



**Indiana  
Department of Education**  
**Glenda Ritz, NBCT**  
Indiana Superintendent of Public Instruction

## MEMORANDUM

**TO:** Corporation Test Coordinators  
Title III Administrators

**FROM:** Charlie Geier, Director of Early Learning and Intervention  
Michele Walker, Director of Student Assessment

**DATE:** February 2, 2015

**SUBJECT:** Federal Flexibility (English/Language Arts) Clarification

### **Federal Flexibility for Grades 3-8**

While corporations are required to administer ISTEP+ math, science and social studies assessments to limited English proficient (LEP) students who have been enrolled in U.S. schools for less than one year, the WIDA ACCESS for ELLs may be substituted for the English/Language Arts portion of the ISTEP+ assessment utilizing Federal Flexibility. Students that are considered newly enrolled are those who enroll in schools within the United States after March 2, 2014 or less than 12 cumulative months. Federal Flexibility is a corporation-level decision for grades 3-8 and may not be based on individual students or schools.

LEP students who first enrolled in a U.S. school prior to March 2, 2014 and have frequently moved in and out of the U.S. might be eligible for this flexibility if their cumulative length of enrollment in U.S. schools has been less than 12 months. In order to be eligible, a student must have never utilized the Federal Flexibility in the past. The school corporation needs to review the student's past educational record, including schooling in Indiana and other U.S. states, to determine whether a student is eligible.

**IMPORTANT:** For students that are provided this flexibility by their school corporation, **data submission is required in early May through the LEP/ISTEP+ collection.** Information is available through the STN community on Learning Connection. The chart below outlines how Federal Flexibility may be utilized by school corporations over several test administration cycles.

Date of Enrollment Examples	ISTEP+ E/LA Assessment Participation					
	2013 - 14		2014 - 15		2015 - 16	
	Applied Skills	Multiple-Choice	ISTEP+ Part 1	ISTEP+ Part 2	ISTEP+ Part 1	ISTEP+ Part 2
<b>February 1, 2014</b>	No	No	Yes	Yes	Yes	Yes
<b>March 2, 2014</b>	No	No	Yes	Yes	Yes	Yes
<b>April 1, 2014</b>	Not Applicable	No	No	No	Yes	Yes
<b>May 5, 2014</b>	Not Applicable	No	No	No	Yes	Yes
<b>May 15, 2014</b>	Not Applicable	Not Applicable	No	No	Yes	Yes
<b>September 2, 2014</b>	Not Applicable	Not Applicable	No	No	Yes	Yes
<b>February 2, 2015</b>	Not Applicable	Not Applicable	No	No	Yes	Yes

### **Federal Flexibility for 10th Grade Cohort**

While corporations are required to administer Algebra 1 and Biology 1 End of Course Assessments (ECAs) to 10<sup>th</sup> grade limited English proficient (LEP) students who are enrolled in those courses and who have been enrolled in U.S. schools for less than one year, the WIDA ACCESS for ELLs may be substituted for the English 10 ECA utilizing Federal Flexibility. Students that are considered newly enrolled are those who enroll in schools within the United States after March 2, 2014 or have been enrolled for less than 12 cumulative months. School corporations may choose from the scenarios provided on page 3 of this memorandum when determining Federal Flexibility for their 10<sup>th</sup> grade cohort students.

LEP students who first enrolled in a U.S. school prior to March 2, 2014 and have frequently moved in and out of the U.S. might be eligible for this flexibility if their cumulative length of enrollment in U.S. schools has been less than 12 months. In order to be eligible, a student must have never utilized the Federal Flexibility in the past. The school corporation needs to review the student's past educational record, including schooling in Indiana and other U.S. states, to determine whether a student is eligible.

Since the English 10 ECA is high stakes and associated with future graduation, careful consideration must be given to determine the best option for these students as they work towards fluency in English. In order to graduate, a student must pass the English 10 and

Algebra 1 ECAs or fulfill the requirements of the GQE evidence-based waiver or work-readiness waiver. Both the GQE evidence-based and work-readiness waivers require a student to attempt to take an ECA at every available opportunity after the completion of the second year of English credit course.

So that an LEP student maintains eligibility to receive a graduation waiver in the event that he or she does not pass the English 10 ECA, use the scenarios below to guide proper programming and testing of your recently arrived LEP students.

