Culturally and Linguistically Diverse Students

Colorado districts, schools, and charter schools must support the academic, linguistic, and social-emotional challenges and opportunities of culturally and linguistically diverse students to ensure equitable access to grade level standards and a well-rounded education for all students identified as a Multilingual Learner (ML).

The state definition of "English learner" is derived from the 2014 Colorado Revised Statutes under the English Language Proficiency Act 22-24-103 (4) and is defined as "a student who is linguistically diverse and who is identified [using the state-approved English language proficiency assessment] as having a level of English language proficiency that requires English language development instruction to achieve standards in grade-level content in English. Following the Colorado Standardized Identification Procedures to identify MLs ensures that the district's Language Instruction Educational Program (LIEP) is designed to best meet the needs of its students. Colorado districts, schools, and charter schools must develop comprehensive English Language Development (ELD) and academic programs for MLs that accurately reflect the size and characteristics of the population to be served.

Districts, schools, and charter schools must ensure that **all** students who enroll complete a Home Language Survey (HLS), a tool to identify languages used and spoken by the student and their family. The use of a language other than English does not signify that the student requires academic and linguistic supports. If response(s) on the HLS indicates the use of a language other than English by the student or another person in the home, further investigation must be conducted to determine the student's English language proficiency.

English Language Proficiency Screener Assessment

The Screener for Kindergarten and WIDA Screener for Grades 1-12 are used to assess the level of English Language Proficiency (ELP) of students who have a language influence other than English. Based on assessment results and a Body of Evidence (BOE), each student will be coded in the Colorado Department of Education (CDE) Data Pipeline as Non English Proficient (NEP) or Limited English Proficient (LEP) or Primary Home Language Other Than English (PHLOTE). **LIEP program placement and instructional decisions must be based on the student's ELP designation *and* the student's BOE**.

Home Language Survey

The Home Language Survey (HLS) must be completed for each student at the time of enrollment; it should be provided in the language most frequently spoken in the local community. It is advisable to be the first form filled out in the registration process for all students.

U.S. Department of Education Office for Civil Rights (OCR) and the U.S. Department of Justice (DOJ) in their compliance work under *Title VI* of the *1964 Civil Rights Act* and the *Equal Educational Opportunities Act of 1974* requires asking these three questions, and then testing a student whose parent or guardian responded to one or more of these three questions with a language other than English, is considered minimally compliant under the law.

OCR- and DOJ-approved home language survey questions:

1) What is the primary language used in the home, regardless of the language spoken by the student?

2) What is the language most often spoken by the student?

3) What is the language that the student first acquired?

(OELA Toolkit, Chapter 1)

When parent/guardian answers "no" to HLS questions but there is evidence of a primary or home language other than English, districts, schools, and charter schools must determine if the student should be tested using the Screener for Kindergarten/WIDA Screener for Grades 1-12.

Parents have the legal right to opt their child out of programs or particular services for their child. However, parents cannot formally opt-out of ML designation, or the annual summative ELP assessment designed for students with a language proficiency designation of NEP or LEP. Students' language proficiency coded in CDE's Data Pipeline as Not Applicable (0) or PHLOTE (4), are not eligible for ELD instruction and do not take annual ELP summative assessments.

Districts and schools must establish effective and systematic procedures to identify potential multilingual learners that are aligned with Colorado's Standardized Identification Guidance. To protect students' civil rights to educational equity it is imperative to ensure accurate and timely identification. The standardized identification, assessment, and placement into a LIEP procedure includes:

<u>Include Home Language Survey</u>

The HLS must be provided to and completed by all new and transferring back families as part of the registration process to identify students who have a language influence other than or in addition to English. The HLS does not determine eligibility but is part of the required process for standardized ML identification. Surveys should remain on file in the district and should be easily accessible to school and staff and available during state audits.

<u>Review Responses Indicated on the HLS</u>

If the district or school confirm a student has a language influence other than English, the district/school/charter school must assess student's ELP level using the Screener for Kindergarten/WIDA Screener for Grades 1-12 assessment according to student's grade and semester level at the time of enrollment.

<u>Administer Screener for Kindergarten/WIDA Screener</u>

The administration of the Screener for Kindergarten/WIDA Screener for Grades 1-12 must occur within the first 30 days of enrollment. If student enrolls after Student October Count, the district must determine English language proficiency level within two weeks.

