

Guidance for Implementing the Read by Grade Three Law with English Learners (ELs)

On October 6, 2016 the State of Michigan signed MCL: 380.1280f into law which ensures all students shall be reading by grade 3. The following recommendations from the Michigan Department of Education are provided to support districts to determine procedures with regard to English Learners and students in immersion programs.

Retention: Any student in grade 3 who is more than one grade level behind on the ELA state summative assessment shall not be passed on to the 4th grade. (See Appendix A)

Local Education Agencies (LEAs) should:

- exercise “good cause exemptions” specific to ELs, which include but are not limited to the following:
 - Less than 3 years instruction in English
 - As requested by the parent or teacher and determined to be in the best interest of the child and is approved by the district Superintendent or designee
- use a portfolio to demonstrate students’ understanding of Grade 3 ELA standards. For students in Transitional Bilingual or Dual/Immersion programs, portfolios may be utilized to demonstrate attainment of the ELA standards in the language of instruction.
- use guidance from the Office Civil Rights (OCR) that states that ELs are guaranteed meaningful access to age appropriate curricula. It is a violation of civil rights to retain students when their English Language Proficiency is the most likely cause for not attaining a passing score on the M-STEP. (OCR Dear Colleague Letter January 7, 2015, pg. 18).
 - “School districts also should place EL students in age-appropriate grade levels so that they can have meaningful access to their grade-appropriate curricula and an equal opportunity to graduate.” (OCR Dear Colleague Letter January 7, 2015, pg. 18.)

Considerations: Students require five to seven years of instruction to acquire Cognitive Academic Language Proficiency (CALP). Students who demonstrate language proficiency at the 1– Entering, 2– Emerging are developing Basic Interpersonal Communication Skills (BICS) and most likely do not have the CALP to be successful on the state summative assessment. Therefore, retention of these students is not appropriate. Students currently at the intermediate proficiency, (3–Developing, 4–Expanding, 5– Bridging, 6–Reaching) levels of WIDA may not have sufficient levels of CALP to be successful on the state summative assessment. Careful consideration should be given to this point. Good cause exemptions should be used in cases where students’ language proficiency in listening, speaking, reading and writing influence their overall reading proficiency. It is important to engage parents early around their rights, roles, and responsibilities pertaining to the good cause exemption process.

Individualized Reading Improvement Plan (IRIP): Beginning the 2017-18 school year for any student K-3 exhibiting a reading deficiency, at any time, based on the reading assessment system, should have an

Individual Reading Improvement Plan (IRIP) that outlines the interventions needed to remedy the reading deficiency. (See Appendix B)

LEAs should:

- create an IRIP for any English Learner exhibiting a reading deficiency.
- use assessments in the language(s) of instruction to determine the nature and reason for the deficiency.
- involve pertinent personnel in the creation of the IRIP. “Pertinent school personnel” includes staff who are knowledgeable of second language acquisition as well as evidence-based strategies to support English Learners and the learner, themselves.
- utilize reading interventions that have evidence of positive results for improving English Learner reading proficiency and match the needs of the student.
 - With regard to the determined reading deficiency, special consideration should be given to:
 1. Oral language
 2. Academic vocabulary development
 3. Writing should be of equal emphasis with reading

Parent Engagement and Communication: For pupils in grades K-3 who exhibit a reading deficiency, parents must be provided written notice of the deficiency and tools to support to remedy the deficiency at home. (See Appendix C)

LEAs should:

- engage parents/families in meaningful ways to support students’ language and literacy development.
- provide written notification of both the Reading deficiency and the IRIP in a language that parents understand.
- have a process for supporting parents of English Learners with the “good cause exemption” process. The process is communicated in a way that parents feel comfortable in participating. This includes communicating the rights of parents to request a meeting to discuss the “good cause exemption” process.

Considerations: OCR requires that parents have access to the content of the IRIP. LEAs are required to provide interpretation and/or translations.

Assessment: LEAs shall use the assessment system for pupils in grades K-3 to screen for deficiencies and monitor growth toward a reading growth target. Students should be assessed at least three times per year. The first assessment shall be conducted within the first 30 school days. (See Appendix D)

LEAs should:

- assess students in the language(s) of instruction.
- ensure participation in the district determined assessment systems.
- ensure that language proficiency data (WIDA) is considered when analyzing results and planning instruction.

