

CHAPTER 7



TOOLS AND RESOURCES FOR SERVING ENGLISH LEARNERS WHO OPT OUT OF EL PROGRAMS

This is the seventh chapter of the English Learner Tool Kit, which is intended to help state and local education agencies (SEAs and LEAs) meet their obligations to English Learners (ELs). This tool kit should be read in conjunction with the U.S. Department of Education Office for Civil Rights' and the U.S. Department of Justice's Dear Colleague Letter, "English Learner Students and Limited English Proficient Parents," published in January 2015, which outlines SEAs' and LEAs' legal obligations to ELs under civil rights laws and other federal requirements. The Dear Colleague Letter can be found at <http://www2.ed.gov/about/offices/list/ocr/ellresources.html>.

SERVING ENGLISH LEARNERS WHO OPT OUT OF EL PROGRAMS

KEY POINTS

- Parents have the right to opt their children out of EL programs or particular EL services. This decision must be voluntary and based on a full understanding of the EL child's rights, the range of services available to the child, and the benefits of such services to the child.
- If a parent decides to opt his or her child out of EL programs or particular EL services, that child still retains his or her status as an EL.
- LEAs must continue to monitor the English language proficiency (ELP) and academic progress of students who opt out of EL programs and services. If a student does not demonstrate appropriate growth in ELP or maintain appropriate academic levels, the LEA must inform the parents in a language they understand and offer EL services.



Any parent whose child is receiving or is eligible to receive EL programs or services has the right to decline or opt his or her child out of the EL programs or particular EL services being offered. **LEAs may not recommend that a parent opt a child out of EL programs or services for any reason.**

The LEA must provide guidance in a language parents can understand to ensure that parents understand their child's rights, the range of EL services that their child could receive, and the benefits of such services. This is to ensure that the parent's decision to opt out is knowing and voluntary. LEAs that receive *Title I* or *Title III* funds must provide written notification to parents of their children's recommended placement in an EL program within 30 days of the start of the school year (or within

two weeks for later-arriving students). The notification must include all of the statutorily-required elements, including the right to opt out (See Tool #1, attached). The LEA should retain appropriate documentation to demonstrate that a parent knowingly and voluntarily opted his or her EL child out of EL programs or particular EL services. It is important to note that opting out of EL programs or particular EL services does not affect a student's ability to participate in any other programs or services, such as special education services.

If a parent decides to opt his or her child out of EL programs or particular EL services, that child retains his or her status as an EL. The LEA remains obligated to take affirmative steps and appropriate action required by civil rights laws to provide the EL student meaningful access

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to its educational program. Thus the LEA must continue to monitor periodically the opted-out student's academic progress.

Specific monitoring practices will vary from LEA to LEA. They should include a combination of performance data, such as information on assessment results, grades, courses taken, observations, attendance, and parent meeting notes, along with possible comparisons to other EL students of similar ELP levels. Appropriate personnel should analyze this information throughout the year and make recommendations based on the student's current ELP level and ability to perform at grade level.

If an LEA finds that a student is struggling, it should take appropriate steps to assist the student. These steps may include, but are not limited to, further assessing the student's ELP; notifying the student's parent about his or her child's lack of progress, and encouraging him or her to opt the child into EL programs and services; and providing supports for the student's language acquisition, such as offering professional development in second language acquisition to the student's core curriculum teachers.

ELs who opt out of services must, like those receiving programs or services, have their ELP reassessed a minimum of once per year until they exit EL status. After it is determined that the EL no longer qualifies as an EL, the LEA must continue to monitor the student for at least two years, just as it would an EL who has received EL programs and services.

The following checklist is intended to assist with developing processes and providing support for ELs whose parents choose to opt them out of EL programs or particular EL services. The checklist provides suggested questions only. LEAs and schools should check their SEA's policies and other federal guidance to ensure compliance.

Communicating with Parents

- ★ How are parents informed of their children's EL status and the right to opt their children out of the EL programs or particular EL services being offered?
- ★ Are there procedures in place to ensure that parents do not opt their children out of any EL programs or services based on inadequate information about those programs or services, or on unanswered questions about their children's EL status?
- ★ Are there procedures in place to ensure that parents do not opt their children out of any EL programs or services based on schedule conflicts with other programs (such as special education programs); insufficient space in the available EL programs; or insufficient offerings within the EL program?
- ★ Are there procedures in place to address parental concerns about the quality of the EL services and programs being offered?
- ★ Is information provided in a language that parents understand?
- ★ Does the LEA have a formal mechanism for documenting which students opted out of services, including tracking communications to and from the ELs' parents in the appropriate languages?
- ★ Is there a process (perhaps during parent-teacher conferences or after report cards are issued) for informing parents who opted their children out of EL programs or services that their children are not making progress in ELP or academic content areas, when applicable?
- ★ Is there a process for parents to revisit their opt-out decision and opt their children back into EL programs or particular EL services?
- ★ Is there a process for SEAs and LEAs to explore the cause of high opt-out rates for EL services if and when they occur?

