

# Domain Exemptions on ELPA: Definitions and Examples

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Update to 2014 document *Decision Making Guidance  
for English Learner Students with Disabilities (ELSWDs)*

## 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 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; communication disorder; deafblindness; developmental delay; emotional behavior disability; deaf or hard of hearing; intellectual disability; orthopedic impairment; other health impairment; specific learning disability; traumatic brain injury; or visual impairment, including blindness, and who, by reason thereof, need special education and related services.

### **Children 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. Federal guidance allows exemption from up to three of these domains as an accommodation for students who cannot access that domain based on the student’s disability. 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. Information about domain exemptions can be found in the [Test Administration Manual](#) and the [Oregon Accessibility Manual](#).

## Domain Exemption Criteria for English Learners with Disabilities

### Key Considerations

Districts are expected to assess the English proficiency of all students who are English learners. However, in some cases, when the English learner also experiences a disability that prevents them from being able to access one or more domains on the ELPA, taking into account all available accommodations and supports, an appropriate team can exempt them from participating in those domain(s).

Decisions on exemptions from individual domains are based on access to the assessment construct, not on eligibility category or educational placement, and must be made on a case by case basis. Such decisions are inherently fact specific and need to be made by the appropriate team (i.e., the child’s IEP or 504 Team, with input from the EL Specialists who work with the child).

### Regulatory Authority

Under 34 C.F.R. §200.6(h)(4)(ii), if it is determined on an individualized basis that an EL student 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](#)).

To say that a student **can be assessed** in a domain, sometimes referred to as “accessing a domain,” means that the student can meaningfully interact with and respond to items from that domain. It may sometimes be necessary to provide one or more accommodations or supports to enable meaningful interaction in a domain. Conversely, to say a student **cannot be assessed** in a domain (or, “cannot access” a domain) means that a student cannot meaningfully interact with or respond to items from that domain, even with the use of available accommodations and supports, as described in the [Oregon Accessibility Manual](#). “Meaningful interaction” does not presuppose a minimum level of performance. The likelihood, or even certainty, that a student will perform poorly in a domain is not in itself a reason to exempt that domain. Instead, IEP or 504 teams should be looking for an extra-lingual condition (in this case, a disability) that prevents the student from demonstrating what they know and can do in that domain. **In other words, exemptions are for students who, taking into consideration the full range of accessibility supports available, cannot give a meaningful response—even a response as minimal as “I don’t know” or “I don’t understand”—on items for a given domain.**

To better inform their decision, 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, some Speaking items require response to a spoken prompt with no accompanying text. That means that, for some disabilities, a student may be capable of producing speech but lacks access to the Speaking domain construct. IEP or 504 teams can also consult the [ELPA sample test](#) to get an idea of the type and format of items students will encounter on the ELPA Screener and/or Summative.

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 due to test security considerations. 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 directions for administration accompanying the test will specify where Braille literacy is required. Little to no Braille literacy is required at the younger grades, more at higher grades. IEP or 504 teams should obtain a copy of the Braille ELPA prior to making exemption decisions for a student with a 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?
- Does the student respond to auditory content when provided in their dominant or preferred receptive communication mode?
- Is the communication technology that supports the student's dominant or preferred receptive communication mode allowable on the ELPA?

### Reading

- How does the student access text?
- What alternate formats does the student use to access text from various sources?
- 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?
- Is communication technology used by the student allowable on the ELPA?

### Writing

- How does the student produce text?

- What alternate formats does the student use to produce text?
- 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 student’s disability prevents the student from accurately demonstrating what the student knows and can do in English, taking into consideration all other allowable supports and accommodations available on the assessment.

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.

An IEP or 504 team cannot exempt a student from all four domains of the ELPA. 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 and not an exhaustive list. 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

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 is sufficient to allow demonstration of what the student knows and can do 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.

**However**, note that for very young students, such as Kindergarten or Grade 1, Braille knowledge may not be required for any portion of the test (even in the Reading domain). In such situations, it is recommended that the IEP or 504 team review [information on the Braille version of the test](#) before making a final decision on domain exemptions.

## 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 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 student's disability is so extensive as to prevent demonstration of what the student knows and can do 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.

## 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 prevent a demonstration of what the student knows and can do 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.

## 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 prevent demonstration of what the student knows and can do 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.

