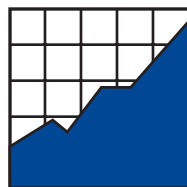




**A Review of 50 States' Online Large-scale Assessment Policies: Are English Language Learners with Disabilities Considered?**



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## **ELLs with Disabilities Report 5**

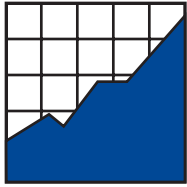
# **A Review of 50 States' Online Large-scale Assessment Policies: Are English Language Learners with Disabilities Considered?**

Martha Thurlow • Jane Minnema • Jane Treat

**September 2004**

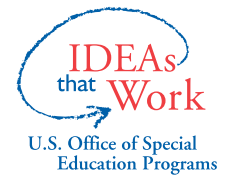
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## Executive Summary

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Educational reform efforts during the past few years have emphasized the importance of accountability for all students. Current federal policy makes it clear that students with disabilities are to participate in the state assessments that are included in these accountability systems, as well as in other indicators. Similarly, English language learners who have been in the country one year are also expected to participate in these assessments and other indicators. By implication, those students who have the dual educational needs of English language learning and special education also are expected to participate in assessments and be included in accountability.

As an entry point into understanding how English language learners with disabilities are included in state large-scale assessments, we conducted a comprehensive review of online large-scale assessment policies to describe current policy available to the public. We examined policies not only pertaining to English language learners with disabilities, but also for English language learners and students with disabilities as separate subgroups of students. Our findings are derived from a semi-structured content analysis of policy language, and are presented in two formats. First, descriptive information of current state policies is organized into tables. Second, we discuss broad thematic findings that were derived by stepping back and looking across all states' policies.

The results of our assessment policy review indicated that only a few states have formally considered the large-scale assessment needs of English language learners with disabilities. In fact, only one state (Texas) had a separate policy that addressed the inclusion of English language learners with disabilities in large-scale assessment programs when the review was conducted. While other states referred to this unique subgroup of students in large-scale assessment policy, these references tended to be written generally in such a way that practitioners did not have enough guidance in making large-scale assessment decisions for English language learners. Overall, states had better developed policy for identifying English language learners with disabilities.

A critical starting point toward full and meaningful inclusion of English language learners with disabilities probably is the adjustment of large-scale assessment policies to specifically address these students. It will be increasingly important for states to do so to avoid the possibility of their English language learners with disabilities slipping through the cracks into nonparticipation and lack of the benefits that participation can bring.

## Overview

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Local, state, and federal levels of American education often experience confusion and frustration as newly mandated educational policy is implemented. This is particularly true for those mandates that seek to raise student achievement results through wide-sweeping efforts that seek to reform instructional practice. Such is the case with the 2001 reauthorization of the Elementary and Secondary Education Act (ESEA) known as the No Child Left Behind (NCLB) Act. Clearly, the federal agenda is forging the way for dramatic reform of not only educational practice, but the measurement of student progress as well. States are taking the new federal mandate seriously because of its strong accountability requirements. All 50 state educational agencies (SEAs) are striving to meet the current administration's aim of including *all* students in the benefits of high-quality education.

The signature requirement of NCLB is the annual administration of large-scale assessments with results used as one measure of adequately yearly progress, reflecting student progress toward grade-level content standards and school system progress toward school improvement goals. In and of itself, NCLB puts forward a worthy educational plan. Of course, all students should receive the full benefits of a high-quality educational program. In fact, many educators view the new federal mandate as an *opportunity* to raise instructional expectations and results for subgroups of students such as students with disabilities and English language learners who have traditionally been disenfranchised from grade-level instruction because NCLB specifically identifies these subgroups and others as ones for which adequate yearly progress must be demonstrated.

Including all students in large-scale assessment and accountability programs has evolved over time as states strive to raise large-scale assessment participation rates. A large subgroup of students that has historically been excluded from statewide testing—students with disabilities—is more often now than ever before being included in states' public accountability reports (Thurlow, Wiley, & Bielinski, 2003). Some states are making progress toward the inclusion of English language learners (Thurlow, Albus, Liu, & Rivera, 2003). When including students who have both a disability and are acquiring English skills, states are encountering a myriad of challenges (Anderson, Minnema, Thurlow, & Hall-Lande, 2004). An extensive review of online public reporting documents (see Albus & Thurlow, 2004) suggests that relatively few states are disaggregating large-scale assessment results for English language learners with disabilities.

