Domain Exemptions on English Language Proficiency Assessments

Definitions, Examples, and Addressing Testing Errors

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Section I: Choosing Domain Exemptions

This document defines and explains the purpose of domain exemptions, which are a type of testing accommodation on the English Language Proficiency Assessment (ELPA). The information in this section applies to all tests in the ELPA suite: Alt ELPA, ELPA Screener, and ELPA Summative (including remote versions, for tests which have them).

Definitions—ESEA Section 8101(20)

English learner – The term "English learner," when used with respect to an individual, means an individual —

(A) who is aged 3 through 21;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C) (i) who was not born in the United States or whose native language is a language other than English;

> (ii) (I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and
> (II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

> (iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual —

> (i) the ability to meet the challenging State academic standards;
> (ii) the ability to successfully achieve in classrooms where the language of instruction is English; or
> (iii) the opportunity to participate fully in society.

Students who are determined to qualify for English learner (EL) status have been identified as needing English language development services to experience the benefits listed in D.i-iii above. With appropriate instruction and assessment, students with EL status should be prepared to experience the listed benefits. Inappropriate instruction or assessment, or premature exit from EL status, may deny the student these benefits.

Students with an Individualized Education Plan

"Children with disabilities" or "students with disabilities" means children or students evaluated in accordance with OAR 581-015-2080 through 581-015-2125 as having autism spectrum disorder; speech or language impairment; deafblindness; developmental delay; emotional behavior disability; deaf or hard of hearing; intellectual disability; orthopedic impairment; other health impairment; specific

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learning disability; traumatic brain injury; or visual impairment, including blindness, and who, by reason thereof, need special education and related services.

Students with a 504 Plan

Under Section 504, an individual with a disability (also referred to as a *student with a disability* in the elementary and secondary education context) is defined as a person who: (1) has a physical or mental impairment that substantially limits a major life activity; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

The determination of whether a student has a physical or mental impairment that substantially limits a major life activity (and therefore has a disability) must be made on a case-by-case basis. In addition, when determining if someone meets the definition of a disability, the definition must be understood to provide broad coverage of individuals.

Domain Exemptions

The ELPA Summative and Screener assessments measure a student's proficiency with the English language in four domains: Speaking, Listening, Reading, and Writing. For some students, the impact of a disability precludes assessment or instruction in the domain (e.g., no amount of Listening instruction will cause a deaf student to regain their hearing). As an accommodation, such domains may be "exempted" (excluded from testing).

Federal guidance allows exemption from up to three domains. This decision is made by the student's IEP or 504 team, not an individual, and must be documented in the student's IEP or 504 plan. Joint guidance from USED and DOJ (2015) indicates that "it is important for members of the IEP team to include professionals with training, and preferably expertise, in second language acquisition and an understanding of how to differentiate between the student's limited English proficiency and the student's disability" (p. 26-27).

The score resulting from a test administered with domain exemptions is valid, meaning that it is usable for instructional and exiting decisions and counts as participation in Title I-A and Title III. More information about domain exemptions can be found in the Test Administration Manual and the Oregon Accessibility Manual.

Tests in the ELPA Suite

The decision to exempt a domain is not identical for all ELPA tests. See below for key points regarding the various ELPA tests to keep in mind while reading this guidance.

Alt ELPA
- Items and performance expectations are based on modified content standards and therefore differ significantly from items and performance expectations found in ELPA Screener and Summative.
- Individually administered.
- Navigation assistance and preferred student communication mode allowable for all domains.
- Speaking and Writing domains scored on site by Test Administrator familiar with the student's mode of communication.
- Test Administrator may not administer the test or end the test early if indicated by the Student Response Check and Early Stop Rule.
  - See the Alt ELPA User Guide for more information. See Alt ELPA Decision Making Resource for additional information regarding eligibility criteria for the Alt ELPA.

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ELPA Screener
- Always begins with individual administration.
- Can be administered on short notice, due to federal identification timelines.
- Opportunity for Test Administrator to signal non-participation prior to the first item of the test.
    - In cases of non-participation, the student score report indicates an overall result of "Proficiency Not Determined" and the student enters EL status.
- Decisions about testing supports (including but not limited to domain exemption) may need to be made before there is sufficient information or opportunity to convene an IEP or 504 team.
    - See the ELPA Screener Administration Manual, particularly Section 3.3, for more information.

ELPA Summative
- Individual administration not required.
- Remote version available.

