

English Learners in California Frequently Asked Questions

The following are responses to generally asked questions regarding English Learners (ELs).

The frequently asked questions and answers are intended to assist school districts in implementing services to ELs. By no means does this collection represent all of the questions or scenarios.

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Introduction and Demographics

California has the most diverse student population in the world, with more than 100 languages spoken in the homes of those students. Today, our student population is “majority-minority.” Forty-one percent of our students speak a language other than English at home, and a quarter of all California public school students are struggling to learn the English language in school.

Sadly, too many people view such diversity as a big problem. I don’t. Instead, I say: Imagine the potential of that diversity in today’s and tomorrow’s –global economy. If we educate these students well, our state would not only be able to compete more effectively, but it would be able to lead our nation and the world economically.

*Jack O’Connell, Superintendent of Public Instruction
State of Education remarks, 2006*

Nearly 1.6 million pupils in the kindergarten through grade twelve (K-12) public educational system in California, or one in four, are ELs. This represents almost one-third of the ELs in the nation. ELs are enrolled in almost every district and in the vast majority of schools in the state. Approximately 85 percent are Spanish speaking, 2.2 percent are Vietnamese speaking, and 1.5 percent are Hmong speaking.

ELs face the daunting task of learning the academic curriculum and a new language concurrently. They need to learn English quickly enough and fluently enough to participate in academic work, and like all children, learn grade level mathematics, reading/language arts, social studies, and science.

The law governing the educational services for ELs is varied and consists of both state and federal requirements. Federal law clearly takes precedence over state law if there is a conflict. Therefore, districts must ensure that they comply with all federal requirements while also implementing state requirements. Applicable legal citations referenced are included in the responses, as appropriate.

Identification and Placement

1. Who is identified as an EL?

An EL is a K-12 student who, based on objective assessment, has not developed listening, speaking, reading, and writing proficiencies in English sufficient for participation in the regular school program. These students are sometimes referred to as Limited English Proficient (LEP). The process for identification is described in the California English Language Development Test (CELDT) Assistance Packet for School Districts at <http://www.cde.ca.gov/ta/tg/el/resources.asp>.

2. What is the program placement for ELs in California?

An English language classroom is the placement for ELs in California, unless a parental exception waiver is granted for an alternative program. There are two types of English language classrooms: Structured English Immersion (SEI) and English Language Mainstream. SEI classrooms are designed for students with less than “reasonable fluency”. An English language mainstream classroom is designed for students with “reasonable fluency” or a “good working knowledge of English”. Typically, ELs scoring at the beginning to intermediate levels on the CELDT are considered to have less than “reasonable fluency” (California *Education Code* [EC] Section 305).

An EL shall be transferred from a SEI classroom to an English language mainstream classroom when the pupil has acquired a reasonable level of English proficiency (EC 305). However, at any time, including during the school year, a parent or guardian may have his or her child moved into an English language mainstream classroom (California *Code of Regulations* [CCR], Title 5, section 11301).

3. What is SEI?

SEI, also known as “Sheltered English Immersion”, is an English language acquisition process for young children in which nearly all classroom instruction is in English, but with curriculum and presentation designed for children who are learning the language (*EC 306*).

Typically, SEI includes: (1) English language development (ELD) appropriate to each student’s level of English proficiency, (2) content instruction utilizing specially designed academic instruction in English (SDAIE) whenever needed for full access to the core, and (3) may include primary language support. Usually, SEI is for ELs scoring at the beginning through intermediate levels on CELDT.

The California Department of Education (CDE) has consistently advised LEAs of their legal obligation to provide the minimum program elements of ELD, formerly known as ESL, and access to the core curriculum (*Castaneda v. Pickard*, 1981). See question 19 for additional information regarding ELD.

4. Must all ELs be enrolled in an SEI program for one year?

ELs who lack reasonable fluency in English, as defined by the district, must be placed in a SEI program unless their parent/guardian requests placement in an English language mainstream classroom or is granted a parental exception waiver for an alternative program. Of course, all ELs must receive additional and appropriate educational services until they are reclassified (*EC 305, CCR, Title 5, sections 11301 and 11302*).

