DUALLY IDENTIFIED
TECHNICAL ASSISTANCE GUIDE

Updated: March 2025

TEA
Texas Education Agency

Welcome Letter

Dear Fellow Texas Educators,

The Texas Education Agency (TEA) presents this guide for Texas educators to support holistic and effective programming for students who are dually identified as an emergent bilingual student and a student with a disability receiving special education services. This document serves as technical assistance for school districts but does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to a specific legal situation. This document may not include a complete rendition of state or federal laws.

Previously issued TEA guidance pertaining to compliance and practice for both student groups was reviewed and synthesized as part of the development of the content in this resource.

Sincerely,

TEA's Office of Special Populations and Student Supports

This document serves as technical assistance for school districts but does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to a specific legal situation. This document may not include a complete rendition of state or federal laws.

Questions and comments can be directed jointly to the Special Education Division at sped@tea.texas.gov and the Emergent Bilingual Support Division at emergentbilingualsupport@tea.texas.gov.

Table of Contents

Framing the Conversation

Purpose of Dually Identified Technical Assistance Guide

According to the 2023-2024 Public Education Information Management System (PEIMS) report, emergent bilingual (EB) students comprised 24.3% of the total student population in Texas, and students receiving special education and related services accounted for 14% of the total student population. For the purposes of this guide, dual identification refers to those students who are identified as both EB and who are eligible and receiving special education and related services. There are nearly 180,000 dually identified students, or 13.3% of all EB students, and 23% of all students receiving special education and related services.

Dually identified students require instructional services that address language proficiency levels, considerations for second language acquisition, and specially designed instruction to meet the needs of each individual student based on his or her disability. There are a variety of ways in which these students are served. To serve dually identified students, educators, leaders, and support personnel must effectively collaborate to ensure each dually identified student has the appropriate supports.

The purpose of this guide is to assist practitioners in both understanding the process toward dual identification and to assist in collaboration efforts once a student is dually identified.

Identification of Emergent Bilingual (EB) Students

The EB identification process begins at initial enrollment in a Texas school district or open-enrollment charter school with the administration of the Home Language Survey (HLS). All families who enroll in Texas local educational agencies (LEAs), which include both school districts and open-enrollment charter schools, complete an HLS.

The current HLS poses the following three questions that help school staff understand the current and early language experiences of the student:

1. **Which languages are used in the home?**

2. **Which languages are used by the child in the home?**

3. **If the child had a previous home setting, which languages were used?**
    If there was no previous home setting, answer Not Applicable (N/A)

In instances where any one of the answers to the three questions is a language other than English, the child is assessed with the single state-approved English language proficiency test for EB identification within four calendar weeks of their enrollment. Results of the language assessment are then considered, and the Language Proficiency Assessment Committee (LPAC) makes a placement recommendation. At that time, the school staff are expected to explain the benefits of program participation to the parent and obtain parental permission for program placement.

LPACs must include but are not limited to a campus administrator, a bilingual or English as second language (ESL) teacher, and a parent representative. LPACs recommend program placement, secure parental permission for program participation, and determine linguistic accommodations for all EB students on their campus. The LPAC is minimally required to meet at the beginning, middle, and end of the year to review each student's linguistic and academic progress and determine designated supports. (TAC §89.1220)

Types of Language Programs

DUAL LANGUAGE IMMERSION (DLI) PROGRAM
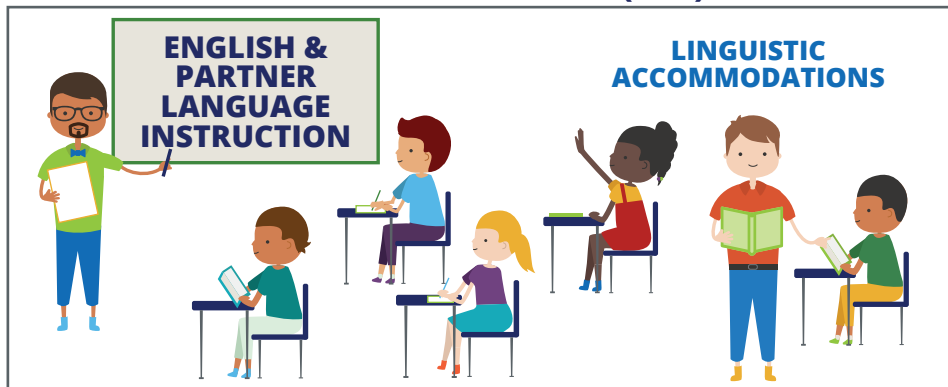
A student in a one-way or two-way **dual-language immersion (DLI)** program, develops literacy in two languages and learns concepts via instruction in both languages as well (TAC §89.1227 and §89.1228). The program's language allocation plan defines when each language is used and for what purpose, but the student is always immersed in the partner language (non-English language) for at least 50% of the instructional day. The ultimate goals of the DLI program are bilingualism and biliteracy. In other words, when a student reaches the last year of the program (5th grade at the earliest), the student should be able to read, write, and converse about academic concepts in both the partner language and English and will be able to learn grade level content in either language as well.

