

Cultural and/or Linguistic Diversity & Specific Learning Disability

As with any student identified as having a Specific Learning Disability (SLD) and determined to be eligible for special education services within this educational disability category, the following two major criteria must be met as well as a determination of the need for special education services.

*A child may be determined to have a Specific Learning Disability that prevents the child from receiving reasonable educational benefit from general education if a **body of evidence demonstrates** the following criteria are met:*

*(1) The **child does not achieve adequately for the child's age or to meet state-approved grade-level standards and exhibits significant academic skill deficit(s)** in one or more of the following areas when provided with learning experiences and instruction appropriate for the child's age or state-approved grade-level standards: Oral expression; Listening comprehension; Written expression; Basic reading skill; Reading fluency skills; Reading comprehension; Mathematical calculation; Mathematics problem solving; **and***

*(2) The child **does not make sufficient progress** to meet age or state-approved grade-level standards in one or more of the areas identified ... <above> ...**when using a process based on the child's response to scientific, research-based intervention.***

- Colorado ECEA Rule 2.08 (8) (b).

Particularly relevant to students who are culturally and/or linguistically diverse (CLD), the definition of Specific Learning Disabilities includes the following:

*Specific Learning Disability does not include learning problems that are **primarily** the result of... **cultural factors...or limited English proficiency.***

- Colorado ECEA Rule 2.08 (8) (a).

Critical to making a determination of SLD is the consideration of the impact of one or both factors on learning and whether the student's learning difficulties are "primarily the result of..." either or both factors, i.e. cultural and/or linguistic diversity. However, either or both of the factors may co-exist with an appropriate identification of SLD and a student cannot be automatically excluded from consideration for special education based on the existence of one or both of these factors

Key Question: What are some unique considerations when referring a student who is CLD for a special education evaluation due to apparent learning difficulties?

- Is there evidence that universal (core) instruction is effective with most students who share this student's cultural characteristics and/or stage of English language proficiency?
- Does evidence exist that a student's achievement and rate of progress differ significantly from that of demographically similar students? It is important to make a comparison to students with similar cultural background, language, age and/or stage of English language acquisition.

- Is instruction/intervention implemented determined to be culturally and/or linguistically appropriate?
- If the student is an English language learner (ELL), is s/he receiving explicit academic intervention in the area(s) of learning difficulty in addition to English Language Acquisition (ELA) services?
- Is the achievement gap with grade-level peers closing?

Key Question: *As part of an evaluation, what relevant data from the school, district, and family should be collected and documented related to a student's cultural and/or linguistic diversity?*

- Results of the *Home Language Survey* which determines if the child's **primary home language is other than English** (PHLOTE) and if so... results of the screener W-APT™ which stands for the WIDA-ACCESS Placement Test (screener) OR ACCESS for ELLs® (annual test to measure student progress)
- Status of student determined to be an English language learner (ELL), that is: Non-English Proficient (NEP), Limited English Proficient (LEP), or Fluent English Proficient (FEP)
- Length of time the student has been in the country
- Unique characteristics of the student's cultural background that might be impacting academic success and assimilation into an unfamiliar school environment

Key Question: *What important strategies and procedures should be utilized related to assessment use and interpretation?*

- Review the progress monitoring data collected over time to gauge the student's response to appropriate, targeted or intensive intervention and compare the results with those of a comparable group of learners. Consider whether the growth realized by the student is sufficient for the student to close the achievement gap within a reasonable length of time through general education alone.
- Consider student's dominant language when selecting assessment materials. Assess students who are non-English dominant in their native language. Assess English dominant students in English, and if appropriate, in native language.
- Use assessments that minimize cultural bias.
- Focus on educational needs rather than on perceived or inferred intellectual deficits. Determine the significance of any academic skill deficits.
- Communicate any departures from standard testing procedures and the possible effects on the interpretation of results.
- Use informal measures to supplement standardized test scores, including dynamic assessment strategies.
- Ascertain whether errors are typical of other students with similar backgrounds or level of English proficiency. Typical errors may be indication that the student's learning difficulties are primarily due to cultural factors or English language acquisition rather than a disability.
- Identify learning assets and strengths as basis for new learning.
- Review test results with family members or other persons from student's background to gain additional insight as to the student's performance. Provide interpreter, as appropriate, to ensure understanding and engagement of family members
- Interpret evaluation data within a team setting that includes the parent(s)/family.



Key Question: *In addition to documenting the results of all student-centered data gathered through the evaluation process, what documentation should be included that provides evidence that the evaluation team considered the impact of a language and/or cultural difference on learning?*

It is important for the team to include in the evaluation and eligibility meeting documentation references to the impact of cultural diversity and/or English language proficiency on the student's learning and on the final determination of disability. For example, the rationale for a determination that a student's learning difficulties are not primarily due to her level of English language acquisition, but may be due to a disability might include statements such as: "The student's rate of progress in response to intensive and focused intervention is much slower than that of other struggling students who are receiving the same intervention and who are at the same level of language acquisition." "She demonstrates similar deficiencies in mathematical problem-solving whether problems are posed in her native language or in English." Teams need to provide evidence that the distinction between a *difference* and a *disability* was addressed.

Key Question: *What is important to consider when developing and implementing an IEP for a student who is culturally and/or linguistically diverse and is determined to have a Specific Learning Disability?*

It is critical to reflect in the IEP the unique impact of culture and language acquisition on student learning. Special education services, including specially designed instruction related to the identified area(s) of SLD eligibility, must address both the student's academic deficiencies and the needs stemming from these factors.

Resources:

CDE Exceptional Student Services Learners who are culturally and/or linguistically diverse (CLD) Suspected of Having Educational Disabilities Website: <http://www.cde.state.co.us/cdesped/CLD.asp>

CDE Exceptional Student Services Technical Assistance: ***Critical Questions Regarding the Special Education Process for Culturally and/or Linguistically Diverse Learners:***
https://www.cde.state.co.us/cdesped/ta_criticalquestionscld

Office of English Language Acquisition English Learner Tool Kits:

[U.S. Department of Education's Newcomer Tool Kit](#)
[English Learner Tool Kit OELA](#)

This CDE guidance document is meant for clarification, is not legally binding, and is not to be confused with legal advice. This guidance reflects CDE's recommendations, but Administrative Units (AUs) may have developed their own policies or procedures that differ from those described herein. Be sure to refer to your local AU's policies and procedures through the Director of Special Education. If you are seeking legal advice, please contact your legal counsel.

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