Chapter 6: Multi-Tiered System of Supports, Special Education Needs, and Gifted Education

6.1 Multi-Tiered System of Supports

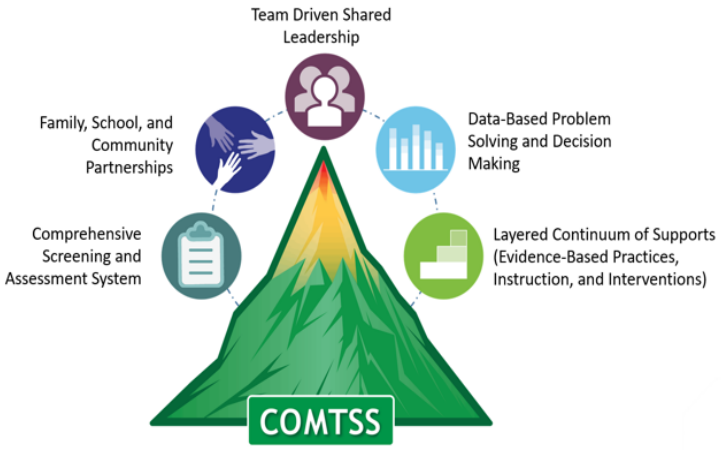
Developing a Culturally and Linguistically Responsive Approach to a Multi-Tiered System of Supports for Multilingual Learners

After the reauthorization of Individuals with Disabilities Education Act (IDEA, 2004), Colorado adopted a Response to Intervention (RtI) model, which is integrated into the Colorado Multi-Tiered System of Supports (CO-MTSS) framework. In Colorado, MTSS is a framework applied at the state, district, and school level that uses implementation science to create one integrated system. This system is designed to support the needs of all students. MTSS is defined as *a prevention-based framework of team-driven data-based problem solving for improving the outcomes of every student through family, school, and community partnering and a layered continuum of evidence-based practices applied at the classroom, school, district, region, and state level.*

A Multi-Tiered System of Supports includes the following five essential components:

1. **Team-Driven Shared Leadership**
2. **Data-Based Problem Solving and Decision-Making**
3. **Family, School, and Community Partnering**
4. **Layered Continuum of Supports**
5. **Evidence-Based Practices**

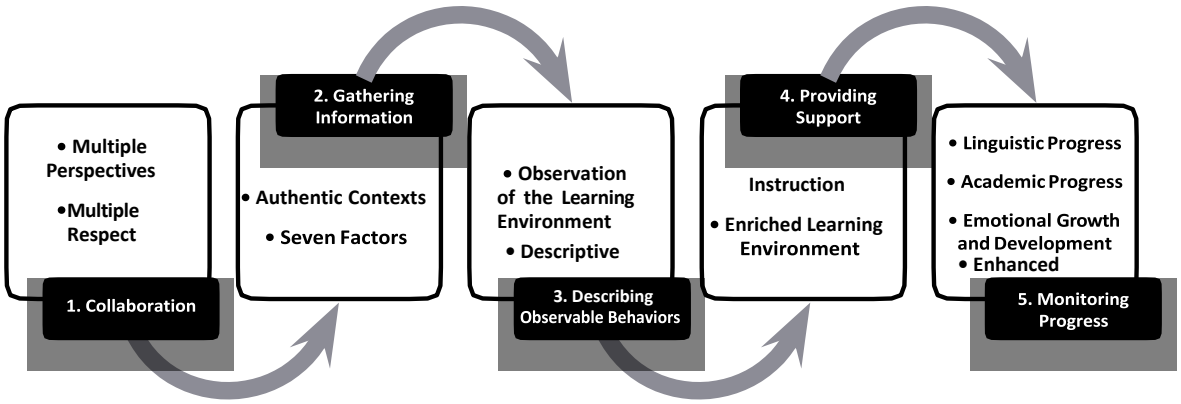
At the **district or regional level**, leadership teams build infrastructure that supports the implementation of the five components of MTSS. The building of this infrastructure includes (1) identifying and aligning key priorities, (2) securing funding, resources, and time to implement those priorities, (3) developing training and coaching structures to support personnel with implementation, and (4) gathering data to evaluate the implementation and impact of the key priorities.



At the **school level**, building teams implement their identified priorities and build a tiered system that fits their respective context. School teams identify the fidelity and student outcomes they wish to achieve and then identify the data needed to monitor progress toward those outcomes. They also outline the practices used at each tier, as well as the systems that enable staff to both implement the identified practices and to gather the required data.

View more information about COMTSS

The attention given to improving and enriching the instruction delivered to all students and providing diverse learners greater access to the Colorado Academic Standards (CAS) and Colorado English Language Proficiency (CELP) Standards while meeting the needs of our Multilingual Learners (MLs) is imperative. To meet the needs of MLs, schools should focus on culturally, linguistically responsive, and social emotional instructional learning environments. Therefore, the MTSS framework aligns with elements from WIDA's approach to response to instruction and intervention for multilingual learners. The following can be integrated into an MTSS framework.



Adapted from: Hamayan, Marler, Sanchez- Lopez& Damico (2013)

MTSS seeks to prevent academic, behavioral, and social emotional difficulty through quality, research- based instruction and early intervention for students who do not make expected progress while accelerating the learning of those students who exceed expected progress. Within this framework, if a student is not performing at expected levels, school personnel must first consider whether the student is receiving best first instruction at the universal tier before assuming there is a deficit within the child (Klingner & Edwards, 2006).

MTSS supports are layered according to three tiers:

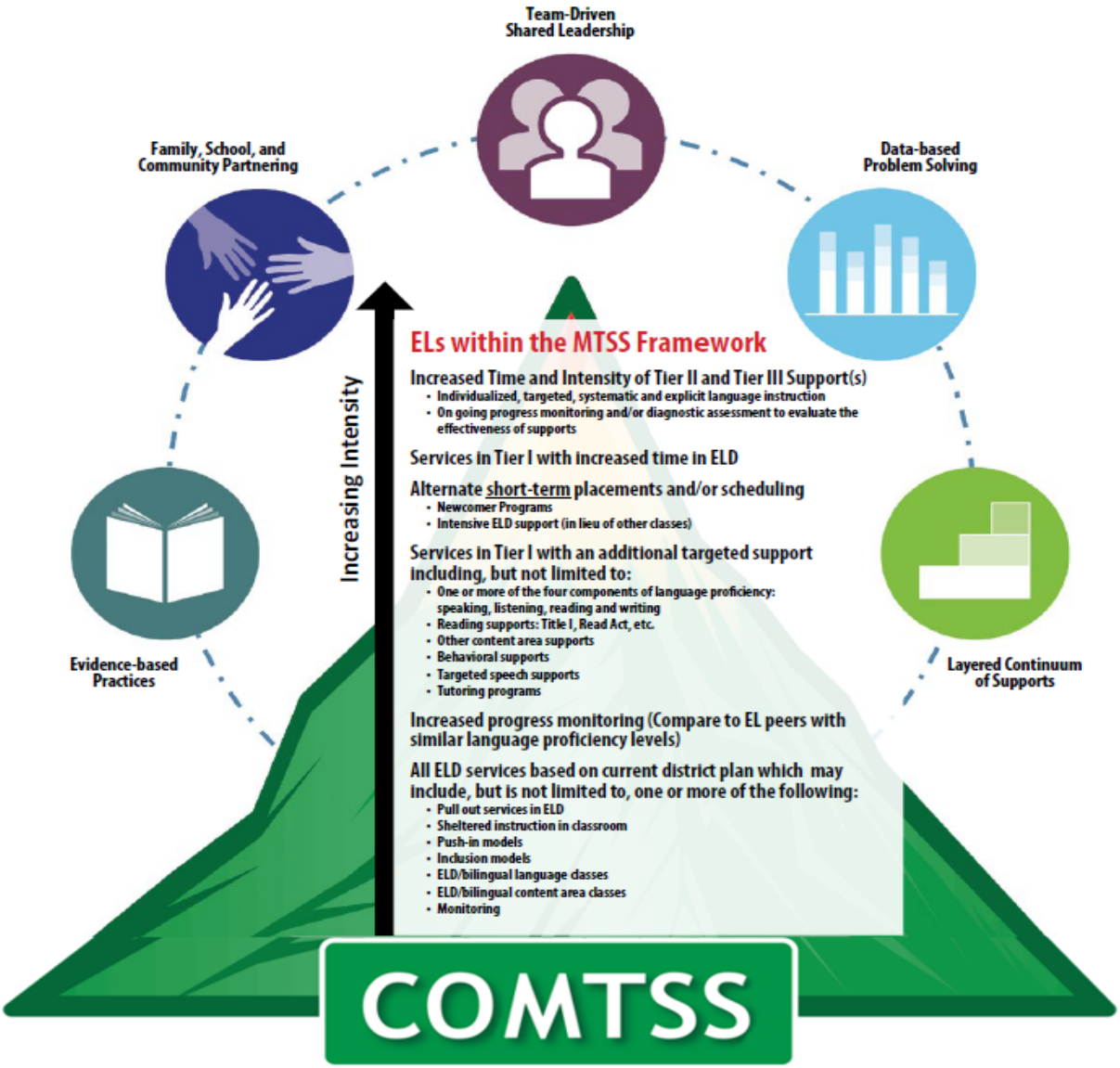
Tier 1- Universal Supports
Tier 2- Targeted Supports
Tier 3- Intensive Supports

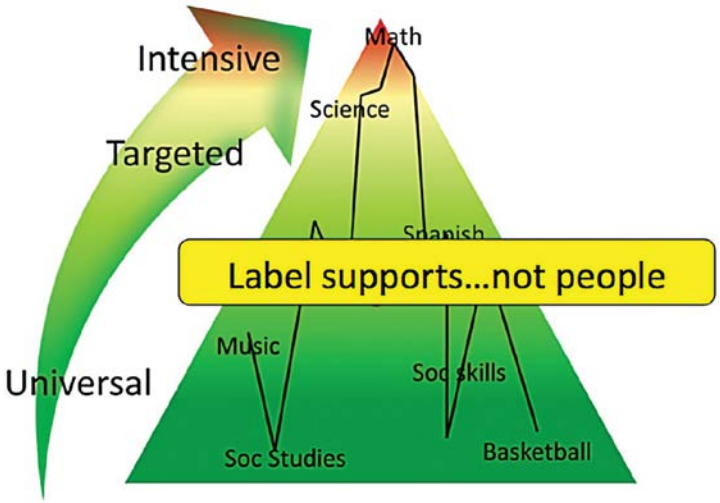
The Universal layer of supports, **Tier 1** represents the core instructional program that every student, including MLs, receives. Tier 1 instruction for MLs should be delivered in general education classrooms by teachers knowledgeable in second or additional language acquisition (Hill & Flynn, 2006) and culturally relevant pedagogy. To build the depth of knowledge and the pedagogy of instruction for multilingual learners, in June 2018 the Colorado Department of Education began requiring educators complete Culturally and Linguistically Diverse (CLD) Education professional development.

The goal or purpose of MTSS is to enrich the learning environment for every student. The process of identifying student needs and supporting them should be a fluid process; we label the supports provided, not the students. A student or group of students may receive Targeted or **Tier 2** supports in one area while the rest of their needs are addressed effectively in the universal/Tier 1 core curricula.

The tiers describe the intensity of instruction/supports, not specific programs, students, or staff (i.e. Title 1, special education, etc.) **Tier 3** is the Intensive supports layer; it is not equal to special education. Instead, we know that students with disabilities are supported throughout the Layered Continuum of Supports. And students receiving advanced tier supports are receiving supports matched to their needs, not to a designated or specified "label".

MTSS and Essential Components: Multilingual Learners Within the MTSS Framework





Adapted from the OSEP TA Center for PBIS

Continuum of Supports

The tiers describe instruction and intensity of support, not steps in a process; therefore, students do not leave the Universal Tier (Tier 1) to receive targeted or intensive instruction in Tiers 2 and/or 3. Supports are layered on to supplement the universal learning experiences that every student receives. Access and opportunity are ensured for every learner. The intensity of instruction is determined by the data.

For more information, visit Colorado Multi-Tiered System of Supports Resources

For more information, visit Response to Instruction and Intervention Resource

Tier 1—Universal Supports

Tier 1 of a MTSS framework is referred to as universal because every student has access to academic, behavioral, and social emotional supports through a general education setting. It refers also to the entire school climate that is created for students and adults in a particular school or school community. Klingner and Edwards (2006, p. 113) explain that "the foundation of the first tier should be culturally responsive, quality instruction with ongoing progress monitoring within the general education classroom." For MLs, Tier 1 includes their English language development instruction (e.g., bilingual, ESL, sheltered or dual language instruction). English language instruction is not viewed as an intervention (Tiers 2 or 3) but rather as part of universal instruction (National Center on Response to Intervention, 2011).

A culturally and linguistically Tier 1 serves as a system check, a way to evaluate whether or not the school/district is moving toward the most effective service delivery model for their student population. All ML core instruction professionals need to understand that they must make the content they are teaching comprehensible to the students (Echevarria, Vogt & Short, 2012) as well as differentiate and scaffold instruction according to their language proficiency levels. Instruction in this context consists of a high quality curriculum supported by differentiated instruction and flexible grouping. All students are assessed multiple times throughout the year to identify those in need of additional support. For MLs, Tier 1 or universal instruction must be enriched to address their particular linguistic, sociocultural, and academic needs in a sustained, coordinated, and cohesive way. As noted above, Tier 1 instruction for MLs is delivered in classrooms by teachers knowledgeable about the process of acquiring a new or additional language (Hill & Flynn, 2006) and how to deliver culturally relevant content, literacy, and language instruction. Monitor the adequacy of the learning environment created for the universal tier continually to avoid preventable challenges for all students.

