

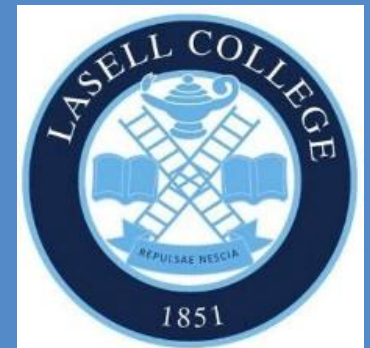
THE CHALLENGES FOR EDUCATING STUDENTS DUALY ELIGIBLE FOR SPECIAL EDUCATION AND EL SERVICES.

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AGENDA

- **What you know-**
 - Current challenges facing teachers, school leaders, and district leaders
- **What you may not know-**
 - Learn about the status of bilingual English learners
- **What you can bring back to your schools and district**
 - Assessment recommendations and tools

CHALLENGES: DISPROPORTIONATE REPRESENTATION



- Bilingual English learners and minority students are both over and under represented in special education programs, in two high incidence categories - specific learning disability and communication disorder.
- Researchers estimate that as many as three-quarters of ELs in special education are misidentified (Hoover & de Bettencourt, 2016).
- In 2015, approximately 10% of U.S. students were identified as ELs with around 15% eligible for special education (NCES, 2018).

CHALLENGES CONTINUED.. DID YOU KNOW?

- EL students who were eligible for special education services were less successful academically than the students who were not.
- This difference in performance was consistent across the grade levels and across three states studied.
- The lower the English level, the poorer the outcomes for students in grades 3-12.
- For high school students the struggle was even more extensive.

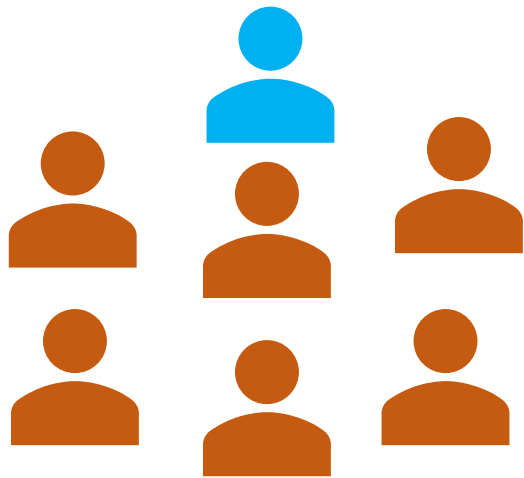
Haas and Brown (2019) Supporting English Learners in Classroom

DID YOU KNOW?

- ELs were 3.5 more times more likely to be placed in special education than bilingual learners who had high levels of English proficiency.
- Students with limited L1 and L2 are more likely to be found eligible for special education
- Department of Justice (DOJ) found that evaluation of ELs was overwhelmingly conducted in English only rather than based on the individual language profiles of learners

National Academies of Sciences, Engineering, and Medicine. (2017). *Promoting the Educational Success of Children and Youth Learning English: Promising Futures*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24677>

CURRENT SCHOOL OUTCOMES... ACCORDING TO A 2018 REPORT BY THE MASSACHUSETTS EDUCATION EQUITY PARTNERSHIP...



1 in **7** ELs drops
out of school
completely



1 in **3** ELs does
not graduate on time

[Massachusetts Education Equity Partnership
\(2018\), Number One for Some](#)

CURRENT GUIDANCE

Current Challenges and Unintended Messages

1. Wait until they speak English before you refer for a special education evaluation
2. If you refer a student to special education then he/she “can get additional services”
3. Lack of information for educators and specialist on how to coordinate or deliver special education services, ESL, and content instruction
4. IEP and language education goals are not aligned or integrated into all areas for general & sped services
5. Scheduling considerations may not prioritize access to general curriculum, of which language of instruction is a component
6. Intentional, structured collaboration time
7. Alignment of screening and progress monitoring practices across content, language, and specialized learning instruction
8. The MTSS framework is not breakdown data discretely

