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SPECIAL EDUCATION FIELD ADVISORY



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The purpose of this memorandum is to provide information on the appropriate use of standardized scores in the individual evaluation of culturally and linguistically diverse preschoolers and school-age students identified as English language learners<sup>1</sup> (ELLs) in order to identify them as having disabilities and determine their need for special education programs and services.

Appropriate identification of ELLs with Disabilities

Data shows that in New York State (NYS), ELLs are disproportionately identified as students with disabilities. While the overall classification rate of all students with disabilities in NYS is just under 14 percent, the classification rate for ELLs is close to 19 percent. In particular, ELLs are significantly over identified as students with speech and language impairments, learning disabilities and emotional disabilities as compared to students who are not ELLs.

The accurate identification of ELLs with disabilities can be challenging given the lack of valid and reliable individualized assessments with representative norm samples of ELL populations. Federal and State regulations require tha

limited English proficient ; as such term is used in the



The Committee on Preschool Special Education (CPSE) or Committee on Special Education (CSE) meeting where the results of the evaluation will be discussed, eligibility determined and individualized education programs developed, must include an individual who can interpret the instructional implications of the evaluation. For ELL students, the CPSE/CSE must include persons with expertise in second language acquisition and other professionals, such as speech-language pathologists, who understand how to differentiate between English language acquisition and a disability. Part 154 of the Regulations of the Commissioner of Education now requires that the CSE for such students include at least one individual, certified pursuant to Part 80 of the Regulations of the Commissioner, to provide bilingual services or instruction or teach (QJOLVK WR 6SHDNHUV RI 2WKHU /DQJXDJHV ZKR LV NQR English and home language development needs.

### Eligibility Determinations

In determining eligibility for special education, the CPSE/CSE must ensure that the student is not identified as having a disability if the determinant factor is only English language proficiency. In addition to the individual evaluation results, the appropriate identification of ELLs as students with disabilities should include use of tiered systems of support and data from a response to intervention (RtI) process. The Department has provided specific guidance on considerations for the use of RtI for ELLs as well as information to assist evaluators and CPSEs

program. Such considerations include, but are not limited to, WKH VWXGHQW¶V QH VSHFLDO HGXFDWLRQ SURJUDPV DQG VHUFLFHV WR VXSS progress in English language arts instruction, content area instruction in English and English as a New Language instruction; and whether the student needs bilingual special education and/or related services.

### Resources for Further Information

Questions regarding this memorandum may be directed to Alexia Thompson in the Office of Special Education at (585) 344-2002, or to the Office of Bilingual Education and Foreign Language Studies at (518) 474-8775 or (718) 722-2445.

For technical assistance relating to ELLs and ELLs with disabilities, you may also contact:

Bilingual Specialists at the Regional Special Education Technical Assistance Support Centers

<http://www.p12.nysed.gov/specialed/techassist/rsetasc/locations.htm>

Regional Bilingual Education Network

<http://www.p12.nysed.gov/biling/bilinged/betac.html>