

OSSIE Monitoring Team Identifying and Serving Multilingual Learners with Disabilities: Guidance Manual

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Learning Overview

Provide information regarding the legal requirements around identifying a multilingual learner (ML) with a disability

Dispel myths and provide facts regarding legal obligations and timelines

Provide concrete steps to be taken throughout the intervention process when an ML is suspected of having a disability

Guidance to determine if the student's challenges are related to the language acquisition process and/or a disability

A note on terminology

Note that in the state of Maine, students with a primary/home language other than English who are not yet proficient in English are now referred to as **multilingual learners (MLs)**, whereas the federal government refers to such students as *English learners*.

We choose to use this **asset-based** terminology to emphasize the strengths and skills students bring to school, as well as the importance of supporting the development of all languages.



About the Manual

- Created in response to the needs of the field
- Based on the Virginia Department of Education <u>Handbook for Educators of English Learners</u> with Suspected Disabilities, with their permission to adapt
- Authored through a cross-team collaboration between ESOL/Bilingual Programs and Special Services
- Reviewed by:
 - Dr. Melissa Cuba, University of Maine
 - Silvia DeRuvo and the National Center for Systemic Improvement
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 - Maine Association of School Psychologists
 - Multilingual Learner Advisory Council

Contents

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Legal Requirements

- IDEA Law and Regulations
- Maine Regulations
- Federal Civil Rights Law and Guidance
- Every Student Succeeds Act (ESSA) of 2015

FACT

The IDEA and federal civil rights guidance prohibit a policy of delaying evaluations of MLs to determine the need for special education and related services over a specified period of time based on the student's English language proficiency or ML status.



Intervention Procedures for Suspected Disability, Evaluation, and Eligibility



MYTH

Students will acquire a language by just being exposed to it.



Factors in Misidentification

<u>Chapter 6 of the U. S. Department of Education English Learner Tool Kit</u> identifies four potential factors that may contribute to the misidentification of special education needs and learning disabilities among students who are MLs:

- 1. poor instructional practices;
- 2. the evaluating professional's lack of a knowledge base regarding second language development and disabilities;
- 3. weak intervention strategies; and
- 4. inappropriate assessment tools.

Each of these factors is addressed in the Intervention Procedures section of this guide.

Indicators of a Student Experiencing Challenges

ML is not acquiring English at an expected pace

ML is not making academic progress

ML is regularly exhibiting inappropriate behavior The following questions should be examined and responded to before a referral for a special education evaluation is made:

Is the district ESOL plan (i.e., Lau Plan) being implemented within the school?

Is the student's ILAP inclusive of language goals and benchmarks and available to all educational staff?

Are the modifications, adaptations, or differentiation strategies within the ILAP being used in the classrooms?

Is the student being taught by certified ESOL teachers or teachers trained in specific strategies that target the needs of MLs, while learning content knowledge and skills?

Is the student demonstrating progress on the annual English language proficiency assessment?

Have teachers been regularly meeting to discuss the student's progress and implementing specific interventions to target identified areas of need? Have parents/guardians been invited to provide additional background information about the student to gain more insight into the student's abilities and challenges within the home.

Review of medical records. Has there been a recent screening for hearing and vision?

Consideration of cultural factors. Where is the student in their acculturation process? Are they being taught in a culturally-responsive environment?

Have student assets been identified based on progress monitoring and informal observations and assessments?



Multi-Tiered System of Supports (MTSS)

In Maine, MTSS is defined as a comprehensive framework designed to address the academic, behavioral, and social-emotional needs of each student in the most inclusive and equitable learning environment. The MTSS framework is driven by strong leadership, policies and practices, family and community engagement, staff collaboration, and data-informed decision-making.

Intervention Procedures Flow Chart for Multilingual Learners

Step One:

Student receives culturally and linguistically responsive instruction, throughout which the teacher uses instructional strategies for integrated language and content acquisition. When needed, the teacher attempts a progression of instructional strategies to resolve the ML's academic challenges. The teacher documents student progress and behavior and contacts the parents/guardians using a qualified interpreter if needed.

Step Two

The teacher requests assistance from a school team.



Step Three

The school team develops an intervention plan, monitors the student's response to the interventions, and schedules follow-up meetings for evaluation of student progress.



