



Guidance on Identification and Screening

English Learners in North Dakota
Office of Indian/Multicultural Education
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English Learners Defined

Federal and State laws require schools to provide a language instruction educational program (LIEP) for all English learners (ELs) who need additional services to succeed academically. In order to provide an LIEP for ELs, districts must first identify the students who may qualify for the ELD program. The federal and state definitions for ELs are very similar as indicated below:

Federal Eligibility Criteria for ELs:

Students must meet the criteria listed in each of the sections A-D.

- Section C: students must meet i, ii, OR iii
- Section C(ii): students must meet (1) and (2)

The term “**English learner**”, which is defined in section 9101 of Title IX (ESEA) when used with respect to an individual, means an individual:

- A. who is aged 3 through 21; **AND**
- B. who is enrolled or preparing to enroll in an elementary school or secondary school; **AND**
- C.
 - i. who was not born in the United States or whose native language is a language other than English;
OR
 - ii. (1) who is a Native American or Alaska Native, or a native resident of the outlying areas; **and**
(2) 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 State’s proficient level of achievement on state assessments described in section 1111(b)(3);
OR
 - ii. the ability to successfully achieve in classrooms where the language of instruction is English;
OR
 - iii. the opportunity to participate fully in society.

State Eligibility for ELD Services

ND Administrative Code Section 67-28-01-04

To be eligible for English language development services, a student must:

1. Be at least five years of age, but must not have reached the age of twenty-two; **AND**
2. Be enrolled in a school district in North Dakota; **AND**
3. Have a primary language other than English or come from an environment in which a language other than English significantly impacts the individual's level of English language proficiency; **AND**
4. Have difficulty speaking, reading, writing, and understanding English as shown by assessment results.

Identification of English Learners

Federal Civil Rights Law and North Dakota Century Code (NDCC Chapter 15.1-38) have specific requirements regarding the education of ELs. The North Dakota ESSA Plan is required to provide statewide identification criteria and procedures. Districts have some latitude in how the procedures are implemented and who, in the district, is responsible for implementation. The following items demonstrate how **all** districts shall meet NDCC and Civil Rights requirements for identification of English learners.

The district's EL Student Identification Plan is submitted through the MIS01 Fall Report in the STARS. The plan must include the step-by-step procedures the district follows to incorporate the North Dakota ESSA statewide EL identification criteria and procedures. The plan must include **how the district**:

- Ensures the North Dakota Home Language Survey (HLS) is completed by a parent for each student in the school,
- Evaluates the EL criteria to determine if a student qualifies for EL status, including how the district:
 - ☐ Reviews the HLS for a language other than English,
 - ☐ Reviews the student's academic data (if available) to determine if there is significant evidence of academic success in English?
 - ☐ Administers the North Dakota ELP screener (currently WIDA Screeners for grades K-12) and determines if a student qualifies for the EL program?
 - If the screener score is below a 3.5 in one of the four domains or below a 5.0 composite score, the student qualifies for the EL program unless there is significant evidence of academic success in English.
- Identifies students who qualify for EL status in PowerSchool and STARS.

Home Language Survey

According to the Office of Civil Rights the identification of English learners must be linguistically based and applied to **ALL** students. The new Every Student Succeeds Act (ESSA) requires every state to have uniform statewide entrance and exit criteria and procedures for the English Learner Program. The North Dakota Department of Public Instruction (NDDPI), in consultation with the English Learner Program Advisory Committee (ELPAC), has developed the [ND Home Language Survey \(HLS\)](#) for schools and districts to help determine if a student meets the first three criteria of the definition of an English learner as part of North Dakota's uniform entrance criteria.

The first step of the ND statewide identification procedures is for all schools to use the ND HLS as the initial language inquiry tool. **It is not allowable to ask one question on a registration form** for all students and administer the HLS to only those students suspected to be ELs due to national origin, culture, race or ethnicity. The HLS must be administered to all students.

An important factor regarding the use of the HLS is communication. Schools must communicate clearly with parents to assure that answers given on the HLS are accurate to help determine the heritage/native language(s) of the child. Many factors can contribute to inaccurate data reported on a HLS. Parents might think the school values English more than other languages or might be reluctant to be honest about the languages used in the home. Other parents may not understand the purpose of the HLS and report languages their child is studying as a second language. If the data seems incorrect or incomplete, schools may ask parents for further clarification and make changes on the HLS by making a note of the conversation (initialed and dated).

ELs in North Dakota include students who are Native American, refugee, immigrant, migrant, Hutterite, foreign adopted, and natural born citizens from bilingual households. Some students may be the only English speaker in the household or have one parent who speaks English and one parent who does not. Other students may have been raised by a grandparent who speaks a language other than English. The North Dakota HLS includes critical questions to determine the influence of another language in students' lives. The HLS may also serve as a tool to collect data for other EL related programs in which students may qualify such as immigrant, migrant, students with limited or interrupted formal education (SLIFE), and/or refugee.

The state of Arizona previously used a one question HLS and they testified in federal court in September, 2010 regarding the potential for under identifying potential EL students with their single question HLS. The OCR letter to Arizona's department of education states that the one question HLS "does not comply with Title VI because these identification procedures do not adequately identify and serve ELs who need English language development services..."

