Federal Requirements for English Learners (ELs)

Office of English Learning and Migrant Education

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Purpose

- Provide comprehensive overview of the federal laws and requirements to ensure EL students are
  - properly identified
  - provided with appropriate English language development support

- Outline <u>what must be provided with state and local funds</u>.
  - This presentation <u>does not</u> take into account any supplemental federal funds a school corporation may receive (such as Title III)

Outcomes

- Local school corporations will be able to:
  - Identify EL students
  - Determine appropriate services
  - Assess EL students
  - Exit EL students
  - Understand the federal laws that guide instruction
  - Provide required support to ELs

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I. English Learners

Purpose:

Who is an EL student?

Who is an EL Student?

Federal Definition:

Means an individual—

(A) who is age 3 through 21;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) who was not born in the United States or whose native language is a language other than English;

(ii) (I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) the ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

Common Acronyms

- English Learner (EL)
- English Language Learner (ELL)
- Limited English Proficient (LEP)

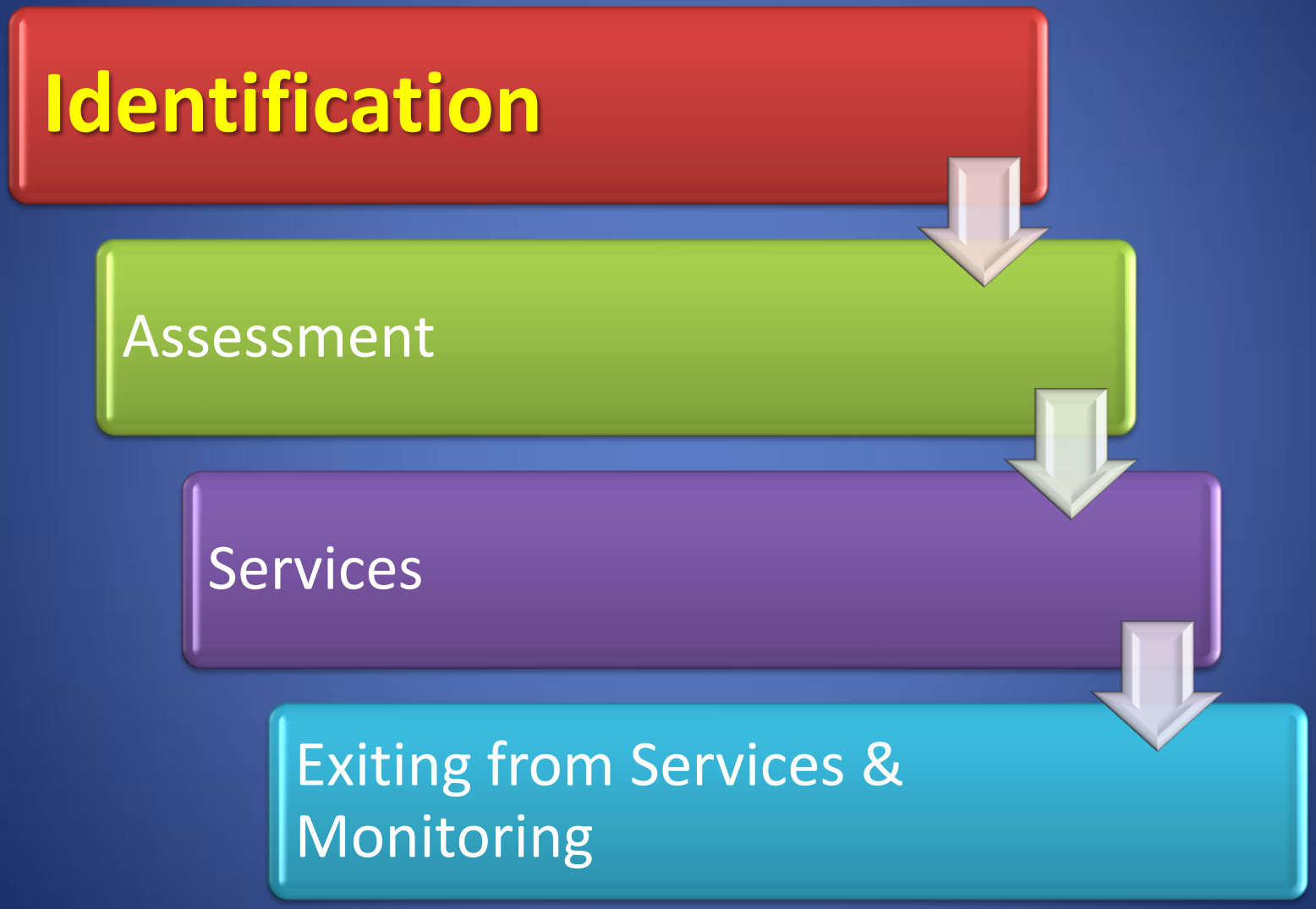
**All of these acronyms are used to describe a student who speaks a language(s) other than English and has been identified as needing additional language support*

II. Federal Requirements

Purpose:

Outline the federal requirements for schools that have identified EL student(s)

Steps for Serving ELs



Identification

Contents	Federal Regulations
Home Language Survey	Title I, Section 1111 (b) (6) Plyler v. Doe

The Home Language Survey

Purpose:

The HLS is a student-specific form used to identify language(s) spoken by a student that are other than English

The three student-specific questions that every school corporation is <u>required</u> to ask are:

1
- What is the native language of the student?