Step Four

The school team suspects a disability.

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Reminder

Steps 1-3 of the Intervention Process, as outlined in the Guidance Manual, pgs. 6-14, should be completed before the school team requests an assessment to be completed in a primary/home language or in English.



Three Pathways of Evaluation

1. Entirely in the ML's primary/home language, ideally with a bilingual staff member or with the assistance of a trained interpreter

2. In both the primary/home language(s) and English (if specified by a primary/home language(s) proficiency assessment, bilingual testing may require the concurrent presentation of test items and directions in both languages)

3. In English only

Variables to Consider When Evaluating MLs for Possible Disabilities

Primary home language and literacy skills

English language and literacy skills

Cultural factors that may influence test and school performance

Family history

Educational history

Nature of previous reading instruction

Extrinsic Variables to Consider When Evaluating MLs for Possible Disabilities

Physical Factors

Psychological Factors

Personal Factors

Family History

Medical Considerations

Visual impairment

Hearing impairment

Developmental delays

Speech delays

Chronic illness

Medical history

Exposure to trauma

Assessment protocols and tests used in schools are typically designed for proficient English speakers.

- To reduce the possibility of identifying an ML as a child with a disability or determining a student does not have a disability when, in reality, the child does, all correct responses in one or both languages should be accepted.
- Best practice requires that any nonstandard administration of tests be documented in the professional's report.
- Due to the cultural and linguistic differences between the ML's primary/home language(s) and English, standardized test scores may not be the only data point used and must be regarded as only one part of a multifaceted evaluation.

Dynamic Assessment

- Dynamic assessment is a supplemental approach to traditional normreferenced and standardized assessments.
- The types of dynamic assessment techniques are testing limits, graduated prompting, and test-teach-retest. Of these, test-teach-retest is best suited for differentiating language differences from disorders (Gutierrez, 2001).

Dynamic assessment should be in compliance with regulations as outlined in MUSER. In conjunction with standardized administration, dynamic assessment can be used as a method for obtaining a more comprehensive understanding of a student's strengths and needs.

For more information about dynamic assessment, see the <u>American Speech-Language-Hearing</u> <u>Association's webpage</u> with four learning modules on this approach.

Performance-Based Assessment

- The data used to determine eligibility decisions should also be derived from performance-based assessment in the classroom, observations, and information gathered from the parents/guardians and other professionals.
- The student's performance must be compared to that of MLs of the same cultural group who speak the same dialect and who have had similar exposure to and opportunities to use English.
- Tests standardized on children living in other countries or on monolingual English-speaking students may be linguistically and culturally biased and yield invalid scores.

Since MLs cannot be denied access to special education and related services due to the lack of appropriate test instruments and procedures, a continued and expanded commitment to exploring interventions and dynamic evaluation strategies is essential.

Evaluations for Special Education Eligibility Must:

- Ensure that tests, assessments, and other evaluation components are selected and administered to be neither culturally nor racially discriminatory.
- Ensure that tests, assessments, and other evaluation components are provided and administered in language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to provide or administer.

Cultural-Language Interpretive Matrix (C-LIM), developed by Dr. Samuel Ortiz

The C-LIM is a program to help psychologists interpret standardized testing results with consideration of the linguistic and cultural load of the assessment tool(s) used in the evaluation and more accurately capture a multilingual learner's true cognitive ability.

Evaluation Components

Psychological assessments

Sociocultural assessments

Parents/guardians involvement, including interviews

Educational assessments

Hearing screening

Vision screening

Teacher narratives (general education including ESOL)

Classroom observations (general education including ESOL)

Evaluation Components (continued)

- Anecdotal records, including entry language assessment results and student portfolio records
- Adaptive behavior
- Speech language assessments
- Audiological assessments
- Other areas as identified by the committee, (e.g., occupational therapy, physical therapy, medical information)
"... it is essential that the IEP team include participants who have the requisite knowledge of the child's language needs. To ensure that EL children with disabilities receive services that meet their language and special education needs, it is important for members of the IEP team to include professionals with training, and preferably expertise, in second language acquisition and an understanding of how to differentiate between the student's limited English proficiency and the student's disability." – US Department of Justice and Department of Education, Dear Colleague Letter January 7, 2015

Determination of Eligibility for Special Education and Related Services

To determine whether a student who is an ML is eligible for special education, consideration of their English language development must be given through interdisciplinary collaboration. Federal regulations governing special education programs require that "students must not be determined eligible for special education and related services if the determinant factor is limited English proficiency or lack of instruction in reading or math" (34CFR Section 300.534), (MUSER V.2.E(3)).

