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Regional Educational Laboratory At Education Development Center, Inc.

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February 2010

Prepared by

María Teresa Sánchez
Education Development Center, Inc.

Caroline Parker
Education Development Center, Inc.

Bercem Akbayin
Education Development Center, Inc.

Anna McTigue
Education Development Center, Inc.

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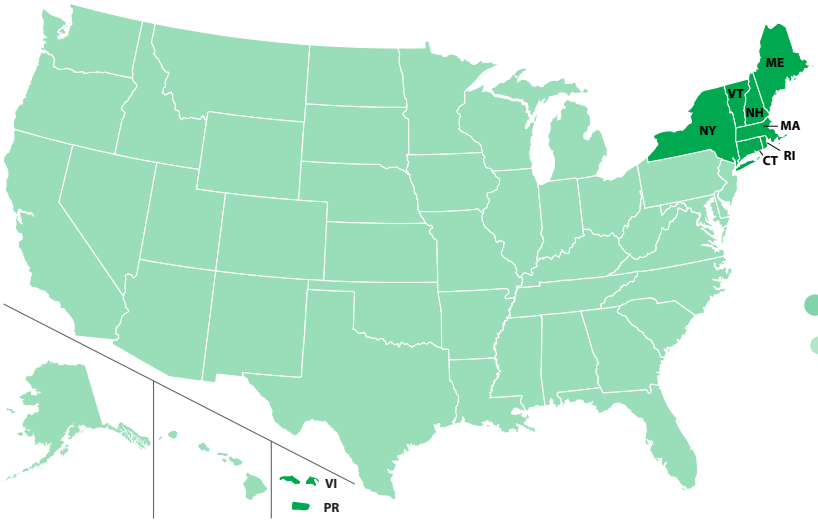
Institute of Education Sciences



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Summary

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Processes and challenges in identifying learning disabilities among students who are English language learners in three New York State districts

Using interviews with district and school personnel and documents from state and district web sites in three districts in New York State, the study examines practices for identifying learning disabilities among students who are English language learners and the challenges that arise. The study finds both similarities and differences in practices, with more differences in prereferral than in referral practices. It identifies eight challenges to the identification of learning disabilities in students who are English language learners and five interrelated elements that appear to be important for avoiding misidentification.

Research shows that students who are English language learners and also have learning disabilities face unique challenges because of their dual status (Artiles et al. 2005; Figueroa 1999; Harry 2002). As part of an initiative to help districts accurately identify students who are English language learners and who might have learning disabilities and to avoid over- and underidentification, the New York State Education Department asked the Regional Educational Laboratory Northeast and Islands for information on district practices for identifying learning disabilities among students who are English language learners and the challenges that arise, as perceived by district and school staff.

Two research questions guided the project:

- According to district and school personnel in three midsize New York State districts, what processes are used to identify students who are English language learners and also have learning disabilities?
- What challenges do those district administrators and school personnel describe about the process of identifying learning disabilities among students who are English language learners?

The research team profiled three midsize school districts in New York State. The team collected data primarily from semistructured interviews with district administrators and school personnel but also from publicly available sources and documents provided by respondents.

District identification processes

The three studied districts identify learning disabilities among students who are English language learners in two stages: prereferral and referral. Although the two processes are similar across the districts, there are also important differences.

Prereferral. The three districts follow a similar prereferral process that starts when teachers

identify students who are not progressing and consult fellow teachers, school support personnel, or administrators. The teacher and school colleagues discuss student data, consider instructional modifications, implement them with the student, and analyze the results. In all three districts the prereferral process is usually longer for students who are English language learners than for native English speakers to ensure sufficient time for the students to develop English proficiency and for educators to differentiate between language development issues and learning disabilities.

There are also some differences in the prereferral process of the three districts:

- *General staff organization for planning and problem solving.* Across the three districts there are differences in structured opportunities to discuss student progress and in access to staff with expertise in second language development.

- *Child study team staffing and roles.* Child study teams, a common way of organizing staff for prereferrals, are used in the middle schools in two of the three districts.

- *Supports and interventions.* The number of supports and interventions available in each middle school varies across the three districts.

- *Monitoring student progress in interventions.* The schools and districts monitor struggling students in different ways.

Referral. Because federal guidelines specify the steps to follow in the referral process, there are only minor variations across the districts. A referral begins with obtaining parental permission and continues with the collection of student information, assessments, and overall evaluations by a district multidisciplinary team (the Committee on Special Education), which determines eligibility for special education services. Nonetheless, there were some differences in the districts' referral processes:

- *Initiating referrals.* In two districts referrals come from the child study team, in consultation with parents. In the third a school administrator initiates referrals, although teachers sometimes encourage parents to initiate referrals if they think a student's needs are not being met in a timely fashion.

- *Collecting student information.* In two districts most of the relevant student information has already been collected by the child study teams, while in the third district most of the information is collected during the referral period.

- *Sharing information between the English language learner and special education departments.* In two districts the English language learner and the special education departments begin sharing information about specific students before the referral process, while in the third district personnel from the two consult only after referral is initiated.

District challenges in the identification processes

Analysis of district and school interview data revealed eight challenges in the process of identifying learning disabilities among students who are English language learners:

- Difficulties with policy guidelines.
- Different stakeholder views about timing for referral of students who are English language learners.
- Insufficient knowledge among personnel involved in identification.
- Difficulties providing consistent, adequate services to students who are English language learners.
- Lack of collaborative structures in prereferral.
- Lack of access to assessments that differentiate between second language development and learning disabilities.
- Lack of consistent monitoring for struggling students who are English language learners.
- Difficulty obtaining students' previous school records.

These challenges reflect the difficulties districts face in complying with the Individuals with Disabilities Education Act of 2004, which requires evidence that learning difficulties for students who are English language learners are not due primarily to a lack of appropriate instruction or to the student's lack of proficiency in English before the student can be identified as having a learning disability.

Analysis of the differences in the prereferral and referral processes and of the challenges identified in the three districts suggests five interrelated elements that appear to be important for avoiding misidentification of learning disabilities among students who are English language learners:

- *Adequate professional knowledge.* Having access to professional expertise about cultural differences, language development, learning disabilities, and their intersection among classroom teachers, specialists, and administrators.
- *Effective instructional practices.* Providing effective instruction to students who are English language learners before and during prereferral.
- *Effective and valid assessment and interventions.* Providing valid assessments and effective intervention strategies.
- *Interdepartmental collaborative structures.* Establishing structures for collaboration between the English language learner and special education departments, as well as opportunities for teachers to collaborate and problem solve in schools.
- *Clear policy guidelines.* Providing streamlined and clear policy guidelines on procedures to follow and criteria to use in identifying learning disabilities among students who are English language learners.

TABLE OF CONTENTS

Boxes

Tables

Using interviews with district and school personnel and documents from state and district web sites in three districts in New York State, the study examines practices for identifying learning disabilities among students who are English language learners and the challenges that arise. The study finds both similarities and differences in practices, with more differences in prereferral than in referral practices. It identifies eight challenges to the identification of learning disabilities in students who are English language learners and five interrelated elements that appear to be important for avoiding misidentification.

WHY THIS STUDY?

In requiring that states report school-level assessment results by subgroup, the No Child Left Behind (NCLB) Act of 2001 highlighted concern for the proficiency levels of students with disabilities and students who are English language learners (No Child Left Behind Act 2002; see box 1 for definitions of key terms used in this report).[1] Although the NCLB Act does not require separate reports of achievement data for dual-identified students who are English language learners and also have disabilities, research shows that this subgroup faces unique challenges because of its dual status (Artiles et al. 2005; Figueroa 1999; Harry 2002). The New York State Education Department (NYSED), which has made addressing the needs of students who are English language learners and also have learning disabilities a priority, asked the Regional Educational Laboratory Northeast and Islands to provide information on district practices to identify learning disabilities among students who are English language learners and on the challenges in doing so.

New York State Education Department interest

The NYSED Office of Vocational and Educational Services for Individuals with Disabilities (VESID) and the Office of Bilingual Education and Foreign Language Studies are aware that districts, schools, and teachers face challenges in identifying disabilities among students who are English language learners. An associate in bilingual education within VESID brings English language development expertise to the state office. In the state's regional education offices[2] similar positions are filled by bilingual specialists who provide professional development throughout the state on issues affecting students who are English language learners, both those with disabilities and those without. Although NYSED does not have programs specifically addressing how to identify learning disabilities among students who are English language learners, it does sponsor workshops focusing on disabilities, including on response to intervention initiatives,[3] for students who are English language learners.

BOX 1

Definition of key terms

Adequate yearly progress. The measure by which public schools, districts, and states are held accountable for student performance under the No Child Left Behind Act of 2001.

Child study team. As a first step in the prereferral process in New York State, a team of diverse professionals who meet in the school setting to brainstorm instructional strategies, interventions, and data collection for struggling students.

Committee on Special Education. In New York State a team that meets after a child has been formally referred for special education evaluation to coordinate the evaluation, identification, and special education placement processes.

English as a second language. Classes to develop skills in understanding, speaking, reading, writing, and communicating in English and to integrate academic content appropriate for the student's age, grade, and English language skills.

Individuals with Disabilities Education Act (IDEA) 2004. Law governing how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children, and youth with disabilities.

Learning disability. Under IDEA 2004, a disorder in one or more basic psychological processes involved in understanding or using spoken or written language that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do math calculations.

Native (or first) language. The language spoken in the student's home before formal schooling starts, here used to refer to languages other than English.

Prereferral. All investigative activities that occur before a formal request for parental consent for evaluation and referral to special education.

Referral. The formal evaluation process, following IDEA 2004 guidelines, to determine whether a child has a disability and is eligible for special education or related services.

Response to intervention. A multitiered approach to helping struggling learners, with progress closely monitored at each stage of intervention to determine the need for further research-based intervention in general education, special education, or both. It is often conceptualized in three tiers: the general education setting with scientifically based effective instruction, a more intense level of intervention targeted to a student's academic struggles, and an intense level of intervention and support, with a child often receiving special education or related services.

Second language development. The process by which individuals acquire or develop competence in a second language, including the conscious and unconscious learning processes occurring naturally during social interactions and through a formal learning process with the guidance of books or classroom instruction (Ellis 1985).

Students who are English language learners. In New York State, students who speak a language other than English and either understand and speak little English or score below a state-designated level of proficiency on the Language Assessment Battery–Revised or the New York State English as a Second Language Achievement Test.

Students who are English language learners and who might have a learning disability. Students who are English language learners and who struggle with understanding or using spoken or written language, but for whom the cause has not been identified as due primarily to an inherent learning disability or to the natural process of second language acquisition.

Students with disabilities. Any child, including a student who is an English language learner, identified as having any of the following disabilities and needs special education and related services: mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities (IDEA 2004 Sec. 300.304–300.311).

Students with interrupted formal education or schooling. In New York State, students who are English language learners and who come from a home where a language other than English is spoken and enter a school in the United States after grade 2 and who, at enrollment, have had at least two years' less schooling than their peers, function at least two years below expected grade level in reading and math, and may lack literacy skills in the native language.

At the time of this writing, NYSED was completing a new set of guidelines for teachers and school and district administrators on identifying and teaching students who are English language learners and also have a learning disability. General guidance was available on identifying and providing instruction for students with disabilities, but there were no specific guidelines for identifying and providing instruction to students with learning disabilities who are also English language learners. Components of that guidance are spread across several documents, some of them available online.[4]

Despite the availability of written guidance and technical assistance throughout the state, NYSED leaders are aware that not all districts have easy access to these resources. In the largest districts, known as the Big Five (New York City, Buffalo, Rochester, Syracuse, and Yonkers), state experts have been working closely with district staff to improve the identification of disabilities among students who are English language learners and to provide appropriate forms of instruction. Smaller districts, however, do not always have access to technical assistance resources. The state is addressing this need in two ways: by making bilingual special education experts more accessible throughout the state and by updating the guidelines for identifying disabilities among students who are English language learners.

The research project

As part of the NYSED initiative to help districts identify disabilities among students who are English language learners, it asked the Regional Educational Laboratory Northeast and Islands to provide information on district practices and challenges in this area, as described by school and district staff. Two research questions guided the project:

- According to district and school personnel in three midsize New York State districts, what processes are used to identify students who are English language learners and also have learning disabilities?
- What challenges do those district administrators and school personnel describe about the process of identifying learning disabilities among students who are English language learners?