FROM DEAR COLLEAGUE LETTER- CASE STUDY

Example 13: 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. 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

<https://www.justice.gov/sites/default/files/crt/legacy/2015/01/07/eldcleng.pdf>

FROM DEAR COLLEAGUE LETTER- CASE STUDY

Prior to evaluating an EL student, school districts should, to the extent practicable, gather appropriate information about a student's previous educational background, including any previous language-based interventions

Example 14: An EL student whose parents declined her school's EL services appears to be falling behind at school. The school decides to conduct an evaluation to determine if she has a disability under Section 504 and needs disability-related services, and obtains consent from the student's parents. Although the parents have opted out of the school's EL program, the principal nonetheless ensures that the student's language needs are considered during the evaluation process, including whether the evaluations should be conducted in the student's native language and whether they should be administered orally or in writing to help ensure that the evaluation determines whether the student has a disability rather than that the student has limited English proficiency.

WHAT YOU MAY NOT KNOW- FEDERAL LEGAL FOUNDATIONS FOR ELS WITH DISABILITIES

Language Learning Education Law- ESSA, 2015 [Title I & III]

Ensures that Learners of English & Immigrant Students learn English as a new language and have access to grade level content

Special Education Laws -IDEA 2004 and IDEA Regulations 2006

Requires children with language learning needs to receive non-discriminatory assessment processes- more than 1 assessor/1 test

Civil Right Laws- Civil Rights Act (1964), Section 504 of Rehabilitation Act (1973) & ADA(1990)

- Guarantee and regulate fundamental freedoms & protections for all
- Lau v. Nichols Supreme Court Ruling 1974 is Specific For Els and language barriers

EVERY STUDENT SUCCEEDS ACT (ESSA)



For English Learners the key aspects are:

1. Title I
2. Title III

ESSA reauthorizes the Elementary and Secondary Education Act of 1965 (ESEA), became law on December 10, 2015.

ESSA AND ENGLISH LEARNERS

Title I requires

English Language Proficiency (ELP) standards are required to “align” to a state’s academic content standards.

An annual ELP assessment that is aligned to the ELP standards required in 1111(b)(1)(F). (PART OF THE OVERALL STATE ACCOUNTABILITY SYSTEM.)

Title III maintains

a separate funding stream dedicated to the education of English learners.

<https://www.gpo.gov/fdsys/pkg/BILLS-114s1177enr/pdf/BILLS-114s1177enr.pdf>

ESSA & ENGLISH LEARNERS

Title III requires-

A. Sub-grantees to report to the state (3121(a), pp.161, 162) the following data regarding ELs:

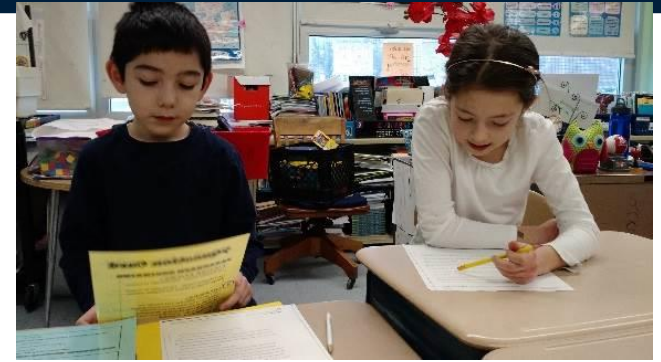
A description of the language programs and activities
The number and percent of EL students

- **With identified disabilities**
- making progress in ELP
- attaining English proficiency
- being reclassified
- meeting academic standards for each of the four years after they have been reclassified
- **who do not reach English proficiency after five years- Long term ELs**

B. The use of AMD (annual meaningful difference) instead of AYP 1111(c)(4)(C), p.36). [AMD is a weighted composite of the different indicators required in 1111(c)(4)(B), pp. 34, 35, which are meant to compare and categorize schools.]