Discussion

- In preparing the evaluation report, the assessor should report all adaptations of instruments and procedures and should describe the nature of bilingual assessments, noting if an interpreter was used, if instruments were translated on the spot and if items missed in English were administered in the primary/home language(s).
- Scores on formal instruments should not be reported if the norms are not appropriate for the student being assessed. Instead, patterns of student strengths and weaknesses should be described and used diagnostically to support eligibility decisions.

IEP Team Meeting

The IEP Team Meeting must convene to determine whether or not a child is eligible for special education and related services within 45 school days (60 calendar days for children in CDS) after the receipt of the consent for evaluation by the special education administrator or designee (MUSER V.1.A(3)(a)(i)). A written copy of the evaluation report must be made available to the parents/guardians no later than three calendar days in advance of the eligibility meeting (MUSER VI.2.A). If needed, an interpreter should be included in the eligibility meeting (MUSER VI.2.H(5)).

Eligibility Decision To determine eligibility the IEP Team is required to use one or more of the following eligibility documents:

Adverse Effect

Specific Learning Disability

Speech and Language Disability. (See Maine State Required Forms Procedural Manual.)

Determinations

- The IEP team will determine the student's present level of educational performance, goals, and services. The student must receive both ESOL and special education services based on the student's academic and language needs.
- Language proficiency, in both English and the student's home/primary language(s), should be noted in the present level of academic performance and/or developmental/functional performance sections if it relates to the goals of the IEP.
- The ESOL teacher or other personnel with expertise in the second language acquisition process must be included as part of the IEP Team for MLs.

A student shall be determined eligible and classified "eligible for special education and related services" when: 1. The student has one ore more of the disabilities defined in MUSER.

2. The disability adversely affects the student's educational performance.

3. The student is in need of special education and related services. CFR 200.206(c)(2

Not Eligible Decision

If an ML is found not eligible for special education services, the school staff or MTSS team continue to serve as a resource and to provide support to both the student and his or her teachers as needed. Such ongoing cooperation will ensure that ineligibility for special education does not result in an end to appropriate interventions or monitoring. If concerns persist despite support interventions and/or participation in alternative programs implemented to help the student, the school may consider reevaluating the student at a later date.

Development of the IEP

If the student is found eligible for special education, the IEP team, with the appropriate composition (MUSER VI.2.B), must meet within 30 calendar days of the eligibility determination (MUSER V.3.B(2)(a)).

The ESOL teacher or representative with expertise in the second language acquisition process should be a member of the IEP team for any ML student.

If an interpreter is needed, one must be made available (MUSER VI.2.H(5)).

Development of the IEP

- The IEP should include the appropriate instructional program or combination of programs to address the student's academic, functional, and language needs (MUSER IX.).
- MLs with disabilities are entitled to equitable access to all language acquisition program types offered by the school, including bilingual programs, where applicable.

Who is on the IEP Team? MUSER pgs. 57-58

- The student (when possible)
- The students' parents
- No less than 1 regular education teacher
- No less than 1 special education teacher
- A school administrator
- An individual who can interpret evaluation results (could be one of the people listed above)

- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
- The determination of knowledge or special expertise of an individual described in (B)(5) above shall be made by the party (parent or public agency) who invited the individual to be a member of the IEP Team.

Members of the IEP Cont.

- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate;
- The determination of knowledge or special expertise of an individual described in (B)(5) above shall be made by the party (parent or public agency) who invited the individual to be a member of the IEP Team.

ESOL Teacher and; Interpreter

Q. Can a family member interpret during meetings?

A. No, this isn't best practice. A family member may not understand the educational terminology being shared at the meeting. Or they may not want to get the student "in trouble" by sharing that the student isn't on grade level for example.

Best practice is to have an interpreter who is knowledgable about education practice and terminology.

