

**CHAPTER 192 AND CHAPTER 193 PROGRAMS  
*FOR*  
NONPUBLIC SCHOOL STUDENTS**

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Lucille E. Davy  
Commissioner of Education

Barbara Gantwerk  
Assistant Commissioner  
Division of Student Services

Susan B. Martz  
Director  
Office of Educational Support Services

John M. Lally, Jr.  
Nonpublic School Services

New Jersey Department of Education  
Division of Student Services  
100 River View Plaza  
P.O. Box 500  
Trenton, New Jersey 08625-0500

PTM NO. 1506.63

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## **PART 1 OVERVIEW**

### **INTRODUCTION**

New Jersey's Chapter 192 and Chapter 193 programs are provided to eligible students enrolled full-time in nonpublic elementary and secondary schools in New Jersey. Chapter 192 programs provide nonpublic school students with auxiliary services such as compensatory education, English as a second language, and home instruction. Chapter 193 programs provide nonpublic school students with remedial services such as evaluation and determination of eligibility for special education and related services, supplementary instruction, and speech-language services.

### **STATUTES**

N.J.S.A. 18A:46A-1 et seq. (Chapter 192, Laws of 1977) authorizes the provision of auxiliary services to students enrolled full-time in nonpublic elementary and secondary schools in the state: "The Legislature hereby finds and determines that the welfare of the state requires that present and future generations of school age children be assured the opportunity to develop to the fullest their intellectual capacities. It is the intent of the Legislature to insure that the State shall furnish on an equal basis auxiliary services to all students in the state in both public and nonpublic schools."

N.J.S.A. 18A:46-19.1 et seq. (Chapter 193, Laws of 1977) authorizes the provision of remedial services for handicapped students enrolled full-time in nonpublic elementary and secondary schools in the state: "The Legislature hereby finds and determines that the security and welfare of the state require that all school-age children be assured the fullest possible opportunity to develop their intellectual capacities. In order to achieve this objective it is the intent of the Legislature to require that State and local communities identify and provide remedial services for handicapped children in both public and nonpublic schools."

### **SERVICES**

Under Chapter 192, the following auxiliary services are available:

- Compensatory Education
- English as a Second Language
- Home Instruction

Under Chapter 193, the following remedial services are available:

- Evaluation and Determination of Eligibility
- Supplementary Instruction
- Speech-Language

## **GENERAL ELIGIBILITY REQUIREMENTS**

Chapter 192 and Chapter 193 services are available only to students who meet all of the following criteria:

- Are enrolled full-time in a nonpublic elementary or secondary school (grades K-12) located in New Jersey;
- Would be eligible for such services if they were enrolled in a public school;
- Are between the ages of five and twenty for Chapter 192 services, or between five and twenty-one for Chapter 193 services;
- Meet the criteria for eligibility as determined by the Department of Education for the specific service; and

Additionally, the following criteria must be met:

- Parent(s) or guardian(s) live in New Jersey;

NOTE: When a student boards at a nonpublic school, the public school district in which the parent(s) reside is considered the child's district of residence

- Parent(s) or guardian(s) have given their consent by signing the Application for the Chapter 192 and Chapter 193 Services (407-1 form).

## **STUDENT APPLICATION**

N.J.S.A. 18A:46A-5 and 18A:46-19.5

N.J.A.C. 6A:14-6.2

In accordance with N.J.S.A.18A:46A-5 and 18A:46-19.5, Chapter 192 and Chapter 193 services for children enrolled full-time in nonpublic schools shall be provided only upon the consent of the parent or guardian. During the school year, the parent or guardian of a nonpublic school student may request the Chapter 192 and Chapter 193 services by completing and submitting a signed student application (see 407-1 form in Part IV, Appendices) through the following three options: 1) to the nonpublic school; 2) directly to the local public school district where the nonpublic school is located; or 3) to the service provider. If the parent or guardian submits a signed student application to a nonpublic school, the nonpublic school transmits the signed student application to the local public school district within five working days.

If the application is sent to a local public school district that contracts with a service provider, the district transmits the student application to the service provider within five working days after receipt from the nonpublic school.

Submission of the student application (407-1 form) does not make the student eligible for the Chapter 192 and Chapter 193 services. The public school district responsible for Chapter 192 and Chapter 193 services must verify the eligibility and complete the disposition section of the

student application stating whether the services were provided. NOTE: Services can only be denied a student if he/she is deemed ineligible as determined by the eligibility criteria.

The parent or guardian must complete the student application (407-1 form) and submit it to the local public school district in which the nonpublic school is located. In instances where the student has been determined to be eligible and has received services in the current school year, a new student application must be completed and submitted before services can be provided in the following year. Because the student application is designed to request the services and to account for the student receiving a service, a student application must be submitted for each service requested for a student.

### **PARTICIPATING NONPUBLIC SCHOOLS**

N.J.S.A. 18A:46A-2 and 18A:46-19.2  
N.J.A.C. 6A:14-6.2

A nonpublic school in New Jersey is an elementary or secondary school other than a public school, offering education for grades K-12, or any combination of them, wherein students may legally fulfill the compulsory school attendance requirement for children between the ages of six and 16 years by receiving an education that is academically equivalent (curricular content) to that provided in the public school for students of similar grades and attainments. The nonpublic school:

- Complies with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973: no person in the United States shall on the grounds of race, color, or national origin, religion, sex, age or disability be subjected to discrimination under any program or activity receiving state and/or federal financial assistance; and
- Complies with the applicable regulations of the State Board of Education.

To participate in state and/or federal programs, the nonpublic school, in accordance with N.J.S.A. 18A:6-4, submits the Nonpublic School Enrollment Data Report form to the Department of Education, Office of Educational and Information Technology in November. The completion of the form does not imply approval, licensure or regulation of the nonpublic school by the State Department of Education.

The Chapter 192 and Chapter 193 programs should also be coordinated with other state and federal programs.

