

A PEATC

Do You Know....



Factsheet for Virginia's Parents Special Education for Students Learning the English Language

Your child has the **right to attend school** regardless of immigration status.

Special Education Eligibility for English Language Learners

Federal law, including Title VI of the Civil Rights Act of 1964, requires that school divisions make sure that English Language Learners can take part in education programs and learn English. Schools must 1) **find and evaluate English Learners for special education and related services** in a timely manner and 2) provide a free appropriate public education (FAPE) to students found to meet the requirements under the federal **Individuals with Disabilities Education Act (IDEA)**.

Your child **cannot be denied special education services because of limited English language skills**. Sometimes English Language Learners are wrongly found to have a disability. Your child should only be found eligible for special education if he has one of 14 disabilities listed in IDEA and meets the other requirements. (*See Eligibility Fact Sheet*). When children are wrongly found as needing special education because they don't speak English well, they may not receive the right services and supports to succeed at school.

Legal Rights of Students who are English Language Learners

- Schools must **offer the same programs** to English Language Learners that it does to everyone else. **This includes special education and related services**.
- **All notices and information** about your child must be in your native language (the language you speak at home) unless it is impossible to do this.
- **Special education meetings** (eligibility, IEP meetings, etc.) must be conducted in your native language. Interpreters should be provided, preferably the same interpreter for every meeting. The school pays for this.
- **Special education evaluations (testing)** must be done in a way most likely to provide accurate information about your child's education and developmental (age-related) needs and must be done in the child's native language unless impossible to do so.
- Your child with a disability and you, have **all the same rights under IDEA** as do children and parents who speak English as their main language.

Resources for English Language Learners and their Parents, including Rights

Virginia Department of Education:
Handbook for Educators of Learners with Suspected Disabilities.

http://www.doe.virginia.gov/instruction/esl/resources/handbook_educators.pdf

Parents Guide to Special Education Spanish Language Version:

http://www.doe.virginia.gov/special_ed/parents/parents_guide_spanish.pdf

Parents Guide to Special Education English Language Version:

http://www.doe.virginia.gov/special_ed/parents/parents_guide.pdf

Legal Aid Justice Center:

Helping You You're your Child: A Focus on Education

<https://www.justice4all.org/wp-content/uploads/2014/05/HYHYC-Handbook-2014-Final-Version-6th-Edition-FOR-WEB.pdf>

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Factsheet for Virginia's Parents

What should be in my Child's Individualized Education Program?

If your child is found eligible for special education and related services, he will have an Individualized Education Program (IEP). The IEP will be based on your child's individual needs and include services and supports to meet those needs. In addition to services that address the disability, your child may have special needs as an English Language Learner that the IEP team should discuss. For example:

- The IEP should say **how much time your child will spend being taught English as a Second Language (ESL)**. It should say where he will be taught (in the classroom, outside of the classroom) in what way (by himself or in a group), and how much help will be provided in the classroom in addition to the time spent being taught English.
- The IEP should say **which supports and services will be provided in English and which will be provided in your child's native language**. It should also state whether one or more of his teachers or other staff need to be bilingual (speak English and your child's native language) and if so, which ones.
- Students with disabilities often need **accommodations (special assistance)** when taking tests (extra time, read aloud, etc.) It is possible that your child will need accommodations related to both their disability and their **limited English language skills**.

The IEP team, which includes you, should think about things like having tests read aloud in your child's native language (or other approved accommodations) that will help his teachers decide if he understands the subject matter. **It is important that your child's learning and knowledge be accurately measured.** He may fully understand the material but not be able to show that on a test that requires excellent English Language skills. Otherwise, the test will only be measuring his language skills, not whether he can understand the coursework.

<https://www.understood.org/en/school-learning/special-services/english-language-learners/are-ieps-different-for-english-language-learners>

School Communication with You

Your child's school should be keeping in touch with you and talking to you about all of the steps they are taking.

- The school should let you know if your child is being referred for evaluation for special education and why.
- The school should make sure you understand all the steps involved (pre-referral, referral, evaluation, eligibility).
- The school should make sure you understand the many words and terms that they use.
- The school should tell you about your rights and protections (procedural safeguards).
- The school should tell you about different service and supports and how they are provided.

Remember whether in a conversation or in writing, it must be done in your native language if that is what you need to understand the actions being taken or proposed.

PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools and communities to improve opportunities for excellence in education and success in school and community life.

For more information about us, please contact:

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