Box 2 and appendix A detail the study methods.

TYPICAL PROCESSES FOR IDENTIFYING STUDENTS WITH DISABILITIES

A free and appropriate public education is the protected right of every eligible child in all 50 states and U.S. territories. The Individuals with Disabilities Education Act (IDEA) of 2004 specifies how to ensure a free and appropriate public education for students with disabilities. The process that leads to a child being identified as having a disability starts long before the formal referral process outlined in the federal guidelines in IDEA 2004. When a student is struggling academically or behaviorally, schools and districts are encouraged to implement early intervention (prereferral) processes to investigate the reasons for the difficulties and to develop solutions (Individuals with Disabilities Education Act 2004).

Prereferral strategies at the school are a first attempt to understand why a student might be struggling academically (Baca and Cervantes 1998). These early interventions are designed to help general education teachers meet the needs of struggling students before special education referral is considered. Schools have a variety of ways of implementing early intervention strategies when a student shows signs of struggling academically (Slavin and Madden 1989). As allowed by IDEA 2004, some schools have formal response to intervention procedures (Gersten et al. 2008, 2009). Response to intervention is an integrated

When a student is struggling academically or behaviorally, schools and districts are encouraged to implement early intervention (prereferral) processes to investigate the reasons for the difficulties and to develop solutions

BOX 2

Study methods

The research team profiled three midsize school districts in New York State. The project focused on middle schools (grades 6–8), because previous research has found a disproportionate increase in the number of students who are English language learners who are identified as having learning disabilities during middle school (Artiles et al. 2005).

Project sample. Because New York State provides larger school districts with targeted assistance to meet the needs of students who are English language learners and who might have learning disabilities, this research focuses on midsize districts (6,000–10,000 students) that have not received this assistance. The report *New York: The State of Learning* (University of the State of New York 2006) was used to identify districts that had at least 10 percent of students who were English language learners and 5 percent who had disabilities so that the sample would include districts that work with the target population. Of the nine districts that met the selection criteria, one did not have publicly available information about school demographics and was excluded. Of the remaining districts, three agreed to participate.

Data sources and collection methods. The team collected data from the following sources:

- *Publicly available information.* Demographic information was retrieved from the New York State Education Department's (NYSED) 2005/06 report cards for each district, published reports, guides, and regulations from the NYSED web site, and information on districts' web sites.
- *Interviews.* Semistructured interviews were conducted with district and school administrators, school support personnel, specialist teachers, and general classroom teachers during January–March 2008 (see appendix C for the protocols used). The number of interviewees in each stakeholder category within a district varied according to availability (see table A2 in appendix A).
- *Supplemental documents.* Respondents from the participating districts and their schools shared additional documentation that was not publicly available.

Data analysis strategy. All interviews with district and school personnel were recorded, transcribed, and coded using ATLAS.ti. Then profiles were developed describing the identification process for each district, together with a preliminary list of challenges described by interviewees. After each profile was created, supplemental documentation was reviewed and any additional information was added to the profile. The profiles were sent to interviewees for validation and revised as needed.

Matrices were prepared of each district's prereferral and referral processes, similarities and differences among districts, and a preliminary list of challenges (defined as anything that impairs a teacher or administrator's ability to accurately and expeditiously identify learning disabilities among students who are English language learners). An iterative process of looking at the data, detecting possible challenges, and returning to the data for confirmation was used to classify eight challenges that synthesized the issues discussed by interviewees. Further analysis identified five elements that appear to be important in avoiding misidentification of learning disabilities among students who are English language learners. More detailed information about the methodology is in appendix A.

approach to service delivery that encompasses general education, strategic interventions for at-risk learners, and special education. A multitiered problem-solving framework for identifying and addressing academic and behavioral difficulties for all students, from early childhood through high school, it uses scientifically based research to guide instruction, assessment, and interventions. Use of child study teams, sometimes called teacher assistance teams or instructional support teams, is another common practice (Chalfant, Pysh, and Moultrie 1979). The teams include the student's teacher and other school personnel, who discuss possible instructional strategies or interventions for the student.

If a student continues to struggle despite prereferral interventions, a formal referral can be

made for evaluation for special education services. Although the prereferral process applies to all students, for students who are English language learners, schools and districts need to provide additional evidence that a student's struggles are not due primarily to a lack of proficiency in English or lack of appropriate instruction.

Formal referral, guided by federal policy requirements in IDEA 2004, includes parental consent as well as appropriate assessments and learning inventories to better understand students' learning needs. Under IDEA 2004 formal referral for a special education evaluation can be initiated by a school, a teacher, parents, or legal guardians. A parent or legal guardian's consent is necessary to conduct evaluations and to begin the referral process. Following consent, a district has 30 days to conduct an evaluation targeted to the difficulties that the student exhibits and to obtain a full case history and educational background review.

IDEA 2004 has additional requirements when the struggling student is an English language learner (section 300.304 (c1)(i-v)). A student may not be identified with a disability if the learning problems are due primarily to a lack of scientifically based instructional practices and programs that contain the essential components of reading instruction, a lack of appropriate instruction, or limited English proficiency. For schools and districts this means that the data collected in the prereferral period must demonstrate that the student's struggles are not due primarily to limited English proficiency.

IDEA 2004 further states that in the referral stage, each public agency—generally the districts—must ensure that assessments are selected and administered in a racially and culturally nondiscriminatory way; are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless clearly not feasible; are used for the purposes for which the assessments or measures are valid and reliable and according to any instructions provided by the producer of the assessments; and are administered by trained and knowledgeable personnel.

Research suggests that students who are English language learners are often misdiagnosed as having learning disabilities, while others are not properly identified and thus do not receive the necessary special education services

Following evaluation, a team of school and district professionals meets with the parents to discuss the results. Either the student does not qualify for special education services because no disability (as defined by IDEA 2004) has been found, and the process ends, or the student is identified as having a disability and qualifies for services under IDEA 2004. The student must be placed in the least restrictive environment[5] that best meets the diagnosed needs and must receive support and services as described in the individualized education program.[6]

Researchers have identified specific circumstances related to the identification of disabilities in students who are English language learners that result in a disproportionate number of these students being assigned to special education services (see appendix B for a summary of the research). Students who are English language learners are often misdiagnosed as having a disability, including learning disabilities, while others are not properly identified and thus do not receive the necessary special education services (Chamberlain 2006; Warger and Burnette 2000). The literature identifies four challenges that contribute to the disproportionate identification of learning disabilities among students who are English language learners: professionals' knowledge of second language development or disabilities, instructional practices, intervention strategies, and assessment tools.

CHARACTERISTICS OF THE THREE DISTRICTS IN THE SAMPLE

This section summarizes the demographic information, district organizational structures, and

programs for students who are English language learners in the three districts studied. Appendix D provides a detailed comparison of the three districts.

District 1

District 1 is in a suburban area close to a major urban center. A majority of the student population is Hispanic, with Black students the next largest group. More than half the district's student population is eligible for free or reduced-price lunch. Hispanic students, many from Central American countries, make up the majority of students who are English language learners. In the past five years, the district has received a steady influx of students with interrupted formal education or schooling, as well as transient students from families who move as job opportunities change.

The district has one middle school for grades 7 and 8 (School A), and one intermediate school for grades 5 and 6 (School B). In 2005/06, the district made adequate yearly progress in math at the elementary/middle school level for all subgroups, but failed to make adequate yearly progress in English language arts at all levels for students who are English language learners and students with disabilities.

District 1 has an English language learner department, which is responsible for identifying and serving students who are English language learners, and a department of special education, which is in charge of identifying and serving students with disabilities, including students who are English language learners and also have learning disabilities

The district has an English language learner department, which is responsible for identifying and serving students who are English language learners, and a department of special education, which is in charge of identifying and serving students with disabilities, including students who are English language learners and also have learning disabilities. Both schools studied (middle school A and intermediate school B) provide a Spanish–English bilingual program or an English as a second language (ESL) program for students who are English language learners, depending on their native language and English proficiency. The ESL programs at both schools use a pull-out format for classes, with the amount of services varying from two units of instruction a week for beginning and intermediate students to one unit a week for advanced students, based on the student's proficiency level.

District 2

District 2 is also in a suburban area close to a major urban center. Its population is distributed almost equally among Black, Hispanic, and White students. Almost half the students are eligible to receive free or reduced-price lunch. The majority of students who are English language learners are Hispanic, most of them of Mexican descent. Some students who are English language learners are U.S. born and others are recent immigrants with interrupted formal schooling. In recent years, the district has received a steady influx of students who are English language learners from families that are transient, moving as job opportunities change.

The district has two middle schools (Schools C and D), which enroll grades 6–8. In 2005/06, the district made adequate yearly progress in English language arts and math at the elementary/middle school level for all subgroups.

The people services office coordinates the efforts of four district departments that serve students who are English language learners: the English language learner department, the special education department, the pupil services department, and the medical services department. The directors hold biweekly meetings to monitor services for all students, including students who are English language learners and students with disabilities. At the time of the interviews, District 2 was halfway through a three-year response to intervention pilot initiative that began two years before the state launched its statewide initiative in 2007.

School D serves all students who are English language learners at beginning and intermediate

levels and advanced students who live within the school's attendance zone. School C receives only students at the advanced level who live in its zone, but it also hosts the district's Spanish–English dual-language program for students who attended the elementary school dual-language program. Students who are at beginning and intermediate levels receive two units of ESL pull-out instruction each week at School D as well as content-area classes (science, math, English) through an ESL sheltered-English approach.[7] For students with interrupted formal schooling and low literacy skills, the school provides foundational literacy classes; other literacy classes; math, science, and social studies classes in Spanish; and an after-school program for students who are English language learners. Students classified as English language learners for more than six years who still require extra support are no longer entitled to ESL services but receive a literacy enhancement class. Students at the advanced English proficiency level receive one unit a week of ESL instruction through pull-out at School D and the READ 180 program in School C.[8]

District 3

District 3 is also in a suburban area of the state. The majority of the district's student population is Black, including African Americans and recent immigrants, and the second largest group is Hispanic students. The majority of students who are English language learners are Hispanic or Haitian. Immigrant students of Hispanic origin have been the fastest growing population in the district over the past four years.

The district has two middle schools serving grades 7 and 8 (Schools E and F). Students are assigned to schools by geographic zone. In 2005/06 the district made adequate yearly progress at the elementary/middle school level in math for all subgroups and in English language arts for all subgroups except students with disabilities.

District 3 has an English language learner department within the office of curriculum and instruction and a special education office. Both middle schools provide the same English language learner programs for students at the beginning, intermediate, and advanced levels of English proficiency. At each school beginner students receive the full ESL program, which includes two units of ESL instruction a week and content-area classes in an ESL-content format (ESL social studies, ESL math, and ESL science). Intermediate-level students who are English language learners also receive two units of ESL a week and, depending on the subjects and grade level, they may receive ESL-collaborative classes cotaught by a mainstream content teacher. Advanced students who are English language learners are placed in mainstream classrooms and receive one unit of pull-out ESL instruction a week. In addition to the ESL program, School F houses the districtwide program for students with interrupted formal education.

In District 2 the people services office coordinates the efforts of four district departments that serve students who are English language learners: the English language learner department, the special education department, the pupil services department, and the medical services department. District 3 has an English language learner department within the office of curriculum and instruction and a special education office

WHAT PROCESSES DO DISTRICTS USE FOR IDENTIFYING LEARNING DISABILITIES AMONG STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS?

There are two main phases in district processes for identifying learning disabilities among students who are English language learners: prereferral and referral. Although the districts follow a general identification process regardless of the students' native language and disability type, the interviews and document analysis suggest that districts consider additional factors when the struggling student is an English language learner.

Prereferral processes

This section describes the similarities and differences among the three districts' prereferral processes for students who are English language learners and who might have learning disabilities.

Similarities among the three districts' prereferral process. In all three districts the prereferral process starts when teachers notice a struggling student and use their professional judgment and experience in determining whether the learning difficulties of students who are English language learners go beyond language development issues. They compare the performance of the struggling student with that of other students with similar backgrounds to evaluate whether the student is progressing. Teachers sometimes suspect that there are issues beyond second language development when students show decoding or comprehension difficulties or have processing or memory problems.