### **RESPONSIBILITY OF THE DISTRICT BOARD OF EDUCATION**

N.J.S.A. 18A:46A-3 and 18A:46-6  
N.J.A.C. 6A:14-6.1

In accordance with the state laws (N.J.S.A. 18A:46A-3 and 18A:46-6), the district board of education of the public school district in which the nonpublic school is located is responsible for ensuring that the Chapter 192 and Chapter 193 services are provided to eligible students enrolled

full-time in the nonpublic elementary or secondary schools. The public school district shall verify the eligibility of the students and provide the services in accordance with the policies and procedures of the New Jersey Department of Education regarding Chapter 192 (N.J.S.A. 18A:46A-1 et seq.) and Chapter 193 (N.J.S.A. 18A:46-6, 8, 19.1 et seq.) and the regulations of the State Board of Education pertaining to compensatory education (N.J.A.C. 6A:14-6.2(e)); English as a second language (N.J.A.C. 6A:15 et seq.); evaluation and determination of eligibility for special education and related services, supplementary instruction, speech-language services and home instruction (N.J.A.C. 6A:14 et seq.).

The public school district in which the nonpublic school is located must provide with state funds the required service itself or may contract with another district, an educational services commission or an approved clinic or agency to provide all or part of the required services. If the public school district contracts with a service provider, the district retains complete responsibility for providing the Chapter 192 and Chapter 193 services. NOTE: Districts are required to establish a contract with the service provider regarding: the scope and nature of services; the cost and method of payment for services; professional staff, facilities and student records for services. Each contract must include a budget page with the following costs outlined: program, administration and other; and also includes the per student amounts for each service. The contract must be approved annually by the New Jersey Department of Education through the county office of education.

The public school district in which the nonpublic school is located must consult annually with the nonpublic school representatives and parents regarding the provisions of services to the students under the Chapter 192 and Chapter 193 programs. NOTE: In accordance with N.J.S.A. 18A:46-19.7 and 18A:46A-7, “prior to any change in the provision of these services, the board shall provide timely and meaningful consultation with the appropriate nonpublic school representatives, including parents.”

School age students who attend nonpublic schools and whose parents reside in New Jersey are evaluated and determined eligible for special education through Chapter 193. Eligible students may receive services through Chapter 193. In addition to the services provided through the Chapter 193 program, students with disabilities may also receive services through funds provided by the federal Individuals with Disabilities Education Act (IDEA) of 2004. Section 612 (a)(10)(A)(i) of the IDEA states the following: “To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools in the public school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part of the Act by providing for such special education and related services in accordance with the ... requirements of the Act.” While there is no individual entitlement to services, the public school district in which the nonpublic school is located must provide a genuine opportunity for equitable participation in services. The public school district in which the nonpublic school is located must conduct child find activities to ensure all nonpublic school students who are potentially disabled are identified, evaluated and determined eligible and must consult with representatives of the nonpublic school students to determine what services will be provided and which students will receive services from the group of eligible students.

The parents must make a request for these services under the federal Individuals with Disabilities Education Act (IDEA), P.L. 108-446 §612(a)(10)(A)(i), to the public school district in which the

nonpublic school is located. The public school district will review the request for services and will provide the parents with notice of the decision. If services will be provided, the services plan will be developed or modified in a meeting that includes: the parent, at least one child study team member who can interpret the instructional implications of the evaluation results, not less than one regular education teacher of the student who is knowledgeable about the student's educational performance, not less than one special education teacher or service provider, the case manager who is a child study team member, other appropriate individuals at the discretion of the parent and public agency, a representative of the public education agency (who may be the case manager) and the student where appropriate.

In accordance with Section 612 (a)(10)(A) (i) of the Act, students who reside in New Jersey and attend nonpublic schools in other states are the responsibility of the out-of-state public school district in which the nonpublic school is located. The out-of-state public school district is responsible for the child find and, if the student is determined eligible for special education, the provision of services that are funded under IDEA.

Likewise, students who reside in other states but attend nonpublic schools in New Jersey are the responsibility of the New Jersey public school district in which the nonpublic school is located. The New Jersey public school district is responsible for child find, evaluation and if eligible, the provision of services that are funded by IDEA. Public school districts cannot use Chapter 193 funds to evaluate out-of-state school students who are attending a nonpublic school in New Jersey. Public school districts may use local funds or IDEA funds that are not part of the proportionate share to evaluate out-of-state students. The proportionate share of federal IDEA funds cannot be used for evaluation.

The identification, evaluation and the determination of eligibility of preschool age children who reside in New Jersey or in another state are the responsibility of the public school district of residence. The public school district of residence is given the opportunity to offer a free, appropriate public education to preschoolers who are determined eligible. Such a program would be provided in a placement determined by the IEP team. If the parents decline the program offered by their school district of residence because they prefer the education offered by a community-based early childhood program, the parents may seek a services plan from the public school district where the child attends the early childhood program.

Preschool children with disabilities are not eligible for services under Chapter 193. However, preschoolers with disabilities who are placed by their parents in private (nonpublic) preschool programs must be provided a genuine opportunity for equitable participation through their district of location. The parents must make a request for these services under the federal Individuals with Disabilities Education Act (IDEA), P.L. 108-446 §612(a)(10)(A)(i), to the public school district in which the nonpublic school is located. The district of location will review the request for services and will provide the parents with notice of the decision.

The public school district of location is responsible for collecting and reporting accurate data about the number of nonpublic school students that are evaluated, the number of students that are determined eligible for services and the number of students with disabilities that are receiving services. To account for nonpublic school students receiving supplementary instruction and speech-language services through Chapter 193, the public school district of location must keep a copy of the student application (407-1 form). In addition, the public school district of location

must collect and maintain data regarding students with disabilities that are receiving services funded by IDEA for equitable participation.

### **STAFF RESPONSIBLE FOR SERVICES**

N.J.S.A. 18A:46A-7 and 46-19.7

N.J.A.C. 6A:14-6.2(h)

The public school district responsible for the Chapter 192 and Chapter 193 services is responsible for staffing internally or through a contract with staff from another district, an educational services commission, or an approved clinic or agency. The staff providing the Chapter 192 and Chapter 193 services must be employees of the public school district, educational services commission or approved clinic or agency and must be appropriately certified. The New Jersey Department of Education, through the county superintendent, approves the certificates of the staff providing the Chapter 192 and Chapter 193 services.

