

Executive Numbered Memo 001-2014-15 English Learner Students with Disabilities

September 17, 2014

TO: All District Superintendents, ESD Superintendents, Principals, Special Education, Title I, and Title III Directors

RE: English Learner Students with Disabilities Must Take ELPA

The U.S. Department of Education has issued new guidance affecting Individual Education Plan (IEP) team assessment decisions for English Learner Students with Disabilities (ELSWD). The following information explains the procedures to be used by IEP teams when determining how ELSWD will participate in the English Language Proficiency Assessment (ELPA).

All English Learners (ELs), including those with disabilities, must participate in the annual State ELPA, with or without accommodations, or must take an appropriate alternate assessment if necessary (section 1111(b)(7) of the ESEA and section 612 (a)(16)(A) of the IDEA).

Summary

In July 2014, Oregon Department of Education received new guidance from the United States Department of Education regarding English Learner Students with Disabilities (ELSWD). This guidance was a joint communication from the U.S. Department of Education, Office of Elementary and Secondary Education (OESE), and the Office of Special Education and Rehabilitative Services (OSERS). The guidance includes a cover letter and a Frequently Asked Questions (FAQ) document, linked below. Questions 4-7 of the FAQ address decisions of the IEP team.

This numbered memo specifically addresses FAQ 7. *Can an IEP Team determine that a particular EL with a disability should not participate in the annual State ELP assessment?"*

No. All ELs, including those with disabilities, must participate in the annual State ELP assessment, with or without accommodations, or must take an appropriate alternate assessment, if necessary (section 1111(b)(7) of the ESEA and section 612(a)(16)(A) of the IDEA). (The reader is also directed to FAQ 1 for additional detail.)

The Federal FAQ and its Cover Letter are posted on the [ELSWD web page](#) and on the following [Student Services page](#).

Policy changes

Prior to this new guidance, the Oregon Department Education (ODE) permitted IEP teams to determine that ELPA participation was not appropriate for a student and to exclude them from participating in all domains of the ELPA. Under the new guidance ODE is no longer able to permit ELSWD to be exempted from all four domains. **Beginning with the 2014-15 school year, IEP teams may still make decisions about participation, including necessary accommodations, but those decisions cannot have the effect of excluding the student from ELPA participation.**

Districts were first notified of this policy change in the August 2014 Assessment and Accountability Update in order to provide districts additional time to revise student IEPs prior to the 2014-15 ELPA test

window. In making these revisions, districts will follow OAR and IDEA requirements related to IEP review and revision, including parent participation requirements. In accordance with the guidance, the IEP team must include staff knowledgeable about language acquisition and the ELPA in order to make an informed decision on which language domain(s) the student will participate.

For specific questions regarding English Learner Students with Disabilities, please contact [Mitch Kruska](#) or [Kim Miller](#).