IDEA Series

English Learners and Students from Low-Income Families

National Council on Disability

February 7, 2018

National Council on Disability

An independent federal agency making recommendations to the President and Congress to enhance the quality of life for all Americans with disabilities and their families.

Letter of Transmittal

February 7, 2018

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

On behalf of the National Council on Disability (NCD), I am pleased to submit this report titled *English Learners and Students from Low-Income Families*. This report is part of a five-report series on the Individuals with Disabilities Education Act (IDEA) that identifies the challenges facing English learners with disabilities and their families as well as the unique needs facing students with disabilities from low-income families and examines how they fare in the public education system.

As you know, the right of students with disabilities to receive a free and appropriate public education in the least restrictive environment is solidly rooted in the guarantee of equal protection under the law granted to all citizens under the Constitution. In 2014, 9.3 percent of all public school students were English learners and approximately 20 percent of children were from families living in poverty. English learners with disabilities and students with disabilities from low-income families may confront extraordinary challenges in their efforts to receive a high-quality, inclusive education. Families may not be familiar with navigating the school system. Parents may be unaware of their rights or feel unequipped to effectively advocate on their child's behalf, and may not be proficient in English themselves. To be eligible for services under IDEA, a student must be identified as having a disability and needing special education services. Identification as a child with a disability can provide students with access to needed accommodations and services and rights under the law—poverty and language barriers may impact that identification.

This report includes an examination of the identification, placement, and performance (where available) of students with disabilities who are also English language learners and students with disabilities who come from low-income families. It also looks at how supports, including Parent Training and Information Centers, are serving these students and their families in getting needed services and accessing their rights under the law, and provides recommendations for improvement.

NCD stands ready to assist the Administration in ensuring the right to a free and appropriate public education for students with disabilities as set forth in IDEA.

Respectfully,

Clyde E. Terry
Chairperson

(The same letter of transmittal was sent to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives.)

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Executive Summary

Students with disabilities who are also English learners (ELs) and students with disabilities who are from low-income families face unique challenges in accessing a high-quality education. Given the challenges, these students experience worse outcomes and perform significantly below their peers on reading and mathematics assessments. To better meet the needs of these students and their families, teachers, school administrators, and policymakers acknowledge needing additional support and research.

To better understand the experiences of these students, NCD undertook research to study English learners with disabilities and students with disabilities from low-income families, in part, asking the following:

- What are the challenges faced by English learners with disabilities, students with disabilities from low-income families, and their families in receiving services under IDEA? How can schools, districts, and states better meet their needs?

To address these questions, the NCD research team conducted a mixed-methods study gathering relevant policy and qualitative and quantitative information. In particular, the NCD research team convened forums to gather parent and student perspectives and interviewed local administrators, state administrators, and researchers.

In this report, we identify key findings about students with disabilities who are also English learners and students with disabilities from low-income families. We found the following:

- **Expectations:** Too often, educators have lower expectations for students with disabilities who are also English learners and students with disabilities from low-income families.

- **Disproportionality:** English learners with disabilities are both over- and underrepresented in special education, and students with disabilities from low-income families are disproportionately identified for special education. Additionally, both populations of students are disproportionately placed in substantially separate classrooms.

- **Family engagement and family education:** Stakeholders identified challenges effectively engaging families. In particular, they acknowledged challenges effectively educating and supporting parents in understanding the language of special education and their rights under the law.

- **Service coordination:** Schools, districts, and states face challenges in effectively

coordinating services and supports for English learners and students from low-income families who are also eligible for special education services.

- **Identification and exit for language-based services:** Educators, districts, and states face challenges in developing effective policies for determining entry and exit for language-based services for English learners with disabilities.

To address these findings, we recommend Congress, the Department of Education, and state policymakers:
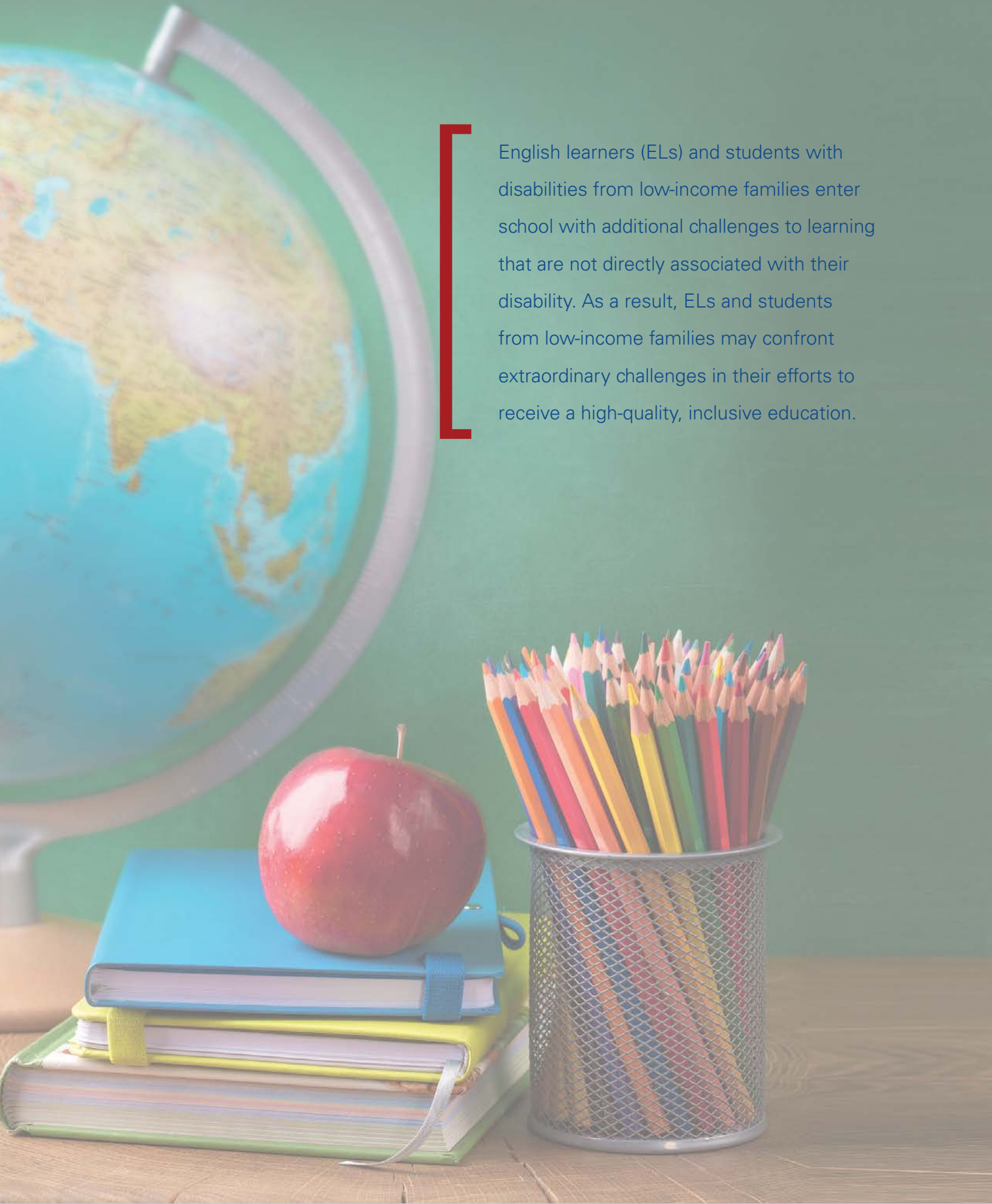
- Collect, report, and analyze data on the identification, placement, and performance of English learners with disabilities and students with disabilities from low-income families. States and districts should use the data to support professional learning to improve opportunities for these students.