Domain Exemption Criteria for English Learners with Disabilities

Key Considerations

Districts are expected to annually assess the English proficiency of all students who are English learners. As mentioned above, when the English learner also experiences a disability that precludes assessment in one or more domains on the ELPA, taking into account all available accommodations and supports, the student's IEP or 504 team can exempt them from participating in those domains.

Decisions on exemptions from individual domains are made on a case-by-case basis by the appropriate team (i.e., the child's IEP or 504 team). It is highly recommended that the IEP or 504 team include staff with expertise in English language development and service provision, preferably educators who work directly with the student in question.

Regulatory Authority

Under 34 C.F.R. §200.6(h)(4)(ii), if it is determined on an individualized basis that a student with EL status has a disability that precludes assessment in one or more domains of the ELPA (Speaking, Listening, Reading and Writing), taking into account all available accommodations and supports, an LEA must assess the child's English language proficiency based on the remaining domains in which it is possible to assess the student (Addendum to FAQ).

"Precluded" means that assessment in the given domain is impossible, regardless of available accommodations or supports. The guidance cited above indicates that only in very rare circumstances would it be truly impossible to assess a student in a domain (e.g. a completely non-verbal student cannot be assessed in Speaking, as they do not communicate by means of audible speech).

Differences among ELPA tests—particularly the Alt ELPA—will affect what is possible or impossible to assess for a given student. All decisions regarding a potential domain exemption should clearly establish to which test or tests the domain exemption will apply.

ODE encourages IEP or 504 teams to consult the ELPA Test Specifications for descriptions of the categories and content of items found in each domain. For example, Reading items on the general ELPA Summative require interaction with printed or displayed text through the senses of sight or touch (although audio support may be present for items in lower grade bands). IEP or 504 teams can also consult ELPA sample tests to get an idea of the type and format of items students will encounter on the Alt ELPA, ELPA Screener, and/or ELPA Summative. Note that sample tests demonstrate interaction types and item formats, but do not preview the full range of difficulty that students may encounter over the

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course of the test.

The Braille version of the ELPA Summative and Screener assessments features item types not present in the online ELPA sample test. ODE does not publish the item types and formats found on the Braille version of the ELPA for reasons of test security. Only some of the items in the Braille versions of the Summative and Screener require Braille literacy; for example, the Braille version does not rely on pictures to convey key information to students. The [ELPA Braille Version Information Sheet](#) and directions for administration accompanying the test specify in which domains Braille literacy is required. IEP or 504 teams should obtain a copy of the Braille ELPA prior to making exemption decisions for a student with a significant visual impairment.

IEP or 504 teams should also review the [Oregon Accessibility Manual](#) to determine whether any of the universal tools, designated supports, or accommodations contained in the manual may allow the student to meaningfully interact with the domain prior to making any decision on student participation. Remember that accessibility supports chosen for any state assessment should mirror those being provided during instruction.

Considerations for IEP or 504 team discussion

IEP and 504 teams should consult all available data regarding the student's progress when answering the following questions.

Listening
- What are the student's receptive language abilities?
- What receptive communication modes does the student use?
- In which modes does the student respond to auditory content?
- If the student requires communication technology to complete Listening tasks, is that technology allowable on the ELPA?

Reading
- How does the student access text?
- What alternate formats does the student need to access text from various sources?
- If the student requires an alternate format to complete Reading tasks, is that alternate format allowable on the ELPA?

Speaking
- What are the student's expressive language abilities?
- What expressive communication modes does the student use?
- If the student requires communication technology to complete Speaking tasks, is that technology allowable on the ELPA?

Writing
- How does the student produce text?
- What alternate formats does the student use to produce text?
- If the student requires an alternate format to complete Writing tasks, is that alternate format allowable on the ELPA?

Eligibility for Domain Exemption

A domain exemption is appropriate when a student with English learner status meets all the following criteria:
1. The student has a disability, as defined in OAR 581-015-2000 or OAR 581-015-2390;
2. The student has an IEP or 504 Plan in effect; and
3. The student's IEP or 504 team determines that the impact of a disability experienced by the

student precludes *any* measurement of the student's English proficiency in one or more domains, taking into consideration all other allowable supports and accommodations available on the assessment.

   a. "Precludes" means that measurement is impossible. It is not appropriate to exempt domains where the student's ability is measurable, even if student performance falls short of their expected potential.

The student must meet the above criteria for each domain to be exempted. Domain exemption decisions must be documented in the student's IEP or 504 plan prior to beginning the test.

Students identified as English learners are required to participate in at least one domain as outlined in Executive Numbered Memo 001-2014-15 English Learner Students with Disabilities.

