Limited English Proficiency as a Special Factor for PreK Students Identified with or Suspected of Having Educational Disabilities

Purpose and Scope

This guidance provides Administrative Units (AUs) with clarity regarding the responsibility of each Multidisciplinary Team (MDT) to:

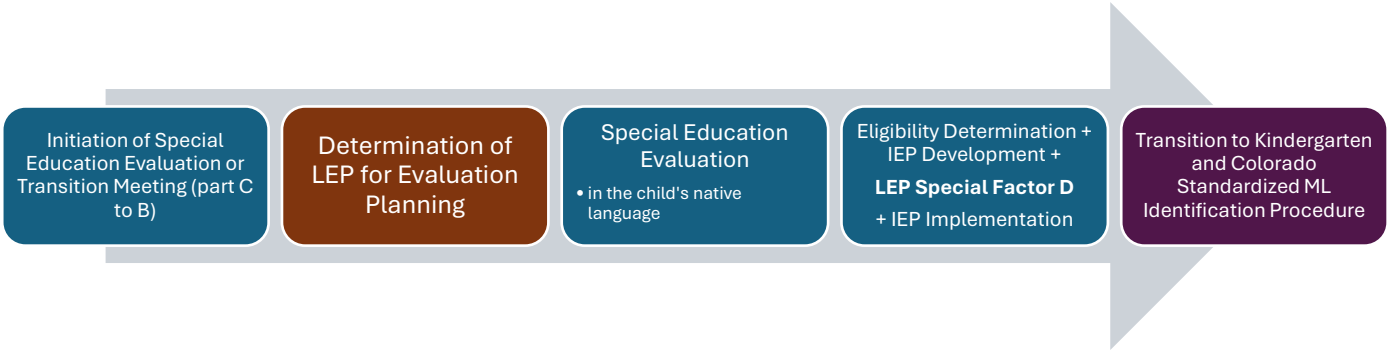
- Determine whether a preschool child suspected of having or identified with a disability has **Limited English Proficiency (LEP) as a Special Factor for Consideration in the IEP.**
- Document how the child's language needs will be addressed in valid assessment, specially designed instruction, supports, services, and accommodations (English proficiency testing is not applicable).

The determination of **LEP as an Individualized Education Program (IEP) Special Factor is distinct from Colorado's formal Multilingual Learner (ML) identification process for kindergarten through 12th grade.** For purposes of federal and state legal requirements, this guidance uses the term **LEP** when referring to the regulatory requirement [34 CFR § 300.324(a)(2)(ii)]. Colorado generally uses **Multilingual Learner** when referring to students with LEP. The LEP Special Factor determination for preschool students with an educational disability is an **MDT responsibility** and formal identification as an ML is not required.

Why the LEP Special Factor Matters for Preschool Students

Language development and disability-related needs can overlap in ways that make accurate evaluation, identification, and instructional planning particularly complex for young MLs.

- IDEA prohibits LEP from being the determinant factor in determining that a child has a disability [34 CFR §300.306(b)(1)(iii)].
- Eligibility decisions must instead be based on a comprehensive evaluation and consideration of multiple sources of information, including parent input, teacher information, assessment data, native language assessment, and the child's social, cultural, and developmental background [34 CFR §300.306(c)(1)].
- Under IDEA, the Individualized Education Program (IEP) team must consider and address the language needs of a child with LEP as those needs relate to the child's IEP [34 CFR §300.324(a)(2)(ii)].



Process to Determine LEP as a Special Factor for Consideration

The **IEP team** should consider multiple sources of information rather than relying on a single data point.

Home Language, Experience and Background Information

A district or preschool program's Home Language Survey (HLS) can help identify children who use or are exposed to languages other than English. The HLS may prompt further investigation of the child's language background and needs, rather than serving as a stand-alone determination of LEP.

Information provided by the family should be a primary source of information about:

- Language(s) used in the home;
- Language(s) the child understands and uses;
- Communication partners with whom the child uses each language;
- The child's developmental language history; and
- The child's opportunities to hear and use English and other languages.

When appropriate, interviews, home visits, or other naturalistic opportunities may provide additional information about the child's communication across settings and cultural context.

Observations and Work Samples

Observe how the child communicates with adults, peers, family members, English-speaking communication partners, and speakers of the child's other language(s), when possible.

Consider whether English language demands create barriers to understanding directions, demonstrating knowledge, participating in routines, interacting with peers or accessing specially designed instruction.

Preschool Assessment and Developmental Data

Data from preschool assessment systems, including ongoing observational data, can contribute to the team's understanding of language development. Tools such as *GOLD®* may provide useful informal developmental and observational information but should not be characterized as standardized English language proficiency assessments. Existing data should be interpreted within the child's linguistic and developmental context.

English Language Proficiency Data

If valid English language proficiency assessment data are available, the team may consider those data as part of the body of evidence for LEP Determination. Such data should be interpreted alongside other information rather than used as the sole basis for determining disability or educational need.

NOTE: WIDA Screeners and assessment tools are not currently designed to measure English language proficiency of preschool aged students.