- Support parent training and access to ensure parents understand their child's needs, the special education process, and their rights under the law.

- Incentivize collaboration across programs to ensure that the services more effectively support the student rather than remain segmented by program.

- Support research and disseminate information on entrance and exit from language-based services to ensure district and state policy effectively consider the needs of English learners with disabilities.

Acronym Glossary

COPAA	Council of Parent Attorneys and Advocates
CRDC	Civil Rights Data Collection
CPRCs	Community Parent Resource Centers
DOJ	Department of Justice
ED	Department of Education
EL	English learner
ESEA	Elementary and Secondary Education Act
ESSA	Every Student Succeeds Act
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
LRE	least restrictive environment
MTSS	multitiered system of supports
NAEP	National Assessment of Educational Progress
NCD	National Council on Disability
NCEO	National Center on Education Outcomes
NLTS-2012	National Longitudinal Transition Study 2012
OCR	Office for Civil Rights
OSEP	Office of Special Education Programs
OSERS	Office of Special Education and Rehabilitation Services
P&As	Protection and Advocacy agencies
PTI	Parent Training and Information Centers
TAC	technical assistances centers

English learners (ELs) and students with disabilities from low-income families enter school with additional challenges to learning that are not directly associated with their disability. As a result, ELs and students from low-income families may confront extraordinary challenges in their efforts to receive a high-quality, inclusive education.

Introduction

For the past 50 years, the federal role in education has focused on increasing equity by providing additional funds targeted toward specific populations of students. Specifically, it has provided states and districts support for students with disabilities through the Individuals with Disabilities Education Act (IDEA),[1] support for students from low-income families through Title I of the Elementary and Secondary Education Act (ESEA),[2] and support for English learners (ELs) through Title III of ESEA.[3] In developing these programs, the Federal Government has recognized the additional challenges districts may face in meeting the needs of these students and therefore provides the funding to cover some of the excess cost associated with educating students with additional needs.

Despite these efforts, gaps in educational performance exist between students with disabilities and students without disabilities, between ELs and students who are not English learners, and students from low-income families and students from non-low-income families. Additionally, gaps are largest for students who may be eligible to receive services from multiple programs. For instance, in examining performance on the National Assessment of Educational Progress (NAEP), students with disabilities who are also ELs perform worse than students with disabilities who are not ELs, and students with disabilities from low-income families perform worse than students with disabilities from non-low-income families.[4]

Students with disabilities who are also ELs and students with disabilities from low-income families enter school with additional challenges to learning that are not directly associated with their disability.[5] As a result, ELs and students from low-income families may confront extraordinary challenges in their efforts to receive a high-quality, inclusive education. For instance, families may not be familiar with navigating the school system, and parents may be unaware of their rights or may feel unequipped to effectively advocate on their child's behalf.[6]

Policymakers need additional information about the experiences of ELs and students from low-income families to ensure that IDEA is effectively meeting the needs of these underserved student populations. The National Council on Disability (NCD) sought to gather that information. In this report, we address the following questions:

- What data is available on the identification, placement, and performance of ELs with disabilities and students with disabilities from low-income families?

Research Questions Addressed in Report

- What data is available on the identification, placement, and performance of ELs with disabilities and students with disabilities from low-income families?

- What are the challenges faced by ELs with disabilities, students with disabilities from low-income families, and their families in receiving services under IDEA? How can schools, districts, and states better meet their needs?

- How does the Department of Education support states in addressing the needs of ELs with disabilities and students from low-income families with disabilities?

- How do Parent Training and Information Centers, Centers for Independent Living, and Protection and Advocacy Organizations engage with families of ELs or low-income students?

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Research Methods

To address these questions, the NCD research team conducted a mixed-methods study gathering stakeholder perspectives, as well as policy and quantitative information. With this information, we describe experiences for these populations of students; identify any potential gaps in services, policy, and research; and make recommendations to improve opportunities for ELs with disabilities and students with disabilities from low-income families.

Qualitative Analysis

To gather stakeholder perspectives, the NCD research team conducted interviews and held four regional forums and one national forum. Specifically, we conducted 20 semistructured interviews with Department of Education officials, state and local administrators, researchers, representatives from disability rights organizations, and parent organizations to determine current challenges and supports for ELs with disabilities and students from low-income families with disabilities.

In the second phase of research, we gathered perspectives from parents and students through four regional focus groups in California, Illinois, Texas, and Virginia. NCD recruited participants through the Council of Parent Attorneys and Advocates (COPAA)'s member network, local parent networks, and state and national partners in the forum locations. In total, 72 people participated in the regional forums. Only 30 percent of regional forum participants were COPAA members and 70 percent were

non-COPAA members. Of the 72 participants in the regional forum, 38 percent were parents of students of color.