TRANSITIONAL BILINGUAL EDUCATION (TBE) PROGRAM
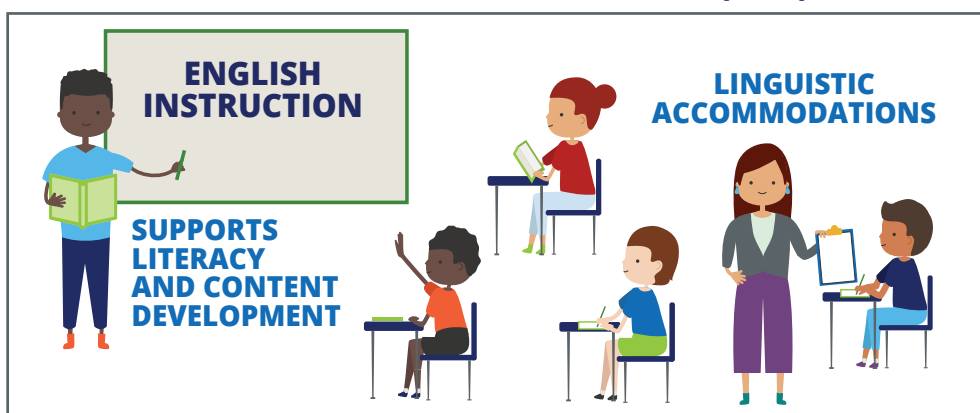
A student in an early-exit or late-exit **transitional bilingual education (TBE)** program learns to read and write in their home language to help them learn English literacy and language, as well as learning to understand how the languages are similar and different (TAC §89.1210 (c) 1 & 2) The TBE classroom teacher is proficient in the home language and can leverage what the student knows in one language to support literacy and content development in the other. The goal of a TBE program is full English proficiency, achieved by maximizing the asset of home language knowledge.

ENGLISH AS A SECOND LANGUAGE (ESL) PROGRAM
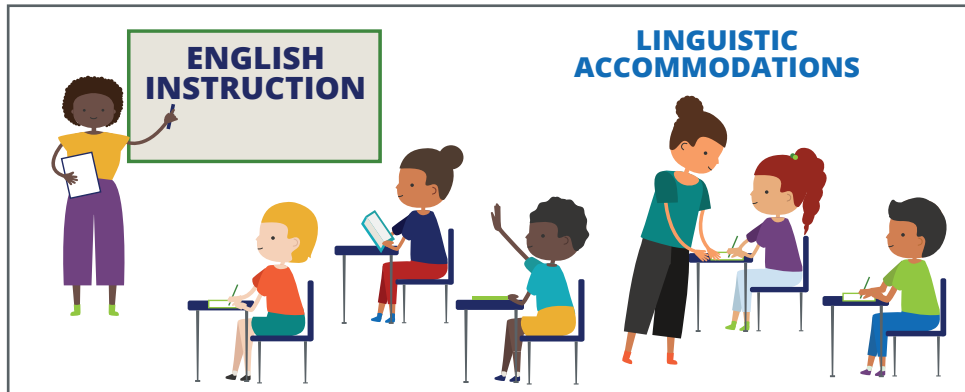
A student participating in a pull-out or content-based **ESL program** receives instruction in English, although the home language may be used for support depending on the level of literacy development (TAC §89.1210 (d) 1 & 2). For example, a student may brainstorm thoughts for a piece of writing before drafting in English. When instruction is in English, the ESL certified teacher incorporates linguistic accommodations appropriate for each student's proficiency level with the goal of reaching higher level proficiency.

