ability to produce a birth certificate, social security number, or immigration documentation. (See [Information on the Rights of All Children to Enroll in School.](#))

See Maine school immunization law [Title 20-A MRSA Sections 6352-6359](#) for the requirements on immunization in public schools. If parents/guardians do not have student immunization records available, the dates of immunization may be obtained by calling the previous school that the child attended. If necessary, students can begin the immunization series at the local public health department. If appropriate immunization documentation cannot be obtained within a reasonable period of time, the student's case should be handled in accordance with approved state and local board of education procedures.

Children may not be excluded from school because they do not have a social security number ([Plyler v. Doe](#)). To determine age of the child, in lieu of birth certificate for proof of age, one of the following documents can be used:

- Birth registration notice;
- Hospital certificate;
- Physician's certificate (signed statement by the physician or midwife who was in attendance at the birth, as to the date of birth shown on their records);

- Baptismal or church certification;
- Parent/guardian affidavit (with prior approval);
- Passport/visa;
- Official school record (if mailed, faxed, or if hand-carried and date of birth confirmed by phone from sending school); or
- Official court document indicating child's birth date.

Program Development

Requirements

SAUs are authorized to design ESOL programs to suit the needs of their students. An SAU is required to determine the components of an effective English language acquisition program for each student, which may include but is not limited to tutoring, additional classroom support, materials, sheltered instruction, professional development for content area teachers, or other strategies ([Office for Civil Rights December 1985 Title VI policy memorandum, Title VI Language Minority Compliance Procedures](#)).

All ELs must be provided with English language support services that enable them to meaningfully access the curriculum in order to meet grade-level standards. (See [Ensuring English Learner Students Can Participate Meaningfully and Equally in Educational Programs](#).) English language development and content area knowledge are to be acquired simultaneously rather than consecutively. In other words, English language proficiency is not a prerequisite to participate in mainstream classes. If ELs receive pull-out services that remove them from content area classes, any academic deficits incurred as a result must be remediated.

English language support services are to be provided in a way that minimizes the isolation of ELs from the general student population and encourages ELs to participate in all aspects of the school program, including advanced coursework, career and technical education, gifted and talented programs, and extracurricular activities.

All ELs must be provided with English language support services that enable them to meaningfully access the curriculum in order to meet grade-level standards.

ELs are entitled to customized ESOL services until exiting by demonstrating English language proficiency on ACCESS for ELLs. Ceasing to provide ESOL services to an EL prior to exit violates the EL's civil rights. (See Appendix H: Feds Say Districts Can't End Services to ELLs 'Prematurely'.) Consult-only services are appropriate for a very limited number of

students. Choosing to provide consult-only services must be documented and justified in a student's ILAP. The student's mainstream teachers must be well-equipped to meet the student's language acquisition and academic needs through specific strategies for English learners. If a student receiving consult-only services does not meet his/her annual growth targets*, the student's program must be

modified to ensure that it is effective and enables the student to make expected growth (per the 1981 [Castañeda v. Pickard](#) ruling).

*as measured by the [Progress in English Language Proficiency Indicator](#) in Maine's Model of School Support

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the grounds of race, color, or national origin by recipients of federal financial assistance. The Title VI regulatory requirements have been interpreted to prohibit denial of equal access to education because of a language minority student's limited proficiency in English.

The fundamental [Title VI](#) requirement for ELs is that they have meaningful access to the district's educational program, activities, and services. Therefore, the goals for success for ELs are the same as the goals maintained for all students throughout the district. Goals should address both English language development and content area instruction, and the EL program must be designed to assure that students make adequate progress in developing English language proficiency. Educational needs of ELs must be met with an effective, research-based instructional program.

The Maine Department of Education requires the English language support program of an EL to be provided or overseen by a 660 ESL-endorsed teacher. (See 34 Code of Federal Regulations C.F.R. Section 100.3 (b)(ii)). To ensure appropriate staffing:

- An SAU must provide adequate staff necessary to properly implement its chosen program;
- All programs must be under the supervision of an ESOL-endorsed teacher;
- Instructional plans of all EL students must be developed by a certified teacher with an endorsement in ESOL or bilingual education; and
- Paraprofessionals must be under the supervision of an ESOL-endorsed teacher. EL students should not receive long-term instruction from paraprofessionals rather than ESOL-endorsed teachers.

Materials and resources must be comparable in quality to those for mainstream students and must integrate with instruction in regular classroom content. Also, ELs must be provided facilities comparable to those provided to the overall student population. This requirement is addressed in the 2006 case [United States v. Board of Education of the City of Chicago](#).

Please see [this article](#) from the Maine Department of Education that clarifies requirements under Title VI. (See Appendix G: Clarification of the Process for Addressing Complaints of Discrimination.)

Placement considerations

Once identification occurs, districts should base their placement decisions on a holistic profile that:

- Summarizes results of multiple measures (e.g., screening assessments, classroom assessments, interviews, and teacher observations);
- Includes parent/guardian input;
- Attends to the multidimensional aspects of English language skills (listening, speaking, reading, and writing); and

- Considers cultural factors.

ELs should be placed in age appropriate grade levels or courses. If a lower placement is considered due to lack of formal schooling, it should not be more than one year below non-EL peers of the same age group and must follow the same current SAU policy on grade placement for all students.