Tier 2—Targeted Supports

Tier 2 of an MTSS framework, Targeted Supports, takes place in small groups (usually 3–5) who have not responded sufficiently to effective Tier 1 instruction and curricula. Approximately 10–15 percent of students require the daily, targeted supports provided in Tier 2. Tier 2 support is supplementary because it is delivered in addition to the core content instruction. Tier 2 supports are provided to students in specific areas (academic, behavioral, social emotional or any combination of these areas or all) that have been identified as areas of need through the problem solving process. By gathering a variety of assessment data from, such as: classroom observations, review of student work samples, performance on common assessments, student-teacher conferences, field notes, or any standardized measures that are used in schools, teams can target and support students in identified areas of need (Chappuis, Stiggins, Chappuis & Arter, 2012).

Students' progress continues to be assessed through ongoing data collection (summative and formative) to determine the length of time they would benefit from receiving Tier 2 assistance. Tiers are fluid, and the needs of students who demonstrate improved performance and skill development may require supports in any given tier that reflect individual needs and progress monitoring data reviewed through the problem-solving process. Five key features of Tier 2 supports include: (1) supplementary resources to implement high-quality instructional strategies (2) targeted supports at increased levels of intensity (3) ongoing formative/classroom as well as standardized assessment to monitor students' responses to supports (progress monitoring) (4) team decision-making and collaboration (WIDA, 2013) and (5) Increase in positive feedback for meeting expectations of a culturally and linguistically responsive Tier 1 learning environment has been created for all students, including MLs, only a small percentage of students need Tier 2 support in any given area.

Tier 3—Intensive Supports

Tier 3 of an MTSS framework, is the most intensive level of supports. Tier 3 supports do not represent referral to special education services but represent strategic or intensive individualized supports designed to meet the specific needs of the smallest percentage of students who did not make adequate progress through previous interventions. Supports at this level are typically longer in duration, at a higher frequency, and/or delivered in a smaller group size and are provided by a highly qualified teacher with the skills necessary to support the needs of the student(s). Strategies may be the same as in Tier 2 but are more intensive and individualized. If a culturally and linguistically responsive Tier 2 has been created for students, including MLs, only a small percentage of students need Tier 3 supports.

Potential Advantages of a Culturally and Linguistically Responsive MTSS for Multilingual Learners

A Multi-Tiered System of Supports (MTSS) includes family, school, and community partnering as a crucial component. Including families on the decision-making team and partnering with families ensures that the problem solving process is facilitated with all relevant information so that students understand that all adults within their lives care about their learning outcomes and have a role in contributing to their success in school. There are various advantages for MLs in a comprehensive MTSS designed for their unique and particular needs; teams have permission to support students more proactively.

MLs will be more successful in the general education setting, including Language Instruction Educational Programs (LIEPs), and special education referrals and determinations will be more accurate. Other potential advantages arise from increased system-wide awareness of culturally responsive instruction. Teachers benefit as well because they are supported as part of a team and have structured opportunities to collaborate with colleagues across disciplines. Critical to early intervention, teams do not have to wait for students to fail before providing additional instructional supports and should create mechanisms that identify students which do not rely solely on a referral process. A linguistically responsive and proactive methods ensures that language is not the primary reason MLs are not responding to the three tiers of instruction. A culturally and linguistically responsive MTSS also allows better monitoring of teaching practices in general and special education. The following table describes some of the conditions necessary for a culturally and linguistically responsive MTSS.

Necessary Conditions Experience the Benefits of a Culturally and Linguistically Responsive MTSS
Use innovative practices and reforms in all tiers with a focus on enrichment, increased comprehensibility, and meaningfulness rather than remediation.
Customize MTSS systems according to a school or district's individual needs and select multiple and different practices for the multiple tiers of support. Implement these practices in a cohesive, contextualized, and comprehensible way from a sociocultural and social emotional perspective.
Make certain that all educators are aware of the research on what practices, strategies, approaches, and interventions work with whom, by whom and in what contexts (Klingner & Edwards, 2006).
Ensure that students receive culturally responsive, appropriate, quality content and language instruction that is evidence-based at all levels.
Provide linguistic supports when assessing students' content knowledge.
Provide time for team members to plan for students' instruction, resulting in instruction and intervention strategies that are cohesive, authentic, and meaningful, and connected to the core curriculum.
Include approaches that focus on complex sociocultural phenomena and better address students' unique educational contexts.
Look not only at classrooms, but also at languages and outside social/educational settings for insights into students' performance.
Recognize the need for both appropriate ML literacy instruction as well as academic language instruction throughout the school day.
Differentiate at all tiers of support according to students' academic language proficiency levels.

Adapted from Damico (2009)

Assessment

Accurate and reliable assessment of MLs' language development, content knowledge, and behavior make teaching more instructionally-responsive and action-oriented. An MTSS incorporates formative (e.g., observations, performance-based projects, conversations, writing samples) as well as standardized assessments in all three tiers for different purposes. First, MTSS uses data from various assessments to identify students whose educational needs may not be met by the existing instructional program and need additional Tier 2 or Tier 3 support. Whenever possible, assess learning in the native language to establish appropriate instructional plans even when instruction will be in English. Second, data can be used to improve the instructional methods as well as evaluate the appropriateness of the curriculum.

Universal Screening—Screenings in Tier 1 identify students who need additional support or acceleration. School-wide screenings can be administered throughout the year; at minimum, data should be gathered at the beginning, middle, and end of the year. Data provides information about the quality of the instructional program as well as students' academic performance and social-emotional wellbeing. Data provide feedback about groups of students, grade level patterns of performance, and the impact of the wider learning environment and school climate on student achievement and academic language development.

