



STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION

NEW JERSEY DEPARTMENT OF EDUCATION

English Language Learner Entry and Exit

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Introduction

Section 3113 of the *Every Student Succeeds Act of 2015 (ESSA)* requires that all states must, “Establish and implement, with timely and meaningful consultation with local educational agencies representing the geographic diversity of the State, standardized statewide entrance and exit procedures.” Section 8101 of the *ESSA* defines English language learners (ELLs) as those who are denied, due to low proficiency in English speaking, reading, writing, or listening—

- (i) the ability to meet the challenging State academic standards;
- (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
- (iii) the opportunity to participate fully in society.

The following criteria address the statewide evaluation and standardization of this definition for identification and exit of ELLs in Kindergarten through grade 12. The New Jersey Department of Education’s (NJDOE’s) standardized English language learner (ELL) identification and exit criteria meet the federal and state requirements in *ESSA* Section 3102, N.J.A.C. 6A:15-1.3, and N.J.A.C. 6A:15-1.10. Beginning in July 2019, all local education agencies (i.e., local school districts and charter schools) in New Jersey must follow these common procedures.

English language learner (ELL) Identification Process

All students entering New Jersey public schools must be evaluated using ELL identification process articulated below. This identification process includes the New Jersey Home-Language Survey, the Records Review Process, and Multiple Indicators for Identification.

Step 1: Conduct New Jersey Home-Language Survey

The home-language survey must be administered **for all students** upon enrollment. It can be administered through writing or an oral interview. The following three steps are required:

	Entrance Steps	Who can complete step/assessment
Step 1	Home Language Survey	Any individual with knowledge of student or ability to interview e.g. Parent, Trained intake person, front office staff
Step 2	Records Review	NJ Certified Teacher e.g. Basic Skills, ESL, Bilingual, Administrator
Step 3	Multiple Indicators	NJ Certified Staff, preferred ESL/Bilingual e.g. Bilingual/ESL supervisor, lead, teacher

- The survey questions are mandatory for all school districts/charters starting in July of 2019 and cannot be altered.
- The home-language survey indicates whether the student must be evaluated using ELL Identification Step 2: Records Review Process. This review process is mandatory for all school districts/charters starting in July of 2019 and cannot be altered according to *ESSA* §3111(b)(2)(A).

The decision rules for the HLS are shown on the following two pages. Parent-friendly forms for the HLS can be found in the Appendix.

Purpose: This survey is the first of three steps to identify whether a student is eligible to be identified as an English language learner (ELL).

Directions: Start with “Question 1” and continue until the HLS is complete. Circle the answer for each question and follow the directions. **When you arrive at a decision, Step 1: the Home-Language Survey is complete. Proceed to Records Review Process, if the HLS indicates additional information is needed.**

Question 1: What was the first language used by the student? _____

If language other than English, go to Question 2.

If English, go to Question 3.

Question 2: At home, does the student hear or use a language other than English more than half of the time?

If Yes, list the language(s). Then, go to Question 3

If No, go to Question 4.

Question 3: Does the student understand a language other than English?

If Yes, go to Question 4.

If No, go to Question 6

Question 4: When interacting with his/her parents or guardians, does the student use a language other than English more than half of the time?

If Yes, go to Question 5.

If No, go to Question 6

Question 5: When interacting with caregivers other than their parents or guardians, does the student use a language other than English more than half of the time?

If Yes, go to Question 6.

If No, go to Question 6

Question 6: Has the student recently moved from another school district/charter school where he/she was identified as an English language learner?

If Yes, go to Step 2: Conduct Records Review Process.

If No, HLS is complete. Do not go to Step 2. Student is not an ELL.

Note: A New Jersey certified teacher must screen all students whose home language is other than English using a records review process (below). The screening process must distinguish students who are proficient in English and need no further testing. Three indicators are used for this determination.

Step 2: Conduct Records Review Process

Purpose: This process is the second of three steps to identify whether a student is eligible to be classified as an English language learner (ELL).

Directions: Based on oral interviews with family/student and/or review of available documents (e.g., school records) by teaching staff, determine the answers to the following screening indicators. Circle the answer for each indicator.