Examples by Domain

The following examples are illustrations only. Remember that the ELPA is a language test, which means that inability to perform a skill *in English* is not an appropriate criterion for exempting a domain, particularly if the student can perform skills in the same domain in another language.

Reading
Braille

Situation	Recommendation
Student is blind, reads Braille at or near grade level.	No exemption. Activate Braille accommodation.
Student is blind, has partial knowledge of Braille.	IEP or 504 team must decide whether the student's expertise with Braille precludes measurement in the Reading domain, taking into account available accessibility supports.
Student is blind, has no knowledge of Braille.	Exempt Reading domain. Depending on the impact of the disability, it may be appropriate to exempt Writing as well.

The IEP or 504 team should review information on the Braille version of the test before making a final decision on domain exemptions for a student with significant visual impairment.

Text-to-speech

Situation	Recommendation
Student prefers to use text-to-speech (TTS) when interacting with printed text. Student can also read by sight in all settings, despite the impact of their disability.	No exemption.
Student uses TTS when interacting with printed text. Student can read by sight, but only in some settings, under some conditions, or for limited periods of time.	IEP or 504 team must decide whether the impact of the student's disability precludes measurement in the Reading domain, taking into account available accessibility supports.
Student uses TTS exclusively when interacting with printed text. Student does not read by sight in any setting and has no knowledge of Braille.	Exempt Reading domain. Depending on the impact of the disability, it may be appropriate to exempt Writing as well.

Writing

Situation	Recommendation
Student has a cognitive or physical disability which makes writing difficult and laborious.	No exemption. Accessibility supports such as adaptive technology or scribe may be appropriate

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	for this student.
Student has a cognitive or physical disability which impedes expression of ideas in writing, even if those ideas can be expressed via some other mode of communication.	IEP or 504 team must decide whether the impact of the student's disability precludes measurement in the Writing domain, taking into account available accessibility supports.
Student has a cognitive or physical disability which prevents expression of ideas in writing entirely, in English or any other language, even with available accessibility supports such as adaptive technology or scribe.	Exempt Writing domain.

Listening

Situation	Recommendation
Student is hard of hearing, uses amplification device.	No exemption. Activate amplification device accommodation.
Student is very hard of hearing, has trouble understanding speech even with amplification devices.	IEP or 504 team must decide whether the student's difficulties in hearing are so extensive as to preclude measurement in the Listening domain, taking into account available accessibility supports.
Student is entirely deaf.	Exempt Listening domain. For this student, a Speaking exemption may also be appropriate.

Speaking

Situation	Recommendation
Student has an articulation disorder or physical malformation which distorts their speech. Speech is comprehensible to sympathetic listeners or in a quiet environment.	No exemption.
Student has an articulation disorder or physical malformation which renders their speech difficult to understand, even for a sympathetic listener.	IEP or 504 team must determine whether the student's articulation difficulties impede comprehension to such a degree as to preclude measurement in the Speaking domain, taking into account available accessibility supports.
Student has an articulation disorder or physical malformation which renders their speech impossible to understand, even for a sympathetic listener.	Exempt Speaking domain.

Domain Exemption Monitoring by ODE

The Test Administration Manual Section 10.1 indicates that all domain exemption decisions are subject to monitoring by ODE. Monitoring actions by ODE could include:
- Signaling possibly inappropriate domain exemptions.
- Request a rationale and documentation establishing the appropriateness of a domain exemption.
- Notifying districts of concerning patterns of domain exemption.
- Establishing system safeguards to prevent activation of inappropriate domain exemptions.

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Section II: Addressing Domain Exemption Errors During Testing

Information in this section expands upon the brief domain exemption instructions found in Section 10.0 of the Test Administration Manual. Information in Section II applies to the ELPA Summative and Alt ELPA, not the ELPA Screener.

Entering Domain Exemptions

Domain exemptions are activated in the testing system through the Test Information Distribution Engine, or TIDE. District personnel with the necessary permissions can access TIDE via the OSAS Testing Portal. The TIDE User Guide contains specific instructions on how to operate domain exemption tool in TIDE.

The domain exemption tool is open to district personnel as soon as TIDE goes live in early August until the opening of the ELPA Summative test window in mid-January. On the day the ELPA Summative window opens, the domain exemption tool in TIDE is disabled for the ELPA Summative and the Alt ELPA; from this point on, domain exemptions for those tests can only be changed through direct action by the vendor. The domain exemption tool becomes active again in early August (after the yearly system rollover).

The domain exemption tool remains active year-round for the ELPA Screener. As mentioned above, the following information applies only to the ELPA Summative and the Alt ELPA.