Maine Department of Education, Reg. 125, Section 4.02(E) requires that the SAU Consolidated Plan address the academic achievement and progress of all students and that all federal and state laws must be met. Maine Department of Education Reg. 127 in Section 5.03 (elementary) and 6.02 (middle) indicates that promotion and placement decisions are the responsibility of school boards, per policies they must adopt.

To satisfy the legal requirements of Title VI of the Civil Rights Act of 1964 (42 USCS, 2000d), *Lau v. Nichols* (1974) 414 US 563, 39L ED 2d1, 94 S Ct 786 Equal Educational Opportunities Act of 1974 204(f), 20 USCA 1703(f) and 511 IAC 6.1-5-8:

Students should be placed in an age-appropriate grade level. Placement below grade level should only be considered if the student has no prior school experience or if the student has been out of school for more than one academic year and in accordance with school board adopted policies on promotion and placement.

Language Acquisition Committee

The Language Acquisition Committee (LAC), required by and described in the SAU's Lau Plan, is a school team responsible for guiding and monitoring the placement, services, and assessment of students who are ELs. The LAC may be comprised of content-area or general classroom teachers of ELs, assessment specialists, school administrators, school counselors, ESOL staff, parents/guardians, and other members as appropriate (e.g., central office administrators, and school psychologists, person knowledgeable of native language/interpreter).

To ensure parent/guardian understanding, interpreters may need to attend LAC meetings, and document translations may need to be provided as well. The school must use a qualified interpreter. Bilingualism is not sufficient to qualify someone to act as an interpreter. If you need to locate a qualified interpreter or translator, you may refer to this [list of agencies](#).

Individual Language Acquisition Plan

Each student designated as an EL must have an Individual Language Acquisition Plan (ILAP), which should be updated at least annually until the student exits EL status. The LAC will develop the ILAP, which outlines a personalized action plan for language development based on evidence such as:

- ACCESS for ELLs results

- Classroom observations
- Grades
- State standardized academic assessments (eMPowerME or SAT)
- Local standardized academic assessments (such as NWEA, STAR, etc.)

Placement and services must include supplemental student supports that will enable the EL to meet Maine's challenging academic standards. If consult-only services are provided, which may be appropriate for a very limited number of students, a clear justification must be written in the ILAP and collaboration between the ESOL-endorsed teacher and classroom/content area teachers must be thoroughly documented.

The Maine Department of Education does not have any specific requirements as to the format of a student's ILAP, but it is important to include specific language-learning goals and the interventions, modifications, and accommodations the student will receive.

Note: An ILAP may also be called an Individual English Learning Plan (IELP), Individual Learning Plan (ILP), or similar names.

Considering diverse student profiles

The most effective teachers learn about their students' personal histories, preferences, and goals. When designing an EL's program of services, it is essential to view each student holistically and consider various factors that affect a student's strengths and challenges. Consider, for example, whether the student:

- Has a history of trauma, such as experiencing violence and/or political instability
- Is a student with limited or interrupted formal education (SLIFE)
- Faces socioeconomic challenges
- Has emotional and/or academic support from family members
- Is fluent/literate in the family's primary language
- Has experienced bullying or other adverse conditions at school
- Has a diagnosed/undiagnosed learning disability
- Is introverted or extroverted
- Possesses skills for self-advocacy
- Has weighty family obligations after school and on weekends
- Speaks a language that is similar (such as Spanish) or dissimilar (such as Arabic) to English

Understanding how each of the above factors (and numerous others) can influence a student's academic and linguistic progress can help teachers design more effective programs. Additionally, learning some of the features of a student's primary/home language is a great way to not only support their English development but also to show students that their teachers value two-way linguistic and cultural exchange.

Program Evaluation

Per the 1981 [Castañeda v. Pickard](#) ruling, SAUs must regularly evaluate their English language acquisition programs to ensure that they effectively meet the needs of ELs.

Because federal law does not prescribe a particular program model or evaluation approach, the approach to, and design of, an effective EL program evaluation will vary from SAU to SAU. The annual program evaluation should include English language acquisition success of enrolled students, family engagement, degree of collaboration with mainstream teachers, and compliance with the SAU's Lau Plan. OCR policy states that districts are required to modify their programs if they prove to be unsuccessful after a legitimate trial. As a practical matter, SAUs cannot comply with this requirement without periodically evaluating their programs.

Program evaluation should include:

- A comprehensive approach;
- Data collection;
- Recorded data on former EL students to assess whether they are keeping up with their non-EL peers;
- Review and analysis of results;
- Plan for improvement;
- Implementing program changes;
- Ongoing review; and
- Alignment of evaluation with SAU Goals and Objectives: Does the information collected permit an assessment of performance in alignment with specific goals or measures of progress that have been established for the district's EL program? Are ELs are meeting those goals?

Any Maine school with at least 20 ELs must complete the EL Data Collection and Analysis section of the [Comprehensive Needs Assessment/SAU Consolidated Plan](#) as required under the Every Student Succeeds Act. This section provides a useful template for program evaluation and is recommended as a tool for all schools with ELs. Schools with fewer than 20 ELs must incorporate the needs of ELs into all sections of their plans, and the EL teacher must be included as a member of the planning team.

Assessment of English Learners

All English Learners have the right to appropriate language support services until they achieve English proficiency. Appropriate student evaluation requires assessment of two components: academic content standards and English language proficiency.