- ensure participation in the grade 3 ELA state summative assessment
- The LEA may choose to exclude recently arrived English Learners who have been enrolled in US schools for less than 12 months from one administration of the Reading or ELA State Summative Assessment.

Considerations:

- Dual/Bilingual/Transitional Programs
 - Initial and Extensive assessments:
 - i. Choose assessment that provide sufficient instructional data to support biliteracy instruction in the language of instruction. If additional information is needed, LEAs may choose to administer an additional assessment outside of the Read by Grade Three law guidance.
 - Summative
 - i. A portfolio may be used to demonstrate students' understanding of Grade 3 Language Arts standards. Portfolios provide authentic opportunities for students to demonstrate their understanding of the Grade 3 ELA standards. Portfolios should be created throughout the year with work samples that demonstrate attainment of grade appropriate standards.

Professional Development for Teachers of K-3 Students - Principals shall create specific target areas of professional development based on the data of incoming students. This professional development should be differentiated for teachers based on the teacher's ability to support students to progress in reading. Additionally, a collaborative system with protected time, should be established in the school focused on improving reading proficiency rates for students in grades K-3.

LEAs should:

- consider best practices for English language acquisition when identifying professional learning as determined by the reading deficiencies. These evidence based practices may include, but are not limited to, teaching academic language using the SIOP Model, infusing language and literacy objectives during planning and delivery of instruction.
- promote job embedded professional learning to all staff on evidence based instructional practices for English Learners in conjunction with language and literacy development.
- Employ coaches with advanced knowledge and skills, beyond that of a classroom teacher, including literacy training, as well as an ESL endorsement or professional learning plan demonstrating progress toward and ESL endorsement.

Appendix A

Retention

[Read by Grade Three law MCL:
380.1280f section 5](#) -

(5) Beginning with pupils enrolled in grade 3 during the 2019-2020 school year, all of the following apply:

(a) Subject to subsection (6), the superintendent of the school district or chief administrator of the public school academy in which the pupil is enrolled shall ensure that a pupil whose parent or legal guardian has been provided with the notification under subdivision (d) is not enrolled in grade 4 until 1 of the following occurs:

(i) The pupil achieves a reading score that is less than 1 grade level behind as determined by the department based on the grade 3 state English language arts assessment.

(ii) The pupil demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment approved by the superintendent of public instruction.

(iii) The pupil demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

b) Subject to subsection (6), if a child younger than 10 years of age seeks to enroll for the first time in a school district or public school academy in grade 4, the superintendent of the school district or chief administrator of the public school academy shall not allow the child to enroll in grade 4 unless 1 of the following occurs:

(i) The child achieves a grade 3 reading score as determined by the department based on the reading portion of the grade 3 state English language arts assessment.

(ii) The child demonstrates a grade 3 reading level through performance on an alternative standardized reading assessment approved by the superintendent of public instruction.

(iii) The child demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

Good Cause Exemptions

[Read by Grade Three Law MCL: 380.1280f section 8:](#)

MCL: 380.1280f Section (8) If the superintendent of the pupil's school district or chief administrator of the pupil's public school academy, or his or her designee, grants a good cause exemption from the requirements of subsection (5)(a) for a pupil, then a pupil may be promoted to grade 4 without meeting the requirements of subsection (5)(a). A good cause exemption may be granted only according to the procedures under subsection (10) and only for 1 of the following:

(b) The pupil is a limited English proficient student who has had less than 3 years of instruction in an English language learner program.

(d) For a pupil for whom a request has been received from the pupil's parent or legal guardian, as described in subsection (8)(e), if the request is received within 30 days after the notification by CEPI under subsection (5)(d), the superintendent

of the school district or chief administrator of the public school academy, as applicable, or his or her designee, shall review the request and any supporting information and shall consider whether or not the good cause exemption is in the best interests of the pupil. After this consideration, he or she shall make a determination in writing of whether or not to grant the good cause exemption. This determination shall be made and communicated to the parent or legal guardian at least 30 days before the first day of school for the school year. The decision of the superintendent or chief administrator, or his or her designee, is final.