Indicator 1: The student has never been classified as an English language learner and has been attending an English-language, U.S. school for more than three consecutive years.

Yes— Identification process is complete. Student is not an ELL.

No—Proceed to Indicator 2

Indicator 2: The student was identified as an English language learner, but was exited using documented, New Jersey-approved multiple measures (found in this document) and has been attending U.S. schools since exit from ELL status. *This indicator does not apply to students who have been former ELLs for less than two years and are being reconsidered for ELL status as a result of monitoring.*

Yes— Identification process is complete. Student is not an ELL.

No—Complete next form—ELL Identification Step 3: Multiple Indicators for Identification.

Step 3: Apply Multiple Indicators for Identification (see Appendix A)

Identification criteria, based on the scores from the New Jersey-approved WIDA language proficiency assessments, must be used to determine eligibility. A student can be eligible for entrance with WIDA Screener, WIDA MODEL, or W-APT (Kindergarten only) composite proficiency level below 4.5 (See [state-specific guidelines for Kindergarten](#) for scoring variations in this grade).

Purpose: This process ensures multiple indicators for identification are used to make the final decision regarding whether a student is an ELL.

Directions: If steps 1 and 2 indicate that step 3 must be completed, a New Jersey-approved English language proficiency test must be administered to the student. A student can be eligible for entrance with a WIDA Screener, WIDA MODEL, or W-APT (Kindergarten only) composite proficiency level below 4.5 (See [state-specific guidelines for Kindergarten](#) for scoring variations in this grade). Where available, certificated ESL and/or bilingual staff must be used to complete this step of the identification process.

- 1. Review indicators 1-3 on the ELL Identification Step 2: Records Review Process form to ensure that ELL Identification Step 3: Multiple Indicators for Identification is necessary.**
- 2. Review score on the New Jersey-approved English language proficiency test to determine if the student achieved at or above a 4.5 overall composite score. The test must be administered by an individual who has received appropriate training (found on New Jersey's WIDA state page). If a student is enrolling at the beginning of the year and took the ACCESS for ELLs test in another school district/charter school, those results can be used for identification purposes.**
 - Test Name: _____
 - Overall Composite Score: _____
 - Did student meet the 4.5 overall composite score requirement? Yes No

Final Decision (Check one)

Student is **not** an ELL because

- Results of ELL Identification Step 2: Records Review Process indicated student is not an ELL; **or**
- Student achieved at or above a 4.5 overall composite score on an English language proficiency test

Student is an ELL because he/she meets both of the following criteria

- Results of ELL Identification Step 2: Records Review Process form indicated student needed to proceed to this step; **and**
- Student achieved below a 4.5 overall composite score on an English language proficiency test.

Additional Considerations for Entrance

Native Language Assessments

While the New Jersey Department of Education encourages school districts/charter schools to assess the native language literacy of students upon enrollment, particularly for students who are identified with special education needs, it is not required to determine if a student meets the requirements to be identified as an ELL.

Parental Notification

In accordance with *ESSA* §1112(e)(3), parents/guardians must be notified of program placement by mail within 30 days of the beginning of the school year or 14 days from the time of identification for mid-year enrollees. The notice must be in English and in the language in which the parents/guardians possess a primary speaking ability.

Considerations for Students with Disabilities who may be ELLs

Students with a disability who may need to be identified as an ELL but may have a disability that precludes assessment of a domain because no appropriate accommodations are available for the affected domain(s) (e.g., a non-verbal ELL who, because of an identified disability, cannot take the speaking portion of the assessment) can be evaluated with an English language proficiency test using a composite of the remaining domains that are able to be assessed.

When screening tests are not an appropriate or reliable identification method due to a student's disability (e.g. a [significant cognitive disability](#)), school districts/charter schools must:

Step 1: Convene a Team

The team must consist of representatives from the child study team (LD teacher consultant, social worker, school psychologist) and the teacher providing language instruction (e.g. ESL, bilingual teacher). Members of the team should have knowledge of second language acquisition, and how the development of another language interacts and/or displays within the context of the student's identified disability.