## District-provided examples with suggested guidance

An addition to the general examples above, here are some more specific case studies with recommended guidance. Note that domain exemption decisions should be made on an individual basis, considering the specific factors relating to the student's situation. The guidance below is based only on the information given.

- 1. A kindergartener has an IEP for a Communication Disorder and receives speech therapy. This student has an accommodation requiring a "familiar listener" during assessments. Can students be exempt from the Speaking Domain because the computer interface does not constitute a "familiar listener"?**

If "familiar listener" means a person who will provide the student with emotional support during testing, the [Oregon Accessibility Manual](#) (OAM) contains the designated support "Comforting Presence", which addresses this specific situation.

If "familiar listener" means a person who is familiar with the student's specific speech patterns, and can interpret this student's meaning (whereas an untrained listener would be hard-pressed to understand), please contact ODE.

- 2. A third grader has an IEP for a Communication Disorder and receives speech therapy. Past ELPA scores have been 3's and 4's in all areas except Speaking which has remained a 1. Can students be exempt from the Speaking domain?**

If an IEP or 504 team determines that the student's disability is of such a nature that they cannot accurately demonstrate what they know and can do in the Speaking domain, even with all available supports and accommodations, then exempt. Otherwise, test.

Note that exemption decisions must be based upon the presence of a disability. Poor performance alone is insufficient evidence upon which to base an exemption decision.

- 3. A first grader has an IEP for Autism Spectrum Disorder. They currently have limited production of independent speech, but will produce speech through echolalia. They also have a limited ability to understand the purpose of language but can copy letters and words written by a teacher or aid. Can the student be exempt from all but the Listening domain?**

If an IEP or 504 team determines that the student's disability is of such a nature that they cannot accurately demonstrate what they know and can do in one or more domains, even with all available supports and accommodations, then exempt. Otherwise, test.



**4. Can a student with a history of limited or non-participation due to test anxiety during the Speaking portion, in spite of having been provided designated supports in the past (such as separate setting), be exempt from the Speaking Domain?**

It is unclear from this description if the student has a disability. If the student does have a disability, and the IEP or 504 team determines that the student's disability is of such a nature that they cannot accurately demonstrate what they know and can do in the Speaking domain, even with all available supports and accommodations, then exempt. Otherwise, test.

**5. A middle or high school student has an IEP for a Specific Learning Disability in the areas of reading and writing. They have scored 4 or 5 in Listening and Speaking for 2 or more years, but continue to score 3s in Reading and Writing. Can this student be exempted from the Reading and Writing domain since lack of proficiency appears to be due solely to disability?**

The presence of a disability that prevents a student from accessing a domain, is the determinant for domain exemption, not a student's proficiency. If an IEP team determines that a student's disability is of such a nature that they cannot give an accurate demonstration of what they know and can do in the Reading and Writing domains, even with all available supports and accommodations, then exempt. Otherwise, test.

**6. A high school student with an IEP for an Intellectual Disability is continuing to work on their literacy skills, but is currently only reading at an elementary level (for example, GE 3.1). Can the IEP team exempt this student from the Reading domain because their reading proficiency is significantly below grade level?**

Exemption from an ELPA domain is based on a student's inability to access a domain due to an identified disability. A wide range of literacy skills are possible regardless of a student's disability category.

"Reads at a 3rd grade level" is not a recognized disability. If an IEP or 504 team determines that the student has a disability, and that the student's disability is of such a nature that they cannot accurately demonstrate what they know and can do in the Reading domain, even with all available supports and accommodations, then exempt. Otherwise, test.

Note that exemption decisions must be based upon the presence of a disability. The likelihood, or even certainty, of poor performance is insufficient evidence upon which to base an exemption decision. A student may demonstrate poor performance on the ELPA but still have meaningfully engaged with a domain.

## Resources

- [Test Administration Manual](#) Oregon Department of Education
- [Oregon Accessibility Manual](#) Oregon Department of Education
- [Guidance and Research](#), at the Oregon Department of Education. This includes, but is not limited to: EL Program Guide, Newcomer Toolkit, Civil Rights guidance, and more
- [English Learner Tool Kit](#) In particular chapter 6 focuses on: Tools and Resources for Addressing English learners with Disabilities
- [Section 504 Handbook](#) Oregon Department of Education