The third phase of data collection occurred during an online forum at COPAA's national conference. In total, 58 people participated in the forum. Twenty-three percent were people of color. An additional 23 people responded through an email address.[7] In addition to the 72 participants at the forum, there was a total of 81 people who responded in the focus groups, the national forum, and the email responses.

In all settings, NCD used a semistructured question protocol to gain perspectives about parent and child experiences with IDEA. Data was recorded and transcribed to identify themes among the experiences (see appendix for protocols).

Policy Analysis and Literature Review

To understand the policy context, we reviewed Department of Education regulations and guidance to determine the extent it currently provides supports to states to meet the needs of ELs with disabilities and students with disabilities from low-income families. We have also reviewed research on current challenges and best practices that have been identified to better meet the need of these students and their families.

Quantitative Data

We gathered available data from the IDEA annual performance reports related to the identification, placement, and performance for these students. As required by IDEA, states annually report to the Department of Education on indicators related to IDEA implementation. The Department of Education compiles this data and releases the data in an annual Report to Congress.[8] We also use data from the National Center of Education Statistics, which annually compiles data, including demographic and enrollment data, on all public schools in the country.[9]

Additionally, we reviewed available data from the Civil Rights Data Collection (CRDC). The CRDC,[10] a survey conducted every few years by the Office for Civil Rights (OCR) at the Department of Education, contains additional information about state, district, and school-level enrollment; college and career-readiness; and discipline, including bullying and harassment and restraint and seclusion. Frequently, this data is disaggregated and can be cross-tabulated by disability and EL status, but they do not disaggregate by economic disadvantage.

Finally, we reviewed performance data from NAEP for students with disabilities, ELs, and low-income students in English and math.[11]

Limitations

In this study, NCD recruited participants through COPAA's member network, local parent networks, and state and national partners in the forum locations. Additionally, we purposefully selected interview participants based on location and position. Therefore, the qualitative data identified in the report should not be viewed as generalizable, but rather as perspectives of individuals within those positions. The qualitative data offers individual first-person perspectives to complement the quantitative aspects of this report.

Chapter 1: Rates of Identification and Placement

To be eligible for services under IDEA, a student must be identified as having one of 13 disabilities *and* need special education services.[12] Once identified, an Individualized Education Program (IEP) team convenes to determine the specific special education and related services the child needs to make progress in the general education curriculum.[13] IDEA requires that IEP teams ensure students with disabilities are educated in the "least restrictive environment" (LRE) where they are educated with students without disabilities to the "maximum extent appropriate."[14] Additionally, IDEA requires states report special education identification and placement information by race, ethnicity, language proficiency status, gender, and disability category.[15]

In 2015–2016, approximately 10 percent of the 6 million students eligible for special education services across the country were also identified as ELs.

English Learners

Nationally, in 2013–2014, 9.3 percent of public school students (4.5 million students) were identified as ELs receiving English language services.[16] The percent of students receiving English language services varies considerably across states, with a low of 0.7 percent in West Virginia to a high of 22.7 percent in California. A majority of these students (76.5%) speak Spanish as their home language.[17]

In 2015–2016, approximately 10 percent of the 6 million students eligible for special education services across the country were also identified as ELs.[18] This identification rate is generally proportionate to the identification rate for ELs in the overall student population. California, however, showed disproportionate identification, with ELs representing 31 percent of all students with disabilities but only about 23 percent in the overall population. Other states with the highest numbers of EL populations (Texas,[19] New York, and Florida) show more proportionate identification. According to the National Longitudinal Transition Study 2012 (NLTS-2012), students with specific learning disability (12%) and hearing impairment (13%) have higher proportions of students also identified as EL, whereas students with autism (4%), deaf-blindness (4%), emotional disability (5%), and multiple disabilities (3%) have lower proportions of students also identified as ELs.[20]

Nationally, ELs with disabilities have a higher rate of placement in substantially separate classrooms (17.0%) than do all students with disabilities (13.5%).[21] The rates of placement in substantially separate classrooms for ELs varied in the states with high numbers of ELs from 9 percent in Texas to 23.8 percent in California.[22] In fact, in both Texas and Florida placement in substantially separate classrooms for ELs with disabilities was lower than the substantially separate placement rate for all students with disabilities.

ELs with disabilities perform worse academically and are more likely to be disciplined in school than are ELs without disabilities. For instance, on the NAEP, ELs with disabilities perform 26 points below ELs without disabilities on the eighth-grade reading assessment and 28 points below on the eighth-grade mathematics assessment.[23] Additionally, according to the CRDC, even though ELs with disabilities make up approximately 11.9 percent of the population of ELs, ELs with disabilities represent 21.5 percent of the ELs receiving one or more out-of-school suspension.[24]

Students from Low-Income Families

Nationally, in 2013–2014, 20 percent of 5 through 17-year-olds (10.7 million students) were identified as living in poverty.[25] The percentage of students living in poverty also varies considerably across states, with a low of 12 percent in Maryland to a high of 29 percent

in Mississippi. Student eligibility for free and reduced-priced lunch is frequently used as a proxy for income status, with about 50 percent of public school students eligible for free or reduced-price lunch.[26] IDEA does not require states to report identification and placement data by family income status or eligibility for free or reduced-price lunch. Therefore, national IDEA data on identification and placement in special education for students from low-income families is not available. Under Title I, states do report the number of eligible Title I students who are also children with disabilities. Nationally, approximately 13.6 percent of students served in schoolwide programs and targeted assistance programs under Title I are also children with disabilities (3.4 million children).[27]

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Past studies have examined associations between poverty and disability using community factors, rather than student-level information, to represent poverty.[28] These studies are limited though because they were unable to examine the relationship between poverty and income at the student level. A few recent studies have examined the relationship between income level and poverty at the student level and found that students from low-income families were considerably more likely to be identified for special education.[29] According to the NLTS-2012, 58 percent of students eligible for special education were from low-income households compared to 46 percent for students without IEPs.[30] Students identified with intellectual disability (71%), emotional disability

(62%), and specific learning disability (61%) were most likely to live in low-income households, whereas students identified with autism (37%) were least likely.[31] Data on the placement of students from low-income families eligible for special education is also limited. In a study in Massachusetts,[32] the researchers found that the rate of placement in substantially separate classrooms for low-income students was more than double the placement in substantially separate classrooms for non-low-income students.