At the same time, policymakers and practitioners are requesting data-based information on how to meet the unique assessment needs of English language learners with disabilities (Carol Allman, personal communication, March 3, 2001). Only recently have estimated demographic data become available for English language learners with disabilities. Based on data provided by a random sample of school districts across the nation, there were an estimated 357,325 ELLs in

special education in public schools in grades K-12 in 2001-2002 (Zehler, et al., 2003). In thinking about English language learners without disabilities, the numbers of students who speak a language other than English at home continue to increase nationwide. For instance, based on prior increases, the percentage of growth expected from 1989-90 to 1999-00 was 104.9% (Kindler, 2002). If this projected rate maintains, or as in the past continues to rise, certainly the numbers of English language learners with disabilities will continue to increase as well. The challenges to both classroom instruction and large-scale assessment are great.

As a first step in looking at the issues surrounding the assessment of English language learners with disabilities, we conducted a descriptive research study to identify the status of states' online large-scale assessment policies that guide practitioners and parents in making large-scale assessment decisions for English language learners with disabilities. The purpose of this report is to provide the results of our comprehensive document review of all 50 states' Web-based large-scale assessment policies as they pertain to the inclusion of English language learners with disabilities in statewide testing.

## **Method**

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A review of online large-scale assessment policies was performed to obtain public information available to all educators and parents. This information served as a basis for the discussion of individual state practices for assessing students with both disabilities and limited English proficiency.

### **Accessing Policies**

Our Internet search was conducted using an online listing of SEAs' Web sites via the Council of Chief State School Officers' Web site (<http://www.ccsso.org>). We searched the Web sites of all 50 states for the most current information regarding large-scale assessment policy for students with both disabilities and limited English proficiency. Data were gathered between November 2001 and August 2002.

Two staff members conducted independent searches simultaneously and met periodically to compare information from Web sites. A specific search pattern was used for the Internet. From the SEA homepage, a reviewer either linked directly to headings on the main screen, or used the site search function to help find policy information for testing students with both disabilities and limited English proficiency. Policy information with any mention of students with disabilities and limited English proficiency were gathered. Search terms included: limited English proficiency, LEP, culturally and linguistically diverse students, CLD, disabilities, special education, policy,

assessment, large-scale assessment, English language learners, ELL, and bilingual education. These terms were also used in combination to search SEAs' Web sites.

We used the following criteria to select policies for review: (a) all state-level written large-scale assessment policy; (b) additional policy pieces with an English language learner, student with disability, or English language learner and disability focus; (c) most current policy version; and (d) state endorsed or mandated group measures of English language proficiency. To verify the documents obtained, we contacted each SEA to confirm that the policies found on their Web sites were the most current. At that time, SEA personnel were also asked to provide us with large-scale assessment policy for students with both disabilities and limited English proficiency not available online.

## Document Review Procedures

A semi-structured analysis was performed on the information gathered. As a first step, we reviewed policies on a state-by-state basis for content, including the population served by the policy, reporting practices, terminology used by the state to describe students, how students are identified for services, how parents are included, qualified professionals serving these students, and the format in which policies were presented. Part of this step also included a measure of the reliability of data obtained from the review process. Each policy was reviewed by a second staff member to ensure the accuracy of the final data set. Only a few errors were detected and corrected.

A second review of the policies involved further categorization of SEAs' policies. Reviewers met to discuss a logical format in which to compare policy content among states. We constructed tables that highlighted the similarities and differences in SEAs' policies with regard to students with both disabilities and limited English proficiency. The third review of policies resulted in an outline for final reporting.

## Data Set

To be as comprehensive as possible, we accessed any state level policy that pertained to assessing English language learners with disabilities. To do so, we considered any policy language that addressed English language learners, students with disabilities, and English language learners with disabilities. Therefore, our sample of state assessment policies extended beyond a large-scale assessment purview so that additional assessment areas were covered as well. Findings from our document review sorted into two primary categories of results: large-scale assessment policy and disability identification policy. Each category pertains to the assessment of English language learners with disabilities, but only the second of the two categories of assessments

were group assessments administrated on a large-scale basis. Of these categories, only the first category described standards-based statewide testing.