Teachers usually first share their concerns with fellow teachers to compare the student's performance across subjects and to obtain advice from colleagues. Next, they share their concerns with other colleagues, such as school support personnel (guidance counselors, school psychologists, social workers) and administrators (principal, assistant principals, department chairs), and with parents. Teachers and their colleagues discuss student data, such as results on the New York State English as a Second Language Achievement Test (NYSESLAT),[9] report cards, and classroom assessments, as well as previous teacher activities with the student. Personnel brainstorm possible causes of the struggle and instructional modifications to implement. If the student continues to struggle, personnel discuss other available programs and interventions. Among the supports offered by the districts, three are common to all three districts: academic intervention services,[10] resource rooms, and afterschool programs.

The three districts' prereferral processes for struggling students who are English language learners differ in general staff organization for planning and problem solving, roles of child study team, supports and interventions, and monitoring of student progress

The prereferral process continues with monitoring of student progress.

A final commonality across the three districts is that the prereferral process is usually longer for students who are English language learners than it is for native English speakers, although the timeline is decided case by case. The additional time gives students who are English language learners more time to acquire English skills and better enables teachers to differentiate between language acquisition issues and learning disabilities. As discussed later in this report, some respondents in each district found it challenging to decide how long to wait before considering a referral for special education evaluation. In all three districts the prereferral process ends when the school has provided all available supports to address the struggles of students who are English language learners and personnel have sufficient evidence to show that either the student has not progressed and the struggle is not due primarily to English language development issues (in which case the student will be referred for special education evaluation) or that the struggle was due primarily to English language development issues. Although personnel strive to base this critical decision on student data, the final determination of "sufficient evidence" remains subjective.

Differences in prereferral processes among the three districts. Analysis of interviews and documents suggests some differences in the three districts' prereferral processes for struggling students who are English language learners in the areas of general staff organization for planning and problem solving, staffing and roles of child study team, availability of supports and interventions, and monitoring of student progress (table 1).

General staff organization for planning and problem solving. Although teachers in all three districts consult with other professionals about struggling students, including students who are English language learners, the districts differ in the consistency of opportunities to discuss student progress and in access to staff with expertise in second language development. Districts 2 and 3 have formal

TABLE 1

Differences in prereferral processes among the three New York State school districts, 2008

Process	District 1	District 2	District 3
General staff organization for planning and problem solving	Informal meetings	• Informal meetings • Formal discussions in grade-level content teams with daily common planning time • Weekly counselor participation in grade-level content teams • Support personnel with knowledge of second language development (one psychologist and one social worker) are available to grade-level content teams	• Informal meetings • Formal discussions in grade-level content teams with common planning time every other day • Specialist teams—English as a second language (ESL) and special educators—with occasional participation in grade-level content teams • Some ESL and content teacher coteaching • Analysis of report cards by principal • Bilingual community liaisons (Spanish and Haitian-Creole)
Child study team staffing and roles	No child study team	• Child study team includes psychologist, social worker, guidance counselor, special educator, and teacher. Other personnel (nurse, speech therapist, parent liaison) as appropriate • Bilingual support personnel included in child study team for students who are English language learners. Complex cases also involve personnel from district English language learner, pupil services, and special education departments • Child study team reviews classroom and student information (background, language-related) • Child study team provides suggestions to differentiate instruction and recommendations for interventions, supports, and monitoring • Many child study team members (school and district) received professional development on learning disabilities and second language development five years earlier • Child study team meets weekly, discusses students regularly	• Child study team includes assistant principal, school psychologist, special educator (teacher or the chair), guidance counselor, and teacher. Additional personnel (speech therapist, nurse, special education supervisor, parent liaison), as appropriate • Child study team obtains reports from all the student's teachers • Child study team reviews all available classroom and student information (background and language-related) • Child study team makes suggestions for differentiated instruction and recommends and follows up on school supports • Child study team follows additional guidance for students who are English language learners, as described in district-developed guidelines for students who are English language learners referred to child study teams • Child study team meets weekly

(CONTINUED)

TABLE 1 (CONTINUED)
Differences in prereferral processes among the three New York State school districts, 2008

Process	District 1	District 2	District 3
Supports and interventions[a]	Supports: • Academic intervention services • Resource room (based on availability) • After-school programs • Extended ESL Interventions: • READ 180	Supports: • Academic intervention services • Afterschool program • Resource room • Literacy enhancement class • English Language Learning Instructional Software program • Students with Interrupted Formal Education program Interventions: • READ 180 • Wilson Reading System program • Lindamood-Bell Learning Processes programs	Supports: • Academic intervention services • Afterschool ESL academy • Resource room • Students with Interrupted Formal Education program Interventions: • Spector Phonics
Student progress monitoring during interventions	Done by teachers in consultation with school administrators and support personnel	• Progress monitoring linked to response to intervention initiative • Child study team establishes timeline and structure for monitoring progress • Students can receive more than one intervention • Some interventions come with predetermined benchmarks and time tables • District recently launched online monitoring system • Teachers document what they do in their classrooms	• Child study team establishes timeline for monitoring progress • Monitoring happens informally between teachers and school support personnel, but child study team will reconvene when needed

a. Interventions and supports mentioned by interviewees, but not an exhaustive list of those available at the schools.

Source: Compiled by authors from interviews and documents provided by interviewees.

structures to identify struggling students, while District 1 does this informally.

In District 1 teachers in the middle and intermediate schools discuss struggling students informally, on a case by case basis, with colleagues (other teachers, the principal, guidance counselors, a psychologist, social workers), who provide suggestions for instructional modifications and school supports (see table 1 for supports and interventions available in each district).

In District 2 teachers also discuss struggling students with other teachers and support personnel on a case by case basis, but in a more formal and consistent context, through grade-level content meetings. During daily common planning time, grade-level content teachers (English, math, social science, and science teachers) share instructional plans and identify and strategize about struggling students. A counselor participates in the meetings once a week to discuss individual cases. In addition, when struggling students are English language learners, staff on the teams have access to support personnel with second language development expertise (such as psychologists, social workers, and ESL teachers).[11]

As in District 2, District 3 middle schools are organized around grade-level content teams with

content teachers who teach the same students. Teachers on each team have common planning time every other day to discuss their instruction and students' progress. The ESL and special education teachers have separate grade-level meetings, but they can communicate with the grade-level content teams when needed. The schools also create other opportunities for ESL and content teachers to communicate because some content and ESL teachers coteach their classes.[12] The district has bilingual community liaisons (one Spanish and one Haitian-Creole speaking) in each middle school to facilitate communication with parents. In one of the middle schools, in addition to teachers identifying students for discussion, the principal flags struggling students based on poor grades in three or more subjects and discusses their cases with teachers, school counselors, and other personnel.

Staffing and roles of child study teams. Although the child study team is an accepted part of pre-referral processes (Chalfant et al. 1979), only Districts 2 and 3 have formalized the teams in their middle schools. At the time of this study, the District 1 middle and intermediate schools did not have a formal child study team, so teachers addressed student needs informally with other school personnel.[13] In Districts 2 and 3 grade-level content teams bring their concerns to the school's child study team for additional problem solving to address a child's needs. The teams—consisting of support personnel (school counselor, psychologist, social worker), special educator, administrator, and the teacher whose student's case is being reviewed—meet weekly. The teams assemble staff with the appropriate expertise and look more closely at possible interventions. The teams also can invite other personnel, as needed. For example, when discussing a student who is an English language learner, the child study team in District 2 invites one or both of the school's bilingual support personnel, and in District 3 the team invites the bilingual community liaisons.

The child study teams provide teachers an opportunity to problem solve the nature of the student's struggle and get assistance in designing interventions. In both districts the teams review the classroom-based data and background and language-related information on each student. In addition, District 3 requires that the student's teacher write a report for the child study team. Child study teams in Districts 2 and 3 provide teachers with instructional suggestions and recommendations for school supports and goals. District 2 is the only district pilot testing the response to intervention initiative (see next section), and the child study team is responsible for monitoring students' progress.

District 1 middle and intermediate schools did not have a formal child study team, so teachers addressed student needs informally with other school personnel. In Districts 2 and 3 grade level content teams bring their concerns to the school's child study team for additional problem solving to address a child's needs

In both districts, child study teams are the formal structures for discussing students' struggles and making referral decisions. In District 2, when the child study team finds it difficult to distinguish between second language development issues and learning disabilities, the team may consult with staff in the English language learner and special education departments. In District 3, when the child study team discusses a student who is an English language learner, the team consults guidelines developed collaboratively by the two departments for additional guidance.[14]

Supports and interventions. In District 1 resource room assistance is sometimes constrained by space shortages. Other formal interventions provided are READ 180 and extended ESL classes. District 2 offers literacy enhancement class as well as several formal intervention programs such as READ 180, Wilson Reading System,[15] and the Lindamood-Bell Learning Processes.[16] In addition, District 2 provides the English Language Learning Instructional Software (ELLIS)[17] program designed for students who are English language learners as well as for students in the Students

with Interrupted Formal Education program. District 3 provides an ESL afterschool academy, has a Students with Interrupted Formal Education program, and uses Spector Phonics[18] as an intervention program.

At the time of the study, District 2 was halfway through a three-year response to intervention pilot, implemented before it was mandated statewide.[19] District 2 had started to build district and school capacity to provide interventions and program options to all struggling students that were previously available solely to students with individualized education programs. At the time of data collection, teachers were using a variety of interventions with students who are English language learners, and district officials were searching for more (see table 1). Additionally, the district has started to provide training to school personnel in a variety of research-based programs. Finally, the district has been encouraging school personnel to take a problem-solving approach to each student's case and to exhaust all school support systems before suspecting a disability.

At the time of the study, District 1 officials were just getting familiarized with the state's response to intervention initiative. District 3 was in the early stages of implementation. Response to intervention was being rolled out in K–6 schools, and the leadership teams in the middle schools had received an introduction to the initiative. One district official said that some of the response to intervention strategies were already in place, such as providing a variety of interventions to students before formally referring them for special education evaluations.

Differences exist among the three districts in the referral processes for students who are English language learners in initiating the referral, collecting student information, and sharing information between the English language learner and special education departments

Monitoring of student progress in interventions. Although the three districts follow up with all students who receive supports and interventions, the approaches to monitoring student progress differ. In District 1 each teacher monitors the supports and interventions for students, and follow-up decisions are made through informal communication between teachers and a guidance counselor, the education evaluator, or the principal. In District 2 the child study team is in charge of monitoring student progress and establishing how long students receive an intervention. Implementation of response to intervention has provided formalized channels for monitoring interventions. A few months before the interviews for this study, District 2 launched an online data system to document student progress. Student scores on a monthly reading test are entered into the program, which graphs the results to show students' progress. Teachers document all interventions in their classrooms. In District 3, as in District 2, the child study team determines how long a student receives an intervention. However, progress monitoring occurs informally between teachers and the guidance counselor; if needed, the guidance counselor reconvenes the child study team to discuss further supports.

Formal referral for special education services

Analysis of the district and school interview data and documents shows that the three districts follow the same formal referral processes, with minor variations.

Similarities among the referral processes in the three districts. In all three districts the formal referral process for a special education evaluation, including for students who are English language learners, can be initiated by the school or by parents or legal guardians (even without prereferral). After parents sign the consent form, the districts obtain the full case history and administer evaluations that target exhibited difficulties within the 30 days required by IDEA 2004. Obtaining appropriate information on students who are English language learners was a challenge in all three districts (see next section on challenges).

Following the evaluation, an interdisciplinary team from the English language learner and special education departments convenes the

TABLE 2

Differences in the referral processes among the three New York State school districts, 2008

Process	District 1	District 2	District 3
Initiating referral	• By schools' administrators • In some cases, teachers encourage parents to initiate referral	• Through schools' child study teams in consultation with parents	• Through schools' child study teams in consultation with parents
Collecting student information	• Most information collected during the 30-day referral period • District works with outside agencies to provide appropriate evaluations (no details provided)	• Most information collected by child study teams • District provides valid and reliable evaluations in Spanish • Evaluations are not available in other foreign languages	• Most information collected by child study teams • District provides valid and reliable evaluations in Spanish • Evaluations are not available in other foreign languages • District has an evaluator who works with Haitian-Creole students
Sharing information between the English language learner and special education departments	• Departments begin their communication and sharing of information during the referral process	• Departments begin communication in the prereferral process	• Departments begin communication in the prereferral process

Source: Compiled by authors from interviews and documents provided by interviewees.

