Developing Culturally and Linguistically Appropriate IEPs for English Learners with Disabilities

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Session Objectives

• Addressing Compliance Pitfalls
  – Highlight Sections within the IEP that are Pertinent to ELs with Disabilities

• Addressing Language Related Needs
  – Present Levels of Academic Achievement and Functional Performance
  – Goals and Objectives
  – Linguistic and Cultural Accommodations
  – Special Education and Related Services in a Language Other than English

English Learner (EL) Data in Illinois for School Year 2013

According to the Illinois State Board of Education (ISBE), in 2013:
• 207,703 ELs were enrolled in Illinois public schools
• 88.7 percent of ELs, or 184,257 students, were enrolled in public schools in Cook, DuPage, Lake, Kane, and Will counties (data includes the city of Chicago)
• 54 counties in Illinois had 100 or fewer ELs enrolled in their public schools
  – Five counties had only one EL student
• 18.5 percent of ELs, or 38,481 students, were identified with a disability
  – 47.9 percent of these were in first through fifth grades
More EL Data from ISBE

• EL students enrolled in public schools spoke at least 142 non-English native languages

• Most common native languages spoken by ELs:
  o Spanish (80.1 percent - 166,976 students)
  o Polish (2.8 percent - 5,858 students)
  o Arabic (2.8 percent - 5,854 students)

• Least common native languages spoken by ELs:
  o Panjabi, Farsi, Somali, Mongolian, and Turkish (each were 0.1 percent or less, with fewer than 200 students)

More EL Data from ISBE, continued

• Native languages spoken by 10 or fewer EL students in central and southern Illinois
  - Polish (9) - Assyrian (2)
  - Ukrainian (4) - Malayalam (7)
  - Yoruba (4) - Greek (1)
  - Albanian, Tosk (10)

• Native language spoken by 10 or fewer EL students in northern Illinois
  - Assyrian (5) - Ukrainian (4)
  - Romanian (2) - Malayalam (7)
  - Bulgarian (8) - Yoruba (8)
  - Farsi (4) - Mongolian (4)

Special Education Teachers with Bilingual Credentials in Illinois

From the 2011-2012 to 2015-2016 school years:

• 990 special education teachers have obtained credentials to teach ELs/bilingual students

• 75 special education teachers have completed specialized training and obtained specific credentials that focus on the bilingual/ESL and special education intersection (Jozwik & Cuenca-Carline).
Federal and State Regulations - Notification of Conference, Parent Participation, and Individualized Education Program (IEP) Team

Federal Regulations IDEA, Part B, 34 CFR
§300.503 Prior notice by the public agency; content of notice.
   (c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be—
      (i) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

§300.322 Parent participation.
   (d) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

23 Illinois Administrative Code (IAC) Section 226.210 IEP Team
   — The IEP Team shall include a qualified bilingual specialist or bilingual teacher.
Procedural Safeguards

PROCEDURAL SAFEGUARDS

Explanation of Procedural Safeguards was provided to the parent(s) or, in parent(s)’ native language, during IEP meeting. Procedural Safeguards have been translated into 10 world languages: Arabic, Chinese, English, French, Korean, Polish, Russian, Spanish, Tagalog, Urdu, Vietnamese.

Terminology of Rights: An intermediate or discrete form of the rights listed below transfers to the student upon reaching age 16. Does student have the right to:

Disability: For an EL with a disability, ensure child meaningfully participates (e.g. interpreted).

Per Parent: A parent may express concerns by making statements to the effect of, “I would like my expanded plan to continue in meeting student’s language in instruction with good impact.” This can be documented here.

PLAAFP, continued

Student’s Present Level of Academic Achievement (include strengths and areas needing improvement)

For English learners: Address how disability impacts academic achievement in English and student’s native language.

Bilingual teachers/paraprofessionals should contribute information to this section. How student’s disability impacts learning in TESOL/TPF program, include assessment data in native language. IEP at as well include ACCESS Score, Comprehension Score and Tier information.

Statements regarding student’s eligibility or test scores from previous years are acceptable.

Student’s Present Levels of Functional Performance (include strengths and areas needing improvement)

For English learners: Address how disability impacts functional performance (e.g., strengths and weaknesses) in English and native language.

