

210:15-35-1. Definitions

The following terms, when used in this subchapter and related State Department of Education materials, shall have the meanings listed below:

(1) **Bilingual.** "Bilingual" means a student whose Home Language Survey (HLS) indicates that a language other than English is spoken in the student's home, and:

(A) The HLS indicates that a language other than English is spoken in the home "more often" than English; or

(B) The HLS indicates that a language other than English is spoken in the home "less often" than English, and one of the following three factors applies:

(i) The student scores 35% or below on the composite reading score on a norm-referenced test (NRT);

(ii) The student scores "limited knowledge" or "unsatisfactory" on an Oklahoma Core Curriculum Test (OCCT) in reading; or

(iii) The student is designated English Language Learner/Limited English Proficient on an Oklahoma English language proficiency test, including the WIDA ACCESS for English Language Learners Test, a WIDA Placement Test (K W-APT, W-APT, or Kindergarten MODEL), or the Oklahoma Pre-K Language Screening Tool.

(2) **English Language Learner.** "English Language Learner" means an individual:

(A) Who is aged three (3) through twenty-one (21);

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C) (i) Who was not born in the United States or whose native language is a language other than English; or

(ii) Who is a Native American or Alaska Native, and who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual

(i) The ability to meet the state's proficient level of achievement on state assessments;

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

(iii) The opportunity to participate fully in society.

(3) **Home Language Survey.** A "Home Language Survey" (HLS) is a survey that must be conducted in regard to every student, which asks the following:

(A) Is a language other than English used in the student's home?

(B) If a language other than English is used in the student's home, is it spoken more often or less often than English?

(4) **Immigrant children and youth.** "Immigrant children and youth" means individuals who:

(A) Are aged three (3) through twenty-one (21);

(B) Were not born in any U.S. state, the District of Columbia, or Puerto Rico; and

(C) Have not been attending one or more schools in any U.S. state(s), the District of Columbia, or Puerto Rico for more than three (3) full academic years.

(5) Language Instruction Educational Plan. A "Language Instruction Educational Plan" (LIEP) is an individualized education plan designed to address the specific needs of an ELL student.

(6) LIEP Committee. An "LIEP committee" designs an ELL student's Language Instruction Educational Plan (LIEP), and should include:

(A) The student's English as a Second Language teacher or other English Language Development staff member, where applicable;

(B) The student's course content teacher(s);

(C) The student's special education teacher, if the student is dually identified as an ELL and a student with a disability, and is on an Individualized Education Program (IEP) or Section 504 plan;

(D) A school administrator or designee, such as a guidance counselor or reading specialist; and

(E) The student's parent(s) or guardian(s).

(7) Limited English proficient. "Limited English proficient" has the same meaning as "English Language Learner", defined at subsection (2).

210:15-35-2. Responsibilities of school districts

(a) Identification of ELL students. Pursuant to federal law, school districts are required to implement procedures for identifying English Language Learner (ELL) students.

(1) Timeframe. Identification, screening, and parental notification of ELL students eligible for language assistance services shall occur within thirty (30) days of the beginning of the school year. For students who transfer to a district during the school year, identification as an ELL student eligible for language assistance services and parental notification shall occur within two weeks of enrollment.

(2) Home Language Survey. Each school is required to conduct a home language survey in regard to every student, which requests from the student's parent or guardian only the following information:

(A) What the native language of the student is;

(B) What language is spoken most often by the student; and

(C) What language is spoken by the student in the home.

(3) Screening tools.

(A) A student in an early childhood education program whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be assessed using the ELL Pre-K Screening Tool. A student who scores 7/10 or higher on the Pre-K Screening Tool is deemed ineligible for language assistance services. A student who scores 6/10 or lower on the Pre-K Screening Tool is deemed eligible for language assistance services.