2
- What language(s) is spoken most often by the student?

3
- What language(s) is spoken by the student in the home?

Completing the HLS

Scenario	Action Taken
Student indicates a language other than English to <u>any</u> of the three questions on the HLS	1. Student is assessed on LAS Links Placement Test; ***<u>AND</u>*** 2. HLS is placed in student's cumulative folder
Student indicates "English" to all three questions on the HLS	1. Student should <u>not</u> be assessed on LAS Links Placement Test; ***<u>AND</u>*** 2. HLS is placed in student's cumulative folder

Under no circumstance should the original HLS ever be discarded

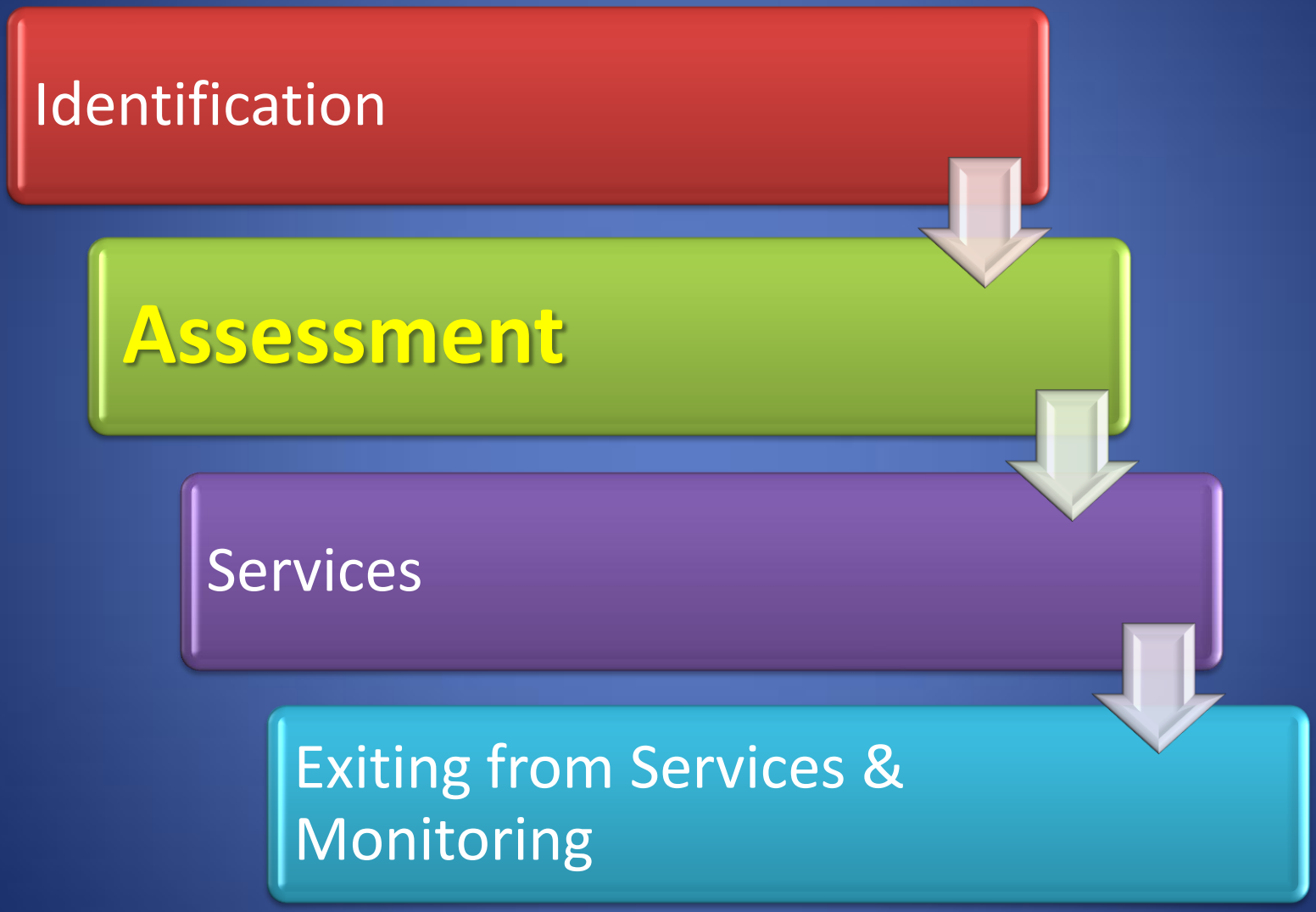
HLS Specifics

- School can only ask these three questions to determine if a student speaks a language other than English
- Administer the HLS only once to a student in their educational career (typically Kindergarten) or if a student moves to Indiana from out of state
- "Original HLS" refers to the HLS completed the first time a student is enrolled in an Indiana school
- When a student moves from one school corporation to another within Indiana, the HLS is required to be transferred with the student in their cumulative folder