MLs who qualify for special education receive **BOTH** ESOL and Special Education services.

- The IEP and Language Acquisition Committee (LAC) teams will decide the amount and types of services that are appropriate for the student given their individual language and learning needs.
- Parents of ELs with an IEP must be informed of how the language instruction education program meets the objectives of the child's IEP."

Comparison of the IEP and the ILAP

	Learning Plans for Multilingual Lea	arners with Disabilities	
Learning Plan	Individual Language Acquisition Plan (ILAP)	Individualized Education Plan (IEP)	
Legal Reference	Title VI of the Civil Rights Act of 1964/Lau v. Nichols (1974) – addresses the right to access the education program including instruction to learn English	Individuals with Disabilities Act (IDEA) – ensures students with a diagnosed disability who need special education have access to free appropriate public education	
Education Team	The Language Acquisition Committee (LAC) oversees programming and progress of multilingual learners (may co-occur with IEP, MTSS, student meetings with ESOL teacher in attendance)	The IEP Team oversees the development and progress of the student's individual learning goals (MUSER VI.2.J)	
Purpose	Individual Language Acquisition Plan (ILAP) – Individual student language goals are developed along with identified supports/accommodations to access the curriculum	Individualized Education Plan (IEP) – a written statement of the educational program designed to meet a child's individual learning needs. Every child who receives special education services must have an IEP (MUSER IX.3)	
Goals & Services	English Language Development (ELD) program services and support are specific to the student's level of English Language Proficiency (ELP). Areas of focus: social and academic language of reading, writing, listening, and speaking across language arts, math, science, and social studies	Individualized Education Plan (IEP) – a written statement of the educational program designed to meet a child's individual learning needs. Every child who receives special education services must have an IEP (MUSER IX.3) Specially Designed Instruction and related services are specific to the IEP goals (MUSER	
Assessment	ILAP goals are measured by annual summative and formative assessments for English language proficiency – ACCESS for ELLs, Alternate ACCESS, WIDA Rubrics, and Proficiency Level Descriptors.	X.2.A(2)) IEP annual goals are measurable and aligned to the skill gaps identified by eligibility evaluations . (MUSER IX.3.A(1)c)	
Reporting	Progress is reported to parents/guardians annually and with each grading period.	Progress is reported to parents/guardians at the annual review of the IEP meeting and at each grading period (MUSER IX.3A(1)(c)	
Responsibilities	Goals and services are documented by the ESOL teacher in collaboration with the classroom teacher and the LAC and filed in the student's cumulative file.	The IEP is developed and maintained by the IEP Team under the direction of the Special Education leader (MUSER VI.2.J)	

Documenting the ILAP in an IEP:

6. SUPPLEMENTARY AIDS, SERVICES, MODIFICATIONS, AND/OR SUPPORTS (MUSER IX.3.A.(1)(d) & (

n addition to ongoing classroom supports and services, supplemental aids, and modifications, include a statement of a appropriate accommodations that are necessary to measure the academic achievement and functional performance o state and district-wide and classroom assessments (MUSER IX.3.A.(1)(f)(i)).

 Supplementary aids, mod services, and/or supports 	ifications, accommodations, for SAU personnel	Location	Frequency	Begir
LAP: Individual Language	☑ Classroom Instruction	Special Education and	As Needed	9/18/2
Acquisition Plan	🛛 Classroom Assessment	General Education		
	🛛 District-wide Assessment			
	State Assessment			
Extra time, quality over	☑ Classroom Instruction	Special Education	As needed	9/18/2
juantity with product,	⊠ Classroom Assessment			
requent sensory breaks	District-wide Assessment			
	□ State Assessment			
Read Aloud/Human Reader:	Classroom Instruction	Special Education	During NWEA Reading window	9/18/2
or directions,	Classroom Assessment			
juestions/items, and	District-wide Assessment			
esponse options, NWEA Reading	State Assessment			

 The addition of the ILAP to section 6 of the IEP ensures that all members of the student's team are aware of the plan and emphasizes its importance to the child's access to FAPE.