Each state included policy language that addressed the evaluation of English language learners for identifying disabilities. Because the preponderance of assessment policy that we found addressed disability identification, we have included those findings along with the findings on large-scale assessment policy content (see Appendix A for the results of our review of states' special education evaluation policy). These findings do not necessarily meet the initial objective of our research study, but do provide important context for understanding the current status of states' assessment policies for English language learners with disabilities.

In terms of our data set, it is important to remember that document reviews look at information at one point in time that have precise beginning and ending times. Because of that, pertinent policy language may have been in development or developed after our document review was completed. States' educational policies tend to change in order to remain in compliance with federal policy or to stay abreast of needs in the field. While we made every effort to present current and accurate findings, we recognize that in some cases our information may now be out of date. In addition, states' large-scale assessment policies are lengthy documents that are occasionally posted as partial documents on states' Web sites. Even though we contacted SEAs directly for their most current policies twice, it is possible that relevant information for some states may have been omitted or overlooked.

## Data Analysis

We analyzed the two categories of data at different levels of detail according to the purpose each set of findings served. Since the policy language pertaining to eligibility for special education services provided only contextual understanding for this study, we conducted a more general analysis that resulted in statements of key ideas.

The second section of findings on large-scale assessment policy language for English language learners with disabilities represented a deeper analysis that yielded common policy details across states. Once this detailed information was specified in data charts, we took a step back from the data set to determine global themes across states' assessment policy content concerning large-scale assessment of English language learners with disabilities. As a concluding step in our qualitative analysis of state-level assessment policy-based data, we developed thematic results derived from both sets of findings. These themes of results are presented and discussed as the concluding section of this report.



## Results

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The policy language gleaned from our document review that is specifically focused on large-scale assessments and English language learners with disabilities was organized into four general categories. These results are charted and presented below to distinguish and compare policy content across states. To provide the context for understanding states' policy language for English language learners with disabilities, we also included document review results for students with disabilities and English language learners as separate student subgroups where relevant.

### Participation

At the time of this study, only one state (Texas) had developed written policy that addressed the inclusion of English language learners with disabilities in statewide testing. While all of the remaining states had some type of policy related to English language learners and students with disabilities, most states' policies addressed these student subgroups separately. In other words, separate policies were written for English language learners and students with disabilities as either two distinct documents or two distinct sections of one policy document.

In August of 2001, the Texas Assessment Program developed a policy document for limited English proficient students who receive special education services. This document addressed the need for selecting the appropriate test (e.g., either the general assessment, an alternative assessment, or an alternate assessment), exemptions from participating, and allowable and nonallowable accommodations. Policy language provided general guidance for practitioners through specific mandates. For instance, educational teams must distinguish whether a student is exempted from statewide testing because of a disability reason or an English language reason. Further, Texas policy specified that limited English proficient students in special education receiving reading instruction must take Reading Proficiency Tests in English as other LEP students do. Finally, this policy lists specific disability-related and English language-related accommodations that are allowable, nonallowable, or considered to be test modifications.

While most states did not specifically address the participation in large-scale assessments for a student with disability who is learning English, several states did refer to this subgroup of students in their policies. States did so in different ways and in different places in large-scale assessment policy documents. These findings are presented in Table 1.

Five states made specific reference to English language learners with disabilities in either policy written for special education or policy written for English language learners. Two states (New Hampshire, Wisconsin) referred to students who are learning English in their large-scale assessment policies written for special education. The large-scale assessment policy written for

**Table 1. States' Online References to English Language Learners with Disabilities in Standards-based Large-scale Assessment Policy**

<b>Policy Reference</b>	<b>State</b>
English Language Learner/Special Education Policy	Texas
In Special Education Policy	New Hampshire Wisconsin
In English Language Learner Policy	Arizona Illinois Virginia
No online references	All other states

students in New Hampshire stated that neither social nor cultural factors may be used as the sole basis for determining whether a student is eligible for an alternate assessment. Policymakers in Wisconsin used a different approach by addressing limited English proficient students in their statewide testing guidelines for students with disabilities. Three other states (Arizona, Illinois, Virginia) dealt with English language learners with disabilities in large-scale assessment policy written only for English language learners. In referring to those limited English proficient students whose participation could be accommodated, one state (Arizona) indicated that accommodations were only available for “limited English proficient students who have been identified as having a disability.” Policy language in another state (Virginia) document mentioned English language learners with disabilities specifically by stating “if also has a disability” when describing limited English proficient students. Yet another state (Illinois) required an indication of special education services received written into a report summarizing Illinois Measure of Annual Growth (IMAGE) assessment results. The fifth state (Texas), as previously mentioned, addressed English language learners with disabilities in a policy developed specifically for this subgroup of students.