Scenario	Guidance	Utilize Federal Flexibility
1	Place the student in English 10 and utilize the student's Individual Learning Plan (ILP) to provide differentiation of instruction and accommodations on classroom and state assessments. The student will need to take the English 10 ECA with accommodations. This student also must be provided with a core EL program (required by Lau 1974) that is above and beyond the regular core E/LA instruction, and this EL program must support the student by ensuring that s/he can meaningfully participate in the general education program. Please see the <i>Indiana State Approved Course Titles and Descriptions</i> for issuing credit.	No
2	Place the student in an ENL course that teaches 10 <sup>th</sup> grade E/LA content standards in a sheltered instruction method so that the student can actively access the content while the trained EL teacher develops the student's language acquisition. The student will need to take the English 10 ECA with accommodations. Please see the <i>Indiana State Approved Course Titles and Descriptions</i> for issuing credit.	No
3	Federal Flexibility for a 10 <sup>th</sup> grade recently arrived LEP student must only be used if the student has not yet earned 9 <sup>th</sup> grade E/LA credit. He or she will not take the English 10 ECA because the student has not had the opportunity to learn 9 <sup>th</sup> and 10 <sup>th</sup> grade E/LA standards but will still maintain his/her eligibility for a future graduation waiver, if applicable.  Place the student in a 9 <sup>th</sup> grade E/LA or ENL course that teaches 9 <sup>th</sup> grade E/LA standards. This student also must be provided with a core EL program (required by Lau 1974) that is above and beyond the regular core E/LA instruction, and this EL program must support the student by ensuring that s/he can meaningfully participate in the general education program. In the following school year, the student will use Scenario 1 or 2 and participate in the English 10 ECA. Please see the <i>Indiana State Approved Course Titles and Descriptions</i> for issuing credit.	Yes.  The student must participate in WIDA ACCESS for ELLs and the school will submit the DOE-LEP data collection for this student.

*Other scenarios may be plausible; contact Karen Stein in the Office of Student Assessment if needed.*

**IMPORTANT:** For students that are provided this flexibility by their school corporation, **data submission is required in early May through the LEP/ISTEP+ collection.** Information is available through the STN community on Learning Connection.

## **Accountability**

For accountability purposes, recently arrived LEP students must take:

- 1) the ISTEP+ math, science and social studies assessments; **AND**
- 2) the E/LA ISTEP+/English 10 ECA **OR** the WIDA ACCESS for ELLs.

## **Important Notes**

If Federal Flexibility is utilized for students, ISTEP+ reports will indicate that the student's score is undetermined (UND), as these students would not have completed the E/LA portion of ISTEP+. However, through the LEP/ISTEP+ data collection, accountability calculations will account for corporations exercising Federal Flexibility.

Please note the Federal Flexibility does not apply to IREAD-3. IREAD-3 is a state-required assessment and there is no flexibility regarding LEP students' participation. However, these students are still provided accommodations according to their Individual Learning Plans (ILP) and qualify for the Good Cause Exemption in accordance with the decision of an ILP committee.

## **What are the key provisions of this flexibility?**

- Only students who are found to be limited English proficient (either via the LAS links placement, LAS Links annual exam, or W-APT) **AND** have been enrolled in U.S. schools after March 2, 2014, or for less than 12 months qualify for this flexibility.
- The flexibility can only be used once in a student's educational career in the U.S.
- The time in U.S. school is cumulative and does not have to be 12 consecutive months. If an LEP student moves in and out of the country, the school must use the total amount of time in U.S. schools to determine whether the student has been enrolled less than 12 months.
- "U.S. schools" includes schools in the 50 states and the District of Columbia. It does NOT include schools in Puerto Rico, the outlying areas, or the freely associated states. Students who come to the United States from Puerto Rico, for example, where Spanish is the primary language of instruction, would not be considered to have been enrolled in U.S. schools while in Puerto Rico. Thus, LEP students from Puerto Rico would be included in the definition of recently arrived LEP students for purposes of these regulations. **PLEASE note that this differs from the immigrant status of a student, as a student from Puerto Rico is not considered an immigrant.**
- A student must have first taken the LAS links placement test and considered limited English proficient to be eligible. The student must take the next WIDA ACCESS for ELLs administration in order to qualify for this Federal Flexibility. Indiana may exempt a student from one annual administration of the E/LA portion only. The LEP student will still participate in other state content area assessments including math, science, and social studies, if applicable.
- Nothing about the flexibility regarding assessment or accountability for LEP students included in these regulations relieves the Indiana Department of Education, local education agencies (such as school corporations or charter schools), or schools from their responsibilities to serve LEP students. The regulations in no way diminish the responsibility for schools to provide appropriate instruction to recently arrived LEP students so that they can gain English language skills and master content knowledge in reading/language arts, mathematics, and science.

If you have questions regarding Federal Flexibility, please contact IDOE staff members: Karen Stein [kstein@doe.in.gov](mailto:kstein@doe.in.gov) (317-234-2377) or Nathan Williamson [nwilliamson@doe.in.gov](mailto:nwilliamson@doe.in.gov) (317-233-0786).