Consider: IEL, motor speech, ability to tolerate (putter/language barrier impact); Inverted behaviors due to child speaking with an accent or unfamiliarity with English. Language ability to do homework at home, English ability to do homework at home (students may not speak English but have limited formal education) ability to measure degrees in new country (ability issue).
Student Profile: José

• Fourth grade EL student from Mexico
• Diagnosed with an intellectual disability; Attended grades K-4 in the U.S.
• Spanish is the only spoken language at home

ACCESS 2.0 Scores
- Listening: 1.0
- Speaking: 1.0
- Reading: 1.0
- Writing: 1.0
- Composite: 1.0 on Tier A

Culturally and Linguistically Appropriate IEP Goals and Objectives, Programs, and Services

Student Profile: Zofia

• Fourth grade EL student from Poland, diagnosed with a specific learning disability in second grade
• Child has traveled back and forth between Poland and U.S. approximately every two years

NWEA Reading Score, spring 2016: 188.3 (second grade level*)

ACCESS 2.0 Scores
- Listening: 2.8
- Speaking: 2.5
- Reading: 1.5
- Writing: 1.0
- Composite: 2.0 – Tier B

*Content only information, not a valid language proficiency data point.
IEP Goals and Objectives

GOAL 1: Academic

The goals and objectives for this student focus on academic achievement in the general curriculum, with an emphasis on standards-based instruction.

Example:

Goal Statement: To improve reading comprehension.

Objectives:
1. Read fluently at grade level.
2. Demonstrate comprehension through written responses.

IEP Goals and Objectives, continued

Evaluation Criteria:
- % Accuracy
- % of Data Collected

Goal Statement: To increase participation in class discussions.

Objectives:
1. Engage in class discussions for a minimum of 3 minutes per day.
2. Ask and answer questions in response to teacher prompts.

IEP Goals and Objectives, continued

Evaluation Criteria:
- % Accuracy
- % of Data Collected

Goal Statement: To improve handwriting skills.

Objectives:
1. Write legibly and consistently within the guidelines provided by the special education teacher.
2. Complete written assignments within the allotted time.

IEP Goals and Objectives, continued

Evaluation Criteria:
- % Accuracy
- % of Data Collected

Goal Statement: To increase motor coordination.

Objectives:
1. Perform standardized motor skills tests with scores within the 90th percentile.
2. Demonstrate improved fine and gross motor coordination in daily activities.
Educational Accommodations and Supports

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Educational Accommodations and Supports, continued

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Assessments

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Assessments, continued

1. **District Assessments**
   - **Objective:** To assess student proficiency in various areas.
   - **Components:** Standardized tests, portfolio assessments, teacher observations.
   - **Assessment:** Administered at the beginning and end of the school year.

2. **Individual Assessments**
   - **Objective:** To identify specific learning needs.
   - **Components:** Individualized education plans (IEPs), progress monitoring.
   - **Assessment:** Administered as needed based on student progress.

3. **Group Assessments**
   - **Objective:** To provide a broad picture of student performance.
   - **Components:** Classroom assessments, district-wide assessments.
   - **Assessment:** Administered at the end of the school year.

**Assessments, continued**

STATE ASSESSMENT OF LANGUAGE PROFILES

The State assessment of language proficiency is a measure of a student's ability to communicate in English. The assessment includes a language arts test and an English language proficiency test.

**Assessment Accommodations**

If a student is qualified for any of the above assessments, they may receive accommodations as needed. The accommodations should be appropriate for the particular assessment and not reflective of those already identified for the student in the IEP. Accommodations should not be administered in a manner that would invalidate the assessment results.

Cite accommodations (e.g., use of highlighters in test booklet, student made questions or examples added to test) in a separate section.
Regulations*
23 IAC Section 226.140 Modes of Communication and Cultural Identification
— Before a child is given an evaluation, the local school district shall ensure compliance with the requirements of Section 14-8.02 of the School Code by determining the primary language of the child’s home, general cultural identification, and mode of communication.

* The following excerpts do not reflect every fact or the entire scope contained within the regulations discussed here. The reader is encouraged to review the full text of the source cited.

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Regulations, continued
• 23 IAC Section 226.150 Evaluation to be Nondiscriminatory
  — Each evaluation shall be conducted so as to ensure that it is nondiscriminatory with respect to language, culture, race, and gender. (See also 34 CFR 300.304(c).)
  • e) if the child’s receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the district shall utilize test instruments and procedures that do not stress spoken language and one of the following:
    — 2) An interpreter to assist the evaluative personnel with language and testing.