We were unable to find mention of English language learners with disabilities as a distinct subgroup of students in the remaining states' large-scale assessment policies. It can be inferred from some states' policy language that these students are included, although to do so requires a liberal interpretation of states' policy content. For instance, in a section of the policy document that deals with test accommodations, one state (Minnesota) states that *all* students have access to *some* of the allowable test accommodations when participating in the state test. While not specifically mentioning English language learners with disabilities, it could be deduced that these students would be eligible for accommodation use accordingly.

## Exemptions

We found mixed results when considering exemptions from statewide testing for English language learners with disabilities during the time of the document review (November 2001-August

2002). We display these findings in Table 2. When considering all student subgroups, no states' large-scale assessment policy included on their Web sites indicated that students with disabilities could be exempted from standards-based large-scale assessments. There was one state (New Hampshire) with a policy that indicated that English language proficiency testing could be used to "excuse" English language learners from the current year's general assessment on a case by case basis. Since most states did not include English language learners with disabilities in their large-scale assessment policies, our document review yielded only a few references to exempting these students from statewide testing.

**Table 2. States' Online Policies for Exempting Students from Standards-based Large-scale Assessments**

<b>Exemption Reference</b>	<b>State</b>
For Students with Disabilities	No states
For English Language Learners	New Hampshire
For English Language Learners with Disabilities	Texas Virginia
None Online For English Language Learners with Disabilities	California

Two states (Texas, Virginia) made provisions for exempting English language learners with disabilities from statewide testing. One of these states (Texas) stipulated that English language learners in special education could be exempted from standards-based large-scale assessment if the Assessment, Referral, and Dismissal (ARD) Committee decided to do so. Team members may use either limited English proficiency criteria or special education criteria to exempt a limited English proficient student. Students receiving an exemption from the state test must take a district alternate assessment in all content areas from which they were exempted. The other state (Virginia) addressed exempting English language learners from large-scale assessments "if the student also has a disability." In contrast, only one state (California) indicated directly that all students with disabilities, even if their native language is other than English, must participate in statewide testing either with or without accommodations.

### Accommodations

For those states that considered English language learners with disabilities, accommodating these students during statewide testing was referred to in various ways across states' large-scale assessment policies that appeared on their Web sites. These findings are presented in Table 3.

**Table 3. States' Online Policies on Testing Accommodations in Standards-based, Large-scale Assessments**

<b>Accommodation Reference</b>	<b>State</b>
For English Language Learners with Disabilities	Arizona California Illinois Michigan
For Students with Disabilities Only	All other states
For English Language Learners Only	All other states
For All Students	Minnesota Oregon

One state (Texas), the only state with large-scale assessment policy written specifically for English language learners with disabilities, indicated that all accommodations used by English language learners and students with disabilities were appropriate for English language learners with disabilities. ARD teams were responsible for selecting accommodations and documenting their use in the student's IEP.

Three states (Arizona, California, Illinois) specifically referred to English language learners with disabilities in the portion of their large-scale assessment policies that addressed accommodations. State-level assessment policy language written for Arizona students granted the IEP team responsibility for determining the need for accommodating English language learners with disabilities. In another state (California), policy mandated the participation of English language learners with disabilities in large-scale assessments with appropriate accommodations as needed. A third state (Illinois) embedded policy language concerning the use of linguistic and cultural accommodations for those students in bilingual special education. While not referring to English language learners with disabilities specifically, one state (Michigan) listed the use of a bilingual translation dictionary as a standard accommodation for use during statewide testing.