Plyler v. Doe (1982)

The Supreme Court Case which held that the Constitution guarantees all children, regardless of immigrant status, equal access to a basic public education

Steps for Serving ELs



Assessment

Contents	Federal Regulations
LAS Links Placement Test	Title I, Section 1111 (b) (6)
LAS Links Annual Assessment	Title I, Section 1111 (b) (7)
Parent Notification Letter	Title I, Section 1112 (g)

Two Types of English Proficiency Assessments

LAS Links Placement Test

- Administered once (based on HLS) when a student first enrolls at a school corporation and does not have previous Indiana scores available

LAS Links Annual Assessment

- Administered each year to students that have been identified as LEP based on the LAS Links Placement Test or previous LAS Links Annual Assessment

LAS Links Placement Test

Purpose:

-Identification assessment that is administered and scored locally

-Determines the English proficiency of a student whose home language survey identifies a language other than English

Who is given the LAS Links Placement Test?

- Students who are enrolling for the first time in school (i.e. Kindergarten) and have indicated a language other than English on their HLS

OR

- Students who have transferred to your school corporation from out of state and have indicated a language other than English on their HLS

Timeframe for Administering the LAS Links Placement Test

Scenario	Action Taken
Students who were present at the beginning of the school year	Within 30 days of the beginning of the school year
Students who arrived after the beginning of the school year	Within 2 weeks of arrival

Administering the LAS Links Placement Test

A designated local staff member administers and locally scores the results. The student will receive one of the following placements:

NP	Not Proficient
AP	Approaching Proficiency
P	Proficient

- A “NP” or “AP” scores indicates the student is:
  - Limited English proficient (LEP)
  - Begins receiving federally-required English language development services

- A “P” score indicates the student is:
  - Fluent and is not considered LEP
  - Should <u>not</u> receive English language development services

NP	Not Proficient	Limited English Proficient *(receives services)*
AP	Approaching Proficiency	Limited English Proficient *(receives services)*
P	Proficient	Fluent English Proficient *(does <u>not</u> receive services)*

LEP Students that have Transferred to a New School Corporation

- If a school corporation receives a previously identified LEP student by another Indiana school corporation (based on the original HLS), the school:
  - Will not give the LAS Links placement test
  - Uses the student's LAS Links Annual Assessment score from the previous year/school to make determinations regarding services

Scenario	Action Taken
Student is a **kindergartner** enrolling in school for the first time ever	• Administer a HLS • If language other than English is indicated on the HLS, the student should be given a LAS Links Placement Test
Student moves to your school corporation from an **out of state school**	• Administer a HLS (*Indiana does not accept HLS from other states*) • If language other than English is indicated on the HLS, the student should be given a LAS Links Placement Test
Student **transfers** to your school corporation from another school corporation within Indiana	• Do <u>not</u> administer a new HLS. Instead, the student's cumulative folder should be checked for the <u>original HLS</u> the student filled out the first time they enrolled in an Indiana school • If a language other than English is indicated on the original HLS, then a school corporation should use the student's previous LAS Links <u>Annual</u> Assessment scores for placement

LAS Links Annual Assessment

Purpose:

Yearly assessment which measures the English proficiency of identified LEP students in the following four domains:

Listening, Speaking, Reading and Writing

Which Students Should be Assessed?

- Public school corporations (including charter schools) are required to annually assess the English proficiency of students that have been identified as:

"NP" or "AP"	• Based on the LAS Links Placement Test when no previous Indiana assessment information is available ; OR
Level 1-4	• Based on the LAS Links Annual Assessment from the previous year
Level 5 (first year)	• Based on the LAS Links Annual Assessment from the previous year; LEP students <u>must</u> participate until they receive a Level 5 two <u>consecutive</u> years

Based on a student's LAS Links Annual Assessment results, they will be placed into one of five categories

Level 1	Beginner
Level 2	Early Intermediate
Level 3	Intermediate
Level 4	Advanced
Level 5	Fluent English Proficient (FEP)

- Students identified as LEP (levels 1-4) must be provided with federally-required English language development services until they obtain fluency, as measured on the LAS Links Annual Assessment

Level 1	Beginner	LEP (receives services)
Level 2	Early Intermediate	LEP (receives services)
Level 3	Intermediate	LEP (receives services)
Level 4	Advanced	LEP (receives services)
Level 5	Fluent English Proficient (FEP)	FEP (does not receive services)