## Utilizing A Multi-Tiered System of Supports (MTSS) Framework

Bilingual and ESL program classroom settings are general education settings where students have access to Tier 1 instruction (i.e., instruction accessible to all students at that grade level, often called universal instruction) and any linguistic accommodations determined by the LPAC. If a student demonstrates a need for linguistic or academic intervention, a student support team on the student's campus should carefully consider how to support the student most appropriately. The MTSS model described in this section provides helpful details for this process.

An MTSS framework provides an integrated system to support the academic, behavioral, and mental health needs of students. A primary component of MTSS is using data to drive differentiated instruction, supports, and decision making for all students. Through MTSS, schools identify students in need of additional intervention.
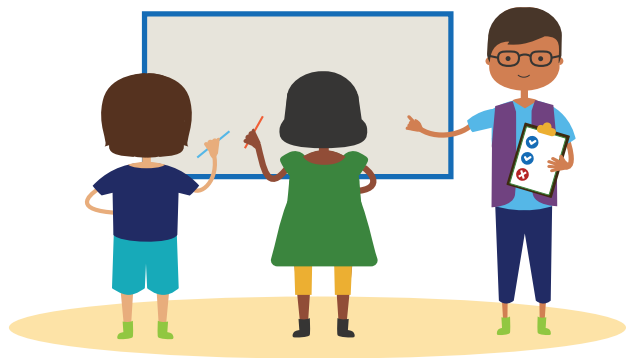
A well-implemented MTSS will support all learners, including students who are EB. Strong implementation of MTSS provides educators with a framework for accurately identifying and addressing EB students' unique academic and linguistic needs and for providing efficient and high-quality supports when gaps in achievement are identified. Ultimately, when implemented well, a linguistically responsive multitiered framework ensures that groups of students are not inappropriately referred for supplemental interventions or special education services. Similarly, MTSS helps ensure that students experiencing academic difficulties that are not due primarily to language acquisition are provided the appropriate supports, including referrals for special education services when necessary.

The MTSS Tiers

UNIVERSAL TIER 1 **TARGETED** TIER 2 **INTENSIVE** TIER 3

UNIVERSAL TIER 1
80% of all students
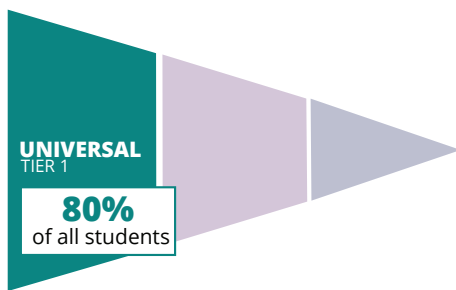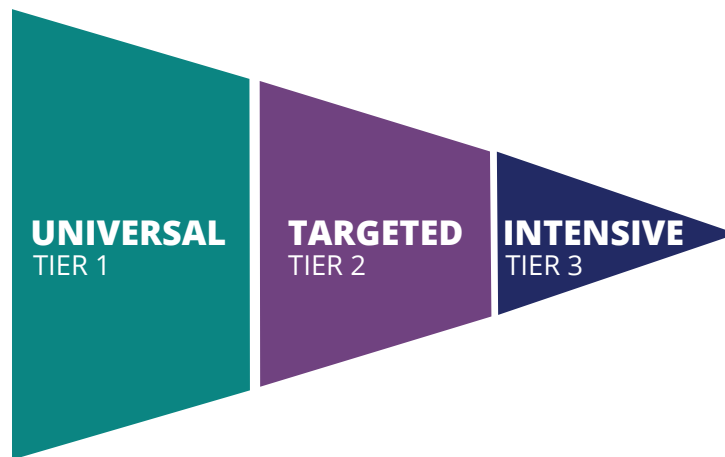
Universal instruction, also referred to as **Tier 1** or primary prevention, is designed for all students. Universal instruction occurs in general education classrooms and settings. All students participate in universal instruction. It typically includes evidence-based practices and Universal Design for Learning (UDL) principles. Universal instruction alone meets the needs of about 80% of a school's population for both academics and behavior.