One state (Oregon), while not mentioning English language learners with disabilities, made provision for accommodating all subgroups of students by allowing the use of test accommodations by all students. Another state (Minnesota), as previously mentioned, allowed all students to use some test accommodations. The remaining states addressed test accommodation use in their online policies that were written for English language learners as separate considerations from students with disabilities without referencing English language learners with disabilities. States typically identified allowable and nonallowable accommodations, but did so without parsing out appropriate accommodations for English language learners with disabilities. Our online policy review also did not uncover any policy language that guided practitioners in selecting appropriate accommodations for students who have both a disability and are learning English.

## Reporting

Table 4 shows that we found large-scale assessment policy language about reporting the large-scale assessment results for English language learners with disabilities in one state’s online policy (Illinois). Even so, this policy content only indicated that these test results “shall” be reported without providing any direction as to how to do the reporting. The remaining states described reporting practices that met IDEA 97 requirements, which was in place when our data were collected. At that time, states were required to report in terms of students’ race, national origin, limited English proficiency status, and type of special education program.

**Table 4 – States’ Online Policies on Reporting Standards-based, Large-scale Assessment Results**

<b>Reporting Practices</b>	<b>State</b>
For English Language Learners with Disabilities	Illinois
For Students with Disabilities Only	All other states
For English Language Learners Only	All other states

Some states’ reporting practices did have unique features that are worth noting. For instance, one state (Indiana) provided more detailed reporting information by requiring an accounting of limited English proficiency students who were and were not accommodated during statewide testing. As another example, an additional state (Arizona) also provided a detailed description of its public reporting procedures. School districts in Arizona were required to report the number of students exempted from the standards-based assessment and the number of limited English proficiency students administered a norm-referenced test in lieu of the general assessment. These assessment results were not to be included in summary statistics reporting on group performance.

## Discussion

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Our policy review mostly highlights what states have not put into assessment policy for English language learners with disabilities rather than what they have. Given the limited assessment policy language focused on English language learners with disabilities, we were still able to access useful information that begins to tease apart some of the confusion in the field about assessing English language learners with disabilities. By stepping back from our data, we identified themes of findings in the form of issues, patterns, and conclusions. We present these as key discussion points.

**Only one state has a large-scale assessment policy for English language learners with dis-**

**abilities.** It is noteworthy that at the point of data collection, we were able to access only a single states' assessment policy that was specifically focused on the participation of English language learners with disabilities in statewide testing. Most states had separate assessment policies, one designated for students with disabilities and another for English language learners. Clearly, students who have both disabilities and English learning needs have received little attention during the development of states' large-scale assessment policies. The lack of relevant policy material for these students is especially distressing given the fact that many states have large numbers of English language learners, and in these and other states the numbers are increasing rapidly. Given the federal agenda of decreasing the achievement gap through targets of adequate yearly progress measured in part by standards-based large-scale assessments, it is especially important for states to have written assessment policy for all subgroups of students.

**Some states are referencing English language learners with disabilities in large-scale assessment policy language.** On the positive side of the issue, there is a trace of emergent thinking about this unique subgroup of students that is most likely driven by today's accountability minded educational environment. This is evidenced by the fact that states were beginning to reference English language learners with disabilities in their large-scale assessment policies. Even though in most cases the policy language was not explicitly articulated for English language learners with disabilities, one can deduce that these students are at least covered by some states' policy content (e.g., all students in a state can use any test accommodation as needed). For the policy language that directly addressed English language learners with disabilities, there seemed to be no clear pattern in our data. Some states mentioned these students in the English language learning portion of their large-scale assessment policies while other states did so in the special education portion of their policies. Taken all together, it is encouraging that states have initiated a beginning policy base for these students.

**There is little consistency in states' terms for English language learners with disabilities.** Interpreting policy language to inform the large-scale assessment of English language learners with disabilities is confused by the variety of terms used to identify these students. In fact, our review of states' policies yielded 10 terms that are used across states' policies. We found "limited English proficient students with disabilities" to be the most frequently used term. Other often used terms included "limited English proficient students with special needs," "limited English proficient students who are exceptional students," "limited English proficient exceptional students," "limited English proficient student identified as having a disability," "limited English proficient students having a handicapping condition," "special education limited English proficient students," "students from non-English language backgrounds who receive special or related services," "students with disabilities and/or limited English proficient," and "culturally and linguistically diverse students." In addition to listing the various terms used in large-scale assessment policies, some states used multiple terms in one policy document to refer to English language learners with disabilities.