Many of the past studies that have examined the relationship between poverty and disability have attributed the correlation to increased prevalence of disability among people living in poverty.[33] Children living in poverty more often experience factors relating to disability such as low birthweight and increased exposure to lead.[34] However, despite the increased risk, there may also be elements of systemic bias factoring into determinations about identification and placement of low-income students in special education as evidenced by differences by community factors and differences in performance levels.[35] Additional information is needed to better understand the rates of identification and placement for low-income students.

Students with disabilities from low-income households perform worse academically than low-income students without disabilities. For instance, on the NAEP, students with disabilities from low-income households perform 39 points below on the eighth-grade reading assessment and 37 points below on the eighth-grade mathematics assessment than do low-income students without disabilities.[36] In looking at discipline rates, the CDRC and IDEA data collections do not disaggregate discipline data by income status, and therefore no national estimates are available for low-income students with disabilities.

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Chapter 2: Current Supports from the Department of Education

The Department of Education (ED) provides some supports through guidance and grants for students with disabilities who are also ELs and students with disabilities from low-income families. Specifically, IDEA authorizes funding for Community Parent Resource Centers and National Activities to, in part, address the needs of these students and their families. Under Title III of ESEA, ED has offered guidance and has developed a tool-kit for meeting the needs of ELs with disabilities. As for support and coordination with Title I of ESEA, ED officials from the Office of Special Education Programs (OSEP) acknowledge being involved with the regulations, guidance, and state planning for the reauthorized ESEA, known as the Every Student Succeeds Act (ESSA), but did not identify any additional initiatives targeted for students with disabilities from low-income families.

Under Title III of ESEA, ED has offered guidance and has developed a tool-kit for meeting the needs of ELs with disabilities.

Parent Training

Authorized under Part D of the IDEA, Community Parent Resource Centers (CPRCs)[37] and Parent Training and Information Centers (PTI)[38] provide training and support to families. CPRCs are intended to "help ensure that underserved parents of children with disabilities, including low income parents, parents of limited English proficient children, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities."[39] In 2016, ED, through OSEP, awarded $2.3 million in grants to 23 CPRCs across 17 states.

Though not specifically targeted to serve these populations, PTIs are located in every state and also provide training and supports to parents and families and serve ELs and low-income families. In total, parent centers received $27.4 million in FY16 to fund 65 PTIs, 30 CPRCs, and 9 technical assistances centers (TAC).[40] Taken together, the centers provide information and training to over 1 million parents, guardians, educators, and other professionals annually. Six of the TACs are regional, and three are national centers, two of which provide support toward specific populations (military families and Native American children).

CRPC and PTI grants are awarded to nonprofit organizations with missions to serve children from birth through age 26 and across

all disability categories. They provide training to parents in supporting the educational needs of children with disabilities as well as training on parents' rights under the law. One PTI/CPRC director acknowledged that they have needed to expand beyond traditional outreach with parents because they are seeing more diversity across support structures, with grandparents as legal guardians, more youth in foster care, youth in the juvenile justice system, and children who are homeless or at risk of being homeless. They have expanded their work to foster liaisons and train social workers and other professionals within the system regarding disability, stigmatization, and rights under the law. The director said that these are the "families who are the most marginalized and ignored" and that PTIs need to ensure they are reaching those families.[41]

Dr. Thomas Hehir, a researcher and former director of OSEP, added that centers for parent training "do great work, but are underfunded," and to be most effective in serving the intended populations, the centers have had to raise considerable amounts of money outside the federal support.[42] In fact, funding for PTIs was cut in 2013 by about $1.5 million and has not been restored. A PTI director also commented on the underfunding, noting, "our grant funds 2.5 full-time employees, but we serve 70,000 children with IEPs."[43]

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Guidance and Support for English Learners

ED officials identified cross-office initiatives between the Office of Special Education and Rehabilitation Services (OSERS) and the Office of English Language Acquisition to address areas of support for ELs with disabilities on several issues, including identification and assessment.

In January 2015, ED, along with the Department of Justice (DOJ), issued a Dear Colleague letter outlining the requirements of civil rights laws to ensure that ELs, including ELs with disabilities, do not face discrimination in school.[44] Specifically, the guidance clarifies that to guarantee ELs are provided with a free appropriate public education:

1. Evaluations must be conducted in the appropriate language based on the student's needs and language skills,

2. Any determination of special education eligibility is based on factors related to the student's abilities rather than language skills,

3. Language services and special education services are provided simultaneously for the student, and

4. Any IEP also considers the student's language-related needs.

To support ELs, ED has developed a corresponding tool-kit for practitioners that includes a chapter outlining supports for ELs with disabilities.[45] The tool-kit offers policy recommendations for states and districts, including the suggestion that local districts submit in their special education plans to the states, their policies related to the referral, identification, assessment, and service delivery for ELs with disabilities. The tool-kit also includes a matrix for helping differentiate language differences and

disabilities in identification, a checklist support for developing an IEP for an EL with a disability, instructions on using the CRDC to find data on ELs with disabilities, and considerations for accommodations for ELs with disabilities.

Model Demonstration Projects for Literacy

OSEP is also currently funding model demonstration projects to address the needs of ELs with disabilities. The model demonstration projects have focused on addressing literacy needs for ELs with disabilities. Specifically, the 2016 grant competition funded a project to "(a) improve literacy outcomes for [ELs with disabilities] in grades three through five, within a multitiered system of supports (MTSS) framework; (b) use culturally responsive principles; and (c) be implemented by educators and sustained in general and special education settings."[46] Three projects at Portland State University, American Institutes of Research, and the University of Texas Austin received funding.

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Title III Supports and Inclusion in Assessment

Recognizing the challenges associated with appropriate inclusion of ELs with disabilities in assessments, ED has provided supports to states and districts. In 2014, OSERS issued a questions and answers document on the inclusion of ELs with disabilities on English language proficiency assessments.[47] This guidance remains in effect through the 2016–2017 school year as states transition to new plans under ESSA. This guidance includes information about the

role of the IEP team in assessment decisions, accommodations and alternate assessments, and decisions about exiting from EL status.