5. May EL students be re-enrolled in a SEI program?

Yes. An English learner may be re-enrolled in a structured English program not normally intended to exceed one year if the pupil has not achieved a reasonable level of English proficiency unless the parents or guardians of the pupil object to the extended placement (CCR, Title 5, section 11301).

6. What is a Dual Language Program or Two-Way Immersion Program?

Two-way immersion programs integrate language minority students (ELs) and language majority students (English speakers) in order to develop their bilingualism and biliteracy in English and another language. In two-way programs, the model selected generally prescribes the amount of time spent in the target (non-English) language. Dual Language Program or Two-Way Immersion Program is one of the instructional delivery approaches under the alternative program. For more information, please visit <http://www.cde.ca.gov/sp/el/ip>.

7. What does a parent need to do to have his/her child placed in an English language mainstream classroom?

The parent/guardian of an EL need only request this placement. This does not entail going through the waiver process. (*CCR*, Title 5, sections 11301[b]).

8. What does a parent need to do to have his/her child placed in an alternative program?

The parent/guardian may request a waiver to allow his/her child to participate in an alternative program following local district waiver procedures. The final decision to grant or deny the request lies with the principal and educational staff who must apply the standard found at *CCR*, Title 5, section 11309(b)(4).

9. Must students under waiver option *EC 311(c)* be placed in an English language classroom for 30 days each year?

No. EL students with approved waivers need only be placed in an English language classroom for 30 days in their initial school year in California. Although the waiver request must be submitted annually, in subsequent years the student need not repeat the 30 day trial period.

10. Where may SEI take place?

SEI may take place in any educational setting where the teacher is qualified to provide it.

11. Where can we get information about developing programs for linguistically and culturally diverse students?

CDE has a list of resources with information about developing programs for linguistically and culturally diverse students at <http://www.cde.ca.gov/sp/el/er>.

Curriculum and Instruction

12. What responsibilities do districts have to provide full access to grade-level core curriculum for ELs?

Districts must ensure that all students meet grade-level core curriculum standards within a reasonable amount of time. If a district chooses to emphasize ELD before full access to the core curriculum or if the student does not comprehend enough English to allow full access to the core curriculum, the district must develop and successfully implement a plan for ELs to recoup any and all academic deficits before the deficits become irreparable (*CCR*, Title 5, sections 11302[a] and [b]).

13. What are the ELD standards?

The *English-language Development Standards* are designed to supplement the English-language arts content standards to ensure that LEP students (now called ELs in California) develop proficiency in both the English language and the concepts and skills contained in the English-language arts content standards. The standards are designed to assist teachers in moving ELs to fluency in English and proficiency in the English-language arts content standards. The ELD standards were also used to develop the CELDT. The ELD standards can be downloaded at <http://www.cde.ca.gov/ta/tg/el/admin.asp>.

(*English-Language Development Standards for California Public Schools*, 1999)

14. Must the language of instruction used by the teaching personnel in an English language classroom be “overwhelmingly” the English language?

Yes. In all English language classrooms, the language of instruction used by the teaching personnel must be “overwhelmingly” the English language. In SEI programs however, “nearly all” classroom instruction is in English. It is the responsibility of each district to define “overwhelmingly” and “nearly all” in order to determine how much primary language instruction or support is permitted (EC 306 and 310).

15. May primary language literacy development take place in California schools?

Although instruction in English language classrooms must be overwhelmingly in English, instruction need not be exclusively in English. In alternative programs, instruction may be provided in English as well as in a language other than English.

16. How long must districts provide services to ELs?

School districts are required to *continue to provide additional and appropriate educational services to English learners until they have demonstrated English-language skills comparable to that of the district's average native English-language speakers and have recouped any academic deficits which may have been incurred in other areas of the core curriculum* (CCR, Title 5, section 11302). Services must continue until ELs meet objective reclassification criteria (EC 313). This means that EL students must be provided with ELD and SDAIE, as needed, and/or primary language instruction until they are redesignated as fluent English proficient (FEP).

