



State of Arizona  
Department of Education

## Hot TOPIC

July 2019

### **Alert to Special Education Directors and Program Administrators: English Learner Requirements under IDEA**

As required by the regulations that implement the Individuals with Disabilities Education Act (IDEA), outlined specifically in 34 C.F.R. §300.306 (b)(iii), a child must not be determined to be a child with a disability if the determinant factor is limited English proficiency. Arizona Revised Statute further delineates this in [15-761 \(2\)\(b\)\(iii\)](#) stating that eligibility cannot be determined “if the determinant factor for the classification is ... difficulty in writing, speaking or understanding the English language due to an environmental background in which a language other than English is primarily or exclusively used.” Further, IDEA requires administration of assessments in a language and form that will yield accurate results to ensure eligibility is not based on a discriminatory basis, as outlined in 34 C.F.R. §300.304(c)(1) and (3).

Arizona Administrative Code outlines the requirement for identification of a student’s home language in A.A.C. R7-2-306 (B) (1), (2)(a-c). The home language of a student is identified by the parent or legal guardian, upon enrollment, utilizing the Primary Home Language Other Than English ([PHLOTE](#)) Survey. If the parent indicates any language other than English for one or more of the questions included in the PHLOTE, the student is then identified as a second language learner and the AZELLA placement test is given to determine language needs and appropriate placement for instruction. The PHLOTE also triggers the requirement to rule out language under IDEA, for evaluation purposes as explained above.

As required by the regulations that implement the IDEA, specifically 34 C.F.R. §300.324(a)(2)(ii), in development of the child’s Individualized Education Program (IEP), whenever a child is identified as having Limited English Proficiency, the team must consider the language needs of the child as those needs relate to the child’s IEP. The PHLOTE identifies the potential for language needs.

At this time, ADE/ESS does monitor for all of these requirements and provides technical assistance regularly.

Additional information on this topic can also be located on the Dispute Resolution website at: <http://www.azed.gov/disputeresolution/2016/06/16/evalandreeval5/>. More information related to OELAS and AZELLA can be found at: <http://www.azed.gov/oelas/>. If you have further questions, please feel free to contact your assigned PSM specialist.