Note: Under the IDEA, the IEP Team must consider a number of special factors in developing, reviewing, or revising a child's IEP. Under 34 CFR §300.324(a)(2)(ii), the IEP Team must "[i]n the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP." Therefore, to implement this requirement, the Child Study Team should include participants who have the requisite expertise about the student's language needs.

Step 2: Review Student's Individual Education Program (IEP)

Review the student's IEP to understand the student's developmental context and its impact on second language acquisition. Ensure the IEP provides additional context to make the student's instruction accessible including, scaffolding, sheltered instruction practices. The goals and objectives for the student's learning environment, as written in the IEP, must reflect and be relevant to the student's disability and language status and needs.

Note: When available, the team must assess the student's learning disability in the home language to determine what accommodations should be given.

Step 3: Understand the relationship of the disability within the context of culture and language

Consistent with IDEA regulation, it is important that Child Study Teams for ELLs with disabilities include persons with expertise in second language acquisition and other professionals, such as speech-language pathologists, who understand how to differentiate between English language proficiency level and a disability. Reference: [NJDOE ELLs and Special Education Q&A](#) (Q.9).

Step 4: Determine and test student with the appropriate English language development domains

Based on the review of the student's IEP, identify which domain student can/should be exempt. - Allowable accommodations based on identified IEP disability (take language from WIDA's accommodation manual)

Step 5: Determine student's eligibility for language services and ELL identification

Using the NJDOE's Less than Four Policy, determine what is the student's score. Students who score less than 4.5 are identified as ELLs.

Step 6: Documentation in student record and IEP

This process must be documented with meeting minutes and kept on file. In addition, the team must document in the IEP whether a student will be administered the general education assessment or alternate assessment for all assessments in which the student will participate, this includes the ACCESS for ELLs and Alt ACCESS for ELLs. There is no exemption to taking state assessments. The decision as to which test the student will take, if the student will not be administered a specific component of the ACCESS/Alt Access and accommodation they will receive can be documented in the Statewide Assessment section of the IEP.

For more information see Appendix D: English language learners with disabilities.

Continuation

Annual English Language Proficiency Assessment

Students must be assessed annually with the ACCESS for ELLs or Alternate ACCESS for ELLs test. If students are not eligible for exit, they must continue to be identified as an ELL and must receive appropriate ELL program services as determined by N.J.A.C. 6A:15. There is no time limit for an ELL to exit program services.

Considerations for ELLs who may have a disability

An LEA may not exit an ELL from ELL status unless the student has demonstrated proficiency on a valid and reliable assessment that includes the four domains of listening, speaking, reading, and writing. There is an exception for an EL with a disability whose disability makes it impossible for the student to be assessed in a particular domain because there are no appropriate accommodations for assessing the student in that domain; such an ELL can be exited from ELL status based on the student's score on the remaining domains in which the student was assessed.¹

Parental Notification

Annually, in accordance with ESSA §1112(e)(3), each school district /charter school must notify the parents/guardians when a student continues to be identified as ELLs. The notice must be in English and in the language in which the parents/guardians possess a primary speaking ability. A score report from the English language proficiency test used for continuation must be included in the parent/guardian

¹ See 34 C.F.R. § 200.6 (h)(4)(ii).

notification. This notification must be sent to parents/guardians within 30 days of the beginning of the school year.

ELL Exit Process

Students must demonstrate readiness to exit based on a department-established standard on the English language proficiency assessment and criteria included in the English Language Observation Form. This process is mandatory for all school districts/charter schools starting in July of 2019 and cannot be altered.

	Exit Steps	Exit Criteria
Step 1	NJ Standard on ELP Test	4.5 on ACCESS or Model A3 on Alternate ACCESS
Step 2	English Language Observation Form	Multiple Indicators (e.g. classroom performance, the student's reading level in English, judgment of the teaching staff member(s), and performance on achievement tests). Led by Certified ESL/Bilingual staff

Step 1: Department-Established Standard on English Language Proficiency Test

1. Exit Criteria on WIDA Tests

- A student can be eligible for exit with an ACCESS for ELLs or WIDA MODEL composite proficiency level of 4.5 or higher. The ACCESS for ELLs test must be administered yearly according to [New Jersey timelines](#). The WIDA Model can be used for mid-year exit determinations.