Translated Special Education Documents

Special Education Term Glossaries are available on the MDOE website. These have been translated into the following languages': **Arabic, Mandarin, Khmer, Somali, Vietnamese, Portuguese, French and Spanish.**

Both the translated procedural safeguards and glossaries are linked on both the Family and Student resource pages. Here is the link to the Family page: <u>https://www.maine.gov/doe/learning/specialed/famil</u> <u>ies</u>.

The procedural safeguards translated into Portuguese may be available upon request, please email <u>Leora.byras@maine.gov</u> if needed.

	Special Education Term	Arabic
1.	Accommodation	التكيف
2.	Administrator of Special Education	مدير التعليم الخاص
3.	Age of Majority	المرحلة العمرية لأغلبية الطلاب
4.	Autism	التوحُّد
5.	Benchmarks	السمات المميزة
6.	Blind Visually Impaired (BVI)	کفیف (BVI)
7.	Consent	الموافقة
8.	Deaf	الصنمم
9.	Department of Education (DOE)	الإدارة التعليمية (DOE)
10.	Department of Health and Human	وزارة الصحة والخدمات الإنسانية (DHHS)
	Services (DHHS)	
11.	Developmental Delay	تاڭر النمو.

	Special Education Term	Khmer		
1.	Accommodation	ការសម្របសម្រួល		
2. Administrator of Special Education		អ្នកគ្រប់គ្រងការអប់រំពិសេស		
3.	Age of Majority	អាយ្យសបច្បាប់		
4.	Autism	ង់អ៊ីអ៊ីទីសិម		
5.	Benchmarks ស្តង់ដារ			
6.	3lind Visually Impaired (BVI) ពិការភ្នែក និងខ្សោយភ្នែក (BVI)			
7.	Consent	ការយល់ព្រម		
8.	Deaf	ផ្លង់		
9.	Department of Education (DOE)	ក្រសួងអប់រំ (DOE)		
10.	Department of Health and Human	ក្រសួងសេវាសុខាភិបាល និងសេវាកម្មមនុស្ស		
	Services (DHHS)	(DHHS)		
11.	Developmental Delay	ភាពយឺតយ៉ាវខាងការអភិវឌ្ឍ		

Case Studies

Case 3

- Meet Fatuma: Fatuma was born in Somalia. She moved to the U.S. and entered 7th grade at the age of thirteen. Fatuma speaks Somali. Her English language proficiency is at the entering level (level 1). She likes to help with housekeeping chores at home. She likes going to school and wants to learn.
- Background Experience: Fatuma's mother died when she was six years old. Her father immigrated to the U.S shortly after with two of his children leaving Fatuma behind to live with her grandmother. Fatuma spent most of her time at home cooking and cleaning. She did not attend school until moving to a refugee camp in Kenya at the age of ten where she was taught basic English skills. Fatuma moved to the U.S. to be reunited with her father in Maine.

Learning Challenges

• At the time of enrollment, the intake staff learned that Fatuma is suspected of having a disability that has not been previously diagnosed. Fatuma has a noticeable imbalance when she walks. Her father reported that her hip did not grow correctly and causes her to fall at times. Fatuma did not start speaking until she was 4 years old. Her father described her as slower to learn new things compared to his other children and did not think the school could serve her well when she was young so did not send her. He added that she requires directions repeated to her many times and needs extra help when learning a new task. He also added that she needs to work hard to overcome her difficulties. At the time of enrollment, Fatuma demonstrated that she can recite the alphabet and recognize 12/26 letters of the alphabet and count to 10 fluently.

Action Steps:

- If LUS indicates a primary/home language other than English, screen with WIDA Screener Online within thirty days of enrollment to determine ML status. As time permits, allow the student to settle into the new classroom routine before screening to determine if accommodations are needed.
- 2. If identified as an ML, begin to provide English language development programming and differentiation.
- 3. Notify the Special Education leader to review Fatima's intake information and to advise next steps.
- 4. Arrange for any necessary support for student to begin school safely: primary/home language assistance, modified schedule to avoid crowded hallways, etc.
- 5. Assess Fatuma's language and literacy skills in her primary/home language(s).
- Language Acquisition Committee may decide to notify the 504-plan team if a review of medical data warrants.
- 7. Begin the MTSS/RTI referral process and gather additional student data.
- 8. Develop a plan for progress monitoring with a timeline and frequent communication designed to keep the parents/guardians informed.
- 9. Arrange for a PT and OT to observe Fatuma for consultation on further assessments needed.
- Based on progress monitoring data, the team will decide the appropriateness of a referral to Special Education support services.