One important evidence-based support for the universal level that is critical for EB students is implementation of linguistically sustaining practices. Classroom teachers who are linguistically responsive recognize that conversational language proficiency is fundamentally different from academic language proficiency. Conversational language is the language used in everyday social interactions, whereas academic language is specific to the school setting. Due to the complexity of academic language (think of all the different content area vocabulary words, for example), it can take EB students several more years to develop fluency in academic English than it takes them to develop fluency in conversational English. Therefore, Tier 1 instruction must consistently include authentic opportunities for students to practice using academic language in all four language domains (listening, speaking, reading, and writing).

Teachers who are linguistically responsive also know that EB students with well-established native language skills are more likely to achieve parity (or equivalent linguistic ability) with native English-speaking peers than are those with developing native language skills. A safe, welcoming classroom environment includes multiple low-risk opportunities for students to practice a second language in the context of their content area, providing the foundation for linguistic development and academic achievement.
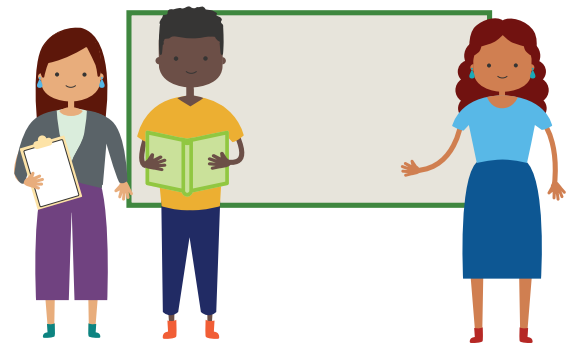
Linguistically Appropriate Universal Screening

Universal screening measures are quick and are administered at a single point in time. They are used to identify students who need additional support in acquiring key skills—for example, phonological awareness and phonics to support reading , computation skills in mathematics, and spelling in writing. Universal screening measures are also used to establish students' current proficiency in the home language and/or English as a second language. Within linguistically responsive multitiered systems, educators select measures in the student's home language or in English   with established validity and

reliability with students from various linguistic backgrounds. They also ensure that screening measures are linguistically matched to the language of instruction.

Screening Recommendations:

▶ Screening tools should match the language(s) of instruction, as appropriate, in the LEA's chosen bilingual programs. It may be appropriate to screen EB students in their home language and English to gain a more accurate understanding of their current skills in both languages.

▶ Educators should consider students with similar language backgrounds when interpreting screening data.

Additionally, for EB students it is important to remember that linguistic scaffolds and supports that enable the student to access grade level content are considered universal supports or Tier 1 instruction. Often teachers implement a variety of content-based language instruction (CLBI) practices to ensure their EB students access the appropriate content, alongside their monolingual peers.

An understanding of second language learning and the ability to apply key principles are essential for linguistically responsive instruction. Teachers know that explicit attention to linguistic form and function is essential to second language learning.

Key Classroom Practices for Second Language Learning:

The following five key classroom-level practices can be used at the universal level of MTSS to specifically support EB students.

1 ▸ Develop Strong Relationships

Educator Goals: Learn about students to establish strong relationships with them and their families; build a community.

2 ▸ Maintain High Expectations

Educator Goals: Ensure all students are held to the same expectations and curriculum is rigorous and engaging.

3 ▸ Provide Supports and Scaffolds

Educator Goals: Provide students with needed supports and linguistic scaffolds to ensure they can access curriculum and reach their potential.

### 4 ▸ Highlight Background and Practical Knowledge

Educator Goals: Validate students' backgrounds and practical knowledge from their home and communities.

### 5 ▸ Acknowledge Lived Experiences

Educator Goals: Ensure acknowledgment of lived experiences.

For EB students, it is important that educators consider information beyond the universal screening results when identifying students for intervention.

MTSS teams or other locally determined student support teams should include individuals with expertise in second language acquisition in order to support the team in understanding a student's language proficiency. Language proficiency in both languages should be considered in reviewing, screening and planning any subsequent intervention.