Testing Information

- The annual testing window takes place during January and February
- The LAS Links Annual Assessment is administered to LEP students only *(Levels 1-4 and first year level 5 students)*
- The assessment is free to all public schools (including charter schools)
- LEP students are required to take the annual assessment every year until they score two consecutive level 5's (fluent)

Parent Notification Letter

Purpose:

Notifies parents of identified LEP students and their student's placement in a language instruction program. Parent notification letter is sent each year to all LEP students' parents

Parent Notification Letter

- Schools must
  - Provide a letter to ALL parents <u>every year</u> of identified LEP students of their placement in a language instruction program
    - Notify all parents, not just newly identified students
  - Send the letter no later than 30 days from the beginning of the school year, or within 2 weeks of enrollment for students that were enrolled after the start of the beginning of the school year

Parent Notification Letter

- Must include:
  - Reason for identification of their child as LEP
  - Need for placement in a language instruction program
  - Student's current level of English proficiency and academic achievement and how it was assessed
  - Methods of instructed used in the program the student was placed
  - How the program will meet their child's educational needs, acquire English, and meet age-appropriate achievement standards for grade promotion and graduation
  - Specific exit requirements for the program, including the expected rate of transition from the language education program into a classroom not tailored for LEP children and the expected graduation rate of the corporation
  - Information for students identified with a disability and how the program meets the objectives of the Individual Education Plan (IEP) of the student

- Visit the Learning Connection for the required Annual Parent Notification Template in IDOE- Title III and NESP > Files and Bookmarks > Forms > Parent Notification

Parent Rights

- School Corporations must notify parents of their:
  - Right to remove the student from the program upon their request
  - Options to choose another program or method of instruction and assisting parents in selecting among the various programs or methods of instruction if more than one is offered