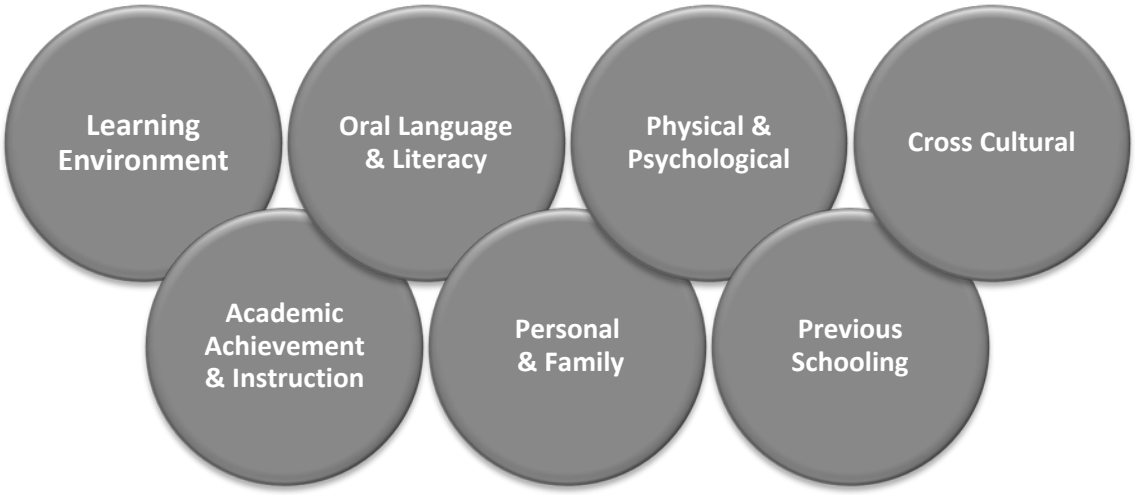
Monitoring Student Progress—Monitoring student progress is an essential component of MTSS. In a culturally and linguistically responsive multi-tiered system of supports, it is essential that assessment procedures are as responsive as the instructional approaches. Limited assessment tools have been researched specifically for use with MLs (National Center on Response to Intervention, 2011) and while Local Educational Agencies (LEAs) may already have uniform assessment practices in place, it is important that they review and evaluate their application to ML performance to ensure they are appropriate. School teams should gather information from a comprehensive set of procedures that assess learning (Chappuis et al., 2012) including: observations, student work (digital, written, recorded, performed), common language and academic achievement assessments, conferencing with students, teacher anecdotal and field notes, checklists, rubrics, rating scales, portfolios, performance tasks, paper-pencil tasks, student self-assessments and surveys/questionnaires, among others. All decisions about instructional services should be based on multiple measures that capture the complex nature of the learning process and the whole child.

In Tier 1, monitoring student progress shows how well the general education instruction and curriculum is meeting students' needs. In Tiers 2 and 3, progress monitoring helps determine if students are responding adequately to general education supports, if targeted/intensive supports need to be modified, or if students should return to Tier 1-only instruction. This model ensures that content and language development are assessed regularly, in authentic ways, throughout the instruction cycle. A lack of adequate response to culturally and linguistically responsive, research-based supports in Tier 3 may indicate a need for a special education referral.

Factors that Impact Multilingual Learners' Academic Progress, Linguistic Development, and Response to Instruction and Intervention

It is important to develop a proactive protocol to collect student information related to seven factors that may influence academic achievement and linguistic development (listening, speaking, reading, and writing). This will help develop instruction, interventions, and assessments for those who are not responding adequately to universal instruction. The seven factors that follow apply to all students but are focused on MLs and providing an authentic context within which to understand their performance.

Seven Factors that Impact Learning and Behavior



Adapted from Hamayan, Marler, Sanchez-Lopez & Damico (2013)

For more information, visit:

- WIDA's Culturally and Linguistically Responsive to Intervention
- WIDA English Development Standards
- WIDA Can Do Descriptors
- Essential Actions for Academic Language Success

6.2 Special Education Needs

Ability and disability are cultural constructs that impact how we view and understand people. The historically pervasive view of Multilingual Learners (MLs) as not being able to speak English has caused significant confusion around how to appropriately determine whether a student who is learning English as a second language may in fact also have an exceptionality of some sort. Language and culture are the vehicles by which schools evaluate student aptitudes. Therefore, germane to this discussion, is the fact that Schools must provide adequate linguistic support for Multilingual Learners based on their English language proficiency levels. Schools should provide instruction that is culturally relevant. These supports should be considered tier 1 supports for this unique population of learners. The supports include and are not limited to dedicated English Language development, embedded scaffolding in core content instruction or integrated content and language development, use of culturally sustaining texts, drawing explicit connections to home language and culture and culturally responsive instruction in general.

As outlined in section 6.1, state education agencies, districts, schools, and public charter schools should develop a culturally and linguistically responsive MTSS that will help close the apparent achievement gap and reduce inappropriate referrals to special education (Escamilla, Chavez & Vigil, 2005). The enriched and cohesive support of a culturally and linguistically responsive MTSS can provide adequate and appropriate support of MLs. If need be, it can also form the basis for more valid evaluation and effective programming for MLs. A culturally and linguistically responsive MTSS will address many of the extrinsic factors that impact MLs' success in school so they can be ruled out as the main influences on MLs' performance. Educators and MTSS team members may be tempted to ask the question, "Is it a learning disability or is it related to second-language acquisition?" However, before asking this question, educators should be considering exhibited behaviors as superficial manifestations of a broader array of causes. (Hamayan, et.al., 2013).

School teams that work within a culturally and linguistically responsive MTSS to support MLs may find that particular students experience challenges across many contexts, social, academic, and linguistic. Some of these students may have special education needs. There could exist however many other influencing factors which could precipitate these challenges: lack of cultural responsiveness, trauma, negative acculturation, lack of representation, or language could all indeed have an influence. If MLs experience challenges only in English academic settings, it is improbable that the difficulties are due to a disability. MLs who cannot remember directions given during academic classes taught in English but can remember directions in their home language or social English settings, do not likely have underlying disabilities. You cannot have a disability in one language or context and not another; special education needs should manifest across languages and contexts.

When an ML is struggling to achieve academically or behaviorally the first step that a school-based team might take is to contact the family. Family engagement has been shown to increase academic outcomes. Particularly for families of MLs it is important that a school establish transparent and open communication in a way that is comprehensible for the family. This could involve the use of a cultural mediator (family liaison, interpreter, and/or translator). School teams can perform comprehensive interviews of a struggling student's family members to gain more insight into prior academic experiences, prior history of trauma, medical history, language practices in the home, understanding of the school system, and so on. By performing this interview, schools might take the opportunity to begin building trust and mutual understanding with the family. Furthermore, the family might be able to provide the school with valuable insights into how best to intervene with the ML student. Moreover, establishing this connection with a family could help school-based problem-solving teams to rule out exclusionary factors or any subsequent suspicion of disability,

For more information, visit Regional Educational Laboratory (REL) Culturally Responsive Instruction

Comparing Language Differences and Special Education Needs

It is difficult to determine when low performance of MLs in English settings is due to the process of acquiring English or a special education need. Reframing the traditional question: *Is what we observe part of the second-language learning process, or is this student's performance due to a more intrinsic special education need?* The answer need not be one or the other. Diversity within ML populations in our schools is immense and no two MLs' experiences are identical. Begin with the assumption that the students are children with a full human spectrum of needs, desires, hopes and dreams, and then that they are MLs not only acquiring a new language, but also learning to interpret a distinct set of cultural norms. Seeking to identify and addressing factors such as inadequate instruction, acculturation, motivation, and engagement in school can help determine if students require both ML and special education support (Hamayan et. al., 2013).

