Executive Summary

It is estimated that by the year 2030, forty percent of the US school population will come from a home where a language other than English is spoken. As demographics change over time, the ratio of ELL/MLLs suspected of having a learning disability, or who have a disability will also shift exponentially. No single method has proven effective in differentiating between English Language Learners/Multilingual Learners who are having difficulty acquiring language skills and those who have a learning disability. The complex relationship of language, culture, home and school affects learning and behaviors in a new setting and culture. Thus, educators and all those involved in considering this complex relationship should consider the multiple contributors to language acquisition. Understanding this issue will require school teams to critically consider all factors that impact ELL/MLL student performance. This brief reviews current research in determining the differences between English language acquisition and language disabilities for ELLs/MLLs. It also provides some guidance, practical suggestions and applications in further exploring and identifying behaviors that may impact ELL/MLL students' academic progress adversely.

These are the Key Questions: 1) Is the student receiving high quality and researched-based instruction to allow him/her to make academic progress? 2) To what extent might standard behaviors in a child's culture otherwise be perceived as a learning disability? 3) How might other factors such as socioeconomic status, previous educational experience, fluency in L1, attitudes towards school, learning English, cultural change, and personality attributes impact the student's academic progress? (Burr, Hass & Ferriere, 2015).

Understanding Language Acquisition and Learning Disability

Why is it important?

ELLs/MLLs are the fastest growing sector of the US student population and the increase, over a 10 year period, was 51 percent as compared to the total US Pre-K-12 student population which increased by only 7.22%percent. As per the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1414 (b)(5), "a child shall not be determined to be a child with a disability if the determinant factor for such determination is…..limited English proficiency." Nationally, approximately 55% percent of ELLs identified with a disability are thought to have a learning disability (LD) (Pena et al., 2011).

In NYC alone, over 200 languages are spoken by students. ELLs/MLLs with disabilities in NY State constitute 21.5%per cent (2016-2017 SY). The two largest disability classifications of ELL/MLLs in NY State are LD at 29.7%percent and Speech or Language Impairment at 26.5%percent (2016-17 SY). This data reveals critical questions about the identification of ELL/MLLs for special education.

School districts should consider the high rate of ELL/MLL referrals to Special Education when planning professional development opportunities (LD or SLI) for mainstream, bilingual and ENL teachers. The observable behaviors, or lack of them, can be easily mistaken as a suspected disability. In fact, the lack of information on the stages of language acquisition and phonology, grammar and orthography differences between languages may mistakenly lead to an initial referral (Julie Esparza Brown, Supporting English Learners in the Classroom, 2019). This suspected disability may adversely impact these students who already may be doubting themselves as they experience the challenges of learning in a new language, and who perhaps had limited or no schooling prior to entering the US. These should not be viewed as reasons for an initial referral. Additionally, the CR Part 154 identification process for new or entering students is essential to identifying ELL/MLLs, assessing their proficiency in their home language and determining the most appropriate educational settings (ENL, Bilingual/TBE) and services. "What they may really need is academic support and the opportunity to learn in a culturally responsive environment." (Weaver, NEA, p.1, 2008).

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I. The Context

Determining if an ELL/MLL has a disability can be quite complicated. Information should include language profile, cultural background (life experiences: language experiences, educational experiences, personality traits and interests, students' circumstances (immigration status, refugee, financial, trauma, nutrition, family separation, persecution, etc.) It is essential to engage a multidisciplinary team that includes ENL and/or bilingual, general and special education licensed teachers that meets regularly to examine a variety of data sources about the student over time. This collaboration should help differentiate ELLs/MLLs who are demonstrating natural language acquisition development from those with possible special needs. **Educators need to understand the natural continuum of new language acquisition and home language fluency.** If the ELL/