2. Alternate ACCESS for ELLs Cut Score

- Alternate ACCESS for ELLs is an English language proficiency assessment for ELLs in grades 1-12 who have significant intellectual disabilities and take the alternate content assessment. The [Alternate ACCESS for ELLs](#) must be administered yearly according to New Jersey timelines. Please see the [guidelines for participation criteria](#) to find out more information.
- A student can be eligible for exit with an Alternate ACCESS proficiency level of A3 Engaging or higher.

3. Exit Criteria

- The student took the ACCESS for ELLs or WIDA MODEL and scored a composite proficiency level of 4.5 or higher; or
- The student took the Alternate ACCESS and scored a composite proficiency level of A3 Engaging or higher.

Exit Step 1 Decision: Yes No

Step 2: English Language Observation Form

This step verifies that students can successfully achieve in classrooms where the language of instruction is English and whether the student has the opportunity to participate fully in society. As required by the New Jersey Bilingual Administrative Code, N.J.A.C. 6A:15-1.10, the form takes classroom performance, the student's reading level in English, judgment of the teaching staff member(s), and performance on achievement tests into account.

Purpose: This form determines whether or not an ELL is ready for exit from ELL status.

Directions: School staff with knowledge of the student and solid background on second language development must meet to complete this form when Exit Step 1 Decision is "Yes". This form must be completed collaboratively based on observations of an English language learner in content classes in which English is the medium of instruction. Where available, certificated ESL and/or bilingual staff must lead the meeting. When not available, accommodations should be made so a language specialist can attend the meeting. Complete only if Exit Step 1 Decision is "Yes".

Student name: _____ Student State ID: _____ Grade: _____

Student Birth Date: _____

Certificated ESL and/or Bilingual Staff in attendance: _____

Additional staff members in attendance (Names and titles) : _____

Meeting date: _____

Other teachers present (at least one): English Language Arts Math Other _____

Listening used in the classroom

Notes and other information:

- Listens and follows along
 - Responds to teacher questions
 - Interprets oral information to complete content-related tasks
 - Responds to unexpected/spontaneous questions appropriately
 - Asks for clarification if necessary
 - Provides clarification if necessary
 - Clears up misunderstandings (by backtracking, restating, etc.)
 - Other: _____
-

Speaking used in the classroom

Notes and other information:

In general, teachers elicit student responses that are mostly

Words/phrases sentences A sentence Connected sentences

Non-ELLs use mostly

Words/phrases sentences A sentence Connected sentences

Observed student uses mostly

Words/phrases sentences A sentence Connected sentences

To what extent does the observed student use language in the ways expected for the task?

All or most of the time Some of the time Rarely

Performance on achievement tests (e.g. local benchmark tests) and reading level in English demonstrate that the student has the ability to achieve at levels similar to his/her non-ELL peers in the classrooms where the language is English.

All or most of the time Some of the time Rarely

Based on this observation form, student has shown the ability to successfully achieve in the classrooms where the language of instruction is English.

Note: Determination must consider the performance of non-ELLs in similar settings who have similar characteristics to the student being evaluated (e.g. disability, grade level, educational background, etc.).

Exit Step 2 Decision: Yes (Ready for exit) No (Not ready for exit)

Final Decision (Check one)

Student is exited from ELL status because he/she meets received a “Yes” on ELL Exit steps 1 and 2

Student is still an ELL because he/she received a “No” on ELL Exit steps 1 and/or 2

Additional Considerations for Exit

Parental Notification

Each school district /charter school must notify the parents/guardians when students meet the exit criteria and are placed in a monolingual English program. The notice must be in English and in the language in which the parents/guardians possess a primary speaking ability. A score report from the ELP test used for exit must be included in the parent/guardian notification for exit.