For example, the table below illustrates, if the student omits words in English, specialists may suggest that perhaps the student is in the early stages of acquiring English and using elements of their home language. If that home language has a different grammatical structure, without articles, the student might continue to omit articles when they speak English. If a student has a disability, the same observable behavior will have a different explanation: the special education teacher or speech language clinician might suggest that omitting words was due to difficulties with word retrieval or expressive language. If the student had both types of needs, they would omit words in their home language as well as in English, and in social as well as academic settings. As a result, they would need support both as a ML acquiring a new language and related to difficulties with word retrieval and expressive language.

An Example of Interpreting Behavior: ML Explanations and Possible Special Education Explanations		
Observable Behavior	**Possible ML Explanations** (Observed in academic English contexts)	**Possible Special Education Explanations** (Observed across all languages and contexts)
Omits words in sentences	Direct transfer from student's home language; Early stages of academic English development use of brief utterances that are typical of that stage of acquisition	Word retrieval difficulties; Expressive language difficulties

As teams seek explanations from both perspectives, they should evaluate programing to support the student's language acquisition first, and then provide more intensive language support. Though some might need more support than others, this may lie within typical performance. Appropriate scaffolds and support may be what's lacking for these MLs to gain equitable access to the general education setting, and they may show progress once the appropriate scaffolds are in place. These are MLs who need more intensive support as language learners, but do not require support within special education. . If there is concern about many or most of a group of students who are MLs, the school and district team should reevaluate programing entirely.

If, on the other hand, the student receives more intensive ML support across their linguistic repertoire, in both social and academic contexts, and makes insufficient or very slow progress, the team can now add additional academic or behavior support across contexts and in all of the student's languages in an intensified manner. If the team observes that a student requires scaffolds and supports for much longer than typical and is based on peer comparison data in order to show progress, the student would continue to receive ML appropriate instruction and may be considered for a special education evaluation.

Cultural Interface with Special Education Needs

When attempting to determine if a multilingual and multicultural student has a disability we must first reflect on our positionality. Education can often be dominated by English-proficient college educated professionals representing one culture, practitioners must take into consideration the impact this has on students from diverse backgrounds.

Furthermore, the cultural distinctions of such a group of professionals in relation to populations who in fact lack cultural capital merely because of the color of their skin or the language that they speak or their country of origin. Schools should avoid inadvertently pathologizing disability and instead take an inquiry-based approach to better understanding the Culturally Linguistically Diverse (CLD) population. Their philosophies and worldviews, their academic experience, and their conception of disability. Most importantly, school-based teams should examine their basis around CLD populations and use assessment tools critically. Understanding that many tools at our disposal to measure ability are heavily steeped in cultural and linguistic bias. Therefore, when using these tools, teams should carefully examine technical manuals to ensure that appropriate norming groups have been included. When they have not, teams should be careful to adequately qualify assessment results and seek to use observation protocols and dynamic assessments to enrich bodies of evidence.

Learners with Exceptionalities

In many ways, children with disabilities are not different from their typically developing peers. They require instruction and support that: are embedded in meaningful contexts, actively engage them, are interesting and authentic, provide opportunities to compare and contrast and are recurrent, exposing them to concepts and skills in multiple contexts and settings (Bruner, 1990; Cambourne, 1988; Damico & Nelson, 2005; Perkins, 2005; Smith, 2004; Vygotsky, 1978; Wells, 1986, 2003).

Instruction for children with disabilities differs from that of typically developing students in other respects.

A central difference is the amount and duration of the scaffolding and support provided to them. They may not acquire skills or knowledge as efficiently, easily, or quickly as typical students; they may need more focused support and mediation within their zone of proximal development (Vygotsky, 1978). Students with disabilities may need additional support to generate efficient learning strategies. Teachers may provide these strategies and be prepared to model their use in various contexts with multiple examples. Students with disabilities may experience difficulty extending learning across contexts or applying new skills in novel situations. Teachers need to give these students many opportunities to practice effective meaning-making strategies within authentic contexts (Cloud, 1994; Damico & Hamayan, 1992; Dundaway, 2004; Paradis et al., 2011; Westby & Vining, 2002).

Caution also must be taken not to delay a referral for special education evaluation beyond the point when the team suspects a disability. Neither an MTSS framework nor participation in a process based on the child's response to intervention replaces the right of a child with a disability to be identified as such and to receive special education services. (OSEP, 2011)

—Adapted from Colorado Guidelines for Identifying Students with SLD (2019), page 45

For information, visit WIDA's Focus on Differentiation

For information, visit English Learners with Disabilities

6.2a Specific Learning Disabilities Determination

The process for determining a Specific Learning Disability (SLD) is slightly more prescriptive than for other disabilities. The team must include the child's parent, general education teacher and at least one person qualified to conduct diagnostic examinations, such as a special education director or designee, school psychologist, speech language pathologist or remedial reading teacher. Choosing the multidisciplinary team members from the individualized problem-solving team, who would be familiar with the child's data is highly recommended. An additional team member should have specific expertise working with MLs and knowledge and skills in the areas of linguistics, education implications, cultural influences and best practices for students who are CLD. Teams need to consider the current instruction, the qualifications/training of the people delivering the instruction and the child's access, level of motivation and engagement to that instruction.

SLD designation requires documentation of a student's insufficient response to research-based supports, there should be evidence that appropriate instruction in the area(s) of concern has been provided. Of course, fidelity and reliability of instruction/supports implementation must be ensured. The team will want to determine whether a student's access to core instruction, as well as to supports provided through MTSS, is impacted by poor attendance, frequent moves between schools/country or lack of access, CLD factors etc. If an SLD determination cannot be made due to concerns in this area, attempts to provide appropriate instruction and the student's response to that instruction must be documented.

When considering a referral or determining eligibility of a ML, information must be gathered in the following areas: cognition, communication, social emotional status, physical status, academic performance, transition/life skills and adaptive behaviors. The body of evidence for making an eligibility determination should include but not be limited to the HLS, WIDA Screener*, ACCESS/Alternate ACCESS, English proficiency level, characteristics of the student's cultural background that might be impacting academic success and assimilation into an unfamiliar school environment, documentation of prior academic experiences of student and family, and family's understanding of schooling in the U.S., progress monitoring of supports implemented under the MTSS framework, and multiple data points from the progress monitoring and triangulation.

Local Education Agencies (LEAs) must also provide special education services to MLs who have been identified as students with disabilities under the Individuals with Disabilities Education Act (IDEA) or as qualified students with disabilities under Section 504 of the Rehabilitation Act of 1973.

Source: OELA Toolkit, Chapter 2 (ncela.ed.gov/files/english_learner_toolkit/2-OELA_2017_language_assist_508C.pdf)

The issue should not be whether a student is a multilingual learner, but whether the student has met eligibility requirements under the Individual with Disabilities Education Act (IDEA).