• Federal Register Volume 71, Number 156 regarding “not clearly feasible” exception for native language evaluations . . .
  — . . . this provision should not be improperly used to limit evaluations in a child’s native language . . .

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Regulations, continued
23 IAC Section 226.110 – Nonstandard conditions
— If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual specialist is not available may create nonstandard conditions.
§300.503 Prior notice by the public agency; content of notice.

(c) Notice in understandable language. (1) The notice required under paragraph (a) of this section must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure—

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

23 IAC Section 226.210 IEP Team

– The composition of the IEP Team for a particular child, and

the participation, attendance, and excusal of the team

members and other individuals in the IEP meeting, shall

conform to the requirements of 34 CFR 300.321, 300.322,

300.324, and 300.325. The additional requirements of this

Section shall also apply.

• The IEP Team shall include a qualified bilingual specialist or bilingual teacher, if the presence of such a person is needed to assist the other participants in understanding the child’s language or cultural factors as they relate to the child’s instructional needs. If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall instead meet the requirements set forth in Section 226.150(b) of this Part.

23 IAC Section 226.530 Parents’ Participation (who are limited English proficient)

– “notifying parents of the meeting early enough to ensure that they will have an opportunity to attend” means the

district shall provide written notification no later than ten
days prior to the proposed date of the meeting. In

addition, the district shall take whatever action is

necessary to facilitate the parent’s understanding of and participation in the proceedings at a meeting, including

arranging for and covering the expense of an interpreter

for parents whose native language is other than English

or for an interpreter licensed pursuant to the Interpreter

for the Deaf Licensure Act of 2007 [225 ILCS 443] for

parents who are deaf.
Federal Regulations IDEA, Part B, 34 CFR
§300.324 Development, review, and revision of IEP.

(a) Development of IEP—(1) General. In developing each child’s IEP, the IEP Team must consider—
• (i) The strengths of the child;
• (ii) The concerns of the parents for enhancing the education of their child;

(2) Consideration of special factors. The IEP Team must—
• (ii) In 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.

23 IAC Section 226.230 Content of the IEP

– The content of each child’s IEP shall conform to the requirements of 34 CFR 300.320. The additional requirements of this Section shall also apply.
• 3) A statement as to the languages or modes of communication in which special education and related services will be provided, if other than or in addition to English.
Regulations, continued

23 IAC Section 228.30 Establishment of Programs

– c. Specific Requirements for Transitional Bilingual Education (TBE) Programs

• 1) Each full-time TBE program shall consist of at least the following components (Section 14C-2 of the School Code):
  – c) Instruction in English as a second language, which must align to the applicable English language development standards set forth in Section 228.10;
  
– d) Specific Requirements for Transitional Program of Instruction (TPI)

• 2. A transitional program of instruction shall include instruction in ESL . . .

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Regulations, continued

New “proficiency” definition for identifying English Learners, notification pursuant to 23 Illinois Administrative Code 228.25(b)(2)

– In order to better align measurements of academic achievement with English language acquisition, the Illinois State Board of Education has adopted a modified definition of English language proficiency for students in Illinois schools. Effective January 1, 2014, a student must obtain an overall composite proficiency level of 5.0 as well as a reading proficiency level of 4.2 and a writing proficiency level of 4.2 on the ACCESS for ELLs to be considered English language proficient. Any student that does not achieve the minimum composite, reading, and writing criteria is considered an English learner (EL) student and remains eligible for TBE/TPI services. Students who meet or exceed these proficiency levels may be transitioned from the TBE/TPI program as allowed under Part 228 of the Illinois Administrative Code.

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Regulations, continued

23 IAC Section 226.625 Rights of the Parties

Related to Hearings

– The hearing rights of parties shall conform to the requirements of 34 CFR 300.512 and Section 14-8.02a of the School Code [105 ILCS 5/14-8.02a]. In addition, the following requirements shall apply.