(1) Academic content standards

All publicly funded students enrolled in Maine public schools or in a private school approved for tuition that enrolls at least 60% publicly funded students are required to participate in the annual state

academic assessment process. Information regarding the assessments in which EL students participate, and accompanying information regarding test accommodations can be found at the [Maine Comprehensive Assessment System](#).

(2) English language proficiency

ACCESS for ELLs 2.0 and Alternate ACCESS are Maine's English language proficiency (ELP) examinations, administered in an annual test window beginning in early January and ending early March to all ELs in kindergarten through grade 12. **Note:** *Score reports are to be sent home to parents/guardians once received.*

If a student is identified as an EL, then that student must be administered ACCESS for ELLs 2.0 annually, regardless of their participation in an English language instruction educational program, until that student attains the State's definition of English language proficient, which is a composite proficiency level score of 4.5 on ACCESS for ELLs 2.0.

Any student who has attained composite proficiency level score of 4.5 is no longer an EL will no longer be administered ACCESS for ELLs. However, all ELs who have met proficiency must be monitored by the SAU for two years in order to ensure the academic success of that student, including but not limited to a formal review of grades on a regular basis. Continual collaboration and consultation should take place with the EL instructor and teachers for a minimum of two years after the student exits. (**Note:** While an SAU must monitor a former EL for two years, new federal requirements under the Every Student Succeeds Act require states to report on the academic achievement of former ELs for four years.)

While monitoring a former EL, if at any time during the monitoring period there are indications that the student's level of English language proficiency is affecting the student's academic performance and meaningful participation in the educational program, the student may be reentered into the EL program. The student should NOT be recoded in the student data system as an EL and is not to be administered ACCESS for ELLs 2.0.

Most questions regarding administration of ACCESS for ELLs or Alternate ACCESS can be answered by WIDA or DRC. Additional questions should be directed to:

Sue Nay
Alternate Assessment & WIDA ACCESS Coordinator
Maine Department of Education
sue.nay@maine.gov
Phone: (207)624-6774

How Can I Help?



WIDA Client Services Center
help@wida.us | 866-276-7735

Contact WIDA about...

Training and test administration procedures for

- [ACCESS for ELLs 2.0 Online and Paper](#)
- [Kindergarten ACCESS for ELLs](#)
- [Alternate ACCESS](#)
- [WIDA MODEL Online and Paper](#)
- [Kindergarten W-APT](#)

[State-specific Guidance on individual state pages](#)
[WIDA Standards and Can Do Descriptors](#)
[Non-disclosure and User Agreements](#)
[WIDA Professional Learning](#)
[WIDA Research](#)
[WIDA Screener Online and Paper](#)
[WIDA website user accounts](#)

April–Nov: Mon–Fri 8:00 am–5:00 pm CT
 Dec–March: Mon–Thur 7:00 am–7:00 pm, Fri 7:00am–5pm CT



DRC Customer Service
WIDA@datarecognitioncorp.com | 855-787-9615

Contact DRC about...


ACCESS for ELLs 2.0

- Test materials ordering
- Payment and billing
- Data and reporting

ACCESS for ELLs 2.0 Online [Test Demo](#), [Sample Items](#), and [Test Practice Items](#)
[WIDA AMS technical support questions](#)
 DRC INSIGHT questions
 DRC Testing Site Manager (TSM) questions

June–Aug: Mon–Fri 6:00 am–6:00 pm CT
 Sept–May: Mon–Fri 6:00 am–8:00 pm CT
 WIDA AMS is available 24x7 unless down for updates or maintenance; these times are always posted in advance

WIDA [Subscribe to the WIDA System Status Indicator](#) to receive alerts about service interruptions.
 Visit the [WIDA AMS web page](#) to watch mini tutorials that explain key WIDA AMS functions.



Exit criteria

Students who achieve a composite proficiency level of 4.5 on ACCESS for ELLs or level P2 on Alternate ACCESS are automatically exited from EL status in Synergy, the State’s student data system.

Maine’s exit criteria are based on the level of English proficiency that enables students to access the state’s challenging academic curricula without language support services. Exit criteria are regularly evaluated in consultation with WIDA, the Maine English Learner Advisory Council, and other stakeholders.

Appendices

Appendix A: Language Use Survey

Dear Parent/Guardian:

Maine welcomes families of all cultural and linguistic backgrounds. Speaking more than one language is a valuable asset, and we encourage families to maintain their languages while learning English. Students who speak or understand another language may be entitled to support to improve their English in order to meet Maine's challenging academic standards. The following questions, required for all students from pre-kindergarten through grade 12, will help your school determine whether your child may benefit from English language support services. If a language other than English is indicated, your child will be administered an English language screener. Depending on your child's score, your child may be classified as an English Learner and eligible for English language support. If you would like this letter and the survey below to be provided in another language, or if you would like an interpreter, your school will fulfill those requests. If you have questions about this survey, please contact your school principal.

Be assured that your answers will be used only for educational purposes. The completed survey will be kept in your student's permanent file, and only school staff will have access to it. No school employee may inquire about the immigration status of any member of your family.

Thank you for providing this information, and I wish your student great academic success.

Sincerely,

April Perkins
Director of ESOL and Bilingual Programs, Maine Department of Education

LANGUAGE USE SURVEY

Student's Name: _____ Date of Birth: _____

School: _____ Anticipated Grade: _____

Please do not leave any question unanswered.

1. What language(s) did your child first speak or understand?
2. What language(s) does your child most easily speak or understand?
3. What language(s) do those who interact with your child frequently (daily or at least several times per week) use with your child?