Addressing ELs' Needs

- ★ If a parent opts his or her child out of EL services, is there a process to ensure and monitor that (1) the child maintains his or her EL status; (2) the LEA is fulfilling its obligation of meeting the child's language and academic needs; and (3) the child still has appropriate access to the general curriculum?
- ★ Are ELs who have opted out being assessed for ELP at least annually?
- ★ If a parent continues to opt his or her child out of EL programs and services after being notified of that child's insufficient progress, is the LEA providing additional training to the student's classroom teacher(s) in EL instructional strategies?

SERVING ENGLISH LEARNERS WHO OPT OUT OF EL PROGRAMS

TOOLS

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The following set of tools is intended to assist schools, LEAs, and SEAs in developing processes to assist in meeting legal requirements when parents of ELs choose to opt their child out of EL programs or particular EL services. LEAs are reminded to check with their SEAs to see if a particular parent notification letter is required, and, if so, what the current version is.

Tool #1, Statutorily Required Elements of Parent Notification Letter, cites relevant *Title III* requirements for notifying parents of their children's EL status and their right to opt their children out of EL programs or particular EL services.

Tool #2, Sample Parent Notification Letter for a Child's Placement in English Learner Programs and Services, provides one example of a parent notification letter that LEAs could use to notify parents of their children's EL status and their right to opt their children out of EL programs or particular EL services.

Tool #3, Sample English Learner Programs and Services Opt-Out Notification, provides one example of a form that LEAs could use to provide documentation for legal compliance when a parent has expressed the desire to opt his or her child out of EL programs or particular EL services.

Tool #4, Sample Notification to Opt a Child Back into English Learner Programs or Services, provides one example of a form that LEAs could use to provide documentation when a parent revisits his or her decision and decides to opt the child back into EL programs or particular EL services.



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TOOL #1

STATUTORILY REQUIRED ELEMENTS OF PARENT NOTIFICATION LETTER

This tool cites the relevant *Title III* requirements for notifying parents of their children's EL status and their right to opt their children out of EL programs or particular EL services. SEAs and LEAs that receive *Title I* or *Title III* funds should be familiar with the requirements of *Title I* and *Title III* and ensure parental notification letters include all statutorily required elements.

TITLE III: SECTION 3302 OF THE ESEA (20 USC 7012)

[See same provision in *Title I*: Section 1112(g) of the ESEA (20 USC 6312(g))]

(a) IN GENERAL—each eligible entity using funds provided under this title to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program of

- (1) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;
- (2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;
- (3) the method of instruction used in the program in which their child is, or will be, participating, and the methods of instruction used in other available programs, including how such programs differ in content, instruction goals, and use of English and a native language in instruction;
- (4) how the program in which their child is, or will be participating will meet the educational strengths and needs of the child;
- (5) how such program will specifically help their child learn English, and meet age appropriate academic achievement standards for grade promotion and graduation;
- (6) the specific exit requirements for such program, the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this title are used for children in secondary schools;
- (7) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

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TOOL #1: STATUTORIALLY REQUIRED ELEMENTS OF PARENT NOTIFICATION LETTER (CONTINUED)

(8) information pertaining to parental rights that includes written guidance

(A) detailing—

(i) the right that parents have to have their child immediately removed from such program upon their request; and

(ii) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(B) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

(b) *

(c) Receipt of information

The information required to be provided under subsections (a) and (b)* of this section to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

(d) Special rule applicable during school year

For a child who has not been identified for participation in a language instruction educational program prior to the beginning of the school year, the eligible entity shall carry out subsections (a) through (c) of this section with respect to the parents of the child within 2 weeks of the child being placed in such a program.

*Section (b) of the statute is omitted, as it is not directly relevant to the information in this chapter.

Source: Elementary and Secondary Education Act, §3302, 20 USC 7012 (2001). Retrieved from <http://www2.ed.gov/policy/elsec/leg/esea02/pg50.html#sec3302>

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TOOL #2

SAMPLE PARENT NOTIFICATION LETTER FOR A CHILD'S PLACEMENT IN ENGLISH LEARNER PROGRAMS AND SERVICES

The following tool provides one example of a parent notification letter that LEAs could use to notify parents of their children's EL status and their right to opt their children out of EL programs or particular EL services. The tool is based on forms currently used by SEAs and LEAs. The form would need to be provided in a language that the parent understands.