• b) Either party, or any other person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. Interpreters shall be provided at the school district’s expense.
Regulation Language Regarding ELs and Parents Who are Limited English Proficient

- (Notification of Conference provided in parent’s native language). . . unless it is clearly not feasible to do so . . . (34 CFR 300.503)
- . . . district shall take whatever action is necessary to facilitate the parent’s understanding of and participation in the proceedings at a meeting. . . . (23 IAC Section 226.530)

23 IAC Section 226.150 Evaluation to be Nondiscriminatory
- d) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.

Department of Education (DOE) Guidance Regarding ELs – OSEP Dear Colleague Letter of January 7, 2015*

. . . public schools to comply with their legal obligations, under Title VI of the Civil Rights Act of 1964 (Title VI), must take affirmative steps to ensure that students with limited English proficiency (LEP) can meaningfully participate in their educational programs and services. (Title VI of the Civil Rights Act of 1964)

* The following excerpts do not reflect every fact or the entire scope contained within following guidance (Dear Colleague Letter of January 7, 2015). The reader is encouraged to review the full text of the source cited.
DOE Guidance

II. Common Civil Rights Issues

Through the Office of Civil Right’s and Department of Justice’s (DOJ) enforcement work, several areas have been identified that frequently result in noncompliance by school districts. . .

• F. Ensure that EL students with disabilities under the Individuals with Disabilities Education Act (IDEA) or Section 504 are evaluated in a timely and appropriate manner for special education and disability-related services and that their language needs are considered in evaluations and delivery of services . . .

B. Providing EL Students with a Language Assistance Program

• Each EL student’s English proficiency level, grade level, and educational background, as well as language background for bilingual programs, must be considered to determine which EL program services are appropriate for EL students.

• . . . school districts must provide them (i.e., ELs) with appropriate language assistance services. Language assistance services or programs for EL students must be educationally sound in theory and effective in practice;

In their investigations, the DOE and DOJ consider, among other things, whether:

Schools provide all EL students with language assistance services that address their level of English language proficiency and give them an equal opportunity to meaningfully and equally participate in the district’s programs;

. . . examples of when the DOE/DOJ have identified compliance issues include when school districts:

2) supplement regular education instruction with only aides who tutor EL students as opposed to teachers adequately trained to deliver the EL program; (3) fail to offer an EL program to a certain subset of EL students, such as students with disabilities . . .
DOE Guidance, continued

F. Evaluating EL Students for Special Education Services and Providing Special Education and English Language Services

- SEAs and school districts must ensure that all EL students who may have a disability, like all other students who may have a disability and need services under IDEA or Section 504, are located, identified, and evaluated for special education and disability-related services in a timely manner.
- School districts must provide EL students with disabilities with both the language assistance and disability-related services.

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DOE Guidance, continued

. . . IDEA requires that the IEP team consider, among other special factors, the language needs of a child with limited English proficiency as those needs relate to the child’s IEP.

- To implement this requirement, it is essential that the IEP team include participants who have the requisite knowledge of the child’s language needs. To ensure that EL children with disabilities receive services that meet their language and special education needs, it is important for members of the IEP team to include professionals with training, and preferably expertise, in second language acquisition and an understanding of how to differentiate between the student’s limited English proficiency and the student’s disability.

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DOE Guidance, continued

J. Ensuring Meaningful Communication with Limited English Proficient Parents

- School districts and SEAs have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district
  - this essential information includes but is not limited to information regarding: language assistance programs, special education and related services, IEP meetings, grievance procedures.

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Conclusions

• Emphasis on Compliance
• Provision of Appropriate Dual Services
  — Language-related
  — Disability-related
• Resources

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Questions

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Web-based Resources
These websites provide information about supporting English learners with disabilities:
- Center for Applied Linguistics - Center for Applied Linguistics is a private, nonprofit organization promoting access, equity, and mutual understanding for linguistically and culturally diverse people around the world. 
  - http://www.cal.org/education/education.html
- English Learner Toolkit (see Chapter 6 on ELs with disabilities)
  - http://www2.ed.gov/about/offices/list/ell/english-learner-toolkit/index.html
- Resources from the Office of Civil Rights relevant to English learners
  - http://www2.ed.gov/about/offices/list/ocr/ellresources.html
  - https://www.colorincolorado.org/other_resources/dowling_k12.doc
- National Clearinghouse of English Language Acquisition
  - http://www.ncela.gov/
- U.S. Department of Education, Office of Special Education Programs, Office of Special Education Programs
  - http://www2.ed.gov/about/offices/list/osers/idea/rti-planning-form.html

Web-based Resources - ISBE

References and Resources
Books
References and Resources, continued

Peer-reviewed Scholarly Journal Articles


References and Resources, continued