### **FACILITIES**

N.J.S.A. 18A:46A-5 and 46-19.5

N.J.A.C. 6A:14-6.2(i)

The public school district responsible for the Chapter 192 and Chapter 193 services and the service provider are responsible for determining the site for the instructional services. To provide the instructional services to students enrolled full-time in nonpublic schools, the public school district and service provider must consult with the principal of the nonpublic school.

The public school district and service provider are permitted to provide the Chapter 192 and Chapter 193 instructional services in a sectarian nonpublic school in accordance with the state statutes N.J.S.A. 18A:46A-5 and 46-19.5.

Before providing the Chapter 192 and Chapter 193 instructional services in a religious nonpublic school, the public school district and service provider must do the following: obtain a copy of the certificate of occupancy and a copy of the health and fire inspection certificates for the school, and ensure that the space for instruction within the school is adequate for education. The public school district and service provider may not repair, remodel or perform construction on the nonpublic school building to provide these services.

When the public school district, service provider and nonpublic school agree to provide the Chapter 192 and Chapter 193 instructional services within a sectarian nonpublic school, the public school district and service provider must direct and supervise the instructional services. During the time of instruction, the public school district and service provider must ensure that: religious matter is not introduced; and staff providing the instructional services are employees of the public school district or service provider, or are contracted by the public school district.

If the public school district and service provider are utilizing a trailer or mobile unit placed on nonpublic school property to provide the Chapter 192 and 193 services, the trailer or mobile unit must be approved by the New Jersey Department of Education and county superintendent in accordance with N.J.A.C. 6A:26-6 et seq. The facility approval includes a certificate of

occupancy and also health and fire inspection certificates. Trailers and mobile units for Chapter 192 and Chapter 193 services must be accessible to individuals with disabilities in accordance with the Barrier Free Code of the Uniform Construction Code (N.J.A.C. 5:23-7.1 and 7.2 (a)). If the public school district and service provider provides the Chapter 192 and Chapter 193 services using computer assisted instruction (CAI) in a nonpublic school, the public school district and service provider must direct and supervise the computer assisted instruction program.

### **STUDENT TRANSPORTATION**

N.J.S.A. 18A:46A-6 and 46-19.6

N.J.A.C. 6A:14-6.2(k)

The public school district responsible for the Chapter 192 and Chapter 193 services must request Chapter 192 and Chapter 193 funds through the Report of Nonpublic Auxiliary and Handicapped Services to provide students with transportation to and from the instruction area and/or to provide the maintenance of the vehicular classrooms if required under the provision of Chapter 192 and Chapter 193 services. In accordance with N.J.S.A. 18A:46A-6 and 18A:46-19.6, the district board of education of the public school district in which the nonpublic school is located shall provide for such transportation and maintenance, and the cost shall be paid from state funds received by the district for the programs.

### **STUDENT RECORDS**

N.J.A.C. 6A:14-6.2(l)

The public school district responsible for the Chapter 192 and Chapter 193 services must maintain the Chapter 192 and/or Chapter 193 records of nonpublic school students receiving services following the procedures in N.J.A.C. 6A:32-7 et seq. If the public school district contracts with a service provider for the services, the district responsible for the provision of Chapter 192 and Chapter 193 services retains the responsibility for the Chapter 192 and Chapter 193 student records. The Chapter 192 and Chapter 193 student records are returned to the public school district responsible for the services when the programs are terminated.

### **COUNTY OFFICE REVIEW**

N.J.A.C. 6A:14-6.2

The county office provides leadership in educational planning and program improvement to local districts within the county; coordinates and approves the fiscal, educational, facility and transportation services within the county; and works with districts regarding the school laws and the regulations of the State Board of Education.

The public school district responsible for the Chapter 192 and Chapter 193 services must obtain approval from the New Jersey Department of Education through the county superintendent for the following:

- Contract between the public school district and service provider;

- Certificates of the staff; and
- Instructional facilities.

### **FISCAL MANAGEMENT**

N.J.S.A. 18A:46A-8, 9, 10, 11, 12, 13, 14 and 46-19.8

N.J.A.C. 6A:14-6.3 and 6.4

**Funding** - The public school district in which the nonpublic school is located provides the Chapter 192 and Chapter 193 programs and services utilizing state funds received by the public school district for the programs and services. To obtain Chapter 192 and Chapter 193 state funds for the next school year, the public school district must submit the Report of Nonpublic Auxiliary and Handicapped Services in November of the present school year to the New Jersey Department of Education, Office of School Funding. The report contains the following information:

- The number of nonpublic school students identified to receive services under Chapter 192 during the prior school year;
- The number of nonpublic school students identified to receive services under Chapter 193 during the prior school year; and
- Anticipated cost of transportation and/or maintenance of vehicular classroom required for nonpublic school students to receive services for the next school year.

**Additional Funds** - The public school district responsible for Chapter 192 and Chapter 193 services must request additional state funds when the present level of funding is insufficient to provide services for additional students identified under the provisions of Chapters 192 and 193. The public school district must submit the Request for Additional Funding Under the Provisions of Chapters 192/193 to the New Jersey Department of Education, Office of School Funding, to obtain approval.

**Funding Limitations** - To provide the Chapter 192 services, the public school district responsible for the Chapter 192 services is permitted no more than 6 percent of the state funds received by the district under Chapter 192 for administration of the program, and no more than 6 percent of the state funds received by the district under Chapter 193 for administration of the program. Also the public school district is permitted no more than 18 percent of the state funds received by the district under Chapter 192 to rent facilities. The public school district must provide the services to nonpublic school students at a cost not to exceed the amount of the state funds received by the district for the programs.

**Project Completion Report** - The public school district responsible for the Chapter 192 and Chapter 193 services must submit the Nonpublic Student Services Project Completion Report for the Chapter 192 Services and the Chapter 193 Services according to the online filing schedule in the current school year to the New Jersey Department of Education, Office of School Funding.

The public school district must maintain an accounting system for the Chapter 192 and Chapter 193 programs and services following the financial accounting procedures of the New Jersey

Department of Education, Office of School Funding. At the end of the school year, if the expenditures are less than the state funds received by the district for the programs, the public school district must return the unexpended state funds to the New Jersey Department of Education no later than December 1.

