

**RULES  
OF  
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-19  
ENGLISH AS A SECOND LANGUAGE PROGRAMS**

**0520-01-19-.03 IDENTIFICATION, SCREENING, AND SERVICE DELIVERY**

- (1) EL student identification is a two (2)-step process that must be completed within thirty (30) days of initial enrollment. In the first step, each LEA shall administer a Home Language Survey (HLS) within thirty (30) days of initial enrollment to identify NELB Students. An HLS should be completed only once in a student's educational career. If the student has previously attended another LEA, the receiving school or LEA shall attempt to obtain the original HLS from the sending LEA. If the receiving LEA cannot obtain the original HLS after reasonable attempts to do so, it may re-administer the HLS, but shall mark it as a secondary HLS. If the original is found, it shall replace the secondary HLS in the student's file.
- (a) The HLS shall not require parents or guardians to answer questions about student immunization or student or familial immigration status.
- (b) The HLS shall include, but not be limited to, questions that require the parent(s) or guardian(s) to address the following three (3) topics:
1. The first language the student learned to speak;
  2. The language the student speaks most often at home; and
  3. The language that is most often spoken to the student at home.
- (c) If the parent(s) or guardian(s) list a language other than English for any question above, the student shall be classified as an NELB Student. Parents or guardians shall be interviewed to clarify any discrepancies in the HLS.
- (2) In the second step of the identification process, LEAs shall screen all NELB Students with a Department of Education approved-English language proficiency screener described in this rule within thirty (30) days of initial enrollment to determine whether the student qualifies for ESL Services, unless an NELB Student has documentation from a previous state or LEA that he or she met the definition of Fluent English Proficient (FEP). The English language proficiency screener shall be administered in addition to the HLS within the thirty (30) day time period.
- (a) NELB Students who are screened in their first (1<sup>st</sup>) semester of Kindergarten shall be screened with the WIDA Screener for Kindergarten (WSK). NELB students screened in their first (1<sup>st</sup>) semester of Kindergarten shall only be assessed using the speaking and listening domains. If a student receives an oral composite score below 4.5 or a score below 4 in either domain, the student shall be identified as an EL student and receive Direct ESL Services pursuant to paragraph (6) and (8) of this rule, unless a parent and/or guardian chooses to waive Direct ESL Services.

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- (b) NELB Students who are screened in their second (2<sup>nd</sup>) semester of Kindergarten shall be screened with the WIDA Screener for Kindergarten (WSK). NELB students screened in their second (2<sup>nd</sup>) semester of kindergarten shall be screened using the speaking, listening, reading, and writing domains. If a student receives an oral composite score below 5 or a score below 4 in any domain, the student shall be identified as an EL student and receive Direct ESL Services pursuant to paragraph (6) and (8) of this rule, unless a parent and/or guardian chooses to waive Direct ESL Services.
  - (c) NELB Students who are screened in their first (1<sup>st</sup>) semester of first grade shall be screened with the WIDA Screener for Kindergarten (WSK). NELB students screened in their first (1<sup>st</sup>) semester of first grade shall be screened using the speaking, listening, reading, and writing domains. If a student receives an oral composite score below 5 or a literacy composite score below 4.5, the student shall be identified as an EL student and receive Direct ESL Services pursuant to paragraph (6) and (8) of this rule, unless a parent and or guardian chooses to waive Direct ESL Services.
  - (d) NELB Students who are screened in their second (2<sup>nd</sup>) semester of first (1<sup>st</sup>) grade, or at any point in grades two (2) through twelve (12), shall be screened using the WIDA screener. Students who score below a 4.5 composite on the WIDA screener shall be identified as an EL student and receive Direct ESL Services pursuant to paragraphs (6) and (8) of this rule, unless a parent and/or guardian chooses to waive service.
- (3) All EL students shall have an ILP that contains, but is not limited to:
- (a) Assessment data from the English language proficiency assessment, achievement assessments, and any relevant benchmark data;
  - (b) Short-term goals that help the student proceed to the next proficiency level in the four (4) domains of language: reading, writing, speaking, and listening;
  - (c) Growth trajectories for English language proficiency based on individual student data; and
  - (d) Strategies, accommodations, and scaffolding used in the delivery of Indirect ESL Services.
- (4) Each LEA shall have an oversight plan for the development, implementation, and monitoring of ILPs for EL students.
- (5) Teachers shall monitor the academic and English language proficiency growth of EL students through benchmarking, formative assessments, and/or summative assessments at least every four and one-half (4.5) weeks. If an EL student is not meeting the growth expectations identified in his or her ILP, the student shall receive differentiated support so that he or she may advance more rapidly toward English language proficiency. Supports shall be implemented promptly after the ILP Team has determined the student is not on the expected growth trajectory.
- (6) EL students identified for ESL service via a Department of Education-approved English Language Proficiency screener described in this rule shall receive a minimum of one (1) hour of Direct ESL Service each school day from a teacher who holds an ESL endorsement, until the student achieves a sufficient score on a summative assessment pursuant to State Board rule 0520-01-19-.06 to be exited from Direct or Indirect ESL Service or achieves a sufficient score on a summative