Committee on Special Education to assess the case. The committee consists of a chairperson, the student's parents and teacher, a special education teacher, a psychologist, and the guidance counselor, with other personnel invited as necessary. For students who are English language learners, one or more staff representing the district English language learner department or school bilingual personnel are included, as well as translators when needed. The committee makes the referral decision with the information available, taking into consideration elements unique to this population of students, such as time in country, experience of interrupted formal schooling, and English language instruction received. Students found to qualify for special education receive an individualized education program and the services established in the program.[20]

Differences among referral processes in the three districts. Analysis of the interviews suggests that some differences exist in the referral processes for students who are English language learners in initiating the referral, collecting student information, and sharing information between the English language learner and special education departments (table 2).

Initiating the referral. In Districts 2 and 3, referrals come from the child study team, in consultation with parents, after the team finds sufficient evidence that learning issues are not a direct result of the child's limited English proficiency. In District 1 school administrators usually initiate the referral process, but occasionally teachers encourage parents to initiate the referral if they think a student's needs are not being met in a timely fashion.

Collecting student information. In Districts 2 and 3 most of the information on students who are English language learners has already been collected by the schools' child study teams during the prereferral period, while in District 1 most of the information is collected during the 30-day referral period. All three districts have reliable and valid evaluations available in Spanish as well as English but not in other foreign languages. District 3 has an evaluator who works with Haitian-Creole

students. District 1 personnel work with outside agencies to provide appropriate evaluations.

Sharing information between the English language learner and special education departments. In Districts 2 and 3 the English language learner and special education departments collect and share student information with the schools' child study teams and brainstorm ideas about the student's struggle before referral for special education evaluation. In District 1, in contrast, the referral process marks the first time that personnel from the two departments discuss the case with each other.

WHAT CHALLENGES DO DISTRICT AND SCHOOL PERSONNEL FIND IN IDENTIFYING LEARNING DISABILITIES AMONG STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS?

Analysis of interview data revealed eight challenges encountered by district administrators and middle school personnel in identifying learning disabilities among English language learners: difficulties with policy guidelines; different stakeholder views about timing for referral of students who are English language learners; insufficient knowledge among personnel involved in identification; difficulties providing consistent, adequate services to students who are English language learners; lack of collaborative structures in prereferral; lack of access to assessments that differentiate between second language development and learning disabilities; lack of consistent monitoring for struggling students who are English language learners; and difficulty obtaining students' previous school records (table 3). In all three districts all challenges except lack of collaborative structures in prereferral were identified by interview respondents; lack of collaborative structures in prereferral was identified in Districts 1 and 3.

District personnel said that the unclear policy guidelines from the state make it difficult to provide adequate guidelines to school personnel on referral processes and criteria for identifying learning disabilities among students who are English language learners

1. Difficulties with policy guidelines

District and school personnel described difficulties with the policy guidelines about students who are English language learners and who might have learning disabilities. District personnel said that the unclear policy guidelines from the state make it difficult to provide adequate guidelines to school personnel on referral processes and criteria for identifying learning disabilities among students who are English language learners. School personnel mentioned that the rigid district criteria for referring students who are English language learners do not allow for case by case determination and might be detrimental to some students.

Lack of clarity in state policy guidelines. One district-level respondent in each district mentioned a general lack of clarity in state guidelines for procedures and in the determination criteria for identifying learning disabilities among students who are English language learners. Current state guidelines for students who are English language learners and students with disabilities are in separate documents. The documents provide information about what procedures to follow when a disability is suspected in a student and ways to work with students who are English language learners. However, district respondents said that the guidelines provide less information about students who may qualify under both categories or about how to differentiate between a learning disability and second language development. Respondents had difficulty finding the information in these documents and developing systems to help school personnel establish prereferral and referral processes and differentiate a learning disability from second language development. District respondents mentioned that they struggle with providing guidance on how much formal English instruction in the United States a student must have before being considered for special education evaluation and about how to deal with students who have had interrupted formal schooling.

TABLE 3

Challenges encountered during prereferral and referral by district administrators and school personnel in the three New York State districts, 2008

Challenges in prereferral and referral	District 1 personnel (n = 2 district, 8 school)		District 2 personnel (n = 4 district, 8 school)		District 3 personnel (n = 3 district, 13 school)	
	District	School	District	School	District	School
1. Difficulties with policy guidelines						
• Lack of clarity in state policy guidelines	1	0	1	0	1	0
• Rigid criteria for determining eligibility for special education evaluation for students who are English language learners	0	3	0	4	0	12
• Cannot refer if student has been in the country less than 1–3 years	0	3	0	3	0	7
• Cannot refer if student has had interrupted formal schooling	0	0	0	1	0	4
• Cannot refer if student is receiving English as a second language services	0	0	0	3	0	7
2. Different stakeholder views about timing for referral of students who are English language learners						
• School personnel refer students who are English language learners for special education evaluation too soon	1	0	2	0	2	0
• District personnel delay identification of learning disabilities in students who are English language learners	0	2	0	5	0	11
3. Insufficient knowledge among personnel involved in identification						
• Second language development	1	1	2	4	1	7
• Disabilities (including learning disabilities)	0	0	3	0	0	2
• Intersection of learning disabilities and second language development	0	2	1	3	2	4
• Cultural background of students who are English language learners	1	1	0	2	1	0
4. Difficulties providing consistent, adequate services to students who are English language learners						
• Lack of effective instruction, interventions, and support services	1	6	3	6	1	6
• Lack of services after identification	0	1	0	1	1	5
5. Lack of collaborative structures in prereferral						
• No structured, school-based prereferral	2	3	0	0	0	0
• Departments have different priorities and perspectives	0	0	0	0	1	5
6. Lack of access to assessments that differentiate between second language development and learning disabilities						
• Lack of assessments in languages other than English and Spanish	2	0	3	2	2	3
• Lack of assessments that effectively differentiate second language development and learning disabilities	1	1	4	2	2	5
7. Lack of consistent monitoring for struggling students who are English language learners	0	1	0	6	0	2
8. Difficulty obtaining students' previous school records	2	3	3	3	0	3

Note: Table shows the number of district or school respondents who mentioned the challenge. School personnel included administrators, support personnel, specialist teachers, and general classroom teachers.

Source: Compiled by authors from analysis of interviews.

District personnel in the three districts described teachers wanting to refer students who are English language learners to special education too quickly, while school personnel believed that district administrators delayed identification too long

Rigid criteria for determining eligibility for special education evaluation for students who are English language learners. School personnel in the three districts (3 of 8 in District 1, 4 of 8 in District 2, and 12 of 13 in District 3) mentioned that their district administration had identified criteria for determining whether a student who is an English language learner is eligible for special education referral but that the criteria are too rigid and do not allow for a case by case analysis of students' struggles. For some students this rigidity could result in delayed identification of a learning disability. An English language learner student with one or more of the following criteria cannot be referred for special education evaluation: being in the country less than 1–3 years (the amount of time varied by district; mentioned by three respondents in District 1, three in District 2, and seven in District 3); having had interrupted formal schooling (one respondent in District 2 and four in District 3); and receiving ESL services (three respondents in District 2 and seven in District 3). The school personnel acknowledged the importance of the criteria in evaluating students but believed that the presence of one or more of the criteria should not be a reason to deny a referral. School personnel would like each student to be evaluated on a case by case basis.

2. Different stakeholder views about timing for referral of students who are English language learners

District and school personnel in the three districts said that they found it challenging when other stakeholder groups had different views about timing for referrals for students who are English language learners. District personnel described teachers wanting to refer students who are English language learners to special education too quickly, while school personnel believed that district administrators delayed identification too long.

School personnel refer students who are English language learners to special education too soon. According to district staff in the three districts (one of two in District 1, two of four in District 2, and two of three in District 3), teachers jump too quickly to recommend identification of a learning disability in students who are English language learners, rather than brainstorming other ways to meet the students' needs. Respondents mentioned that when their district's Committee on Special Education evaluates students who are English language learners, it often finds that the school has not provided sufficient evidence that supports and interventions have been insufficient. The two district respondents in District 3 also mentioned that teachers feel frustrated when the results of the yearly state assessment (mandated by the federal government for all students after their first year in the country) show a lack of progress and that teachers look to special education services for these students rather than modifying their instruction or asking for more school-level supports.

District respondents in Districts 2 and 3 (two in each district) said that despite school frustration that so few students who are English language learners are diagnosed with learning disabilities, district administrators can classify a student only if they have sufficient evidence, including appropriate assessments, from the schools. In part because their districts have a history of overidentifying students who are English language learners as having learning disabilities, the officials are more careful than in past years in making determinations. Seven years ago District 2 hired a consultant to provide training to people services office staff on the differences between second language development and learning disabilities, and more recently the district provided more resources to schools to support struggling students, including response to intervention–type initiatives. District respondents said that these steps have improved services for students who are English language learners and reduced referral rates.

District personnel delay identification of learning disabilities in students who are English language learners. According to school personnel in all

three districts (2 in District 1, 5 in District 2, and 11 in District 3), district personnel commonly rule out an evaluation for special education, instead attributing a student's struggle to issues of second language development. School personnel consider that in some cases students' academic struggles go beyond their lack of second language development and require concurrent special education services and second language development support. Five school personnel in District 2 and two in District 3 commented that school personnel are aware of their districts' history of overidentifying students who are English language learners as having disabilities and are very careful in their referrals. When they refer a student for special education evaluation, they are confident that the case merits evaluation, and these respondents felt that interpreting the referred students' struggles as lack of exposure to English reflects a lack of respect for their professional judgment. These school personnel worried that some students who are English language learners and also have learning disabilities are not being identified and that the lack of appropriate placement and support is detrimental.

3. Insufficient knowledge among personnel involved in identification

In all three districts insufficient professional knowledge of second language development, learning disabilities and their intersection and of differences in students' cultural backgrounds was cited as a challenge in the identification of disabilities among students who are English language learners by both district and school personnel. Some key personnel involved in identification have inadequate or inconsistent knowledge of second language development (according to two people in District 1, six in District 2, and eight in District 3); of disabilities, including learning disabilities (noted by three respondents in District 2 and two in District 3); or of their intersection (two respondents in District 1, four in District 2, and six in District 3). These respondents said that identification is impeded by inadequate professional knowledge in all these areas. They commented that difficulties that are part of the process of learning a second language often resemble learning disabilities, and personnel without adequate knowledge of learning disabilities and second language acquisition might incorrectly attribute students' academic struggles.

Another challenge to identification is insufficient knowledge of students' cultural backgrounds. Two respondents in Districts 1 and 2 and one in District 3 said that some key personnel have insufficient knowledge of the cultural background of students who are English language learners, making it difficult to differentiate cultural behaviors from behaviors that could signal insufficient second language development or learning disabilities. For example, teachers who do not know that Spanish speakers have difficulties pronouncing the *th* sound might think it is a sign of a language disorder rather than a second language development issue that could be addressed in the classroom.

4. Difficulties providing consistent, adequate services to students who are English language learners

In all three districts respondents mentioned that providing consistent and adequate services to students who are English language learners is a challenge affecting the identification process for two reasons. First, school personnel have difficulty demonstrating that struggling students who are English language learners have received effective instruction, services, and interventions tailored to their needs. This is important because school personnel wanting to refer students for special education evaluation must be able to provide evidence that a student's failure to achieve is not due to inadequate instruction or lack of intervention. Second, the lack of available services for dually identified students

In all three districts insufficient professional knowledge of second language development, learning disabilities and their intersection and of differences in students' cultural backgrounds was cited as a challenge in the identification of disabilities among students who are English language learners by both district and school personnel

in middle schools discourages referrals for special education evaluation.

Lack of effective instruction, interventions, and support services. Despite efforts to provide resources to struggling students who are English language learners both before and during prereferral, middle schools find it difficult to provide these students with effective instruction and services (mentioned by seven respondents in District 1, nine in District 2, and seven in District 3). These respondents said that schools lack qualified personnel, do not have appropriate professional development (challenge 3), have large class sizes, and are not adequately informed about research-based scientific interventions for students who are English language learners. With all these issues, respondents noted that it was a challenge to determine whether a student's difficulties were due to a learning disability, to ineffective instructional practices, or to lack of appropriate interventions.