## **MONITORING**

N.J.A.C. 6A:14-9.1

The New Jersey Department of Education conducts monitoring of public school districts providing the Chapter 192 and Chapter 193 services to ensure compliance with State statutory and regulatory requirements regarding the provision of Chapter 192 and 193 services. Monitoring the Chapter 192 and Chapter 193 programs and services ensures that the public school districts responsible for providing the services to nonpublic school students and their service providers comply with the policies and procedures of the New Jersey Department of Education regarding Chapter 192 (N.J.S.A. 18A:46A-1 et seq.) and Chapter 193 (N.J.S.A. 18A:46-6, 8, 19.1 et seq.) and the regulations of the State Board of Education pertaining to compensatory education (N.J.A.C. 6A:14-6.2(e)); English as a second language (N.J.A.C. 6A:15 et seq.); and evaluation and determination of eligibility for special education and related services, supplementary instruction, speech-language services, and home instruction (N.J.A.C. 6A:14 et seq.).

At the conclusion of an on-site monitoring visit, department staff conduct an exit conference at the public school district office to present "preliminary" monitoring findings. The presentation of "preliminary findings" at the exit conference allows the public school district the opportunity to review the findings. New Jersey Department of Education staff from the county office and Office of Educational Support Services, Nonpublic School Services, review the findings and determine compliance or noncompliance. The county superintendent issues a finding letter (compliance or noncompliance) and monitoring report to the superintendent and the board of education and the service provider(s), if applicable, within 20 working days from the date of the exit conference. A copy of the finding letter and monitoring report are sent to Office of Educational Support Services, Nonpublic School Services.

In the event that areas of noncompliance are identified, the county superintendent:

- Notifies the superintendent of the public school district that a corrective action plan approved by the board of education of the public school district is required. The corrective action plan must include: activities for correcting each noncompliant area, person(s) responsible for each activity, timelines for each activity, and proposed documentation of compliance for the noncompliance area;
- Reviews the corrective action plan submitted by the public school district to determine the status (approval or non-approval);
- Notifies the superintendent of the public school district regarding the status of the plan (approved or not approved) and also the service provider(s) if applicable; and

- Verifies the corrective action plan with the superintendent of the public school district and also the service provider(s) if applicable.

If the public school district appeals or requests a waiver of the regulations of the State Board of Education, the request is made to the New Jersey Department of Education by completing and submitting a Waiver Application (N.J.A.C. 6A:5) to the State Board Office.

**PART II**  
**CHAPTER 192 SERVICES**

**COMPENSATORY EDUCATION**

N.J.S.A. 18A:46A-2(e)

N.J.A.C. 6A:14-6.2(e)

Compensatory education services are available to an eligible student in communications (reading and/or writing) and computation (mathematics). A student is eligible if the public school district/service provider determines, based on standardized test scores and multiple measures, that the student has academic needs that prevent the student from succeeding in the regular school. A teacher appropriately certified from the public school district/service provider provides the services.

**Eligibility Criteria**

- A student must be assessed annually in reading, writing, and mathematics.

The complete assessment process should not be limited to standardized test scores. The use of additional diagnostic or criterion-referenced information, such as report card grades, book-level tests, teacher ratings and writing samples should be included as part of the assessment process.

Instruments used in the assessment process must have demonstrated validity and reliability, must be administered systematically and must be based on objective data:

- in grades K-2, a valid and reliable instrument deemed appropriate by the district;
- in grades 3-12, a state-approved commercial standardized test; and
- in grades K-12, secondary or multiple assessment criteria (report card grades, book-level tests, teacher ratings, and writing samples) in addition to test scores.

The minimum levels of proficiency (MLPs) for the standardized tests approved by the New Jersey Department of Education for grades 3-8 and also for grades 9-11 are included in the appendices section.

To provide Chapter 192 compensatory education, a certified teacher of the public school district/service provider develops and implements an individual student improvement plan for the students in need of compensatory education. An individual student improvement plan in reading, writing and/or mathematics addresses: the student's needs assessment, instructional program (goals and measurable objectives, frequency and duration, and also teaching techniques, materials, and resources), evaluation procedures that are used to measure progress toward performance standards, and exit criteria (at or above the minimum level of proficiency in reading, writing and/or mathematics and also multiple assessment criteria in addition to test scores).

To document eligibility for communications and/or computation, attach a copy of the student's assessment test results to the student application (407-1 form). Check the appropriate service in Section 5 of the student application (407-1 form):

### Examples

- if eligible for communications, submit one student application (407-1 form) with communications checked off. Indicate either reading or writing or both reading and writing; and
- if eligible for computation, submit one student application (407-1 form) with computation checked off.

### **ENGLISH AS A SECOND LANGUAGE**

N.J.S.A. 18A:46A-2(c)

N.J.A.C. 6A:15 et seq.

English as a second language services are available to an eligible student identified as limited English proficient. The student develops proficiency in English language skills in the areas of aural comprehension, speaking, reading and writing. A teacher appropriately certified as a teacher of English as a second language from the public school district/ service provider provides the service.

### **Eligibility Criteria**

- The student's native language must be other than English;
- The student must score below the cut-off level of English language proficiency on a department-approved language proficiency test (appendices section); and
- The student must be assessed with at least one multiple measures criteria.

The parent(s) or guardian(s) must be notified in their native language to ensure their understanding of the process, their rights, and the form completion. For Chapter 192 English as a second language (ESL) services, the parents or guardians must identify the student's native language in Section 5 of the student application (407-1 form), thus certifying that the student's native language is other than English. In accordance with N.J.A.C. 6A:15-1.2, the student's native language means: "the language first acquired by the student, the language most often spoken by the student or the language most often spoken in the student's home, regardless of the language spoken by the student." The local public school district/service provider determines the student's English language proficiency and eligibility for Chapter 192 ESL services through an English language proficiency test and multiple measures. Multiple measures include: assessing the level of reading in English, reviewing the previous academic performance of the student as well as standardized tests in English and reviewing the input of teaching staff members responsible for the educational program of the pupil. The New Jersey Department of Education mandates the use of a department-approved language proficiency test. In addition, all New Jersey public school districts that enroll Limited English Proficient (LEP) students must annually

measure English language proficiency progress of these students with the ACCESS for ELLs™ language proficiency test. Information on the ACCESS for ELLs™ test may be obtained at [www.nj.gov/njded/bilingual](http://www.nj.gov/njded/bilingual). The public school district/service provider that provides language assistance services to LEP nonpublic school students must also annually assess the progress that these students make in learning English. The public school district/service provider may choose either the ACCESS for ELLs™ test or continue to use one of the commercially produced tests.