Meaningful Access

[Office of Civil Rights, Dear Colleague Letter January 7, 2015](#)

1. Core Curriculum: During their educational journey from enrollment to graduation, EL students are entitled to instruction in the school district's core curriculum (e.g., reading/language arts, math, science, and social studies). This includes equal access to the school's facilities, such as computer, science, and other labs or facilities, to ensure that EL students are able to participate meaningfully in the educational programs. Meaningful access to the core curriculum is a key component in ensuring that EL students acquire the tools to succeed in general education classrooms within a reasonable length of time. One way to meet this obligation is to provide full access to the grade-appropriate core curriculum from the start of the EL program while using appropriate language assistance strategies in the core instruction so that EL students can participate meaningfully as they acquire English. In adapting instruction for EL students, however, school districts should ensure that their specialized instruction (e.g., bilingual or sheltered content classes) does not use a watered-down curriculum that could leave EL students with academic deficits when they transition from EL programs into general education classrooms. Such specialized instruction should be designed such that EL students can meet grade-level standards within a reasonable period of time. School districts also should place EL students in age-appropriate grade levels so that they can have meaningful access to their grade-appropriate curricula and an equal opportunity to graduate.

[ESEA 3302\(f\)](#)

(f) BASIS FOR ADMISSION OR EXCLUSION - A child shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

Appendix B IRIP

[Read by Grade Three law MCL: 380.1280f section 2\(b\)](#)

(b) For any pupil in grades K to 3 who exhibits a reading deficiency at any time, based upon the reading assessment system selected and used under subdivision (a), provide an individual reading improvement plan for the pupil within 30 days after the identification of the reading deficiency. The individual reading improvement plan shall be created by the pupil's teacher, school principal, and parent or legal guardian and other pertinent school personnel, and shall describe the reading intervention services the pupil will

receive to remedy the reading deficiency. A school district or public school academy shall provide intensive reading intervention for the pupil in accordance with the individual reading improvement plan until the pupil no longer has a reading deficiency.

Pertinent Personnel

Office of Civil Rights (OCR) Dear Colleagues Letter, January 7, 2015

C. Staffing and Supporting EL Programs - School districts have an obligation to provide the personnel and resources necessary to effectively implement their chosen EL programs. This obligation includes having highly qualified teachers to provide language assistance services, trained administrators who can evaluate these teachers, and adequate and appropriate materials for the EL programs.

Resource

WIDA Website (Can Do Descriptors) https://www.wida.us/standards/CAN_DOs/

Appendix C

Parent Engagement

Office of Civil Rights (OCR) Dear Colleagues Letter, January 7, 2015:

Limited English Proficient (LEP) parents are parents or guardians whose primary language is other than English and who have limited English proficiency in one of the four domains of language proficiency (speaking, listening, reading, or writing). School districts and SEAs have an obligation to ensure meaningful communication with LEP parents in a language they can understand and to adequately notify LEP parents of information about any program, service, or activity of a school district or SEA that is called to the attention of non-LEP parents. At the school and district levels, this essential information includes but is not limited to information regarding: language assistance programs, special education and related services, IEP meetings, grievance procedures, notices of nondiscrimination, student discipline policies and procedures, registration and enrollment, report cards, requests for parent permission for student participation in district or school activities, parent-teacher conferences, parent handbooks, gifted and talented programs, magnet and charter schools, and any other school and program choice options.

ESSA Section 1112(e)(4) (pg.62)

(4) NOTICE AND FORMAT. —The notice and information provided to parents under this subsection shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

Parent Involvement Citation:

Read by Grade Three law MCL: 380.1280f section 2

MCL: 380.1280f(2) Subject to subsection (14), beginning in the 2017-2018 school year, the board of a school district or board of directors of a public school academy shall do all of the following to ensure that more pupils will achieve a score of at least proficient in English language arts on the grade 3 state assessment:

(c) If a pupil in grades K to 3 is identified as having an early literacy delay or reading deficiency, provide written notice to the pupil's parent or legal guardian of the delay or reading deficiency in writing and provide tools to assist the parent or legal guardian to engage in intervention and to address or correct any reading deficiency at home.

(5) Beginning with pupils enrolled in grade 3 during the 2019-2020 school year, all of the following apply:

(a) Subject to subsection (6), the superintendent of the school district or chief administrator of the public school academy in which the pupil is enrolled shall ensure that a pupil whose parent or legal guardian has been provided with the notification under subdivision (d) is not enrolled in grade 4 until 1 of the following occurs:

(iii) The pupil demonstrates a grade 3 reading level through a pupil portfolio, as evidenced by demonstrating competency in all grade 3 state English language arts standards through multiple work samples.