17. Does a district have any responsibility for monitoring redesignated/reclassified students?

Yes. Districts receiving Title III funds are required under No Child Left Behind (NCLB) to monitor students for two years after redesignation (NCLB, Section 3121[a][4]).

18. May SDAIE in content classes be considered part of SEI?

Yes. However, ELD must also be part of the defined SEI. SDAIE is defined, for purpose of teacher credentialing, as *instruction in a subject area, delivered in English, that is specially designed to meet the needs of limited-English-proficient pupils*. SDAIE is an instructional methodology, not a program (EC 44253.2[b]).

19. Are all ELs required to receive ELD appropriate to their English proficiency level?

Yes. During the regular day, differentiated ELD instruction appropriate to the English proficiency level of each EL must be provided by an authorized teacher until the student is reclassified. Districts are to provide ELs with instruction using whatever materials are deemed appropriate that are specifically designed to enable students at each level of English language proficiency to acquire academic English rapidly, efficiently, and effectively. The law does not require a specific number of minutes of ELD for all ELs. Each district has the discretion to determine the amount of time appropriate for students at different English language proficiency levels. The district should have a rationale for the scheduling and amount of ELD students are receiving that bears relation to progress in English (*Castañeda v. Pickard*, 1981). For the suggested amount of instructional minutes for ELD, consult the State Board of Education (SBE) adopted criteria for reading/language arts/ELD instructional materials contained in the 2008 Framework posted at <http://www.cde.ca.gov/ci/rl/cf>.

20. Is it mandatory to provide EL services to pupils whose parents do not want their children to receive those services?

Parents may request that their children be exempted from a specific instructional setting (CCR, Title 5, section 11301 (b)). However, districts still have an obligation to ensure that students receive ELD and access to other core content areas from teachers who are qualified to provide such instruction (*Castañeda v. Pickard*, 1981).

21. What are the options for introducing English Literacy?

In English Language classrooms (SEI and mainstream) English literacy is introduced immediately. In alternative classrooms, literacy is also introduced immediately; the formal introduction of English literacy depends on the program design.

22. What instructional materials can LEAs use to provide ELD instruction?

Districts and schools have a variety of resources and instructional materials available to support ELD instruction.

For grades kindergarten through grade eight, state-adopted materials contain ELD support components. In addition, the current list includes intervention materials for ELs. The list of state-adopted reading/language arts materials is available on the CDE Web site at <http://www.cde.ca.gov/ci/rl/im>.

For grades nine through twelve, there are no state-adopted instructional materials. Local district governing boards adopt instructional materials for use in their high schools.

23. What materials should be provided to our ELs?

ELs must be provided standards-aligned instructional materials. For kindergarten through grade eight, these are state-adopted instructional materials in mathematics, science, reading/language arts, and history-social science that are consistent with the content and cycles of the curriculum frameworks and include universal access features that address the needs of ELs. For grades nine through twelve local governing boards should adopt standards-aligned materials for all students that include universal access features. More information is available at <http://www.cde.ca.gov/ci/cr/cf/imfrpfaq1.asp>.

PARENTAL EXCEPTION WAIVERS

24. When are parental exception waivers required?

When the parent/guardian of an EL wishes to have his/her student placed in a program that is an alternative to SEI, or an English language mainstream classroom, a waiver is required. An alternative program is likely to be some form of bilingual education such as the Two-Way program (*EC 310,311*).

25. Are districts obligated to establish a parental exception waiver process?

Yes. School districts must establish procedures for granting parental exception waivers. These procedures must be approved by the local governing board. (*CCR, Title 5, section 11309; EC 310 and 311*)

26. What is the standard that schools and districts must use in making decisions to grant or deny a parent's waiver request?