Passed in 2015, Title III under ESSA included critical new provisions addressing the needs of ELs with disabilities. Specifically, Title III now requires reporting on the number and percentage of ELs making progress toward English proficiency by disability status.[48] In September 2016, ED issued guidance on Title III under ESSA, which included a section devoted to ELs with disabilities. The guidance describes the professional knowledge teachers of ELs should have:

Instruction for English learners with disabilities should take into account their specific special education and related services needs, as well as their language needs. Teachers should have an understanding of the second language acquisition process, and how this might be influenced by the child's individual development, knowledge of EL effective instructional practices and, if relevant, the child's disability.[49]

Additionally, to heighten the attention on language proficiency, ESSA included language proficiency as a required indicator in the state accountability system under Title I.[50]

The Title I assessment regulations go further to support the assessment of ELs who are also students with disabilities. The regulations clarify that when assessing language proficiency, if a student's disability precludes them from accessing an assessment in one domain (listening, speaking, reading

and writing) educators must assess students' language proficiency using the other domains.[51] Additionally, when making determinations for participation on the Alternate Assessment aligned with Alternate Achievement Standards, decisions cannot be made based on the student's disability or EL status.[52] Finally, any educators who work with students with disabilities, including teachers of ELs, must receive training on administering assessments and the use of accommodations.[53]

To better understand assessment policies and practices for students with disabilities, ELs, and ELs with disabilities, the Office of Special Education Programs funds the National Center on Education Outcomes (NCEO) at the University of Minnesota.[54] NCEO collects and analyzes data on assessments, accommodations, and accountabilities, and they disseminate information on evidence-based practices to assist states and districts in implementing inclusive assessment systems.

Office for Civil Rights and Department of Justice

In addition to OSEP monitoring compliance with IDEA, OCR at ED and the Civil Rights Division of the DOJ have the authority to investigate complaints under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunity Act to ensure ELs have equal opportunity to education.[55] Title VI of the Civil Rights Act of 1964 also provides protections to parents. Schools have a legal duty to ensure both parents and students are able to access programs, services, and information in their primary language. Title VI of the Civil Rights Act of 1964[56] prohibits federally assisted programs to deny the benefits for or subject individuals to discrimination on the basis of national origin, color, or race. Discrimination based on language is considered discrimination based on national origin.[57] Therefore, parents cannot be discriminated against because their native language is not English.

In 2010, DOJ and OCR entered into a settlement with Boston Public Schools after an investigation found the district was not providing appropriate services for ELs. The original settlement included a stipulation ensuring that EL students who are also students with disabilities are appropriately referred, evaluated, and served for both language services and special education services.[58] In another case, in January 2015, OCR completed an investigation of Jersey City Public schools, finding noncompliance with Title VI. In the resolution letter, OCR noted, in particular, "school districts may not maintain 'no dual services' policies or practices for EL students with disabilities. If an EL student with disabilities needs both alternative language services and special education services, the student should be given both types of services."[59]

Chapter 3: Supports from Other Agencies

Protection and Advocacy Agencies

Protection and Advocacy agencies (P&As),[60] authorized through various federal statutes, not including IDEA,[61] are intended to provide legal representation and advocacy services for people with disabilities. The agencies represent and advocate for people with disabilities across a variety of areas, including health care, housing, employment, and education. They are intended to provide legal support and advocacy for unserved and underserved populations, including individuals from low-income families and monolingual non-English-speaking families. In education, some of the support many involve requesting information from the school, filing state complaints, filing federal complaints, and litigation. In speaking with representatives from P&As, many of their concerns for ELs and low-income families involved ensuring parents have information in a language they can understand and ensuring students are protected from inappropriate disciplinary measures, including seclusion and restraint.

Independent Living

Authorized under Title VII of the Rehabilitation Act, Centers for Independent Living are intended to provide services to promote independent living among people with disabilities. Importantly, they are consumer-controlled organizations and, among other supports, provide self-advocacy training and peer mentoring. In 2014, Congress reauthorized the program through the Workforce Innovation and Opportunity Act .[62] In the reauthorization, Congress added a focus on youth transition to the core services of the program for individuals with significant disabilities.[63]

Chapter 4: Challenges in Addressing Needs of English Learners and Students from Low-Income Families

Stakeholders identified several challenges in effectively meeting the needs of ELs with disabilities and students with disabilities from low-income families. Importantly, stakeholders noted that these populations are overlapping. One local administrator stated it is "hard to separate" the two because many of the students are the same. For instance, according to an administrator in California, 70 percent of their students with disabilities are also identified in one or more of the following subgroups: students in poverty, ELs, or students in foster care. With this overlap, students and families across the different subgroups face many common challenges.

In this section, we describe the common challenges related to expectations, disproportionality, service coordination, and family engagement and then highlight some specific challenges for ELs.

Expectations

Educators and policymakers alike have acknowledged the importance of having high expectations for students with disabilities,

[A]ccording to an administrator in California, 70 percent of their students with disabilities are also identified in one or more of the following subgroups: students in poverty, ELs, or students in foster care.

however stakeholders identified low expectations as a problem plaguing ELs with disabilities and students with disabilities from low-income families. One local administrator discussed the challenges around the mind-set, stating, "We have a problem of lowered expectations if you belong to one or more of these subgroups. How we can move the mindset piece so that teachers in front of students believe that they can achieve?"[64] Another state administrator recognized the need to support cultural competency to address the "implicit bias of educators towards students who are poor and students of color." The administrator continued to acknowledge that "changing attitudes and practices is a daunting task."[65]

Disproportionality in Identification and Placement

Previous researchers have acknowledged a "paradox" related to special education identification.[66] Identification for special education can provide students with access to interventions, accommodations, and rights under the law. Simultaneously, though, identification

Special Education Paradox

Identification for special education can provide students with access to interventions, accommodations, and rights under the law. Simultaneously, though, identification can result in segregation from general education, lower expectations, and stigmatization

can result in segregation from general education, lower expectations, and stigmatization.[67] Given this paradox, policymakers have tried to ensure students are identified for special education appropriately. After years of research documenting disproportionality for students of color in special education,[68] IDEA 2004 included provisions requiring that states address significant disproportionality by race and ethnicity for identification and placement.[69]

Policies to address disproportionality in identification and placement for students with disabilities are limited to focus on disproportionality by race and ethnicity. However, previous research has acknowledged concerns with both underidentification and overidentification of ELs,[70] and research from Massachusetts identified concerns with overidentification of students from low-income families in special education.[71] One special education director mentioned that, in her district, ELs "who need interventions get sent to special education."[72]

One special education director mentioned that, in her district, ELs "who need interventions get sent to special education."

