ESOL Program Guidance Webinar Series:

Avoiding Segregation, Identifying/Serving Special Education ELs, Addressing Opt-Out Students

presented by

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March 31, 2016

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Avoiding Segregation, Identifying/Serving Special Education ELs, Addressing Opt-Out Students

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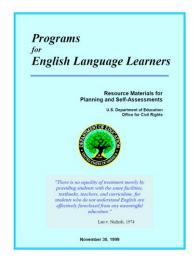
March 10, 2016

Welcome!

- Webinar is being recorded
- PowerPoint and recording will be posted on the ADE English Learners webpage
- Alan Lytle &/Or Miguel Hernandez are joining us to monitor the Q/A
- Please post Q/A in the Q/A box
- Questions will either be answered during webinar or by email from Tricia Kerr

Agenda

❑Avoiding Unnecessary Segregation
❑Evaluating EL Students for SPED Services
❑Providing SPED and ESOL Services
❑Meeting Needs of Opt-Out EL Students
❑Documenting Opt-Out EL Students
❑Assessing Opt-Out EL Students
❑Next Steps
❑Regional ELP Standards Workshop Sessions

Avoiding Unnecessary Segregation

➢ EL programs may not unjustifiably segregate students on the basis of national origin or EL status
➢ May require EL students to receive separate instruction for a limited period of time
➢ Least segregated manner consistent with program's educational goals

Avoiding Unnecessary Segregation

➢ Rarely justified to instruct EL and non-EL in subjects like physical education, art and music
➢ Rarely justified to separate students during activity periods outside of instruction (lunch, recess, assemblies, extracurricular activities)

Avoiding Unnecessary Segregation

➢ Examine whether the nature and degree of segregation is necessary to achieve the goals of an educationally sound and effective EL program
➢ KEY: monitor student progress regularly
➢ Should not keep ELs in ESOL programs longer or shorter than necessary to achieve program's educational goals

Avoiding Unnecessary Segregation

➢ Districts should not keep EL students in EL-only classes for periods longer or shorter than required by
  - ➢ Each student's level of English proficiency
  - ➢ Time and progress in the ESOL program
  - ➢ Stated goals of the ESOL program

Avoiding Unnecessary Segregation

➢ To determine whether degree of segregation is necessary
  - ➢ Entry and exit into a segregated ESOL program model is voluntary
  - ➢ Program reasonably designed to provide EL students comparable access to standard curriculum within reasonable length of time

Avoiding Unnecessary Segregation

➢ To determine whether degree of segregation is necessary
  ➢ Do EL students have same range and level of extracurricular activities and additional services as students in other environments
  ➢ At least annually assess English proficiency and appropriate level of language assistance services
  ➢ Valid and reliable exit criteria from ESOL services (transition between level of services)

Avoiding Unnecessary Segregation

➢ Voluntary newcomer program with self-contained ESOL services for limited duration (generally a year) is acceptable if
  ➢ Schedules newcomer EL students' nonacademic subjects, lunchtime, recess with non-EL students
  ➢ Encourages newcomer EL students to participate in integrated after-school activities
  ➢ Evaluates English proficiency regularly to allow appropriate transitions out of the newcomer EL program throughout the academic year

Compliance Issues-Unnecessary Segregation

Some examples of when the Departments have found compliance issues involving segregation include when school districts:

(1) fail to give segregated EL students access to their grade-level curriculum, special education, or extracurricular activities;

(2) segregate EL students for both academic and non-academic subjects, such as recess, physical education, art, and music;

Compliance Issues-Unnecessary Segregation

(3) maintain students in a language assistance program longer than necessary to achieve the district's goals for the program; and

(4) place EL students in more segregated newcomer programs due to perceived behavior problems or perceived special needs

Evaluating EL Students for SPED Services

➢ 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**.

Evaluating EL Students for SPED Services

➢ When conducting such evaluations, districts must **consider the English language proficiency** of EL students in determining the **appropriate assessments** and other evaluation materials to be used.

Evaluating EL Students for SPED Services

➢Districts must **not identify** or determine that EL students are students with **disabilities because of their limited English language proficiency.**

Providing SPED and ESOL Services

➢ Districts must provide EL students with disabilities with both the language assistance and disability-related services to which they are entitled under Federal law.