Lack of services after identification. Schools may not always have specific services available for students who are English language learners and who have been identified as having learning disabilities. Respondents said that districts have to deal with budget concerns when servicing a small number of students, particularly those needing a bilingual special education classroom or a special education classroom with a teacher who can also provide second language instruction. Because the Committee on Special Education evaluates each case not only on its educational merits but also on the district's ability to provide services for identified students, the lack of available services contributes to decisions not to identify learning disabilities among students who are English language learners. School personnel get discouraged about referring students who are English language learners for special education evaluation knowing that there are no services available for dually identified students and that the Committee on Special Education will likely fail to identify them as having learning disabilities (mentioned by one respondent in District 1, one in District 2, and six in District 3).

Neither district nor school personnel in the three districts have access to assessments in languages other than English or Spanish or to assessments that differentiate between second language development and learning disabilities

5. Lack of collaborative structures in prereferral

Personnel in Districts 1 and 3 struggle with a lack of collaborative structures in the prereferral process. In District 1 the issues focus on the lack of structured school-based prereferral processes, while in District 3 the lack of collaborative structures is found at the district level, with sometimes conflicting priorities and perspectives between the English language learner and special education departments.

No structured school-based prereferral. District 1 has worked to implement a prereferral structure for all struggling students, including students who are English language learners (mentioned by five respondents). Respondents noted that District 1's middle schools did not have child study teams during the period covered by this study because of teacher contracts, which impeded the entire prereferral process. With only a handful of school personnel—instead of a formal child study team that included all teachers working with a student—there is limited capacity to address student needs and to collect evidence about student responses to intervention. The district also faces challenges in communication between the English language learner and the special education departments. District 1's English language learner department gets involved only at the referral stage, whereas in the other districts both departments collaborate in prereferral.

Departments have different priorities and perspectives. As the findings for the first research question on district identification processes show, district personnel in District 3 mentioned positive communication and collaboration between the English language learner and special education departments. But one district and five school personnel noted tensions between the perspectives of the two departments because the special education department has greater decisionmaking authority than

the English language learner department. Special education is a separate office with its own director, while the English language learner supervisor reports to the director of the curriculum and instruction office. These respondents mentioned that final decisions about students who are English language learners and who might have learning disabilities seem to rest with the special education department and do not always take into account the expertise and judgments of the English language learner supervisor. Two school personnel said that a common intervention for struggling students who are English language learners is to keep them in beginner ESL classes, thus sparing special education resources.

6. Lack of access to assessments that differentiate between second language development and learning disabilities

Neither district nor school personnel in the three districts have access to assessments in languages other than English or Spanish or to assessments that differentiate between second language development and learning disabilities. That creates a challenge in identifying students who are English language learners and who might have learning disabilities.

Lack of assessments in languages other than English and Spanish. Given that students who are English language learners struggle with English, tests in English are not a valid measure of their proficiency. The three districts struggle to find valid assessments in languages other than English (mentioned by two respondents in District 1, five in District 2, and five in District 3). In some cases respondents noted that native language assessments could help distinguish a language processing disorder from second language development, but not always. Although districts have access to valid assessments for Spanish speakers that have been normed for the Spanish-speaking population in the United States, respondents noted that the assessments are not always valid for recent immigrants or for students who have not received academic instruction in Spanish. These respondents mentioned that tests are not available in other languages and that it is particularly difficult for school personnel to differentiate between learning disabilities and second language development for students who speak foreign languages other than Spanish.

According to some school personnel, the districts do not have a structured and consistent system for providing middle schools with detailed elementary school academic histories of struggling students who are English language learners

Lack of assessments that effectively differentiate second language development and learning disabilities. Personnel in the three districts have not found a battery of tests to differentiate learning disabilities from second language development. Assessments rarely account for the complex individual characteristics of students who may have disabilities (mentioned by two respondents in District 1, six in District 2, and seven in District 3). Because each English language learner student has unique background characteristics (such as number of years in the U.S. school system, number of years of uninterrupted formal schooling, exposure to English in and out of school, and exposure to academic English), respondents mentioned that it can be difficult for any assessment or battery of assessments to effectively differentiate language development from disabilities.

7. Lack of consistent monitoring for struggling students who are English language learners

According to some school personnel, the districts do not have a structured and consistent system for providing middle schools with detailed elementary school academic histories of struggling students who are English language learners, including any learning issues noted by previous teachers, any supports or interventions provided, and notes from elementary school child study teams (noted by one school respondent in District 1, six in District 2, and two in District 3). School personnel said that although student records follow students to middle school, they do not provide detailed information equivalent to student individualized

Personnel in all three districts noted difficulties obtaining student records, particularly from schools outside the United States, that could be vital for demonstrating whether a disability might be a factor in a student's struggle in school

education programs and that this lack of consistent monitoring results in the loss of valuable information and unnecessary delays in the identification process in middle schools. These respondents noted that prereferral processes of struggling students who are English language learners are restarted each year, lengthening the identification process, and that it is possible that struggling students who are English language learners can leave middle school without the identification process being completed. And since the lack of consistent monitoring noted between elementary and middle schools is also reported between middle and high schools, school personnel worry that struggling students who are English language learners get lost in the system.

8. Difficulty obtaining students' previous school records

Personnel in all three districts noted difficulties obtaining student records, particularly from schools outside the United States. The information provided by records, such as the consistency of the child's formal education or previous identification of a disability, can be vital for demonstrating whether a disability might be a contributing factor to a student's struggle in school (mentioned by five respondents in District 1, six in District 2, and three school personnel in District 3). Students sometimes do not bring transcripts from other countries, and parents may be hesitant to provide information about previous school placement or health concerns. These respondents felt that the prereferral process could be shortened if administrators had documentation showing a history of learning issues or previous special education placement.

DISCUSSION OF FINDINGS

This study portrays the processes used to identify learning disabilities among students who are English language learners in three districts in New York State and the challenges facing district and school personnel in this process. The three districts follow a similar prereferral process for identifying learning disabilities among students who are English language learners. The process is typically longer for students who are English language learners than for native English speakers, to ensure sufficient time for students to develop English language skills and for educators to differentiate between language development issues and disabilities.

The three districts incorporate elements of best practices in prereferral, including appropriate instruction in the general education setting, informal and formal consultation processes for classroom teachers, early interventions for struggling learners, and processes for teachers to analyze the results of the early interventions and consider next steps (Baca and Cervantes 1998; Ortiz 2002; Ortiz and Yates 2001). The districts' prereferral processes vary in four areas: general staff organization for planning and problem solving, child study team staffing and roles, interventions and supports, and monitoring of students' progress during interventions. Despite these variations in prereferral practices, referral processes are similar across districts, in great part because of the legal mandates prescribed in IDEA 2004. Minor variations among the districts were encountered in three areas: initiating referral, collecting student information, and sharing information between the English language learner and special education departments.

District and school personnel in the three districts struggle with eight similar challenges at each phase in the identification of learning disabilities among students who are English language learners. Personnel find it difficult to comply with the IDEA 2004 mandate to demonstrate that student learning difficulties are not due primarily to a lack of scientifically based instructional practices and programs, a lack of appropriate instruction, or limited English proficiency. Research shows that these struggles are not unique to these three districts or to specific types of personnel (such

as school and district personnel). Educators are concerned about both over- and underidentifying learning disabilities among students who are English language learners (Artiles et al. 2005; Warger and Burnette 2000).

Although the eight challenges identified are presented separately in this report, they are interrelated. For example, district and school respondents described challenges when stakeholders have different views about the timing for referral of students who are English language learners (challenge 2). Frustration and tension between groups is exacerbated when district and school personnel lack sufficient knowledge of second language development, learning disabilities, and students' cultural backgrounds (challenge 4) or when they struggle with policy guidelines (challenge 1).

Analysis of district differences in the prereferral and referral processes and of the challenges districts and schools face suggests five interrelated elements that appear to be important for avoiding misidentification of students who are English language learners in the prereferral and referral processes: adequate professional knowledge, effective instructional practices, effective and valid assessments and interventions, interdepartmental collaborative structures, and clear policy guidelines. The literature on challenges to identifying learning disabilities among students who are English language learners (see appendix B) highlights the importance of the first three elements. The importance of collaborative structures between general education and special education in monolingual settings, at both district and school levels, has been studied and discussed for many years (Dieker and Murawski 2003; Friend and Cook 1996; Pugach and Johnson 1995; Weiss and Lloyd 2002). However, with the exception of the work of researchers such as Alba Ortiz (2002), little has been written about collaborative structures and practices between English language learner and special education departments, and much of what has been written has identified inequities in practice (for example, Klingner and Harry 2006). The need for clear policy guidelines has not been specifically identified in the literature on students who are English language learners, although the general literature on special education stresses school and district needs for guidance in developing their own eligibility determination for special education (Artiles and Ortiz 2002; MacMillan and Siperstein 2002; Ortiz and Graves 2001; Wilkinson et al. 2006).

Adequate professional knowledge

Educators need access to all available information on second language development and learning disabilities not only to effectively implement prereferral and referral processes but also to provide appropriate classroom instruction (Artiles and Ortiz 2002; Baca, Fletcher, and Hoover 2008; Kushner and Ortiz 2000; Orozco et al. 2008; Wang and Reynolds 1994; Zehler et al. 2003). The three districts studied in this project struggle with insufficient knowledge of second language development, learning disabilities, and their intersection, as well as students' cultural backgrounds. Although all three districts, especially District 2, have tried to build their capacity in second language development and pedagogy, more training is still needed. These findings are in line with research suggesting that educators do not have adequate knowledge about the education needs of struggling students who are English language learners (Artiles and Ortiz 2002; Kushner and Ortiz 2000; Orozco et al. 2008; Zehler et al. 2003). However, researchers are still learning what constitutes the range of language development patterns for students who are learning English as a second language compared with that of students who have learning disabilities (Klingner, Artiles, and Barletta 2006).

Five interrelated elements appear to be important for avoiding misidentification of students who are English language learners: adequate professional knowledge, effective instructional practices, effective and valid assessments and interventions, interdepartmental collaborative structures, and clear policy guidelines

This study illustrates that the three districts struggle to provide instruction and support services that meet the needs of students who are English language learners before and during the prereferral process and have difficulties providing services for dually identified students

Effective instructional practices

Meeting the instructional needs of students who are English language learners in the general education setting, including their second language development needs, is a critical first step in determining whether a student's academic struggle is due primarily to a disability or to inadequate instruction (Gersten and Baker 2000; Ruiz 1995b; Zehler et al. 2003). How classroom instruction is provided influences student learning and performance (Arreaga-Mayer and Perdomo-Rivera 1996), and omission of the classroom context has an impact on referral decisions (Harry et al. 2002). Consequently, IDEA 2004 requires educators to demonstrate that a student's learning difficulties are not due primarily to a lack of adequate instruction before referring the student to special education services.

This study illustrates that the three districts struggle to provide instruction and support services that meet the needs of students who are English language learners before and during the prereferral process and have difficulties providing services for dually identified students. School personnel in the three districts are challenged to demonstrate decisively to their committees on special education that students who are English language learners have received robust instruction and that their difficulties go beyond second language development. Where appropriate evidence is lacking, the committee is forced to reject the identification of disabilities, causing tension between district and school personnel. Each group believes that the other is not appropriately evaluating students' needs.

Effective instruction is also closely related to the need for adequate professional knowledge because knowledge of effective strategies for differentiating instruction for students learning English is critical to meeting their instructional needs.

Effective and valid assessments and interventions

Some students who are English language learners are misidentified as having learning disabilities because of inadequate assessment tools and practices (Artiles et al. 2005; Garcia and Ortiz 2006; Klingner et al. 2008; Klingner et al. 2005; Rueda and Windmueller 2006). Assessment tools for evaluating learning disabilities among students who are English language learners are still in development (Abedi 2006; Baca et al. 2008, Skiba, Knesting, and Bush 2002). In addition, there is a lack of research-based instructional interventions specifically for students who are English language learners (Figueroa 2005; Garcia and Ortiz 2006; Klingner and Artiles 2003; Wilkinson et al. 2006). All three districts struggle with this lack of valid assessment tools and adequate interventions. Although the districts had some form of intervention in place for struggling students, more effective intervention strategies and assessments are needed that can help educators determine whether difficulties for students who are English language learners result from a learning disability or a lack of appropriate instruction or interventions.