Parent/Guardian Signature: _____ Date: _____

School Use Only

Post-enrollment Identification: If no language other than English is indicated by a parent/guardian on this survey, an English language screener may be administered only if one or both of the questions below is answered affirmatively by a teacher.

1. Have you observed the student use a language other than English? _____
2. Has the student indicated to you that he/she uses a language other than English? _____

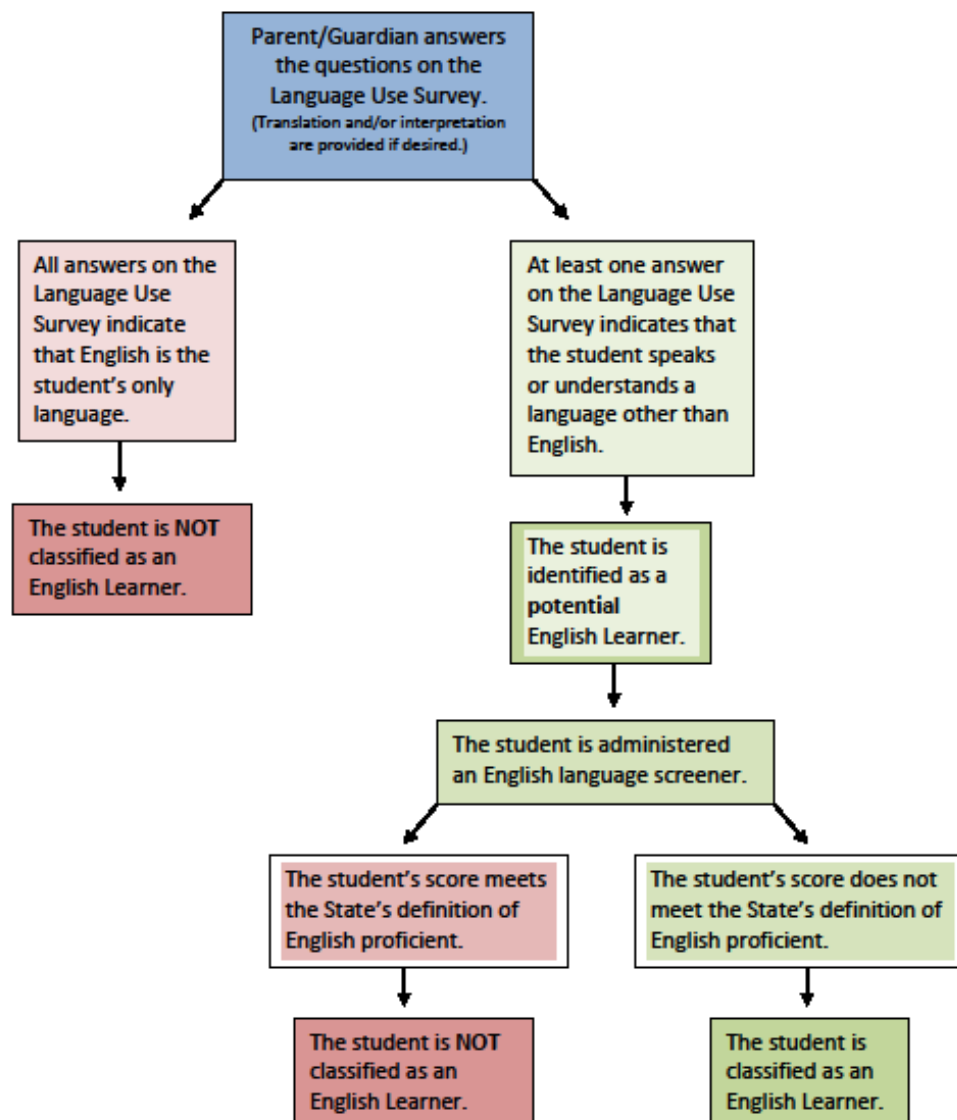
Teacher Signature: _____ Date: _____

**PLACE THE ORIGINAL OF THIS COMPLETED DOCUMENT IN THE STUDENT'S
PERMANENT RECORD FOLDER**

Appendix B: Language Use Survey Decision Tree

English Learner Identification Decision Tree

The parent(s)/guardian(s) of all students enrolling in a district for the first time must complete the Language Use Survey. The entire identification process must be completed within thirty days of enrollment from the beginning of the school year or within two weeks of enrollment during the school year. Note that if a parent/guardian refuses to complete the Language Use Survey, districts are still required under federal law to identify all English learners. In such cases, the "School Use Only" section of the Language Use Survey must indicate observed or student-reported use of a primary or home language other than English before an English language proficiency screener can be administered. See [Serving Maine's English Learners](#) for additional guidance.



Appendix C: Office of English Language Acquisition EL Toolkit

The US Department of Education's Office of English Language Acquisition (OELA) has published an [EL tool kit](#), covering nearly all aspects of EL programming. The guidance found in this tool kit is intended to help schools understand federal requirements for serving ELs, as well as best practices and helpful tips.