> *(5) Special rule for eligibility determination.—In making a determination of eligibility under paragraph (4) (A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—[[Page 118 STAT. 2706]]*
>
> *A. lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in section 1208(3) of the Elementary and Secondary Education Act of 1965);*
>
> *B. lack of instruction in math; or*
>
> *C. limited English proficiency.*

To determine if English proficiency is affecting learning, there are several questions to consider:

- **Has the student been given an English language proficiency test?** Colorado Identification Procedures require that potential ML students must be assessed with the Screener for Kindergarten or WIDA Screener* within the first 30 days of school or within two weeks of enrollment during the remainder of the school year. All identified NEPs/LEPs are required by law to take ACCESS/Alternate ACCESS each spring to assess their English Language Proficiency (ELP).

- **Is the student receiving or has this student received ELD instruction services in accordance with the district's LIEP?** The Every Student Succeeds Act (ESSA) requires districts, schools, and public charter schools to notify parents/families of the student's Language Instruction Education Program (LIEP). CDE requires districts, schools, and public charter schools to annually report student's LIEP through the Student Demographic file.

- **Have targeted supports been implemented in addition to ELD instruction?** English language development services, although important, should not be considered supports.

- **Has progress been monitored and compared with the progress of a comparable group of MLs?** It is important to compare students to peers from the same culture, language, age, and immigrant groups.

- **Has progress been markedly lower than that of multilingual learner peers?** MLs demonstrate similar acquisition patterns. A student must demonstrate atypical growth for their peer group in all areas of language (speaking, listening, reading, and writing) for language development to be ruled out as the cause of difficulties.

- **Have ELD instruction and other services been provided for a sufficient length of time so that growth can be measured? Has the family been adequately informed of both the child's status as a language learner and also the fact that the child has demonstrated a lack of academic performance?** Newly arriving immigrants will move through a stage of culture shock and adjustment to the U.S. school system. They may appear to have signs and symptoms of a disability when, in reality, they have not yet adjusted to the school system. Although there is not a specific time frame for adequate adjustment, teams should carefully consider whether time has been sufficient to learn basic vocabulary, hear and discriminate English sounds and symbols, follow basic directions and practice learned skills. An appropriate referral to special education should happen only after all other avenues have been explored, and the student's needs cannot be met in the regular classroom, or with only ELD instruction.

** The full transition and requirement to administer WIDA Screener for Kindergarten began August 2022. The W-APT is no longer available and was replaced with WIDA Screener for Kindergarten, a new individually administered paper-and-pencil test that helps educators identify MLs in Kindergarten and 1st semester first grade.*

Being a multilingual learner in and of itself does not qualify a student for special education. Not having English as a first language is not a disability requiring special education instruction. However, MLs who has a learning or emotional disability could be found eligible for special education. An appropriate referral to special education should happen only after all other avenues have been explored, and the student's needs cannot be met in the primary education classroom or with only English Language Development (ELD) services.

Special Education Eligibility Criteria

Special education eligibility in the category of a Specific Learning Disability (SLD) is based upon evidence that the student does not perform or grow adequately for the student's age or to meet grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression, basic reading skills, reading fluency skills, reading comprehension, mathematical calculation, mathematics problem solving.

Specifically, the multidisciplinary team must determine if a student:

- Has one or more significant academic skill deficits as compared to age-level peers or grade-level benchmarks
- Makes insufficient progress in response to research/evidence-based interventions
- Has learning difficulties that are not primarily* the result of visual, hearing, or motor disabilities; significant limited intellectual capacity; significant identifiable emotional disability; cultural factors; environmental or economic disadvantage; or limited English proficiency

In addition, as is stated in the Federal Rules and Regulations and pertaining to the identification of any disability, the findings cannot be the result of a lack of appropriate instruction, specifically in the essential components of reading and in math. Eligibility for special education is based on two final determinations:

1. Student has a Specific Learning Disability and
2. Student cannot receive reasonable educational benefit from general education alone

** Note that a specific learning disability may coexist with another disability that is found to be the primary disability by the multidisciplinary team and that all special education needs must be identified whether or not commonly linked to the primary disability category in which the child has been classified.*

For more information, visit SLD Eligibility Criteria Section 4

Documentation must show that parents/guardians whose primary language is not English have been informed of the referral, evaluation, and eligibility process, as well as findings and recommendations, in their primary language unless it is not feasible to do so. Special education means specially designed instruction to meet the unique needs of a child with a disability. Services need to reflect the language needs of the student; the overall program must be coordinated, cohesive and consistent. If in fact a ML is found to have a disability under any of the 13 disability categories, they become dually identified. Teams should work to ensure that these students continue to receive English Language development support as an ML and that they begin to receive specialized services as outlined in their IEP. Districts, schools, and public charter schools should refer to the OSEP Policy Letter 21-03 which addresses whether IDEA requires inclusion of language development goals in a child's IEP if the child is a multilingual learner. This letter also discusses best practices that districts, schools, and teachers can use to ensure they provide appropriate instruction for MLs with disabilities throughout the school day.

Additional SLD Resources:

- MLs Identified or Suspected of Having Educational Disabilities
- Special Education Guidance Documents
- Specific Learning Disability Evaluation and Eligibility
- CLDE and Specific Learning Disability
- Office of Special Education at CDE
- SLD Resources for Eligibility and Guidance

6.3 Gifted Multilingual Learner: Culturally Responsive Identification & Programming

The language and culture of our multilingual learners is an asset to our classrooms and communities. The academic and affective strengths of gifted MLs must be recognized and nurtured through culturally responsive gifted identification practices and programming.

The Exceptional Children's Education Act (ECEA) mandates gifted education P-12 in the state of Colorado. Equitable identification of gifted multilingual learners creates opportunities to address these exceptional learners' individual academic and affective needs. Gifted MLs can be identified as gifted in one or more of the following strength area(s):

- General Intellectual Ability
- Specific Academic Aptitude: Reading
- Specific Academic Aptitude: Writing
- Specific Academic Aptitude: Math
- Specific Academic Aptitude: Science
- Specific Academic Aptitude: Social Studies
- Specific Academic Aptitude: World Language
- Specific Talent Aptitude: Creative or Productive thinking
- Specific Talent Aptitude: Dance
- Specific Talent Aptitude: Leadership
- Specific Talent Aptitude: Music
- Specific Talent Aptitude: Performing Arts
- Specific Talent Aptitude: Visual Arts
- Specific Talent Aptitude: Psychomotor

Common Characteristics of Gifted Multilingual Learners

Understanding the characteristics of gifted multilingual learners is an essential piece to ensuring that multilingual learners' giftedness is recognized and supported. An area of consideration when identifying gifted multilingual learners is the expression of giftedness and gifted characteristics across different cultures. For example, giftedness may manifest differently across cultures and languages, and strong relationships with families and community members will help educators understand and identify gifted MLs.