ND English Language Proficiency (ELP) screener assessment

The next step after the school determines the individual student meets the first three criteria of the EL definition is to determine if the student whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual the ability to meet the State's proficient level of achievement on state assessments, successfully achieve in classrooms where the language of instruction is English, or the opportunity to participate fully in society. If the student records indicate one or more of the above criteria, previous participation in EL services in another school, or if records are unavailable, the student should be screened using the appropriate ND English Language Proficiency (ELP) screener assessment.

North Dakota is a member of the WIDA consortium which provides ELD standards and ELP assessment design and implementation. ND uses the WIDA Screener assessments for students in grades K-12 for initial ELP screening. More information on the screening assessments can be found on the [WIDA website](#).

The WIDA Screener is available online or in paper format for grades 1-12 and through a paper kit for kindergarten. The online format is free to all ND schools. If a district chooses to use the paper format, the cost is a local responsibility. The NDDPI will purchase the first K Screener kit for each school as needed. Please contact the [EL Program Office](#) to order. An overview of the WIDA Screener assessments and additional information is available on the [WIDA website](#).

Test Administrator Training

Test administrators for the WIDA Screener assessments must be a ND certified EL teacher and complete the applicable test training annually through WIDA.

All training materials for the WIDA Screener are available virtually through web-based modules under "Assessment Training" in the [WIDA Secure Portal](#).

Test modules include embedded knowledge checks with results available immediately upon completion of each module. A minimum pass rate is still required. Test administrators can participate in the modules more than one time to gain additional knowledge and improve their pass rate. The certification is recorded in each test administrator's WIDA online account. This information is available to NDDPI staff and district test coordinators to assure test administrators are qualified to administer each portion of the assessment. NDDPI holds district test coordinators accountable for the accuracy of staff account information and test certification.

ELD Program Placement Criteria

Pre-K Students

If a family provides a language other than English on the HLS, a PreK student may be marked EL in PowerSchool/STARS. Currently, there is no assessment available to accurately measure the ELP level for Pre-K students. Toward the end of the second semester, the student may be screened according to the kindergarten procedures.

Kindergarten ELs

In the first semester of Kindergarten, the listening and speaking sections of the WIDA K Screener are administered. If a student scores below a Level 3 in listening or speaking, the Oral Language Composite Score is entered into PowerSchool/STARS as the Overall Composite score and the student qualifies for the ELD program. If a student scores at or above a Level 3 in listening and speaking, the student may not qualify for services. The student should be monitored for the rest of the semester. If the student is successful, nothing further is necessary. If the student is struggling, administer all four domains of the screener in December/January to determine eligibility for services.

ELs in Grades 1-12

The ND statewide identification criteria includes a minimum composite proficiency level score of 5.0 and a minimum score of 3.5 in each domain of reading, writing, listening and speaking. Therefore, students who score below these criteria on the WIDA Screener are eligible for English language development (ELD) services and identified as English learners in PowerSchool and STARS. A flowchart for EL identification, screening and programming can be found in the O365 EL Coordinator Team.

Migrant Students

A small number of students who meet the definition of a migrant student (has a parent who is a migratory agricultural worker and in the last three (3) years has moved from one school district to another, in order to work (temporary or seasonal) in agricultural activities) enter our schools each spring. Many migrant students are not in attendance in our schools during the ACCESS testing window. In these special cases, the student may participate in the second window of ACCESS which runs through June. The second window is not part of the official test window but does afford those students an opportunity to demonstrate ELP growth and attainment to exit the program.

In a similar way, some migrant students only attend school in a WIDA state for the first few months of the school year. Although it is ideal to exit the program based on the full ACCESS test, NDDPI recognizes that some students miss both ACCESS test windows on an annual basis. In these unique cases, the full MODEL (not the WIDA screener) can be used to determine if the student would *still qualify* for the EL program. This is not considered exiting the program but demonstrates they no longer qualify for the program. If a student no longer qualifies for the program, please send the MODEL documentation to the [EL Program Office](#) and request an update to the student's record in STARS.

Refugee Students

Students who arrive in the US in refugee status are students who:

- Were located outside of the US
- Are of special humanitarian concern to the US
- Demonstrate they were persecuted or faced fear of persecution due to race, religion, nationality, political opinion, or membership in a particular social group
- Are not firmly resettled in another country
- Are admissible to the US

Students who arrive in refugee status may remain in refugee status in the STARS for 5 consecutive years of enrollment. This status is utilized for calculating specific refugee funding allocations as they become available.

Immigrant Students

A student is marked with immigrant status if (s)he:

- Is age 3-21,
- Was not born in any U.S. state, and
- Has not attended one or more schools in the U.S. for more than 3 full academic years.

After the third academic year in the U.S., students are no longer eligible to be in immigrant status so districts shall not check the immigrant enrollment or complete the immigrant information in the STARS. This status is utilized for calculating specific Title III immigrant funding allocations.

Contact Information

For clarification or more information about the ELD Program in North Dakota, please contact the [EL Program Office](#) 701-328-2254.