PARENT NOTIFICATION LETTER FOR PLACEMENT IN ENGLISH LEARNER PROGRAMS AND SERVICES

[SCHOOL NAME, ADDRESS, CONTACT INFORMATION]

Date:

Dear Parent,

When you enrolled your child in school this year, you noted on the home language survey that he or she may use a language other than English. Based on this response, the law requires us to test your child's English language proficiency to determine if s/he is legally entitled to English Learner (EL) support services. We used this test to determine the best educational program placement for your child. We are required to inform you of the test results, our program recommendation, and all of the placement options available for your child. That information appears below, along with information our school district uses to determine when a student is ready to exit the EL program.

Based on your child's test results, your child qualifies for EL support services. Additional English language instruction is instrumental in increasing a student's English language proficiency and ability to acquire grade-level academic content. We highly recommend that your child participate in and receive the benefits from an EL program.

1. Your child's English language assessment scores for this school year are as follows:

Area	Level/Score
Listening	
Speaking	
Reading	
Writing	
Overall	

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TOOL #2: SAMPLE PARENT NOTIFICATION LETTER FOR A CHILD'S PLACEMENT IN ENGLISH LEARNER PROGRAMS AND SERVICES (CONTINUED)

2. Your child's EL programs and services will entail the following types of instruction:

Insert available EL programs and services here

3. The overall goal of the EL program is for students to become fully proficient in English and to master state standards for academic achievement as rapidly as possible. The exit criteria are as follows:

Insert exit criteria here

4. If your child has an Individualized Education Program (IEP), the EL program will assist in meeting the IEP goals in the following ways:

Insert description here

As mentioned, we highly recommend that your child participate in and receive the benefits from this program; however, you have the right to decline your child's participation in or 'opt your child out' of the EL program or particular EL services. Please telephone the school at *[Insert telephone number.]* or contact your child's teacher if you would like to schedule a parent conference to discuss your child's options for program placement and/or if you wish to opt your child out of the EL program or particular EL services within the EL program.

Sincerely,

Source: Bell, T., & Zantal-Wiener, K. (2015). *Sample parent notification letter for a child's placement in English learner programs and services*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from http://ncela.ed.gov/files/forms/sample_parent_notification_letter_for_el_placement.pdf

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TOOL #3

SAMPLE ENGLISH LEARNER PROGRAMS AND SERVICES OPT-OUT NOTIFICATION

The following tool provides one example of a form that LEAs could use to provide documentation for legal compliance with the requirements of the EL opt-out decision-making process when a parent chooses to opt his or her child out of the EL program or particular EL services. The tool reflects forms currently used by LEAs to document that parents have been notified of their child's rights, the range of EL services that their child could receive, and the benefits of such EL services, before voluntarily waiving them. The form would need to be provided in a language that the parents understand.

NOTIFICATION TO OPT A CHILD OUT OF EL PROGRAMS OR PARTICULAR EL SERVICES

[SCHOOL NAME, ADDRESS, CONTACT INFORMATION]

Date:

Dear Parent,

We understand that you would like to decline the English Learner (EL) program or particular EL services proposed for your child _____ (*insert child's name*). EL services are specifically designed to help your child obtain English language proficiency as well as acquire grade-level content. However, as stated in our conversation, you have the legal right to opt your child out of the program or particular services.

If you still wish to opt your child out of the EL program or particular EL services, please initial next to each item on the checklist below. Doing so will indicate that you fully understand and agree with each statement. After you have initialed next to each of the statements, please sign, date, and return the form to your child's school. We will keep this document on file stating that you have declined or do not want these indicated EL services for your child.

- I am aware of my child's English language assessment score and other information about my child's current academic progress, and understand why he/she was recommended for additional English language instruction.
- I am familiar with the EL programs and services the school has available for my child.
- I have had the opportunity to discuss the available EL programs and services with the school.
- I understand that the school believes its recommendation is the most academically beneficial for my child.
- I understand that my child will still be designated an "English Learner" and have his or her English proficiency assessed once per year until he/she no longer meets the definition of an English Learner.
- All of this information has been presented to me in a language I fully understand.

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TOOL #3: SAMPLE ENGLISH LEARNER PROGRAMS AND SERVICES OPT-OUT NOTIFICATION (CONTINUED)

I, _____ (*insert name*), with a full understanding of the above information, wish to

- decline **all** of the EL programs and EL services offered to my child.
- decline **some** of the EL programs and/or particular EL services offered to my child.