TARGETED
TIER 2
10-20%
of all students
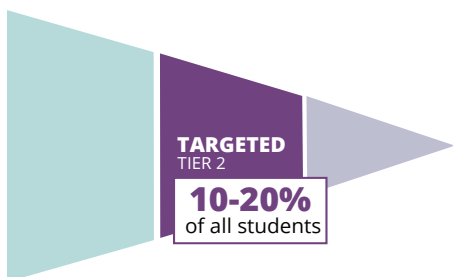
Targeted intervention, often referred to as Tier 2 or secondary intervention, is designed for students experiencing difficulty in academics or behavior. Typically, 10-20% of students require targeted intervention. Targeted intervention can occur in many different settings— inside or outside of the general education classroom. Students receiving targeted intervention should continue to receive universal instruction. If many students need targeted intervention, schools need to evaluate the universal instruction to ensure that it is sufficient at preventing academic or behavioral gaps from forming.

INTENSIVE
TIER 3
1-5%
of all students
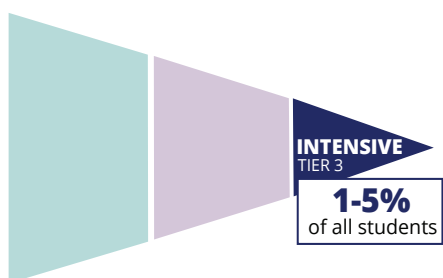
Intensive intervention, often called Tier 3 or tertiary intervention, is designed for students who demonstrate inadequate response to universal and targeted intervention or who have significant skill gaps. Intensive intervention may occur within or outside of general or special education settings. Intensive intervention generally occurs for a smaller number of students, typically about 5% or less. For EB students, it is essential to consider the student's linguistic development as part of making decisions about the efficacy of provided interventions.

For more details related to MTSS, please see MTSS TEALearn courses and resources on the TEA Texas SPED Support website.

Referral for Special Education Evaluation

If students are not successful with appropriate interventions, or if at any time a teacher or other school personnel suspect that a student who is EB may have a disability and a need for special education and related services, the school must engage in the special education referral process to seek to conduct a full and individual initial evaluation (FIIE).

Teachers sometimes misinterpret the typical progression of skills that occurs during second language acquisition as a suspected disability. However, it should not be assumed that an EB student cannot have a disability. It is important not to delay a referral for an evaluation if the data supports a teacher's suspicion of a disability that may require the provision of special education and related services. LEA leaders should regularly monitor their referral and identification data and use it to develop policies and procedures that ensure proper identification of EB students who also have disabilities. Refer to the Child Find and Evaluation Guide for more information.

Referral Considerations

When an EB student demonstrates difficulties in the educational setting, the MTSS or student support team should use a variety of data-gathering strategies and tools that yield meaningful evidence to make sound decisions. Gathering and reviewing data will assist teams as they consider whether identified learning challenges appear to be associated with the process of second language acquisition or a

suspected disability. If evidence of the latter is true, then a referral to special education is needed, and should never be delayed. A student who is EB with a suspected disability will demonstrate learning challenges in their home language as well as in English. That said, evaluators should take into consideration the language used in the student's home, the language of instruction, and how these factors may impact learning in one or both languages. It is recommended that when considering a special education referral for an EB student, the multidisciplinary team be composed of educators with expertise in areas of second language acquisition, speech and language development, and evaluation of students with disabilities. The team should take into account educational expectations and linguistic differences. As teams work through the data, comparisons should be made to other students learning English with similar backgrounds, linguistic experiences, school attendance, and literacy exposure who are making typical progress over time.

You can review [Guidelines When Considering an Initial Referral for Special Education for Emergent Bilingual (EB) Students](#) for possible questions and data the team might discuss when considering referrals and making decisions about whether a disability and need for special education is suspected.