UPDATED STATE LAW AND REGULATIONS REGARDING ELS WITH AND WITHOUT DISABILITIES

- LOOK ACT, 2017
 - Increased parent engagement
 - English language development benchmarks
 - Student success plan-
 - Individualized Learning Plan (coordinated with IEP if identified with a disability)
 - English learner education alternate language program options



WHAT YOU CAN BRING BACK TO YOUR SCHOOLS AND DISTRICTS ASSESSMENT REQUIREMENTS

Critical Analysis, Educator Preparation, and Effective Processes for English Learners

WHAT YOU CAN BRING BACK

1. Review of current assessment practices of school psychologist, special education teachers, ESL teacher, and others involved
2. Are professionals provided with professional development of different types & purposes of assessment practices not just test administration?
3. Review of current tests used for English Learners and in which languages.
 1. How often are these used? Who guides administration of which tests?
 2. With which populations (i.e. ELD level breakdown, in which disability) ?
 3. Are professional trained to evaluate beyond using tests?
 4. Are we integrating MTSS universal and progress monitoring data,
 5. Are we monitoring progress of language development data beyond one time a year WIDA data?
4. Is the special education process include classroom observation in multiple classrooms (i.e. ESL, general education, etc.)
5. Is the special education process include parent interviews (i.e. health history, education history, family cultural and linguistic background, etc.)

LEGAL REQUIREMENTS § 300.307 FOR LEARNING DISABILITIES (SLD)

A State must adopt, consistent with §300.309, criteria for determining whether a child has a specific learning disability as defined in §300.8(c)(10). In addition, the criteria adopted by the State—

(1) **Must not require** the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in §300.8(c)(10);

(2) **Must permit the use** of a process-based on the child's response to scientific, research-based intervention (RTI, MTSS)

(3) **May permit** the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in §300.8(c)(10).

PRINCIPLES FOR FEWER AND SMARTER ASSESSMENTS (2015)

- **High Quality, current**
 - *High-quality assessment results in actionable, objective information about student knowledge and skills.*
- **Fair - and Supportive of Fairness - in Equity in Educational Opportunity:**
 - *Assessments should be fair, including providing fair measures of student learning for students with disabilities and ELs.*
 - *Accessibility features and accommodations must level the playing field so tests accurately reflect what students really know and can do.*
- **Fully Transparent to Students and Parents**
- **Tied to Improved Learning**

<https://www.ed.gov/news/press-releases/fact-sheet-testing-action-plan>

LEGAL REQUIREMENTS UNDER IDEA §300.304 EVALUATION PROCEDURES.

The public agency must

1. Use a variety of *assessment tools and strategies* to gather relevant functional, developmental, and academic information about the child, including *information provided by the parent* §300.8
2. **Not use** any *single measure or assessment* as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child
3. Assessments selected and **administered that are not to be discriminatory on a racial or cultural basis**;
4. Assessments that are provided & 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
5. Assessments that are used for the purposes for which the assessments or measures are *valid and reliable*
6. Assessment that are administered by *trained and knowledgeable personnel about the test and the sample population*

LEGAL REQUIREMENTS UNDER IDEA §300.305 FOR EVALUATIONS AND RE-EVALUATIONS

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part,

Review existing evaluation data on the child, including—

- (i) Evaluations and information provided by the parents of the child;**
- (ii) Current classroom-based, local, or state assessments, and classroom-based observations; and**
- (iii) Observations by teachers and related services providers;**