(B) A kindergarten student or a student in the first semester of first grade whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be screened with the Kindergarten WIDA ACCESS Placement Test (W-APT). All Kindergarten students assessed with the W-APT qualify for language assistance services and should be given the ACCESS for ELLs annual assessment. A student in the first semester of first grade will qualify for services if they score a 28 or below on Listening/Speaking, a 12 or below on Reading, or a 14 or

below on Writing.

(C) A student in the second semester of first grade whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be screened with the W-APT (Cluster 1-2). A student in the second semester of first grade will qualify for services if they score a Grade Adjusted Composite Proficiency Level of 4.9 or below, or a Grade Adjusted Literacy Composite Proficiency Level of 4.4 or below.

(D) A student in grades two (2) through twelve (12) whose Home Language Survey indicates that another language is spoken in the home, either "more often" or "less often" than English, shall be screened with the W-APT. A student in second through twelfth grade will qualify for services if they score a Grade Adjusted Composite Proficiency Level of 4.9 or below, or a Grade Adjusted Literacy Composite Proficiency Level of 4.4 or below.

(b) English language acquisition program. Every school district must provide an evidence-based English language acquisition program for students identified as ELLs. A school district may participate in a consortium to provide an appropriate English language acquisition program to ELL students of member districts.

210:15-35-3. Assessments

(a) Inclusion of ELL students in state academic content assessments. An ELL student must be included in the state academic assessment system immediately upon enrollment, and shall participate in assessments administered under the Oklahoma School Testing Program (OSTP). A student may not be excluded from participation in OSTP assessments based on English proficiency status, with the exception that an ELL student who has attended school in the United States for less than twelve (12) months may receive a one-time exemption for the OSTP Reading test in grades three (3) through eight (8), or the English EOI II/III. This one-time exception does not waive ACE graduation requirements.

(b) Accommodations for ELL students taking state academic content assessments. While ELL students must participate in content assessments required under the OSTP, an ELL student may qualify for a test accommodation based on limited English proficiency. Test accommodations for ELL students may be either linguistic (direct) or nonlinguistic (indirect), and are intended to increase the likelihood that English Language Learners are tested on their knowledge of the subject content rather than their proficiency in English. Decisions concerning OSTP accommodations for an ELL student shall be made by the Language Instruction Educational Plan (LIEP) committee, or the district or consortium equivalent.

(1) Eligibility. An individual ELL student is eligible for testing accommodations only when all of the following factors apply:

(A) The student has a primary language other than English and is not proficient in listening, speaking, reading, writing, or comprehension in an English-speaking classroom;

(B) The student routinely uses the accommodation during classroom instruction and assessment in the subject, both before and after the OSTP test is administered;

(C) The accommodation must be documented on the student's current LIEP or locally designed equivalent plan;

(D) The accommodation must be among those approved by the State Department of

Education; and

(E) The student requires the accommodation in order to participate in OSTP testing.

(2) **Impermissible accommodations.** An ELL test accommodation may not:

(A) Alter, explain, simplify, paraphrase, or eliminate any test question, reading passage, writing prompt, or multiple-choice answer option;

(B) Provide verbal clues or other suggestions that hint at or give away the correct response to the student; or

(C) Contradict test administration requirements or result in the violation of test security, including but not limited to modifying, reordering, or reformatting test questions or altering, enlarging, or duplicating tests.

(c) **Accommodations for ELL students with disabilities.** For an ELL student who is also identified as a student with disabilities, any testing accommodations other than the ELL supports addressed in subsection (b) must be based on the student's disability and documented in the student's IEP or Section 504 Plan.

(c) **English language proficiency assessments.** The English language proficiency of every ELL student shall be assessed annually using the ACCESS for ELLs test, which shall measure ELL students' oral language, reading, and writing skills in English. Any testing accommodations provided to an ELL student with a disability must be based on the student's disability and documented in the student's IEP or Section 504 Plan.

210:15-35-4. [RESERVED] Criteria for language instruction programs for English Language Learners

210:15-35-5. [RESERVED] Guidelines for Title III subgrants