I wish to decline (*List program/services*)

Parent's Signature

Child's Name

Date

Source: Zantal-Wiener, K., & Bell, T. (2015). *Sample English learner programs and services opt-out notification*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from http://ncela.ed.gov/files/forms/sample_notification_to_opt_out.pdf

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TOOL #4

SAMPLE NOTIFICATION TO OPT A CHILD BACK INTO ENGLISH LEARNER PROGRAMS OR SERVICES

The following tool provides one example of a form that LEAs could use to provide documentation when parents decide to opt their children back into EL programs or particular EL services. This form would only be used if/when a parent revisited his or her initial decision to opt his or her child out of EL programs or particular EL services. The form would need to be provided in a language that the parent understands.

NOTIFICATION TO OPT A CHILD BACK INTO EL PROGRAMS OR PARTICULAR EL SERVICES

[SCHOOL NAME, ADDRESS, CONTACT INFORMATION]

Date:

Dear Parent:

On _____ (*insert date of Notice to Opt-Out*), you notified us of your desire to decline the English Learner (EL) program or particular EL services proposed for your child _____ (*insert name*).

We understand that you have revisited your previous decision and would now like to accept the EL program or particular EL services proposed for your child. EL services are specifically designed to help your child obtain English language proficiency as well as acquire grade-level academic content. We believe these services will be a tremendous benefit to your child.

Please indicate below the EL program or particular EL services you would like your child to participate in. We will keep this form on file indicating that you have revisited your previous decision and do indeed want EL services for your child.

I, _____ (*insert name of parent*), wish to

- opt my child back into all of the EL programs and services offered to my child.
- opt my child back into some of the EL programs or particular EL services offered to my child.

I wish to accept (*List program/services*)

Parent's Signature

Child's Name

Date

Source: Bell, T., & Zantal-Wiener, K. (2015). *Sample notification to opt a child back into English learner programs or services*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from http://ncela.ed.gov/files/forms/sample_notification_to_opt_in.pdf

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SERVING ENGLISH LEARNERS WHO OPT OUT OF EL PROGRAMS

RESOURCES

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Bell, T., & Zantal-Wiener, K. (2015). *Sample parent notification letter for a child's placement in English learner programs and services*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from http://ncela.ed.gov/files/forms/sample_parent_notification_letter_for_el_placement.pdf

This tool is one example of a parent notification letter that LEAs could use to notify parents of their children's EL status and their right to opt their children out of EL programs or particular EL services. The tool reflects forms currently used by SEAs and LEAs.

Bell, T., & Zantal-Wiener, K. (2015). *Sample notification to opt a child back into English learner programs or services*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from http://ncela.ed.gov/files/forms/sample_notification_to_opt_in.pdf

This tool provides one example of a form that LEAs could use to provide documentation when a parent decides to opt his or her child back into EL programs or particular EL services. This form would only be used if/when a parent changes his or her initial decision to opt out of EL programs or particular EL services.

U.S. Department of Education, Office for Civil Rights (OCR), and U.S. Department of Justice (DOJ). (2015, January). *Dear colleague letter: English learner students and limited English proficient parents*. Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf>

This document provides guidance to assist SEAs, LEAs, and all public schools in meeting their legal obligations to ensure that ELs can participate meaningfully and equally in educational programs

and services. This guidance provides an outline of the legal obligations of SEAs and LEAs to ELs under the civil rights laws. Additionally, the guidance discusses compliance issues that frequently arise in OCR and DOJ investigations under *Title VI* of the *Civil Rights Act of 1964* and the *Equal Educational Opportunities Act* and offers approaches that SEAs and LEAs may use to meet their federal obligations to ELs. A discussion of how SEAs and LEAs can implement their *Title III* grants and subgrants in a manner consistent with these civil rights obligations is included. Finally, the guidance discusses the federal obligation to ensure that limited English proficient parents and guardians have meaningful access to SEA-, LEA-, and school-related information.

Zantal-Wiener, K., & Bell, T. (2015). *Sample English learner programs and services opt-out notification*. Silver Spring, MD: National Clearinghouse for English Language Acquisition (NCELA). Retrieved from http://ncela.ed.gov/files/forms/sample_notification_to_opt_out.pdf

This tool is one example of a form that LEAs could use to provide documentation for legal compliance with the requirements of the EL opt-out decision-making process when a parent wishes to opt his or her child out of the EL program or particular EL services. The tool reflects forms currently used by LEAs to document that a parent has been notified of his or her child's rights, the range of EL services that the child could receive, and the benefits of such EL services, before voluntarily waving them.

To access these and other relevant resources, and for additional information about ELs, please visit <http://www.ncela.ed.gov/>.