ELS WITH DISABILITIES

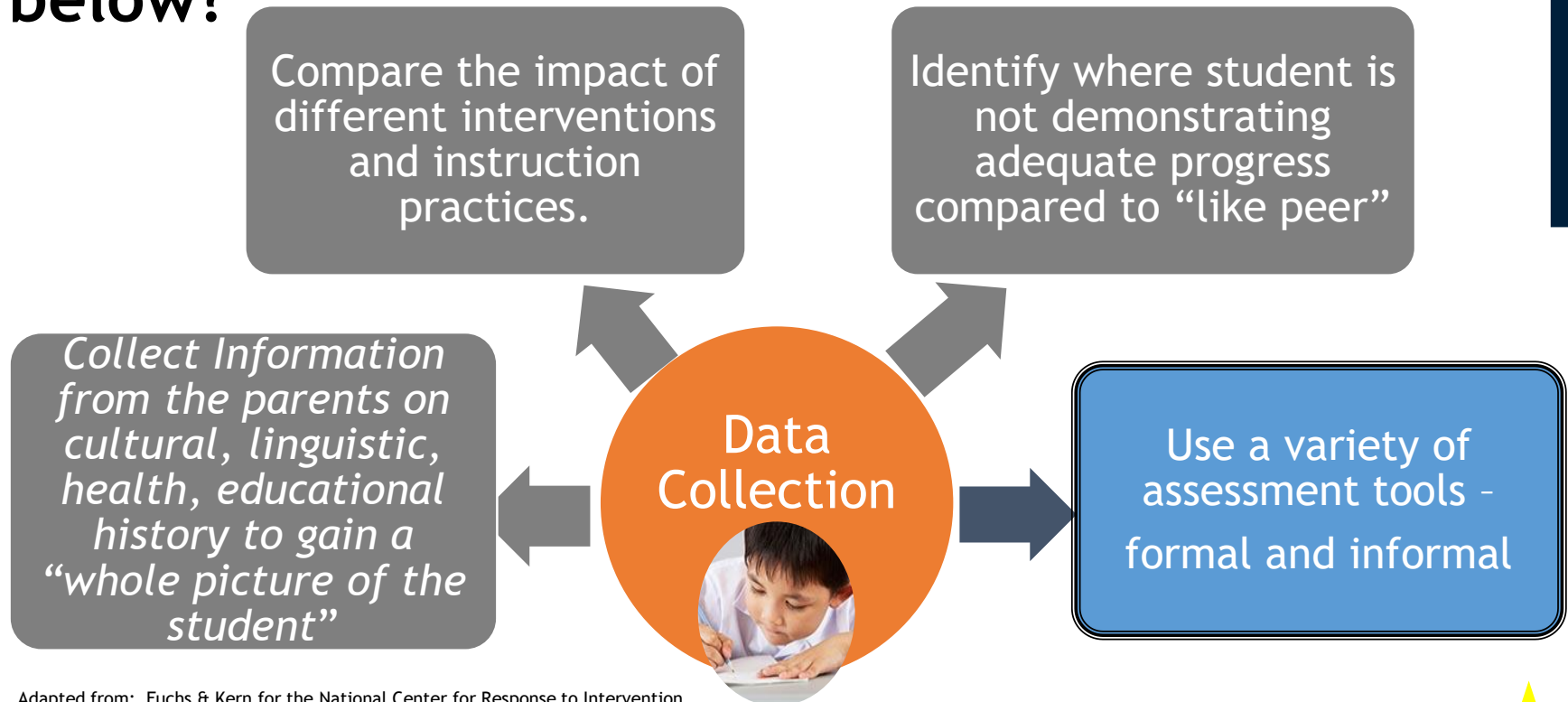
Title VI of the Civil Rights Act of 1964 also requires school districts to provide children with limited English proficiency with alternative language services to enable them to acquire proficiency in the English and to provide them access to the total range of educational services provided by the school, including special education and related services. The IEP team must also address whether the special education and related services that the child's needs will be provided in a language other than English.

DEAR COLLEAGUE LETTERS

The federal Office of Special Education Programs (OSEP) provides information, guidance and clarification regarding implementation of the *Individuals with Disabilities Education Act (IDEA)* in a number of ways including OSEP Memos and Dear Colleague Letters, and OSEP Policy Letters.

What is best practice in the evaluation of Bilingual English Learners?

What questions frame my collection of data below?



