Checklist for Compliance

**Establishing English Learner Entrance Procedures and Ensuring Meaningful Parent Communication Regard EL Status**

# Identification

## Identifying Questions

1. The three questions listed in the USED/DOJ EL Toolkit [(Chapter One](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf)) to identify potential ELs are included in division enrollment documents or in a separate Home Language Survey (HLS).
2. The wording of the three questions is verbatim. ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf)) The identifying questions or HLS are included as part of the standard registration procedures for **every** student enrolling in the division. ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf))
* **What is the primary language used in the home, regardless of the language spoken by the student?**
* **What is the language most often spoken by the student?**
* **What is the language that the student first acquired?**
1. Qualified interpreters are available to assist LEP parents complete the identifying questions or HLS. (USED/DOJ EL Toolkit - [Chapter 10)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf)
2. The division has developed alternate procedures in the event a staff member responsible for administering the identifying questions or HLS is unavailable. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))

## EL Entrance Procedures

1. The division has implemented standardized written entrance procedures for identifying potential ELs. ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf))
2. The federally required timeframe for identifying ELs is implemented in all schools. The timeframe is 30 calendar days at the beginning of the school year or 14 calendar days after the school year begins. ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf))
3. The division has disseminated the EL Entrance Procedures to all pertinent staff including instructions for accessing additional written or electronic copies. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))
4. The division has provided training on the EL Entrance Procedures to all pertinent staff including administrators, registrars, guidance counselors, and secretaries on an annual basis and to newly hired staff as needed. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))
5. The division uniformly and consistently implements the EL Entrance Procedures in all schools. ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf))
6. The division has accurately coded all identified ELs and formerly ELs in the student data collection system and maintains all relevant information in student folders. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf)) ([Superintendent’s Memo 030-18](http://www.doe.virginia.gov/administrators/superintendents_memos/2018/030-18.shtm)) [(Superintendent’s Memo 021-19](http://www.doe.virginia.gov/administrators/superintendents_memos/2019/021-19.docx))
7. The division has established a process for periodic review of the EL Entrance Procedures and implements modifications as needed. The process includes the opportunity for feedback from parents and staff. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))

# Screening

## Administering the Screening Instrument

1. The division has mandated one of the following WIDA screening instruments to determine the English language proficiency level (ELP) of the student:
* WIDA Screener
* WIDA Model
* K-WAPT **(will be discontinued as of June 30, 2022)**
1. ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf)) The screening instrument assesses the four modalities of speaking, listening, reading, and writing. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))
2. The division provides annual training for all staff responsible for administering the screening instrument. The designated supervisor should verify staff training completion. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf)).

## Determining the EL Status

1. The division has established consistent scoring guidelines or utilizes the recommended scoring guidelines provided in ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf)) to determine EL status for Grade 1 2nd Semester and Grades 2-12. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))
2. The division has established appropriate and consistent scoring guidelines or utilizes the recommended scoring guidelines provided in ([Superintendent’s Memo 149-21](https://www.doe.virginia.gov/administrators/superintendents_memos/2021/149-21.pdf)) to determine EL status for rising kindergarten students and kindergarten students 1st and 2nd semesters. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))
3. The division ensures consistent application of the scoring guidelines to determine EL status. (USED/DOJ EL Toolkit – [Chapter 1](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap1.pdf))

# Placement

The Castañeda Framework (1981) was established through a federal court decision to determine the compliance of school divisions with requirements in Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (1974) for the education of ELs. Under the Castañeda standards, programs and services for ELs should be evaluated on theory, implementation, and results:

* Are the programs and services for ELs based on sound education theory and/or research that is recognized by legitimate experts in the field?
* Do the programs and services for ELs, if implemented with fidelity, provide adequate and appropriate resources to ensure a reasonable chance of success within a reasonable timeframe?
* Do the programs and services for ELs result in demonstrably improved academic outcomes within a reasonable timeframe?

The Castañeda Framework should govern the development and implementation of programs and services for ELs to support academic achievement and promote language acquisition, especially academic English. Programs and services for ELs should provide developmentally appropriate English language instruction based on the student’s level of English proficiency while providing effective, grade-level content instruction. (USED/DOJ EL Toolkit - [Chapter 2)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap2.pdf)