The IDEA statute and regulations include important provisions on evaluation to help ensure students are appropriately identified for special education services. The local school district must use a "variety of assessment tools and strategies," evaluation materials should not be "discriminatory on a racial or cultural basis," and assessments are "administered in the language and form most likely to yield accurate information."[73] Of importance, the statute includes an exclusionary clause prohibiting determination of eligibility if the determining factor is "lack of appropriate instruction in reading," "lack of appropriate instruction in math," or "limited English proficiency."[74] The statutory definition of specific learning disability also excludes learning issues primarily related to "environment, cultural, or economic disadvantage."[75]

Despite these statutory provisions, stakeholders identified challenges in differentiating language needs, impacts of poverty, and disability needs. One local administrator noted, "There is a challenge understanding language need versus disability need. With the overall pervasiveness of testing, schools don't have the time to wait for language to occur."[76] In examining the exclusionary clause as it relates to economic disadvantage, Dr. James Ryan has argued that given the impacts of poverty on the brain, trying to force differentiating between disability and economic disadvantage is problematic when students need the additional services and supports.[77]

Researchers have also noted that referral procedures for ELs vary from district to district.[78]

Some districts apply the same referral policies regardless of EL status, while others include additional policies to guide the evaluation process. Even with the statute suggesting that children should be evaluated in an appropriate language, one parent noted her school only evaluates students in the English language regardless of the child's language proficiency. In her school, if the child is not proficient in English, he or she could not be evaluated effectively for special education.[79] A representative from a P&A also raised this challenge, describing a deaf student who had grown up reading his mother's lips. Despite this, the district refused to evaluate him in his family's native language claiming that he had "no dominant language." She added that some districts in her state are requiring students to have lived in the state for a specified amount of time before permitting referrals to special education.[80]

To address these challenges, researchers and practitioners have focused on developing culturally responsive evaluation practices[81] and ensuring that MTSS appropriately include all students.[82] One representative for the state chiefs highlighted this work, noting he is "encouraged by more conversation occurring around [supports for ELs with disabilities]. I hear about it everywhere— organizations, funded centers, more good conversations and supports that are now happening or are in the works."[83] Yet, a state administrator still has concerns, noting that disproportionality for these populations is an issue "we need to address," and "teachers need professional development on what to do."[84]

[G]iven the impacts of poverty on the brain, trying to force differentiating between disability and economic disadvantage is problematic when students need the additional services and supports.

"Some of the things we know about low-income students is that they are more apt to be segregated than non-low-income students, and those placements are associated with poorer outcomes."

—Dr. Thomas Hehir

Disproportionality is not exclusively related to issues of identification, but also placement in substantially separate settings and discipline. One stakeholder noted that some of the youth they work with who had been in substantially separate placements say they "survived special education" or they were a "victim of special education." She added that part of the problem is that the law "perpetuates segregation" and "the next reauthorization of IDEA [should address the] embedded separation between general education and special education."[85]

Dr. Thomas Hehir raised concerns about the overrepresentation of low-income students in substantially separate placements: "Some of the things we know about low-income students is that they are more apt to be segregated than non-low-income students, and those placements are associated with poorer outcomes." He also noted that parents with fewer financial resources are considerably less likely to exercise their due process rights under the law should they disagree with a placement decision, and when

they do, exercising their rights are not as effective without representation. He added, "Even if a few students can get access it has impact on school districts. We need representation for low-income students on issues of placement. P&As could be funded to represent low-income parents seeking more inclusive placements."[86] One parent also acknowledged barriers to families with fewer means in accessing their rights under IDEA, noting, "The game is set up to benefit people who have more."[87] Another parent stated, "I'm real big on seeing there being two special eds—one special ed system for students who have money, and one for those who do not. A family who earns below the poverty income cannot possibly challenge a district program, considering

the cost of the assessment and preparing for the hearing, and therefore they do not have due process rights."[88]

In fact, representation is not limited to families with incomes above the poverty line. There are a number of special education attorney practitioners who represent families using the fee-shifting provisions of the IDEA.[89] Any civil rights fee-shifting provision is designed to encourage litigants to protect their civil rights. The courts have long recognized ". . . its more specific purpose was to enable potential plaintiffs to obtain assistance of competent counsel in vindicating their rights."[90] There is training for attorneys who desire to represent families using the fee-shifting provisions.[91]

A few states and districts have tried to address issues related to disproportionality among ELs or students from low-income families. For instance in 2016, California passed legislation requiring the state's Department of Education develop a manual "on identifying, assessing, supporting, and reclassifying ELs who may qualify for special education services and pupils with disabilities who may be classified as ELs."[92] The manual was due to the California legislature on June 30, 2017.

To address disproportionality among students from low-income families, the Massachusetts Department of Elementary and Secondary Education started the Low-Income Education Access Project.[93] Through the program, the state is working collaboratively with local school districts to assess and address disproportionality among low-income students. The state supports more tailored professional development for districts that, based on their data, demonstrate higher rates of disproportionality for low-income students in identification and placement and may require districts to use some of their allowable

15 percent of IDEA funds for coordinated early intervening services for this purpose.[94] They also offer universal professional development through online support and a train-the-trainers model to consider the impacts of poverty on learning. A key goal of the program, according to one state administrator, is to "make the general education settings more accommodating and supportive of the student . . . to make sure we don't misidentify students as having disabilities" and to "think about the student as a whole, including their families" to address any barriers to learning.[95] The state is currently in its first years of implementation and is collecting data to examine the program's results in improving opportunities for low-income students.

Language, and in particular the language of special education, can represent a significant barrier to family engagement.

Family Engagement and Education

Several stakeholders noted concerns about schools being able to effectively engage families of ELs and low-income families. A local administrator commented, "We need additional supports for schools and more training at the school level on how to appropriately engage families. This is a huge thing."[96]

The interpreter may not understand the IDEA jargon and therefore cannot effectively relay the information to parents.