Without valid assessment tools that take into consideration students' literacy in their native language, educators lack the objective information to determine the nature of students' struggles.

Interdepartmental collaborative structures

There has been little research on collaborative structures and coordination between special education staff and English language learner personnel to support the identification of learning disabilities among students who are English language learners (Garcia and Ortiz 2006; Zehler et al. 2003). What research there is focuses on monolingual settings, with scholars discussing the role of collaborative consultation (Coben et al. 1997), collaborative problem solving (Pugach and Johnson 1995; Vaughn, Bos, and Schumm 1997), and coteaching (Friend and Cook 1991, 1996). Other research, also in monolingual contexts, has shown that district collaboration shapes how

schools use resources (Fullan and Hargreaves 1996; Hargreaves and Fullan 1998; Leonard and Leonard 2003; National Commission on Teaching and America's Future 2007; Shannon and Bylsma 2004). Research has also noted the role of school and district culture in meeting the diverse needs of students from culturally and linguistically diverse backgrounds, as well as those with disabilities (August and Hakuta 1997; Kushner and Ortiz 2000; Paulsen 2008).

This project provides examples of three ways that school districts organize their English language learner and special education departments and the schoolwide collaborative structures that are available to problem solve the issues of struggling students who are English language learners. Although district departmental collaboration occurs in all three districts in this study, District 2 is more intentional and active in its efforts. The English language learner and special education departments collaborate early in the prereferral process by coordinating service provision, developing guidelines for prereferral and referral, pooling resources and information, and encouraging interdepartmental meetings at district and school levels. They also provide professional development on second language development and special education to all middle school staff. In District 3 the English language learner and special education departments also communicate and collaborate on developing guidelines for students who are English language learners and who might have learning disabilities, but there are tensions between the perspectives and priorities of the two departments. In District 1 the two departments work together only at the referral stage.

At the school level, access to problem-solving and collaborative support, as recommended by Garcia and Ortiz (2004), varies. District 1 has struggled to develop a collaborative prereferral process to help school personnel in problem solving and intervention planning. In District 2, grade-level content teams and child study teams are staffed with experts on second language development and learning disabilities, but the district struggles to consistently monitor and share prereferral information for students who are English language learners across elementary, middle, and high schools. District 3 also has grade-level content teams, and the child study teams include personnel with second language acquisition expertise, but there is little evidence of consistent district-school or within-school collaboration between the English language learner and special education departments.

There has been little research on collaborative structures and coordination between special education staff and English language learner personnel to support the identification of learning disabilities among students who are English language learners

Formalized collaborative structures between English language learner and special education departments may help address several of the challenges facing the three districts in the prereferral and referral processes in the areas of effective instruction and intervention (challenge 4), personnel knowledge of second language development and learning disabilities (challenge 3), and monitoring (challenge 7). Such structures, found in District 2 and on a more limited scale in District 3, help to provide supports to schools and to ensure that child study teams include personnel with relevant expertise. A lack of collaborative systems presents challenges in developing prereferral systems and decisionmaking about learning disabilities in students who are English language learners (challenge 5).

Clear policy guidelines

This study suggests that an important element in identifying learning disabilities among students who are English language learners is clear state policy guidance to districts on determining eligibility for special education for students who are English language learners, a finding also confirmed by research on special education (Artiles and Ortiz 2002; MacMillan and Siperstein 2002; Ortiz and Graves 2001; Wilkinson et al. 2006).

Schools would benefit from clear policy guidelines on the criteria to use in distinguishing a learning disability from second language development, clear processes to follow in prereferral and referral for students who are English language learners, and ways to define and develop collaborative structures between English language learner and special education personnel

Schools would benefit from clear policy guidelines on the criteria to use in distinguishing a learning disability from second language development, clear processes to follow in prereferral and referral for students who are English language learners, and ways to define and develop collaborative structures between English language learner and special education personnel. A lack of clarity in policies and guidelines may contribute to the differences in district and school personnel views on the timing of the referral process for students who are English language learners (challenge 2).

LIMITATIONS AND IMPLICATIONS FOR FURTHER RESEARCH

This qualitative study has several limitations that affect its generalizability to other school districts in New York State. First, the study looked only at three districts. Second, the three districts were self-selected from the eight eligible districts. Third, the three districts are all in suburban locales. Fourth, not all relevant personnel in each district were interviewed, so the views expressed may not be representative of the whole district. And fifth, more people were interviewed in District 3 (16) than in District 2 (12) and District 1 (10) because of availability and willingness to be interviewed. The strength of the evidence may therefore vary across districts.

The findings confirm recent research on the challenges in identifying disabilities among students who are English language learners and provide new evidence on the role of collaborative structures for English language learner and special education professionals, as well as the need for guidance on prereferral processes for students who are English language learners.

The findings raise several questions meriting more research. Further research could contribute to the development of research-based, scientific interventions for students who are English language learners and students in the early stages of identification of learning disabilities. Another area is the development of valid assessment tools to identify disabilities among students who are English language learners. In IDEA reauthorization hearings, the Senate Committee on Health, Education, Labor, and Pensions found that better intervention and assessment tools are needed, especially for students from culturally and linguistically diverse backgrounds who risk being wrongfully identified as having intrinsic intellectual limitations based on assessment results when the results really reflect lack of experience or educational opportunity (Individuals with Disabilities Education Act 2004).

Research could also expand the understanding of the role and impact of collaborative structures in districts and schools as professionals work to better meet the needs of linguistically diverse students. As states and districts work on building collaborative structures between their English language learner and special education departments, research could examine how districts with high levels of interdepartmental collaboration are organized and how this collaboration might contribute to meeting the needs of students who are English language learners and who might have learning disabilities.

Finally, research in New York State could take advantage of the concentration of resources in the Big Five districts as well as the findings from this study. The Big Five districts have benefited from technical assistance from state experts to improve the identification process for dual-identified students, and the lessons learned in those districts and the findings from this study could benefit smaller districts. A review of processes and guidelines could be shared with other districts throughout the state.

APPENDIX A
STUDY METHODS

The research questions focus on the processes used in New York State to identify students who are English language learners and who might have learning disabilities, along with the chal lenges of the current process, as described by stakeholders:

- According to district and school personnel in three midsize New York State districts, what processes are used to identify students who are English language learners and also have learning disabilities?
- What challenges do those district administra tors and school personnel describe about the process of identifying learning disabilities among students who are English language learners?

The study profiles three school districts, focusing on their middle schools and including stakehold ers from both the school and district levels. The following areas were explored within each district and school:

- Description of the population of students who are English language learners.
- Description of the organizational structure of the district-level English language learner and special education departments.
- Description of the processes for identifying students who are English language learners and also have learning disabilities.
- Challenges faced by various stakeholders in identifying students who are English language learners and also have learning disabilities, and the services provided.
- Instruction for students who are English language learners and also have learning disabilities.

Sample

The research team conducted purposive (non random) sampling, establishing specific criteria for selecting districts for profiling (O'Leary 2004). The team chose to look at midsize rather than large districts because experts from the state have been working closely with the large districts (the Big Five: New York City, Buffalo, Rochester, Syracuse, and Yonkers) to improve their identifica tion and instruction of students who are English language learners and who might have learning disabilities. The following criteria were used:

- Midsize districts (6,000–10,000 students).
- At least 10 percent of students are students who are English language learners, to include districts that work with the target population.
- At least 5 percent of students have disabilities, to include districts that work with the target population.

In addition to these three criteria, the research team also wanted to identify districts within varied geographic areas because of possible differences in the composition and financing of urban, suburban, and rural schools (Betts, Reuben, and Danenberg 2000), as well as districts that used the middle school structure rather than K–8. All districts that met the first criterion used a middle school struc ture; however, the three criteria identified only schools in suburban areas and small cities.

Using the report *New York: The State of Learning* (University of the State of New York 2006), the research team identified nine public school districts that fit the three criteria. The team col lected publicly available data on these districts from the National Center on Education Statistics (U.S. Department of Education 2006) and New York State district report cards (New York State Education Department 2006) to further identify salient characteristics, such as district and school demographics and grade levels. One of the initially identified districts was excluded because its school

report card was not publicly available (with annual performance data) at the time of recruitment. The remaining school districts were invited to partici pate in the study, and three consented.

Table A1 provides demographic data for the three participating districts, the districts that fit the criteria but did not participate in the study, and all other New York State districts except the Big Five. The data are presented as ranges to avoid identify ing the groups of districts.

Data sources

To answer the research questions, the research team triangulated data from the following sources:

- *Publicly available information.* This included districts' report cards, reports, guides, and regulations from the New York State Educa tion Department (NYSED) web site and infor mation available on districts' web sites.
- *Interviews.* Semistructured interviews were conducted with stakeholders at the district and school levels (see appendix C for inter view protocols). Interviews were conducted by two researchers during January–March 2008.

The research team was interested in interviewing key personnel in English language learner and special education units at both the district and school levels to include a wide range of stakehold ers in each district. At each middle school this included key personnel with different levels of responsibilities (administrators, support person nel, specialist teachers, and classroom teachers).

The research team created open-ended interview protocols for each of the five key categories of stakeholders to guide data collection:

- District administrators: directors (assistant directors or their equivalent) of the English language learner[21] and special education departments.
- School administrators: principals or assistant principals and chairpersons.
- School support personnel: guidance coun selors, psychologists, and special education supervisors.
- Specialist teachers: English as a second lan guage (ESL) teachers and special education teachers.
- Teachers: bilingual teachers and content teachers.

The number of interviewees per district and school varied (table A2). Ultimately, the participat ing districts decided who would be interviewed,

TABLE A1
Comparison of demographic information between participating, eligible, and all New York State districts (except the Big Five), 2005/06

Characteristic	Participating districts (n = 3)	Districts invited but not participating (n = 5)	All New York State districts (except Big Five)
Enrollment	6,000–10,000	6,000–9,000	Below 6,000 (641 districts) 6,000–10,000 (69 districts) Above 10,000 (40 districts)
Percentage of students who are English language learners	13–28	11–32	Less than 10 (719 districts) 10–38 (31 districts)
Percentage of students with disabilities	7–10	5–11	More than 5 (744 districts)

Source: Authors' analysis of data from U.S. Department of Education (2006) and New York State Education Department (2006).

depending on who was involved in the process and available during the school visit or afterwards.[22]

- *Supplemental documents.* Respondents from the districts and schools shared additional documentation that was not publicly available. The documentation included guidelines for prereferral and referral processes of students who are English language learners, an English language learner referral articulation form, and demographic information on students who are English language learners who are also receiving special education services.

Data collection methods

Data were collected in a two-step process. Data collection began in September 2007 and was completed in March 2008, as outlined below.

Collection of publicly available information on the processes used to identify students who are English language learners and who might have learning disabilities. The research team reviewed public documents found on the Internet, including district and NYSED web sites. This process served three purposes. First, team members learned more about the NYSED's regulations for students who are English language learners and students with disabilities, which helped them understand the policy documents available to school personnel involved in identifying students with disabilities. Second, the research team obtained publicly available demographic information for each profiled district. And third, the team identified key contacts to interview within each district.

Site visits in each district. Districts that agreed to participate in the project designated district-level contacts to serve as liaisons between the research team and the district and school principals. The research team mentioned its interest in scheduling a two- or three-day visit for face to face interviews with at least one stakeholder in each category. The liaisons coordinated the dates with the district and school officials and determined who would be interviewed. Two researchers visited each middle school and the district offices for two or three days between January and March 2008.[23] Most interviews were conducted in person, but a few personnel who were not available during the site visits and who expressed interest in participating in the study were interviewed later by telephone. With the participants' permission, all interviews, which took approximately 45 minutes each, were recorded and transcribed. A few participants shared documents about the identification process that they had received from the district or state.