Determining Special Education Eligibility

Often, a student's path to being dually identified starts with identification as EB and placement in a bilingual or ESL program, as identification is required within four weeks of initial enrollment in a Texas LEA. When the student subsequently is evaluated and determined eligible to receive special education and related services, their participation in a bilingual or ESL program will continue.
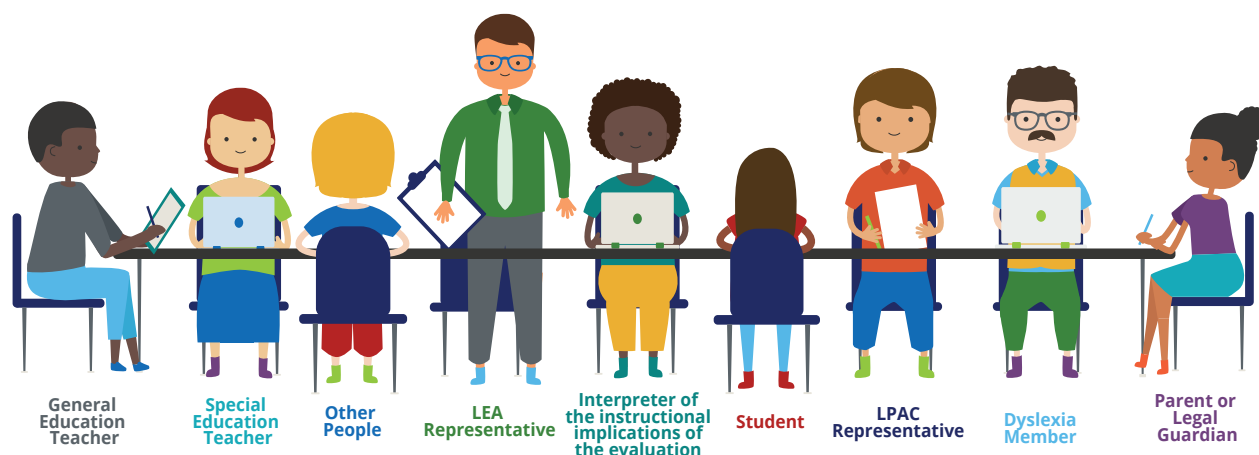
After the multidisciplinary team has completed the EB student's FIIE, an admission, review, and dismissal (ARD) committee determines when an EB student has a disability and needs special education and related services. If determined eligible by the ARD committee, an individualized education program (IEP) is developed. The ARD committee, which must include an LPAC representative, should intentionally discuss how identified linguistic accommodations would also address the student's needs.

Differences Between the ARD Committee and the LPAC

Committee attendance and meeting participation for an ARD committee and LPAC are not the same. ARD committee meetings include, but are not limited to, a district representative or campus administrator, the special education teacher, a general education teacher, the student's parent or adult student, and an individual who can interpret the instructional implications of evaluation results.

ARD Committee:

General Education Teacher • Special Education Teacher • Other People • LEA Representative • Interpreter of the instructional implications of the evaluation • Student • LPAC Representative • Dyslexia Member • Parent or Legal Guardian

For a student with a disability who is also identified as an EB student, an LPAC representative is also required to be a participant on the ARD committee. Their role in the meeting is to speak to the child's linguistic progress, discuss any designated supports, and offer expertise in second language acquisition. The ARD committee meets to make instructional decisions and review the student's academic progress at least one time per year. Refer to the Individualized Education Program (IEP) Development Guide for more information.

LPAC meetings are conducted differently. The LPAC meets to discuss the linguistic and academic progress of several EB students at one time. As mentioned previously in this guide, LPACs require but are not limited to, a campus administrator, a bilingual or ESL teacher, and a parent representative. LPACs recommend program placement, secure parental permission for program participation and determine linguistic accommodations for all EB students on their campus. LPAC members meet at least at the beginning, middle and end of the year to review the students' linguistic progress and determine designated supports.

LPAC Committee:

Bilingual or ESL Teacher   **Campus Administrator**   **Parent Representative**
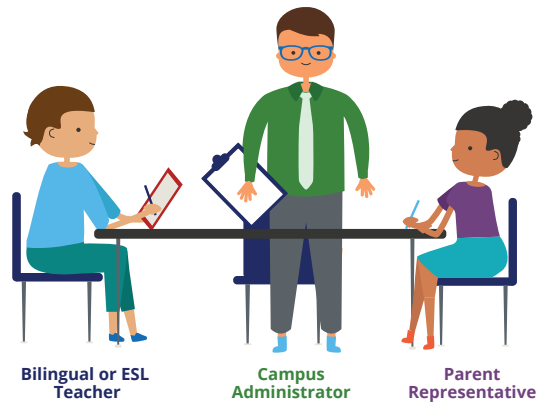
Collaboration that Directly Impacts a Student's IEP

State Assessments

The Texas Assessment Program is a statewide testing program that includes State of Texas Assessments of Academic Readiness (STAAR®), STAAR Spanish, and STAAR Alternate 2.

TEA also designed the Texas English Language Proficiency Assessment System (TELPAS) and TELPAS Alternate to assess EB students' annual progress toward English proficiency. To view all EB student resources related to state assessments, visit the Assessments for Special Populations page. For assistance on the implementation of state and federal guidance regarding program services for EB students, visit txel.org.