Parental exception waivers shall be granted unless the school principal and educational staff have determined that an alternative program . . . would not be better suited for the overall educational development of the pupil (CCR, Title 5, section 11309 [b][4]).

27. If I am denied a parental exception waiver, what are my options?

In cases where a parental exception waiver is denied, parents/guardians must be informed in writing of the reason(s) for denial and advised of any procedures that exist to appeal the decision to the local board of education or their right to appeal to a court. A parent may also request a SBE review of the district's waiver procedure.

Parents always have the right to address the district's board of education regarding any issues of concern. Parents may also file a formal complaint under the district's Uniform Complaint Procedures (*CCR, Title 5, sections 11309 [d]*).

28. If an alternative program is not offered at a specific school site, is the district obligated to provide transportation to a district school where an alternative program is available?

If the district provides transportation to other optional or voluntary programs, such as magnet programs, academies, or other alternative programs, it must provide transportation to the alternative program that is available.

29. Are there resources to assist LEA staff in locating parental notification documents translated into non-English languages?

Yes. The Clearinghouse for Multilingual Documents (CMD) is a Web-based resource that provides information about public and secondary educational documents translated into non-English languages by California educational agencies. Developed by the CDE, the CMD helps districts and county offices to locate useful translations of parental notification documents and reduce redundant translation efforts. In so doing, the CMD helps schools to meet state and federal requirements for document translation and parental notification, including the requirements in *EC 48985*, the NCLB Act of 2001, and other legislation. More information is available at <http://www.cde.ca.gov/ls/pf/cm/>.

STAFFING

30. Are the Bilingual Cross-cultural Language and Academic Development (BCLAD), Cross-cultural Language and Academic Development (CLAD), or their equivalent authorizations required to teach ELs?

Yes. The type of authorization required depends on the type of instruction provided to ELs. More information is available at <http://www.ctc.ca.gov>.

31. Does California state law require that teachers of ELs attain authorization to provide instruction to ELs?

Yes. Specific requirements are provided in the CDE's FAQs for Teacher Authorization for ELs in California at <http://www.cde.ca.gov/sp/el/t3>.

32. Do the Highly Qualified Teachers Credentialing Requirements for ELs also apply to Teachers from Abroad?

Yes. Out-of-state and foreign nationals must fully meet the Highly Qualified Credentialing Requirements. Foreign nationals have one year to pass the California Basic Educational Skills Test. During the first year in California they are considered highly qualified if they are eligible and apply for any of the approved California Commission on Teacher Credentialing credentials. Federal law requires that J-1 visa exchange visitors return to their home country after three years. During the first year in California, foreign nationals may obtain the emergency BCLAD authorization to work with ELs in regular classroom settings and some special education assignments. Since most of the teachers are "not new" to the profession, they benefit from the High Objective Uniform State Standards of Evaluation (HOUSSE) options.

HOUSSE options, as currently established, are effective until June 30, 2007. For more information regarding Highly Qualified Teachers Credentialing Requirements and HOUSSE, visit <http://www.cde.ca.gov/nclb/sr/tq/>.

Testing, Assessment and Accountability

33. What is the California ELD Test?

Federal and state laws require a state test of English language proficiency that school districts must give to students who are ELs. The California test is called the CELDT. All students whose primary language is not English must take the test within 30 calendar days after they are enrolled in a California public school for the first time. The CELDT also must be given once each year to ELs until they are reclassified as fluent English proficient. More information on the CELDT is available at <http://www.cde.ca.gov/ta/tg/el/resources.asp>.

34. What is the purpose of the CELDT?

The purpose of the CELDT is: (1) to identify new students who are ELs, in kindergarten through grade twelve; (2) to determine their level of English proficiency; (3) to monitor their progress in learning English on an annual basis; and (4) to determine when students have met one of the criteria to be reclassified to FEP status. The Assistance Packet for School Districts/Schools includes facts about the CELDT, release dates of test results, CELDT accommodations, reclassification, and communicating results with parents/guardians. It is available at <http://www.cde.ca.gov/ta/tg/el/resources.asp>.