COMPARISON OF LANGUAGE DIFFERENCES VS LEARNING DISABILITIES		
LEARNING BEHAVIORS MANIFESTED	INDICATORS OF LANGUAGE DIFFERENCE DUE TO 2ND LANGUAGE ACQUISITION	INDICATORS OF POSSIBLE LEARNING DISABILITY
ORAL COMPREHENSION/LISTENING		
1. Student does not respond to or follow verbal directions correctly	1. Student demonstrates understanding of vocabulary in L1, but not in English (l2)	1. Student consistently shows confusion when given verbal directions in L1 & L2. It may be due to processing deficit or low cognition
2. Student needs frequent repetition of oral directions and input	2. Student is able to understand and follow verbal directions in L1 but not L2	2. Student often forgets directions or needs further explanation in L1 & L2 (home and school). It may be due to an auditoy memory difficulty or low cognition
3. Student delays responses to question	3. Student may be translating the question in mind before responding in L2. gradual improvement with more proficiency	3. Student consistently takes longer in L1 and L2 7 does not change over time; may be due to processing speed deficit
SPEAKING/ORAL FLUENCY		
1. Student lacks verbal fluency (pauses, hesitates, omits words)	1. Student lacks vocabulary, sentence structure, self-confidence	3. Speech incomprehensible in L1 and L2 due to hearing and/or spech impairment
2. Student is unable to orally retell a story	2. Student does not seem to comprehend story; may lack background knowledge or has limited prificiency in L2	2. Student has difficulty retelling a story or event in L1 & L2; may havemeory or sequencing deficitts
3. Does not orally respond to questions or does not speak much	23. Lacks expressive language skills in English; this occurs during the silent period in language acquisition	3. Student speaks little in L1 or L2; student may have a hearing impairment for processing deficit

MLL exhibits a learning disability and/or a language disability *in his or her first language,* then s/he may be considered for further evaluation or exploration for special education consideration. (Klinger). The inability to process or construct meaning in the first language would severely impede the second language acquisition process. The chart, adapted from J. Butterfield, 2016, highlights some differences between a learning disability and language acquisition. For example, a child who does not respond to verbal directions and delays responses may not have sufficient English comprehension skills to respond appropriately to prompts. This should not be misconstrued as a learning or language disability. Refer to the chart when making decisions.

II. Response to Intervention (RTI)

Tier 1 is the core framework for all students. Teachers create language rich environments, use data to make decisions and deliver high quality instruction thatare incorporates students' cultural and linguistic backgrounds into their lessons. Implementing these frameworks with fidelity requires educators to think carefully about who they teach, what they teach, and how best to teach (Kronberg, 2013). In Tier 1 ELL/MLL students should receive appropriate core instruction using Stand-alone ENL and Integrated ENL, Home Language Instruction (TBE/ Dual Language pro-grams as described in the CR Part 154 Units of study. (http://www.nysed.gov/common/nysed/files/programs/bilingual-ed/enl-k-8-units-of-study-table-5-6-15.pdf)**Tier 2 is small group instruction in the classroom, with the ENL teacher.** Tier 2 offers a good opportunity for integrated ENL instruction as well as ENL differentiation and support based on students' progress on the English acquisi-tion continuum (5 levels of language proficiency). It is important to document this progress to determine a student's specific needs and the strategies that best support his/her progress. The difference between the levels is not with the complexity of the text or rigor of the content, but instead with the amount of scaffolding provided for students to access the grade level text that all students work with (Walqui) by addressing all four modalities (Listening, Speaking, Reading, Writing). **Tier 3 is targeted intervention outside or inside the classroom,** usually 1:1 or very small groups of 2-3 students, weekly or even daily, progress monitoring, and data gathering. Each school determines where Tier 3 intervention takes place (in the classroom or outside the classroom) Tier 3 is still considered to be a general education setting. Tier 3 instruction is usually done by an intervention or content specialist. As such, the ENL or collaborative co-teacher are ideal for providing instruction. It is intended to be temporary and should not replace the student's grade level content instruction. A team approach to problem solving may be useful in interpreting factors that influence progress and providing suggestions for design-ing instruction.(Sharon Vaughn, PH.D).The goal of Tier 3 is to accelerate academic skill growth, allowing the student to transition back to Tier 2 interventions and possibly Tier 1 core instruction. ELL/MLL students identified for Tier 3 interventions are generally experiencing greater difficulties in making any progress in Tier 2.