TABLE A2
Number of interviewees by protocol used, January–March 2008

Interview protocol	District 1	District 2	District 3
District administrators	2	4	3
School administrators	2	3	4
School support personnel	1	1	5
Specialist teachers	2	3	2
Teachers	3	1	2
Total	10	12	16

Data analysis strategies

The analysis of the interview transcripts began with the creation of a preliminary code list based on a first set of interview transcripts gathered from District 1. To build a common coding system, the team coded a second and different set of interview transcripts from Districts 1 and 2. This information was used to modify the initial codes and to create a final set of codes.

To ensure uniform coding and reliability, only two researchers coded the data. They first coded the same transcript independently, discussed their coding, and clarified any discrepancies. Then, each researcher separately coded a second interview text and compared their coding item by item. Interrater reliability was high (Cohen's kappa of 0.82 and percentage agreement of 93 percent), so the final list of codes and code families was confirmed (see box A1 for the code book). Finally, the interview transcripts were entered into the

BOX A1

Final codes and code families

Administrative issues
- School level
- District level
- Structure
- Other

Demographics and background information
- District
- School
- Students who are English language learners
- Students who are English language who have learning disabilities
- Impact of changes
- Other

Prereferral to special education
- Process
- Staffing
- Indicators of learning disability
- Challenges in prereferral
- Intervention strategies
- Monitoring progress
- Other

Collaboration
- School level
- District level
- School-district
- Other

Programs
- Bilingual
- English as a second language
- Mainstream
- Sheltered English
- Special education
- Options
- Staffing
- Programming challenges
- Other

Referral to special education
- Process
- Staffing
- Evaluations
- Indicators of learning disability
- Challenges in referral
- Special education placement issues
- Monitoring
- Other

Philosophy of service provision
- Philosophy
- Perception of students who are English language learners
- Perception of families of students who are English language learners
- Other

Placement of students who are English language learners
- Monitoring progress
- Placement into programs of students who are English language learners
- Placement of students who are English language learners who also have learning disabilities
- Other

qualitative analysis software ATLAS.ti and distributed to the two researchers for coding.

After the coding, the research team developed a profile of each district based on the interviews. Information for each family code was synthesized thematically based on the key areas that guided the research:

- Description of the population of students who are English language learners.
- Description of the organizational structure of the district-level English language learner and special education departments.
- Description of the prereferral process for identifying students who are English language learners and also have learning disabilities.
- Challenges faced by various stakeholders in identifying students who are English language learners and also have learning disabilities, and the services provided.
- Instruction for students who are English language learners and also have learning disabilities.

Publicly available documents and documents provided by respondents were reviewed to obtain more complete information on the districts' processes for identifying students who are English language learners and who might have learning disabilities. Publicly available documents were collected before the interviews and provided information on the demographics and organization of the district and on the policy documents that provide guidance to school districts for the identification

process. Additional documents provided by respondents also were included in the document analysis. This systematic analysis allowed the researchers to build profiles for the three school districts.

The team reviewed all profiles, revised them based on comments from the team, and sent the revised profiles to respondents for validation. The team sent the entire profile for a district (with the district profile and both middle school profiles) to each district respondent, and the district profile and the respondent's school profile were sent to each school. Districts 1 and 2 responded to the re quest for feedback; in one district a district official responded independently, and in the other district a district official responded after consulting with the other personnel interviewed, so the official's feedback reflected colleagues' comments as well.

Profiles were again revised in light of the respon dents' comments. In the few cases where there were disagreements between elements of the profiles produced by the research team and the re spondents, the research team and the respondent discussed the reasons for the disagreements (by email and phone). Where disagreements focused on perceived inaccurate portrayals of the district organization structures or programs available for students, the disagreement was resolved after discussions with the respondent, and the profiles were revised. In one case a district respondent disagreed with the profile's portrayal of the school respondents' characterization of the identification process. Once the district respondent understood that the profile described the perceptions of the school respondents, which apparently differed from the district respondent's, the issue was resolved.

From the profiles the research team built matrices of each districts' prereferral and referral processes, showing similarities and differences among the districts and a preliminary list of challenges (de fined as anything that negatively affects teachers' and administrators' ability to accurately identify learning disabilities among students who are English language learners). Difficulties unrelated to the identification process were not considered a challenge for purposes of this study. The team discussed the preliminary list of challenges, orga nized the statements, and synthesized them into broader categories of challenges, returning to the data multiple times to ensure accurate representa tion of respondents' views. At the conclusion of this iterative process, the research team identified eight challenges that synthesized all the issues discussed by respondents.

The team built matrices with the number and position of respondents who mentioned each challenge. The matrices helped identify similari ties and differences among districts and between district and school personnel. The team then compared these findings with the literature and identified five interrelated elements that appear to be important for avoiding misidentification of dis abilities among students who are English language learners. The research team worked collaboratively on the report, exchanging feedback and insights. When needed, the team went back to the codes and interview transcripts to ensure that the five identified elements accurately represented the data.

Human subjects concerns

Because of the potential sensitivity of the informa tion collected on the processes used to identify students who are English language learners and who might have learning disabilities and on the challenges encountered in implementing these processes, the research team decided to keep the names of the profiled school districts and the respondents' positions confidential, so that partici pants would feel comfortable sharing their ideas. Confidentiality was stressed during the initial con tact with the districts and in the informed consent form. In compliance with Education Development Center's Institutional Review Board policy, the re search team informed respondents of their rights and responsibilities and asked each respondent to sign the informed consent form before participat ing in the project.

APPENDIX B
RESEARCH ON IDENTIFYING LEARNING DISABILITIES AMONG STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS

Researchers have identified issues related to the identification of disabilities among students who are English language learners that lead to a disproportionate number of these students being assigned to special education services. Some students who are English language learners are misdiagnosed as having a disability, including a learning disability, while others are not properly identified as having a disability and thus do not receive the special education services to which they are entitled (Chamberlain 2006; Warger and Burnette 2000). The literature identifies four challenges that contribute to disproportionate patterns in the identification of learning disabilities among students who are English language learners: professionals' knowledge of second language development and disabilities, instructional practices, intervention strategies, and assessment tools.

Professionals' knowledge of second language development and learning disabilities

Educators face an ongoing challenge in distinguishing a learning disability from the challenges of learning a second language (Klingner and Artiles 2006; Klingner and Harry 2006; Rueda and Windmueller 2006). When a student who is an English language learner fails to learn English at the expected pace, falls behind academically, or exhibits inappropriate behavior, educators must decide whether this is caused by a learning disability or by difficulty in developing second language skills (Gopaul-McNicol and Thomas-Presswood 1998; Orozco et al. 2008). However, the process of acquiring a second language varies from child to child, and difficulties with language acquisition often appear similar to learning disabilities (Case and Taylor 2005). Teachers observing language acquisition in a student who is an English language learner can confuse the symptoms of learning disabilities with the patterns of pronunciation development (Lue 2001; Piper 2003), development of syntax (Gopaul-McNicol and Thomas-Presswood 1998; Kuder 2003), or semantic development (Mercel 1987) in a second language learner.

Research has also pointed out the different timelines for learning social and academic language. On average it can take up to three years for a second language learner to learn basic interpersonal communication skills (Cummins 1979) and five to seven years to acquire the cognitive academic language proficiency necessary for academic success in school (August and Hakuta 1997; Cummins 1979, 2000; Hakuta 2001; Hakuta, Butler, and Witt 2000). Because of the longer time required to acquire cognitive academic language proficiency, educators may incorrectly identify delays as a learning disability rather than a language development issue (Cummins 1984; Ortiz 1997; Ruiz 1995a).

Research suggests that most teachers, especially general and special education teachers, do not have adequate knowledge of the education needs of students from culturally and linguistically diverse backgrounds (Artiles and Ortiz 2002; Kushner and Ortiz 2000; Zehler et al. 2003). Artiles and Ortiz (2002) suggest that to prevent academic failure of students who are English language learners, all teachers should be trained in second language development as well as its relationship to native language. Researchers posit that professional development activities are essential to building a common knowledge and philosophy in all teachers involved in educating students who are English language learners (Artiles and Ortiz 2002; Wang and Reynolds 1994; Wong-Fillmore and Snow 2000).

Instructional practices

Although the Individuals with Disabilities Act of 2004 requires that all students receive research-based, effective instruction in reading and math in the general education setting before special education is considered, students who are English language learners and who might have learning disabilities might receive ineffective instruction or

be placed in inappropriate learning environments (Cummins 1984; Ortiz 1997; Ruiz 1995a). Gersten and Baker (2000) suggest that students who are English language learners do not receive effective content instruction in math and reading from general education teachers. Ineffective teaching can confound the already difficult process of differentiating a learning disability from a language development issue. Many students who are English language learners receive education services in monolingual, mainstream classes from teachers who have not had training in English as a second language or in special education methods (Zehler et al. 2003). Often when students are referred for special education, the general educator is asked for input on the referral, but rarely are the programs or classrooms in which students are experiencing failures investigated (Ruiz 1995a).

Intervention strategies

Recent research also indicates that students who are English language learners and who are struggling academically do not always receive the most appropriate interventions to meet their needs (Figueroa 2005; Garcia and Ortiz 2006; Klingner and Artiles 2003; Klingner and Edwards 2006; Wilkinson et al. 2006). The study of research-based interventions for students who are English language learners is still relatively new, and there is a dearth of knowledge about the most effective interventions (Artiles and Klingner 2006; Linan-Thompson et al. 2005). Teachers do not have access to information about new interventions to address the needs of students who are English language learners before moving to the next stage of referral to special education services (Fletcher, Bos, and Johnson 1999; Ortiz 1997). Thus, if prereferral interventions are not effective, it may be because the types of interventions do not meet the unique learning and linguistic needs of students who are English language learners, rather than because the students have a learning disability (Ortiz 1997; Ortiz and Wilkinson 1991; Wilkinson et al. 2006). This lack of appropriate interventions leads to some students who are English language learners being incorrectly placed in disability services, where they are less likely to receive extensive English language learner services (Zehler et al. 2003). Others are never identified for special education services (Artiles et al. 2002).

Assessment tools

Some students who are English language learners are misidentified as having—or not having—a disability because of inadequate assessment tools and practices (Artiles et al. 2005; Garcia and Ortiz 2006; Klingner et al. 2008; Klingner et al. 2005; Rueda and Windmueller 2006). Researchers have found that because of the complex linguistic structures of test items in assessment tools used to identify students with disabilities, students who are English language learners are often not accurately assessed, a psychometric bias that can result in over- or underdiagnosis (Abedi 2006; Skiba, Knesting, and Bush 2002). Adding to the complexity, the assessments used in disability identification procedures can be highly dependent on subjective judgments of the evaluator (Harry et al. 2002). Even when bilingual assessments are administered as a diagnostic tool to identify disabilities, the outcome depends on both the qualifications of the evaluators and the psychometric properties of the instruments (Klingner et al. 2008; Ortiz and Graves 2001).

APPENDIX C
INTERVIEW PROTOCOLS

This appendix includes interview protocols for district administrators and school administrators, support personnel, specialist teachers, and classroom teachers.

District administrator interview protocol: special education, English language learner, and curriculum directors and assistant directors (or equivalent)

English language learners (ELLs)[24] in your district

1. Please describe the ELLs population in your district.
   - Languages
   - Educational background
   - Years in the U.S.

Prereferral process

1. Think about ELLs in your district; how does your district ensure that they are receiving adequate instruction?

2. If an ELL is struggling and it is thought it might be more than a language issue, what is the typical process to investigate this? (prereferral process)

3. What are your district policies for referring ELLs for special education services?

4. What challenges do you encounter in the identification of ELLs with learning disabilities?

Instruction for ELLs with learning disabilities

1. How does your office try to ensure that special education, ELL, and general education staff meet the needs of ELLs with learning disabilities in their case loads?

2. How do general staff become informed about effective instructional strategies for:
   - ELLs?
   - Students who have special needs?

3. How does your district try to ensure that ELLs with learning disabilities are provided instruction in the "least restrictive environment"?

Working relationship between the districts' special education and ELL departments

1. What is your working relationship with the ELL or special education department?

2. What challenges do you encounter when working with the ELL or special education department?

Culture

1. What does the district do to ensure that the parents of ELLs understand the following?
   - Prereferral activities
   - The IEP [individual education program] process
   - The role of parents in the IEP process

2. What strategies does the district use to communicate with parents who do not speak English?

3. What challenges do you encounter in communicating with parents of students who are ELLs with learning disabilities?

School administrator interview protocol: principals, assistant principals, and department chairs

English language learners (ELLs) in your school

1. Please describe the population of ELLs in your school.

2. What are the program options for ELLs in your school?

Identifying ELLs with learning disabilities

1. When a teacher (or any other staff member) comes to you when they see a student who is an ELL struggling, how do you know whether the student struggles because of a learning disability?