35. Can parents opt to have their students exempted from taking the CELDT?

No. Parents cannot “opt out” of the CELDT because English language proficiency assessment is both a federal (NCLB Title I. section 1111[b][7] and Title III, 2002) and state requirement (*EC 313*).

36. Are ELs required to take the tests in the Standardized Testing and Reporting (STAR) program?

Yes. All students in grades two through eleven participate in the STAR program, including students with disabilities and students who are ELs. In addition to the tests administered in English, all Spanish-speaking ELs who have been enrolled in a school in the United States for less than 12 months or who receive instruction in Spanish regardless of how long they have been in

school in the United States, must take the designated primary language test (DPLT), currently the Aprenda 3 (EC 60640).

Students whose parents or guardians have submitted written requests to exempt them from STAR program testing do not take any tests (EC 60615). More information is available at <http://www.cde.ca.gov/ta/tg/sr>.

Standards-Based Tests in Spanish (STS) for reading/language arts and mathematics are currently being developed for grades two, three, and four, and field testing is anticipated for fall of 2006. The tests are to replace the DPLT (Aprenda 3) as each grade becomes operational. The STS blueprints, approved by the SBE, can be viewed at <http://www.cde.ca.gov/ta/tg/sr/resources.asp>.

For more information on the California Assessment System, a chart is available at <http://www.cde.ca.gov/ta/tg/sa/caassessment.asp>.

37. What assistance can be provided to ELs when taking the tests in the STAR program?

ELs may use translation glossaries or word lists (English-to-primary language) that do not include definitions or formulas for all subjects, except English-language arts. They also may have the test directions translated for them and ask clarifying questions in their own language for all subjects, including English-language arts. These variations are described on the last page of the Matrix of Test Variations, Accommodations and Modifications for Administration of California Statewide Assessments available at <http://www.cde.ca.gov/ta/tg/sr>.

38. How can districts evaluate ELs to get a comprehensive view of the student's academic standing?

To get a comprehensive view of a student's academic standing, districts should utilize all available standardized assessments (i.e. STAR results, CELDT results, Aprenda 3 results, STS results, etc.) as well as district assessments, academic coursework, and relevant program information. The goal should be to monitor student's progress to ensure students are gaining English proficiency and improving their academic knowledge.

40. What are Annual Measurable Achievement Objectives (AMAOs)?

Title III requires that states hold LEAs accountable for meeting three AMAOs for ELs. The AMAOs were approved by the SBE. The first AMAO relates to making annual progress on the CELDT, the second relates to attaining English proficiency, and the third AMAO relates to meeting Adequate Yearly Progress by the EL subgroup. For more information regarding Title III, visit <http://www.cde.ca.gov/sp/el/t3/t3amaotargets.asp>.

STUDENTS WITH DISABILITIES

(Special education and Section 504 Accommodation Plan students)

41. Will a student's Individualized Education Program (IEP) or 504 Accommodation Plan take precedence over provisions of Proposition 227?

Yes. The requirements in a student's IEP or Section 504 Accommodation Plan are federal legal requirements and take precedence over the provisions of Proposition 227. If either plan calls for primary language instruction, the student does not need a parental exception waiver to receive such instruction. State and federal law require that ELs with an IEP or a federal 504 Accommodation Plan continue to receive the programs and services that address the student's special needs, including linguistically appropriate goals and objectives. At a minimum, instructional and linguistic services must include the provision of ELD and full access to the core curriculum as specified in the student's written program or plan.

42. What services and types of instruction must ELs receive when following an IEP or a Section 504 Accommodation Plan?

An IEP or Section Accommodation 504 teams must determine which services are appropriate for ELs, based on their particular disabilities and level of English proficiency. Regardless of services prescribed, ELs must also receive ELD instruction.

43. For ELs with an IEP or Section 504 Accommodation Plan, are parent notifications, administration of assessments, and evaluation results only to be provided in English?