To provide Chapter 192 English as a second language (ESL) services, a certified teacher of the public school district/service provider develops and implements an individual student improvement plan for the students in English as a second language. An individual student improvement plan for English as a second language addresses: the student's needs assessment in English language skills (aural comprehension, speaking, reading, and writing), instructional program (goals and measurable objectives, frequency and duration, and also teaching techniques, materials and resources), exemptions from standardized testing in English, if applicable, evaluation procedures that are used to determine progress toward performance objectives, and exit criteria (at or above the cut-off level of English language proficiency on the department-approved language proficiency test (appendices section) and assessed with at least one of the multiple measures criteria).

To document eligibility for English as a second language (ESL) services, attach a copy of the student's assessment test results to the student application (407-1 form) and check the appropriate service in Section 5 of the student application (407-1 form).

The New Jersey Department of Education Approved Language Proficiency Tests and the Language Proficiency Standards for Determining Limited English Proficiency are included in the appendices section.

### **HOME INSTRUCTION**

N.J.S.A. 18A:46A-2(c)

N.J.A.C. 6A:16-10

Home instruction services are given in lieu of regular classroom instruction to an eligible student who is enrolled full-time in a nonpublic school and is unable to attend school for 10 consecutive school days or 15 cumulative school days or more during the school year due to temporary or chronic health condition or need for treatment which precludes participation in their usual educational setting. The teacher providing the instruction must be appropriately certified for the subject and grade level in which instruction is given pursuant to N.J.A.C. 6A:9.

### **Eligibility Criteria**

- The student must be enrolled in a school register;
- The student is unable to attend school for a period of 10 consecutive school days or 15 cumulative school days or more during the school year due to temporary or chronic health condition or need for treatment which precludes participation in their usual educational setting; and

- The student must be determined eligible in accordance with N.J.A.C. 6A:16-10.

The public school district/service provider responsible for the Chapter 192 home instruction must provide home instruction as soon as possible but no later than five school days after the student has left the general education program. In Chapter 192 home instruction, the public school district/service provider provides instruction that meets the requirements of the nonpublic school in which the student is enrolled full-time for promotion and graduation excluding religious studies.

A certified teacher of the public school district/service provider provides Chapter 192 home instruction. The teacher providing the instruction is appropriately certified for the subject, grade level and special needs of the student in accordance with N.J.A.C. 6A:9. The teacher provides the instruction in accordance with N.J.A.C. 6A:16-10.1(c).

To document eligibility for home instruction, attach a copy of the licensed physician's recommendation to the student application (407-1 form) and check the appropriate service in Section 5 of the student application (407-1 form).

**PART III**  
**CHAPTER 193 SERVICES**

**REFERRAL, EVALUATION AND DETERMINATION OF ELIGIBILITY**

N.J.S.A. 18A:46-19.1 et seq.

N.J.A.C. 6A:14 et seq.

Referral and evaluation procedures are provided for the purpose of determining eligibility for special education and related services and for developing a services plan for the services that will be provided. Once a student application (407-1 form) for Chapter 193 evaluation and determination of eligibility for special education and related services is submitted to the local public school district or service provider, the student is considered referred. In accordance with N.J.A.C. 6A:14-3.3(e), the full child study team, parent and regular education teacher who has knowledge of the student's educational performance must meet within 20 calendar days of the receipt of the student application (407-1 form) to determine whether an evaluation is needed. Parents will receive a written notice of the meeting and copy of "Parental Rights in Special Education." The notice of the meeting must be sent early enough to ensure parental participation. The child study team, parent and regular education teacher will review the existing evaluation data on the student including evaluations and information provided by parents, current classroom-based assessments and observations, and the observations of teachers and related service providers. On the basis of that review, they will determine whether an evaluation is warranted. If an evaluation is warranted, they will determine the nature and scope of the evaluation in accordance with N.J.A.C. 6A:14-3.4. They will identify what additional data, if any, are needed, and determine which child study team members and/or specialists will conduct the evaluation. Written notice regarding the determination(s) and proposed action(s) with the short procedural safeguards statement are sent to the student's parents within 15 calendar days of the meeting. If an evaluation will be conducted, the written notice must also contain a request for consent to evaluate.

Notice shall be written in language understandable to the general public and in the native language of the parent, unless it is clearly not feasible. The notice shall include: a description of the action proposed or denied; an explanation of such action; a description of any options considered and the reason why the options were rejected; a description of the procedures, tests, records or reports and factors used to propose or deny an action; a description of any other factors relevant to the proposal or refusal; and a copy of the short procedural safeguards statement. Written notice regarding the determination(s) and proposed action(s) with the short procedural safeguards statement is sent to parents within 15 calendar days of the determination. After parental consent to the initial evaluation is obtained, the evaluation, determination of eligibility for special education and related services, and if eligible, the development and implementation of the services plan for the student must be completed within 90 calendar days.

A case manager shall be assigned to a student when it is determined that an initial evaluation shall be conducted. A child study team member or speech-language specialist, when acting as a member of the child study team, shall be designated and serve as the case manager for each student with a disability. The case manager shall coordinate the development, monitoring and evaluation of the effectiveness of the student's services plan. The case manager shall facilitate

communication between home and school and shall coordinate the annual review and reevaluation process.

An initial evaluation of a student for Chapter 193 shall consist of a multi-disciplinary assessment in all areas of suspected disability. Such evaluation shall include at least two assessments conducted by at least two members of the child study team in those areas in which they have appropriate training or are qualified through their professional licensure or educational certification and other specialists in the area of disability as required or as determined necessary. The evaluation must: be conducted in the language or form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally unless it is not feasible to do so; apply standards of validity, reliability and administration for each assessment by trained personal in accordance with protocols and instructions of the producer of the assessment; and include standardized test(s) and functional behavior assessment, an assessment of the language needs of a child with limited English proficiency, assessment of student's communication needs, and assessment of the need for assistive technology devices and services as required in N.J.A.C. 6A:14. Each evaluation of the student by the child study team shall be conducted in accordance with N.J.A.C. 6A:14-3.4. The parent(s) or guardian(s) must receive a copy of the evaluation reports at least 10 days prior to the eligibility conference.