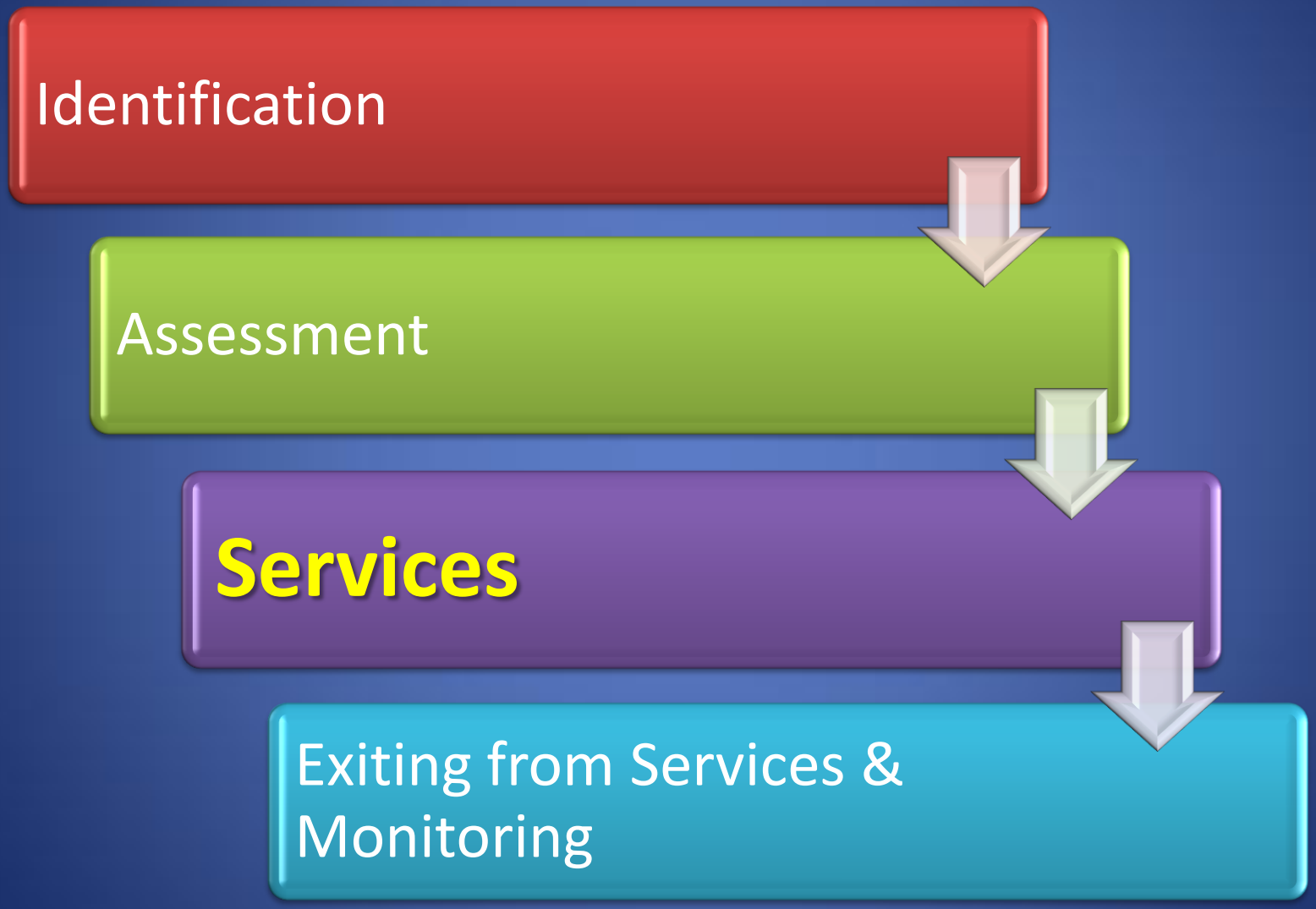
- *<u>*Note:</u>*

While parents have the right to refuse services, a school corporation should not provide parents with an "option" on the parent notification letter to indicate that they do not want their student to receive services. Instead, parents must simply be informed of their right.

Translation Requirements

"The notice and information provided…to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand."

Steps for Serving ELs



Services

Contents	Federal Regulations
Individual Learning Plan (ILP)	Lau v. Nichols Title VI of the Civil Rights Act of 1964 OCR 1970 Memorandum
English Language Development Services	Castaneda v. Pickard Lau v. Nichols Title VI of the Civil Rights Act of 1964 OCR 1970 Memorandum
Refusal of Services	Title I, Section 1112 (g)

Individual Learning Plan (ILP)

Purpose:

A specialized plan for each identified LEP student that details strategies, accommodations, modifications and goals to be implemented daily in the classroom in order to help LEP students be successful

ILP Specifics

- A locally-developed form that is recommended to be created by the student's classroom teacher(s) in conjunction with the school's EL teacher (if applicable) or another designee
  - Examples located in the IDOE Title III Learning Connection Community
- Should be shared with the student to ensure the student understands what they are entitled to
- All LEP students (levels 1-4 or "NP"/"AP") must have an ILP
- Teachers and other staff members that work with an LEP student <u>must</u> be given a copy of the ILP and are <u>required</u> to implement the ILP within their classroom on a daily basis

What Should an ILP Include?

School corporations retain the local responsibility to create an ILP based on their students' needs

Recommendations to include in an ILP are as follows:

- General Information about the student (name, age, grade, school year)
- LAS Links Placement proficiency level (if applicable)
- Annual LAS Links proficiency level, with sub-group levels in Listening, Speaking, Reading and Writing
- State and local assessment information
- The language instruction program being used for the student
- Strategies, accommodations, and modifications for the student to be implemented in all classes
- Goals for the student (quarterly, semester, year-end)

State Assessments and Accommodations

- LEP students are eligible to receive accommodations on state assessments; the accommodation must be marked on the student's ILP
- Refer to the ISTEP+ Program Manual for a list of approved accommodations for EL students on state assessments
- Only state-approved accommodations can be used with EL students on state assessments

Title VI of the Civil Rights Act of 1964

"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

This has been interpreted by the Office of Civil Rights (OCR) to mean that a student cannot be denied equal access to education because of a student's limited proficiency in English

OCR 1970 Memorandum

"Where the inability to speak and understand the English language excludes national origin minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."

The OCR 1970 Memorandum also clarified that school corporations <u>would be in violation</u> of Title VI of the Civil Rights Act if:

- Students are excluded from effective participation in school because of their inability to speak and understand the language of instruction;
- Students are assigned to special education classes because of their lack of English skills;
- Programs for EL students are not designed to teach them English as soon as possible, or if these programs operate on a dead-end or permanent track; and
- Parents whose English is limited do not receive school notices and other information in a language they can understand

Lau v. Nichols (1974)

"There is no equality of treatment merely by providing students with the same facilities, textbooks, teachers, and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education."

Castaneda v. Pickard (1981)

The Supreme Court Case that outlined the three-pronged approach that must be used with school corporations when developing their English language development program to ensure it is effective in meeting the needs of LEP students

1. **The program must be based on sound educational theory and pedagogy;**

2. **The program must be adequately supported, with adequate and effective staff and resources, so that the program has a realistic chance of success; and**

3. **The program must be periodically evaluated and, if necessary, revised**

Factors for Consideration

Purpose:

Provide a comprehensive understanding of each prong identified in *Castaneda v. Pickard*

Prong 1

The program must be based on sound educational theory and pedagogy

- OCR does not require or advocate a particular educational approach or model
- A school corporation may select any model it can show is considered sound by some experts in the field or is considered a legitimate experimental strategy
- When determining whether a school corporation is in compliance with Title VI, the following should be assessed:
  - (a) Whether the approach provides for English language development
  - (b) Whether the approach provides for meaningful participation of EL students in the district's educational program.