<u>Review Results</u>

Districts, schools, and charter schools must review Screener for Kindergarten/WIDA Screener for Grades 1-12 **and** collect a Body of Evidence (BOE) to determine the English language proficiency level of the student.

Screener for Kindergarten – Screening assessment administered to kindergarten and first semester first grade students.

WIDA Screener for Grades 1-12 – Screening assessment administered to second semester first grade - grade 12 students.

Body of Evidence (BOE) - Collect student level data that demonstrate student's language proficiency. Examples of BOE, but not limited to: responses provided during family interviews, student academic records, previous student data in Data Pipeline, and/or local or district assessments.

Multilingual Learner (ML) - As part of its asset-based belief system, multilingual learner is used in place of English Learner (EL) in this document to describe all students who come in contact with and/or interact in languages in addition to English on a regular basis. Please refer to the ML Letter for more information.

Parent/Guardian Notification

The Elementary and Secondary Education Act (ESEA Section 1112(e)(3)), reauthorized as the Every Student Succeeds Act (ESSA, 2015) requires districts, schools, and charter schools to notify families of identified ML student in writing, in a language and format families can understand. This notification must be sent no later than 30 days after the beginning of the school year (CDE defines the Student October Count date as the beginning of school year), and must include:
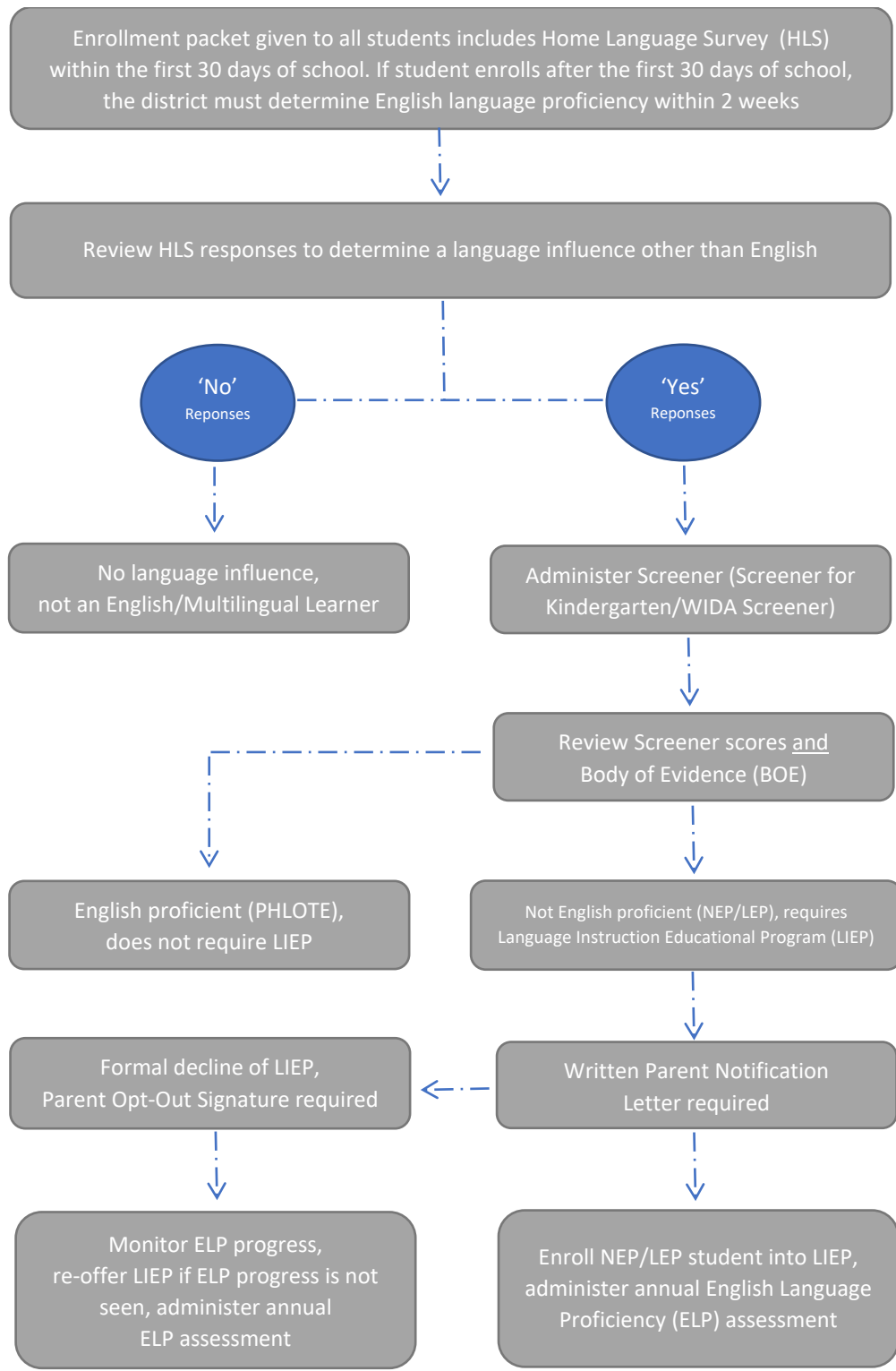
- The reasons for the identification of their child as an ML and in need of placement in a language instruction education program;
- The child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;
- The methods of instruction used in the program in which their child is, or will be, participating and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;
- How the program in which their child is, or will be, participating will meet the education strengths and needs of their child;
- How such program will specifically help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation;
- The specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for MLs, and the expected rate of graduation from high school if funds are used for children in high schools;
- In the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and
- Information pertaining to parental legal rights that includes written guidance;
  - Detailing the right that parents have to have their child immediately removed from such a program upon their request; parent opt-out documentation is required
  - Detailing the options that parents have to decline to enroll their child in such a program or to choose another program or method of instruction, if available; and

- Assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

Language Instruction Educational Programs

All identified NEP and LEP students must be enrolled in and receive adequate and appropriate English language development through the identified LIEP. Moreover, dually identified (ML, SpEd) students must receive both language instruction and specially designed instruction as outlined in their Individualized Education Programs (IEP) per state and federal regulations. The service minute requirement is a local decision determined by the linguistic needs of the student, the program model used for language instruction, and/or implementation of the curriculum being used. However, if the district, school, and charter schools is under an OCR or DOJ Consent Decree, they must adhere to requirements mandated in the Consent Decree.

NEP and LEP students are required by federal law to take the annual state ELP assessment, WIDA ACCESS. This includes students whose parents have chosen to formally decline the language instruction (parent signature required) offered in an LIEP. PHLOTE students are fully proficient in English and are not required to be provided ELD instruction through an LIEP or participate in annual summative ELP assessments.

Districts, school, and charter schools must continue to monitor the English language development and academic growth of students whose parents have chosen to decline the instruction offered in an LIEP. If opt-out students do not demonstrate appropriate ELP progress or achievement at appropriate academic grade levels, the district, school, and charter schools must inform families of student's English language proficiency level and academic achievement and offer the family an opportunity to re-enroll student in an LIEP program or continue to decline ELD instruction through an LIEP.

Enrollment packet given to all students includes Home Language Survey (HLS) within the first 30 days of school. If student enrolls after the first 30 days of school, the district must determine English language proficiency within 2 weeks

Review HLS responses to determine a language influence other than English

'No' Reponses

'Yes' Reponses

No language influence, not an English/Multilingual Learner

Administer Screener (Screener for Kindergarten/WIDA Screener)

Review Screener scores and Body of Evidence (BOE)

English proficient (PHLOTE), does not require LIEP

Not English proficient (NEP/LEP), requires Language Instruction Educational Program (LIEP)

Formal decline of LIEP, Parent Opt-Out Signature required

Written Parent Notification Letter required

Monitor ELP progress, re-offer LIEP if ELP progress is not seen, administer annual ELP assessment

Enroll NEP/LEP student into LIEP, administer annual English Language Proficiency (ELP) assessment

Frequently Asked Questions

Identification Timeline: The Elementary and Secondary Education Act (ESEA), as amended by Every Student Succeeds (ESSA), requires State Educational Agencies (SEAs) that receive *Title III* grants, after "timely and meaningful consultation with local educational agencies," to create and implement "standardized, statewide entrance and exit procedures" for ELs, "including an assurance that all students who may be [ELs] are assessed for such status within 30 days of enrollment in a school in the State." [*ESEA* section 3113(b)(2)]. As such, to determine English language proficiency, the screener assessments are administered to all new and transferring back to district students with a language influence other than English indicated on the student's HLS within 30 days of school or 2 weeks if enrolling after Student October Count.