### **Eligibility Criteria**

- The student must be determined eligible in accordance with N.J.A.C. 6A:14-3.5.
- If eligible, the student must have a services plan developed in accordance with N.J.A.C. 6A:14-6.2 (g)1i.

The services plan includes the following components: statement of student's present levels of academic achievement and functional performance, including how the student's disability affects the student's involvement and progress in the general education curriculum; statement of measurable annual goals that are related to the core curriculum content standards through the general education curriculum unless otherwise required according to the student's educational needs, and also short-term objectives to enable the student to be involved in and progress in the general education curriculum and to meet the educational needs resulting from the student's disability; statement of special education and related services and supplemental aids and services that are provided to the student, or statement of program modifications or supports that are provided for school personnel on behalf of the student to advance to the annual goals, to be involved in and progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with other students with disabilities and nondisabled students; statement, as appropriate, of integrated therapy services to be provided addressing the student's individualized needs in his or her educational setting; explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education class; statement of the projected date for the beginning of services and modifications, and the anticipated frequency, location and duration of services and modifications; beginning at least three years before the child reaches age 18, a statement that the child has been informed of the rights under N.J.A.C. 6A:14 that will transfer to the student on reaching age of majority; statement of how the student's progress toward annual goals will be measured; and statement of how the student's parents will be regularly informed of the student's progress toward the annual goals and the extent to which that progress is sufficient to enable the

child to achieve the goals by the end of the year, and the parents of the student are informed of the progress as often as parents of a nondisabled student are informed of their child's progress.

Annually, or more often if necessary, a services plan will be reviewed in a meeting that includes: the parent, at least one child study team member who can interpret the instructional implications of the evaluation results, at least one regular education teacher of the student who is knowledgeable about the student's educational performance, at least one special education teacher or service provider, the case manager who is a child study team member, other appropriate individuals at the discretion of the parent or public agency, a representative of the public agency (who may be the case manager) and the student where appropriate in accordance with N.J.A.C. 6A:14-3.7(i). A team member whose area is not being discussed may be dismissed from a meeting with the consent of parents.

Reevaluations must be conducted in accordance with N.J.A.C. 6A:14-3.8.

In Section 5 of the student application (407-1 form), check the appropriate service, either initial evaluation, annual review, or reevaluation.

The Chapter 193 program only provides supplementary instruction services and speech-language services to a student with disability classified as eligible for special education and related services or eligible for speech-language services.

### **SUPPLEMENTARY INSTRUCTION**

N.J.S.A. 18A:46-19.1 et seq.

N.J.A.C. 6A:14 et seq.

In accordance N.J.A.C. 6A:14-4.5, supplementary instruction is provided to a student with a disability classified as eligible for special education and related services as an addition to the primary instruction for the subject being taught. The program of supplementary instruction shall be specified in the services plan. An appropriately certified teacher provides supplementary instruction individually or in groups according to the numbers for support resource programs.

### **Eligibility Criteria**

- The student must be determined eligible in accordance with N.J.A.C. 6A:14-3.5.
- If eligible, the student must have a services plan developed in accordance with N.J.A.C. 6A:14-6.2 (g)1i.

To document eligibility for supplementary instruction, attach a copy of the services plan to the student application (407-1 form) and check the appropriate service in Section 5 of the student application (407-1 form).

### **SPEECH-LANGUAGE**

N.J.S.A. 18A:46-19.1 et seq.

N.J.A.C. 6A:14 et seq.

In accordance with N.J.A.C. 6A:14-3.6, speech-language services include language, articulation, voice, and fluency. Speech-language services are provided to a classified student as an addition to the regular instructional program. The program of speech-language services shall be specified in the services plan. An appropriately certified speech-language specialist provides speech-language services individually or in groups not to exceed five students.

**Eligibility Criteria**

- The student must be determined eligible in accordance with N.J.A.C. 6A:14-3.6.
- If eligible, the student must have a services plan developed in accordance with N.J.A.C. 6A:14-6.2 (g)1i.

To document eligibility for speech-language services, attach a copy of services plan to the student application (407-1 form) and check the appropriate service in Section 5 of the student application (407-1 form).

**PART IV  
APPENDICES**

APPENDIX A

**NEW JERSEY DEPARTMENT OF EDUCATION  
APPROVED TESTS  
FOR  
COMPENSATORY EDUCATION**

California Achievement Test (CAT 5) 1992

California Achievement Test (CAT5) 1992/Survey

Comprehensive Testing Program III 3<sup>rd</sup> edition (ERB), 1998

Individualized Criterion Referenced Testing (ICRT)

Goals – A Performance Based Measure 1992

Iowa Tests of Basic Skills, Forms K, L and M 1999

Iowa Tests of Educational Development, Forms K, L and M 1999

Metropolitan Achievement Test (MAT7) 1992

Metropolitan Achievement Test (MAT9)

Metropolitan Achievement Test (MAT7) Abbreviated

Multiple Assessment Series for the Primary Grades 1998

Stanford Achievement Test 9<sup>th</sup> Edition (Form T, SAT9) 1998

Test of Achievement and Proficiency (TAP), Forms K, L and M 1996

Locally Developed Criterion Referenced Test

Terra Nova 2<sup>nd</sup> Edition (CTBS6) 2000 6<sup>TH</sup> edition of CAT

Elementary School Proficiency Assessment (ESPA)

Grade Eight Proficiency Assessment (GEPA)

**MINIMUM LEVELS OF PROFICIENCY\***

**READING COMPREHENSION**

TEST	EDITION	THREE		FOUR		FIVE		SIX		SEVEN		EIGHT		
		LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	
California Achievement Test (CAT5)	1993		13	16	14	16	15	16	16	26	17/18	24	17/18	23
Iowa Test of Basic Skills (ITBS)	1999	K,L,M	9	19	10	17	11	18	12	21	13	18	14	21
Metropolitan Achievement Tests (MAT9)	1992		<b>E 1</b>	17	<b>E 2</b>	18	<b>I 1</b>	17	<b>I 2</b>	12	<b>I 3</b>	15	<b>I 4</b>	13
Stanford Achievement Test 9 <sup>th</sup> Edition	1998		<b>P 3</b>	23	<b>I 1</b>	22	<b>I 2</b>	17	<b>I 2</b>	21	<b>A 1</b>	13	<b>A 2</b>	16
Terra Nova Comprehensive Test Of Basic Skills	2000		13	15	14	16	15	15	16	27	17/18	23	17/18	22
All Other Commercial Tests				27		27		28		32		29		28

\* All Minimum Levels of Proficiency (MLPs) for the commercial tests are expressed as national percentiles.