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- assessment to have Direct or Indirect ESL Services modified by the ILP Team pursuant to paragraph (8) of this rule.
- (a) Parents or guardians of EL students shall be informed of the right to refuse placement of their children in ESL programs, and each LEA shall provide the parent(s) or guardian(s) the option to waive Direct ESL Services before services are provided, or at any time during the course of the school year.
  - (b) If the parent(s) or guardian(s) waives Direct ESL Services for the student, the general education classroom teacher shall be responsible for providing Indirect ESL Services in the form of linguistically appropriate accommodations and scaffolding within the general education setting as described in the student's ILP.
- (7) LEAs shall ensure that all teachers who provide Direct or Indirect ESL Services are annually trained on delivering ESL instruction. At a minimum, this training shall include, but not be limited to:
- (a) The Tennessee English language development (ELD) standards;
  - (b) Appropriate ESL instructional methods to use with grade-level academic content standards in English language arts, mathematics, science and social studies;
  - (c) English language acquisition training for general education teachers to understand the process of acquiring a second or subsequent language; and
  - (d) Strategies for collaboration between teachers serving EL students so that ILPs are developed and implemented by all educators.
- (8) EL students shall be assessed annually using either the WIDA ACCESS for ELLs or Kindergarten ACCESS for ELLs to determine if the Direct or Indirect ESL Services provided may be modified by the ILP Team.
- (a) EL students in Kindergarten shall be assessed using the Kindergarten ACCESS for ELLs. For students who score a 3.5 or higher on any domain, LEAs may tailor the service provided to those students, including providing less than one (1) hour of Direct ESL Service per day based on their ILP.
  - (b) EL students in grades one (1) through twelve (12) shall be assessed using WIDA ACCESS for ELLs. LEAs may tailor the services provided to those students, including providing less than one (1) hour of Direct ESL Service per day based on their ILP for students who score:
    - 1. 3.5 or higher on reading; and
    - 2. 3.5 of higher on writing; and
    - 3. 3.5 or higher on either the speaking or listening domains.
- (9) An ESL Program may be provided through various service delivery models. These service delivery models may be used in ESL classrooms, general education classrooms, or in newcomer centers for recently arrived ELs (RAELs). Direct ESL Services shall be provided utilizing one (1) or more of the following approved service delivery models:

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- (a) Sheltered English Instruction;
  - (b) Structured English Immersion;
  - (c) Specially Designed Academic Instruction in English (SDAIE);
  - (d) Content-Based Instruction (CBI);
  - (e) Heritage Language;
  - (f) Virtual ESL classes;
  - (g) Pull-out instruction;
  - (h) Another model approved by the Department.
- (10) All service delivery models shall:
- (a) Be evidence-based and effective;
  - (b) Address how academic deficits that are the result of students' limited English proficiency will be remediated; and
  - (c) Be aligned to the Tennessee ELD standards.
- (11) LEAs shall ensure that all EL students who may have a disability are located, identified, and evaluated for special education and related services in a timely manner, in accordance with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and T.C.A. § 49-10-101, et seq.
- (a) When conducting special education and/or Section 504 evaluations, LEAs shall consider the English language proficiency of EL students in determining the appropriate assessments and other evaluation materials to be used. EL students shall not be identified as students with disabilities solely because of their limited English language proficiency.
  - (b) LEAs shall provide EL students with disabilities with both the language assistance and disability-related services to which they are entitled under federal law.
  - (c) Neither Response to Instruction and Intervention (RTI<sup>2</sup>) nor special education services shall be used in place of Direct ESL Services.
- (12) Two (2) high school ESL courses shall be counted toward the four (4) English credits required for graduation. At least one (1) of the ESL courses counted toward graduation credit shall be counted toward credit in an English course with an end-of-course assessment. Additional high school ESL courses shall be counted as elective humanities credits.

**Authority:** T.C.A. § 49-1-302; 42 U.S.C. § 2000d; 20 U.S.C. § 1703. **Administrative History:**