Gifted multilingual learners may exhibit some of the following characteristics within the context of their culture:

- Strong sense of community
- Collaborative
- Advanced use of social and/or academic language in heritage or acquired language(s)
- Acquire additional languages at faster than typical rate
- Ability to code switch (ability to change language and affect based on social settings)
- Interpret or translate at high levels
- Leadership abilities
- High verbal ability in heritage language
- Advanced sense of humor
- Advanced mathematical abilities
- Advanced reading abilities in heritage language
- Exceptional abilities seen in fine arts
- Creative problem solving
- Successfully assume responsibilities at a young age

**The list above is not a comprehensive list of characteristics and should not be used to exclude learners from consideration of need for gifted programming.*

Culturally Responsive Gifted Identification Practices

In order to create culturally responsive gifted identification systems and structures, the following practices are recommended or required by ECEA rules:

Gifted Education Referrals

Administrative Units (AUs) should develop referral procedures that seek referrals from a variety of sources. Identification is not just a moment in time or the use of data from one assessment. Referrals for gifted screening may come from but are not limited to these sources: families, community members, learners, peers, educators, universal screening, MTSS/Rtl, test data, performance & observations, checklists, anecdotal records, questionnaires, and interviews.

Exceptional Children's Educational Act (ECEA) Rules state an identification team has no more than 30 school days after a referral is received to communicate with the family, the learner, and educators whether the learner will be formally identified, or if more time is needed to continue identification assessment based on the current body of evidence.

Gifted Education Universal Screening

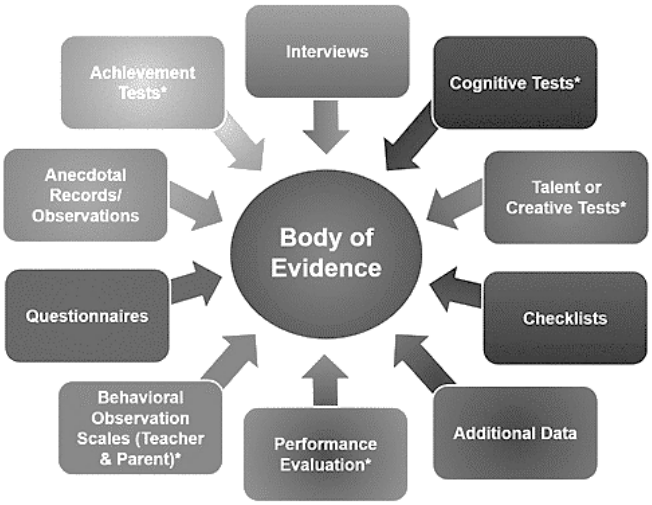
The recommended practice of universal screening, a research based best practice for creating equitable access to gifted programming, ensures fair and equal access for **all** learners to demonstrate ability and potential. Universal screening is an assessment method that uses a tool(s) to determine if the resulting data provide evidence of exceptional potential in an area of giftedness. Screening tools may be qualitative or quantitative in nature, standardized and/or normative. Screening data are part of a body of evidence for making identification and instructional decisions.

For multilingual learners, screening and identification tools should be culture-fair. Culture-fair assessments are tests that are designed to be as free of cultural bias as possible. It is important that culture-fair assessments have been normed with multilingual learners so as to be inclusive of the many groups of learners assessed.

The use of non-verbal tests, tests administered in a learner's heritage language, or the use of a collection of school and/or the universal review of district assessments that show above average growth or achievement either in English or their heritage language are all practices that can support the recognition of multilingual learners. ACCESS is a universal screener of all MLs and can be used as part of a body of evidence to identify giftedness.

Building a Robust, Individualized Body of Evidence

Gifted identification in Colorado requires the use of a body of evidence which includes both qualitative and quantitative data. A culturally responsive body of evidence should be used to determine the need for gifted services. This body of evidence should include enough information to identify area(s) of strength and to determine the academic and affective interventions necessary for that learner's growth. **Qualitative measures** are a representation of learners' skills and abilities and may include observations, portfolios, work samples, and performances. **Quantitative data** includes norm-referenced tests of both cognitive ability and achievement and criterion-referenced tests (e.g. state assessment and curriculum based measures). Culturally responsive measures include, but are not limited to:



Colorado Department of Education 2020 Gifted Education Guidebook, page 10

- Learner interviews in heritage language.
- Observation checklists and scales that are inclusive of characteristics of multilingual learners.
- Anecdotal information highlighting cultural expressions and manifestations of giftedness.
- Portfolios, inclusive of heritage language and/or additional language acquisition.
- Culture-fair assessments.
- Variety of quantitative and qualitative assessment options that are normed with multilingual learners and demographic groups.
- Performances both in and out of the school setting.
- Locally normed assessment results (academic and ability) by demographic group.

Families provide valuable insight into their child's strengths, abilities, and interest. Intentional engagement and inclusion of families in the identification process is a critical part of developing culturally responsive practices. Culturally responsive family engagement practices include but are not limited to:

- Resources and materials provided in the family's heritage language.
- Family questionnaires and interviews for the body of evidence should be inclusive of the learner's culture.
- Provide interpretation when meeting with families to discuss the body of evidence.
- Consider location and timing of meetings, determine location where families will feel comfortable and at a time which allows for family attendance.

ACCESS as a Tool for Gifted Identification

ACCESS is a universal screener of all multilingual learners and may be used as a qualifying data point in the overall body of evidence for gifted identification. The ACCESS Overall composite score is the most comprehensive indicator of performance in language acquisition and may be used as qualifying evidence for gifted identification. The ACCESS Literacy composite score (reading and writing) may also serve as qualifying evidence. While individual domain scores cannot be used for qualification, they are useful as a component of the body of evidence to support programming for a learner's strength area(s).

To view guidance about Using ACCESS for ELLs Gifted Identification

ACCESS scores may be used as qualifying evidence through any one of the following:

1. Accelerated Achievement (Proficiency Score): If a learner increases his or her Literacy or Overall composite score by 2.0 or more from one year to the next (e.g., 1.0 to 3.0 or higher); or
2. Accelerated Trajectory through ELD instruction: If a learner exits the LIEP at an accelerated pace (e.g., 3 years vs. 6 years from newcomer to monitor status); or
3. Growth Percentiles: If a learner demonstrates growth at the 95th percentile or above in any year, and that growth shows a trend of sustained excellence.

For more information, visit the Gifted Identification Guidebook

For more information, visit WIDA ACCESS for ELLs

Gifted Education Determination

The Administrative Unit is required to develop a review team that includes at least one person trained or endorsed in gifted identification and programming. Members of this team should include but are not limited to: classroom teacher, English language specialist, administrator, gifted educator, family, learner, specialists in the area of identification (PE, Art, Music, etc.), Special Education teacher, interventionists, counselors, psychologists, and interpreter (to support any academic translation needs). Collaboration between members of the identification team and intentional inclusion of team members with expertise with multilingual learners is critical. Multilingual learners may also need or have Section 504 Plans or Individualized Education Plans (IEPs) due to twice exceptionality (2E). In this case, the intentional inclusion of experts, such as the Special Education teacher, 504 Coordinator, psychologist, and other experts is essential for the determination process.