1. [Identifying All English Learner Students](#) (PDF, 1.5MB)
2. [Providing English Learners with a Language Assistance Program](#) (PDF, 800KB)
3. [Staffing and Supporting an EL Program](#) (PDF, 921KB)
4. [Meaningful Access to Core Curricular, Extra Curricular Programs](#) (PDF, 1.75MB)
5. [Creating an Inclusive Environment and Avoiding Unnecessary Segregation](#) (PDF, 910KB)
6. [Addressing English Learners with Disabilities](#) (PDF, 1.27MB)
7. [Serving English Learners Who Opt Out of EL Programs](#) (PDF, 386KB)
8. [Monitoring and Exiting English Learners from EL Programs and Services](#) (PDF, 1.23MB)
9. [Evaluating the Effectiveness of a District's EL Program](#) (PDF, 907KB)
10. [Ensuring Meaningful Communication with Limited English Proficient Parents](#) (PDF, 1.26MB)

Appendix D: Bridging Refugee Youth and Children's Services Tool Kit

In collaboration with the Office of Refugee Resettlement, Bridging Refugee Youth and Children's Services (BRYCS) has developed [Refugee Children in U.S. Schools: A Toolkit for Teachers and School Personnel](#) in order to support and assist schools with large numbers of refugee students. As the Office of Refugee Resettlement's technical assistance provider on child welfare, BRYCS provides expertise to schools in the areas of child welfare, parent involvement, social integration, and other topics related to the well-being of refugee children.

Tool 1: [The Birthdates of Refugee Children and the Impact on Grade Placement](#)

Tool 2: [Schools and Refugee-Serving Agencies: How to Start or Strengthen Collaboration](#)

Tool 3: [Refugee Child Welfare: Guidance for Schools](#)

Tool 4: [Refugee and Immigrant Youth and Bullying: Frequently Asked Questions](#)

Tool 5: [Federal Requirements to Provide Interpretation/Translation in the Schools](#)

Tool 6: [Enrolling Refugee Children in U.S. Schools](#)

Appendix E: New Protocol for Requesting a Change in English Learner Identification

<https://mainedoenews.net/2018/01/22/new-protocol-for-requesting-a-change-in-english-learner-identification/>

If a student has been identified by a school in Maine as an English learner (EL) but a teacher, school administrator, parent/guardian, or the student himself/herself (over the age of 18) believes this identification to be incorrect, a request for change in identification may be made.

To initiate this request, a letter or email (in any language) must be submitted to the student's district superintendent. If the superintendent approves the request, the superintendent will complete a [Request for Change in EL Identification](#).

A request for change in identification form must be submitted within 90 days of enrollment*. The final decision will be made by the EL identification review committee at the Maine Department of Education within two weeks of receipt of the request. The superintendent is responsible for informing the student's parent/guardian of the Department's final decision in the parent's/guardian's preferred language and format, written or oral. Oral notifications must be followed by written notice. The Department's decision may be appealed in light of additional evidence.

Please note that students who were properly identified as ELs and have not yet reached the Maine DOE's definition of English language proficiency (a composite proficiency level of 4.5 on ACCESS for ELLs) are not eligible for a change in EL identification.

***Note:** All English learners are required to be identified within 30 days of enrollment from the beginning of the school year or within two weeks of enrollment during the school year. Requests made after the 90-day window has passed due to extenuating circumstances will be considered on a case-by-case basis. For SY 2017-18 only, requests for change in EL identification may be submitted regardless of time since enrollment.

If you have any questions regarding this notice, please contact April Perkins, ESOL Specialist, at april.perkins@maine.gov or (207)624-6627.

Appendix F: Administrative Letter: Legal Requirements to Provide English Language Acquisition Services to English Learners

<https://mainedoenews.net/2018/01/11/administrative-letter-legal-requirements-to-provide-english-language-acquisition-services-to-english-learners/>

Administrative Letter: #11

Policy Code: IHBEA

TO: Public School Administrators

FROM: Robert G. Hasson, Jr., Ed. D. Commissioner

DATE: January 12, 2018

SUBJECT: The legal requirements for providing English for Speakers of Other Languages (ESOL) services to an English learner

Topics included in this letter:

- Identification of English learners
- Exit criteria from ESOL services
- Delivery of ESOL services
- Administration of ACCESS for ELLs®
- Enrollment of immigrants and foreign students
- Rights of English learners to education
- English learners and Special Education

Identification of English Learners (EL)

It is a federal requirement that all English learners be identified within 30 days of enrollment from the beginning of the school year or within two weeks of enrollment during the school year.

Each School Administrative Unit (SAU) must administer the Maine Department of Education's [Language Use Survey](#) to the parent/guardian of every student, pre-kindergarten through 12th grade, enrolling in the SAU for the first time. The Language Use Survey must be included in the SAU's enrollment packet. If a student changes schools within an SAU, a new Language Use Survey is not required. The purpose of the Language Use Survey is to identify potential English learners. The Language Use Survey [decision tree](#) provides guidance on its use. If any question is answered with a language other than English (including Sign Language), the student is administered an English language proficiency screener. Students in kindergarten are administered either the Kindergarten W-APT® or K-MODEL®. Students in grades 1-12 are administered the WIDA Screener Online®. Students who score a composite proficiency level lower than 5.0 are classified as English learners. For students in pre-kindergarten, districts are permitted to use the screening tool of their choice, as there is not currently a WIDA screener assessment for students under age 4 and a half years old. The Maine Department of Education advises SAUs to employ rigorous criteria for identifying English learners in pre-kindergarten to ensure that all eligible students are served.

Available for download on the Maine Department of Education [website](#) and from [TransACT](#) is the Language Use Survey in English and 25 of Maine's most commonly spoken languages. Parents/guardians

are entitled to complete the Language Use Survey in their preferred language. SAUs must provide interpretation services upon request.