Considerations for Students with Disabilities

Students' overall composite scores of four domains (listening, speaking, reading and writing) on their English language proficiency assessments can be used to create an indicator that meets federal requirements under the Every Student Succeeds Act (ESSA) of 2015. However, if a student is exempt from part of an assessment because of a disability, reporting student progress can be challenging.

Some ELs with disabilities cannot take all four ACCESS d instances, an overall composite score cannot be easily calculated (and thus a proficiency level cannot be derived). The lack of such an indicator may affect whether an ELL is reclassified as a former or non-EL and influence other decisions schools and districts make about such students.

In accordance with 34 C.F.R. § 200.16(c), when no appropriate accommodations are available for **one or more of the language** domain(s), ELLs with a disability that precludes assessment of a domain can be exited using a composite of the remaining domains that are able to be assessed. **The composite cut score is 4.5.**

Based on data and research, WIDA has educationally sound method to create overall composite scores for students who are missing one or more language assessment domains. New Jersey has selected model 2 to calculate the overall composite score of students who have taken less than four domains. This model was selected since it errs on the side of the student's strengths and is best practice. Model 2 computes the composite score by considering the weight of each domain taken, as well as the missing domain.

Step 1: Convene a Team

The team must consist of representatives from the child study team (LD teacher consultant, social worker, school psychologist) and the teacher providing language instruction (e.g. ESL, bilingual teacher). Members of the team should have knowledge of second language acquisition, and how the development of another language interacts and/or displays within the context of the student's identified disability.

Step 2: Review Student's Individual Education Plan (IEP)

Review the student's IEP to understand the student's developmental context and its impact on second language acquisition. Follow the student's IEP notes regarding instructional accessibility and accommodations consistent with the student's learning goals and objectives.

Step 3: Determine and test student with the appropriate English language development domains

Based on the review of the student's IEP, identify which domain student can/should be exempt. - Allowable accommodations based on identified IEP disability (take language from WIDA's accommodation manual)

Step 4: Determine student's eligibility for language services and ELL identification

Using the NJDOE's Less than Four Policy, determine what is the student's score. Students who score a 4.5 and above are ready for Exit Process Step 2: English language observation form (p. 8-9).

Step 5: Complete English Observation Form

Follow instructions on page 8-9.

Step 6: Documentation in student record and IEP

This process must be documented with meeting minutes and kept on file. In addition, the team must document in the IEP whether the student reclassified (e.g. exited ELL status) or remain in ELL program.

Glossary Terms*

*Glossary terms are specific to the context of the [ESSA Entry and Exit of English language learner guidance](#).

Mid-year – any student enrolled after the 1st 30 days of the beginning of school.

Proficient – student has met the N.J. Department of Education department-established standard.

Screening – a process by which a student is evaluated to determine whether the student needs to be tested for language proficiency.

Screener – an assessment tool that may be used after the screening process to determine a student’s English language proficiency level and a student’s need for language services and placement.

Standardization – process of making something conform to a standard for all New Jersey LEAs; no changes are permitted to language or text.

U.S. School – any public, charter, private school in the United States.

Appendix A: Home Language Survey Forms

In addition to this static form, an [online version of the HLS](#) is available for school districts/charter schools to copy and utilize. In addition, HLS translations will be made available on the [NJDOE's Bilingual/ESL Education](#).

Introduction: This survey is the first of three steps to identify whether or not a student is eligible to be an English language learner (ELL). Start with "Question 1" and continue until the HLS is complete. Circle the answer for each question and follow the directions.

Student name: _____ Student birth date: _____

Student address: _____

Student Phone number: _____

Question 1: What was the first language used by the student?

Question 2: At home, does the student hear or use a language other than English more than half of the time?

Circle one: Yes No

Question 3: Does the student understand a language other than English?

Circle one: Yes No

Question 4: When interacting with his/her parents or guardians, does the student use a language other than English more than half of the time?

Circle one: Yes No

Question 5: When interacting with caregivers other than their parents or guardians, does the student use a language other than English more than half of the time?

Circle one: Yes No

Question 6: Has the student recently moved from another school district/charter school where he/she was identified as an English language learner?

Circle one: Yes No

If "Yes" is answer for questions 2, 3, 4, 5, or 6, indicate student's home language to finish survey.