Prong 2

The program must be adequately supported, with adequate and effective staff and resources, so that the program has a realistic chance of success

- *Staffing:* School corporations have an obligation to provide the qualified staff necessary to implement their chosen program properly within a reasonable period of time

- *Resources:* School Corporations must provide adequate resources, which is determined by the timely availability of required equipment and instructional material

The staff and resources used to meet this requirement are paid for with state and local funds only (i.e. Federal funds, such as Title III, cannot support this purpose)

- *Exiting EL students*: Schools provide services to ELs until they are proficient enough to read, write, speak, and comprehend in English to participate meaningfully in the regular education program
  - Exit criteria is based on objective standards

- *Special Education*:
  - EL students must not be placed in special education services due to their inability to speak and understand English
  - Evaluations must accurately reflect a student's special education needs rather than lack of English language skills

- *Other District Programs:* EL students are provided with opportunities to access other programs:
  - Gifted and Talented
  - Honors and Advanced Placement

Prong 3

The program must be periodically evaluated and, if necessary, revised

- Adopting a language instruction program with a sound education design is not sufficient if the program is implemented and proved to be ineffective

- In order to satisfy Title VI requirements, a school corporation must be evaluating their program to determine:
  - Is the program working?
  - Are EL students gaining the proficiency in English that will enable them to participate meaningfully in the school corporation's education program?

Refusal of Services

Purpose:

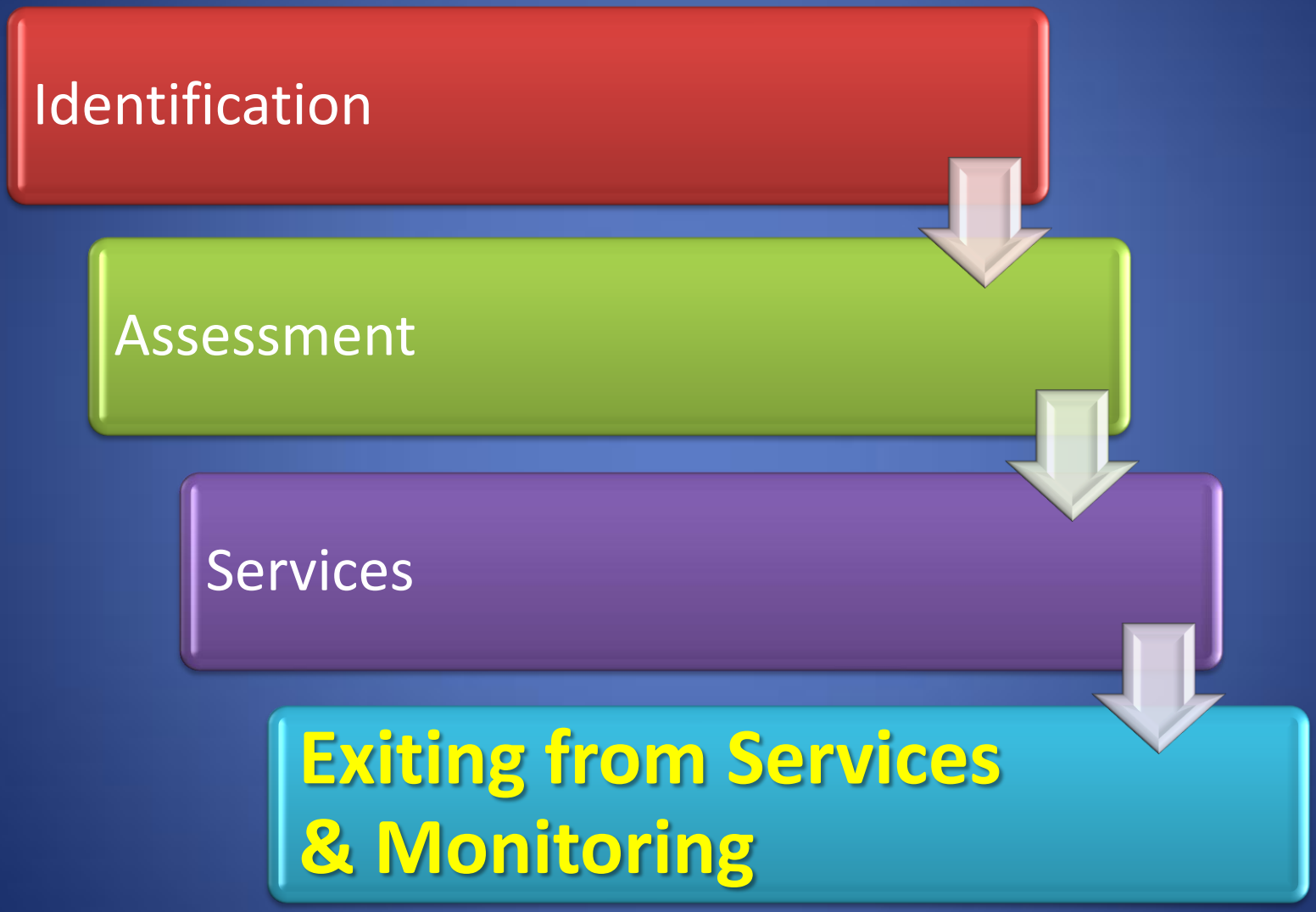
Provide schools an understanding of their responsibilities if a parent refuses English language development services for their child