**MINIMUM LEVELS OF PROFICIENCY\***

**LANGUAGE ARTS (WRITING)**

TEST	EDITION	THREE		FOUR		FIVE		SIX		SEVEN		EIGHT	
		LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP
California Achievement Test (CAT5)	1993	13	19	14	12	15	22	16	36	17/18	27	17/18	26
Iowa Test of Basic Skills (ITBS)	1999 K,L,M	9	16	10	18	11	20	12	20	13	22	14	20
Metropolitan Achievement Tests (MAT)	1992	<b>E 1</b>	5	<b>E 2</b>	17	<b>I 1</b>	19	<b>I 2</b>	7	<b>I 3</b>	10	<b>I 4</b>	8
Stanford Achievement Test 9 <sup>th</sup> Edition	1998	<b>P 3</b>	23	<b>I 1</b>	22	<b>I 2</b>	17	<b>I 2</b>	21	<b>A 1</b>	13	<b>A 2</b>	16
Terra Nova Comprehensive Test Of Basic Skills	2000	13	19	14	13	15	22	16	35	17/18	27	17/18	25
All Other Commercial Tests			23		26		30		31		32		29

\* All Minimum Levels of Proficiency (MLPs) for the commercial tests are expressed as national percentiles.

**MINIMUM LEVELS OF PROFICIENCY\***

**MATHEMATICS**

TEST	EDITION	THREE		FOUR		FIVE		SIX		SEVEN		EIGHT	
		LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP	LEVEL	MLP
California Achievement Test (CAT5)	1993	13	37	14	39	15	35	16	47	17/18	48	17/18	52
Iowa Test of Basic Skills (ITBS)	1999 K,L,M	9	39	10	32	11	31	12	35	13	42	14	37
Metropolitan Achievement Tests (MAT9)	1992	<b>E 1</b>	25	<b>E 2</b>	22	<b>I 1</b>	25	<b>I 2</b>	16	<b>I 3</b>	30	<b>I 4</b>	39
Stanford Achievement Test 9 <sup>th</sup> Edition	1998	<b>P 3</b>	44	<b>I 1</b>	38	<b>I 2</b>	44	<b>I 2</b>	45	<b>A 1</b>	36	<b>A 2</b>	35
Terra Nova Comprehensive Test Of Basic Skills	2000	13	31	14	37	15	37	16	45	17/18	48	17/18	48
All Other Commercial Tests			47		44		45		46		46		46

\* All Minimum Levels of Proficiency (MLPs) for the commercial tests are expressed as national percentiles.

**MINIMUM LEVELS OF PROFICIENCY\***

**NINTH GRADE**

TEST	EDITION	READING	LANGUAGE ARTS	MATHEMATICS	LEVEL
Grade Eight Proficiency Assessment	2000	200	200	200	
California Achievement Test (CAT5)	1993	22	25	41	19
Comprehensive Testing Program (ERB)	1998	37	36	45	5
Test of Academic Proficiency (TAP)	1998 K,L,M	28	31	37	15
Iowa Test of Educational Development (ITED)	1999 K,L,M	30	36	45	8
Metropolitan Achievement Tests (MAT9)	1992	25	14	55	Secondary 1
Stanford Achievement Test 9 <sup>th</sup> Edition	1998	31	36	37	Task 1
Terra Nova Comprehensive Test Of Basic Skills	2000	22	28	41	19
All Other Commercial Tests		28	29	46	

\* All Minimum Levels of Proficiency (MLPs) for the commercial tests are expressed as national percentiles.

**MINIMUM LEVELS OF PROFICIENCY\***

**TENTH GRADE**

TEST	EDITION	READING	LANGUAGE ARTS	MATHEMATICS	LEVEL
California Achievement Test (CAT5)	1993	41	42	63	20
Test of Academic Proficiency (TAP)	1998 K,L,M	34	30	49	16
Iowa Test of Educational Development (ITED)	1999 K,L,M	18	21	24	8
Metropolitan Achievement Tests (MAT9)	1992	24	26	47	Secondary 2
Stanford Achievement Test 9 <sup>th</sup> Edition	1998	37	24	46	Task 2
Terra Nova Comprehensive Test Of Basic Skills	2000	33	36	53	20
All Other Commercial Tests		16	18	32	

\* All Minimum Levels of Proficiency (MLPs) for the commercial tests are expressed as national percentiles.

**MINIMUM LEVELS OF PROFICIENCY\***

**ELEVENTH GRADE**

TEST	EDITION	READING	LANGUAGE ARTS	MATHEMATICS	LEVEL
California Achievement Test	1993	16	24	36	19
Iowa Test of Basic Skills	1999	16	21	36	**
Metropolitan Achievement Test	1992	16	7	37	A 2
Stanford Achievement Test	1998	19	23	30	***
All Other Commercial Tests		21	26	41	

\* All Minimum Levels of Proficiency (MLPs) for the commercial tests are expressed as national percentiles.  
 \*\* Grade 11, MLP values relate to the Tests of Achievement and Proficiency (TAP), Level 2  
 \*\*\* Grade 11 MLP values relate to the Stanford Test of Academic Skills (TASK), Level 2

## APPENDIX B

### NEW JERSEY DEPARTMENT OF EDUCATION APPROVED LANGUAGE PROFICIENCY TESTS

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#### **IDEA PROFICIENCY TEST**

Ballard & Tighe Publishing Company  
480 Atlas Street  
Brea, California 92821  
Phone: (800) 321-4332, Fax: (714) 255-9828  
[www.ballard-tighe.com](http://www.ballard-tighe.com)