The determination of need for gifted services must be based on the body of evidence, which must include, at a minimum, the identification assessment results, family input, and multiple types of measures and data sources. The assessment process used by the Administrative Unit for identifying learners who meet the definition is specified by the ECEA section 12.01(16) and for identifying the educational needs of gifted learners. The assessment process should recognize a learner's exceptional abilities or potential, interests, and needs in order to guide learner instruction and individualized planning and programming. Identification may require the collection of learner information over time, using additional data points from a response to intervention approach.

Culturally Responsive Gifted Programming

Advanced Learning Plans

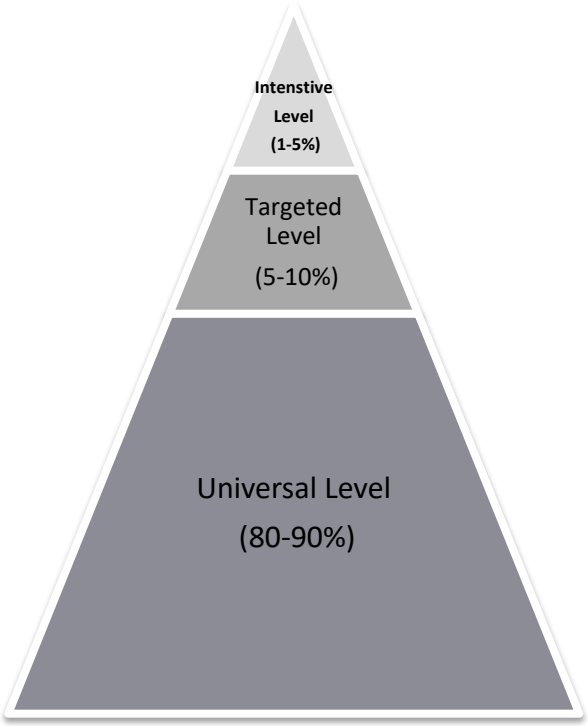
Colorado's Exceptional Children's Education Act requires all identified gifted learners to have an Advanced Learning Plan (ALP). The ALP is the starting point for a gifted learner's individualized strength-based programming and services. It is a dynamic and collaborative learner centered plan which includes a gifted learner's strengths as well as academic and affective learning goals. The learner, their family, classroom teacher(s), and gifted education teacher should all be involved in the development of the ALP. Advanced Learning Plans should also include a learner profile which includes but is not limited to learner interests, demonstration and documentation of previously unidentified strengths, progress monitoring of goals, and a description of the culturally responsive gifted best practices that align to the learner's needs. These practices may include but are not limited to supplemental culturally responsive curriculum, interest-based activities, specific programs or rigorous coursework, and/or extended or expanded learning opportunities.

Tiers of Service for Gifted Learners

Gifted programming based on culturally responsive instructional practices should be delivered in a tiered service model. Learner needs will dictate which tier of service is necessary. Learners may need programming at one or more tiers of service depending on their level of giftedness, readiness, exposure, area of strength, etc. When working with gifted MLs, intentional consideration of services should include determining the learners' strengths and designing programming to provide access and opportunity. **Limited English proficiency is NOT a reason to exclude a learner from accessing gifted programs.** Scaffolding language support within all gifted programming will allow gifted MLs to demonstrate their abilities and develop their gifts.

Universal - Provided to ALL learners; research based, high quality, general education using on-going universal screening, progress monitoring, and assessments to design instruction. 80-90% of gifted learners' needs can be met in the general classroom if these conditions are present.

- Quality culturally linguistically responsive instruction
- Screening using appropriate tools/tasks
- Access to and a plan for programming
- Transformative social emotional learning guidance
- Understanding manifestations of giftedness across and within cultures
- Differentiated curriculum, instruction, and assessment
- Vertical progression on skill continuums
- Flexible pacing, cluster grouping
- Pre-assessment and curriculum compacting
- Independent projects
- Leadership development
- Goal setting for college and/or career planning
- Early instruction in presentation, research, study, and organization skills
- Exposure to multiple college and career pathways
- School-wide Enrichment Model
- Schoolwide Cluster Grouping Model
- Depth and Complexity
- Project-based learning
- Problem-based learning based on community needs
- Strength-based programming, including fine arts (arts as represented in learners' cultures)



Targeted - Provided, in addition to universal supports, to learners identified at-risk or who require specific support to make adequate progress in general education. 5-10% of gifted learners require this tier of service to ensure their learning needs are met. It is important to remember that gifted multilingual learners' academic and/or affective needs often fall into the targeted or intensive programming tiers. Regardless of English proficiency level, gifted MLs must have access and opportunity to these targeted intensive interventions. Schools can provide access and opportunities to this level of service through scaffolded language support and by having the English Language specialist and Gifted Education specialist work together.

- Intentional academic programs/groups
- Push-in programs
- Pull-out programs
- Subject acceleration in one or more subjects
- Specialized curriculum programs providing advanced content
- Honors, AP courses, International Baccalaureate courses
- Advanced online courses
- Flexible counseling groups
- Access to competitions or advanced clubs typically reserved for older learners
- Mentorship, ideally with a leader from someone within the community and/or with a cultural and linguistic connection to the learner
- Summer/Saturday learning opportunities
- Talent Searches and University programs

Intensive - Interventions based on comprehensive evaluation are provided to learners with intensive needs in addition to universal and targeted supports as indicated. 1-5% of gifted learners require this tier of service to ensure their learning needs are met. These gifted learners have the most intense academic and/or affective needs.

- Full grade level acceleration (or multiple grade level)
- Dual enrollment (Concurrent enrollment such as middle school and high school, high school- college)
- Early entrance
- Early access
- Early graduation
- Specialized counseling
- Long-term internship
- Magnet classrooms designed for gifted learners
- Schools for gifted children

Collaboration between Culturally and Linguistically Diverse (CLD) staff, Special Education staff and Gifted Education staff is highly encouraged at every point in decision making. Service for these special populations must be coordinated and one need or identification must not overshadow another. Rather, students must receive all necessary services.

Identifying CLD learners for gifted programming begins with collaboration among classroom teachers, Gifted Education, and other relevant staff such as when appropriate ELD and/or CLD teachers. Formal channels of communication between teachers and coordinators are vital to the success of culturally, linguistically diverse gifted learners.

Additional Gifted Education Website Resources:

Fostering Equitable Access to Gifted Services for English Learners

Exploratory Study on the Identification of English Learners for Gifted and Talented Programs

English Learners and Gifted Programming, (Chapter 4)

Gifted Identification | CDE

Gifted Identification FAQs