Adapted from: Fuchs & Kern for the National Center for Response to Intervention
<http://www.intensiveintervention.org/video-resource/data-rich-information-poor-making-sense-progress-monitoring-data-guide-intervention>



RTI-BASED SLD IDENTIFICATION: CONSIDERATIONS FOR ENGLISH LEARNERS



CORTIELLA, GAMM, RINALDI, GOODMAN, (2014). THE RTI ACTION NETWORK, A PROJECT OF THE NATIONAL CENTER FOR LEARNING DISABILITIES

1. Expertise/knowledge of team and informed parent participation (ESL, Gen Ed, SPED, etc.)
2. Effectiveness of Tier 1 core instruction (at least 75%)
3. Effectiveness of Tier 2 and Tier 3 interventions (data)
4. Effectiveness of academic assessments and interpretation (process must be valid)
5. Comparisons to populations and normative samples-
True peer

CHECKLIST FOR THE IEP TEAM IN THE ASSESSMENT OF ELS

(SEE HANDOUT PROVIDED FOR COMPLETE CHECKLIST)

Checklist on State and Research Guidance for Eligibility Determination for Cultural and Linguistically Diverse Students with Potential Learning Disabilities within a Response to Intervention (RTI) Model or Multi-tier System of Support (MTSS)

TEAM IS INFORMED OF THE STUDENT'S BACKGROUND AND ACADEMIC CHALLENGES? THE FAMILY IS PART OF THE DATA INFORMED PROBLEM SOLVING PROCESS OF RTI/MTSS?

- | | |
|---|--|
| <ul style="list-style-type: none"> Teachers have been part of the ongoing problem solving as part of the school's RTI/MTSS model. | <input type="checkbox"/> |
| <ul style="list-style-type: none"> The reason for referral clear and supported by data from teachers including the regular education teachers, the ESL teacher, and those delivering interventions. | <input type="checkbox"/> |
| <ul style="list-style-type: none"> The Problem solving team knows the student's background and ecologies (i.e. first and second language proficiency and use in various settings, educational history, mobility patterns, socioeconomic status, cultural background, years in the use, generation, medical history, social history/significant life events) | <input type="checkbox"/> |
| <ul style="list-style-type: none"> The language survey is complete and data is available to the team for problem solving. <ol style="list-style-type: none"> What is the native language of the parent/guardian? What language(s) are spoken in your home? Which language did your child learn first? Which language does your child use most frequently at home? Which language do you frequently speak to your child? What other language does your child know? What language(s) does the student read? Is the student's environment (school and community context) discussed as part of the referral process (for example: the students home language is L1, a combination, or English, is the student's | <input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/> |

DID WE FORGET THE POWER OF DIRECT OBSERVATION?

Tier Instruction should also address active engagement, academic engaged time (AET), and opportunity to respond.

Teachers move from a more traditional class where the teacher teaches 80% of the time to a more active engagement structure where students actively interact using oracy activities with teacher facilitating 50% of the time or less (Echevarria & Graves, 2015).

How do you do it? Instructional Walks

Select goal of observation- For ELLs you want to consider:

- How long are students engaged in ORACY- Oral academic discussion during instruction (time interval out of 15 min observation)?
- How long are students engaged in group work with other peers (frequency)?
- How many opportunities to respond to peers and teacher are available (frequency count)?

ENGAGE THE IEP TEAM IN COLLECTING ELD STUDENT DATA FROM WIDA'S CAN DO INDICATORS

Opportunity for content area & English learner education (ELE) progress reporting!

Opportunity to evaluate & make curricular / instructional adaptations!

READING Indicators level 1 (R1), Level 2 (R2), and Level 3 (R3)

	Sept	Oct.	Nov.	Dec.
R1- Identifies words from left to right and upright position	X	X	X	X
R1- Recognizes the alphabet from Arabic numbers and begins to recognize sounds	X	X	X	X
R1- Reads simple one syllable and high frequency words when strongly supported by context	X	X	X	X
R2-Recognizes sounds/symbol relationships and sounds of the English language		X	X	X
R2- uses cognates for academic or social comprehension				X
R2- reads common word families and simple sentences			X	
R3- Locate meaning, pronunciations, and derivations of unfamiliar words using dictionaries, glossaries, or internet				
R3-recognizes and uses knowledge of spelling patterns when reading				
R3- Identified main idea				