Exit Criteria from ESOL Services

In order to exit from ESOL services, a student must demonstrate English language proficiency. The Maine Department of Education defines English language proficiency as a composite proficiency level of 5.0 on ACCESS for ELLs®. No other measure qualifies an English learner for exit. While a district may choose to continue to provide language support services to students who have demonstrated English language proficiency, such students are no longer classified as English learners and are no longer administered ACCESS for ELLs®.

Delivery of ESOL Services

An SAU is required to determine the components of an effective English language acquisition program tailored to the needs of each student, which may include but is not limited to tutoring, additional classroom support, materials, sheltered instruction, professional development for content area teachers, or other strategies ([Office for Civil Rights December 1985 Title VI policy memorandum, Title VI Language Minority Compliance Procedures](#)).

The Maine Department of Education requires the English language support program of an English learner to be provided or overseen by a 660 ESOL-endorsed teacher. (See 34 Code of Federal Regulations C.F.R. Section 100.3 (b)(ii)). All English learners must be provided with English language support services that enable them to meaningfully access the curriculum in order to meet grade-level standards. English language development and content area knowledge are to be acquired simultaneously rather than consecutively. In other words, English language proficiency is not a prerequisite to participate in mainstream classes. If English learners receive services that remove them from content area classes (such as a newcomer program or pull-out services), any academic deficits that result must be remedied so the student remains on track with his/her non-EL peers academically.

English language support services are to be provided in a way that minimizes the isolation of English learners from the general student population and encourages English learners to participate in all aspects of the school program, including advanced coursework, career and technical education, gifted and talented programs, and extracurricular activities. English learners are entitled to ESOL services until exiting by demonstrating English language proficiency on ACCESS for ELLs®.

Administration of ACCESS for ELLs®

Federal and State laws require that the English language proficiency of all English learners be measured annually as a component of accountability under the Elementary and Secondary Education Act (ESEA). If a student is identified as an English learner, that student must be administered ACCESS for ELLs® annually until the student demonstrates English language proficiency. The Maine Department of Education defines English language proficiency as a composite proficiency level of 5.0 on ACCESS for ELLs®. Failure of all English learners to participate in the annual administration of ACCESS for ELLs® may affect ESSA Title IA funding.

State law requires that ACCESS for ELLs® be administered only by an individual trained in its administration. It is not required that this individual be an ESOL-endorsed teacher. However, only an ESOL-endorsed teacher is qualified to design, oversee, and implement an English learner's English language support program, which includes the interpretation of ACCESS for ELLs® results. Funds under Title III of ESEA are not allowed to be used for the administration of ACCESS for ELLs®.

If parents/guardians have questions about the purpose of ACCESS for ELLs®, please direct them to ACCESS for ELLs: [FAQs for Parents/Guardians](#).

Enrollment of Immigrants and Foreign Students

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin, among other factors, by public schools. SAUs are required under federal law to enroll children regardless of citizenship or immigration status (*Plyler v. Doe*). This applies to equally to immigrant students and international (i.e. foreign) students attending a Maine public school as an exchange student or tuition-paying student. All students, including immigrant and international students, must be screened for English learner status. Any student who is identified as an English learner, regardless of citizenship or immigration status, is entitled to ESOL services and must be administered ACCESS for ELLs® annually. International students are not exempt from Title I required state academic assessments. In Maine, recently arrived English learners who have been enrolled in a U.S. school for less than 12 months are exempt from one administration of the state's English language arts assessment only.

SAUs are not permitted to discourage the enrollment of undocumented immigrant children by asking about their immigration status, denying enrollment to those with foreign birth certificates, or denying enrollment to children whose parents decline to provide their social security numbers or race and ethnicity information. Federal regulations allow schools to ask for children's social security numbers to be used as student identifiers. However, they should inform parents of the purpose and that disclosure of such numbers is voluntary. Schools may not deny enrollment if parents refuse to provide a child's social security number. SAUs may require proof that a child lives within SAU boundaries, which may include lease agreements, utility bills, or other documents. However, schools may not ask parents about a child's immigration status to establish residency. SAUs may require proof of a child's age, but they may not bar enrollment because a child has a foreign birth certificate or no birth certificate. See this [fact sheet](#) from the Departments of Justice and Education for more details about acceptable documentation requests.

Rights of English Learners to Education

The Civil Rights Act of 1964 remains the foundation of the legal rights of an English learner. *Lau v. Nichols* confirms that all English learners are entitled to meaningful access to the curriculum. If a parent refuses ESOL services this must be documented, but parental refusal does not release the school or SAU from its responsibility to provide meaningful education to an English learner. If an English learner cannot make academic progress without ESOL services, the student has a right to ESOL services even if a parent refuses. Parental consent is not required to administer an English language proficiency screener or ACCESS for ELLs®. Under State law SAUs are responsible for administering ACCESS for ELLs® to all English learners, regardless of parental consent (20-A M.R.S. §6209(1-A)).

English Learners and Special Education

Students may qualify for and have legal entitlement to both ESOL and special education services. Appropriate screening is required to determine students' eligibility for each type of service. Depending on a student's learning disability and Individual Education Plan (IEP), universal testing tools or accommodations may be needed in order to measure English language proficiency. When evaluating an English learner for learning disabilities, screening must be linguistically and culturally appropriate. It is advisable to measure a student's skills in the student's primary language in order to clarify whether challenges are due to a learning disability or English language development.