Pinpointing one term for these students is complicated further by the confusion in the second language field about preferred term usage. The same term (e.g., “limited English proficient students”) has different meanings in different states. While the federal government uses the term “limited English proficiency,” “English language learner” is generally the preferred term in practice. An additional complicating factor is the endorsed term by the major national professional organization for special educators: “culturally and linguistically diverse (CLD) student” is used throughout materials published by the Council for Exceptional Children for any child of color (<http://www.cec.sped.org>). Without a consistently used term within the fields of disability and English language learning, it is a difficult challenge for policymakers to coalesce on one term for students who have both a disability and English language learning needs.

**Policy language addressing the large-scale assessment of English language learners with disabilities is often vague and imprecise.** The results of our document review pointed to the lack of clear policy language that specifically addresses English language learners with disabilities. While there is limited policy available for English language learners with disabilities, that which is written is often times confusing. For instance, many states used “and/or” in reference to disability and English language learning. In these cases, there is uncertainty as to whether the policy language addressed one student with both disability and English language learning needs. Or, is the policy directed at two subgroups of students, one with disabilities and the other with English learning needs?

One state in particular (Montana) used the word “and” in disability identification policy for English language learners. It is admirable that this state mandated the consideration of English language learning needs within a special education assessment. Nevertheless, this policy can mislead the reader in thinking that the policy references students with limited English proficiency and special education needs. Closer scrutiny of the policy indicated that the policy addressed the assessment of either English language learners or students with disabilities—not students who are learning English *and* have a disability.

**States’ written policy for the educational assessment of English language learners with disabilities is better developed than policy for standards-based assessment.** As evidenced by the findings of this policy review study, states have invested more resources in developing policy that is focused on the process of identifying English language learners for special education services than on the process of including these students in statewide testing. In fact, 25 states’ policies that are available online contained guidance for practitioners to use to identify disabilities in English language learners. Conversely, only one state had precise policy language that addressed how to include English language learners with disabilities in standards-based large-scale assessments. Given the mandates of NCLB, we anticipate more activity in this area. For the time being, practitioners are expected to make appropriate large-scale assessment decisions for English language learners with disabilities without direction from the SEA. Policy language

is needed that first stipulates what a high-quality large-scale assessment decision should be and second, the process by which that assessment decision should be made.

**States’ large-scale assessment policy language does not support collaborative decision making between second language and special education staff.** No state mandated coordinated efforts between English language learning and special education staff when decisions are made for including English language learners with disabilities in large-scale assessments. In fact, the majority of states did not even address the issue of collaboration between the two disciplines when planning educational programs for English language learners with disabilities. Two states (Florida, Texas) suggested indirectly that educational planning should be coordinated by both disciplines, but did so in different ways. State-level policy in one state (Florida) mandated that a Limited English Proficiency Committee develop a Limited English Proficient Student Plan for educational services. If these services included special education, those provisions were to be documented in the Limited English Proficient Student Plan. The Limited English Proficient Committee was also responsible for recommending any service revisions that were to be documented in the student plan. It should be noted that there is mandated consideration of special education services when planning an English language learners’ educational plan. In spite of that, we found no specific reference to collaborative efforts between English language and special education staff to do so. The second state (Texas) mandated the involvement of second language staff in the identification of a disability for an English language learner. Again, there was no reference to collaborative efforts between special education and English learning departments in this states’ large-scale assessment for including English language learners with disabilities in statewide testing.

**Various states’ policies contain features that are unique to that state only.** Our document review revealed special aspects of some states’ large-scale assessment policies that we did not find in other states’ policies. For instance, one state (Alabama) delegated the responsibility of teaching English language skills or general American dialect to educators other than special educators. Another state (Illinois) had a section of large-scale assessment policy devoted to documents of recommended IEP forms. These forms contain yes/no items for documenting the use of linguistic or cultural accommodations or the provision of special education services. Another state (Florida) mandated the SEA to monitor school districts to ensure that appropriate programmatic recommendations be made for English language learners with disabilities. A final state (Texas) indicated that placing an English language learner in special education is not grounds for refusing second language services for that student. Further, this state’s policy indicated that the provision of educational programming must be equitable for both English language learners with and without disabilities. In our review of states’ large-scale assessment policies, we found no other states that addressed these issues directly.