Considerations for STAAR (including accommodations)

Online embedded supports (e.g., content and language supports, oral administration via text-to-speech, speech-to-text, and spelling assistance) are available on STAAR for eligible students. Information about these embedded supports and other designated supports can be found on TEA's Student Assessment's Accommodation Resources webpage. Although STAAR Spanish uses the same guidelines for content and language supports as the English version, some of the accommodations may not be identical due to linguistic differences.

For dually identified students, LPACs are required to work in conjunction with the applicable committee (student's ARD committee, Section 504 committee, MTSS team, or student assistance team) to determine which designated supports are needed based on the student's language proficiency and any identified disability. This collaboration helps ensure that factors related to the student's disability and second language acquisition are both carefully considered.

Considerations for TELPAS (including accommodations)

The Texas English Language Proficiency Assessment System (TELPAS) is an English language proficiency assessment designed to assess the progress that EB students make in learning the English language. The assessment is aligned to the Texas English Language Proficiency Standards (ELPS). Proficiency levels in each domain (listening, speaking, reading, and writing) inform instructional decisions such as identification of ELPS-based language objectives, lesson activities designed to support language development, and linguistic accommodations.

The Accommodation Resources page of the TEA website identifies accommodations that apply to both STAAR and TELPAS. However, accommodations related to second language acquisition that may apply to the STAAR English (content and language supports and oral administration) are not appropriate for the TELPAS since progress in English language proficiency is being assessed, not mastery of TEKS-based content. The ARD committee makes the final decisions regarding assessment accommodations with input from the LPAC representative.

Reclassification in English Proficiency that may Impact Student's IEP

EB students, regardless of program participation, are eligible to be reclassified as English proficient when they meet specific reclassification criteria at the end of the school year. Reclassification is not permitted prior to the end of first grade.

For dually identified students, the standardized process for reclassification is followed in accordance with applicable provisions as described in TEA's Guidance on Identification and Reclassification of Dually Identified Students. The annual review of student progress and decision to reclassify should be determined through focused coordination and collaboration of the LPAC and ARD committees. In rare cases, an EB student with the most significant cognitive disability who is receiving special education services may qualify to be reclassified using permitted criteria, which gives special consideration to the student for whom assessments and/or standards used in the standard reclassification process are not appropriate because of the nature of a student's disability. Students considered for the permitted criteria should only be those who meet the definition of a student with the most significant cognitive disability as determined by the ARD committee, which includes the LPAC representative.

Additional Examples of How Services for Dually Identified Students Intersect

Any student eligible for special education and related services may participate in a variety of settings/placement options depending on the evaluation data and IEP decisions for each individual student. The Individuals with Disabilities Education Act (IDEA) requires that schools ensure that a continuum of

alternative placements is available to meet the needs of students with disabilities in the least restrictive environment (LRE). Additionally, each LEA must make provisions for supplementary services.

Placement decisions must be specified in the student's IEP. If the ARD committee determines the student will not participate in the general education classroom and/or curriculum, the rationale must be documented in the student's IEP. All decisions about program placement and services are made collaboratively by the ARD committee, which includes the LPAC representative.

In relation to the programs mentioned earlier for EB students – DLI, TBE, and ESL – below are some examples of collaboration opportunities between special education providers and bilingual education providers for dually identified students.


A DLI teacher and special education teacher prioritize weekly time to collaborate and design an integrated experience for the dually identified DLI student. For example, a DLI teacher works with a special education teacher who supports a student with a specific learning disability (SLD) in reading. Together the DLI teacher and special education teacher create a bilingual reading comprehension exercise that includes visual aids and simplified text to help a student understand the material better. They also plan a hands-on science project that allows the student to use both English and Spanish, ensuring the student can participate fully and confidently.

In a TBE program, the bilingual teacher can familiarize the special education teacher with the linguistic accommodations routinely used in the classroom during English instruction and can point out cross-linguistic connections that the special education teacher might make. For example, for a lesson delivered in a special education setting that might focus on English suffixes like -tion and -ly, the bilingual teacher could point out the Spanish equivalents and provide a short list of word pairs/cognates such as imagination/*imaginación* and rapidly/*rapidamente* or share an anchor chart previously used in the bilingual classroom.