Refusal of Services

- A parent has the right to refuse English language development services for their student; however a parent cannot refuse the LAS Links Annual Assessment

- If a parent denies services for an LEP student, the school corporation must
  - Retain the responsibility to ensure that the student(s) has an equal opportunity to have their English language and academic needs met
  - Assess the student(s) annually on the LAS Links Assessment until fluency is demonstrated
  - Still create an Individual Learning Plan (ILP) in order to comply with the federal requirements
  - Provide the right to accommodations on state assessments

Steps for Serving ELs



Exiting from Services & Monitoring

Contents	Federal Regulations
Formal Monitoring	Castaneda v. Pickard Title VI of the Civil Rights Act of 1964

Exiting from Services and Monitoring

Purpose:

Provide school corporations with an understanding of the protocol to follow when a student has demonstrated proficiency in English

Level 5 Students

- A student that receives their first level 5 on the LAS Links Annual Assessment is
  - Reclassified as Fluent English Proficient (FEP) and begins *informal* monitoring to ensure he/she keeps up with mainstream peers
  - No longer in need of English language development services or an ILP. The student now has full access to the mainstream curriculum
  - Required to score two consecutive level 5's before fully exiting and begin the ***formal*** monitoring process

Formal Monitoring

Begins after a student has scored two consecutive level 5's on the LAS Links Annual Assessment.

Monitoring must ensure the following:

1. Students are able to keep up with their non-LEP peers in the regular educational program
2. Students are able to participate successfully in all aspects of the school's curriculum without the use of simplified English materials
3. Their retention in grade and dropout rates are similar to those of their non-LEP peers

Formal Monitoring Form

The Formal Monitoring Form is a locally-developed form used to track a former LEP student's progress. The following are recommended items from OCR to include on the monitoring form:

- Individual responsible for monitoring
- Frequency of monitoring
- Monitored items (test scores, grades, state/local assessments, teacher feedback, etc.)
- Monitoring method or criteria to determine success

Example: Scoring Two Level 5's

Year	LAS Links Annual Assessment Score	Action
SY 2009-2010	First Level 5	-Must take LAS Links Annual Assessment next year -Re-classified as FEP & exits from services -Begins informal monitoring for next school year -Student does not have an ILP
SY 2010-2011	Second Level 5	-Does not need to take LAS Links Annual Assessment anymore -Begin formal two year monitoring for next school year
SY 2011-2012	N/A	Formal Monitoring Year #1
SY 2012-2013	N/A	Formal Monitoring Year #2
SY 2013-2014 & forward	N/A	N/A

What if a Student Does Not Score Two Consecutive Level 5's?

- If a student scores a level 5 their first year, they exit from services and begin informal monitoring
- If the student does not score a level 5 for the second year, they enter back into the language instruction program and an ILP is re-implemented
- If in the third year the student scores a level 5 again, they re-enter informal monitoring and must score a second level 5 the next year in order to exit from services

Example: Not Scoring Two Level 5's

Year	LAS Links Annual Assessment Score	Action
SY 2009-2010	First Level 5	-Must take LAS Links Annual Assessment next year -Re-classified as FEP & exits from services -Begins informal monitoring for next school year -Student does not have an ILP
SY 2010-2011	Level 4	-Must take LAS Links Annual Assessment next year -Student re-enters the language instruction program -A ILP is created for the student
SY 2011-2012	Level 5	-Must take LAS Links Annual Assessment next year -Re-classified as FEP & exits from services -Begins informal monitoring for next school year -Student does not have an ILP
SY 2012-2013	Level 5	-Does not need to take LAS Links Annual Assessment anymore -Begin formal two year monitoring for next school year
SY 2013-2014 and SY 2015-2016	N/A	Formal Monitoring Year #1 Formal Monitoring Year #2
SY 2016-2017 & forward	N/A	N/A

III. Other Requirements

Purpose:

Outline additional requirements that school corporations must follow regarding state data collection and document retention

Data Collection: DOE-Language Minority (LM)

Purpose:

Requires school corporations to report any student that has identified a language other than English on their HLS.

Required to report these students every year until they graduate or leave the school corporation

DOE-LM Specifics

- Important: The DOE-LM captures students that speak or have spoken a language other than English, ***regardless of whether or not the student received English language development services***

- Begins November 1st of each year

- Students will continue to be reported each year until they graduate high school or leave your school corporation

- The DOE-LM requires that every year school corporations report students that have identified a language(s) other than English, as indicated on their HLS for any of the three questions

Reporting Fluent Students

Scenario	Action
Student indicates a language other than English on the HLS. The Placement Test is administered and student scores "Fluent."	• The student is reported to the DOE-LM every year since they have indicated a language other than English • However, they would not receive English language development services and would not take the Annual Assessment •The student continues to be reported until they graduate or leave the school corporation
Student indicates a language other than English on the HLS. Student is identified as LEP on the Placement Test and receives English language development services. The student then receives two consecutive level 5's on the Annual Assessment in subsequent years, begins formal monitoring, and eventually exits from the program.	• Student will continue to be reported to the DOE-LM as Fluent English Proficient (FEP) until the student leaves the school corporation or graduates