No. State and federal law continue to require that parent notifications for ELs be provided in the parent's primary language unless it is not practicable. Student assessments must be conducted in the student's primary language. If it is clearly not feasible or appropriate, the student must still receive valid alternative assessments. The results of the assessments must be presented

to the parents in a language that they can understand (*CCR*, Title 5, sections 3040 [b] and *EC* 56320[a]).

44. Who should refer an EL for Special Education and under what circumstances?

All instructional personnel are responsible for referring an EL student through the locally adopted referral process if a disability is suspected. Parents may also request an assessment in writing. IEP teams must determine whether an EL student meets the eligibility criteria for special education and requires special education and related services in order to benefit from this educational program. A determination that the learning difficulty is not the result of cultural or linguistic diversity is also made. Students should not be referred for special education solely on the basis that they do not understand or are limited in their ability to understand English. To do so would violate both state and federal laws which protect the educational rights of these children.

45. What credentials or qualifications are required for teachers of ELs with disabilities?

All linguistic and academic services for ELs with disabilities described in their IEPs or Section 504 Accommodation Plans must be provided by qualified teachers who have credentials that authorize instruction to students with disabilities and ELs. Special education instruction must be provided by: (1) a teacher with both a special education and the appropriate EL credential or certificate (BCLAD, CLAD, SB 1969, or SB 2913); or (2) by a team of teachers with the appropriate credentials.

OTHER QUESTIONS

46. What is the Language Census (R-30)?

It is an annual data collection on students with non-English language backgrounds. It includes data pertaining to EL and FEP students, instructional settings, staff who provide services to ELs and other related information. (*CCR*, Title 5, section 1307). Frequently asked questions are available at <http://www.cde.ca.gov/ds/dc/lc>.

47. Are school and district English Learner Advisory Committees required?

Yes. These committees are still required and their legal responsibilities remain unchanged (*CCR*, Title 5, section 11308).

48. Does the CDE review districts' compliance with EL regulations?

All schools are subject to review through the Categorical Program Monitoring. More information is available at <http://www.cde.ca.gov/ta/cr/cc>.

49. Are schools still required to provide information to parents in their primary language?

Yes. When 15 percent or more of the pupils enrolled in the school speak a single primary language other than English, all notices, reports, statements, or records sent by the school or district to the parent/guardian of any such pupil must, in addition to being written in English, be written in such primary language, and may be responded to by the parent or guardian in English or in the primary language. In addition, federal law requires that schools and districts provide information in an understandable format and to the extent practicable in a language that is understandable to the parent, regardless of percentage of students that speak a language other than English (*EC 48985*; NCLB 1111[h][6][C] and 3302 [c]).

50. When is the use of primary language permitted for instruction for pre-school for ELs?

There are no statutory provisions that address the use of the primary language in programs designed for pre-school pupils. LEAs, unless required by the legal provisions of a specific funding source, have flexibility in deciding the use of instructional approaches that use the primary language as a medium of instruction or the objective of instruction.

51. May ELs participate in Reading First?

Regardless of program placement, any EL student may participate in Reading First. The program is available in English and has two parallel versions in Spanish (*Foro Abierto* and *Lectura*). It should be noted that the goal of Reading First is to have students reading at grade level **in English** by the end of grade three.

ACRONYMS

AMAO:	Annual Measurable Achievement Objective
BCLAD:	Bilingual cross-cultural language and academic development
CELDT:	California English Language Development Test
CLAD:	Cross-cultural language and academic development
DELAC:	District English learner advisory committee
EIA-LEP:	Economic impact aid-limited-English proficient
EL:	English Learner
ELD:	English language development
ELAC:	English learner advisory committee
FEP:	Fluent-English proficient
I-FEP:	Initial fluent-English proficient
LEP:	Limited-English proficient
L1 :	Primary language
R-FEP:	Redesignated fluent-English proficient
R-30:	Annual Language Census Report (form R30-LC)
SDAIE:	Specially-designed academic instruction in English
SEI:	Structured English immersion
STS:	Standards-Based Test in Spanish