STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

Mick Zais
Superintendent

1429 Senate Street
Columbia, South Carolina 29201

MEMORANDUM

TO: Directors of Special Education
ESOL Coordinators

FROM: John Payne, Interim Director
Office of Exceptional Children

Crystal Fields
Title III, ESOL

DATE: January 15, 2014

RE: Children Who Are Both LEP and Special Education Students

The number of limited English proficient (LEP) students continues to increase in South Carolina. Some of these students may also be identified as a student with a disability. In an effort to provide information concerning the referral, evaluation, and identification process, please review the following:

- When a parent or school personnel has reason to suspect that an LEP student may have a disability, the team must plan and carry out an evaluation within the guidelines and timelines specified in the State Board of Education regulation 43-243. The evaluation team must keep in mind that there must also be evidence of the disability in the student's native language and not only in the English language. It is crucial that the evaluation team make the distinction between a language difference and a disability.

- The use of translated tests is generally discouraged because test item difficulty often changes with translation, and because many tests may have been normed using small student samples that may not be representative of the student's language background. However, the use of norm-referenced tests in the student's native language may be appropriate and useful in certain cases such as when the student has received formal education in the native language. Non-verbal tests can provide useful information as well.

- Assessment data must be collected using a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent. The services of translators may be appropriate and useful in collecting these data.

- The instruction related to English language acquisition may vary based upon the accommodations and modifications recommended by the IEP team. While this instruction may not always involve direct services from an ESOL teacher, the instruction may take the form of collaboration among the ESOL teacher, the special education teacher, and the general education teacher. In cases involving LEP students, the IEP team should include a member with knowledge and expertise in the acquisition of English as a second language.

The following information should be helpful in coding LEP students who also have a disability:

- Once an LEP student has been identified as needing special education services, the student will continue to be coded as ESL based on the same definitional/language proficiency categories, as are all other ELL students without disabilities.

- If an LEP student with a disability who is identified on the Home Language Survey as coming from a family who speaks a language other than English, but who, due to a disability, cannot be tested for an English proficiency level on the diagnostic tests used for this purpose, the student will be coded as an ESL 1 (Pre-functional) in the state data collection system(s). This student and all other ESOL/Special Education students will continue to be coded as ESL AND Special Education as appropriate in the state data collection system(s). In addition to the documentation required for Special Education, the Parent Notification Letter will continue to be used as required by Title III law. Checking the “Other” box in the services section and referring to the student’s IEP will be sufficient when no direct ESOL services are provided to the student.

- LEP students with disabilities must also take the SC English proficiency test, ELDA, every year. This test may not be waived by the student’s IEP team. <u>At the very least</u>, the school must attempt to administer the speaking test to those students. The test is also available in loose-leaf format and the ELDA writing test may be administered orally. A score of “no response” in this section of the test will indicate that the test was attempted for these students. If students with disabilities can take other parts of ELDA, they should do so. This test is available in Braille and large print formats; signing of the listening and speaking parts of this test is also allowed by the ELDA Test Administration Manual.

- LEP/Special education students will not be coded “ESL Mainstream,” “Exited,” or “English Speaker I” until they meet the same criteria for these codes as all other LEP students. These criteria are as follows: ESL Mainstream—one year fully English proficient (FEP) on the English language development assessment in grades K through 2; Exited—scoring FEP on the English language development assessment once in grades 3 through 12; and English Speaker I—two years in exited status then moves to this designation. In no case will such students be coded English Speaker II, the designation for students whose first language is English.

For further information on these issues, please contact Bill Rynn, School Psychology, Office of Exceptional Children, at 803-734-8212, or Wcrynn@ed.sc.gov, or Crystal Fields, Title III/ESOL, at 803-734-8306, or CFields@ed.sc.gov.

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