Providing SPED and ESOL Services

➢ Districts must also inform a parent of an EL student with an individualized education program (IEP) how the language instruction education program meets the objectives of the child's IEP

Providing SPED and ESOL Services

➢ May NOT have a formal or informal policy of "no dual services," i.e., a policy of allowing students to receive either EL services or special education services, but not both.

Providing SPED and ESOL Services

➢ May NOT have a policy of delaying disability evaluations of EL students for special education and related services for a specified period of time based on their EL status

Individuals with Disabilities Education Act (IDEA)

➢ Ensure that assessments and other evaluation materials used to evaluate a child with a disability are "provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, *unless it is clearly not feasible to so provide or administer*"

Individuals with Disabilities Education Act (IDEA)--IEP

➢ IEP team must consider language needs as those needs relate to the child's IEP

  ➢ IEP team MUST include someone who knows language needs and how to address them

  ➢ IEP team includes ESOL trained professionals

➢ IDEA requires district to take whatever action necessary to ensure parent understands proceedings of IEP meeting (interpreter)

IDEA Example

➢ A teacher thinks that a Spanish-speaking EL student with beginner level English has a learning disability. She would like to have the student evaluated for a disability, but believes that the student must complete one year in the EL program or achieve intermediate proficiency in English before being evaluated for a disability or receiving special education and related services. **She is incorrect.**

IDEA Example (continued)

➢ The principal explains to her that if she believes the student has a disability, the school district must seek parental consent for an initial evaluation and once consent is granted must evaluate the student in a timely manner. After the parents' consent, the district arranges for a bilingual psychologist to conduct the evaluation in Spanish, given the EL student's ELP level and language background.

Section 504

➢ Section 504 evaluations of EL students must measure whether an EL student has a disability and not reflect the student's lack of proficiency in English.

➢ Administer evaluations in an appropriate language to avoid misclassification.

➢ Gather appropriate information about a student's previous educational background (including language-based interventions)

SPED/EL Guiding Questions

• See questions on page 44 of ESOL Program Guidance document

Compliance Issues—Evaluating EL Students for IDEA/Section 504

Some examples of when OCR has identified compliance issues regarding EL students with disabilities eligible for services under Section 504 or the IDEA include when school districts:
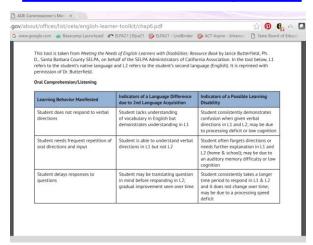
(1) deny English language services to EL students with disabilities;

(2) evaluate EL students for special education services only in English when the native and dominant language of the EL student is other than English;

Compliance Issues—Evaluating EL Students for IDEA/Section 504

(3) fail to include staff qualified in EL instruction and second language acquisition in placement decisions under the IDEA and Section 504; or

(4) fail to provide interpreters to LEP parents at IEP meetings to ensure that LEP parents understand the proceedings."

OELA Toolkit, Chapter 6

Meeting Needs of EL Students Who Opt-Out

❑ Parents have a right to decline or opt their children out of a school district's ESOL program or out of particular ESOL services within an ESOL program.

❑ For example, parents may choose to enroll their child in ESOL English classes, but decline to enroll their child in EL-only sheltered content classes.

Meeting Needs of EL Students Who Opt-Out

❑ **School districts may not recommend that parents decline all or some services within an ESOL program for any reason, including facilitating scheduling of special education services or other scheduling reasons**.

Meeting Needs of EL Students Who Opt-Out

❑A parent's decision to opt out of an ESOL program or particular ESOL services must be **knowing and voluntary**.

❑ Districts must provide guidance in a language parents can understand to ensure that parents understand their child's rights, the range of ESOL services that their child could receive, and the benefits of such services before voluntarily waiving them

Documenting EL Students Who Opt-Out

• OCR considers whether a parent's decision to opt out of an ESOL program or particular ESOL services was **knowing and voluntary**.