1. The purpose for all programs and services for ELs is attainment of the same academic content standards as all students and the development of English language proficiency. (USED/DOJ EL Toolkit - [Chapter 2)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap2.pdf)
2. The division ensures that programs and services for ELs are consistent with sound educational theories. (USED/DOJ EL Toolkit - [Chapter 2)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap2.pdf)
3. The language instruction educational program (LIEP) curriculum is language-based and aligned to the WIDA English language development (ELD) standards and content standards (SOLs). (USED/DOJ EL Toolkit - [Chapter 4).](https://www2.ed.gov/about/ofChapter%204/english-learner-toolkit/chap4.pdf)
4. The division has established criteria for the appropriate amount of service time provided to ELs based on proficiency and/or grade levels. (USED/DOJ EL Toolkit - [Chapter 2)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap2.pdf) (Although Virginia does not mandate specific minutes of service for ELs, federal audits have established the expectation for divisions to institute this criteria.)
5. The division ensures a sufficient number of qualified teachers, trained interpreters/translators, and support staff to implement EL programs and services to provide a realistic opportunity for improved academic outcomes within a reasonable timeframe. (Meeting the Virginia SOQ for ESL teachers may not be sufficient for meeting federal staffing expectations for programs and services for ELs.) (USED/DOJ EL Toolkit – [Chapter 3)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap3.pdf)
6. The division ensures that sufficient and appropriate materials and resources are available to implement programs and services for ELs to provide a realistic opportunity for improved academic outcomes within a reasonable timeframe. (USED/DOJ EL Toolkit – [Chapter 3)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap3.pdf)
7. The division ensures that educators of ELs are provided ongoing, high-quality, and sustainable professional development focused on meeting the academic and linguistic needs of ELs. (USED/DOJ EL Toolkit – [Chapter 3)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap3.pdf)
8. The division conducts periodic evaluation of programs and services based on student data, as well as staff and parent input, to determine the increasing ability of ELs to meaningfully participate in the division’s general education program. (USED/DOJ EL Toolkit – [Chapter 9).](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap9.pdf)

# Ensuring Meaningful Parent Communication Regarding EL Status

1. The division has established a welcoming and linguistically responsive environment throughout all schools.
2. The division notifies LEP parents of their student’s EL status within the required federal timeframe. (USED/DOJ EL Toolkit - [Chapter 10)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf)
3. The division provides written notification of the EL status to LEP parents (in the home language if needed). (USED/DOJ EL Toolkit - [Chapter 10)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf)
4. The division ensures that the notification of EL status is sent annually to the parents of all identified ELs (through PL 4.3). (USED/DOJ EL Toolkit - [Chapter 10)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf)
5. The division provides information about EL status, the division’s programs for ELs, and options for services to LEP parents (in the home language if needed). (USED/DOJ EL Toolkit - [Chapter 10)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf)
6. The division ensures that ELs enrolling in high school, as well as their parents, are provided information about pathways to graduation and other educational options available in the division or community (in the home language if needed). (USED/DOJ EL Toolkit - [Chapter 10)](https://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/chap10.pdf)

# Removing the EL Designation

After a student is identified as an EL, the school division may not remove the EL designation before the student scores proficient on the annual ELP assessment in the four language domains, even if the student’s parents object to the EL designation (parents have the right to decline services). A proficient score in Virginia is defined as scoring 4.4+ on the Overall Composite of the ACCESS for ELLs test.

([Addendum to September 23, 2016 Non-Regulatory Guidance: English Learners and Title III)](https://www2.ed.gov/policy/elsec/leg/essa/elandiitleiiiaddendum1219.pdf)

# Erroneously Designated ELs

An erroneously identified EL is a student who was identified as an EL but should not have been because the student does not in fact meet the definition of “English learner” in ESEA section 8101(20). The erroneous identification may have occurred as part of the initial identification process, e.g., due to a parent’s inaccurate completion of the home language survey, administration of an EL screening assessment without providing for appropriate accommodations for a student with disabilities, inaccurate scoring on the annual ELP assessment, or other reasons.

In instances where a student is considered to be erroneously identified as an EL, a school division should determine how to proceed based on the individual circumstances. For example, if the school division discovers that appropriate accommodations on the EL screening assessment were not provided to a student with a disability, the logical step would be to re-test the student with appropriate accommodations. If the results of the screener assessment show that the student is not an EL, the EL designation would be removed.

Erroneous identification may also occur when a parent misunderstands and indicates that languages other than English are spoken at home because there is occasional use of a language other than English, even though English is the dominant language used at home and the student does not speak or understand any language other than English. In that case, the school division may remove the EL designation since the student should not have been identified as an EL in the first place.

However, the school division should keep in mind that the cases stated above are, and should be, rare exceptions to the requirement that ELs retain the EL designation until scoring 4.4+ on the Overall Composite on the ACCESS for ELLs test. Divisions should report the removal of the EL designation from a student to the VDOE Office of Student Assessment (Kia.Johnson@doe.virginia.gov).

([Addendum to September 23, 2016 Non-Regulatory Guidance: English Learners and Title III)](https://www2.ed.gov/policy/elsec/leg/essa/elandiitleiiiaddendum1219.pdf)