(d) Not later than June 1 of each year or not later than 14 days after CEPI receives the grade 3 state assessment results from the department under subdivision (c), whichever is earlier, using those state assessment results, CEPI shall identify each pupil completing grade 3 that year who is subject to not being advanced to grade 4 due to the operation of subdivision (a)(i) and who is not eligible to enroll in grade 4 under subsection (6)(a), and shall notify the parent or legal guardian and the school district or public school academy of each of these pupils that the pupil is subject to being retained in grade 3. A school district or public school academy may also make its own notification to a parent or guardian in addition to the notification by CEPI. The notification by CEPI to a parent or legal guardian shall be by certified mail. The notification by CEPI shall clearly state at least all of the following:

(iii) That the parent or legal guardian must request the good cause exemption within 30 days after the date of the notification by CEPI and must direct the request to the school district or public school academy in which the parent or legal guardian intends to enroll the pupil for grade 4.

(e) If a parent or legal guardian receives a notification from CEPI under subdivision (d), the parent or legal guardian may request a meeting with school officials to discuss the retention requirement under state law and the standards and processes for a good cause exemption from that requirement. If a parent or legal guardian requests a meeting described in this subdivision, the school official to whom the request is made shall ensure that an appropriate school official is made available to the parent or legal guardian for such a meeting.

Appendix D Assessment

Every Student Succeeds Act 2016

(3) EXCEPTION FOR RECENTLY ARRIVED ENGLISH LEARNERS. —

(A) ASSESSMENTS. —With respect to recently arrived English learners who have been enrolled in a school in one of the 50 States in the United States or the District of Columbia for less than 12 months, a State may choose to—

(i) exclude—

- (I) such an English learner from one administration of the reading or language arts assessment required under paragraph (2); and
- (II) such an English learner’s results on any of the assessments required under paragraph (2)(B)(v)(I) or (2)(G) for the first year of the English learner’s enrollment in such a school for the purposes of the State-determined accountability system under subsection (c); or

(ii)

- (I) assess, and report the performance of, such an English learner on the reading or language arts and mathematics assessments required under paragraph (2)(B)(v)(I) in each year of the student’s enrollment in such a school; and
- (II) for the purposes of the State-determined accountability system—
 - (aa) for the first year of the student’s enrollment in such a school, exclude the results on the assessments described in subclause (I);
 - (bb) include a measure of student growth on the assessments described in subclause (I) in the second year of the student’s enrollment in such a school; and
 - (cc) include proficiency on the assessments described in subclause (I) in the third year of the student’s enrollment in such a school, and each succeeding year of such enrollment.

Michigan’s approved reading assessments

[Initial Assessment list](#)

[Extensive Assessment list](#)

Office of Civil Rights (OCR) Dear Colleagues Letter, January 7, 2015 pg. 20:

To meet their obligation to design and implement EL programs that enable EL students to attain English proficiency and equal participation in the standard instructional program, school districts must use appropriate and reliable evaluation and testing methods that have been validated to measure EL students’ English language proficiency and knowledge of the core curriculum. Only by measuring the progress of EL students in the core curriculum during the EL program can districts ensure that students are not incurring “irreparable academic deficits.”⁵⁵ **If EL students are receiving instruction in a core content subject in their primary language, the school’s assessments of their knowledge of that content area must include testing in the primary language.**⁵⁶

Accountability -

[Title I Section 1111\(b\)\(2\)\(I\)](#) (pg.23)

(I) ANNUAL IMPROVEMENT FOR SCHOOLS. —Each year, for a school to make adequate yearly progress under this paragraph—

(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(16)(A) of the Individuals with Disabilities Education Act and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

Professional Development

[Read by Grade Three law MCL: 380.1280f section 2\(d\)\(i\)](#)

(2) Subject to subsection (14), beginning in the 2017-2018 school year, the board of a school district or board of directors of a public school academy shall do all of the following to ensure that more pupils will achieve a score of at least proficient in English language arts on the grade 3 state assessment:

- (d) Require a school principal or chief administrator to do all of the following:
- (i) For a teacher in grades K to 3, target specific areas of professional development based on the reading development needs data for incoming pupils.
 - (ii) Differentiate and intensify professional development for teachers based on data gathered by monitoring teacher progress in improving pupil proficiency rates among their pupils.
 - (iii) Establish a collaborative system within the school to improve reading proficiency rates in grades K to 3.
 - (iv) Ensure that time is provided for teachers to meet for professional development.