Case 4

- Meet Samuel: Samuel speaks Portuguese and French. He was born in Angola and moved to Maine at the age of sixteen and was enrolled in 9th grade. His English language proficiency is at the beginning of the developing level (Level 3). Samuel is a responsible and trustworthy caregiver of his younger siblings. He makes friends easily and likes to play soccer and basketball.
- Background Experience: Samuel has been in the U.S. for eighteen months. Samuel's family is seeking asylum in the U.S. The family shared that they had experienced several traumatic events before arriving in the U.S. Samuel's parents reported that he attended school in Angola when he was young and was an average student, but he did not attend high school due to continuous moving to seek safety.

Learning Challenges

- After eighteen months in the U.S. and more than a year in high school, Samuel's teachers suspect a possible learning disability.
 Samuel has eighty minutes of English language support each day with a group of peers who are functioning at a similar language proficiency level. In addition, he has an ESOL teacher supported study skills class each day. Samuel is a friendly student who enjoys working in groups with his peers.
- However, when Samuel is required to complete assignments or projects independently, he becomes resistant to the expectations and rarely completes the assignments. He also ignores the teacher's offers for after school support. Samuel is failing several of his classes because he is not completing the expectations of the classes. His teachers are concerned that he will not meet the requirements to graduate.

Action Steps:

- Samuels' teachers should talk with him, with the assistance of an interpreter, to ask probing questions that might help Samuel share why he is not completing assignments and why he won't stay after school for additional support when needed.
- 2. A Language Acquisition Committee meeting should be organized when all Samuel's teachers can be present with the parents (with an interpreter if needed) to review Samuel's current status in each class and what he needs to do to meet the expectations of the classes. Teachers should use data that examines student language development performance during meaningful activities rather than only focusing on the use of isolated components of language. His ESOL case manager should record notes of the meeting.
- 3. Assess Samuel's language and literacy proficiency in his primary/home language(s).
- 4. The MTSS/RTI process should be started to identify interventions and activities that will facilitate the development of academic language and literacy in a culturally and linguistically appropriate manner.
- Develop a plan for progress monitoring with a timeline. Involve Samuel with the progress monitoring process. Communicate frequently with his parents to keep them informed.

Questions?





<u>Resources</u>

Professional Development Calendar – https://www.maine.gov/doe/calendar

Link for Recordings and Power Points – https://www.maine.gov/doe/learning/specialed/pl

Special Education Resources – https://www.maine.gov/doe/learning/specialed/resources

Special Education Laws and Regulations – https://www.maine.gov/doe/learning/specialed/laws

Special Education Forms and Reporting – https://www.maine.gov/doe/learning/specialed/data

Guidance on Required Documentation for Maine Care https://www.maine.gov/doe/learning/specialed/educators







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Use the link to complete the form on your computer <u>OR</u> Use the QR code to complete the form on your mobile device

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2022-2023 Office Hours

Date	Topic	Date	Topic
9/14/22	IEP Quick Reference Sheet	2/8/23	Transition Plans and Extended Eligibility Options
9/28/22	Eligibility – Evaluations, Eligibility Forms, Multiple Disabilities	2/15/23	Multi-Lingual Learner Document
10/12/22	Alignment – Evaluations, Needs/How, Present Level, Goals, Services, LRE	3/8/23	Written Notice
10/26/22	Distinctly Measurable Persistent Academic and Functional Skills/How Statement	3/22/23	Federal Indicators – B4, B9, B10,
11/9/22	Measurable Goals (Avoiding Outcomes)	4/12/23	Summary of Performance Document
12/14/22	Supplementary Aids, Services, Modifications and Supports – Including Consultation and LRE	4/26/23	Abbreviated Day
12/22/21	Disability Alignment - DIB1	5/10/23	Orientation and Mobility
1/11/23	Transition from CDS to Public School	5/24/23	Data Collection
1/25/23	Alternate Assessment Process		



https://www.maine.gov/doe/calendar

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This Training was Recorded.

Please contact Julie Pelletier at julie.pelletier@maine.gov for the recording.