**Accessing policy information for English language learners with disabilities is arduous.**



Only in rare cases, such as with Texas where a separate large-scale assessment policy had been developed for English language learners with disabilities, were we able to easily locate policy language that addressed the participation of English language learners with disabilities in statewide testing. When we were able to find state-level policy information, it was the result of closely reading policy documents rather than a result of searching by key terms on states' Web sites. More often than not, we found nothing when searching for online policy regarding English language learners with disabilities. Typically, we accessed relevant data from direct telephone contacts with SEAs.

## **Conclusion**

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Practitioners often look to policymakers for guidance in making large-scale assessment decisions for students whose inclusion in the general assessment program is challenging. In the case of English language learners with disabilities, state-level guidance—at least in written policy format—is sparse. In fact, practitioners in only a limited number of states have access to state-level policy that informs the inclusion of English language learners with disabilities in large-scale assessment programs.

The results of our assessment policy review demonstrated that only a few states had even considered the large-scale assessment needs of English language learners with disabilities by the time NCLB was beginning its accountability requirements. A necessary point at which to begin is the revision of large-scale assessment policies with the stated purpose of including all students regardless of their unique challenges to full participation. With meaningfully written policy language that is both precise and exact, policymakers can affect large-scale assessment results as English language learners with disabilities are better accounted for, an accounting that benefits students, families, communities, and ultimately states.

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## Appendix A

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### Special Education Eligibility Assessment for English Language Learners

Our document review of states' policies that guide the assessment of English language learners to determine eligibility for special education services yielded the following key ideas. We present these key ideas in nine general summary statements.

***Many states qualified the identification of a disability within the context of a student's level of English language proficiency.*** States' policy language informed practitioners to use caution in identifying disabilities when English language proficiency is not commensurate to the language level of their same-age peers. Many states (Alabama, Alaska, Connecticut, Georgia, Mississippi, Missouri, Nebraska, New York, New Hampshire, Ohio, Pennsylvania, West Virginia) mandated directly that a disability cannot be identified solely on the basis of limited English proficiency. Also warning practitioners, another state (New Hampshire) took a slightly different tack on discerning a disability for a student whose native language is not English. State policy indicated that to not appropriately identify an English language learner with a specific disability may result in a violation of a student's civil rights as mandated by federal law.

***States' assessment policy language about identifying disabilities in English language learners was written either generally or specifically.*** States have developed special education eligibility assessment policy with varying degrees of specificity. There was wide variability across states' policies in terms of how much guidance practitioners received for identifying an English language learner with a disability. For instance, as an example of more general policy language, one state (New Mexico) suggested that practitioners need to consider a child's English language proficiency when determining eligibility for special education services to avoid misclassification. Other states (Hawaii, Illinois) provided policy language with greater specificity in the form of state guidelines or state-developed resource handbooks. These documents highlighted the need for including English as a Second Language or bilingual education teachers in the assessment process, in the specification of a disability, and in the planning and implementing of an IEP for English language learners. In order to better discern a disability from a delay in English language acquisition, another state (Minnesota) put forward the importance of gathering background information on native cultures, home languages, and previous educational experiences. Another state (New Hampshire) provided a list of general considerations for distinguishing language needs from special learning needs.

***Some states' assessment policies referred to involving second language staff committees in the disability identification process.*** Some states' policies mandated specific organizational structures for schools' second language educators. For instance, one state (Texas) used Language Proficiency Acquisition Committees (LPACs) while another state (Georgia) used Limited English Proficiency Testing Participation Committees to make educational decisions for English

language learners. While Georgia’s policy infers special education testing decision making, Texas specifically mandated LPAC participation in any special education decisions made for English language learners.