Online Registration and Collection of HLS: Districts, schools, and charter schools using online registration during student enrollment must continue to maintain the same standards as in-person registration when evaluating HLS submitted electronically. There should be an internal systemic process in place to collect and evaluate HLS responses including how to evaluate and verify responses are accurate.

Certification to Administer Screener Assessments: Test Administrators (TAs) are required to complete WIDA Screener modules and pass quizzes (earn 80% or higher) prior to administering and/or scoring Screener assessments. Districts, schools, and charter schools must collect and store TA certificates locally and ensure TAs follow certification guidance. CDE requires TAs to fully recertify every two years. If there is a district or school requirement to recertify yearly, educators administering or scoring Screener assessments must comply with local policy.

Assessing Students with Screener for Kindergarten/WIDA Screener: Assessments are designed to provide an initial measure of a student's academic English Language Proficiency (ELP). It assists educators in identifying students who are candidates for Language Instruction Educational Programs (LIEPs). It also helps parents and education teams make decisions about students' need for language instruction.

ELPA requires all districts and schools to identify multilingual learners. In addition, Colorado Senate Bill 109, CRS 22-24-106 requires the use of one common assessment to identify potential MLs. Following State guidance to ensure equitable practices for all students, newly enrolled and students transferring back to the district must follow the same standardized identification process. This process includes foreign exchange, migrant, immigrant, non-immigrant, refugee, part-time home school, online, charter, and adopted students. If the district, school, and charter school confirm there is a language influence other than English that is impacting a student's level of English language proficiency, the student must be assessed using Screener for Kindergarten/WIDA Screener for Grades 1-12.

Pre-K students who are identified as ML using a district developed assessment, must receive ELD instruction in an LIEP while in Pre-K programs. Upon enrolling into kindergarten, districts, schools, and charter schools must follow standardized identification procedures and administer Screener for Kindergarten to determine the student's current English language proficiency. The earliest recommended testing window is from mid-April to June for students preceding their initial enrollment in kindergarten. Administration of the test earlier than mid-April may not support accurate decision-making about these young students' English language development.

Kindergarten W-APT: As of July 1, 2022, the Kindergarten W-APT assessment will no longer be available for Colorado districts, schools, and charter schools to use in the Standardized Identification process. Districts, schools, and charter schools must use the Screener for Kindergarten beginning SY22-23 to assess student's ELP level. CDE will not be supplying Screener for Kindergarten assessment kits. Test materials related to this assessment can be downloaded at no cost or can be purchased through the WIDA Store.

Students who Re-enroll or Transfer Back into the District with ML history in Data Pipeline: The enrolling district remains obligated to make ELP decisions following Federal and State identification procedures, to provide written parent notification in a language parents can understand, and to adhere to identification timeline requirements when using ML History seen in Data Pipeline (CEDAR/Cognos Reports) to make program and coding decisions for re-enrolling or transferring back to district students.

- Re-enrolled student in fact meets the state criteria for redesignation after evaluating the current year's WIDA ACCESS score report and following the Standardized Redesignation procedures, the enrolling district must gather a local Body of Evidence (BOE) to confirm the student's ELP level and location in the language progression sequence for Data Pipeline coding.

- Re-enrolled student does not meet state criteria for redesignation after evaluating the current year's WIDA ACCESS score report and following the Standardized Redesignation procedures, the enrolling district must not redesignate the student, must provide language instruction, continue to designate NEP/LEP, and administer the annual English Language Proficiency (ELP) summative assessment until the student meets the criteria for redesignation.

- Re-enrolled NEP/LEP students WIDA ACCESS/Screener scores are missing, unobtainable, beyond the current year, and/or does not align with local evidence, the enrolling district must determine ELP level through Screener administration and collecting local BOE before making an ELP decision and determining the student's location in the language progression sequence for Data Pipeline coding.

- Re-enrolled PHLOTE and/or FEP/FELL students without WIDA ACCESS/Screener scores from the current year. The enrolling district must collect local BOE following the Standardized Redesignation procedures, prior to making an ELP level decision and determining the student's location in the language progression sequence for Data Pipeline coding. When local evidence indicates students are not English proficient, the enrolling district must administer Screener.