English learners should not be placed in a special education program unless their exceptionality is well-documented and appropriate procedures for special education services have been followed. English learner status is not a disability and is not covered by the Individuals With Disabilities Education Act (IDEA) or Maine special education regulations.

For English learners with IEP teams, the United States Department of Education has provided the following [guidance](#):

"It is important that IEP Teams for ELs with disabilities include persons with expertise in second language acquisition and other professionals, such as speech-language pathologists, who understand how to differentiate between limited English proficiency and a disability. The participation of these individuals on the IEP Team is essential in order to develop appropriate academic and functional goals for the child and provide specially designed instruction and the necessary related services to meet these goals."

English learners with learning disabilities are eligible for exit from ESOL services when they demonstrate English language proficiency, whether by achieving a composite proficiency level of 5.0 on ACCESS for ELLs® or P2 on Alternate ACCESS for ELLs®.

If you have questions or would like further information regarding serving English learners, please contact April Perkins, ESOL/Bilingual Programs, at april.perkins@maine.gov, (207)624-6627.

Appendix G: Administrative Letter 20: Change in English Learner Identification and Exit Criteria

<https://mainedoenews.net/2018/10/29/administrative-letter-change-in-english-learner-identification-and-exit-criteria/>

Administrative Letter: 20

Policy Code: IHBEA

To: Public School Administrators

From: Robert G. Hasson, Jr., Ed. D. Commissioner

Date: October 29, 2018

Subject: Change in English Learner Identification and Exit Criteria

Under the Every Student Succeeds Act, states are required to develop uniform statewide policies for identifying and exiting English learners (ELs). In light of this requirement, the Maine Department of Education has sought to review and refine its policies in order to best meet the needs of its students. Over the past year and a half, the Department has collected stakeholder input from around the state regarding its definition of English language proficiency. Additionally, the Department has conducted extensive analysis of assessment data to determine the level of English language proficiency needed in order to succeed academically on par with non-EL peers.

Following the completion of the review and analysis, Maine's definition of English language proficiency is now a composite proficiency level (CPL) of 4.5, as measured by WIDA ACCESS for ELLs and WIDA Screener Online. All ELs who attain a composite proficiency level of 4.5 or higher on ACCESS for ELLs will be exited from English learner status. Students who achieved a CPL of 4.5-4.9 in 2017 or 2018 will be retroactively exited as of November 1, 2018. Districts will not need to take any action to exit these students, as the Department will do so automatically.

However, districts must take action to exit recently identified students who are no longer eligible for EL services based on the change in identification criteria. Any student who was identified as an English learner with a WIDA Screener Online CPL of 4.5 must be removed from EL status. To change a student's status in the state student data system, the student's district superintendent must submit a [request for change in English learner identification](#), including the student's Language Use Survey and WIDA Screener Online score report. All requests for change in English learner identification must be submitted by November 9, 2018 to ensure accuracy of 2018-19 ACCESS testing rosters. Please note that if a student identified as an EL has already been administered ACCESS for ELLs, he/she must achieve a CPL of 4.5 or higher on ACCESS for ELLs in order to exit.

ELs with significant cognitive disabilities who qualify for the state alternate academic assessment are administered Alternate ACCESS for ELLs. Please note that the exit threshold for Alternate ACCESS for ELLs has not changed and remains a CPL of P2.

After an EL demonstrates English language proficiency by attaining a CPL of 4.5 or higher on ACCESS for ELLs, federal and state regulations require that schools monitor the student's academic progress for two years. If during that two-year period a continued need for English language acquisition services becomes apparent, the student must be provided services. Note that in such cases the student will not be designated as an EL in the state student data system and will not be administered ACCESS for ELs.

This Administrative Letter is a supplemental update to [Administrative Letter 11](#), which provides more extensive information about the requirements for serving ELs, including more details on Maine's EL identification policy.

To assist districts in communicating with students and families about Maine's new definition of English language proficiency, the Department has developed a [student and family guide](#), translated into the state's top ten languages.

If you have questions or would like further information regarding serving ELs, please contact April Perkins, ESOL/Bilingual Programs, at april.perkins@maine.gov, (207)624-6627.

Appendix H: Clarification of the Process for Addressing Complaints of Discrimination

<https://mainedoenews.net/2018/08/01/clarification-of-the-process-for-addressing-complaints-of-discrimination/>

The Maine Department of Education would like to clarify the process for addressing complaints of discrimination on the basis of race, color, or national origin. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. requires that schools communicate with families in their primary language as much as possible regarding academic, extracurricular, and family engagement activities. Schools are also required to provide students who are English learners (ELs) with an effective language support program that:

- is evidence-based;
- is regularly evaluated and modified as needed;
- enables ELs to meaningfully access grade-level curricula while acquiring English;
- is designed and implemented by qualified, ESOL-endorsed staff;
- does not unnecessarily separate ELs from their non-EL peers;
- does not place ELs in a facility below the standard provided to their non-EL peers; and
- does not provide ELs with educational materials below the standard provided to their non-EL peers.

The US Department of Justice and the US Department of Education have issued guidance for schools and families regarding Title VI of the Civil Rights Act of 1964. Requirements for schools to provide translation/interpretation are described in this notice: [Information for Limited English Proficient \(LEP\) Parents and Guardians and for Schools and School Districts that Communicate with Them](#). The January 7, 2015 [Dear Colleague Letter](#) outlines an EL's educational rights.

