



Q & A: Evaluations for Children who are Limited English Proficient (LEP)

The Minnesota Department of Education (MDE) Division of Compliance and Assistance has developed this document to address questions raised by parents and school districts regarding evaluations for children who are Limited English Proficient (LEP).

Question 1: When must a school district provide an evaluation notice to a child's parents in a language other than English?

Answer: A school district must always provide an evaluation notice in the native language of the parent, or other mode of communication used by the parent, unless clearly not feasible to do so. This requirement applies to all notices, regardless of the race, ethnicity, or national origin of the child or child's parents. If the parent's native language is English, then the notice must be provided in English. If the parent's native language is Japanese, as another example, then the notice must be provided in Japanese. This requirement applies to other modes of communication as well. For example, if the parent's mode of communication is Braille, then the notice must be provided to the parent in Braille. *See* 34 C.F.R. § 300.503(c); 34 C.F.R. § 303.403(c); Minn. Stat. § 125A.091, Subd. 4.

Question 2: What are a school district's responsibilities with respect to evaluation notices when the parent's language or other mode of communication is not written?

Answer: If the parent's native language or other mode of communication is not a written language, the school district must ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication. The school district must ensure that the parent understands the content of the evaluation notice. The school district must also document both the above-mentioned translation and parent understanding. *See* 34 C.F.R. § 300.503(c); 34 C.F.R. § 303.403(c); Minn. Stat. § 125A.091, Subd. 4(b).

Question 3: When must a school district conduct an evaluation with materials in a language other than English?

Answer: Unless clearly not feasible to do so, school districts must provide and administer assessments and other evaluation materials used to assess or evaluate the child in the child's native language or other mode of communication. This requirement applies regardless of the child's race, ethnicity or national origin. The child's native language dictates the language in which the school district must provide evaluation materials and conduct evaluation procedures. *See* 34 C.F.R. §§ 300.304(c)(1)(i), (ii); 34 C.F.R. §

300.503(c); 34 C.F.R. § 303.403(c); Minn. Stat. § 125A.08(a)(6); Minn. Stat. § 125A.091, Subd. 4.

Question 4: In evaluating a child who is Limited English Proficient (LEP), should a school district follow certain procedures?

Answer: Whenever a school district conducts an evaluation, the school district must provide assessments and other evaluation materials in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally. *See* 34 C.F.R. § 300.304(c)(ii). Further, the school district's selection and administration of assessments, evaluation materials, and procedures used to assess or classify and place a child must be nondiscriminatory on a racial or cultural basis. *See* 34 C.F.R. § 300.304(c)(i). Additionally, the school district's selection and administration of materials and procedures should ensure that those materials and procedures measure the extent to which the child has a disability and needs special education and related services; materials and procedures should not measure the child's English language skills. These requirements apply to all evaluations, whether or not the evaluation is for a child who is LEP. In order to meet these requirements, school districts must shape each evaluation around the specific child in question. *See* Minn. Stat. § 125A.08(a)(6).

Question 5: Are school districts required to consider additional eligibility criteria when determining whether a child who is LEP has a disability?

Answer: The eligibility criteria for determining disability status are the same for all children. Note that school districts must draw upon a variety of sources in interpreting evaluation data for the purpose of determining if any child has a disability. These sources include aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior. The school district must carefully consider and document information elicited from the above-mentioned sources. *See* Minn. R. 3525.2710, Subp. 5(A). Further, in determining whether any child has a disability, lack of appropriate instruction in reading, lack of instruction in math, or LEP cannot be a determinant factor. 34 C.F.R. § 300.306(b). In order to be considered a child with a disability, the child — regardless of English proficiency or lack thereof — must meet eligibility criteria. *See* Minn. R. 3525.2710, Subp. 3(C).

Authority: 34 C.F.R. §§ 300.304(c)(1)(i), (ii); 300.306(b), (c)(1); 300.503(c); 303.403(c); Minn. Stat. §§ 125A.08(a)(6); 125A.091, Subd. 4; Minn. R. 3525.2710, Subp. 3(C)(1-2); and Minn. R. 3525.2710, Subp. 3(C), 5(A).