#### Regional Office

c/o Joyce Lancaster  
808 Bellemead Avenue  
Tampa, FL 33617  
(800) 290-0472  
FAX: (813) 989-2432

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#### **LANGUAGE ASSESSMENT SCALES**

CTB/McGraw Hill  
20 Ryan Ranch Road  
Monterey, CA 93940  
Phone: (800) 538-9547  
FAX: (800) 282-0266  
[www.ctb.com](http://www.ctb.com)

#### Regional Offices

c/o Bonnie Williams  
34 Terkuile Road  
Montvale, NJ 07645  
Phone: (201) 476-1367  
FAX: (201) 476-1965

c/o Russ Dusewicz  
27 Hazelhurst Drive  
Voorhees, NJ 08043  
(856) 627-6877  
FAX: (856) 627-1033

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#### **MAC II TEST OF ENGLISH LANGUAGE PROFICIENCY**

Touchstone Applied Science Associates  
4 Hardscrabble Heights  
PO Box 382  
Brewster, New York 10509  
Phone: (845) 277-4900  
(800) 800-2598 (Customer Service)  
FAX: (845) 277-3548  
[www.tasaliteracy.com](http://www.tasaliteracy.com)

#### Regional Office

c/o Charlie Eisenberger  
8 Grace Road  
East Brunswick, NJ 08816  
PHONE & FAX: (732) 257-4115

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## APPENDIX B

### **ACCESS FOR ELLs™**

Wisconsin Center for Education Research  
c/o Metri Tech, Inc.  
4106 Fieldstone Road  
Champaign, Illinois 61822

[sfeldman@metritech.com](mailto:sfeldman@metritech.com)

Phone: (217) 398-4868

Fax: (217) 398-5798

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## APPENDIX B

### LANGUAGE PROFICIENCY TEST STANDARDS FOR DETERMINING LIMITED ENGLISH PROFICIENCY

#### LANGUAGE ASSESSMENT SCALES (LAS) – CTB/McGraw Hill

Use the LAS Language Proficiency Index (LPI) to determine program placement.

LPI (RW/O)	Category	Description
1/2 1/3	LEPa	low-level R and W skills mid-level (limited) L and S skills
1/4 1/5	LEPb	low-level R and W skills high-level (proficient) L and S skills
2/2 2/3	LEPc	mid-level R and W skills mid-level (limited) L and S skills
2/4 2/5	LEPd	mid-level R and W skills high-level (proficient) L and S skills
3/2 3/3	LEPe	high-level R and W skills mid-level (limited) L and S skills
3/4	FEP	high-level R and W skills high-level (proficient) L and S skills

#### **Standard**

Any student that places below the FEP (Full-English Proficient) category and has at least one other indicator as per N.J.A.C. 6A15-1.4(c) is limited English proficient.

#### **Other indicators include the following:**

- Reading level;
- Previous academic performance;
- Achievement on standardized tests in English; and
- Teacher judgment.

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### **IDEA PROFICIENCY TEST (IPT) - Ballard and Tighe Publishers**

Use the IPT designations to determine program placement.

- Oral Tests
  - Non-English Speaker
  - Limited-English Speaker
  - Fluent-English Speaker
  
- Reading Tests
  - Non-English Reader
  - Limited-English Reader
  - Competent-English Reader
  
- Writing Tests
  - Non-English Writer
  - Limited-English Writer
  - Competent-English Writer

#### **Standard**

Any student who falls in the “limited” category or below, in any of the tests, oral, reading, or writing and has at least one other indicator as per N.J.A.C. 6A15 1.4(c) is limited English proficient.

#### **Other indicators include the following:**

- Reading level;
- Previous academic performance;
- Achievement on standardized tests in English; and
- Teacher judgment.

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**MAC II TEST OF ENGLISH LANGUAGE PROFICIENCY - Touchstone Applied Science Associates**

Use the Standard Score Cut Points to determine program placement.

<b>Standard Score Cut Points*</b>				
<b><u>Test Level</u></b>	<b><u>Grade</u></b>	<b><u>Fall</u></b>	<b><u>Spring</u></b>	<b><u>SEM**</u></b>
<b><u>Red</u></b>	K	210	220	8
	1	566	588	14
<b><u>Blue</u></b>	2	548	564	12
	3	558	574	12
<b><u>Orange</u></b>	4	543	559	10
	5	556	569	11
<b><u>Ivory</u></b>	6	545	557	10
	7	551	562	10
	8	555	567	10
<b><u>Tan</u></b>	9	549	560	10
	10	558	570	11
	11	568	583	11
	12	580	593	11

\*For grades 1-12, cut points are set for Total Battery scores. For grade K, cut points are set in terms of total Speaking and Listening scores.

\*\*The standard error of measurement (SEM) of a test is a measure of reliability that represents the amount by which a score may vary due to errors of measurement. Thus, the larger the SEM, the greater the likelihood that a student might be misclassified. The SEM can be used to establish a band within which errors are most probable. For students whose scores fall within the band defined by the cut score plus or minus one SEM (e.g., 539 to 559 for Fall, 9<sup>th</sup> grade), additional data should be used to corroborate the placements.

**Other indicators include the following:**

- Reading level;
- Previous academic performance;
- Achievement on standardized tests in English; and
- Teacher judgment.

**Using Multiple Criteria for Program Entry and Exit**

Districts must continue to use multiple indicators, as specified in code [(N.J.A.C.6A:15-1.3) and 6A:15-1.10(b)] to determine which students need English as a Second Language (ESL) and/or bilingual program support and which students can function independently in a monolingual English classroom. These indicators must be used for both identification of limited English proficient (LEP) students and for determining readiness to exit from Bilingual/ESL/ELS program services. Use of the multiple indicators is particularly important when a student’s test score is close to a cut point (as determined by the standard error of measurement (SEM)).

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### **ACCESS FOR ELLs™**

Use the ACCESS FOR ELLs™ Test or corresponding W-APT Test (nonsecure, shorter version of ACCESS FOR ELLs™ Test) Cut Scores to determine program placement.

Kindergarten: 3.0

Grades 1-12: 4.5