Appendix B: Parent/Guardian Notification Exemplars

In addition to the parent notification exemplars below, notification letter translations are available on the NJDOE's [Bilingual/ESL Education web page](#). All parent/guardian notifications must meet the requirements under *ESSA* and *N.J.A.C. 6A:15*, but this letter format is not mandatory.

<Insert school district/charter school header>

Notification of Bilingual/ESL/ELS Program Placement

___ Notification of Initial Placement

___ Notification of Continuing Placement

Name of Student: _____ Date: _____

School District/charter school: _____

School: _____

Current Grade Level: _____

Dear parent(s) or guardian(s):

Based on your child's English proficiency test scores, level of academic achievement, and teacher recommendation, we are pleased to inform you that your child will receive instruction in our school district's/charter school's _____ program. The goal of the school district's/charter school's _____ program is to help your child learn English and meet age-appropriate academic standards. Although you may request to have your child removed from the _____ program, students normally participate for a period of ___ - ___ years. Multiple criteria are used in making determinations regarding when a student no longer needs program services. These criteria include:

Your child's level of English was measured using the following test:

___ WIDA Screener ___ W-APT (Kindergarten only) ___ WIDA Model

Level of English proficiency: _____

Your child's level of academic achievement was measured during a records review process upon entrance.

If your child has a learning disability, improvement in his/her ability to speak, read, and write in English will help meet the objectives of his/her Individualized Education Program.

Level of academic achievement based on the above assessment: _____

The method of instruction used in your child's language assistance program is:

English as a Second Language (ESL) _____

Bilingual Education:

Part-time _____

Full-time _____

English Language Services (ELS) _____

Program Description:

Please contact the staff member below in order to request additional information regarding available services or decline program services. You have the right to immediately decline program services or choose another program, if available.

_____ (name) _____ (title)
_____ (phone number) _____ (email)

Sincerely,

<Insert district header>

Notification of Bilingual/ESL/ELS Program Exit

Name of Student: _____ Date: _____

School District/charter school: _____

School: _____

Current Grade Level: _____

Dear parent(s) or guardian(s):

Based on your child’s English proficiency test scores, level of academic achievement, and teacher recommendation, we are pleased to inform you that your child has exited English language learner services.

Your child’s level of English was measured using the following test:

___ WIDA ACCESS for ELLs ___ WIDA Alternate ACCESS for ELLs ___ WIDA Model

Level of English proficiency: _____

For more information about your child’s score, see the attached score report.

Our school will monitor your child’s progress to ensure that additional support is provided, as needed. We commend your child’s attainment of English proficiency and your engagement in your child’s education. Please contact the staff member below in order to request additional information regarding any questions you may have.

_____ (name) _____ (title)
_____ (phone number) _____ (email)

Sincerely,

Appendix C: Parent/Guardian Notification Checklist

Each school district/charter school using funds under Title I or Title III to provide a language instruction educational program (LIEP) must provide written notification to parents regarding their child's language instructional program. This check list allows school districts/charter schools to evaluate their parent/guardian notification letter for compliance.

School District Name: _____ County: _____ ESEA-20 _____

Required Element	Yes	No
1. The school(s) has/have informed the parent(s) of an English language learner (ELL) that their child has been identified for participation in a LIEP within 30 days after the beginning of the school year (or, for students who arrive after the 1 st 30 days, within two weeks of the child's placement in a language instruction program).	Include Date:	
2. The notification is distributed to parent(s) of participating ELLs, in an understandable and uniform format and, to the extent practicable, in a language the parents understand.		
3. The notification identifies why the child was identified as an ELL and why the child needs to be placed in a LIEP that will assist the child to develop and attain English proficiency and meet state standards toward graduation.		
4. Parents are informed about the child's level of English proficiency, how such level was assessed, and the child's academic level.		
5. The method of instruction that will be used to serve the ELL, including a description of other methods of instruction available and how those methods differ in content, instructional goals, and the use of English and a native language, if applicable are communicated to parents.		
6. The parents are notified of how the program will meet the specific needs of the child in attaining English and meeting state standards.		
7. Parents of participating ELLs are informed about the program's exit requirements, the expected rate of transition into a classroom not tailored for ELL students, and, in the case of high school students, the expected rate of graduation.		
8. The school(s) informs parents of participating ELLs of how the instructional program will meet the objectives of an individualized education program of a child with a disability.		
9. Written guidance is provided on the rights that parents have to remove their child from a program upon their request, or to choose another available program or method of instruction.		
10. Parents are provided information on who to contact if they have questions about program services.		