Updating or Correcting Domain Exemptions

ODE recommends that where feasible, districts enter domain exemptions prior to the opening of the ELPA Summative window. If domain exemptions need to be changed while the TIDE domain exemption tool is offline, districts must request assistance.

- Modifying domain exemptions for a student who has not yet opened *any* ELPA Summative or Alt ELPA domain test is referred to in this document as "updating" domain exemptions. To update domain exemptions, districts must contact their Regional ESD Partner.
  - Example: The IEP team for Student A meets in February (i.e. after the opening of the ELPA Summative test window) and decides that the Listening domain should be exempted on the ELPA Summative. Student A has not yet opened any domain test. The District Test Coordinator needs to contact their Regional ESD Partner and request that Listening be added as a domain exemption for Student A.
  - Example: Student B is scheduled to take the ELPA Summative in March. In February, district personnel discover that the Writing domain was incorrectly exempted (the student needs to test on Writing). Because the student has not yet opened any domains of the ELPA Summative, the District Test Coordinator needs to contact their Regional ESD Partner and request that Writing be un-exempted for Student B.
- Modifying domain exemptions for a student who has opened *at least one* ELPA Summative or Alt ELPA domain test is referred to in this document as "correcting" domain exemptions. To correct a domain exemption error, districts must submit a test impropriety report (regardless of which domain test was opened).
  - Example: Student C's IEP says they should receive a Reading domain exemption on the ELPA Summative. The student opens the Reading test before anyone realizes that the Reading exemption was never entered in TIDE. The District Test Coordinator needs to submit a test impropriety report to correct this error.
  - Example: Student D's IEP says they should receive a Reading domain exemption on the ELPA Summative. Student D completes the Listening test and is partway through the

Speaking test before anyone realizes that the Reading exemption was never entered in TIDE. The District Test Coordinator needs to submit a test impropriety report to correct this error, even though the Reading test has not yet been opened.

- o Example: Student E's IEP *does not indicate* they should receive a Reading domain exemption on the ELPA Summative. However, a Reading exemption was mistakenly entered in TIDE. Student E completes the Listening and Writing tests before anyone realizes that Reading has been erroneously exempted. The District Test Coordinator needs to submit a test impropriety report to correct this error, even though the Reading test has not yet been opened.

Correcting domain exemptions will never require a student to retest. Existing student work will be preserved while errors are corrected. Students may continue to test on unaffected domains while they are waiting for a domain exemption error to be corrected (for example, Students C-E above may continue testing in Writing, Listening, and Speaking while they wait for Reading to be corrected). Corrections are carried out by the test vendor on the first day of each month. For example, a domain exemption error reported in February will be corrected on or near March 1.

There are two deadlines for adjusting domain exemptions.

- Adding a domain that was erroneously exempted, or adding a new domain exemption, will require the student to complete an additional domain test. This error can be corrected up to **three weeks prior to the close of the ELPA Summative test window**.
  - o The TAM Section 10.0 lists the exact cutoff date for adding a domain.
- Removing a domain that should have been exempted does not require the student to complete an additional domain test. This error can be corrected **any time prior to the ELPA Summative / Alt ELPA test status change deadline**.
  - o It is possible to remove domains from a completed or even a reported test. However, note that IEP updates are not retroactive. IEP domain exemption decisions only apply to ELPA tests opened *after* the IEP has been updated.
  - o The TAM lists each year's test status change deadlines for all tests.

Questions and Answers for Section II

1. Why is a special process needed to update or correct domain exemptions? Why was it not needed in previous years?
   a. This issue existed in previous years, but it was camouflaged because the ELPA Summative test was delivered as a single unit (i.e. all four domain tests at once). Students opened all non-exempt domain tests as soon as they saw the first item on the test. Users intuitively understood that they could not modify domain exemptions mid-test.
   b. The fixed form introduced separation between domain tests. It is no longer obvious or intuitive to think of the space between to domain tests as "mid-test".
2. Can the ELPA be reprogrammed to streamline or eliminate this correction process?
   a. ODE is investigating this possibility with ELPA21. The test's current function is part of ELPA's foundational programming and will not be easy to change.

Resources

- [Test Administration Manual](#) Oregon Department of Education
- [Oregon Accessibility Manual](#) Oregon Department of Education

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- [Guidance and Research](#), at the Oregon Department of Education. This page includes resources such as the EL Program Guide, Newcomer Toolkit, and Civil Rights guidance.
- [English Learner Tool Kit](#) In particular, consult chapter 6: Tools and Resources for Addressing English learners with Disabilities
- [Section 504 Handbook](#) Oregon Department of Education

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