• OCR or ADE could examine the school district's records, including any documentation of the parent's opt-out decision and whether the parent signed such documentation.

Documenting EL Students Who Opt-Out

eSchoolPLUS

- **ESL Waived Services Date**: *The date a LEP/ELL student's parent signed the form waiving ESOL services for the student.* MM/DD/YYYY
- If at any time, the parent requests services, then remove the ESL Waived Services Date.

Serving EL Students Who Opt-Out

- Children retain their status as EL students.
- District must still take the "appropriate action' required by Equal Educational Opportunity Act to provide these EL students access to its educational programs
- Must periodically monitor progress of Opt-Out students
- Offer parents opportunities to enroll student in ESOL services at any time

Serving EL Students Who Opt-Out

- Even if student is struggling and parents decline services, must take affirmative and appropriate steps to provide access to meaningful curriculum
- Provide adequate training to the opt-out EL student's general education teachers on second language acquisition and ELD

Assessing EL Students Who Opt-Out

- **opt-out EL students must have their English language proficiency assessed at least** annually to gauge their progress in attaining English proficiency and to determine if they are still in need of and legally entitled to ESOL services.
- There is no assessment exemption for students who do not receive ESOL services

3/31/2016

Example 1—Meeting Needs of Opt-Out Students

- A student is tested and determined to be an EL student. The parent initially refuses ESOL program services because the parent believes her child speaks fluent English. After the first quarter, the student's teacher contacts the parent to discuss that the EL student is struggling with reading and writing assignments despite her strong English-speaking skills.

Example 1—Meeting Needs of Opt-Out Students

- The teacher offers a period of ELD and sheltered content classes, explaining how both can improve the student's proficiency in reading and writing. The parent accepts the ELD services and agrees to reevaluate the placement at the end of the school year.

Example 2—Meeting Needs of Opt-Out Students

At the beginning of the school year a kindergarten student is tested and determined to be EL. The parent declined Title III and English language services that were offered in segregated classes attended by EL students only. Although the student's parents opted the child out of ESOL-specific services, the school recognizes that the student continues to struggle in English. The school responds by training the kindergarten teacher to use ELD strategies in the EL student's regular, integrated classroom.

Opt-Out EL Guiding Questions

- See questions on page 47 of ESOL Program Guidance document

Compliance Issues—Meeting Needs of Opt-Out EL Students

In areas around the country, OCR and the DOJ past investigations have found high numbers of EL students whose parents have opted them out of ESOL programs or particular services within an ESOL program due to problematic district practices such as school personnel steering families away from ESOL programs, or providing incorrect or inadequate information to parents about the ESOL program, particular services within the program, or their child's EL status.

Compliance Issues—Meeting Needs of Opt-Out EL Students

OCR and the DOJ have also found noncompliance where school personnel have recommended that families decline ESOL programs due to insufficient space in such programs or because school districts served only EL students with a basic or emerging level of English.

Compliance Issues—Meeting Needs of Opt-Out EL Students

Parents have also been found to have opted their children out of ESOL programs because the **school district did not adequately address parental concerns** expressed about the quality of the ESOL program, their lack of confidence in the ESOL program offered because the school district was not able to demonstrate the effectiveness of its program, or their belief that their child did not need ESOL services

Next Steps

❑ Thursday, April 21, 2016, 9:00-10:00 am—
Exiting/Monitoring Students, Meaningful Communication with LEP Parents, Program Evaluation

Regional ELP Standards Workshop Sessions

1. Crowley's Ridge Education Service Cooperative; June 14-16, 2016
2. Northwest Education Service Cooperative; June 27-29, 2016
3. Wilbur Mills (Pulaski County) Education Service Cooperative; July 6-8, 2016
4. Guy Fenter Education Service Cooperative; July 12-14, 2016
5. De-Queen/Mena Education Service Cooperative; July 18-20, 2016
6. Southeast Education Service Cooperative; July 26-28, 2016

Commissioner's Memo has details!!

Other Items of Interest

- 2016 ESL Graduate Academy **(due April 1)**
- EL Achieve Symposium, June 1-2 in Springdale
  – English Language Development (ELD)
  – Constructing Meaning (CM)

ADE ESOL Team

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