Consideration of ELL/MLL subgroups is important in addressing the needs of all ELL/MLLs in RTI programs. These subgroups include ELL/MLLs born in the U.S., foreign born, Newcomers, highly schooled, SIFE, Long-term, Former ELL/MLLs. Students in these subgroups have different typologies and "require different instructional strategies and programs depending on their unique backgrounds". (Esparza, 2019)

ELLs/MLLs who have been given high-quality instruction with RTI may still have difficulty demonstrating adequate progress in targeted skills and competencies, especially in English language literacy (refer to previous chart). Since there is no one test that can definitively determine if an ELL/MLL student has a learning disability, it is necessary to gather multiple sources of information about the student. Determining whether an ELL/MLL has a learning disability is a process of elimination. Educators need to ascertain that the issues presented go beyond those of second language acquisition and/or opportunities to learn (family, classroom, culture, prior education).

In order to make instructional decisions about how best to support ELLs/MLLs using RTI, it is wise to compare the language and academic behaviors to those of *like peers, that is,* ELL students who are moving along the English language acquisition continuum as expected by age/grade. During core instruction (RTI, Tier I), classroom teachers should regularly incorporate practice of ENL strategies that are used during small group and/or one-to-one instruction (Tier 2 and Tier 3) to reinforce vocabulary development and comprehension. ***It is important to keep in mind that English language development is not an RTI intervention.*** (Butterfield, 2016).

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III. Considering Referrals

The majority of referrals for a special education evaluation are made by teachers (Ysseldyke, 2005). Eighty percent of referrals are generated from concerns over reading problems (Snow, Burns, and Griffin, 1998). Teachers who are not familiar with the language acquisition process, often mis-refer ELLs/MLLs for evaluations. ELL/MLL students who are misdiagnosed constitute a disproportionate representation in special education (Linan-Thompson, Vaughn, Prater, & Cirino, 2006). If teachers can improve their understanding of the reasons that ELLs/MLLs struggle, they will be less likely to judge them as lacking and not make referrals to special education. All teachers (classroom, content, mainstream, support staff, ENL, bilingual) must be provided with ample professional opportunities and resources to enhance their knowledge and skills about ELL/MLLs so they can make informed decisions about these students.

In New York State, students who come with an existing IEP from the other 49 states, District of Columbia, Puerto Rico or US territories must have his/her existing IEP and other supporting documentation screened by a Language Proficiency Team (LTP) at the school or local level. If the LPT determines that the student with an IEP may have second language acquisition needs, they shall determine whether the student shall take the NYSITELL with or without accommodations listed on the IEP. For more information about LTP, see http://www.nysed.govcommon/nysed/files/154-3 guidance_final_2_16_18.pd-a.pdf,

Determining English Language Learner/Multilingual Learner (ELL/MLL) Status of and Services for Students with Disabilities.

Any evaluation of an ELL/MLL who may have a suspected disability should be conducted by a bilingual school psychologist. If an ELL/MLL is found to have a disability, special education and ENL services should not be thought of as an *either/or*. ELLs/MLLs with a disability are entitled to a full range of services designed to meet their individual language and learning needs per CR Part 154.

When drafting IEP goals, the IEP team should consider the following: the cognitive level of the student, first language literacy skills, the proficiency level of the student in L1 and L2, the academic progress within the core and interventional instruction, the student's prior knowledge and experiences, the inclusion of culturally relevant materials and experiences and the student's heritage. The IEP goals should be based on assessed areas of need related to the disability aligned with the student's linguistic needs.

IV. Instructional Strategies

Julie Esparza Brown has done extensive research on evidence–based interventions for ELL/MLLs using the PLUSS framework for research-based instructional practices for ELL students. These include:

Pre-teach critical vocabulary and prime background knowledge

- Make connections between new information and life experiences:. Example: when creating a lesson about the rain forest pre-teach vocabulary words such as "tropical" by asking students about the weather in their countries of origin.

- Provide a simple explanation. Example: "tropical" means very hot . Use the Frayer model to engage students.

DEFINITION	CHARACTERISTICS
Type of weather found in warm climate	Very hot, humid, damp, sticky, rainy, sunny, a lot of plants and trees that grow in hot weather
Tropical	
EXAMPLES	NON-EXAMPLES
Hawaii, Puerto Rico, Caribbean island, rainforest, fruits (guava, mango)	New York City in the winter, Alaska, North Pole, South Pole, Iceland

Language use and modeling

- Tie the word's meaning to a kid friendly example

- Connect the word's meaning to the text

- Assess student's general understanding

- **Teacher modeling and o**pportunities for practice

Use visuals and graphic organizers

- The PWIM model can also be used to model language to create complete sentences, patterns, substituting vocabulary exercises o increase ELL students