2. If an ELL is struggling and it is thought that it might be more than a language issue, what is the typical process to investigate this?

3. What personnel in this school would be involved in that process?

4. Are there particular issues or challenges you face when deciding whether or not an ELL has a learning disability?

5. What special education services can be provided at your school for ELLs with learning disabilities?

6. Does your school offer professional development to address the instruction and/or identification of struggling ELLs? If yes, please explain.

7. What is the relationship between you and your support personnel and teachers when trying to communicate about ELLs who might have a learning disability?

Parent participation

1. How does your school encourage parent attendance and active participation in the IEP process for families of ELLs?

2. How do you establish these parents' trust and respect?

School support personnel interview protocol: guidance counselors, psychologists, and special education supervisors

Identification of English language learners (ELLs) with learning disabilities

1. What role do you play in the prereferral process of ELLs?

2. What are the steps taken to meet the needs of ELLs who may have learning disabilities?

Prereferral

- Services offered before formal referral
- Who begins the process?
- What would people see that make them think that an ELL may need a special education referral?

Referral

- How long does the process take from start to finish?
- Why would somebody say, "It's a disability and not the language"?
- Who is involved and at what point?

Evaluation

1. How does your district ensure that ELLs are evaluated properly for special education services?

2. How do you acquire information about the student?

3. What tests are used with ELLs?

4. How do you account for language and cultural differences in the evaluation process?

Services offered

1. How are services determined?

2. What services are available?

3. Which are used most often?

Monitoring

1. How are students monitored as they progress through the system?

2. What is discussed in team meetings? How are they structured?

3. How do you ensure that there has been adequate instruction for an ELL to be evaluated properly for special education services?

4. What do you see being the issues in the identification process of ELLs with learning disabilities?

5. What is the relationship between you, the bilingual or general education teachers, and special educators when trying to discern if an ELL might have a learning disability?

Culture

1. What is done to ensure that the parents of ELLs understand the following?
   - Evaluation results.
   - The IEP [individualized education program] process.
   - The role of parents in the IEP process.

2. What role do you play in this effort?

3. What strategies are used to communicate evaluation results with parents who do not speak English?

Specialist teacher interview protocol: special education teachers and English as a second language teachers

Instruction of English language learners (ELLs)

1. What is your role in the instruction of ELLs?
   - Support in the general education classroom?
   - Coteaching?
   - Self-contained—all subjects?

2. What do you do to serve the needs of ELLs in your classroom?

3. What supports do you have available (from the school/district) to work with ELLs?

Identification of ELLs with learning disabilities

1. How do you know whether a struggling student has:
   - Additional English language learning needs?
   - Special education needs?

2. If an ELL is struggling, what do you typically do to understand what is going on with this student?

3. What do you do when you feel that an ELL in your classroom needs more services, particularly special education services?

4. Do you feel that you and other specialists and teachers have the same agenda when discussing ELLs who might have a learning disability? Or do you feel there is a disconnect?

5. What are some barriers for those students for not getting the necessary services they need?

Classroom teacher interview protocol: bilingual, mainstream, and content area

English language learners (ELLs) in the classroom

1. Do you have ELLs in your classroom? What are their characteristics?

Instruction of ELLs

1. What do you do in terms of instruction that might be different for these students?

2. How does the district support you to work with ELLs?

3. Have you received professional development from the district or school on how to work

with ELLs and/or students who have special needs?

Identification of ELLs with learning disabilities

1. If you believe that this student's difficulties might be more than a language issue, what do you typically do to investigate this?

2. What would make you believe that a student's difficulties might be more than a language issue?

3. What are the steps that you need to follow for ELLs to be evaluated and provided the services they need?

4. Who in the school do you communicate with about those ELLs who are struggling? Please describe the communication patterns and communication barriers.

5. What challenges do you encounter in the identification of ELLs with learning disabilities?

Culture

1. When and how do you communicate with families of ELLs?

APPENDIX D
CROSS-DISTRICT DEMOGRAPHICS, ORGANIZATIONAL STRUCTURE, AND PROGRAMS FOR STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS IN MIDDLE SCHOOL

TABLE D1

Demographics, organizational structure, and programs for students who are English language learners in middle school in the three study districts, 2005/06 and 2008

Category	District 1	District 2	District 3
Demographics	• Suburban, close to major urban center • Meets criteria for district size and English language learner and special education student populations • More than half of students receive free or reduced-price lunch • More than half of students are Hispanic, and one-third are Black • Highly transient population of students who are English language learners • In 2005/06 did not meet adequate yearly progress in English language arts for students who are English language learners and students with disabilities; met adequate yearly progress in math for all subgroups	• Suburban, close to major urban center • Meets criteria for district size and English language learner and special education student populations • Almost half of students receive free or reduced-price lunch • Even distribution of White, Black, and Hispanic students • Most students who are English language learners are of Mexican origin and born in the United States • In 2005/06 met adequate yearly progress in English language arts and math for all subgroups	• Suburban • Meets criteria for district size and English language learner and special education student populations • More than half of students receive free or reduced-price lunch • More than half of students are Black, with rapidly growing immigrant Hispanic community • Most students who are English language learners are Haitian-Creole or Spanish speakers • In 2005/06 met adequate yearly progress in math and English language arts for all subgroups (except students with disabilities in English language arts)
Organizational structure	• One intermediate school (grades 5–6) and one middle school (grades 7–8) • Department of English language learners • Department of special education • Collaboration between departments very limited • Early stages of response to intervention development	• Two middle schools (grades 6–8) • Departments of English language learners, special education, pupil services, and medical services are part of the people services office • Close collaboration among these departments; directors have biweekly meetings to coordinate their services • During past 18 months district has been pilot testing response to intervention	• Two middle schools (grades 7–8) • English language learner department is part of the office of curriculum and instruction • Office of special education • There is collaboration between the English language learner department and the office of special education • Fluid communication between school principals • Early stages of response to intervention implementation

(CONTINUED)

TABLE D1 (CONTINUED)

Demographics, organizational structure, and programs for students who are English language learners in middle school in the three study districts, 2005/06 and 2008

Category	District 1	District 2	District 3

Programs for students who are English language learners in middle schools	• District offers same program options at intermediate (School A) and middle (School B) schools
	• Spanish-English bilingual education option for beginner and intermediate students (Spanish-speaking)
	• English as a second language (ESL) pull-out for other language groups and advanced ESL Spanish speakers; grouping varies by grade or English proficiency level, depending on schedule
		• Different programs in each middle school
		  • Middle School C: advanced students only; advanced ESL classes with READ 180 program
		  • Middle School D: beginner to advanced
		• Pull-out ESL classes for all students and content area classes through ESL-sheltered English strategies for beginning and intermediate level only
		• Students may take Spanish native language or math in Spanish
		• Other interventions include READ 180 and English Language Learning and Instruction System (ELLIS) programs, and after school program
		• Special class for students in the Students with Interrupted Formal Education program
		• Literacy enhancement for students in ESL for more than six years
			• ESL program at both middle schools differentiated by proficiency level
			  • Beginner students receive two units of ESL plus ESL content classes (with ESL teacher teaching content)
			  • Intermediate students, depending on grade and subject, may receive pull-out ESL and collaborative content classes cotaught by ESL and content teachers
			  • Advanced students receive ESL pull-out
			• Implementation varies by school
			  • Middle School F: provides districtwide Students with Interrupted Formal Education program

Source: Compiled by authors from interviews, New York State Education Department (2006), and U.S. Department of Education 2006.

NOTES

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1. The authors use person-first language throughout this report. Person-first language (see www.disabilityisnatural.com) puts the focus on the child, not the disability or the child's English language learning status. While New York State uses the terms *English language learner* and *limited English proficient* interchangeably to refer to students learning English, this report uses solely *students who are English language learners*.

2. Regional education offices are part of VESID and oversee preschool and K–12 special education services.

3. Response to intervention is a multitiered approach to help struggling learners (see box 1 and discussion later in the report). Students' progress is closely monitored at each stage of intervention to determine the need for further research-based instruction or intervention. New York requires the implementation of response to intervention beginning in the early grades.

4. Documents from VESID include guidelines for identifying students with disabilities (general), including specific requirements for students who speak other languages, and guidance on bilingual special education issues, including guidance on individual evaluations and eligibility determinations and individual education programs. In addition, the NYSED web site has information, compiled in 2002, on "Key issues in bilingual special education." The state guidelines on individualized education programs also include information for identifying disabilities, including specific issues pertaining to students who are English language learners.

5. "Least restrictive environment" in IDEA 2004 requires that students with disabilities receive education services to the greatest extent possible with children who do not have disabilities.

6. An individualized education program in IDEA 2004 refers to a written statement that describes the educational program to follow for each child with a disability.

7. Sheltered-English is an approach to teaching students who are English language learners that integrates English language development and grade-level content instruction.

8. Published by Scholastic (no date), READ 180 is a reading intervention program for struggling readers in grades 3–12.

9. The annual New York State English language proficiency assessment for students who are English language learners.

10. The NYSED defines academic intervention services as additional instruction to supplement instruction in the general curriculum and to assist students at risk of not achieving the New York State Learning Standards, as well as student support services, which may include guidance, counseling, and study skills to support improved academic performance. Academic intervention services are available to students with disabilities on the same basis as to students without disabilities. For details, see www.vesid.nysed.gov/specialed/publications/persprep/cse/0403cse2.htm.

11. District 2 has tried to hire support personnel with knowledge of second language development at one of its two middle schools. At School D, which has the majority of the district's middle school population of students who are English language learners, one of the two school psychologists and one of the two social workers are bilingual (Spanish-English) and are knowledgeable about second language development. Each grade-level content team

has an assigned bilingual support staff to provide expertise on second language development when the team is discussing a student who is an English language learner. Other bilingual support personnel are also available when needed.

12. In both middle schools, students at the beginning and intermediate levels of English proficiency may attend classes in science, social studies, and math that are staffed by a mainstream content teacher and an ESL teacher. Because of limited resources, the schools were not able to provide ESL collaboratives in all grade levels and subjects during the year of the study.

13. Because of contractual agreements in District 1, teacher participation in child study teams is voluntary. In the year when data were collected, not enough teachers had volunteered for the teams, so the teams were not implemented in either school.

14. According to the guidelines, a student who is an English language learner should not be assessed before having lived and gone to school in the country for one year, formalized assessments should be performed by the ESL teacher and related school personnel to rule out English deficiency as the reason for the referral to the Committee on Special Education, and more than one evaluation tool must be used (multibattery tests must be administered by a team of experts). The child should be observed by someone other than the classroom teacher, and the principal or a designee should review the information. Special consideration should be given to cognitive academic language proficiency skills, which take six to seven years to develop, and experiential background. The students who are English language learners Prereferral Form should be included and reviewed. All students who are English language learners should have access to related services providers for consultations.

15. Published by Wilson Language Training Corporation (2004), the Wilson Reading System is a reading and writing program for teaching decoding and encoding (spelling) from the upper elementary grades through adults.

16. Published by Gander Publishing (no date), the Lindamood-Bell Learning Processes consist of programs that teach children and adults to read, spell, comprehend, and express language.

17. Published by Pearson (no date), ELLIS is a multimedia English language development program that addresses a wide range of English proficiency levels.

18. Published by Leona D. Spector (no date), Spector Phonics is an Orton-Gillingham based total language program that encompasses reading, writing, and spelling.

19. New York State mandated response to intervention in July 2007, and it is in the initial implementation stage.

20. This study focused on the identification process and did not collect data on the programs available for students who are English language learners after they have been identified as having learning disabilities.

21. Refers to the district department that regulates the education of students who are English language learners. The title of the department varies by district.

22. Because the personnel involved in the determination of learning disabilities fluctuate, it was not always possible to identify all stakeholders eligible in each category.

23. The same pair of researchers conducted all the interviews in the three districts.

24. After the interviews were conducted, the authors decided to use person-first language reference in writing the report and changed *English language learners* to *students who are English language learners*.

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