To file a discrimination complaint, contact the United States Department of Education, Office for Civil Rights. A complaint may be submitted online or by downloading the complaint form and submitting it by mail or email. For more information and access to the online form and pdf, go to <https://www2.ed.gov/about/offices/list/ocr/complaintintro.html>.

If you have questions about this notice, please contact:

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Director of ESOL/Bilingual Programs & Title III
23 State House Station
Augusta, ME 04333
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Appendix H: [Feds Say Districts Can't End Services to ELLs 'Prematurely'](#)

By [Mary Ann Zehr](#) on July 16, 2010 12:35 PM

The [civil rights division](#) of the U.S. Department of Justice has announced that with the adoption of new administrative rules, the Illinois State Board of Education has satisfied a concern federal officials had that Illinois school districts weren't providing adequate services to English-language learners.

And in the [July 13 press release](#) making that announcement, [Thomas E. Perez](#), the assistant attorney general for the civil rights division, states that an English-language learner in this country has the right to receive special help to learn English as long as he or she has that label.

"All English-language learner students have the right to appropriate language support services until they achieve English proficiency, and when educational agencies terminate such services prematurely, they deny these students the equal educational opportunity that federal law guarantees them," Mr. Perez said in the press release.

In the decade I've been reporting on these students, this is the clearest statement I've seen from a high-level federal official saying schools need to provide special help to ELLs as long as they are in that category. From some of the audits I've read of services to ELLs in large urban school districts, I gather that many ELLs do not get special help to learn the language once they reach intermediate or advanced levels of English proficiency but haven't yet tested as fluent.

The Justice Department press release says federal officials previously determined that the Illinois board was violating the Equal Educational Opportunities Act of 1974 because it only required school districts to keep English-language learners in special programs to learn the language for three years. That civil rights law says a school district must "take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs." The Justice Department spells out how the law applies to ELLs [here](#).

The statement says that the Illinois board responded that Illinois school districts weren't violating federal law, but the board would amend its administrative rules to clarify that ELLs have a right to receive services after three years if they haven't yet attained proficiency in English. In Illinois, students are considered to be ELLs until they pass the state's English-language-proficiency test.

In a phone interview today, Darren Reisberg, the general counsel for the Illinois State Board of Education, told me that federal officials had asked state officials how they knew that ELLs were receiving a meaningful educational experience after they left special programs to learn the language. The state officials answered that they stood

ready to investigate any complaints that ELLs weren't appropriately served after the three-year time period, but hadn't received any such complaints, he said.

The new rules, expected to go into effect by the end of the month, require school districts to submit to the board of education plans outlining how ELLs are served beyond year three, the qualifications of staff involved in those services, and the resources and materials used to support them. (The rules don't say that a district has to provide the same kind of services after three years that it did for the first three years that a student was learning English.)

The purpose of the new rules, Reisberg says, is to say: "Hey, districts, just remember all students need to receive a meaningful educational experience, and you have to show us in a plan how you are doing that."

Reisberg said that with parental consent, ELLs can stay in special programs to learn English for more than three years. He said the Illinois board has asked the Justice Department for guidance on what a meaningful educational experience looks like for ELLs after three years of special help, but the federal government hasn't yet delivered it. "At this point, we're shooting in the dark," he said.

I've sent an e-mail to the Justice Department asking for further comment and a response on whether federal officials will issue guidance on what kind of language support is appropriate for ELLs who have already received services for a very long time.

Appendix I: SAU EL Program Self-Assessment

Your SAU has a board-adopted Lau Plan.	YES	NO
Your SAU uses the Maine DOE Language Use Survey to identify all students who have a primary or home language other than English, and the staff is knowledgeable of this procedure.	YES	NO
Your SAU conducts a language proficiency assessment using the Kindergarten W-APT, Kindergarten MODEL, or WIDA Screener Online for students who have been identified to have a primary or home language other than English.	YES	NO
There are no substantial delays in placing ELs into an appropriate English for Speakers of Other Languages (ESOL) program.	YES	NO
Your SAU provides translations and uses interpreters to communicate with parents who do not speak or read English.	YES	NO
Parents are involved in the process of placing ELs in an appropriate ESOL educational program.	YES	NO
Programs are available for ELs at each grade level.	YES	NO
ELs have access to the full curriculum including (both required and elective courses including vocational education); have opportunities for full participation in special opportunity programs (e.g. Gifted & Talented, Advanced Placement classes); are integrated in physical education, music, arts, etc.; and participate in classes, activities and assemblies with all other students.	YES	NO
The quality of facilities and services to ELs is comparable to what is available to all other students.	YES	NO
The quality and quantity of instructional materials meet the English language and academic needs of ELs and are comparable to materials provided all other students.	YES	NO
Your SAU has certified teacher(s) with the ESOL endorsement.	YES	NO
Your SAU has established qualifications that paraprofessionals must meet.	YES	NO
There is coordination of curricula between teachers for ELs and teachers in regular classroom programs.	YES	NO
Your SAU supports and provides high-quality professional development to ESOL teachers and other personnel to improve instruction to and assessment of ELs.	YES	NO
ELs in the high school program earn credits toward graduation.	YES	NO
Your SAU follow appropriate exit criteria for ELs in an ESOL program.	YES	NO
Your SAU monitors for two years the academic progress of ELs who have exited.	YES	NO
Your SAU has a system to evaluate the success of its ESOL program.	YES	NO