Language, and in particular the language of special education, can represent a significant barrier to family engagement. One parent described her experience with her son and his school, "We just believe everything that they [the educators] say," adding "for somebody that comes from a different country . . . 15 years ago, 16 years ago, it was quite difficult to even

understand what is intellectual disability."[97] Another parent described understanding and engaging with IDEA is "twice as difficult" for non-English-speaking parents because of the barrier to getting information in a language parents understand.[98]

A PTI director noted challenges that non-English-speaking families face: "Monolingual families have the challenge of not knowing the law, and school districts don't take the time. Nobody is explaining what IDEA means— mostly not getting relevant documents translated." She added that many parents "are learning English and getting by in their jobs but the special education language is different with the terms, acronyms. Their English is not at that level yet."[99] Several advocates representing non-English-speaking families also noted that even if an interpreter is present, the "parent receives the interpretation from the school secretary." The interpreter may not understand the IDEA jargon and therefore cannot effectively relay the information to parents.[100]

Representatives from P&As added that even though there are some requirements that information be translated for parents, the implementation of these provisions is ineffective and variable. For instance, they noted instances where entire IEPs were not translated but merely the headers, translations of documentations were only in audio format, and documents related to evaluations were not translated at all. One attorney noted, even in a school district

where 80 percent of the population speaks Spanish and all the IEP meetings are held in Spanish, the documents are all still in English. In most instances, they noted that if the P&A attorneys request a translation, the schools generally provide the translation on an individual basis, but it does not change the school or district policies and procedures.[101] As noted above, Title VI of the Civil Rights Act of 1964 provides critical protections to monolingual non-English-speaking families, including a legal duty to ensure both parents are provided information in their primary language.

Understood.org, launched in 2014, has relied on technology as a mechanism for engaging, educating, and supporting parents of students with learning and attention issues, and in particular, EL parents and parents from low-income families.[102] The site uses a personalization algorithm to help direct parents to content on understanding learning disabilities and attention issues, their rights under the law, and best practices for supporting children. To make the content accessible, all pieces are available in read-aloud mode, are translated into Spanish, written at or below an eighth-grade reading level, and utilize responsive design to enable access on a phone, tablet, or computer. Spanish-speaking editors and reviewers with knowledge about special education work to ensure the translations are effective and culturally relevant. The site also offers interactive access to experts through webinars and live chats, including sessions offered in Spanish.

Managing Director, Kevin Hager, noted that the site draws over 2 million unique visitors a month, and since inception, has had more than 35 million unique visitors.[103] Hager acknowledged the additional commitment to reaching the portion of parents who are "not plugged in . . . [they] don't have email addresses . . . or tend to be really busy with everything they have going on." To better reach those families, they are building partnerships with teachers, pediatricians, libraries, and afterschool programs. He also added that even though they are trying to target these specific populations, "the pain points" for parents across different backgrounds have been similar. Specifically, parents want "access to helpful content . . . simplicity of information and trustworthiness." As for particular content, they find parents frequently want support around transition, "going from learning to read to reading to learn, transition to middle school, and transition to high school."[104]

Service Coordination

Several stakeholders identified challenges both in the need for and coordination of services to support ELs and students from low-income families. They spoke of the need to address supports for the "whole child," whether that student needs special education services, language services, Title I services, mental health services, or other supports. A representative for state chiefs recognized the "huge issue" to consider all "that kids bring with them to school every day," adding that we need to continue to support both the academic and nonacademic needs of students.[105] One state administrator said that, at the state level, they need to continue to identify "how we are wrapping [supports] around the whole child."[106] A parent noted, "Wrap-around[107] in public school works. But you have to go to those school districts that already have a good reputation that are open to [wrap-around] systems."[108]

When providing language-based services and special education services, in practice, there may be an assumption that students cannot receive special education services at the same time as language-based services. One stakeholder described this problem as "you are either one or the other."[109] Another parent described her experiences in trying to get access to both EL and special education services, noting that the school views the language-based services as general education. She stated students receiving language-based services in general education "receive constant support . . . in their electives and main content." Yet, her son is getting "close to no [EL] services" because of his eligibility for special education.[110] A P&A representative acknowledges she sees districts saying students in special education do not need the language services because "they have a small student-teacher ratio" in special education.[111]

Despite this occurrence in practice, ED has declared that districts should not have a policy that prohibits students from receiving language-based supports and special education supports concurrently.[112] According to Dr. Martha Thurlow, Director of the National Center for Education Outcomes, "In a well-functioning system with high expectations, students are receiving EL supports and disability supports simultaneously, and content teachers need to be familiar with both [supports]." In reflecting on the disconnect between language services and special education services, Dr. Thurlow raised the different educational approaches of the fields—special educators tend to think about "accommodations and accessibility," whereas English language educators tend to think of "instructional approaches," including vocabulary challenges and grammar corrections.[113]

Silos are also present at the administrative level. One state administrator pointed out, "We have the responsibility for the child with disability. We are left as payor of last resort, but there is no forced cling together with the other agencies. We only have a sliver of the conversation, and not all the money. How do we better coordinate with Title I, EL, foster care, mental health services?"

> *[S]pecial educators tend to think about "accommodations and accessibility," whereas English language educators tend to think of "instructional approaches," including vocabulary challenges and grammar corrections.*

The administrator acknowledged that to get buy-in from the other agencies to collaborate, it is helpful to talk about the overlapping needs of these students: "[When] using the message that these are the same kids, we have gotten a lot more traction." This administrator also spoke for the need for additional "clarity on Medicaid and IDEA and how to use those resources in concert" to effectively support children.[114]

Kansas has worked to address issues of service coordination at the state level. They have developed an integrated accountability system where they take the requirements from the different programs and plans under the ESEA and IDEA and merge them for administration. They then focus on using their data to drive decisions about where to provide on-site services. According to a state administrator, the focus is to have "professional learning to meet student's needs" rather than the needs of segmented programs. They try to support more "integrated opportunities" to ensure "evidence-based practices can get to more students." In a different state, an administrator spoke about the promise of ESSA to help support coordination work with consolidated planning, reporting, and funding opportunities, he hoped that IDEA might eventually be included in consolidated planning to help the state "plan in a deep comprehensive way."[115]