For a student receiving ESL services, the ESL teacher can familiarize the special education teacher with the linguistic accommodations routinely used in the classroom, and the special education teacher can share strategies that support the student's disability related needs. The two teachers could meet regularly to support student learning and provide each other ongoing, regular feedback to enhance their collaborative practice.

Best Practices Leading to Effective Collaboration

It is important to gather and consider meaningful input from a variety of key stakeholders. Including the student in the process, discussion, and decision-making as much as possible can lead to great success for the student. Additionally, support staff, such as coaches, elective teachers, office staff, and counselors, can offer a view from a different lens. Since these staff engage with students in such vastly different ways, it is likely they will provide a unique perspective on the student.
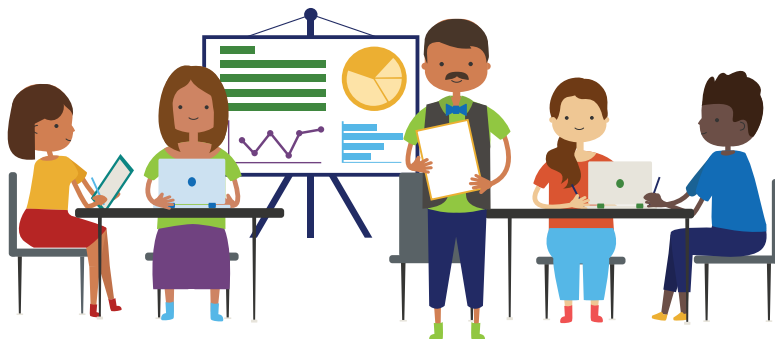
While an LPAC representative is a required ARD committee member for a dually identified student, to ensure the provision of high-quality programming, collaboration should extend beyond annual ARD committee participation. Effective collaboration occurs when bilingual personnel, special education personnel, general education staff, administrators, and families engage in regular review of a student's progress throughout the duration of a school year. Collaboration across professionals for dually identified students is an ongoing, data-informed process. Progress on IEP annual goals must be reported no less than every grading period; this is likely a great opportunity for collaboration.

Once a student is dually identified, a team that includes both special education and bilingual education professionals should meet to review all relevant assessment reports, classroom performance data, progress on relevant IEP goals, and language proficiency data and identify the types of integrated supports to put in place for efficient progress. The team will likely discuss what other data may be needed now or in the future to ensure the student is progressing linguistically, functionally, and academically. All the discussions should be done with intentional collaboration where one area is not superseding the other and a variety of data is taken into consideration.

Resources and Links

Laws and Policies to Frame Decisions

Federal Laws and Regulations

▶ The Code of Federal Regulations (CFR) Chapter III covers special education requirements.

▶ The Individuals with Disabilities Education Act (IDEA) is the special education law that provides specific requirements for states and local educational agencies to follow.

▶ The Office of Special Education and Rehabilitative Services (OSERS) also provides guidance and funding for students with disabilities from birth through age 21.

Texas Laws and Regulations

Texas Education Code and Texas Administrative Code govern both special education (Chapter 89, Subchapter AA) and bilingual education (Chapter 89, Subchapter BB) requirements.

Current TEA Technical Assistance

▶ TEA Special Education Guidance Web Page

▶ Texas SPED Support: Emergent Bilingual

▶ TEA Section 504 Web Page

▶ English Learner Portal

TEALearn Courses

▶ Universal Design for Learning

▶ Texas SPED Support: Significant Cognitive Disabilities.

  ▶ Fundamentals of Inclusion

  ▶ Universal Design for Learning

  ▶ Building a Foundation for Supporting Students with Significant Cognitive Disabilities

▶ ELPS Academy 2024-2025

▶ Implementing the ELPS - Science

▶ Implementing the ELPS- Math

▶ Implementing the ELPS – Social Studies

▶ Implementing the ELPS – ELAR

▶ Early Childhood Education for English Learners

APPENDIX

Additional Links

▶ [STAAR](#)

▶ [STAAR Spanish](#)

▶ [STAAR Alternate 2](#)

▶ [TELPAS](#)

▶ [TELPAS Alternate](#)

▶ [English Learner Portal](#)

▶ Support for [Bilingual and ESL Certification](#)