**At no point should a student that has indicated a language(s) other than English on their HLS stop being reported unless they graduate or leave the school corporation*

Student Cumulative Folder

Purpose:

A place where records pertinent to the student can be kept and transferred with the student in the event they move to a different school corporation

Cumulative Folder Documents

- HLS (retained for all students)
- LAS Links Placement and Annual Assessment results
- Copy of the most recent ILP
- Formal monitoring document for students in their two-year monitoring period
- Copy of parent refusal of services (if applicable)

IV. Program Requirements

Purpose:

Outline a school corporation's obligation in providing services with state and local funds

Supplement vs. Supplant

- Supplement vs. Supplant requirements ensure that services provided with federal funds are ***in addition to*** and ***do not replace*** (or supplant) services that students would otherwise receive

- **State and local funds** must be used to provide the activities outlined in this presentation

- Therefore, using federal funds for activities discussed in this presentation would be **supplanting**

Title III:

Additional services provided to students ***above and beyond*** the Core Instruction and Lau Requirements.

Title III federal funds can be used for this purpose.

"Lau" Requirements:

English language development services that are provided to **EL students** in order to meet federal requirements. These services are ***in addition to*** the core instruction. **State and local funds** are used to meet the Lau Requirements.

Federal funds (ex: Title III) cannot be used to meet this requirement.

Core Instruction:

Provided to all students.

V. Scenarios

Purpose:

Provide guidance to school corporations to ensure compliance with federal regulations

Scenario #1

A Kindergarten student enrolls at your school corporation and "Chinese" is indicated on their HLS for question #1. Because a language other than English has been indicated, a school designee administers the LAS Links Placement Test and the student scores a "NP." What do you do?

Action
HLS **is** retained in student cumulative folder
Parent Notification Letter of **is** sent home
Student **receives** English language development services
ILP **is** created for the student
Student **takes** the LAS Links Annual Assessment
Report the student on DOE-LM

Scenario #2

An 8th grade student enrolls at your school corporation. You check the student's cumulative folder that transferred with them and see that their HLS indicates all "English," what do you do?

Action	Comments
HLS **is** retained in student cumulative folder	*Place the original HLS back in student cumulative folder*
Parent Notification Letter **is not** sent home	
Student **does not** receives English language development services	
ILP is **not** created for the student	
Student **does not** take the LAS Links Annual Assessment	
Do not report the student on DOE-LM	

Scenario #3

A 3rd grader moves to your school corporation from **out of state**. You administer the HLS to them. They indicate "Spanish" for all three questions. Because a language other than English has been indicated, a school designee administers the LAS Links Placement Test and the student scores a "P" (Proficient). What do you do?

Action	Comments
HLS **is** retained in student cumulative folder	
Parent Notification Letter **is not** sent home	*Recommend notifying parents of "P" score and exclusion from program*
Student **does not** receives English language development services	
ILP is **not** created for the student	
Student **does not** take the LAS Links Annual Assessment	
Report the student on DOE-LM	*Student is reported because a language other than English was indicated on HLS*

Scenario #4

A student has been receiving English language development services for several years as a result of being identified as LEP. For the 2011-2012 SY, the student scores their first level 5 on the LAS Links Annual Assessment.
What should you do?

Action	Comments
HLS **is** retained in student cumulative folder	*HLS should remain in student cumulative folder*
Parent Notification Letter **is not** sent home	*For the next SY, a letter should not be sent home, as the student is no longer in an English language development program*
Student **does not** receives English language development services	*Student has scored their first level 5 (FEP) and is no longer in need of services*
ILP is **not** created for the student	
Student **does** take the LAS Links Annual Assessment	*Student must score a consecutive level 5 the next year*
Report the student on DOE-LM	*Student will continue to be reported until they graduate or leave the school corporation*

Scenario #5

A student has been identified as LEP and begins receiving English language development services. The student's parents receive the notification letter and call the school and ask that their student be removed from services.
What should you do?

Action	Comments
HLS **is** retained in student cumulative folder	*HLS should remain in student cumulative folder*
Parent Notification Letter **is** sent home	*A Parent Letter is still sent home each year since the student is assessed on the LAS Links Annual Assessment*
Student **does not** receive English language development services	*Parents have refused English language development services*
ILP **is** created for the student	*ILP is created to ensure student has equal opportunity to have their language/academic needs met*
Student **does** take the LAS Links Annual Assessment	*Student is federally required to be assessed*
Report the student on DOE-LM	*Student is reported because a language other than English was indicated on HLS*

Any Questions?

Please feel free to contact the
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Learning Connection Communities:
IDOE – Title III and NESP (English Learners)
IDOE – LAS Links Assessment- Administrators