ADOPT A TIMED PROGRESS MONITORING TOOL

Student Name: _____ Grade: _____ Teacher: _____

Student's Strengths: (describe assets from academic, familial and behavioral perspectives)					
Area of Concern: (define problem in specific, observable and measurable terms)					
Goal/Objective: (describe realistic, attainable short- and long-term goal in specific, observable and measurable terms)					
Action Plan: (describe the intervention and who will implement it)					
Response to intervention? Yes/No	Universal Screening Tool & Progress Monitoring Tool (3 times per year) (4-8 week cycle)	TIER 1: Core (What & how? How long/How often? By whom?)	TIER 2: Supplemental (What & how? How long/How often? By whom?)	TIER 3: Intensive (What & how? How long/How often? By whom?)	Progress & Action Plan Summary: (Stop, change, continue, or add to current intervention)
Date: Cycle 1 <input type="checkbox"/> Social/Beh. <input type="checkbox"/> Academic <input type="checkbox"/> ELL		ELLs: ESL <input type="checkbox"/> yes <input type="checkbox"/> no Intended: <input type="checkbox"/> yes <input type="checkbox"/> no Delivered: <input type="checkbox"/> yes <input type="checkbox"/> no	Intended: __min. __times/wk Delivered: <input type="checkbox"/> yes <input type="checkbox"/> no ELL Oracy inc. <input type="checkbox"/> yes <input type="checkbox"/> no	Intended: __min. __times/wk Delivered: <input type="checkbox"/> yes <input type="checkbox"/> no ELL Oracy inc. <input type="checkbox"/> yes <input type="checkbox"/> no	Expected Growth For ELLs in language and academics:

Rinaldi & Higgins (2010). Progress Monitoring Tool in MTSS: ELLs can be downloaded at <http://www.colorincolorado.org/article/helping-english-language-learners-succeed-multi-tiered-system-support-mtss>

COMPARISON USING A TRUE PEER



True peer- represents students who can be used for comparison to the target student such as:

1. students have similar language proficiency, culture, & experiential background
2. Age and time in the United States & acculturation in adapting to a new environment,
3. use of L1 and L2 at home, school and community
4. Similar education experience & education services such as type of bilingual program(e.j. SEI, dual language instruction, transitional bilingual instruction, ESL services, or sheltered-English instruction)
5. Immigration history or born in the US
6. Trauma history
7. Performance in ESL (small classroom) vs larger gen ed classrooms

Esparza, J. B, & Doolittle, J. (2008). A cultural, linguistic, and ecological framework for response to intervention with English language learners. *Teaching Exceptional Children*, 40 (5), 66-72.

RESOURCES AND REFERENCES

1. WETA Reading Rockets/ColorinColorado.org -Helping English Language Learners Succeed with a Multi-tiered System of Support
<http://www.colorincolorado.org/article/helping-english-language-learners-succeed-multi-tiered-system-support-mtss>
2. Ideas that Work, OSEP, U.S. DOE. <https://osepideasthatwork.org/federal-resources-stakeholders/english-language-learners>
3. OEAL Office ELL Toolkit- Chapter ELLs with Disabilities
<https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap6.pdf>
4. CCSSO English Learners with Disabilities Guide: A Guide for States Creating Policies on the Identification of and Service Provision for English Learners with Disabilities. Can be retrieved <https://ccsso.org/resource-library/english-learners-el>
5. Hass, E. & Brown, J. E. (2019). Supporting English Learners in the Classroom: Best Practice for Distinguishing Language Acquisition from Learning Disabilities. Teachers College Press: NYC, NY.
6. Klingner, J; Epollito, A (2014). *English Language Learners: Differentiating Between Language Acquisition and Learning Disabilities*. Reston, VA: CEC
7. The Condition of Education (2018) U.S. Department of Education: A look at Students with Disabilities can be retrieved at https://nces.ed.gov/programs/coe/indicator_cgg.asp
8. Hoover, J.J. & deBettercourt, L. U. (2017), Educating culturally and linguistically diverse exceptional learners. *Exceptionality*, 26 (3).
9. National Academies of Sciences, Engineering, and Medicine. (2017). *Promoting the Educational Success of Children and Youth Learning English: Promising Futures*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/24677>