Appendix D: English Learners with Disabilities

ESEA section 1111(c)(4)(B)(iv) requires that the performance of all ELLs on the ELP assessment be included in accountability systems, and this includes the performance of ELLs with disabilities. ESEA section 1111(b)(2)(G) specifies that a State's annual ELP assessment must include student performance on all four domains of the ELP assessment. There are a small number of ELLs with disabilities, however, for whom the disability precludes assessment in one or more domains of the ELP assessment such that there are no appropriate accommodations for the affected domain(s) (e.g., a non-verbal EL who, because of the student's identified disability and the absence of appropriate accommodations, cannot take the speaking portion of the assessment). The new regulations (see 34 C.F.R. § 200.6(c)(2)) provide that for the Progress in Achieving ELP indicator, if an ELL has such a disability such that there are no appropriate accommodations, as determined on an individualized basis by the student's Individuals with Disabilities Education Act (IDEA) Individualized Education Program (IEP) team, the Section 504 of the Rehabilitation Act team, or individual or team designated by the LEA to make these decisions under Title II of the Americans with Disabilities Act (ADA), a State must include for accountability purposes the student's score on the ELP assessment based on the domains in which it is possible to assess the student.

To be clear, this narrow exception for those ELLs with disabilities described above, with respect to the domains included in the Progress in Achieving ELP indicator, in no way affects the obligation of States and LEAs to assess all ELs with disabilities on the annual ELP assessment. Under IDEA section 612(a)(16)(A), all students with disabilities must be included in all State assessments described under ESEA section 1111, including content assessments described under ESEA section 1111(b)(2), and the annual ELP assessment described in ESEA section 1111(b)(2)(G). All ELs with disabilities must be provided with appropriate accommodations on those assessments, as determined through applicable procedures (34 C.F.R. § 200.6). States must also provide an alternate ELP assessment for the small number of ELs with the most significant cognitive disabilities, for whom the student's IEP team determines it to be necessary, who cannot participate in the general ELP assessment even with appropriate accommodations (34 C.F.R. § 200.6(h)(5) and 34 C.F.R. §300.160(a)).6

Accommodations should be based on the particular needs of each individual EL with a disability, as well as the construct being measured in that particular assessment. For example, a determination may be made in accordance with applicable procedures that a visually-impaired EL who is unable to use Braille because he or she has a physical or neurological disability that precludes the student from reading Braille may not be able to take the reading portion of the ELP assessment, which measures a student's ability to read; therefore having the assessment read aloud to the student would not be an appropriate accommodation because it would not measure the student's ability to read. On the other hand, that same student may be able to take the other statewide assessments, such as the mathematics or reading/language arts assessment, using an accommodation like reading aloud, if reading aloud the assessment to the student would not otherwise invalidate the test score.

The narrow exception established by 34 C.F.R. § 200.16(c)(2) will affect a small number of students, and the applicability of the exception must be decided on an individualized basis. A State may not adopt categorical rules for excluding ELs with certain disabilities from being assessed in certain domains of the ELP assessment. Rather, just as a student's IEP team, 504 team, or individual or team designated by the

LEA to make these decisions under Title II of the ADA makes the decision, on an individualized basis, about whether a student needs assessment accommodations, and if so, which accommodations would be appropriate for the student to use on the particular assessment, the same process must be used to determine on an individualized basis whether the exception established by 34 C.F.R. § 200.16(c)(2) applies to a student in taking the annual ELP assessment. A state may also develop guidelines or professional development opportunities to support IEP teams, 504 teams, or other individuals or teams designated by the LEA to make these decisions under Title II of the ADA, in making these decisions.