

English Learner Misidentification Appeals Process

Office of English Language Proficiency



OKLAHOMA
Education



General EL Points to Note

- Once a student has been identified as an English Learner, that status will carry forward until the student demonstrates proficiency on the WIDA ACCESS or Alternate ACCESS assessment.
- Home Language Survey (HLS) responses are not determinative of EL status. As such, “all-English” HLS responses submitted after a student has been identified as an EL have no bearing on the student’s EL status.
- OSTP ELA scores, CCRA ELA scores, and/or locally administered norm-referenced assessment scores (e.g., STAR, Dibbels, etc.) have no bearing on a student’s EL status.
- The parent or guardian of an identified EL student may waive the supplemental services that accompany EL status, but the student is to remain identified as an EL in the local information system and is expected to participate annually in the WIDA ACCESS spring assessment.

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- Only a WIDA assessment can bring a student into EL status (Kindergarten Screener, WIDA Screener, or MODEL), and only a WIDA assessment can justify the exit of student from EL status (ACCESS or Alternate ACCESS).
- A student may be both identified as an English learner and determined to have a special learning need. The presence of either status does not prohibit the identification or determination of the other.
- The WIDA ACCESS assessment is administered in addition to, not in place of, other mandated state assessments (e.g., OSTP and CCRA).
- A student may be re-identified as an EL after demonstrating proficiency on the WIDA ACCESS assessment, but this should be considered an intervention of last resort in nearly all cases. Please see the [All-English EL Identification or Reidentification Form](#) to see if a student meets the criteria.

Appeal Eligibility

EL status assigned prior to the current school year is generally not eligible for appeal in situations where the available evidence indicates that the initial EL identification was determined correctly, and the subsequent placement assessment was administered in accordance with state policy:

1. *The parent or guardian submitted an HLS reporting a language other than English on one or more of the three primary language questions (language most often spoken, routinely spoken in the home, and first language learned).*
2. *The district receiving the HLS administered and the appropriate EL screening assessment, and the student did not score proficient.*
3. *The student was correctly assigned EL status in the local SIS.*

Scenarios 1-3

There are five scenarios that may be seen as reasonable justification for removing a student from EL status without the federally-required demonstration of English language proficiency:

1. The student is a native English speaker who was placed in a short-term home environment where the presence of a language other than English led to the misidentification as an EL.
2. The student demonstrated proficiency on the WIDA ACCESS assessment but was not appropriately assigned former English learner status in the subsequent year(s).
3. The student was identified as an English learner, transferred to another state, met the requirements of English language proficiency in that state, and has returned to a district in Oklahoma.

Scenarios 4-5

4. The student was initially identified as an EL and/or participated in the Screener and/or ACCESS assessment due to a clerical or procedural error in a previous year, either in the student's current or former district.
 5. The student was initially identified as an EL due to a response of ASL (or another form of sign) on the submitted HLS (assuming no other language other than English was also present on the HLS).
- Note that these are not the only five scenarios that could justify the removal of EL status; they are simply those that are considered most appropriate for appeal. As such, a district **should discuss with OELP staff** the specific circumstances of a potential EL misidentification prior to gathering documentation and submitting an appeal.

Additional Eligibility Scenarios

In situations outside the five accepted scenarios, eligibility for appeal will be established on one of the following two questions, based on the unique circumstances of the student:

1. *Does the available documentation sufficiently demonstrate that the student is a native English speaker?*
 2. *Can a reasonable case be made, and be supported with appropriate documentation, that the presence of a language other than English on the submitted HLS does not equate to a significant impact on the student's level of English language proficiency and ability to demonstrate academic success?*
- Approval or denial of an appeal outside the five noted scenarios will be based on available data and factors unique to the situation (e.g., the circumstances of identification, student grades, previous state-mandated assessment scores, local NRT scores, etc.) and will be determined on a case-by-case basis.

Required Appeal Components

As the situations and circumstances that lead to EL misidentifications may vary, so too will the documentation required when submitting an appeal.

Generally speaking, an appeal **must** include:

- A completed [EL Misidentification Appeal Form](#)
- A District Narrative on school letterhead if the district is NOT submitting a Corrective Action Plan

And **may** require either (or both):

- A [Corrective Action Plan](#) (CAP)
- Supporting documentation relevant to the misidentification

OELP staff will assist in clarifying if a CAP and/or any supporting documentation is required upon discussing the situation with district staff.

EL Misidentification Appeal Form

The EL Misidentification Appeal Form must be submitted with any appeal.

Districts must only complete the information requested on the first page of the document:

The following information must be provided by the submitting district.		
District Name:	District and County Code:	Student Testing Number (STN):
Student Name:	Student Birthdate:	Current Student Grade:
District Contact Name:	District Contact Email Address:	District Contact Phone Number:

District Narrative

A District Narrative must be submitted UNLESS the district is submitting a district Corrective Action Plan.

The specific points the district narrative must address are dependent on the unique situation. For example:

- A district narrative addressing Scenario #1 would need to describe the circumstances of identification and would provide a description of services the district is providing to address the proficiency issues that resulted in the initial identification of the student. A parent or guardian attestation letter of native English speaker status and/or an explanation of the short-term home environment situation in which the language was spoken will need to be uploaded as supporting documentation.

Corrective Action Plan (CAP)

A CAP must be submitted in any situation where the misidentification was the result of a lapse in the expected local implementation of state policy.

What the CAP should address will depend on the unique situation. For example:

1. A CAP addressing Scenarios #2, #4, and #5 would need to address the lapse in local processes or procedures that led to the incorrect identification and/or student participation in the Screener or ACCESS assessment.
2. Scenarios #1 and #3 would generally not require submission of a CAP.

Note that the CAP must be completed by the district that made the initial error in identification. OELP staff may assist the appealing district in obtaining the required CAP in instances where the misidentification occurred during a prior district enrollment.

Supporting Documentation

The supporting documentation required in an appeal is dependent on the unique situation. For example:

1. Supporting documentation addressing Scenario #3 must include assessment documentation from the sending state sufficient to verify that the student has met that state's English language proficiency standards.
2. Supporting documentation for Scenario #5 should include the student's HLS from the year of the initial misidentification indicating ASL for one or more of the language responses.

OELP staff will assist with clarifying what supporting documentation would be appropriate to the situation.

In Closing

The OELP would like to reiterate the following points:

- There is no scenario considered “absolute” in justifying the removal of EL status. As such, districts should always contact OELP staff prior to submitting an appeal.
- The submission of an appeal is not a guarantee that the appeal will be approved.
- In the event an appeal is approved, the associated student Conflict may remain populated on the district Conflicts tab until or beyond the close of the academic year.

Contact Information

Please forward any questions or concerns regarding the EL misidentification process outlined in this presentation to:

**The Oklahoma State Department of Education's
Office of English Language Proficiency**

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