***States’ special education assessment policies varied in recommending an approach for identifying an English language learner’s disability.*** For the states that suggested an approach to evaluating English language learners for eligibility for special education services, the recommendations pertained to a specific testing approach. For instance, a state (Illinois) suggested that identifying an English language learner with a disability is best done through a case study approach. This approach used a bilingual educator expert review to parse out the effects of English language acquisition from the effects of a disability. Another state (New York) also recommended an approach to evaluation that uses a bilingual multidisciplinary assessment process. While not recommending a specific assessment approach, other states (Alabama, Hawaii) did identify specific steps to take in evaluating an English language learner for possible special education placement. These evaluation steps included testing English language learners in their native language, using nonverbal techniques in testing, using language and cultural specialists in the evaluation, implementing classroom-based interventions through a pre-referral process, documenting home language(s) and English language proficiency levels, and using culturally relevant assessment instruments that are valid for a given student population. In particular, one state (Colorado) recommended a pre-assessment step of testing English language learners to document their dominant language. The evaluation is then conducted in the student’s dominant language.

***Special education assessment policies varied in how language specialists are used throughout the evaluation process.*** There was wide variability across states’ policies in the recommended role for language specialists throughout the special education evaluation process. Some states (Colorado, Hawaii, Illinois, Minnesota, New York, Texas) provided more specificity in describing the roles of a language expert that ranged from consultation and review to full participation in conducting the special education assessment. Several of these states (Colorado, Illinois, Minnesota, Texas) mandated the involvement of English as a Second Language or bilingual education teachers on an IEP team for assessment decision making. One of these states (Minnesota) required language expert involvement in the writing and implementing of an IEP once an assessment identified an English language learner with a disability.

***States varied in how English language proficiency levels are to be considered when discerning a disability for an English language learner.*** The level of detail in states’ policies about how to think about English language proficiency levels throughout an eligibility assessment ranged from simple references about developing English language skills to guarantees that English language proficiency levels are embedded throughout the assessment process. For instance, several states (Alabama, Alaska, Connecticut, Georgia, Idaho, Mississippi, Nebraska, New Hampshire, New

Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Tennessee, Virginia, West Virginia) suggested generalities such as considering a student's limited English proficiency level when identifying a disability. On the other hand, some states (Colorado, Illinois, Minnesota, Texas) specified a role for English language experts on the evaluation team implying that students' language proficiency would be a consideration from the beginning of testing through the decision whether to provide special education services.

***Some states' assessment policies addressed the use of an English language learner's native language in a special education evaluation.*** Most states did not refer to the use of a student's home language when evaluating an English language learner for possible special education service delivery. We found three states that addressed this issue, two of which recommended the same approach. Two states (Colorado, New Jersey) mandated an assessment in an English language learner's native language while one state (New York) required a bilingual special education evaluation.

***States' assessment policies reflected concern about test standardization for students whose native language is not English.*** Since cultural relevance is integral to validly assessing an English language learner, states' policies addressed this issue. States also recognized the importance of administering normative tests using standard test administration procedures. Consequently, some states addressed these issues through the content of special education assessment policies. For instance, two states provided guidance in the use of interpreters for presenting test instruments developed only in English. One state (Colorado) warned against violating test standardization by interpreting a test written in English to an English language learner's native language. This state also recommended minimizing cultural, gender, or ethnic bias to achieve test results that are valid and reliable test results. Another state (Hawaii) stated specifically that interpreting an English-based test to another language is no longer a standardized test presentation, and that test results from an interpreted test may not be used for diagnostic purposes.

***States' policies addressed school communication with parents whose native language is other than English.*** Most states had policy language about including parents in the educational assessment process, but the language varied in its level of detail. For instance, one state (Colorado) included a parent checklist for use throughout the special education assessment process. The checklist included items such as the mandatory use of interpreters so that the agreement to place an English language learner in special education can be conducted in the parents' native language. IEP forms are to be translated when necessary. Notations in IEPs are required to document whether the decision to place an English language learner in special education was done verbally with or without an interpreter, in written format with or without translations, or both. As another example, a different state (Minnesota) provided videotapes, translated forms, and

a directory of native language personnel as resources for parents of English language learners being assessed for possible special education placement.

Other states' policy language tended to be less clear and specific, allowing for wider interpretation. As one example, three states (Florida, Nebraska, Utah) stated that school communication should only be in the parents' native language. Other states (Alaska, Alabama, Georgia, Kentucky, New Hampshire, New Jersey, New York, Vermont) required practitioners to present assessment results in such a way that parents are able to understand the proceedings. We found no mention of parents of English language learners with disabilities in some states' educational assessment policies (Connecticut, Maryland).