- Using PWIM when working with ELL/MLL students to label a picture first and identify vocabulary related to the picture. This will build essential vocabulary related to the theme. For more information on Picture Word Inductive Model-PWIM visit this website: https://sites.google.com/a/ualberta.ca/resources-for-english-language-learners/picture-word-induction-model

Systematic and explicit instruction

- When used appropriately, direct instruction (DI) can be a valuable method of delivering content to ENL students:

  - To introduce new or unfamiliar concepts

  - When students need additional review

  - To clarify confusing information

  - To demonstrate key ideas

    Source: http://www.smekenseducation.com

Strategic use of native language and culture and teaching for transfer

- Use cognates when possible to allow students to tackle an English text to derive meaning from vocabulary that is similar in their own language. https://research.steinhardt.nyu.edu/scmsAdmin/media/users/nbm3/EngSpCognates.pdf

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IV. Summary of Factors in Decision-Making

In summary, there are multiple factors that need to be considered when making a decision about students' educational settings and programs. Disproportionality, the over representation of ELLs/MLLs in special education, varies by ethnicities, regions and cities. A potential cause may be that ELLs/MLLs receive little to no native language instruction; most of their instruction is in English. Another cause may be that educators have not received appropriate professional development in second language acquisition and characteristics of MLL/ELLs and learning disabilities. Conversely, some schools are overly cautious about identifying ELLS/MLLs for special education (Butterfield and Read, 2016).

Leading to the future, and to help mitigate disproportionality, schools may want to consider utilizing the 5 C's, factors that should be viewed through a language acquisition lens.

1. Collaboration & Capacity Building: Educators & families need to meet on an ongoing basis, sharing and deepening their knowledge, so that there isn't a quick rush to judgment for a student referral to special education. Collaborative teamwork is essential to making equitable decisions about ELLs/MLLs.

2. Continuum of services: Schools must offer a broad ranges of curricula options, bilingual and/or ENL services within a least restrictive environment (LRE) so that every student is afforded ample opportunity to learn and succeed.
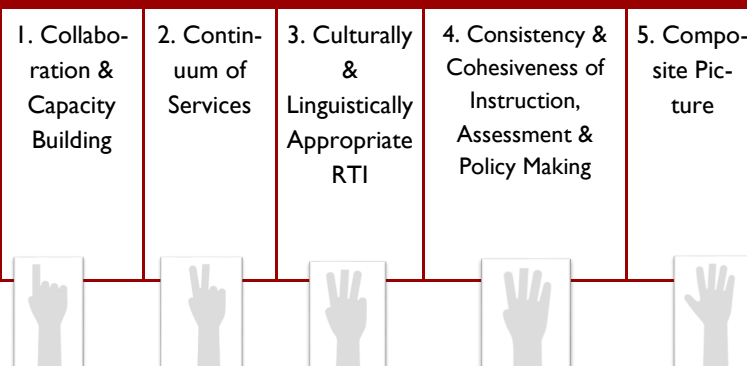
3. Culturally & Linguistically Appropriate RTI: Culturally responsive instruction within the core and in tiered RTI will afford students multiple opportunities for linguistic growth.

4. Consistency & Cohesiveness of Instruction, Assessment & Policy Making: Policy and practice need to promote strong coordination and collaboration, creating a   unified system and effective instruction for all students.

5. Composite picture: Data collection and analysis, from multiple sources over time, including interviews with families, teachers and students, will give an overall picture which to base decision making.

THE 5 Cs: FIVE FACTORS TO CONSIDER when MAKING DECISIONS about STUDENTS' EDUCATIONAL SETTINGS & PROGRAMS				
1. Collaboration & Capacity Building	2. Continuum of Services	3. Culturally & Linguistically Appropriate RTI	4. Consistency & Cohesiveness of Instruction, Assessment & Policy Making	5. Composite Picture

Created by: Deirdre Danaher

With thoughtful and purposeful analysis of our MLLs programs and settings, we should ultimately eliminate the disproportionate placement that impacts our students' success.

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Chart created by: Deirdre Danaher
Edited by: Diane Howitt & Dr. Roser Salave

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Information and Resources
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NYS/NYC Regional Bilingual Education Resource Network
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