Legal Right to Decline LIEP Program: ESSA requires school districts to provide written notification to parents of their child's recommended LIEP program in a language they understand within 30 days of the beginning of the school year and two weeks after the beginning of the school year. Districts may not recommend parents opt their child out of an LIEP or instruction for any reason. If a parent voluntarily decides to opt their child out of ML programs or particular ML services, that child retains their ML designation. Appropriate signed opt-out documentation is important to support legal compliance and should be reviewed with parents annually.

Additionally, "the LEA remains obligated to take affirmative steps and appropriate action required by civil rights laws to provide ML students meaningful access to its educational program. Thus, the LEA must continue to monitor periodically the opted-out student's academic progress. These steps may include, but are not limited to, further assessing the student's ELP; notifying the student's parent about their child's lack of progress and encouraging them to opt the child into ML programs and services, and providing supports for the student's language acquisition, such as offering professional development in second language acquisition to the student's core curriculum teachers" (OELA Toolkit, Chapter 7). Students designated as NEP or LEP are required to take the annual ELP assessment, WIDA ACCESS even when families have declined ELD instruction in an LIEP. Similar to students enrolled in language instruction, opt-out students continue to take summative ELP assessments until they meet criteria to redesignate through an evaluation of assessment scores and a collection of local academic evidence.

Secure and Save Records: Districts, schools, and charter schools are strongly encouraged to review and comply with student data retention security and privacy policies. The School District Records Management Manual in the Colorado State Archives outlines procedures to securely store paper test kits and safely transfer student records/score reports and other relevant documentation used to identify multilingual learners.

As provided under SB21-268 and beginning with fiscal year 2021-2022, the English Language Learner funding factor will be included in the calculated total program funding for each district. Compliance audits including a review of documentation requires district, school, and public charter schools to retain Screener score reports following guidance found in the English Language Learner Count Audit Resource Guide.

Accessibility and Accommodations: Screener for Kindergarten and WIDA Screener for Grades 1-12 are not available in an alternate assessment format. Use Accessibility and Accommodations features to help diminish barriers and maximize opportunities for students to demonstrate their English language proficiency level. The WIDA Accessibility and Accommodations framework provides support for all potential MLs, as well as targeted accommodations for students with a documented Individualized Education Programs (IEP) or 504 plan at the time of testing. To protect the validity of Screeners, only those features explicitly identified in the Accessibility and Accommodations Manual should be used during test administration. The use of features that are not included could compromise the validity of the assessment and invalidate Screener results.

Refer to WIDA's guidance document about recommendations for IEP/504 Plan teams to consider when administering a screener to a student who is blind or visually impaired (BVI), or who is deaf or hard of hearing (DHH). It includes general administration guidance, specific considerations for students who are BVI or DHH and a short list of resources for more information. Find this resource in the WIDA Secure Portal when filtering resources by Accessibility and Accommodations or any screener assessment.

WIDA Secure Portal Account: Contact the District Assessment Coordinator (DAC) to request account activation. WIDA will invite educators to create an account through the WIDA Secure Portal. This account will give educators access to self-paced workshops, workshop resources, and assessment materials for students and guides for test administrators and scorers. Screener for Grades 1-12 and Screener for Kindergarten training modules can be found by logging into the WIDA Secure Portal. In the Secure Portal, select Assessment Training, then filter by test type: 'WIDA Screener for Kindergarten Administration and Scoring' and/or 'WIDA Screener (1-12) online or paper Administration and Scoring' courses.

LINKS TO MORE INFORMATION & RESOURCES

Colorado Standardized Identification and Placement (www.cde.state.co.us/cde_english/identification-placement)

English Language Proficiency Assessment (www.cde.state.co.us/cde_english/english-language-proficiency-assessment)

Data Services (www.cde.state.co.us/datapipeline/inter_student)

OELA Toolkit (www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html)

Student Information Security and Privacy (www.cde.state.co.us/cdereval/districtguidanceoninformationsecurityandprivacypolicies)

School District Records Management Manual (archives.colorado.gov/records-management/school-district-records-management)

English Language Learner Count Audit Resource Guide (www.cde.state.co.us/cdefinance/auditunit_ell_count)

WIDA (wida.wisc.edu/)