Specific Challenges for English Learners

Beyond the challenges shared by both populations of students, ELs also face some unique challenges related to identification and exit from language-based services. Officials from ED acknowledged "[i]dentification and exiting. [There is] not much in either law that talks about identifying [and exiting] students." They added that more research and more direction could be helpful to educators.[116]

As noted earlier, district policies vary as related to special education identification for ELs.[117] It is also important to note that state and district policies vary as it relates to identification and exit for language services.[118] Typically, the entry process begins with a home language survey where parents indicate the primary languages spoken at home to help determine which students may potentially need services. Following this survey, students are assessed on their English language proficiency across four domains—speaking, listening, reading, and writing.[119] While most stakeholders identified the challenge of determining if ELs should qualify for special education services, Dr. Thurlow raised the challenge of, and lack of research for, appropriately identifying those students with disabilities, in particular, with the most significant disabilities, for language-based services.[120]

In addition to the challenges related to entry for language services, the appropriate exit of students with disabilities from language services has proven difficult. To exit students from language-based services, districts are required to assess students on their English language proficiency across the four domains—speaking, listening, reading, and writing—to determine if the child has achieved proficiency and can exit.[121] Given the varying needs of students

> *In addition to the challenges related to entry for language services, the appropriate exit of students with disabilities from language services has proven difficult.*

with disabilities, states and districts must ensure that the English language proficiency assessment effectively considers accessibility and accommodations in their design.

In an NCEO survey on exiting students from language-based services, over half of the states noted that they did not provide any additional criteria for districts in exiting students with disabilities from EL services.[122] Five states indicated they applied different criteria for exit for students with disabilities. Three of those states included the IEP team in the exit determination, and two applied different cut scores for students with disabilities.[123] The report recommends that states adopt policies on exiting students with disabilities from language-based services that "[c]onsider using multiple measures of exit readiness" and "[c]onsider using a team approach to decision making that includes both IEP and EL team members." Importantly, states should not lessen the rigor of the exit criteria, but rather use multiple measures to develop comparable expectations for exit.

For students with the most significant disabilities, states should develop high-quality alternate academic achievement standards for English language proficiency and aligned alternate assessments to more accurately assess language proficiency for these students. An NCEO brief from 2014 found the percentage of ELs with significant cognitive disabilities ranged across surveyed states from 3 percent of all students with significant cognitive disabilities to 36 percent.[124] Yet, only one third of those states reported assessing these students on alternate assessments. Dr. Thurlow raised the question, "Should there be different criteria for exiting students from language services if they are an EL with a [most significant] disability?"[125] Additional research about ELs with the significant cognitive disabilities and their exit can help guide states as they consider appropriate policies for these students.

Chapter 5: Findings

Among the findings about students with disabilities who are also ELs and students with disabilities from low-income families, we found the following:

- **Expectations:** Too often, educators have lower expectations for students with disabilities who are also ELs and students with disabilities from low-income families.

- **Disproportionality:** ELs with disabilities are both over- and underrepresented in special education, and students with disabilities from low-income families are disproportionately identified for special education. Additionally, both populations of students are disproportionately placed in substantially separate classrooms.

- **Family engagement and family education:** Stakeholders identified challenges effectively engaging families. In particular, they acknowledged challenges effectively educating and supporting parents in understanding the language of special education and their rights under the law.

- **Service coordination**: Schools, districts, and states face challenges in effectively coordinating services and supports for ELs and students from low-income families who are also eligible for special education services.

- **Identification and exit for language-based services**: Educators, districts, and states face challenges in developing effective policies for determining entry and exit for language-based services for ELs with disabilities.

Chapter 6: Recommendations to Congress, the Department of Education, and State Policymakers

n order to better support ELs and students from low-income families who are eligible for special education services, Congress, ED, and state policymakers should consider the following recommendations.

To address findings about disproportionality, Congress, ED, and states should:

1. Require reporting of IDEA data on eligibility, placement, and discipline by economic disadvantage. As one state administrator noted, "The federal government has to shine the light and provide the information to the public."[126] To provide transparency on how students from low-income families are being served under the law, Congress should require the disaggregation of data by income status, in addition to the current requirements by race/ethnicity, gender, and EL status.[127]

2. Encourage states to examine their eligibility, placement, and discipline data to support and intervene with districts where potential inappropriate identification, placement, and discipline occur. Any efforts to address disproportionality should ensure states and districts continue to abide by the Child Find provisions of the law to not delay evaluation based on their efforts.[128]

3. Support professional development to improve access and interventions in general education classrooms. In particular, professional development for all teachers, in particular general education teachers, on Universal Design for Learning, MTSS, and building cultural competency can help make classrooms more accommodating for diverse learners.

To address findings about family engagement, Congress, ED, and states should:

4. Support parental training and advocacy. When parents are better informed about their rights and options under the law, they can better partner with schools to ensure their children's needs are being met. In particular, Congress should increase support and funding to support innovative parent outreach through technology. Additionally, ED should consider funding a national center focused on supporting low-income families and monolingual, non-English families.

5. To the maximum extent possible, ensure all documents and meetings are provided in a language that parents can understand. Parents need to be informed about their child's education. When districts have a reasonable population of families speaking a language other than English, all special education information should be provided in that language as a universal district policy.

To address findings about service integration, Congress, ED, and states should:

6. Ensure that, for eligible students, districts offer language-based services simultaneously with special education services.

7. Incentivize service integration and collaborative planning at the state level. Planning and administration at the state level should consider how to best wrap services around the child and promote collaboration to model that approach rather than maintain segmented program structures.

8. Provide TA and training on the use of Medicaid, other health supports, including mental health supports, along with special education services to most effectively support the child's comprehensive needs.

To better support English learners with disabilities, Congress, ED, and states specifically should:

9. Consider establishing additional research-based policies to address referral, evaluation, and eligibility determinations for English learners for special education services.

10. Support additional research to examine best practices and policies related to entrance and exit from language-based services for students with disabilities, as well as research to examine the best practices and policies for accommodations for English learners with disabilities.

Endnotes

1   Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400.

2   The Elementary and Secondary Education Act (ESEA), 20 U.S.C. § 6301.

3   ESEA, 20 U.S.C. § 6801.

4   National Center for Education Statistics (NCES), *National Assessment of Educational Progress (NAEP)*, accessed October 16, 2017, http://nces.ed.gov/nationsreportcard/.

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